

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 26 April 1995

The Council met at half-past Two o'clock

## PRESENT

THE PRESIDENT

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

THE CHIEF SECRETARY

THE HONOURABLE MR MICHAEL SUEN MING-YEUNG, 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 VINCENT CHENG HOI-CHUEN, O.B.E., J.P.

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

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

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 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

THE HONOURABLE LEE CHEUK-YAN

**ABSENT**

THE HONOURABLE MOSES CHENG MO-CHI

REV THE HONOURABLE FUNG CHI-WOOD

**IN ATTENDANCE**

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

MR NICHOLAS NG WING-FUI, J.P.  
SECRETARY FOR CONSTITUTIONAL AFFAIRS

MR DOMINIC WONG SHING-WAH, O.B.E., J.P.  
SECRETARY FOR HOUSING

MRS KATHERINE FOK LO SHIU-CHING, O.B.E., J.P.  
SECRETARY FOR HEALTH AND WELFARE

MR PETER LAI HING-LING, J.P.  
SECRETARY FOR SECURITY

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

MRS REGINA IP LAU SUK-YEE, J.P.  
SECRETARY FOR TRADE AND INDUSTRY

MRS LESSIE WEI CHUI KIT-YEE, J.P.  
SECRETARY FOR FINANCIAL SERVICES

MR KEITH KWOK KA-KEUNG, J.P.  
SECRETARY FOR WORKS

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>
Building (Energy Efficiency) Regulation.....	144/95
Dutiable Commodities (Amendment) Regulation 1995 .....	145/95
Firearms and Ammunition (Amendment) Regulation 1995 .....	146/95
Firearms and Ammunition (Storage Fees) (Amendment) Order 1995 .....	147/95
Massage Establishments (Amendment) Regulation 1995 .....	148/95
Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 3) Order 1995 .....	149/95
Public Swimming Pools (Urban Council) (Amendment) Bylaw 1995 .....	150/95
Official Languages (Authentic Chinese Text) (Bankruptcy Ordinance) Order.....	(C)31/95

## Sessional Papers 1994-95

- No. 77 - Report of changes to the approved Estimates of Expenditure approved during the third quarter of 1994-95 Public Finance Ordinance : Section 8
- No. 78 - Mass Transit Railway Corporation Annual Report 1994
- No. 79 - Kowloon-Canton Railway Corporation Annual Report 1994
- No. 80 - Report of the Director of Audit on the results of value or money audits March 1995 Director of Audit's Report No. 24

## **OATH**

Mr Michael SUEN Ming-Yeung took the Legislative Council Oath.

## **ADDRESSES**

### **Mass Transit Railway Corporation Annual Report 1994**

FINANCIAL SECRETARY: Mr President, in accordance with section 16(4) of the Mass Transit Railway Corporation (MTRC) Ordinance, I table the annual report and accounts of the Corporation for the year ended 31 December 1994.

In 1994, the MTR carried 804 million passengers, 3% more than 1993. Fare revenue increased by 12.8% to \$4,315 million, while total operating costs increased by 13.5% to \$2,236 million. Interest and finance charges were \$1,269 million, 1.4% higher than last year.

The Corporation earned a net profit of \$1,038 million compared with \$735 million in 1993. Cumulative losses were reduced to \$1,295 million.

We are very pleased that following the signing of the Agreed Minute on the financing for the Airport and the Airport Railway, the Finance Committee's approval was obtained last November for a total equity of \$23.7 billion to be committed for the Airport Railway project. This has since enabled the Corporation to make significant progress in letting some of the major contracts, whilst discussion on the Financial Support Agreement continues. It is encouraging to note that the Corporation expects to complete the project within budget.

The Corporation is committed to providing a safe, reliable and efficient service and has plans to spend \$8 billion on major improvement projects by the year 2000. In an effort to achieve greater transparency and accountability, it has published two booklets to provide Members with more financial and operational information. Performance pledges have once again been set and the results made public.

I would like to pay tribute to Mr Hamish MATHERS, who has retired last month, and thank the Board, the management and the staff of the MTRC for another fruitful year and wish the new Chairman and the Corporation continuing success.

**Kowloon-Canton Railway Corporation Annual Report 1994**

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 Corporation for the year ended 31 December 1994.

The Corporation maintained a strong financial position in 1994. Operating revenue stood at \$2,668 million, an increase of 10% over 1993. Including the income from property development, net profit for the year was \$1,124 million. No dividend was paid to the Government this year after fully taking into account the Corporation's cash flow requirements and investment needs, particularly arising from the invitation to the Corporation to submit proposals to construct the Western Corridor project announced in the Railway Development Strategy.

During 1994, major improvements were made to enhance customer service on both the Kowloon-Canton Railway (KCR) and the Light Rail Transit (LRT) System, the two core services operated by the Corporation. Punctuality was improved, with the KCR achieving an average of 99.4% and the LRT an average of 98.9%.

The KCR carried 220 million passengers in 1994, an increase of 7% over 1993. Of these, 40 million passengers travelled to and from Lo Wu, an increase of 8%. Through train traffic between Kowloon and Guangzhou decreased by 14% to 2.5 million. To improve passenger comfort, the waiting areas at Lo Wu Station have been enclosed and air-conditioned. Work to enlarge the subway at Kowloon Tong Station linking the KCR and MTR has been progressing well and is near completion.

The LRT carried 130 million passengers in 1994, an increase of 11%. During the year, Phase 3 of the Tin Shui Wai Extension was completed and came into service in March 1995. Platforms at various stops were widened, platform shelters extended, and more service information was provided to passengers.

During the year, the Corporation's freight services faced very keen competition, with modest declines recorded for inbound traffic from 2.3 million tonnes to 2.1 million tonnes, and for outbound traffic from 1.2 million tonnes to 1.1 million tonnes.

The Corporation has planned to invest \$7 billion in infrastructure and service improvements by the end of the decade. A number of major projects are already underway.

To summarize, the Corporation has continued to operate successfully and credit goes to the Chairman, the Managing Board, as well as the management and the staff of the Corporation for their achievements in the past year.

## ORAL ANSWERS TO QUESTIONS

### Air Quality Studies

1. MR JAMES TO asked (in Cantonese): *Mr President, regarding the air quality studies conducted by the Environmental Protection Department, will the Government inform this Council of:*

- (a) *the findings of such studies in various districts of the territory in the past three years;*
- (b) *the causes of air pollution; and*
- (c) *the measures which will be taken to abate air pollution?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) Air quality problems in Hong Kong can be described in terms of four key air pollutants: sulphur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>), total suspended particulates (TSP) and respirable suspended particulates (RSP). I will briefly summarize the results of air quality monitoring recorded at our eight monitoring stations over the past three years. Details are given in the table attached to the written version of this answer (Table 1).

Sulphur dioxide has been recorded at low levels throughout the territory. The yearly averages for all monitoring stations have been well within the air quality objective.

Nitrogen dioxide has been recorded at higher levels, with concentrations within the air quality objective at around 80%, with one exception. Because motor vehicles are a major source of nitrogen dioxide, levels tend to be high in districts with heavy road traffic, for example, Mong Kok.

TSP and RSP are dust in the air. Levels of TSP have been high and the air quality objective has been exceeded at all stations, except Sha Tin. However, it is RSP which are of more concern in terms of health effects because they are small enough to breathe into the lungs. Levels of RSP have generally been within the air quality objective in Sha Tin, Tai Po and Kwai Chung; but in districts with heavy traffic, for example, Kwun Tong, Sham Shui Po and Mong Kok, the concentrations of RSP have been higher than the air quality objective.



- (b) As for the causes of air pollution, the fuels burnt in factories and used by motor vehicles are the major causes of sulphur dioxide, nitrogen dioxide and particulates; dust emissions from construction works and open burning activities also contribute to the particulates problem.
- (c) The Government is determined to improve air quality in Hong Kong. The Air Pollution Control (Fuel Restriction) Regulations introduced in 1990 reduced the sulphur content of liquid industrial fuel to 0.5% by weight and brought ambient sulphur dioxide concentrations well within the air quality objective. A number of other measures have also helped reduce polluting emissions. These include the extension of controls on specified processes under the Air Pollution Control Ordinance; the introduction of unleaded petrol in 1991; the requirement for all vehicles imported since 1992 to comply with stringent vehicle emission standards and newly imported petrol vehicles be equipped with catalytic converters; and the smoky vehicle control programme. In addition, with effect from 1 April 1995, we have introduced cleaner diesel fuel for vehicles and even more stringent vehicle emission standards.

We are also working towards the introduction of additional measures to ensure that the air quality objectives are achieved. The measures being considered include:

- \* control of construction dust;
- \* control of dust and smoke from open burning;
- \* higher penalties for smoky vehicles;
- \* requiring light duty vehicles to use unleaded petrol and catalytic converters;
- \* stricter inspection to ensure diesel vehicles are well maintained;
- \* use of alternative fuels for vehicles in the longer term; and
- \* more environmentally friendly transport policies.

Table 1 - Air Quality Monitoring Results at Eight Stations  
1992 to 1994

(all results are yearly averages in microgram per cubic metre)

	1992	1993	1994 (provisional)
<i>Sulphur Dioxide (Air Quality Objective = 80)</i>			
Kwun Tong	21	31	25
Sha Tin	8	10	10
Tai Po	12	-	-
Sham Shui Po	12	-	28
Central/Western	-	24	19
Tsuen Wan	36	-	30
Kwai Chung	22	33	25
Mong Kok	49	43	54
<i>Nitrogen Dioxide (Air Quality Objective = 80)</i>			
Kwun Tong	74	66	60
Sha Tin	40	-	40
Tai Po	57	42	46
Sham Shui Po	50	-	65
Central/Western	50	50	53
Tsuen Wan	63	-	60
Kwai Chung	44	48	46
Mong Kok	75	76	88
<i>Total Suspended Particulates (Air Quality Objective = 80)</i>			
Kwun Tong	104	104	106
Sha Tin	81	74	70
Tai Po	87	91	86
Sham Shui Po	124	117	101
Central/Western	-	81	87
Tsuen Wan	107	-	99
Kwai Chung	91	88	87
Mong Kok	159	148	157
<i>Respirable Suspended Particulates (Air Quality Objective = 55)</i>			
Kwun Tong	72	64	58
Sha Tin	51	41	49

	1992	1993	1994 (provisional)
Tai Po	53	50	50
Sham Shui Po	71	68	61
Central/Western	-	55	56
Tsuen Wan	64	-	62
Kwai Chung	55	53	51
Mong Kok	71	65	69

MR JAMES TO (in Cantonese): *Mr President, from the Administration's reply, we know that districts with the worst air pollution are located at Kwun Tong, Sham Shui Po and Mong Kok. I am a directly elected Board member of the latter two districts. The results that we now have indicate that the Air Quality Objectives have been exceeded and the situation is getting worse at a worrying rate. In paragraph (c) of the Administration's reply, the Administration mentions that it is considering the introduction of a number of measures to ensure that the Air Quality Objectives are achieved. When will these objectives be achieved? I want a definite reply, such as the year 2001 or 2005. How long after the implementation of the seven proposals can these objectives be achieved? Can the Administration give us a definite answer? If these objectives cannot be achieved by the target date, will the Administration conduct interim reviews? Also, will it strengthen the said measures to improve air quality?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I think if we are to tackle this kind of problem, we clearly need to have a programme which contains a series of measures which will attack the programme over time and which will produce results, and I believe that is what we have in place. We will, of course, and we always are prepared to consider new ideas which may contribute, but I have to caution that new ideas themselves take time to examine and put in a form that can be actually used and then to introduce. One of the disadvantages with dealing with environmental problems is that it is quite difficult to do so without affecting the interests of parties who are producing the pollution. So we do need to proceed in a way which will enable adjustments to be made in a reasonable fashion. We need to balance a requirement to move along as quickly as possible for the sake of the community's health, and at the same time, not to destroy the livelihood of those who might be affected by such measures.

To answer the question about timing for the measures I referred to, we do have timing in mind for most of those as follows:

- control of construction dust emissions - late 1995
- control of dust and smoke from open burning - late 1995

- higher penalties for smoky vehicles - 1996-97
- requiring all light duty vehicles to use unleaded petrol and catalytic converters - 1996-97
- a stricter inspection to ensure diesel vehicles are well maintained - 1996-97
- use of alternative fuels for vehicles in the longer term - no fixed timing but ongoing deliberations
- environmentally friendly transport policies - again ongoing discussion between the relative policy branches and the departments that would need to be involved in introducing such policies.

PRESIDENT: Not answered, Mr TO?

MR JAMES TO (in Cantonese): *Mr President, the Secretary has not indicated when the Air Quality Objectives will be achieved. I did not ask when the policies will be implemented. I asked when the objectives will be achieved after the policies are implemented. Has the Administration set a target date for these objectives?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Yes, Mr President, I would be delighted to be able to give a target date for the achievement of the air quality objectives. But I think Members will understand that with a compendium of measures of this kind, stretched out over a period of time and given, as I mentioned earlier, the need to take careful account of the livelihood interests of those who would be affected by control measures, what we will continue to do is to monitor the pace at which we move towards the achievement of the air quality objectives to seek to accelerate our move towards achieving them, and introduce further measures if the measures we have already contemplated do not move us fast enough towards our objective.

MR FRED LI (in Cantonese): *Mr President. I live in Kwun Tong district where the air quality is very bad. I wonder if I could sue the Administration for compensation in future. Just now, the Administration mentioned some proposals to improve air quality, and they have been talking about such proposals for a number of years. However, as can be seen from the relevant data, Kwun Tong district has exceeded the Air Quality Objectives in total suspended particulates and in respirable suspended particulates for three consecutive years. I want to ask the Administration a very practical question. Would the Administration adopt measures targeted at certain categories of strong pollutants in areas where pollution is worst, including, as I mentioned a*

*moment ago, Kwun Tong district where there are some 500 000 residents? For example, the Administration may conduct close monitoring or it may adopt temporary means such as strengthening prosecution actions against lorries in the district and inspection of construction sites, and requesting site owners to do more water-spraying and not to burn wood indiscriminately. In view of the gravity of the problem, would the Administration adopt stricter measures at pollution black spots? Adopting stricter measures at pollution black spots will be more effective than waiting for the implementation of territory-wide measures in 1997, 1998 or 2000.*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I am certainly prepared to consider whether pinpoint-targeting of particular areas would assist in our overall programme. I think, however, we should not lose sight of the need for our programme to be an overall programme since one of the major sources of pollution is clearly moving vehicles, but, as I say, we will consider whether targeting of that kind would assist.

It might help perhaps if I mention here that the most difficult, I think, of the sources of pollution is respirable suspended particulates (RSP). In Kwun Tong the air quality objective is 55, Members may know by looking at the table I provided. In Kwun Tong over the three-year period, there has been a reduction from 72 in 1992, to 64 in 1993, to 58 in 1994; so the indications there are perhaps that we are within range of hitting the air quality objective. And I think if we examine the table, we will find that there have also been improvements. For example, just to pick out Sham Shui Po, in TSP the range of improvement towards an air quality objective of 80 has been from 124 in 1992, to 117 in 1993, to 101 in 1994. So again, we are moving in the right direction.

MR LEE CHEUK YAN (in Cantonese): *One of the measures contemplated by the Administration involves requiring light duty vehicles to use unleaded petrol. Nevertheless, as we all know, a very important fleet of vehicles in Hong Kong, namely, the buses of the two franchised bus companies, is still using diesel oil. Is the Administration prepared to hold discussions with the two franchised bus companies to convince them to switch to unleaded petrol for all their buses in order to abate air pollution?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I think as far as targets go, the very much larger and pervasive fleet of light vehicles, both passenger and goods, must be the main target and as far as the larger public transport vehicles are concerned, they can be a target. I think the difficulty here is that whereas there is plenty of known technology which is available to replace light vehicles, the same does not apply as far as heavy vehicles, including passenger buses, are concerned. So I am quite

prepared to take the issue up with the bus companies. But as I say in terms of targets which are achievable, I think the light vehicles target is likely to be more effective in the overall approach.

MR PETER WONG: *Mr President, it is well known that the air quality monitoring stations are not at street level whereas pedestrians have to walk at street level where the air quality is likely to be much worse. It is also obvious that there will be no immediate improvement in the air quality to achieve the air quality objectives. I would like to ask whether the Government is going to issue breathing masks to our inhabitants, especially our most vulnerable, that is, the young population, in order to protect their health?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the introduction of breathing masks is not among the measures that we are considering.

### **Inaccurate Information on Electoral Roll**

2. DR YEUNG SUM asked (in Cantonese): *It is learnt that during the recent Municipal Council election, a number of candidates came across various inaccurate information in the electoral roll while making their rounds of home visits. As such problem had been identified during the 1991 Legislative Council election, will the Government inform this Council:*

- (a) *of the estimated percentage of inaccurate information in the electoral roll;*
- (b) *what methods the Government adopted during the past three years to rectify the inaccurate information in the electoral roll; and*
- (c) *of the reasons for the recurrence of the same problem in the recent election?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Mr President, under the existing system, an electoral roll is compiled annually on a roll-over basis and published before 8 August of each year. Existing entries are carried forward to the next roll, after updating changes of electors' particulars as known to the Registration and Electoral Office (REO). New entries are also added as the new roll is compiled. Deletion of an entry from the roll is effected only after going through certain statutory safeguards to ensure that an elector is not disenfranchised lightly. An electoral roll comes into force on the date of its publication and will remain in force until the publication of a new roll in the following year. There is no interim adjustment.

The current electoral roll which was used for the September 1994 District Board elections and the March 1995 Municipal Council elections was published on 1 August 1994 and it reflected the position as at that point in time. Given the population mobility in Hong Kong, it is inevitable that some of the information on the current electoral roll has become outdated since its publication last year. The information can only be updated when a new electoral roll is published in August this year, in time for use in the Legislative Council elections in September.

In the recent Municipal Council elections in March, some 120 000 of the official election mail were returned undelivered to the Registration and Electoral Office. In addition, the Registration and Electoral Office discovered about 50 000 suspected cases of incorrect personal particulars in the current electoral roll through its earlier updating and matching exercises. Thus, on the basis of the information available to us, about 170 000 out of the 2.45 million entries on the current electoral roll are suspected to be outdated. This represents about 7% of the total electorate. Even allowing for other cases of wrong information not known to us, it is estimated that inaccuracy of the current electoral roll should at most be not more than 10%.

We attach great importance to maintaining the accuracy of the electoral roll. However, under the existing system, the accuracy of the electoral roll depends, to a large extent, on the initiative of the electors themselves to report to the REO of any changes, but the REO arranges a series of other measures to verify the data.

The REO arranges intensive publicity to encourage and remind electors to report changes of particulars. For example, in the 1994 voter registration exercise, we obtained and updated information of over 330 000 electors on the electoral roll.

In the annual compilation of the new electoral roll, the REO takes active steps to trace the whereabouts of electors who are suspected to have changed addresses. Through this process of vetting, latest information obtained from electors would be reflected in the new electoral roll.

Apart from updating the roll in response to information provided by electors, the REO has also adopted a pro-active approach to update the roll through special matching exercises. The electors' particulars on the roll are matched against records kept by the Registration of Person's Office, the Housing Department, the Housing Society, the Transport Department and the Post Office. Where more current information appears on these records, the electoral roll would be updated accordingly.

I am sure Members will appreciate that, despite all the measures taken by the Government to update the electoral roll, ultimately our electoral roll can only be as accurate as our electors want it to be. It is our civic duty to register

as an elector and it is our obligation to inform the REO of any changes of particulars after we have registered.

DR YEUNG SUM (in Cantonese): *Mr President, given Hong Kong's high population mobility, the Government relies primarily on citizens' initiative to report any change of particulars, which, however, they seldom do. Comparatively speaking, the Government may find it easier to obtain information of those electors living in public rental housing (PRH) by referring to the household register of the Housing Department (HD), than to obtain information of those electors living in private domestic properties. We also find that there are more inaccurate information about electors living in private domestic properties. Will the Government take any specific measures in this connection?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Mr President, in my main reply I explained how the REO managed to maintain as accurate as possible the information contained in the electoral roll. Dr the Honourable YEUNG has rightly pointed out that it is more difficult to secure accurate information from electors living in private domestic properties. However, we have also checked with information kept in other government departments to enable us to update, to a certain extent, information of electors living in private domestic properties. The information of the electors living in PRH is of course more accurate, because we can obtain the latest and the most accurate information either from the Housing Authority or the Housing Society.

MRS ELSIE TU: *Mr President, some electors complained that they did report their change of address, but as the Secretary's answer indicates, no changes are made from 8 August, until the following August. Therefore, many addresses may be wrong by the time the Municipal Councils elections take place in March, that is, half a year later. Is there any reason why the voting list cannot be corrected by means of producing a supplementary list before the Municipal councils elections in March? The present system discourages voters from fulfilling their civic responsibilities.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, as I mentioned in my main answer, there is no provision in our present arrangement for interim adjustment of the electoral roll in between the two annual adjustment exercises. Let me explain the reason why this is not practicable.

The compilation of a new electoral roll involves a very elaborate procedure in order to ensure its accuracy and the transparency of the whole system. In updating an electoral roll, the REO has to undertake a number of steps.



Firstly, it has to make intensive follow-up on the electors' information obtained from the preceding election, either through feedback from candidates who have first-hand knowledge about the electorate that they contacted in their household visits, or from mail that was sent to addresses and returned.

Secondly, the Registration and Electoral Officer would then conduct a vetting exercise with a view to deleting the incorrect entries and then it has to undertake a formal inquiry procedure by sending out formal letters to electors, in case there are suspicions of incorrect particulars. It is only when this formal inquiry procedure is completed and there is clear evidence that an elector's particulars are incorrect, then we would take action to delete that elector's entry from the electoral roll. This is really to ensure that you do not disenfranchise a person lightly. You have to go through the step of getting confirmation.

Thirdly, the Registration and Electoral Officer would then register new electors who apply through our normal annual voter registration exercise, or who have turned 18 and whose particulars are then available, and we will register the individuals on a new electoral roll.

Fourthly, we would then encourage and remind the registered electors to report changes of particulars and update the electoral roll when we have got information that he has moved on to a different address.

It is only after the various steps have been taken to enable us to compile and publish a provisional register for public inspection, after the publication of which there is a period of time that we must allow for members of the public to appeal against an entry or to correct wrong entries in order to ensure that the final register would be appropriate and correct, then finally we would publish a final register before 8 August of every year.

So the process is quite elaborate and in between each step, we have to allow adequate time for the elector and the public to either submit information or to ensure that the information is correct. So if we were to go for an interim adjustment in between elections, you would inevitably have to compromise the various steps that are required and time really does not allow us to do that. So this explains why, say in last year, for the September district board election, obviously the information was quite accurate and quite up to date because the register was only published in August, a few weeks before the election. But by the time you came to the March Municipal Councils election, obviously some of the data in the old register could be out of date, but there is no process whereby we could do an interim adjustment. But for the September election this year, obviously again with the new electoral roll published in August, we should have a fairly accurate electoral roll.

MR ALBERT CHAN asked (in Cantonese): *The Government may have thousands of excuses when they are determined not to do something. The first thing I want to point out is that from my experience the inaccuracy rate of the*

*electoral roll is definitely more than 10% than that claimed by the Secretary for Constitutional Affairs. My own estimate for the Tsuen Wan district is more than 20%. At present, voter registration relies on the information provided by citizens or on the REO to obtain information from other government departments, like the HD, for cross reference. However, during our home visits, some electors' families told us the electors had already passed away some years ago. So how could the deceased possibly report themselves to the REO? Nevertheless, year after year the names of those who have already passed away would appear on the electoral roll, while we would, much to their families' annoyance, keep on visiting their home year after year. Are there any ways the Government could delete names of the deceased from the electoral roll, lest we should add to their families' annoyance and arouse again their bereavement?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Mr President, I mentioned in my main answer that the REO would take initiative to check against information obtained from other government departments, including the Registration of Person's Office, and so the information contained in the Death Register Book is also available to us. We are also working through the electoral roll with a view to identifying citizens who have passed away over the past few years but whose names still appear in the roll. As a matter of fact, it is our standard practice to check against the roll upon receiving information from the Registration of Person's Office about a deceased citizen; but we certainly will have to wait till the next updating of the roll before we could have their names deleted. The Honourable CHAN said a moment ago that, in their electioneering activities, political parties or electoral candidates would find out some information are inaccurate, to which I would say that their contributions to the REO as regards these information are most welcome. If such cases happen again this year, please do come and tell us immediately, so that it will not happen again next year. I believe that we have to adopt a "multi-barrelled" approach, that is, citizens should report to us any change of particulars while we would take initiative to check against information from other departments, and political parties and election candidates may also render us assistance.

MRS PEGGY LAM (in Cantonese): *Mr President, the Secretary for Constitutional Affairs claimed that the inaccuracy rate was only 10%, but I believe that the figure is definitely somewhere between 10% to 30% in newly developing areas and in old areas. Will the Government launch another voter registration exercise to obtain more accurate information? If not, will the Government send registered mail to electors and ask them to sign and return them in order to ascertain their existence and to delete their names in case they are no longer there? This can ensure that when the election is held in September we will have an accurate electoral roll. Also, the Government may secure a higher voter turn-out rate in future because where the voter turn-out rate was always at the lower end it may probably be due to the existence of an inaccuracy rate of as high as 25% to 30%. Will the Government consider my advice?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Mr President, I would like to thank the Honourable Mrs Peggy LAM for her advice, and we certainly will take whatever practical ways to improve the accuracy of the electoral roll. Mrs LAM just said that there may be some discrepancies shown in the information between newly developing areas and old areas. That certainly is true, owing to moving population. Therefore, when we are working on this, we always give particular attention to overtly large scale population shifts. Meanwhile, when we check against information obtained from other government departments, for example, information about PRH residents, we will also be particular attentive to the information of new PRH tenants to facilitate updating.

PRESIDENT: Not answered, Mrs LAM?

MRS PEGGY LAM (in Cantonese): *Mr President, the Secretary for Constitutional Affairs has not really answered my question. Will the Government send registered mail to ascertain that the electors are still alive?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): If it is feasible we will consider this suggestion. However, we have to take into account the quantities involved and the resources available. Right now we are sending out ordinary mails, and we will consider, under special circumstances, the Honourable Mrs LAM's suggestion.

### **Interview of Witnesses by Independent Police Complaints Council**

3. DR CONRAD LAM asked (in Cantonese): *Mr President, in regard to the Independent Police Complaints Council's practice of interviewing witnesses, will the Government inform this Council of the procedures involved and the purposes of such a practice, and whether it has achieved its intended results?*

SECRETARY FOR SECURITY: Mr President, as part of a package of measures to improve the present system for handling complaints against the police, the Administration introduced the Interviewing Witnesses Scheme for members of the Independent Police Complaints Council (IPCC) in July 1994. The first interview was conducted in October 1994. So far, 13 witnesses involved in six cases have been invited for interview and 10 of them have agreed to be interviewed.

The main purpose of the Scheme is to improve the ability of the IPCC to monitor investigations conducted by the Complaints Against Police Office (CAPO). The intention of the Scheme is to enable Members to clarify matters with witnesses, but not to take over CAPO's investigatory role.

The IPCC has full discretion to decide who should be invited for interview, including complainants. Interviews are conducted by a panel, consisting of two Council members supported by staff of the Council's Secretariat. Only one witness is interviewed at a time and interviews are conducted in private. Since the interviews are solely to clarify areas of doubt, witnesses are not required to sign or to acknowledge any documents. The panel then prepares a record of the interview for consideration by the full Council. Where necessary, the Council will follow up with CAPO on the information obtained through the interviews.

The Scheme is very useful and has helped members of the IPCC fulfill their independent monitoring role. Through these interviews, the Council can clarify ambiguities in statements given by witnesses or allow them to elaborate on their side of the story. This valuable information cannot be readily obtained from scrutiny of the files or from correspondence with CAPO. In fact, these interviews have so far enabled the IPCC to re-examine the classification of four complaint cases and to confirm the findings in two other cases.

The IPCC, together with the Administration, would keep the interviewing system under review to see if any improvements are warranted in the future.

DR CONRAD LAM (in Cantonese): *Mr President, of the six cases mentioned by the Secretary for Security in the first paragraph of his reply, I participated in two cases which involved six witnesses. It is worth noting that each case involved police officers. The police officers in one case did not keep the appointment. As a result, we fixed another appointment and he was late for that appointment. He was not just five or 10 minutes late but was very late. In the other case, four police officers were supposed to show up but only three came and they were very late too. Under such circumstances, does it mean that the police are not happy with this Scheme? If not, what will the Government do to improve the situation?*

SECRETARY FOR SECURITY: Mr President, attendance of witnesses requested by the IPCC is entirely voluntary. The IPCC cannot compel witnesses to attend interviews. Of the three witnesses who turned down the IPCC's invitation, two of them, including one complainant, said that they could not spare the time; the other case, a police officer, said that he did not wish to attend. So therefore the question of refusal to attend interviews is not one which is solely restricted to police officers.

The details of the Scheme were explained to all Police District Staff Relations Officers in August 1994, at a briefing by the IPCC Secretariat; this was supplemented by an internal circular memorandum issued by the Commissioner of Police explaining the rationale of the Scheme. While attendance is entirely voluntary, police officers and of course other members of the public, are encouraged to do so in their own interest. Nothing, I emphasize, should however be construed from the fact that a witness agrees or disagrees to attend an interview.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, the present arrangement for interviews with witnesses is initiated by the IPCC. Since the Government considers the Scheme very effective, will the Government inform this Council whether it will consider extending the scope of the Scheme to let complainants or the interested parties (that is, the witnesses) take the initiative to request meeting with the IPCC so that the IPCC can be more independent and can get in touch with more witnesses to further open up the tightly sealed system of "the police investigating the police"?*

SECRETARY FOR SECURITY: Mr President, first of all, I should emphasize that the purpose of the Interviewing Witnesses Scheme is to improve the IPCC's ability to monitor CAPO investigations. Interviews are conducted for the purpose of clarifying doubts, not for the purpose of investigation. It is, of course, early days yet to say whether or not the current procedures and arrangements should be substantially changed. However, I am sure that the IPCC and indeed the Administration will be alive to the need to make any improvements in the light of operational experience.

MISS EMILY LAU (in Cantonese): *Mr President, I would like to ask the Government the criteria on which the IPCC decides whether to interview the witnesses or not. And how many members are there in the IPCC? How many cases have they dealt with? Is it due to the small number of members in the IPCC that the work of interviewing witnesses and investigation has been seriously limited? Lastly, Mr President, can the CAPO disregard the IPCC's investigation results?*

SECRETARY FOR SECURITY: Mr President, the IPCC selects cases which are suitable for witnesses to be interviewed on the following grounds. Firstly, they are complicated cases where the clarification with individual witnesses may tilt the balance for the classification of the allegations. Secondly, they are cases which require experts to elaborate or to supplement their professional advice by face-to-face discussions; for example, in these cases such experts would include medical doctors. And thirdly, where cases are of a borderline or of a controversial nature. There is no evidence to suggest, at the moment, that the ability of the IPCC to interview witnesses which they choose to interview is

being restricted by the number of Council members or its staff. However, of course we will certainly be alive to any need for the IPCC Secretariat insofar as additional resources are concerned. Indeed, additional resources will be provided this year.

As regards the question of follow-up with CAPO and with the police generally on the conclusions of the IPCC after interviewing witnesses, as I have said already, these interviews have enabled the IPCC to re-examine the classification of four complaint cases and to confirm the findings of CAPO in two other cases. Of the four cases which the IPCC are re-examining, one of them indeed has already achieved agreement with the Police Force insofar as their re-classification is concerned; as for the three other cases, they are still subject to discussion with the Police Force.

MR WONG WAI-YIN (in Cantonese): *Mr President, the Secretary for Security mentioned in his reply that the IPCC had interviewed witnesses for six complaint cases. And in paragraph 4 of his reply, he mentioned that the conclusions of investigation for the six cases were: the classification of four of the cases had to be re-examined and the findings of the other two had to be confirmed. In other words, the six cases for which the IPCC had interviewed witnesses were found to be questionable. I would like to ask whether the more cases with their witnesses interviewed, the more questions would be found. Does this indicate that in the past when the IPCC had not the right to interview witnesses, many of the written reports of the CAPO might be questionable?*

PRESIDENT: You are really asking for an opinion, Mr WONG.

MR JAMES TO (in Cantonese): *Mr President, Dr the Honourable Conrad LAM is the deputy Chairman of the IPCC. I was shocked to hear the deputy Chairman raising so many questions about the new procedure of the operation. I was especially shocked when Dr the Honourable LAM led us to realize that the witnesses to be interviewed, including police officers, could arbitrarily choose whether to show up or not, or to be late. In addition, when the Secretary explained just now how cases were selected to have their witnesses interviewed, I found that they were to select those "borderline" cases or cases where the balance of their findings or their classification might be tilted. Such cases would then be selected to have their witnesses interviewed and the police officers may choose to attend or not. When the CAPO was responsible for the investigations, the police officers were required to attend under the Disciplinary Regulations, but now that the IPCC is responsible for monitoring whether the investigations of the CAPO are done fairly, the police officers may choose not to attend at all. I would like to ask the Secretary whether such arrangement is indeed ridiculous and even humiliating.*

SECRETARY FOR SECURITY: Mr President, I stress, again, that the Interviewing Witnesses Scheme's main purpose is to enable the IPCC to resolve areas of doubt, to clarify areas of doubt. Those interviewing procedures are not part of any formal investigation themselves. The arrangement as agreed and as implemented currently is that witnesses are not compelled to appear before the Council. I should, of course, also say that we would always be alive to the comments and suggestions from members of the IPCC as regards whether the current procedures should be improved, and if so, how.

### **Noise Nuisance Caused by Airport Railway Construction**

4. MR LEE WING-TAT asked (in Cantonese): *Regarding the noise nuisance caused by the airport railway construction works, will the Government inform this Council of the following:*

- (a) *whether the Mass Transit Railway Corporation (MTRC) has made a verbal or written undertaking that the noise level from such works will be kept below 75dB; if so, what the details of the undertaking are and what monitoring measures have been adopted by the Government;*
- (b) *whether it is aware that the noise level from such works at Lai King has frequently exceeded 75dB, and even reached 90dB on one occasion, since the commencement of the works; if so, whether any attempts have been made to find out the reasons for such high noise levels and whether remedial measures have been adopted; and*
- (c) *whether it will reconsider giving the residents of the two blocks in Lai King Estate, which are situated 10 metres only from the construction site, the option to move into other blocks in Lai King Estate or other estates where the level of noise nuisance is lower?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) The Mass Transit Railway Corporation (MTRC) carried out a full Environmental Impact Study (EIS) to identify potential impacts during construction and operation of the Airport Railway prior to construction. The study report was put to the Advisory Council on the Environment in April 1994 and endorsed.

Among other mitigation measures, the MTRC voluntarily adopted a target daytime construction noise limit of 75 dB for noise measured at the nearest sensitive receiver between 7.00 am and 7.00 pm from Monday to Saturday excluding General Holidays. These are the hours under the Noise Control Ordinance for which no noise level

restrictions have been specified for construction works, except piling work.

At meetings with the Kwai Tsing District Board in March 1994 and the Advisory Council on the Environment in April 1994 and February 1995, the MTRC assured Members of their commitment to the undertakings and the mitigation measures recommended in the EIS. In the Finance Committee information note on the Airport Railway [FCRI(94-95)], Members were also informed of the details of the environmental mitigation measures for the Airport Railway.

The EIS established comprehensive Environmental Monitoring and Audit Programmes for the MTRC to monitor the environmental impacts of the Airport Railway and the effectiveness of the mitigation measures. In addition, the Environmental Protection Department set up the Environmental Project Office (ENPO) - Kwai Chung/Tsing Yi to monitor and audit the cumulative environmental impacts arising from construction activities in the area, including the Airport Railway construction works. ENPO, in addition to reviewing their reports on environmental monitoring data with the MTRC, also conducts regular site inspections and obtains noise level measurements, and takes prompt action when necessary to advise the MTRC to improve the effectiveness of mitigation measures in hand. The Environmental Protection Department and the MTRC have set up telephone hotlines for receiving enquiries and complaints, and site procedures allow virtually immediate response if this is necessary.

I wish to assure Members that the MTRC and the Government have taken the environmental issues very seriously, with dedicated staff resources to address such matters. The MTRC has eight general staff with another seven overseeing staff carrying out supervisory work and environmental control, while the Government has six overseeing staff.

- (b) Mr President, construction work at Lai King commenced almost 12 months ago, whereas noise complaints only began to be received early this year. The complaints have been traced to sources, and it is true that there have been exceedences of the MTRC'S self-imposed 75dB noise limit despite the considerable efforts made to stay inside this limit. The problem stems from the need to construct substantial concrete footings involving rock excavation for a noise enclosure structure, which is itself a temporary but essential part of the noise mitigation measures being provided for construction of permanent works. Following completion of this noise enclosure by May 1995, that is, next month, the MTRC is confident that the 75dB limit will be adhered to. In the mean time, constant efforts have



been made to reduce noise impacts, and the record shows continuous improvement so that levels are now contained to about 75 to 77 dB.

The Administration will continue to work closely with the MTRC to contain the noise impact problems at Lai King, and indeed elsewhere arising from the construction of the Airport Railway. Local residents are being contacted almost daily and local representative bodies also are being kept fully in the picture.

- (c) The Housing Department is unable to offer rehousing to tenants of Lai King Estate as a general practice on the grounds of noise nuisance over a limited period of time. However, it is always willing to consider sympathetically exceptional arrangements for tenants with special needs, for example, where there are health grounds for transfer. Apart from resource considerations, the Department believes that it is essential and most effective to mitigate noise levels at source, and this as I have pointed out, is the approach which the MTRC and other government departments are adopting.

MR LEE WING-TAT (in Cantonese): *Mr President, I understand very well the details of works mentioned in the Secretary's reply because I have participated in the relevant discussions. I wonder if Mr EASON is aware of the fact that from January to April this year, despite the implementation of the relevant measures, the average level of noise generated by the construction project at Lai King still exceeded the 75 dB limit. Efforts to mitigate noise levels at source have therefore proved to be ineffective. Furthermore, when the Government held discussions on the programme of construction Container Terminal No. 9 two years ago, it decided to make arrangements to move out those residents of Ching Tao House, Cheung Ching Estate, who were subjected to excessive noise nuisance, and again, when the Government proceeded with the discussions on the Western Harbour Crossing Project, it sought to provide insulation to the windows of those households being subjected to excessive noise nuisance. Under such circumstances, why has the Government not adopted the aforementioned two approaches for the residents of Lai King Estate who constantly have to tolerate a noise level of 75 dB? What are the reasons?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I think the point of difference is that the two projects which the Honourable Member has referred to specifically are projects which will produce, upon completion, traffic noise, and that is why the mitigation measures which cannot be applied adequately to the new highway projects are being applied to the flats which will be affected by the noise. As I pointed out, in relation to Lai King and the construction project there, this is a very temporary phenomenon because the noise which has been generated in the past two or three months has actually been generated by efforts to construct a noise barrier in itself, and once that noise barrier is in place - which as I said, should be by

next month - then there should not be a question of ongoing exceedences of the 75 dB limit.

MR ALBERT CHAN (in Cantonese): *Mr President, the Government explains that, in regard to handling the noise issue, both the MTRC and the relevant government officials have shown great concern over this problem and a lot of efforts have been put in. Although the Government has listened to the residents' complaints and has addressed the problem, the noise nuisance still persists and the residents still suffer from a noise level of over 75 dB. When the Advisory Council on the Environment held discussions on this issue, the MTRC undertook, in the presence of government officials, that the noise level would not exceed 75 dB. However, the fact is that the MTRC has failed to honour its promise. Can the Secretary inform us why the Government still tolerates such exceedences following failure on the part of the MTRC to honour its promise in spite of the fact that their proposed plan has been accepted by the Government and the opinions of the Advisory Council have been sought? Has the MTRC, at the outset, misled the Advisory Council? Or has the Government accepted the MTRC proposal because the relevant government departments have been deceived by the MTRC?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I think we need to look at this in the context of perhaps the fact that since January this year there have been 12 complaints; I think there have been two complaints specifically from Block 5 in Lai King Estate. And I think the point to repeat is that the MTRC accepted a voluntary imposition of a 75 dB noise limit within construction hours and locations which are not restricted by law. Our environmental legislation does not impose such restrictions so far. Whether in due course it will, I think is a matter for subsequent consideration. The arrangements which are in place are for the MTRC to do its utmost to ensure that the limit that it has accepted voluntarily is adhered to. It is in the nature of the construction of this particular piece of noise barrier that it has not been possible consistently to avoid some exceedences. But the record shows that whenever there has been exceedence and complaint, there has been prompt action to seek to mitigate. And as I said earlier, I believe that once this noise barrier is in place, it will protect residents from further exceedences and we and the MTRC will seek to ensure that that is achieved.

MR LEE WING-TAT (in Cantonese): *Mr President, it seems a big joke that the construction of a noise barrier itself, which is undertaken for the purpose of reducing noise, has exceeded the noise level commitment openly made by the MTRC, particularly when the noise level has reached 75 to 91 dB. Mr EASON said that we should look forward to see the result after the noise barrier is put in place in May. However, in a reply furnished to me by the MTRC, which is with me at the moment, the MTRC said that if the noise level still exceeds 75 dB after the completion of the noise barrier in May, the MTRC would continue to*

*take mitigating measures. Does the Secretary feel that this is a satisfactory reply? What undertaking the Government will make to this Council and to the residents living in the vicinity of the construction site?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, Mr LEE may refer to it as a joke but I do not think I or the residents consider it as such, and I can assure him and the residents that the MTRC and its contractors and the Administration will continue to do their utmost to ensure, as far as humanly possible, that exceedences are eliminated. And as I say, the completion of the noise barrier itself should go a long way to enabling everybody to live up to their commitments in that regard.

PRESIDENT: Not answered, Mr LEE?

MR LEE WING-TAT (in Cantonese): *Mr EASON has not answered my question at all. The MTRC undertook in its reply that if the noise level still exceeds 75 dB after the noise barrier is completed on May 1, the MTRC will continue to put in mitigating efforts. This is an uncommitted commitment. What commitment can the Secretary, who is overseeing the work of the MTRC on behalf Government, make to this Council and to the public?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I do not wish to keep repeating myself, but undertakings have been given to carry out auditing and monitoring and to deal with exceedences, and I believe that is as far as the MTRC and the Administration can go.

MR MAN SAI-CHEONG (in Cantonese): *Mr President, in his reply, Mr EASON said that the MTRC carried out noise mitigating measures on a voluntary basis. Can the Government inform us whether the existing legislations are sufficient to control noise exceedences arising from the Airport Railway Project? If not, can the Government carry out some concrete measures which can be immediately implemented?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, again, without wishing to repeat myself, I have already said that the present legislation does not control noise within these hours and that is why we have to rely on a voluntary undertaking by the MTRC. And I also said a moment ago that if the indications from experience, say territory-wide, is such that generally speaking the noise limits the legislation imposes are inadequate, then we should consider whether they should be strengthened.

**WRITTEN ANSWERS TO QUESTIONS****Clearance Time at Lo Wu and Airport Control Points**

5. MR HOWARD YOUNG asked: *Regarding the installation of optical readers at the Lo Wu and Airport immigration control points, will the Administration inform this Council:*

- (a) *of the respective average processing times for each traveller before and after the installation of the optical readers;*
- (b) *of the respective numbers of passengers that can be processed each hour in a normal situation and during peak hours; and*
- (c) *whether optical readers will be installed at the Hong Kong-Macau and Hong Kong-China ferry immigration control points in the near future?*

SECRETARY FOR SECURITY: Mr President,

- (a) At Lo Wu, the average processing time for a Hong Kong Identity Card holder is 20 seconds at present. Before the installation of optical readers, the average processing time was 24 seconds, that is, there is a reduction of the processing time by four seconds.

At the Airport, the average processing times for arrival and departure clearances are different. For a Hong Kong Identity Card holder, the average for arrival clearance is 30 seconds at present, compared with 34 seconds before the installation of optical readers. That for departure clearance is 39 seconds, compared with 43 seconds before.

We plan to install more optical readers to facilitate clearance. At present, 350 optical readers have been installed for clearance of Hong Kong Identity Card holders only. An additional 270 optical readers will be installed in September this year at the control points for handling machine readable passports as well. We estimate that using the optical readers, the current average processing time for machine readable passports of 90 seconds for arrivals and 60 seconds for departures will be reduced by 20 seconds for each machine readable passport holder.

- (b) Lo Wu is now able to process 9 200 passengers per hour during normal times and 11 500 passengers during peak periods. This represents an increase of 28% in the handling capacity for normal times and 35% for peak periods. The Airport is able to process

5 800 passengers per hour during normal times and 8 200 passengers per hour during peak periods. The increase in capacity is 4% and 5% respectively. As the proportion of machine readable passports cleared at the Airport is much larger, there will be a considerable improvement in the handling capacity when optical readers are installed for machine readable passport holders by September this year.

The increase in handling capacity is made possible not only by the installation of optical readers, but by an increase in manpower. Last year, we created 113 additional posts for Lo Wu. This year, we have just created 44 additional posts for the Airport.

- (c) Optical readers were installed at the Macau and China Ferry Terminals last September for clearance of Hong Kong Identity Card holders. Additional readers will be installed this September. In fact, from September this year, all the counters at major control points will be installed with optical readers.

### **Application for Employment and Commercial Visas**

6. MR SIMON IP asked: *Will the Government inform this Council whether measures will be taken to make employment and commercial visa application procedures more efficient and transparent to applicants; if so, what such measures are, and whether the Immigration Department will consider adopting the following additional measures:*

- (a) *issuing and publicizing guidelines for those people applying for employment or commercial visas after their arrival in Hong Kong;*
- (b) *issuing and publicizing clearer guidelines on the documentation required at the outset of an application, so that an applicant does not need to make several trips back to the Department to submit documents not originally requested;*
- (c) *issuing and publicizing more detailed instructions for completing application forms, including glossaries of terms used therein; and*
- (d) *taking steps to shorten the lengthy queues faced by applicants?*

SECRETARY FOR SECURITY: Mr President, procedures for the application for visas for employment and investment are designed to be as simple and straightforward as possible. Information pamphlets and application forms are available at service outlets of the Immigration Department, District Offices and British visa posts overseas. Guidance notes attached to visa application forms distributed in Hong Kong set out in detail the supporting documents needed and

highlight areas requiring special attention. Public enquiries can be made at the Immigration Department's Information Office, through the Department's 24-hour enquiry hotline (Tel. No. 2824 6111) or at British visa posts overseas.

We are committed to providing an efficient and courteous service to the public. To this end, we continue our efforts to improve and simplify visa application procedures. For example, we introduced in October last year a dual-track system where applicants seeking to enter Hong Kong for employment, investment, training, residence or education may either submit their visa applications to their nearest British visa post or send them to the Immigration Department, either directly or through their local sponsors. The direct application facility reduces normal processing time by up to two weeks.

As regards the additional measures referred to in the Honourable Member's question:

- (a) Persons who wish to work or set up business in Hong Kong should apply to British visa posts or to the Immigration Department for visas before they come to Hong Kong. Applications from visitors for employment or investment after their arrival should be regarded as exceptions.
- (b) As explained above, application forms and guidance notes are widely available. Applicants or their sponsors are encouraged to provide all the necessary documents at the outset, so that there should be no need to make repeated trips. Staff of the Immigration Department are ready to answer any queries, through telephone enquiries if desired, by applicants or their sponsors on the documentation required.
- (c) Visa application forms are already written in plain language and are designed to be user-friendly. Immigration Department staff are ready to assist applicants who have difficulty in completing the forms.
- (d) Applicants for visas need not apply to the Immigration Department in person. They may send their applications directly to the Immigration Department by post, or apply through British visa posts overseas. They should then be able to avoid any need for queueing. Visitors who seek to change their status after arrival may submit their applications to the Department's Entry Visa "Other Services" Section, and their applications are normally received over the counter, after a short preliminary screening. However, they may also send their applications by post, thus avoiding any need for queueing.

**Truck drivers from China**

7. MR LEE CHEUK-YAN asked (in Chinese): *Will the Government inform this Council of the respective numbers of container truck and truck drivers from China driving such vehicles who enter and leave the territory in the course of their work each month in the past year; and whether such drivers are classified as imported labour?*

SECRETARY FOR SECURITY: Mr President, the People's Republic of China (PRC) drivers employed by companies in China who drive trucks (including container trucks) into Hong Kong in the course of their work enter on multiple-journey visit visas. As at 18 April 1995, there were 713 PRC truck drivers holding valid visas. These PRC drivers are not classified as imported workers as they are employed by companies in China.

We do not have monthly statistics on the arrival/departure of PRC truck drivers on visas. Statistics are available only for all PRC drivers entering on visas, that is, PRC drivers of trucks, passenger coaches, private cars and so on. The statistics for the past 12 months are as follows:

<i>1994</i>	<i>Arrival</i>	<i>Departure</i>
April	9 667	9 742
May	9 918	9 660
June	10 525	10 442
July	10 964	11 099
August	11 521	11 426
September	11 272	11 293
October	11 238	11 206
November	10 719	10 561
December	11 166	11 202
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Total:	96 990	96 631

<i>1995</i>	<i>Arrival</i>	<i>Departure</i>
January	10 979	11 003
February	8 716	8 628
March	14 632	14 493
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Total:	34 327	34 124

### **Projection of the Number of Container Trucks**

8. MR VINCENT CHENG asked: *Will the Administration inform this Council of the projection of the number of container trucks in the next decade, given the Administration's projected number of container units that will be handled by the territory's container facilities in the next 12 years up to 2006?*

SECRETARY FOR TRANSPORT: Mr President, as at 1 April 1995, the number of licensed container vehicles in Hong Kong is 12 862. The number is projected to increase to 20 000 by 2001 and 27 000 by 2006.

### **Subsidization of Private Residential Care Homes for the Elderly**

9. MR MOSES CHENG asked (in Chinese): *The Government has indicated that a provision of \$50 million will be set aside to subsidize private residential care homes for elderly persons (RCHs) to improve their facilities so that they can comply with the requirements specified in the Residential Care Homes (Elderly Persons) Ordinance, which came into effect on 1st April 1995. In this connection, will the Government inform this Council:*

- (a) when it will announce the application procedures concerning the subsidy scheme so that private RCHs operators in need of financial assistance can submit applications as soon as possible;*
- (b) of the estimated number of private RCHs which will apply for subsidy;*
- (c) of the estimated average amount of subsidy to be granted in respect of each application;*
- (d) what monitoring measures it will adopt to ensure that the funds granted are properly used by subsidized private RCHs; and*



- (e) *whether, in regard to those private RCHs whose applications for subsidy have been rejected, consideration will be given to providing other means which will help them to meet the requirements of the Residential Care Homes (Elderly Persons) Ordinance?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the reply is as follows:

- (a) We aim to announce the application procedures for the Financial Assistance Scheme before the end of May 1995. Operators of private homes and self-financing non-profit-making homes for the elderly will then be invited to submit applications accordingly.

- (b) and (c)

Existing private homes vary enormously in terms of their financial condition and the scale of improvement or alteration works which they may need in order to comply with the new statutory requirements. It is, therefore, difficult to estimate the number of private residential care homes (RCHs) which will apply for the subsidy and the amount of subsidy which will be appropriate in each case.

- (d) The Social Welfare Department is devising application, vetting and payment procedures for the Financial Assistance Scheme in order to ensure that the funds granted are properly used. RCHs will be required to meet certain eligibility criteria when they make their applications. While all applications will have to be based on estimates made by professional consultants or qualified contractors, the scope of work and project costs will need to be vetted and approved by the Social Welfare Department on the advice of a professional works team established especially for that purpose in the Department. This team will monitor the progress of each successful application and the payment of grants will be made only on a reimbursement basis against certified receipts.
- (e) The most likely reason for the rejection of an application made by an RCH would be that the RCH concerned had locational or structural problems which could not be rectified even through major improvement works. In such a case, the operator would be advised to seek alternative premises to continue the operation of the RCH. In the event that a home may need to be closed for whatever reason, the Social Welfare Department will assist operators to find alternative places for any elderly persons affected.

## Navigation Safety in Hong Kong Waters

10. MRS MIRIAM LAU asked (in Chinese): *Despite steps being taken by the Marine Department to ensure navigation safety in the territory's waters, two serious collisions involving passenger catamarans have occurred in the territory's waters within a period of four months. In view of this, will the Government inform this Council whether:*

- (a) *the Marine Department will adopt any special measures to prevent the occurrence of similar accidents; and*
- (b) *the Marine Department has any contingency plans to deal with such accidents?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, the Director of Marine is inquiring into the causes of the two recent collision incidents involving passenger catamarans. Only one of those incidents occurred within Hong Kong waters; the other occurred within Chinese waters. In the light of the outcome of those inquiries, the Administration will implement all necessary measures to prevent the occurrence of similar accidents.

The Director of Marine has already implemented a number of proactive measures to minimize the risk of collisions. These include the establishment and realignment of fairways, the stepping up of harbour patrols, augmenting the regulations and procedures of the vessel traffic system and the establishment of additional local traffic control stations. These measures have already improved the regulation of traffic flow in the harbour. For the future, a new Marine Control Station at Ma Wan is to be commissioned in June and an additional 24-hour harbour patrol team will be developed later this year to step up surveillance and harbour control. A longer-term strategy for the management of Hong Kong waters is being developed in conjunction with a comprehensive study on marine navigational issues which we propose to start later in the year.

As regards contingency planning, comprehensive plans are in place. For example, in the event of accidents, the Marine Rescue Co-ordination Centre co-ordinates rescue operations in conjunction with the Marine Police who may call upon support as necessary from the Fire Services Department, the Government Flying Service and such other specialist services as may be necessary.

**Elimination and Simplification of Government Forms**

11. MR MARTIN BARROW asked: *In regard to the review of government forms, will the Government provide this Council with an update on the elimination and simplification of forms in each department during the past two years under the following headings:*

(a)	(b)	(c)	(d)	(e)
<i>Dept</i>	<i>No. of Forms 31/3/93</i>	<i>No. of Forms 31/3/94  (excluding new forms introduced)</i>	<i>No. of Forms Eliminated  (b) - (c)</i>	<i>No. of Forms Simplified or Improved</i>

CHIEF SECRETARY: Mr President, we have the following information:

<i>No.</i>	<i>Department</i>	Public Forms Review			
		<i>No. of Forms as at 31.3.93</i>	<i>No. of Forms as at 31.3.95 (excluding new forms introduced)</i>	<i>No. of Forms eliminated (1.4.93 - 31.3.95)</i>	<i>No. of Forms simplified or improved (1.4.93 - 31.3.95)</i>
		(a)	(b)	(a) - (b)	
1	Administration Wing, GS	22	17	5	4
2	Agriculture and Fisheries Department	85	85	0	38
3	Census and Statistics Department	225	223	2	4
4	City and New Territories Administration	283	278	5	59
5	Civil Aviation Department	109	105	4	42
6	Civil Engineering Department	26	26	0	13
7	Companies Registry	75	75	0	50
8	Correctional Services Department	7	5	2	4
9	Custom and Excise Department	166	122	44	112
10	Department of Health	193	186	7	109
11	Education Department	584	290	294	290
12	Electrical and Mechanical Services Department	20	16	4	16
13	Environmental Protection Department	67	60	7	23
14	Fire Services Department	265	205	60	48
15	Government Supplies Department	146	121	25	73

Public Forms Review					
<i>No.</i>	<i>Department</i>	<i>No. of Forms as at 31.3.93</i>	<i>No. of Forms as at 31.3.95 (excluding new forms introduced)</i>	<i>No. of forms eliminated (1.4.93 - 31.3.95)</i>	<i>No. of forms simplified or improved (1.4.93 - 31.3.95)</i>
<i>No.</i>	<i>Department</i>	<i>(a)</i>	<i>(b)</i>	<i>(a) - (b)</i>	
16	Highways Department	7	6	1	0
17	Hong Kong Export Credit Insurance Company	32	32	0	8
18	Hong Kong Monetary Authority	33	33	0	0
19	Housing Department	625	539	86	98
20	Immigration Department	120	115	5	2
21	ICAC	24	19	5	5
22	Industry Department	9	9	0	6
23	Information Services Department	7	7	0	0
24	ITSD	42	20	22	10
25	Inland Revenue Department	123	104	19	26
26	Judiciary	6	6	0	0
27	Labour Department	415	344	71	196
28	Lands Department	23	20	3	1
29	Legal Department	13	10	3	6
30	Legal Aid Department	38	38	0	3
31	Marine Department	103	95	8	47
32	Office of the Commissioner for Administration Complaints	2	2	0	0
33	Office of the Commissioner of Insurance	18	18	0	13
34	Office of the Telecommunications Authority	58	58	0	58
35	Official Receiver's Office	179	158	21	105
36	Planning Department	3	3	0	1
37	Post Office	100	97	3	64
38	Printing Department	36	36	0	1
39	Public Service Commission	1	1	0	0
40	Radio Television Hong Kong	3	3	0	3
41	Rating and Valuation Department	440	427	13	142
42	Regional Services Department	102	97	5	82
43	Registration and Electoral Office	139	128	11	59

		Public Forms Review			
<i>No.</i>	<i>Department</i>	<i>No. of Forms as at 31.3.93</i>	<i>No. of Forms as at 31.3.95 (excluding new forms introduced</i>	<i>No. of forms eliminated (1.4.93 - 31.3.95)</i>	<i>No. of forms simplified or improved (1.4.93 - 31.3.95)</i>
<i>No.</i>	<i>Department</i>	<i>(a)</i>	<i>(b)</i>	<i>(a) - (b)</i>	
44	Registry of Trade Unions	24	24	0	0
45	Royal Hong Kong Police Force	58	58	0	38
46	Social Welfare Department	204	119	85	89
47	Student Financial Assistance Agency	76	70	6	34
48	TELA	39	39	0	12
49	Territory Development Department	1	1	0	1
50	The Land Registry	20	18	2	15
51	Trade Department	134	123	11	116
52	Transport Department	118	103	15	66
53	Treasury	35	28	7	25
54	Urban Services Department	599	215	384	143
55	Water Supplies Department	190	118	72	108
	Total	6 472	5 155	*1 317	2 468

\* Total number of forms abolished is 1 455, of which 138 forms have been combined with other forms

### Financial Needs of the Elderly

12. MR JIMMY MCGREGOR asked: *Elderly citizens who are now the recipients of the normal Old Age Allowance and the higher Old Age Allowance have been given the expectation that they would be able to receive an Old Age Pension of at least \$2,300 per month at 1995 price levels. However, the abandonment by the Government of the proposed Old Age Pension Scheme has now left these elderly citizens without any apparent improvement to their small Old Age Allowances. In this connection, will the Government inform this Council what measures it now proposes to take to improve the financial situation of these elderly people estimated at over 400 000 who are not subject to inclusion in the Comprehensive Social Security Assistance Scheme, together with a timetable for the introduction of any such measures?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the proposed Old Age Pension Scheme (OPS) was designed as a contributory scheme to provide income security for all eligible elderly persons. The Old Age Allowance for elderly persons is non-contributory and, apart from an income declaration for those aged 65 to 69, is a non-means tested grant. Our Comprehensive Social Security Assistance (CSSA) Scheme is designed to provide financial support to those in genuine financial need, that is, it is a means-tested welfare payment.

It is important that the fundamental differences between these various schemes are fully appreciated. The Government is proceeding with a mandatory privately managed provident fund scheme (the MPF) in place of the OPS to address the need for financial security in retirement. The Administration intends to introduce legislation to establish the MPF system in this legislative Session.

In addition, the Review of the CSSA Scheme currently in hand should be concluded in the first quarter of 1996. The Financial Secretary has agreed to reserve funds to enable some, if not all, of the Review's recommendations to be implemented in the 1996-97 financial year.

The financial needs of the elderly are best addressed by a successful implementation as early as possible of the MPF system and any enhancements of CSSA payments for the elderly which may be recommended in the CSSA Review and which could increase the number of elderly persons entitled to CSSA support. It is the development of these two schemes, rather than the Old Age Allowance scheme which is not targetted at those in need, which will be the best way of meeting the financial needs of elderly persons in the future.

### **Letting of Markets or Shopping Centres in Public Housing Estates**

13. MR TAM YIU-CHUNG asked (in Chinese): *There has been an increasing trend in recent years of the Housing Authority letting entire markets or shopping centres in public housing estates to single operators. As the sublessees at different levels need to make a profit, the costs borne by the direct operators of these markets and shopping centres have in consequence increased substantially, and these are in the end passed on to the consumers. Recently, the direct operators in Kwong Tin Estate in Lam Tin have taken strike action, because they are unable to bear the substantial rises in rent. In this connection, will the Government inform this Council:*

- (a) *whether the Housing Authority will consider discontinuing the mode of letting markets and shopping centres in housing estates to single operators; and*

- (b) *what measures the Housing Authority will put in place to monitor the situation in housing estates where an entire market or shopping centre has been let to a single operator, in order to prevent the occurrence of similar strike incidents?*

SECRETARY FOR HOUSING: Mr President,

- (a) At present, there are six markets and six supermarket-cum-markets in Housing Authority estates which have been let to single operators. Past surveys of 10 of these markets showed that the products and services provided were well received by residents. By letting these commercial premises to single operators, the Housing Authority expects them to provide an efficient service, while at the same time containing staff growth. For these reasons, the Housing Authority does not intend to discontinue the single-operator practice in the housing estates concerned. However, it will continue to monitor the services provided with a view to improving the letting system if necessary.
- (b) In letting markets to single operators, the Housing Authority adopts the following measures to safeguard the interests of residents:
- (i) the operator is required under the tenancy agreement to run a variety of essential trades and services;
  - (ii) the operator is required to submit individual sub-tenancy agreements to the Authority prior to their execution, and to bring any subsequent change or termination to the notice of the Authority;
  - (iii) the premises should be kept open for business between 7.00 am and 8.00 pm daily; and
  - (iv) the Authority retains the right to terminate the agreement with the single operator in case of unsatisfactory performance on the part of the operator or his sub-tenants.

Moreover, the practice of letting commercial premises to single operators is not adopted unless there is an alternative market in the vicinity. This ensures consumer choice and continuity of service to residents in case of disruption.

- (c) Operators and sub-tenants of single-operator markets in public housing estates are given a free hand to make their own commercial decisions. In the case of Kwong Tin Estate, which houses a supermarket-cum-market run by a single operator, the recent temporary closure of the wet market was decided on by stallholders

during negotiations over the terms of renewal of their tenancies. Notwithstanding the temporary closure of the wet market, the operator has been able to maintain service in the supermarket section.

While the Housing Authority does not exercise direct control over the contractual terms and conditions under which individual stalls are sub-let by the operator, the Authority always encourages dialogue between the operator and sub-tenants to resolve disputes and to maintain harmonious relationships. In the event of a serious service disruption, the Authority will intervene with a view to restoring service to the public as soon as possible.

### **Increase in Social Security Assistance Payments**

14. MISS CHRISTINE LOH asked: *In his reply to a written question which I asked concerning the Programme Area on Social Security in the context of the examination of Draft Estimates of Expenditure 1995-96, the Director of Social Welfare has stated that the Comprehensive Social Security Assistance (CSSA) rates have increased by about 15 times over the last two decades while the rate of inflation as measured by the Consumer Price Index (A) has gone up only six times. In this connection, will the Government inform this Council how it has calculated this increase in CSSA payments and, in particular, how it can demonstrate the real increase in the last 10 years?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, when the Public Assistance Scheme, which is now known as the Comprehensive Social Security Assistance (CSSA) Scheme, was set up in 1971, the basic (now standard) rate for a single person was \$70 per month. Since then, the standard rates have been adjusted in accordance with increases in the cost of living. Real increases have also been made to the rates. In 1994, the standard rate for a single person became \$1,115 per month, representing an increase of about 15 times over the rate in 1971. The Consumer Price Index (A) (CPI(A)) rose from 21.0 in 1971 to 146.9 in 1994, representing an increase of about six times.

From 1985 to 1994, the standard rate for a single person increased from \$510 per month to \$1,115 per month, representing an increase of 119%. The CPI(A) rose from 72.8 in 1985 to 146.9 in 1994, representing an increase of 102%. This demonstrates a real increase in the CSSA payment rates over the last 10 years.



**Water Supply to Remote Villages in the New Territories**

15. MR ALBERT CHAN asked (in Chinese): *In his written reply to a question regarding complaints about the lack of water supply to squatter areas at the Council sitting on 30 June 1993, the Secretary for Works indicated that a Public Works Programme Item "Water Supply to Remote Villages in the New Territories" had been created. However, the residents of Lin Fa Shan in Tsuen Wan have recently complained that the area is still without water supply. In this connection, will the Government inform this Council of:*

- (a) *the progress of the project for the provision of water supply to Lin Fa Shan;*
- (b) *the target date for completion of the project; and*
- (c) *the villages in the New Territories which are currently without water supply?*

SECRETARY FOR WORKS: Mr President,

- (a) *The progress of the project for the provision of water supply to Lin Fa Shan:*

Provision of water supply to Lin Fa Shan in Tsuen Wan has been planned as part of the project "Chuen Lung and Ha Fa Shan Scheme" which comprises a two-staged pumping system. Tender for the works will be gazetted in June 1995 and construction will commence in September 1995.

There are however still land problems to be resolved, and consequently difficulties in finding suitable routes for the water mains in the area. Unless the land problem can be resolved before the tender date, some delay is expected for the completion of the project.

- (b) *The target date for completion of the project:*

The project is expected to complete by the end of 1996 and metered water supply will also be available to the villagers of Lin Fa Shan at the same time.

- (c) *The villages in the New Territories which are currently without water supply:*

Out of the 774 villages identified under the New Territories Water Supply Scheme, 640 villages have been provided with metered water supply. There are a total of 134 villages not yet provided

with metered water supply and for these villages, actions at different stages are being taken as follows:

(a)	Villages for which works are at design or construction stage (Construction works for 37 villages were underway. Works for the other 13 villages were being designed)	50
(b)	Villages under planning	19
(c)	Villages presently not planned for metered water supply but are being reviewed	30
(d)	Villages cleared or to be cleared	4
(e)	Villages which are deserted or are sparsely populated	31
	Total	134

### Development of Sai Tso Wan in Cha Kwo Ling

16. MR FRED LI asked (in Chinese): *It is learnt that the Planning Department has undertaken a study on the future development of Sai Tso Wan in Cha Kwo Ling, Kwun Tong. In this connection, will the Government inform this Council:*

- (a) *when the Planning Department has started to study the land use of that site;*
- (b) *of the reasons why the Planning Department has not yet released any findings of the study, and whether preliminary findings of the study will be made public; and*
- (c) *whether, as the land lease of the clay mine situated at the above-mentioned site will expire in 1996, the Planning Department will be able to complete the report of the study before the expiry of the land lease; if not, what actions the relevant departments will take to solve the noise and air pollution problems caused by the mine to residents in Cha Kwo Ling and Laguna City?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the answers to the three-part question are:

- (a) The Planning Department commissioned the Central and East Kowloon Development Statement Consultancy study in December

1994. The objective of the study is to provide a broad planning framework to guide the planning and development of Central and East Kowloon up to 2011 having regard to Metroplan and the latest strategic planning, transport and infrastructure proposals relevant to the study area. The study area covers Kwun Tong, Wong Tai Sin and part of Kowloon City. The land use of Cha Kwo Ling, Kwun Tong is covered by this study.

- (b) Upon completion of the above-mentioned study, relevant district boards will be consulted on its findings and recommendations.
- (c) The study is scheduled for completion in February 1996 which is before the expiry of the land lease of the clay mine in mid-1996. The Environmental Protection Department (EPD) has been and will be continuing its monitoring on the operation of the clay mine against any breaches of the statutory limits under the Air Pollution Control Ordinance (Cap. 311) and the Noise Control Ordinance (Cap. 400). Further legislative control, in the form of a licence control system under the Air Pollution Control Ordinance will be in place by August 1995. By then, EPD can impose licensing conditions on the operator to tighten the control over air emissions. The operator has commissioned a consultant to work out the necessary upgrading measures with a view to reducing air emissions to the minimum.

### **Appointment of Advisory Board and Committee Members**

17. MR CHEUNG MAN-KWONG asked (in Chinese): *Regarding the Government's policy on the appointment of members of advisory boards and committees, will the Government inform this Council:*

- (a) *whether there are specific criteria for such appointments; if so, what these criteria are;*
- (b) *whether members' attendance rate constitutes one of the criteria for reappointment; and*
- (c) *whether, in regard to the situation of individual members of certain boards or committees with a low attendance rate, the Government will draw up measures, such as stipulating a minimum attendance rate, so that those members who fail to attain such a rate will not be reappointed at the expiry of their terms of office, in order to ensure that members will make every effort to attend meetings?*

SECRETARY FOR HOME AFFAIRS: Mr President,

- (a) In general terms, appointments to advisory boards and committees are made on the basis of the merits of the individuals concerned, taking into account their personal ability, experience, integrity, commitment to public service and their overall suitability for appointment.
- (b) An individual's commitment to public service is taken into account in considering his re-appointment to advisory boards and committees. Attendance at meetings is only one of the many measures of one's commitment to public service.
- (c) In light of the above, it is not considered necessary to specify a minimum attendance rate as a criteria for re-appointment as to do so will introduce too much rigidity into the system.

### **Water Quality in Tolo Harbour**

18. REV FUNG CHI-WOOD asked (in Chinese): *Despite a number of work projects and measures being taken by the Government to tackle the water quality problem in Tolo Harbour, no improvement has been made to the problems of water pollution and red tides, as evidenced by the recent recurrence of the red tides problem which has resulted in the death of large quantities of fish and the emission of stench affecting nearly half of the district of Tai Po. In view of this, will the Government inform this Council:*

- (a) *whether the continued existence of water pollution and red tides is an indication that the existing measures adopted have had no practical effects or that there are problems in the enforcement of these measures; and*
- (b) *whether, apart from the projects launched by the Government to divert sewage to other places, consideration will be given to removing the pollutants in the water by dredging the silt on the seabed in order to solve the water pollution problem in Tolo Harbour on a permanent basis?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the statement in the preamble to the question that there has been no improvement to water quality in Tolo Harbour is incorrect. The answers to (a) and (b) are as follows:

- (a) The Tolo Harbour Action Plan (THAP) was put in place in 1987 to tackle water pollution and red tides in Tolo Harbour. The organic and nutrient pollution loads have been reduced by 45% and 36%

respectively since the inception of the THAP. Much of these reductions is the result of enforcement action under the Water Pollution Control Ordinance, following declaration of the Tolo Harbour and Channels Water Control Zone in 1987, and of livestock waste control through the Waste Disposal Ordinance since 1988. Enforcement action and other measures have brought about a marked improvement in water quality, as indicated by lower densities of algae and a reduction in the number of red tides in recent years. Nevertheless, because some polluting inputs continue, red tides occur from time to time, especially in the spring when algal blooms are more likely to occur. Further improvement to water quality is expected as more sources of pollution are removed.

Effluent export from the Sha Tin sewage treatment works, a key part of the THAP, was commissioned in April 1995. The same will be done for the Tai Po sewage treatment works in August 1995. Overall, this scheme is expected to further reduce organic and nutrient loadings by 10% and 30% respectively. The works to provide 14 Sha Tin villages with new sewers are nearing completion and works to provide 25 villages in Tai Po with the same have already begun. Further reductions in Tolo Harbour's pollution loading will occur when domestic sewage from these villages is diverted to the public sewers. These major improvement works, together with continued enforcement of the Water Pollution Control Ordinance to remove expedient connections and illegal discharges, the collection of leachate from the Shuen Wan landfill for treatment and restoration of the landfill upon its closure later in 1995, will also bring about further reductions in pollution loads.

- (b) Dredging the Tolo Harbour seabed would not help much. Although organic sediments on the seabed release nutrients, their contribution to red tides is small compared to the amount of pollution coming from land-based sources. Dredging the sediments would also lead to resuspension and dispersion of the nutrients and other pollutants into the water body. The most effective way to tackle water pollution in Tolo Harbour is to reduce pollution loads entering the water as outlined under (a) above.

### **Sex Education in Schools**

19. MR ERIC LI asked (in Chinese): *It has been pointed out in a number of surveys in recent years that young persons have gradually adopted an open attitude towards sex, and yet their sexual knowledge is relatively limited. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of serving and pre-service teachers who have received training in sex education, together with the number of*

*schools which have borrowed teaching materials related to sex education in the past three years;*

- (b) whether the Education Department has completed its survey, which started last year, on the knowledge and attitude of secondary school students on sex and sex education; if so, what the findings are;*
- (c) when a review will be conducted of the effectiveness of the "Guidelines on Sex Education in Secondary Schools" published in 1986, which is still in current use, in promoting the mode and curricula of sex education; and whether other professionals and members of the public will be invited to participate in such a review; and*
- (d) whether consideration will be given to drawing up new sex education curricula for primary one to primary six, form one to form three, form four to form five and matriculation classes, which are more specific than the general guidelines and which will enable teachers to be more effective in teaching sex education?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) Over the past three years, a total of 2 550 pre-service and 363 in-service teachers have received training/re-training in sex education.

The pre-service figure is made up of 2 500 students from the former Colleges of Education, and 50 students from the Chinese University of Hong Kong. The in-service figure wholly relates to serving teachers who attended the special training courses in sex education sponsored or run by the Education Department.

During the same period, 62 schools have borrowed teaching or display materials related to sex education from the two Education Department Sex Education Resource Centres.

- (b) This survey is being conducted by a research team from the Chinese University of Hong Kong on behalf of the Education Department. It is scheduled for completion in August this year.
- (c) The Education Department will review the Guidelines on Sex Education in the light of the results of the survey mentioned at (b) above. The Department intends to involve professionals, school principals, teachers, parents and members of the public in this review.
- (d) Besides the Guidelines on Sex Education, over 60 topics relating to sex education are currently taught at different levels in the context

of 10 different school subjects, for example, biology, social studies and so on. While these topics are reviewed regularly, the need for separate curricula for different school levels will be considered in the review mentioned at (c) above.

### **Linkage between Hong Kong Futures Exchange and Philadelphia Stock Exchange**

20. MR STEVEN POON asked (in Chinese): *In view of the decision of the Hong Kong Futures Exchange (HKFE) to form a linkage with the Philadelphia Stock Exchange (PSE) in the United States which will enable the same futures product to be traded on both exchanges, will the Government inform this Council whether -*

- (a) *it will ask the HKFE to clarify if the HKFE's establishment of a linkage with the PSE, which will facilitate the PSE in trading futures contracts on Hong Kong stocks, goes against the HKFE's original intention of launching stock futures contracts and the Government's undertaking given to this Council and the securities industry, bearing in mind that when the plan for introducing futures contracts on the Hongkong and Shanghai Banking Corporation Holdings and Hongkong Telecom stocks was explained to Members of this Council, the Government highlighted in particular the need for the HKFE to introduce the product as soon as possible so as to forestall a launch by the Singapore International Monetary Exchange of futures contracts on these two stocks;*
- (b) *the HKFE has received encouragement from the Securities and Futures Commission (SFC) and the Government in making this decision;*
- (c) *such a decision requires the prior approval of the SFC; if so, whether the SFC in granting its approval has assessed the overall implications of the HKFE's decision on the territory's securities industry and whether the SFC's findings will be published; if not, whether consideration will be given to amending the relevant legislation so that the launching of similar plans requires the prior approval of the SFC; and*
- (d) *the Government and the SFC have consulted the Stock Exchange of Hong Kong (SEHK) on the HKFE's decision; if so, what the SEHK's views are and whether the SEHK has raised any issues warranting particular concern?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, the Hong Kong Futures Exchange (HKFE) has no plans to link with the Philadelphia Stock Exchange (PHLX) to enable the same futures product to be traded on both exchanges. The proposed linkage with the PHLX announced by the HKFE in March is to allow the PHLX currency options to be traded at the HKFE during Asian trading hours. All transactions will be cleared through and guaranteed by a clearing company in the United States. The linkage does not include Hong Kong stock-based or index-based futures contracts.

## **MOTION**

### **RADIATION ORDINANCE**

THE SECRETARY FOR HEALTH AND WELFARE moved the following motion:

"That the following Regulations, made by the Radiation Board on 11 March 1995, be approved:

- (a) Radiation (Control of Radioactive Substances) (Amendment) Regulation 1995; and
- (b) Radiation (Control of Irradiating Apparatus) (Amendment) Regulation 1995."

She said: Mr President, I move that the Radiation (Control of Irradiating Apparatus) (Amendment) Regulation 1995 and Radiation (Control of Radioactive Substances) (Amendment) Regulation 1995 as set out under my name in the paper circulated to Member be approved.

The Radiation Ordinance and its subsidiary legislation regulate, inter alia, exposure to ionizing radiation according to international standards so as to ensure effective protection of workers and the public as regards their health and safety.

Recently, international standards on this front have been updated by scaling down the limits of ionizing radiation exposure to radiation workers and the public, hence our amendment Regulations.

Technical amendments to terminology related to the regulations are also made.

The amendment Regulations also seek to allow the use of irradiating apparatus for specified medical purposes under certain conditions by radiographers, who need to operate irradiating apparatus when delivering their services. Radiographers will be required to be statutorily registered under the



recently made Radiographers (Registration and Disciplinary Procedure) Regulation.

The amendment Regulations enhance radiological protection according to international standards and provide strict, but reasonable, conditions under which certain persons may operate irradiating apparatus for specified purposes. The Radiation Board, the licensing authority in respect of radioactive substances and irradiating apparatus set up under section 3 of the Radiation Ordinance, has been consulted and support the amendment Regulations.

With these remarks, I move the motion.

*Question on the motion proposed, put and agreed to.*

## **BILLS**

### **First Reading of Bills**

#### **SECURITIES (INSIDER DEALING) (AMENDMENT) BILL 1995**

#### **DRUG TRAFFICKING (RECOVERY OF PROCEEDS) (AMENDMENT) BILL 1995**

#### **ORGANIZED AND SERIOUS CRIMES (AMENDMENT) BILL 1995**

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

### **Second Reading of Bills**

#### **SECURITIES (INSIDER DEALING) (AMENDMENT) BILL 1995**

THE SECRETARY FOR FINANCIAL SERVICES moved the Second Reading of: "A Bill to amend the Securities (Insider Dealing) Ordinance."

She said: Mr President, I move the Second Reading of the Securities (Insider Dealing) (Amendment) Bill 1995.

The Bill has two objectives. First, it seeks to amend the Securities (Insider Dealing) Ordinance to make it possible for an additional division or divisions of the Insider Dealing Tribunal to be set up so that two or more

insider dealing cases can be heard at the same time. Secondly, it makes other amendments to the Ordinance to improve the operation of the Tribunal.

Investigations by the Securities and Futures Commission into suspected insider dealing are likely to generate a caseload that one tribunal will be unable to deal with alone without long delay. However, the Ordinance at present does not permit more than one tribunal, each with a different chairman and members, to operate at the same time. That insider dealing cases cannot be dealt with expeditiously may reduce the deterrent effect of the tribunal process and give the false impression that the Government does not consider insider dealing a serious matter.

Insider dealing undermines confidence in the fairness and the integrity of the market. The ability of the Tribunal to hear cases without undue delay is an important element in protecting the investing public and maintain market integrity.

To facilitate the setting up of an additional division or divisions of the Tribunal, it is also proposed that in addition to High Court judges, former High Court judges should be eligible for appointment as chairmen of divisions of the Tribunal. This is to widen the pool of candidates who will be eligible for appointment as chairmen.

Other amendments to the Ordinance are proposed to improve the operation of the Tribunal. Of these amendments, the more significant ones are the introduction of new provisions to empower the Tribunal to award costs to persons attending inquiries of the Tribunal and to provide certain immunity to witnesses from subsequent criminal and civil proceedings in respect of evidence given at proceedings before the Tribunal.

Thank you, Mr President.

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

## **DRUG TRAFFICKING (RECOVERY OF PROCEEDS) (AMENDMENT) BILL 1995**

THE SECRETARY FOR SECURITY moved the Second Reading of: "A Bill to amend the Drug Trafficking (Recovery of Proceeds) Ordinance."

He said: Mr President, I move the Second Reading of the Drug Trafficking (Recovery of Proceeds) (Amendment) Bill 1995.

The Drug Trafficking (Recovery of Proceeds) Ordinance provides for the tracing, restraining and confiscation of proceeds derived from drug trafficking and the criminalization of assisting a drug trafficker to launder his drug

proceeds. It also provides for the designation of countries and territories outside Hong Kong so that external confiscation orders can be enforced here. The Ordinance helps to reduce the profitability of drug trafficking and acts as a deterrent to money laundering. It enhances Hong Kong's co-operation with overseas countries in the fight against illicit drugs. Since the coming into operation of the Ordinance in September 1989, assets to the value of \$273 million have been ordered to be confiscated. Of these, \$194 million have been paid to the Government. Further assets amounting to \$153 million are under restraint.

The purpose of the present Bill is to improve the operation of the Ordinance in the light of experience since its enactment, and to bring its provisions into line with the standards in the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

The Bill empowers the court to make a confiscation order, where proceedings in respect of a drug trafficking offence have not concluded because the defendant has absconded or died.

It also empowers the court to increase the amount to be recovered under a confiscation order where additional proceeds are discovered subsequent to the making of the confiscation order.

The Bill seeks to extend the scope of production orders to cover information that is likely to become available, as well as information which is already in existence, and to make it clear that it is an offence for a drug trafficker to launder his own proceeds of crime.

The Bill also provides, in line with the United Kingdom practices, that once a person has been proved guilty beyond reasonable doubt of a drug trafficking offence, the amount by which he has benefited should be determined on the standard of proof applicable to civil proceedings.

Likewise, the Bill seeks to introduce powers for authorized officers to seize specified property reasonably suspected to be the proceeds of drug trafficking, which is being imported into or exported from Hong Kong. The power to order forfeiture of such property will be given to the courts.

To bring the Ordinance in line with the United Nations Convention, the Bill seeks to establish a criminal offence of dealing in property, knowing that it is the proceeds of drug trafficking and provides for the recovery of income or other benefits derived from property which represents the proceeds of drug trafficking.

Relevant bodies in the legal and financial sectors, namely, the Bar Association, the Law Society, the Hong Kong Association of Banks, the Hong Kong Deposit-taking Company Association, the Hong Kong Society of Accountants and the Securities and Futures Commission have been consulted in the course of the drafting of this Bill.

Thank you, Mr President.

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

### **ORGANIZED AND SERIOUS CRIMES (AMENDMENT) BILL 1995**

THE SECRETARY FOR SECURITY moved the Second Reading of: "A Bill to amend the Organized and Serious Crimes Ordinance."

He said: Mr President, I also move the Second Reading of the Organized and Serious Crimes (Amendment) Bill 1995.

The confiscation and money laundering provisions of the Organized and Serious Crimes Ordinance were modelled on the provisions of the Drug Trafficking (Recovery of Proceeds) Ordinance. In moving that the Drug Trafficking (Recovery of Proceeds) (Amendment) Bill be read a Second time, I have just explained the need for amending that Ordinance and the principal amendments proposed. To maintain compatibility and to achieve effective enforcement, it is necessary to make similar changes to the Organized and Serious Crimes Ordinance.

There are, however, two main differences between these two Bills: first, the Organized and Serious Crimes (Amendment) Bill does not contain amendments in respect of external confiscation orders, because the Organized and Serious Crimes Ordinance itself does not provide for such orders; secondly, this Bill does not provide powers of seizure and detention for the proceeds of the crime which are being imported into, or exported from, Hong Kong, because it is not considered essential for such powers to be sought beyond dealing with the proceeds of drug trafficking.

Thank you, Mr President.

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

**BUILDERS' LIFTS AND TOWER WORKING PLATFORMS (SAFETY) BILL****Resumption of debate on Second Reading which was moved on 15 February 1995**

*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).*

**HOUSING (AMENDMENT) BILL 1995****Resumption of debate on Second Reading which was moved on 25 January 1995**

*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.

**BUILDERS' LIFTS AND TOWER WORKING PLATFORMS (SAFETY) BILL**

Clauses 1, 4, 5, 7, 8, 12, 14, 18, 21 to 24, 26, 27, 28, 30 to 33, 36, 37, 38, 41, 42, 44 to 48, 50 and 51 were agreed to.

Clauses 2, 3, 6, 9, 10, 11, 13, 15, 16, 17, 19, 20, 25, 29, 34, 35, 39, 40, 43 and 49

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

These amendments are proposed for the Bill after we have carefully considered the comments of the Assistant Legal Adviser to this Council on the Bill and consultation with the Attorney General's Chambers.

They involve the removal of an unnecessary definition in the Bill and the rewording of clauses so as to make their meanings more explicit. For the clauses in connection with the disciplinary tribunal and the appeal board, the amendments are to ensure that the Director of Electrical and Mechanical Services will be notified of the time and place of the hearings and to make it clear that the presence of a legal adviser at the hearings is to deal with legal matters. I confirm that these amendments would not change the Bill in any substantial manner.

Furthermore, I would like to add that the amendments proposed for the Chinese version of the Bill are intended to achieve more accurate translation and better presentation.

Mr Chairman, I commend the amendments to Members for favourable consideration.

Thank you, Mr Chairman.

### *Proposed amendments*

#### **Clause 2**

That clause 2(1) be amended -

- (a) in paragraph (b) of the definition of "合資格人員", by deleting "能夠" and substituting "有能力".
- (b) in the definition of "建築工地升降機工程", by deleting everything after "建築或設備" and substituting "的安裝、投入運作、測試、保養、修理、更改或拆卸有關連的工程，並包括該等工程的監督及證明和有關安裝設計的證明；".
- (c) in the definition of "塔式工作平台", by deleting "移動" where it first appears and substituting "流動".
- (d) in the definition of "塔式工作平台工程", by deleting everything after "建築或設備" and substituting "的安裝、投入運作、測試、保養、修理、更改或拆卸有關連的工程，並包括該等工程的監督及證明和有關安裝設計的證明；".

That clause 2(1) be amended, by deleting the definition of "hoist".

#### **Clause 3**

That clause 3(5) be amended, by adding "一份由署長簽署發出的" before "檢驗員".

**Clause 6**

That clause 6(3) be amended, by adding "一份由署長簽署發出的" before "承建商".

**Clause 9**

That clause 9 be amended -

- (a) in paragraph (d), by deleting "有" where it secondly appears.
- (b) in paragraph (1), by deleting "運行" where it twice appears and substituting "移動".
- (c) in paragraph (m), by deleting "接觸" and substituting "觸及".
- (d) in paragraph (o)(ii), by deleting "聲浪" and substituting "響亮程度".

**Clause 10**

That clause 10 be amended -

- (a) in paragraph (g), by deleting "有" where it secondly appears.
- (b) in paragraph (i), by deleting "接觸" and substituting "觸及".
- (c) in paragraph (j)(ii), by deleting "聲浪" and substituting "響亮程度".

**Clause 11**

That clause 11(2) be amended, by deleting "修訂本" and substituting "修訂文本".

**Clause 13**

That clause 13 be amended, by deleting "須由" and substituting "只由".

**Clause 15**

That clause 15 be amended, by deleting "Before installing a builder's life or tower working platform for the first time in Hong Kong, a registered contractor" and substituting "Before a builder's lift or tower working platform is installed for the first time in Hong Kong, the registered contractor responsible for the installation".

**Clause 16**

That clause 16 be amended, by deleting "在建築工地升降機或塔式工作平台於任何建築工地安裝之前，註冊承建商" and substituting "註冊承建商於任何建築工地安裝任何建築工地升降機或塔式工作平台之前",.

**Clause 17**

That clause 17(2) be amended, in paragraphs (h) and (i), by deleting "製造" and substituting "牌子".

**Clause 19**

That clause 19 be amended -

- (a) in subclause (1) -
  - (i) by adding "以署長指明的表格" after "隨即";
  - (ii) by deleting "符合署長所指明的格式並".
- (b) in subclause (6), by deleting "投入" and substituting "予以".

**Clause 20**

That clause 20 be amended -

- (a) in subclause (2)(b), by adding "固定" before "支撐".
- (b) in subclause (3) -
  - (i) by adding "以署長指明的表格" after "隨即";
  - (ii) by deleting "符合署長所指明的格式並".
- (c) in subclause (6), by deleting "投入" and substituting "予以".

**Clause 25**

That clause 25(a) be amended, by deleting "需" and substituting "必".



**Clause 29**

That clause 29(a) be amended, by deleting "最高數目" and substituting "最多人數".

**Clause 34**

That clause 34 be amended -

- (a) in subclause (1) by adding "and the Director" after "examiner".
- (b) in subclause (3) by adding "legal" after "any".

**Clause 35**

That clause 35 be amended -

- (a) in subclause (2), by deleting "免" and substituting "宥".
- (b) in subclause (3), by deleting "、署長的有關費用及" and substituting "的繳付及署長的有關費用或".
- (c) in subclause (6), by deleting "放棄上訴通知書" and substituting "放棄上訴的通知".

**Clause 39**

That clause 39 be amended -

- (a) in subclause (1) by adding "and the Director" after "appellant".
- (b) in subclause (5) by adding "legal" after "any".

**Clause 40**

That clause 40(3) be amended, by deleting "\*" and substituting "的繳付及".

**Clause 43**

That clause 43(1) be amended, by deleting "的" where it secondly appears.

**Clause 49**

That clause 49 be amended, by deleting "may be commenced within 6 months after the commission of the offence or within" and substituting "shall not be commenced more than 6 months after the commission of the offence or more than".

*Question on the amendments proposed, put and agreed to.*

*Question on clauses 2, 3, 6, 9, 10, 11, 13, 15, 16, 17, 19, 20, 25, 29, 34, 35, 39, 40, 43 and 49, as amended, proposed, put and agreed to.*

**HOUSING (AMENDMENT) BILL 1995**

Clauses 1 to 6, 8 and 9 were agreed to.

**Clause 7**

SECRETARY FOR HOUSING: Mr Chairman, I move that clause 7(2) of the Bill be amended as set out in the paper circulated to Members.

The original clause 7(2) provides that an appeal tribunal appointed under the proposed section 7A(6) of the Housing Ordinance, in determining an appeal, should have regard to the Hong Kong Housing Authority's policies that applied to the subject matter of the appeal, and which the Housing Authority relied on when it decided to terminate a lease or to issue a notice to quit to which the appeal relates. The proposed amendment to clause 7(2) ensures that the concerned appellant was or could reasonably be expected to have been aware of the Housing Authority's policies when it made the decision.

Mr Chairman, I beg to move.

*Proposed amendment***Clause 7**

That clause 7(2) be amended, by deleting the proposed section 20(2A) and substituting -

- "(2A) (a) Paragraph (b) shall apply in relation to any policy of the Authority which is stated and specified as being such in a certificate in writing issued for the purposes of this subsection by the Authority's secretary and as regards which the certificate also certifies that the policy was both considered and applied by the Authority when deciding to terminate the lease or,

where appropriate, to issue the notice to quit to which the appeal relates.

- (b) In considering an appeal under subsection (1) -
  - (i) if the tribunal concerned is satisfied that at the time of making the decision to which a certificate mentioned in paragraph (a) relates, the appellant was aware of the policy or could reasonably be expected to have been so aware, the tribunal shall have regard to such policy; and
  - (ii) if such tribunal is not so satisfied, it may, where it considers it appropriate so to do, have regard to such policy."

*Question on the amendment proposed, put and agreed to.*

*Question on clause 7, as amended, proposed, put and agreed to.*

New clause 7A            Section Substituted

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

SECRETARY FOR HOUSING: Mr Chairman, I move that new clause 7A as set out in the paper circulated to Members be read the Second time.

Clause 7A arises from our policy intention to deter the creation of mortgages or charges not authorized by the Housing Authority by making them void and rendering the offenders liable to prosecution. Legal advice is that clause 6 of the Bill only deals with the question of voidance and is not adequate to render those who create unauthorized mortgages or charges liable to prosecution. It would be inappropriate to take prosecution action on the basis of clause 6 of the Bill or the existing offence-creating section 27A of the Housing Ordinance. We therefore propose the addition of a new clause to clarify the legal position and to make people who lend or borrow on the basis of unauthorized mortgages or charges liable to prosecution.

Mr Chairman, I beg to move.

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

Clause read the Second time.

SECRETARY FOR HOUSING: Mr Chairman, I move that new clause 7A be added to the Bill.

*Proposed addition*

**New clause 7A**

That the Bill be amended, by adding -

**"7A. Section substituted**

Section 27A is repealed and the following substituted -

**"27A. Unlawful alienations, etc.**

Where -

- (a) a person whether as lender, borrower or otherwise purports to create a mortgage of or otherwise charge land or to assign or otherwise alienate land or to enter into an agreement which relates to land; and
- (b) the purported mortgage or other charge or the purported assignment or other alienation or the purported agreement is void by virtue of section 17B,

the person commits an offence and is liable to a fine of \$200,000 and to imprisonment for 1 year."."

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

Council then resumed.

**Third Reading of Bills**

THE ATTORNEY GENERAL reported that the

**BUILDERS' LIFTS AND TOWER WORKING PLATFORMS (SAFETY) BILL and  
HOUSING (AMENDMENT) BILL 1995**

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

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

Bills read the Third time and passed.

**PRIVATE MEMBER'S MOTIONS**

PRESIDENT: I have accepted the recommendations of the House Committee as to time limits on speeches for the debates on the two motions: "Chinese Communist Party's Existence in Hong Kong after 1997" and "Travel Insurance" and Members were informed by circular on 24 April. The movers of the motions will have 15 minutes for their speeches including their replies. 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.

**CHINESE COMMUNIST PARTY'S EXISTENCE IN HONG KONG AFTER 1997**

MISS CHRISTINE LOH moved the following motion:

"That this Council urges the Hong Kong and British Governments to seek clarification from the Chinese Government as to whether an organ of the Chinese Communist Party will openly exist in Hong Kong after 1997, and, if so, what its functions will be."

MISS CHRISTINE LOH: Mr President, I rise to move the motion standing in my name in the Order Paper.

I appreciate that some people will consider it tactless, or unhelpful, or even provocative, to raise questions in public about the future role of the Chinese Communist Party in Hong Kong. Some even seem to suggest that I am part of some British or foreign conspiracy sowing doubts about Chinese rule after 1997.

We should have been demanding information and assurances about the Communist Party in Hong Kong a long time before this. But we have shied away from it, precisely because it was such a sensitive subject. To judge from

the performance of the Secretary for Constitutional Affairs in this Chamber last week, there is still an attitude within the Government that, when there is a possibility of conflict between the interests of Hong Kong and the imagined sensibilities of the Chinese authorities, then the imagined sensibilities of Chinese authorities should come first.

Mr President, I see from the Order Paper today that the Official Members do not even wish to speak, that neither the Secretary for Constitutional Affairs nor the Secretary for Security is going to say anything. It must be one of the rare occasions when the Government feel so coiled that they are unable to utter anything.

It is surely too late for such deference. If nothing else, the approach of 1997 should be encouraging us all to concentrate our minds and to speak our minds on problems and uncertainties ahead. There are plenty of them, and they are not going to go away merely because we pretend that we cannot see them.

A columnist yesterday in the *Wen Wei Po* wrote that the Communist Party will not operate in Hong Kong after 1997 in the same way as it does on the mainland. Regrettably, the writer did not say how the Party will be different here. If the Chinese Communist Party does not like us asking questions about the Communist Party in Hong Kong, then it is taking the wrong attitude. The role of the Communist Party here may well prove to be an important element in the overall relationship between the central authorities in Peking and the local authorities here in Hong Kong. So, it can only be helpful to China, and Hong Kong alike, to shed light on the extent to which the Communist Party does operate, and will operate in Hong Kong, with the aim of ensuring that the role of the Party does not impinge on the "high degree of autonomy" which will be crucial to Hong Kong's continuing prosperity under Chinese sovereignty.

#### *The Communist Party in China*

Mr President, for those who insist that the Communist Party will not have a role in Hong Kong after 1997 because no role is prescribed in the Basic Law, let me start by quoting Article 2 of the Chinese Constitution.

Article 2 claims that: "All power in the People's Republic of China belongs to the people. The National People's Congress and the local people's congresses at various levels are the organs through which the people exercise state power. The people administer state affairs ..... through various channels ..... in accordance with the law".

In reality, where does power lie in China? Power in China belongs to the Chinese Communist Party, a body that is not even mentioned in the Constitution, except in the Preamble.

The Chinese Communist Party is an organization of some 50 million members. The leaders of the Communist Party are the leaders of China. The Government of China provides the muscle in the Chinese political system under the leadership of the Communist Party. The whole organizing principle of political and public life in China is that no person or organization may challenge the Communist Party's monopoly to power. That is why checks and balances which are common in many countries around the world are not tolerated in China. Nobody may check or balance the power of the Communist Party - not even the government.

The Communist Party formulates policy; the government carries it out. Communist Party cells within all organs of government, at all levels, keep watch from within, making sure that important decisions go the way the Party wants them to go. The governor of a province, supposedly elected and answerable to the local people's congress, is outranked by the party secretary of the provincial party committee who is appointed by the Party and answerable to party superiors. People's congresses, courts of law, academic institutions and state-owned enterprises all answer internally to the Party. The Party controls appointments to all significant jobs in government and public life, actively appointing candidates in the most senior positions, approving name-lists for less senior positions. Nothing moves very far in government in China, or politics, without the Party's say-so.

How do we explain the fact that the Constitution of China is completely silent as to the role of the Communist Party? We can be sure that it is not some sort of oversight because the Constitution was written at the Communist Party's direction. But more probably, the reason that the Chinese Constitution does not specify a role for the Chinese Communist Party is because the Party places itself above the Constitution. If the Communist Party were to define for itself a constitutional role, it would be accepting constitutional limits to its power, and it is not prepared to accept any such limits. It describes itself as providing "leadership" to the country, and leaves it at that.

### *Hong Kong*

Mr President, I hope the analogy with Hong Kong and the Basic Law is too obvious to require much elaboration. The central flaw in the Basic Law may be as the same central flaw in the Chinese Constitution. There is no explanation of the role of the Communist Party, and therefore, no limits set upon what it can or cannot do.

Should we pretend that the Communist Party will take no active, or at least no determining part, in the government of Hong Kong after 1997? The Communist Party is already here, and has been here since the 1920s. It is well-

organized, well-funded; it is politically active; it probably has several thousand members, and it is not going to go away.

Given that situation, what is there to stop the Communist Party trying to increase its share of power in Hong Kong after 1997? The answer is: nothing - unless the Communist Party restrains itself.

If the Communist Party does choose to assert itself in Hong Kong after 1997, it will presumably operate here much as it does in the rest of China. The Communist Party here would take order from the Party Central Committee in Peking, just like any other provincial-level committee. The institutions and systems of government described in the Basic Law could end up just being another facade behind which the Party will operate. The identity of the post-1997 Chief Executive would not matter very much as the identity of the party secretary. There could be party cells in each institution of government, and in each court of law, and in each college, and wherever there are important decisions to be made, which may include this Council, and the Party would supply the real government of Hong Kong.

How do we resist such a drift in that direction? Perhaps it will be irresistible. But obviously, we have to try because it would negate the high degree of autonomy promised to Hong Kong in the Joint Declaration. It would make Hong Kong hostage to the arbitrary power of a distant politburo which still has only hazy ideas about how modern economies work.

We must try to understand how the Communist Party operates now in Hong Kong, and how it evolves as 1997 approaches; and we must be ready to challenge it when necessary. For example, what will be the relationship between the future Chief Executive and the party secretary sent to Hong Kong after 1997? The Chief Executive will be answerable to the legislature under the Basic Law; but the party representative will be answerable to the Party in Peking. It may be that Chinese leaders have an enlightened approach regarding the role of the Communist Party in Hong Kong after 1997, but we need to hear directly from them what their plans are. The first step for Hong Kong to take is to break the taboo of silence. We can talk about the Party; we can ask questions about its future role. This is one of the purposes of this motion: to put the Communist Party and its role in Hong Kong high on the political agenda, where it belongs. There is no place in our society for a secret party, whether it has a lot, or a little power.

#### *Learning from XU Jiatun's memoirs*

The little "inside information" that is reliably and publicly known about the present operations of the Hong Kong branch of the Chinese Communist Party comes mostly from the recent memoirs of Mr XU Jiatun, the former Director of the Hong Kong Branch of the New China News Agency (NCNA). As Mr XU described his work:



"I was to be the director (of Hong Kong NCNA), but my real job was the head of the Hong Kong and Macau Work Committee (of the Communist Party)"

When Mr XU was appointed in 1982, the Hong Kong and Macau Work Committee consisted of about 40 senior cadres. Below that committee were three subsidiary committees, and below them about 100 to 200 party groups with about 6 000 members in all, half recruited locally and half from the mainland. Mr XU does not give a size for the party membership when he left Hong Kong in 1990, but other sources suggest that a significant expansion during the 1980s, particularly of locally recruited members.

Mr XU's concluding words about the Communist Party organization in Hong Kong are worth quoting in full, because they raise a number of interesting questions. "In my opinion", wrote Mr XU:

"After 1997, the leading organ of the Work Committee should exist openly. But the grassroots organizations of the party should continue to play a secret role. Moreover, the Work Committee should be separated from the Hong Kong NCNA and be renamed the Hong Kong Region Work Committee. It should be run openly. However, after the return of sovereignty over Hong Kong to China, it is unreasonable that the Communist Party, the ruling party in China, will still be an underground party in Hong Kong whose activities are regarded as unlawful. Since the DAB (Democratic Alliance for the Betterment of Hong Kong) was formed, we can arrange for all or a large number of members of the underground party to join the DAB to preserve their roles as party members, and the DAB's platform will be their programme of action. All in all, this sensitive issue within the party and the society of Hong Kong must be discussed and resolved now, as 1997 is approaching".

Mr President, with the last sentiments at least, I hope we can all agree.

What is harder to understand is why Mr XU wanted the grassroots organizations of the Party to continue to play "a secret role", even if the Work Committee itself would operate openly.

What use can such secrecy possibly serve after 1997? It is hard to see what use it serves now. It enables some Communist Party members to pretend that they are not Communist Party members, and so to enjoy a degree of trust that they would probably not enjoy if the truth about Party membership were known. That may be a convenient state of affairs for them; but it is a very unhappy one for the rest of Hong Kong.

*Some next moves*

We should try to prepare ourselves for the realities of 1997 by looking those realities squarely in the face, and not allow the reassurances of the Basic

Law to conceal them. As a first step, let us stop pretending that the Communist Party is not here, when it is.

- Let us make whatever changes in the law that are necessary for the Communist Party and any other political parties to operate legally and openly; and then let us oblige them to do so, particularly in the context of this year's Legislative Council elections.
- Let the media refer to Mr ZHOU Nan, not only as the Director of the NCNA, Hong Kong Branch, but to start calling him by his more direct title, the Head of the Hong Kong and Macau Work Committee of the Chinese Communist Party.
- If Mr XU Jiatun's analysis of the DAB is correct, and it serves as a cover for the members of the Communist Party in Hong Kong, let us have more transparency in that direction. Perhaps the Honourable TAM Yiu-chung, who is a DAB member, can enlighten us later.
- Let us also hear from the Hong Kong delegates to the Chinese People's Political Consultative Conference (CPPCC), which is a united-front organization under the leadership of the Communist Party, how they interpret their constitutional obligation to uphold the leadership of the Party. In particular, let us hear from delegates to the CPPCC who are also members of this Council - the Honourable Peggy LAM and the Honourable LAU Wong-fat - how they "uphold" the leadership of the Party and whether that responsibility which they have taken on in any way conflicts with their responsibilities in this Council.

Let us hope, too, that the fact of this debate, will in turn stimulate a much wider debate in Hong Kong about the role of the Communist Party here, and will prompt the media to overcome its general shyness on the subject of the Communist Party.

To end, Mr President, such shyness has been encouraged by the fact that, for various historical reasons, it has suited the British and the Chinese Governments alike to keep a veil drawn over the existence of the Chinese Communist Party in Hong Kong. And because of that veil, it has been impossible, or at least very awkward, to talk about the Party's future role. But with 1997 approaching, it is vital that the role of the Party in Hong Kong is exposed to scrutiny, and its intentions clarified.

With these sentiments, I beg to move.

*Question on the motion proposed.*

PRESIDENT: Dr YEUNG Sum, a spokesman, I think, for the Democratic Party.

DR YEUNG SUM (in Cantonese): Mr President, I believe quite a number of Legislative Council Members would think there is not much real significance in the motion moved by Miss Christine LOH. I wonder who will believe that the Chinese Communist Party would not carry out any activity in Hong Kong. I believe the Chinese Communist Party's activities in Hong Kong will only increase after 1997, and will even become rampant with the Party knowing that it holds all the trump cards.

There are Members who are of the view that it would not be of much significance even if the Chinese Government clarifies in public the role played by the Communist Party in Hong Kong and the activities carried out. This is because experience tells us this: How many times have the Chinese Government honoured its promises to fully implement the policies it has publicly announced? Moreover, we know that it is "the party that overrides the state" and it is "the party that overrides the law", so that everything the party does will override both the state and the law. Therefore, what will be the significance of knowing the activities carried out by the Government Party in Hong Kong after 1997? "Such are the tiger's haunches which one may look, but must not touch," someone this it his way.

The responses mentioned above are indeed a reflection of the mentality of helplessness and resignation. Since the power of the Communist Party is paramount and there are no checks or balances, many Hong Kong people have in their minds adopted an "ostrich policy" and accepted beforehand all the possibilities. They feel disinclined to, or do not intend to, or even dare not raise the question they should raise or react in the correct way to the Communist Party's role and activities in Hong Kong after 1997. It could have been one of the attitudes mentioned above the Government has taken that leads to its official representative declining to speak today. Members may judge for themselves.

According to the Sino-British Joint Declaration and the Basic Law, apart from defence and foreign affairs, the Special Administrative Region (SAR) Government may deal with other matters of the SAR and give effect to the commitments that Hong Kong be governed by Hong Kong people, that Hong Kong be accorded a high degree of autonomy and that one country, two systems be practised.

Under the principle of "one country, two systems" and a high degree of autonomy, I think the people of Hong Kong are entitled to demand that the role and activities of the Chinese Communist Party in Hong Kong after 1997 should conform to the following principles:

- (1) Both the role and the activities of the Communist Party in the SAR should be in keeping with the principle "one country, two systems"

and a high degree of autonomy", and that the Communist Party should abide by the laws of Hong Kong. In other words, the activities of the Communist Party must not, I stress, must not override the laws of Hong Kong, thus putting the party in a superior position of being above the law. That will be against the principle of one country, two systems and a high degree of autonomy, which people, especially Hong Kong people, will find abominable.

The rule of law is a major pillar to Hong Kong's success. Everyone or every organization must abide by the law and is in turn protected by it. Therefore, a definite measure of protection is available to safeguard personal rights and personal dignity as well as social opportunities. And everyone is equal before the law. I hope that the Chinese Communist Party will not cherish a sovereign state of mind and "lord it over the world the way a supreme ruler does", being indifferent to the rule of law and the legal system of Hong Kong. Otherwise, the confidence of Hong Kong people and the smooth running of Hong Kong society will be severely affected and the international community confidence in Hong Kong will thus be shaken.

- (2) There should be more transparency with regard to the Communist Party's activities in Hong Kong after 1997, and such transparency should be maintained so that the confidence of Hong Kong people will not be shaken. Judging from past experience and the Communist Party's past record, Hong Kong people are afraid and suspicious of the Communist Party. This is indisputable. Therefore, it will be paying respect to the basic principle of "one country, two systems" for the Communist Party, of its own accord, to inject more transparency into its activities in Hong Kong after 1997 and render an account to Hong Kong people of what it does. This indeed is what the Chinese Government proposed.

Mr President, I think Hong Kong people are highly apprehensive of the Communist Party's activities in Hong Kong after 1997, and the two recommendations made by the Democratic Party are fair and reasonable; the recommendations are also in keeping with the spirit and principle of "one country, two systems". Miss Christine LOH is moving the motion to urge the British Government to seek clarification from the Chinese Government as to the role and activities of the Communist Party in Hong Kong in the future; if both Governments can positively respond to the motion, it will help to alleviate the misgivings of Hong Kong people.

What is feared will come by one day. If we just live in fear, sit back and care nothing about public affairs and politics, it will be just a kind of running away. Hong Kong people should give play to the "spirit of a master" in running Hong Kong, and should also face up to the role and activities of the Communist

Party in Hong Kong in a legitimate and reasonable manner; the Chinese Communist Party should also be asked to abide by the laws of Hong Kong and conform to the "one country, two systems" principle or an equal footing. If one is excessively afraid of the activities of the Communist Party in Hong Kong after 1997, it will be an overly passive attitude. Similarly, it will be unwise to soft-soap the Communist Party and to "shine its shoes" hard. Nor will it be wise to cherish an overly deferential attitude in maintaining that even discussion of this very topic is anathema and, offensive to the authorities concerned.

Mr President, with these remarks, Members from the Democratic Party are in support the motion.

MR ALLEN LEE (in Cantonese): Mr President, the ruling party in China is the Communist Party which is represented by the Xinhua News Agency in Hong Kong. How unusual it is for the Chinese authorities to have a representative organ here? The ruling party in Taiwan is the Kuomintang which is represented by the Chung Hwa Travel Service in Hong Kong. It is not surprising to find that the Kuomintang has its representative organ here which is active too. The motion moved by Miss Christine LOH today is in the following terms: "That this Council urges the Hong Kong and British Government to seek clarification from the Chinese Government as to whether an organ of the Chinese Communist Party will openly exist in Hong Kong after 1997, and, if so, what its functions will be." Is there anyone who does not know that the Chinese Communist Party's representative organ has already been existing in Hong Kong? I believe the question as contained in the motion will put both the Hong Kong and British Governments in an awkward position. As far as I know, the Hong Kong Government is not prepared to answer it. In my opinion, the Hong Kong Government is trying to avoid it. The Government should indeed make its attitude clear.

Mr President, I think only Miss LOH herself knows the true motive behind her motion. Hong Kong, which will be a Special Administrative Region of the People's Republic of China after 1 July 1997, will become an integral part of China and their relationship will be one which is inseparable. Nevertheless, some will choose to play on Hong Kong people's wariness towards the Communists to vigorously preach fear of, dread for and resistance against, the Communist Party. Although the year 1997 is yet to arrive, they are averring that the Chinese authorities will not comply with the Sino-British Joint Declaration and will disregard the Basis Law, not to mention enforcing it. They are also asserting that the Communists will interfere with Hong Kong's affairs. Mr President, Hong Kong is a society subject to the rule of law. Allow me to refer them to the Basic Law!

Mr President, no ruling party in the world is infallible, be it the ruling party of a Western European country, or the United States, or Canada or any other country. The Chinese Communist Party, since it founded the People's Republic in 1949, has committed a lot of mistakes, which have contributed to

Hong Kong people's doubts and apprehensions with regard to the way the Party conducts itself. Quite a number of people in Hong Kong had experienced various political movements in China, including "the movements against the three evils and the five evils", "let a hundred flowers bloom" and the Cultural Revolution. During the years from 1952 to 1954, when "the movements against the three evils and the five evils" were under way, which are famous political movements in the Party's history, my family was also denounced. Past events in that era will remain fresh in the memory of older people in Hong Kong who came from China.

In May 1983, I visited Beijing and explained to the Chinese leadership the worries of Hong Kong people. Some Legislative Councillors also accompanied me on that trip. So I quite understand Hong Kong people's mentality. I cannot agree to the use of gimmicks or high sounding talk in order to galvanize the sentiments of Hong Kong people. What we have to look at and consider is the current political line which is being adopted by China. China is making progress at an amazing speed since it first conducted reforms and adopted the open-door policy in 1979. Even the Western countries are astonished by her achievements. Hong Kong people should do their best to contribute to the development and the future of our country. I therefore find Miss LOH's motion hard to understand. Why does she question only the future development of the Chinese Communist Party in Hong Kong? The Kuomintang of Taiwan has also indicated that it will continue its development in the Hong Kong Special Administrative Region after 1997. Further, political parties of other countries might also remain active after 1997. Why does Miss LOH not bother to ask questions about them?

The Liberal Party hopes that we will have a smooth transition in the next two years. Be pragmatic is more important than galvanizing Hong Kong people's sentiments. It is our earnest hope that Hong Kong will be as prosperous and stable in 1997 as it is today and that we can create a better future through our co-operation with China so that the Chinese people will become affluent and our country will become strong.

Mr President, the Liberal Party will vote against the motion today.

MRS ELSIE TU: Mr President, I also find it difficult to understand why such a motion has been moved in this Council, unless it is to create maximum worry among already worried Hong Kong residents, the vast majority of whom have already indicated clearly their wish to stay out of politics and get along peacefully with their lives. Many of them have other issues to worry about, such as employment, inflation, housing and so on, as well as past activities, mistakes made by China.

The anti-China camp has in the past two or three years bolstered the hopes of the Hong Kong people that they can pressurize China, with some international assistance, into changing the Basic Law to their own liking. Surely these activists

are aware that the more pressure they put on China, the harder China will resist any changes.

I think I have on a previous occasion referred to the story of the competition between the wind and the sun as to which was the stronger and could force a man to take off his winter coat. The wind tried first, but the harder it blew the more the man held on to this coat, until finally the wind gave up trying and allowed the sun to have a try. The sun shone brightly and warmly, and in a very short time the man of his own accord threw off his coat.

The anti-China camp is behaving like the wind in the hope of pushing China into submission. The only thing this camp has overlooked is China's pride which has been wounded by centuries of pressure through foreign interference. There is no likelihood that China will yield to foreign-backed local pressures.

I am afraid that the anti-China camp which welcomed the Governor's ill-advised, undemocratic and rather devious political reforms, now realizes that they are not going to succeed in being Superman saving Hong Kong in 1997. With foreign passports in their pockets, however, they can continue to try to destabilize Hong Kong, knowing that they will not be the ones to have to face the consequences.

Having assisted in the breakdown of talks between Britain and China, these anti-China activists are now trying to cause panic by suggesting that there may be communists hiding under everyone's bed. Now they demand to know what will be the functions of the Communist Party, if any, after 1997.

The Joint Declaration is an international agreement which Britain and China have both promised to observe. If we presume, as the anti-China lobby is trying to convince us, that China will not observe the "one country, two systems" agreement, what will we achieve except to create panic among the Hong Kong people and damage our economy upon which the people depend for their daily lives? If it is true, as these activists obviously think, that China cannot be trusted to carry out the international agreement, this motion still has no relevance, because it would be within the military strength of China to impose on Hong Kong any system she wishes, though I hasten to add that there is no sign that China is likely to do so, if only for her own good.

In fact, the only hope for the Hong Kong people to continue their way of life for 50 years after 1997 is to trust the "one country, two systems" agreement, and to speak up if China is seen to be breaking it after 1997. To indicate mistrust before 1997 is courting trouble. One must keep in mind that China was not compelled to make this agreement at all after the expiry of the lease. She could have given notice to take over unconditionally, just as India took back Goa in recent history. But China has made an agreement, and if we do not trust it, can the anti-China camp tell us what the alternative is?

If there is a communist cell in Hong Kong (and the mover of the motion seems to know something that I do not know about that), it apparently has not caused any instability so far. All the boat-rocking is coming from the other camp. It would not be in China's interests to rock the Hong Kong boat. Past history has shown clearly that China observed the unequal treaties made in the last century. What evidence is there that she will not keep the latest agreement with Britain? Open mistrust at this time can have only negative effects, and this makes me wonder what is the purpose of this motion.

Mr President, I oppose the motion.

MISS EMILY LAU (in Cantonese): Mr President, I speak in support of the motion moved by Miss Christine LOH to seek clarification from the Chinese Government as to whether an organ of the Chinese Communist Party (CCP) will openly exist in Hong Kong after 1997, and, if so, what its functions will be.

Mr President, I am very angry and I regret that Mrs Elsie TU has said that there is an "anti-China camp". I do not understand why she has repeated the term "anti-China camp" 10 to 20 times in her speech. I believe such words would incite China to adopt a hostile attitude towards Hong Kong. I therefore find it a great pity that someone who has, for many years, served the Legislative Council and the people of Hong Kong should say such a thing to cause division between Hong Kong people and the Chinese Government.

Mr President, everyone knows that the CCP has been in existence in Hong Kong for many years. However, its activities are a closely-guarded secret. Many people dare not talk about it openly because some of them are afraid that "accounts will be settled in due course". The long-lasting fear it has created affects the whole territory. Everyone knows that the activities of the CCP are very secretive and a lot of things about the CCP cannot be revealed. The Hong Kong Government and the British Government knew all about it. In fact, the Chinese Government is not the same as the CCP but, very unfortunately, the topic of the CCP was omitted from the negotiations over the Hong Kong question nor was the topic taken cognizance of when the Sino-British Joint Declaration was signed. That is a very big mistake. I think it is even a greater pity that the Government is unwilling to speak on the motion today.

Mr President, to find out the attitude of the British Government towards the CCP, I need only refer to the information which I have obtained over these 10 years or so as a member of the press. There is in fact no provision in the Laws of Hong Kong which suggests that the CCP or the Kuomintang is an unlawful society, unlike the triad societies. There are laws in Hong Kong which provide that it is an offence to be a member of a triad society. However, membership of the CCP is not an offence. Until 1992, the Societies Ordinance of Hong Kong clearly stipulated that societies in Hong Kong shall not have any connection with foreign political organizations or bodies; if they do, the Commissioner of Police may refuse to grant them registration. However, in



1992, such a provision was repealed because the Government recognized that it was in contravention of the freedom of association provided under the Bill of Rights. But unfortunately, the Chinese Government has decided to revive the provision in the guise of Article 23 of the Basic Law. Hence, this provision which contravenes the Bill of Rights, will come back to us after 1997 by virtue of the Basic Law. In fact, why does the Hong Kong Government have such a strange attitude? When I was a reporter, a government official had once told me that it was the Government's policy not to clarify the status of the CCP and the Kuomintang. So long as they did not conduct activities openly, the Government would tolerate them and it would "spare the rat and save the dishes". Mr Allen LEE said earlier on that the Xinhua News Agency and other bodies were carrying out activities here. But apparently, in the eyes of the British Hong Kong Government, activities undertaken by the Government are quite different from those conducted by the party. Otherwise, there is no reason for fear.

Mr President, an incident which occurred in June 1987 made the British Hong Kong Government feel uneasy. I was referring to the occasion when Guangdong openly elected 71 representatives to attend the Party Congress of the CCP. They included four Hong Kong representatives who were Mr XU Jiatun, Director of the Xinhua News Agency (NCNA) of Hong Kong; Mr ZHENG Hua, Deputy Director of NCNA; Mr MAO Junnian, Deputy Secretary General and Miss CHEN Fengying, Assistant to the Director. Mr President, the Hong Kong Government had told me in private that it was very worried and it thought that the whole thing was a mistake. Guangdong should not have revealed the identities of the 71 representatives including the four Hong Kong representatives. That would cause embarrassment to the British Hong Kong Government because that showed that there were CCP members in Hong Kong. However, since the Government then was already almost "a lame duck", it did not respond in any way. Certainly, we will remember that MAO Junnian joined NCNA in 1985. Before that, he had graduated from the University of Hong Kong and had taught in the Methodist College for many years. Many people were very surprised when he joined NCNA. However, people understood that he might well have been an undercover CCP member for years. When the time was ripe for him to reveal his identity, he joined NCNA as Secretary in charge of Culture and Education. In fact, there are many undercover CCP members. Miss Christine LOH has spoken of thousands of CCP members, but actually it is unclear whether there are thousands or tens of thousands. I do not know how many CCP members there are even in the Legislative Council, perhaps more than two, three or four. Some are undercover life members, like Mr JIN Yaoru, former Chief Editor of Wen Wei Po. Undercover life members do not reveal their identities. It was only when the CCP revoked Mr JIN's membership then his identity was revealed.

Mr President, we really have to ask this question: If the Sino-British Joint Declaration has guaranteed that the capitalistic system of Hong Kong will remain unchanged for 50 years, what role can the CCP possibly play under such a system? My view is that the CCP can exist together with other political parties

of Hong Kong but it cannot be the governing party unless we have the situation that the CCP rules in order to practise capitalism in Hong Kong. Mr XU Jiatun held a briefing for the press in June 1987. Some of the reporters here might have attended that briefing too. Mr XU told the press that the role of the CCP after 1997 would be to assist the Hong Kong Special Administrative Region Government. Mr President, that was a dubious remark. What does "assist" mean? At that time, the Chinese Government had mobilized its supporters to oppose the proposal of having direct elections in 1988. Mr XU Jiatun had also said that he could mobilize a force of 50 000 "sons of the people" to oppose the proposal of having direct elections in 1988.

Mr President, I would also like to mention another incident which I experienced as a reporter. It happened sometime in June 1986 when the Special Group Concerned with the Political Structure under the Basic Law Drafting Committee was having a meeting in Shenzhen. I remember that Mr LI Hou, then Deputy Director of the Hong Kong and Macao Affairs Office, gave an interview to reporters. I asked him whether the CCP would continue to exist in Hong Kong after 1997, what its role would be and whether these matters would be written down in the Basic Law. Mr LI Hou said it was not a question of existence. He said the CCP had been in existence all along, but it would not carry out activities openly, nor would these matters be written down in the Basic Law. However, it would be "very difficult to say" if party politics emerged. Mr President, party politics has already emerged to make its appearance. We hope that the British Hong Kong Government can understand the worries of Hong Kong people and ask the Chinese Government what the CCP's role in Hong Kong will be after 1997. Will it do its work openly like the Chinese Government does, or will it carry out a lot of secretive activities including investigation of the personal data of Hong Kong people, building of dossiers and "settlement of accounts in due course" and so on?

Mr President, the people of Hong Kong are very afraid of the CCP. I will therefore support the motion, urging the British Hong Kong Government to convey our worries to the Chinese Government without delay.

MR NGAI SHIU-KIT (in Cantonese): Mr President, I do not intend to speak at any appreciable length on the motion moved by Miss Christine LOH today which puts Members of this Council to a debate on the activities and the role of the Chinese Communist Party in Hong Kong after 1997. I only want to say a few words.

One of the points I would like to raise is that this is indeed a frivolous motion which is going to waste the precious time of Members of this Council. It is because the government to be set up after 1997 will naturally handle and be held responsible for post-1997 matters in a way that conforms to the Basic Law. All I can say is that Miss LOH is very childish and naive in proposing this motion. There is a well-known Chinese saying which is rightly pertinent to this

situation - "What has it got to do with you when a spring breeze ruffles the surface of the pond?"

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

MR FREDERICK FUNG (in Cantonese): Mr President, those who have read XU Jiatun's memoirs or those who understand the operation of the Chinese Communist Party will know that under the Hong Kong branch of the Xinhua News Agency there is a body named Hong Kong and Macau Work Committee. Its terms of reference has always been a mystery. It is, however, generally believed that the Hong Kong and Macau Work Committee is a sub-branch of the Chinese Communist Party in Hong Kong and I think we all have a tacit understanding of the Communist Party's activities in Hong Kong.

Yet, it is only natural that the people of Hong Kong are having misgivings with regard to the activities of the Communist Party in Hong Kong as 1997 draws near. The Association for Democracy and People's Livelihood agrees that it is necessary for the Chinese Communist Party to tell the people of Hong Kong clearly whether it is going to set up in the territory a body representing the Communist Party in order to allay the anxieties of the people of Hong Kong. We believe that if the Chinese Communist Party continues to carry out covert activities in Hong Kong, the confidence of the people of Hong Kong will consequently be undermined. But if the Communist Party carries out high-profile activities after its existence is made public, the people of Hong Kong will still worry about the Communist Party formally intervening in Hong Kong affairs and bringing its leverage to bear on the political activities of Hong Kong. Therefore, I think it is indeed necessary for the Chinese Communist Party to explain officially to the public its activities and terms of reference in Hong Kong after 1997. In addition, under Hong Kong law, we have no power to prohibit the setting up of legitimate organizations. But if the Chinese Communist Party is really going to set up its representative body in Hong Kong according to the law, we hope that the Chinese Communist Party, in carrying out its activities in the territory, will carefully appraise the sentiment and reaction of the people of Hong Kong in order to prevent unnecessary upheavals.

With these remarks, I support the motion.

MR CONRAD LAM (in Cantonese): Mr President, Miss Christine LOH is providing a chance today for some people to ingratiate themselves with the Party.

Many Chinese constitution experts have pointed out that today's China is still at a primitive stage where "the Party ranks above the government", or "where the functions of the Party and the State overlap". It is written in the Constitution of the People's Republic of China that: "Under the leadership of the Communist Party of China ....., the Chinese people of all nationalities will

continue to adhere to the people's democratic dictatorship ....." The Vice Chairman of the Constitution Revision Committee of the PRC, PENG Zhen, said in 1982: "It is under the leadership of the Communist Party that the Constitution and the laws are enacted and abided by. In China, the Constitution and the laws epitomize the unification of the Party's precepts and the people's will." Evidently, the Chinese Communist Party (CCP) is in itself more than an ordinary ruling party. It is a "dictatorial party" which holds on to power through recourse to coercive measures. China is being led by this omnipotent and omnipresent leviathan. From this perspective, CCP-instituted organizations such as the so-called Hong Kong and Macau Affairs Committee is, to put it bluntly, essentially a small branch organ set up by the Zhongnanhai Government in Hong Kong. Under such circumstances, will slogans like "one country, two systems", "Hong Kong people ruling Hong Kong", and "high degree of autonomy" be realized? By what means can the Basic Law make it possible for Hong Kong to avoid coming under the direct leadership of the CCP? Such is really a cause for worry.

Furthermore, as Hong Kong Human Rights Commission has pointed out, it is really absurd and self-contradictory that while the restoration of the registration system under the Societies Ordinance is fully supported by the Preliminary Working Committee, left-wing organizations are among the first to regard the system with contempt. It appears that left-wing organizations are still clinging to their old habits of not submitting to the law but yet using the law as a political tool to deal with dissidents; even the mere broaching of it for discussion by other people is regarded as anathema.

Nevertheless, Mr President, with the belief that "all are equal before the law", I am of the view that CCP's organizations should register the way other societies do. Under the guiding principle of "equality", there is no reason whatsoever that the CCP should have the privilege to establish within the territory an "independent kingdom" not subject to the laws of Hong Kong, lest the reputation of Hong Kong as a place which observes the rule of law be blemished.

Mr President, if we were to conduct a survey on whether the CCP has a popular mandate, I believe the findings would be that the public would regard the CCP as more obnoxious and more objectionable than triad societies or the Mafia. This is because even the illegal activities of triad societies are subject to police raids, but the paramountcy of the CCP is such that it is above the law. It could even resort to tanks and bullets to suppress dissidents and bare-handed citizens. Fear of a domineering CCP in post-1997 Hong Kong is the reason why so many Hong Kong people would uproot themselves and emigrate. That is really a cause for regret.

As a matter of fact, the vengeful nature of the CCP has probably caused certain Members, possibly some officials as well, to refrain from making any remark here. But then why do we insist that the Chinese Government should clarify the roles and functions of the CCP in post-1997 Hong Kong? This is

because every single document relating to the future of Hong Kong has all avoided mentioning the *de facto* role of the CCP. More importantly, the CCP in our eyes is an out-and-out "double-dealer", whose operations just cannot be told from the official documents of the Chinese government, still less its specific roles and duties in Hong Kong. But the implication will become all the more worrying if the CCP, however obscure it may appear, is to bring to our future Hong Kong the corruption which is so rife in mainland China and to endanger our human rights and freedoms on the political front. And yet the CCP will not subject to the laws of Hong Kong so much so that even the Independent Commission Against Corruption will fail to restrain it. Mr President, I challenge the Government if it is courageous enough to maintain the rule of law in Hong Kong impartially. Will the Government treat all organizations, including the CCP, equally?

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

DR PHILIP WONG (in Cantonese): Mr President, we all know that the existence of the Communist Party and other political parties in Hong Kong is the result of historical developments. According to the constitution of China, the Communist Party of China is the ruling party. Its legal status *vis-a-vis* the whole country, including all provinces, cities and autonomous regions, is beyond question. As to how Hong Kong people ruling Hong Kong and a high degree of autonomy are to be realized after Hong Kong reverts to Chinese sovereignty in 1997, the Joint Declaration and the Basic Law have made express and clear provisions to that effect. The future Special Administrative Region (SAR) Government will continue to enact specific laws under the conception of "one country, two systems". And the present Legislative Council, which is an advisory body to advise the Governor on legislative matters established in accordance with the *Letters Patent* and *Royal Instructions*, has no legal right to intervene in the business of the SAR after 1997, let alone to intervene in the sovereign rights of China. Say, can we move a motion to "call upon" the Chinese Government to request the British Government to "clarify" what changes are going to take place within the Conservative Party of the United Kingdom or what role the Conservative Party (or the Labour Party) intends to play in Hong Kong after 1997? If we really did so, would it be absurd in terms of international law? Just as the Chinese Foreign Minister, Mr QIAN Qichen, pointed out to the British Foreign Secretary in New York earlier, one should not overreach one's arm. Therefore, I feel that this motion today is not justified in terms of jurisprudence.

These are my remarks.

MR TAM YIU-CHUNG (in Cantonese): Mr President, some would find it strange if I did not speak today as the Honourable Christine LOH has mentioned the Democratic Alliance for the Betterment of Hong Kong (DAB) and my name.

However, if I strongly criticized her, it would only serve to flatter her and that is something that I would not want to do.

Some would say that in so behaving I am ingratiating myself with the Party. Perhaps some people are declaring their anti-communist stand in order to account themselves to some quarter or another. I really do not want to have Members attacking one another in this Chamber, which is indeed meaningless. In fact, instances of personal attacks are becoming less frequent than it used to be because we have been talking a lot about livelihood issues. But now Miss LOH has come up with such a good topic that it would let Members, some Members in particular, to launch an all-out attack against the Chinese Communist Party (CCP). Of course, sometimes criticisms have the merits of galvanizing a political party or organization into improving itself. But sometimes they may have precisely the opposite effect. I, of course, hope that this will not be the case.

Some Members say that the people of Hong Kong are very much scared of the CCP. The Chinese Government is led by the CCP at present, and this Chinese Government which is led by the CCP has created the concept of “one country, two systems” as the solution to the Hong Kong issue so that Hong Kong will be allowed to be ruled by Hong Kong people and enjoy a high degree of autonomy. These policies are supported by most of the people of Hong Kong. Therefore, I feel that the local people are not that afraid of the CCP. What they fear is that the Party might become unstable, that is to say, politically unstable. That would lead to economic troubles and other woes. It is because, as the ruling party of China, if the CCP is not stable, that is, if the CCP is not politically stable, it will in no way be in the interests of Hong Kong, and the concept of “one country, two systems” and “Hong Kong, people ruling Hong Kong” may also go wrong. Hence, to say that the public is scared, we will have to see what they are scared of.

I feel that whatever party it may be that is in power, what matters most is whether it is sincere towards Hong Kong. If we say too much, or if we just want to arouse the fleeting concern of the media so that a general “communist-phobia” results, I feel that it will in no way be in the interest of Hong Kong. I myself and the DAB will not do that. We hope that Members will work together with one heart to create a splendid future for Hong Kong.

Thank you, Mr President.

MR MARTIN LEE (in Cantonese): Mr President, it is said that Hong Kong people are afraid of the Chinese Communist Party (CCP). But if they read enough about what has been said in the Legislative Council, I believe that many of them will begin to realize that some of the Members, the Honourable TAM Yiu-chung excluded, are even more terrifying than the CCP. Mr TAM is excluded because he was being fair and reasonable in what he said in his speech, and I appreciate his speech. Indeed, I cannot see why senior officials are so

frightened when confronted with the issue. As I look around in this Chamber, I seem to see only two government officials seated here. I must say I congratulate them on their presence because at least they have the courage to be here. What surprises me, however, is that Mr Nicholas NG has failed to turn up. Is it because Mr NG was questioned too many times at the last meeting or is it because the motion has nothing to do with him? How strange this is!

I doubt whether the same motion can be moved after 1997. I have asked myself this question: Even if the motion could be moved then in this Council, would any one of us be courageous enough to be seated here to listen to the mover's speech? Would there be a quorum? Would everybody rather have stayed home because sitting here would cause misunderstanding of some sort? If one among us was elected President, would he or she even fail to show up? It is a pity that I needed to ask these questions. Why are we, as Legislative Councillors, berated for putting forward some issues for discussion because of the particular topic chosen? It has been said that the motion is a frivolous motion. Those cherishing such thoughts may choose to keep silent, but they deliberately did not.

In fact, it would not be difficult for the Chinese Government to answer the question. All it needs to say is: "The Chinese Communist Party hopes to remain China's ruling party after 1997." This statement will be absolutely correct, because all ruling parties want to continue to be in power. It may go on to say: "Owing to the existence of the Joint Declaration, Hong Kong will not adopt a communist system". This has been clearly stated in the Joint Declaration, although the word being used is "socialist" instead. But then, "socialism" of course includes "communism". The Chinese Government can indeed make the second statement, which can put our hearts at ease. The Chinese Government may add further: "So in future one mission of the Chinese Communist Party is to defend the Joint Declaration." This mission is the same as that of the Democratic Party! If everybody looks at the issue in this way, that is, in more or less the same way as that adopted by the Honourable TAM Yiu-chung, nobody need to be afraid. On the contrary, the more reluctant one is to face the issue, the more terrifying will the issue become. The more one berates others, the more frightening one will become. So, Mr President, I hope that after this debate, Legislative Councillors will not be afraid of any sensitive issues. All issues should be frankly canvassed and analyzed. We are all adults. In fact, this Council does not allow those under 18 to sit here, unless they are seated in the public gallery. I hope all of us may in future look at sensitive issues in the same way we are doing this time; otherwise, we would not have been qualified to occupy seats in the Legislative Council.

With these remarks, I support the motion.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, an article in a magazine published in February 1995 contained certain information relating to Miss Christine LOH's background. The article revealed that Miss LOH's father came

to Hong Kong from Shanghai in 1949 and married a woman in Hong Kong in 1955. Miss LOH is their only child. Her mother held a very high-ranking position. She was the department head of a department store and was always dressed up to the nines. I am quoting from the magazine. When Miss LOH was still under the age of 10, her parents divorced. She now understands why his father kept maintaining his Shanghainese lifestyle since coming to Hong Kong in the 1950s, for example, he played mahjong with his friends, made friends with ladies and conversed in Shanghainese dialect with his friends. As a result, it became increasingly difficult for her mother to find a cultural common ground with her father. In the end, her father married again and her mother married a foreigner. Since her childhood days .....

MR JAMES TO: Order!

PRESIDENT: What is the point of order?

MR JAMES TO (in Cantonese): Mr President, I would like to know whether this speech contains an element of insult and whether it is relevant to the motion.

PRESIDENT: The only possible point of order is relevance, but I assume Mr CHIM will come to it.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, it is for Miss LOH to decide whether what I have quoted is relevant to the motion or not. It is not for Mr James TO to raise that question, May I know which part of my speech has offended Mr TO. Mr President, if .....

PRESIDENT: I am sorry, Mr CHIM, listen to me. Any Member can take a point of order and it is for me to rule. Your speech has got to be relevant but a great deal of latitude is allowed to Members to make their points. I assume there will be some relevance to these observations. But do continue.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, I am absolutely entitled to protect my right to speak in this Chamber. If I am out of order, you may require me to leave the Chamber immediately, or I would have to exercise my right to speak. I was quoting from the magazine. If it is not true, Miss LOH can sue the magazine for libel. Mr President, you may rule that I am out of order and require me to leave the Chamber. Otherwise, I will uphold my right as a Councillor to say all I want to say.



Mr President, I am quoting from the magazine, no more, no less. As Miss LOH put it herself, that was the fact. Miss LOH was brought up in a foreigner's family. She described her life there as "Okay" and her stepfather treated her as if she were his own child. The above quoted is Miss LOH's first impression of China.

Miss LOH's second impression of China during her childhood was derived from her Cantonese maid whose relatives had been swimming to Hong Kong from China. They would stay at Miss LOH's home for a few days and would always rail against the Chinese Government. In 1980, Miss LOH worked in China for six months. She had but an amorphously conceived idea of what China was like. In 1992, she was appointed a Legislative Councillor by the Government. This was not part of her plan but the opportunity just came her way. She did not create such a opportunity herself. Many of her friends asked her whether she could become a citizen of the People's Republic of China (PRC) after 1997. But this was described as "impossible" by most of her friends. Therefore, Miss LOH was also sceptical as to whether she would be able to stay in Hong Kong after 900-odd days to continue to give play to her capabilities.

Mr President, I so quote in order to prove that Miss LOH has only two impressions of China. In other words, Miss LOH's knowledge of China is very superficial. I believe this is a point she will admit in her reply to be given later. Given her shallow feeling for and superficial knowledge of China, I need say no further as to the depth of her knowledge of the Communist Party of China (CCP). Miss LOH is moving her motion today because she does not have a clear and in-depth understanding of China. Although she worked in China for six months in 1980, over 10 years have passed and under the existing open policy in China, there has been a lot of changes. The relevant government departments in China should invite Miss LOH to visit China when such an opportunity arises.

Her motion today could be likened to urging the Hong Kong Government to seek elucidation from the British Government regarding the activities of the Conservative Party in Hong Kong. In fact, this might be even more pragmatic. Although the leverage of the Conservative Party in fund-raising and other activities in Hong Kong has diminished in the past two years because of the souring of relationship, Hong Kong used to be the major fund-raising base and target for the British Conservative Party. Therefore, any Honourable Member who is bold enough should move a motion urging the British Government to clarify the total amount of funds raised in Hong Kong by the British Conservative Party during the past 10-odd years right up to now. It would be a motion which would arouse even more concern from the people of Hong Kong.

At the same time, I do not agree with the Honourable Martin LEE's argument as to what topic should be brought up for discussion. As a Legislative Councillor, I am certainly courageous enough to move any motion for discussion and debate. However, the question is one that relates to the authority of the Council and whether such a move would be *ultra vires*. For example, during the industrial strike of the Cathay Pacific Airlines Company, many

legislators were concerned with the incident and several meetings were held. In fact, what was the outcome? I learnt from an article in a magazine a couple of days ago that the present income of the initiator of the strike is less than one third of what she used to earn and she is still waiting for her case to be heard by the court. If Mr LEE is so keen to help others, he should have helped her seek legal redress without charging her counsel fees. Of course, that will depend on Mr LEE's own wish. I raise this to illustrate the point of whether a legislator should perform any act that is *ultra vires*. The people of Hong Kong are extremely intelligent and good at adapting.

About 25% of the people of Hong Kong once lived under Communist rule. The CCP may not have been absolutely right due to a number of objective factors, but it is in fact improving. The CCP may have committed some mistakes but, as Chinese, we hope that it can learn from past mistakes and go from strength to strength. However, the present motion moved by Miss LOH would only lead to misunderstanding, hostility and antagonism being cherished by CCP leaders towards the people of Hong Kong. What good will it do to the people of Hong Kong? As described by Miss LOH, whether she will stay in Hong Kong after 1997 is open to question. I believe that she holds a British Passport and if she encounters difficulties, she will immediately leave Hong Kong "like a frog fording a river" — a phrase used by Mr Martin LEE. What she will leave behind will be the repercussion that her motion brings, that is, CCP leaders cherishing misunderstanding and misconception towards the people of Hong Kong. What advantage will it bring to Hong Kong?

We should understand that a legitimate regime should have its own style of doing things. Is it to follow the example of the United States which sent troops to Panama to arrest the Panamanian President? The United States Government was also involved in the arrest of the Filipino President. Is this the right thing to do? I would not object to Honourable Members' analysis of world politics, nor would I oppose the way they adore the British regime. If they do not have confidence in the future Special Administrative Region Government and do not believe in the doctrine of "one country, two systems" as enshrined in the Basic Law, I would not hesitate to encourage them to withdraw from Hong Kong along with the British Government on 30 June 1997. It is most important that they do not create trouble for those who will be staying behind because it is the people of Hong Kong who will have to commit themselves to the future, take up all the social responsibilities and endure the pressure from the CCP.

With these remarks, Mr President, I strongly oppose the motion.

MRS PEGGY LAM (in Cantonese): Mr President, originally I had no intention to speak at all in respect of the motion moved by Miss Christine LOH today. However, it is only because Miss Christine LOH mentioned my name in her speech and requested me to respond to two points under this subject that I feel obliged to clarify the areas of doubt for her.

First, she asked how we, as delegates to the Chinese People's Political Consultative Conference (CPPCC), interpreted our constitutional obligation to uphold the leadership of the Communist Party. When I was appointed a delegate to the CPPCC, no one told me that my obligation was to uphold the leadership of the Party. As a delegate to the CPPCC, my obligation is to comment on and discuss politics. By commenting on politics, we mean to comment on the politics of China; by discussing politics, we also mean to discuss the politics of China itself.

Second, she asked how the delegates to the CPPCC upheld the leadership of the Communist Party and whether that responsibility which we had taken on in any way conflicted with our responsibilities in this Council. Here I would like to tell Miss Christine LOH that I was appointed a delegate to the CPPCC in 1988, earlier than my appointment by the Governor of Hong Kong as a Member of the Legislative Council. If there have been any conflicts whatsoever, the Hong Kong Government is liable to provide an answer. If the Governor had thought that there would be conflicts, he should not have appointed me. Besides, when the Governor appointed me to this Council, I already made it clear that I was a delegate to the CPPCC. The Governor said, "I hope to make use of your past experience in serving Hong Kong and your enthusiasm in serving Hong Kong to do what you should do in this Council. As an individual, you can do what you should in the Legislative Council. In the past decades, your contributions to and achievements for Hong Kong have been witnessed by the public of Hong Kong." I am not making up all this. He said, "The person we need must have enthusiasm, time and a caring heart for Hong Kong. Can you meet the above criteria?" I replied that I could. It is because I have been living in Hong Kong for decades. I have the enthusiasm and a caring heart towards Hong Kong. I have time, because I have already retired from the Family Planning Association of Hong Kong and can devote every effort to working for Hong Kong and serving the people of Hong Kong. I have spent more time in my life in Hong Kong than in my birth place, Shanghai. Hong Kong is my second hometown. I am also half a Cantonese. My elder brother was born in Hong Kong. Hence, I love Hong Kong. I am also Chinese, and I love China. I was nurtured by Chinese culture. To work for Hong Kong and China is something that each and every Chinese person should do, unless he or she has no knowledge or understanding of China. Only those who do not understand Chinese culture will take issue with me on this. I hope that I have answered the above two points of doubt.

Miss Christine LOH has puzzled a lot of people by moving such a motion. It has been 46 years since the founding of the People's Republic of China. During these 46 years, hundreds of motions have been moved in the Legislative Council. But there has never been a motion as strange as this one. Why is it that there are so many strange issues being broached this year? I had no way to find an answer. Later, I came across the following report in the press which said, "According to an Executive Council source, Miss Christine LOH has twice raised query and motion in the Legislative Council in regard to the presence of the Chinese Communist Party in Hong Kong. Her intention is none other than

striking a pose for electioneering purpose.” Then it dawned on me that she was actually striking a pose for electioneering purpose .....

MR JAMES TO: Order!

PRESIDENT: I am sorry, Mrs LAM, there is a point of order.

PRESIDENT: Yes, Mr TO. What is your point of order?

MR JAMES TO (in Cantonese): Mr President, I object. I take a point of order in the light of Standing Order 31(5) and I quote, “A Member shall not impute improper motives to another Member”.

PRESIDENT: I will let Mrs LAM continue and see where it goes.

MRS PEGGY LAM (in Cantonese): Mr President, thank you for allowing me to quote a press report. I just quoted from the press report and those were not my own words. The press report simply enlightened me as to what to make of all this. And now I understand what it is all about. Thank you, Mr President.

DR HUANG CHEN-YA (in Cantonese): Mr President, originally I did not intend to speak because, in fact, I have long presumed that many of the things broached by Miss Christine LOH in her question will come about. Therefore, my view is that the question she raised will not necessarily produce an outcome of real significance. Yet, it is beyond my expectation that an innocent question betokening almost girlish innocence raised by Miss Christine LOH today has laid bare many things and showed the true colours of Members of the Legislative Council.

Mr President, there have been numerous instances of gross miscarriage of justice in China since 1949. Injustice was particularly rampant during the Cultural Revolution. This is, of course, the result of the political campaigns perpetrated by the Chinese Communist Party (CCP). Yet, many of the instances of injustice did not involve members of the CCP. Neither were they created by members of the CCP. They were, in fact, perpetrated by those intent on “bootlicking” the CCP members and currying favour with the Party by pulling off stunts in order to expiate their guilt. They became the vanguard of the CCP and they sought to climb the greasy pole of power by hurling scathing criticisms at other people. Mr President, having listened to the speeches of Mr CHIM Pui-chung and Mr Allen LEE, I feel very sad. I even recognize that things about which the people of Hong Kong are really worried will probably take place in Hong Kong after 1997. The savage atrocities and immoral behaviour which

characterized miscarriage of justice, struggles and accusations during the Cultural Revolution, may also recur.

Mr President, there is another thing which saddens me. As my age tells, I can well remember the times when Mrs Elsie TU was fighting for the rights of the people of Hong Kong. It is for this reason that I have all along been reluctant to criticize her. But I am completely baffled by Mrs Elsie TU's speech today which construed the proposing of this motion by Miss Christine LOH as an act against China. Does she not realize that the 1949 Revolution of the Chinese people was intended to overthrow a corrupt government which had no future at all and to build a real China, which would be affluent and strong and where the Chinese people would enjoy a happy living? The 1949 Revolution was not meant to enable the CCP to become the ruling party in China. Neither was it meant to keep the Chinese people in everlasting bondage to the CCP. Does she not realize that the CCP is not equivalent to China and that China is not equivalent to the CCP? Could it be that all she has been trying to tell me — despite my long held belief in her genuine and sincere effort to serve the people of Hong Kong and the Chinese people and her love for the people of Hong Kong and the Chinese people — is that she has only been serving the CCP over the years and it is neither the Chinese people nor the people of Hong Kong that she loves, but the CCP which she takes to be equivalent to the Chinese people? It is my hope that this is not the case, or else my last piece of fantasy about Mrs Elsie TU will vanish.

I am also utterly puzzled by the remarks of Mr Allen LEE who said that the speech of Miss Christine LOH would galvanize and unsettle the sentiments of the people of Hong Kong and, for this reason, the Liberal Party would vote against the motion. I have no idea what sort of sentiment would be galvanized because the question raised by Miss Christine LOH is a very simple question. In fact, Mr Allen LEE knows about the past of China and it is unnecessary for us to bring that up again. He also knows the true colours of the CCP. While Mainland China has undergone a myriad of changes, the CCP still restrains its people from moving ahead along the path of democracy. The Army remains the source of power of the CCP today instead of an electoral mandate from the people. Upon corruption cases coming to light, the membership of CCP members can serve as the golden shield to spare them the death sentence or to exempt them from being convicted. This is the "true colours" of the CCP and this also explains why, even now, the people of Hong Kong are still wary of the CCP and why they are scared of the CCP.

Mr President, let us take Taiwan as an example. Indeed, it is not impossible for changes to take place through peaceful evolution. I hope that one day, without any bloodshed in China, the CCP would be willing to compete on equal terms with other parties and that it would contest election with other parties fairly and gain support from the people by dint of its ability to rule and its calibre. It is also my hope that the CCP will be a law-abiding organization in China as well as in Hong Kong. Only in this way can China have any real hope. Only thus can Hong Kong have any hope. Therefore, we have the right to ask

what kind of an organization the CCP will become in Hong Kong after 1997. We, people of Hong Kong, have the right to require the CCP to observe the law of Hong Kong, respect the Basic Law and respect the systems of Hong Kong. This is a right to which the people of Hong Kong are entitled. The Chinese people should also have the same right to require the CCP to exist solely as a party, not the eternal ruling party of China. The Chinese people have the right to require the CCP to behave like a law-abiding party and a party which respects the rights of the people. In this case, China will...

*The digital timer showed 0700*

PRESIDENT: You have to finish, Dr HUANG.

MR ANDREW WONG (In Cantonese): Mr President, initially I had no intention to speak. But now I would like to clarify my stance based on which I will cast my vote. I believe the Chinese Communist Party (CCP) is indeed a cause for worry among the people of Hong Kong. Therefore I think the present debate is worthwhile in that it serves to arouse Members' interest in and discussion of the matter in issue. Regrettably, however, there seems to be some problems about the wording of the motion. If it is everyone's view that a party controls the country and the government, it would be rather difficult to urge the Hong Kong and the British Governments to seek clarification from the Chinese Government as to whether the CCP, which is beyond the Chinese Government's control, will openly operate in Hong Kong after 1997. Of course, if the key people involved hold dual membership, that is to say, being members of both party and government, then the trend of how the party would operate can be seen.

The matter that is worrying me is that the Basic Law and the Joint Declaration have made provisions for the implementation of the "one country, two systems". That is to say, Hong Kong will maintain its practice of capitalism instead of socialism whilst the Chinese Government must pursue socialism. Under such circumstances, therefore, both the CCP and the Chinese Government will have to try their best to implement the Joint Declaration and the Basic Law to ensure that the CCP will not operate in Hong Kong in the capacity of a political party. This is something of great importance. Of course, if the situation goes beyond control, that is, the CCP succeeds in registering itself in Hong Kong or becomes a lawful society by giving notice to the Societies Officer, we will be unable to prohibit its operation. We should then be worried about what is going to happen to the "one country, two systems".

Secondly, there may be some people here who are going to organize a Hong Kong Communist Party since the Hong Kong Special Administrative Region is part of the People's Republic of China. In these circumstances, if this Hong Kong Communist Party strives for political power and the implementation of some socialist systems or policies, we will not be able to stop it.

Therefore, in my view, the most important thing now is that we can discuss this issue. Just now, the Kuomintang has been mentioned. In fact, the Chung Hwa Travel Service is not a party institution, just as the Xinhua News Agency is not a party institution either. I have to make it clear that although I do not care much about wording, this is still a serious issue which deserves our concern.

I will support this motion.

MR LEE WING-TAT (in Cantonese): Mr President, I would like to speak briefly. I remember, as a student, it often baffled me when I studied Chinese History. Our textbooks on Chinese History only described events up to a certain year and they were silent on what happened afterwards. I can recall that the textbooks said that the People's Republic of China was founded in 1949 under the rule of the Chinese Communist Party (CCP).

Over the past few decades, the CCP has been a social taboo in Hong Kong. Although my parents came to Hong Kong from Mainland China, they never told me anything about the CCP. When I was a child, a figurine of MAO Zedong was placed in my home. Although I could recognize him as MAO Zedong and I knew I should call him Chairman MAO, I did not understand why my mother had bought the figurine. In fact, many people within our community, not only those seated in this Chamber, but also my friends, relatives and even the young people sitting in the public gallery, do not understand at all why the term "Chinese Communist Party" is such a taboo subject. There is seldom any discussion of the subject nor is it a topic of conversation between parents and their children. When children ask about this subject, their parents would say, "That is a matter of politics and that is something you should not ask too much about."

Sovereignty over Hong Kong will revert to China in 1997. We support the return of sovereignty and we will stay in Hong Kong. We will not leave. I am proud of the fact that I will become a citizen of the People's Republic of China. However, the question is: As a citizen of a country, why do I not have the right to know about the governing party? Why is it that it would mean social condemnation and it would be a taboo for people of our generation to discuss about the CCP? Why would it be a monstrous crime to discuss about the CCP? Why should such discussion shock the CCP and stir up hostile feelings of the CCP towards the people of Hong Kong? Some colleagues have said that bringing up this question would further reduce the confidence of the CCP or the Chinese Government towards Hong Kong. That is totally beyond me. If what we said was the truth, there would be no reason for any shock. Conversely, if what we said today was not the truth, or if our criticisms were incorrect, the CCP, its supporters or friends, could well point out what the truth was and rebutt the incorrect criticisms in Hong Kong which is a free society. I think it is only through such means that the people of our generation will think differently from our parents whose impression of the party, whether it be the CCP or the

Kuomintang, is that it meant only civil wars, the Cultural Revolution and the Gang of Four.

I agree that that is history anyway, as one of my colleagues has said. However, new events will happen in history. If the Chinese people of our generation forbade our young people or ourselves to discuss about the CCP, the so-called history would only focus on the darker side of the past. Why not allow the people to discuss these questions in public? Actually, this is a free society in which nothing can really be prohibited. Conversely, the more prohibition there is, the more interested in hearsay people would become and the more readily they would accept unreliable information. I think a government ruling 1.2 billion people ought to believe that it is only through discussion of political issues in a more open and unrestricted manner and through explanation of the party's policies that it can impress the people with its benevolence and secure their loyalty. Only in this way can a government rule 1.2 billion Chinese people effectively.

I studied Biology when I was in university. However, I had devoted most of my reading time to matters outside the realm of the textbooks. In my first year in university, the first book that I read in my outside reading was *Materialism*, to be followed by *Dialectics*. In 1976, students, including myself, who read these two books had leftist inclinations. I have also told my colleagues during our conversation that in the 1970s we were strongly inclined to socialism because we thought that was a fairer system. A society under such a system would approach things in a more personal manner, rather than working on a monetary or commercial basis. At that time, we yearned to go back to China. I first went to China in 1977 and thereafter, I went to different parts of China in 1978 and in 1979. I wanted to see what my own country was like. Certainly, I encountered things which were not altogether pleasant, for example, people jumping the queue when buying train tickets and the poor living environment. However, these were minor problems only. We were pleased to see that the development of China was progressing smoothly after 1978. But our feelings have become quite different after the pro-democracy campaign in 1989. However, my views differ from some colleagues who apparently said that colleagues who held a different opinion towards China or who criticized China certainly did not understand or had not tried to understand China. I believe that many who have criticized the Chinese Government have read a lot about China or have yearned to know more about China. The question is whether they have the chance to do so, and whether we can discuss these questions in a reasonable and rational manner, without speculating on each other's motives.

I think it is good to have this debate today. We have at least opened up the taboo subject of CCP for discussion in Hong Kong. All we have to do is tell the truth and state our grounds.

Thank you, Mr President.



PRESIDENT: Miss Christine LOH, do you wish to reply? You have only got 41 seconds, I fear.

MISS CHRISTINE LOH: Mr President, I do not need to say very much because Mr LEE Wing-tat has so eloquently said very much of what I would like to say, and certainly I feel he and I are in the same generation. I would like to learn much more about China and much more about the Chinese Communist Party. I just wonder whether Mr Allen LEE, Mr Philip WONG and Mr CHIM Pui-chung are seriously suggesting that in the Hong Kong context, we should put the Conservative Party and the Labour Party and the Kuomintang on the same footing as the Chinese Communist Party. Surely not, which is why I am concentrating on the Chinese Communist Party. It is the most important power organ in China and it behoves us to know very much more about it. I cannot destabilize Hong Kong by asking a few simple questions about the Chinese Communist Party. My colleagues are according me an ability I do not possess. Thank you.

*Question on the motion put.*

*Voice vote taken.*

THE PRESIDENT said he thought the “Ayes” had it.

MISS CHRISTINE LOH: Can I call a division please?

PRESIDENT: Council will proceed to a division.

PRESIDENT: Yes, Mr Chim.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, I did not intend to challenge your authority. If I have offended you in my speech just now, I am now apologizing openly here.

PRESIDENT: Mr CHIM, it is very generous of you. I think it was a misunderstanding in the interpretation. I was trying to convey to you the fact that in speeches Members have a great deal of latitude, but at the end of the day, they have got to be relevant. And I was not stopping you. Thank you.

PRESIDENT: Would Members please proceed to vote?

PRESIDENT: Are there any queries? If not, the results will now be displayed.

Mr Martin LEE, Mr SZETO Wah, Mr Andrew WONG, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin and Miss Christine LOH voted for the motion.

Mr Allen LEE, Mr NGAI Shiu-kit, Mr TAM Yiu-chung, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mr Martin BARROW, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mrs Elsie TU, Mr Peter WONG, Mr Vincent CHENG, Mr CHIM Pui-chung, Dr LAM Kui-chun, Mr Eric LI, Mr Steven POON, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG, Dr TANG Siu-tong, Mr James TIEN and Mr Alfred TSO voted against the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr HUI Yin-fat, Mr PANG Chun-hoi and Mr Timothy HA abstained.

THE PRESIDENT announced that there were 19 votes in favour of the motion and 24 votes against it. He therefore declared that the motion was negated.

## **TRAVEL INSURANCE**

MR HOWARD YOUNG moved the following motion:

“That in view of public concern for tourists’ safety and compensation aroused by accidents while touring abroad, this Council urges the Government, in consultation with, among others, the travel industry, the insurance industry and the Consumer Council, to introduce measures, including legislation or code of practices whichever are necessary and most effective, so that travellers are insured to the fullest extent possible to minimise personal losses due to incidents whilst travelling abroad.”

MR HOWARD YOUNG (in Cantonese): Mr President, I rise to move the motion standing in my name in the Order Paper.

In a traffic accident which happened to a Hong Kong tourist group in Thailand last Christmas, two were killed and 21 were injured. The memory of it is still fresh in people's mind. The travel industry offered condolences to the families of the dead and injured in that accident. We are still concerned about their present situations. However, after the accident, some members of the public spearheaded criticism against the travel agent. Certain public opinion had it that the travel agent was negligent with regard to the safety of the coach, which indirectly caused the accident. Some even laid the entire blame on the travel agent. I propose this motion debate today to arouse the concern of the public and the relevant professions, including the travel industry and the insurance industry, so that they can put forth fair and useful advice to formulate a tourist protection plan. On the other hand, as the representative of the travel industry, I wish to take up the responsibility to clarify the situation so that the public can have a better understanding of the mentality of and difficulties faced by the travel industry. One of the inevitable repercussions of the accident has manifested itself in the form of antagonism between the tourists and the travel industry. They even point the finger at each other. Now that half a year has passed, I hope that everyone can look calmly into the tourists' right of choice and their right of being protected and also the possible commitment of the travel industry. I have to state a few main points clearly.

The first is the role of the travel agents and the definition of their services. According to the Travel Agents Ordinance, a travel agent plays the role of an intermediary who acts as an agent to arrange for the means of transport, lodging and sightseeing services for the tourists who travel abroad. Since the travel agent is an agent, the customers have every reason to request the travel agent to provide comprehensive care, arrange for comfortable lodging in hotels and plan out interesting itineraries for them. And since a travel agent is only an agent or intermediary, we absolutely cannot require it to decide for the tourists the value of their own lives and to take out a policy for a certain insured amount. The travel agent just cannot assume the tourists' responsibility of making decisions for themselves. Some travel agents have tried to attract their clients by offering to take out accident insurance for the insured amount of \$100,000 by way of a gift. But is this amount acceptable to the tourists themselves or their families? I believe this would depend on the individual person. Only the tourists themselves are qualified to judge the value of their own lives and decide on the insured amount and the type of policy to take out.

The second point I would like to clarify relates to the arrangement following an accident that happens in the course of a tour. It is not so simple as just giving compensation. Firstly, the party who causes the accident through its own fault incurs criminal liability and should be punished and held responsible. Rumour has it that the accident in Thailand was caused by another coach hitting the coach concerned. Therefore, the question as to who is to be held responsible must be dealt with as part of the post-accident arrangements. Secondly, the loss of life and property which is insured against will normally attract compensation, but the insurance company must conduct detailed investigation before it pays out compensation. Legal proceedings may take over a year and these will form the

latter part of the post-accident arrangements. Thirdly, immediate support to be made available following an accident is actually the most important. Such support includes payment of medical charges for the victims as well as the travelling expenses, board and lodging for the families of the victims. These are pressing needs that must be met. The travel agent is also responsible for taking care of the injured and their families, co-ordinating and arranging for the families to go to the site of the accident and bearing the related costs. These constitute immediate protection. We have to separate the two distinct ideas of insurance compensation and immediate contingency support so that the public will not misunderstand them.

Although it is a very important responsibility that lies with the travel agent to provide immediate contingency support, the public should not be mistaken that the law or the code of practice expressly provides for such responsibility to be borne by the travel agent. There is in fact no provision to that effect. As far as I know, the travel agent involved in this accident had to pay a great price itself. The travelling expenses of the families going to Thailand to visit the injured, their lodging arrangements and so on were all paid for by the travel agent first out of its own pocket. The travel agent had no such responsibility under the law. It did that merely out of moral and professional spirit. Nevertheless, even granted that there is no accident, sometimes if a tourist falls ill abroad or has to hasten back to Hong Kong in an emergency, normally the travel agent is obliged to help him. But that does not mean that the travel agent has the financial means to bear such expenses. We should understand that most travel agents are medium to small-sized businesses. Few of them are big enterprises. Many of them make very meagre profits. We can even say that they are just barely “hanging on”. Hence, how are they able to afford the immediate support requested by the tourists?

I am in support of the setting up of a contingency fund to provide for immediate relief and assistance. The travel industry has already set up a “Travel Industry Compensation Fund” (TICF) for the specific purpose of protecting travellers against losses as a result of the collapse of a travel agent. The Fund has worked well since it was established six years ago. In implementing the new concept, that is to say, putting in place an operation mechanism for the contingency fund, reference can be taken from the TICF model. TICF managers may participate in the management of the contingency fund and this contingency fund will spare the Government extra expenditure. I hope that Members and the public will respond positively to this suggestion. I have also noted that the Travel Industry Council announced their basic consensus in this respect yesterday. The Council also holds the view that contingency support is the most important and that it would be most ideal if the measures taken would not add to the burden of the consumers. I hope Members will probe the Council’s suggestion and give it positive response and support.

Nevertheless, other than immediate contingency support, how should the subsequent question of compensation with regard to casualties be handled? I believe that ultimately the insurance company will have to pay compensation.

The Honourable CHIM Pui-chung represents the insurance sector and I very much wish to hear the insurance sector's view on this issue. But, in taking out travel insurance, who is to assess the value of a traveller's life in order to decide on the insured amount? Should it be the travel agent on behalf of the traveller, or the traveller himself? I am not saying that the travel agent may pass the buck to others. As an agent, the travel agent should provide the service, among others, of selling travel insurance. It should earnestly remind travellers of the importance of taking out insurance which can then provide them with the best protection. But there are many people in Hong Kong, especially those who are older and rather conservative-minded, who would regard it as taboo when you try to talk them into taking out insurance. Particularly when they are full of excitement looking forward to their trip, a reminder from you that there is the possibility of casualties during the trip would enrage them and they would give you a dressing-down. Therefore, in order to overcome this difficulty, the insurance sector, the travel industry and the Consumer Council must work together to enhance the education to the consumers and help them realize the importance of taking out travel insurance.

Some social bodies even propose to make it mandatory for the travel agent to take out insurance for its customers. Other than arguing that it is very difficult for the travel agent to decide on the value of each person's life, I feel that such proposal, more often than not, has taken no account of the fact that insurance is a business which passes all the costs on to the customers. I wonder if Mr CHIM Pui-chung agrees with me. No matter whether the travel agent or the traveller himself is required to take out travel insurance, the insurance premium will ultimately be included in the customer's travel expenses. Under such circumstance, whose right of choice will it be? This problem is worth being probed and deliberated by Members. Some question why the Government does not make it mandatory to take out travel insurance. I cannot help but ask: there are numerous types of insurance policies, including fire insurance, theft insurance and life insurance, in Hong Kong which it is not mandatory to take out. Why should travel insurance be made mandatory? I think that this is open to question. As far as I know, only labour insurance and third party insurance in respect of vehicles and vessels are made mandatory. If once this concept is expanded, where will it end?

Mr President, the motion that I am moving today may not be as controversial as the topic discussed just now. I hope that through calm and sober discussion, we can reach a consensus; that is, the Government should listen to the views of the travel industry, the insurance industry and the Consumer Council to make sure that the outbounds travellers can get maximum protection to be made available in the most efficient manner. At the same time, should work in this regard be carried out by the industry itself pursuant to legislation or a code of practice? This is a question worth probing by Members. But I feel that the plan put forward by the Travel Industry Council yesterday is already a good starting point for discussion of the matter to be taken further forward.

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

*Question on the motion proposed.*

DR TANG SIU-TONG (in Cantonese): Mr President, over 1 million Hong Kong people go on outbound tours each year. Holidaymaking and sightseeing are meant to be enjoyable. However, “there is a certain risk in sailing and horse-riding”, as the saying goes. Occasionally, extreme joy will beget sorrow during one’s travel. According to statistics, a total of 12 Hong Kong citizens died in accidents over the past three years in the course of outbound tours, and 103 travellers were hurt in accidents. The most recent case of mishap is the one that occurred in December last year when a touring group from Hong Kong suffered a traffic accident in Pattaya, Thailand; it resulted in two deaths and 22 people injured. As the travel agency had not taken out any travel accident insurance for the travellers, those who were affected in the accident could only get compensation of about \$15,000 to \$30,000 through the third party insurance that was taken out by the touring coach company. This mishap has aroused people’s concern and they think that it should be made compulsory for travel agencies to take out insurance for travellers to protect the latter’s interests.

At present, there are about 1 100 travel agencies of various sizes. These agencies provide service for outbound travellers. There is no provision in the current legislation requiring travel agencies to take out insurance for travellers on a compulsory basis. Therefore, travel agents who take out insurance for travellers voluntarily are few in number. To my knowledge, only 70% of the 20 or so travel agencies in Hong Kong which are of a relatively decent size make arrangements for travel accident insurance, and the majority of these 70% of travel agencies are inclined to take out travel accident insurance. Only three or four large travel agencies choose to take out professional liability insurance. However, professional liability insurance has a greater coverage than travel accident insurance, both in terms of the compensation items covered and the amount of compensation; also, the process of handling compensation claims will be speedier and more flexible in respect of professional liability insurance. Now we see that not even all of the large travel agencies take out the most comprehensive kind of insurance, not to mention others which are operated on a much smaller scale.

Generally speaking, only a handful of travel agents voluntarily offer to explain to travellers the insurance liability and encourage them to take out travel insurance on their own at the time people come forward to join tours. Many travellers have the misconception that costs for taking out insurance have been included in the tour fees that they paid and it is not until mishaps occur that they come to realize that there is insufficient insurance cover to protect the group tour they have joined.

In spite of the advice given by the Travel Industry Council to the industry to take out insurance for travellers, the response from travel agents has been less than enthusiastic. Some of the travel agents even vigorously oppose the proposal to legislate for compulsory compliance.

The reasons for their opposition are mainly that taking out insurance should be a free choice by travellers themselves, and that some of the travellers may have already taken out various kinds of insurance against accidents, injuries and life loss. Should it be enforced compulsorily, travellers may not be willing to pay the extra costs. What worries travel agents most is that should it be made compulsory to take out insurance for travellers, then the situation will be one of “wool coming from the sheep anyway”, with the insurance premium and administrative costs being passed onto the consumers, which in turn would affect the operation of travel agents.

Whilst I do understand the worries of some of the travel agents, I disagree with them. It is because even if the insurance taken out by travellers may be a duplication, as long as the type of insurance coverage is different, there will be double protection should there be any mishap, and it is the travellers who will benefit from it. Normally, items that are insurable include medical care, loss of luggage or theft, journey delays and personal safety. If travel agents take out the insurance in the form of group insurance, the extra cost for each traveller will only be \$20 to \$30. Although travellers will have to pay a little more for the tour for this reason, there will be protection to cover the whole journey. Therefore, I believe travellers will be willing to pay this cost. Moreover, once compulsory compliance is implemented, every travel agent will be charging their clients the same amount of premium, which means that there will be no room for cut-throat competition. For this reason, travel agents should not worry too much about it. If it be the case that travel agents are against taking out travel insurance for travellers, fearing that doing so would increase the tour costs, then they probably will lose more than they gain, for if there be any mishap, the travel agent concerned will be claimed against, and the travel agent will thus incur costs.

Having considered the views of the Consumer Council and of various sectors, the Government is hoping that the travel industry can work out a code of practice for themselves which requires that travel agents should exercise self-discipline and take out “third party insurance” (or public liability insurance) for travellers in order to provide them with the most basic travel protection. That will include hospitalization costs as a result of any accident during the journey, and the expenses for family members to travel abroad to visit the accident victims, or the expenses necessary for making any post-accident arrangement. I am agreeable to the proposal that matters can be dealt with according to the code of practice of the industry and the trouble to be taken in legislating can be obviated. However, I find the practice of taking out “third party insurance” rather questionable. The fact that the coverage of such kind of insurance is not as broad as “professional liability insurance” or “travel insurance” will mean that the protection for travellers will therefore not be comprehensive. For this

reason, I am of the view that if we are to provide protection for travellers, we should do so in the best possible way, and we should require travel agents to take out professional liability insurance or travel insurance for travellers across the board, so that maximum protection can be provided to travellers.

Whilst the quality of service of Hong Kong's travel industry has been substantially improved, the protection for travellers does not seem to be sufficient. Therefore, now is the suitable time to ask the travel industry to consider this and not to resist this natural trend of development.

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

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

MRS MIRIAM LAU (in Cantonese): Madam Deputy, as the old saying goes, "To travel ten thousand miles is better than reading ten thousand books." Not only can travelling enrich one's knowledge and broaden one's horizon, it can also soothe one's nerves amidst the hustle and bustle of city life. Given the progress that Hong Kong society has made, the development in transport network and the growth in economy, travelling abroad has become part of the life of the community nowadays.

Statistics from the Census and Statistics Department show that the number of people who left the territory to go on leisure trips to overseas countries in 1994 was to the tune of 2.8 million, which represents a 13% increase when compared to the figure of 2.3 million in 1993. If we are to count in travellers visiting China and Macau, the figure will be as high as 33 million. As the people of Hong Kong travel overseas more often, the number of accidents is, therefore, on the rise. The traffic accident in Pattaya, Thailand that claimed the lives of two people and injured eight others who are all members of a package tour visiting Thailand last Christmas has once again aroused the concern of the various sectors in the community with regard to the safety of travellers and compensation. The Liberal Party thinks it is imperative that the Government should draw up effective measures with a view to safeguarding travellers. Yet, it is necessary for the Government to hold full consultation with the parties and institutions concerned including the travel industry, the insurance sector and the Consumer Council before arriving at a decision. Recently, some people have asked the Government to introduce legislation requiring travel agents to take out comprehensive travel insurance. They are of the view that as there are a great many Hong Kong people travelling abroad and many travel agents are also involved, both the victims and travel agents will be subject to immense tribulations should an accident take place. For instance, the victims or their relatives may not be able to receive compensation and the travel agents may find it difficult to pay for the medical and travel expenses incurred with their limited financial resources. Therefore, the taking out of insurance will be beneficial to both parties.



As for the travel industry, the Travel Industry Council (TIC) has proposed the setting up of a contingency fund to provide immediate financial relief to travellers in the event of an accident. The TIC thinks that in the event of an accident, the first thing to do is to render medical treatment to travellers and assist their relatives to go to the scene of the accident for follow-up actions. Under the circumstance, it is of utmost importance to set up a fund which requires no proof of liability so as to offer assistance in the event of an accident and the TIC is to be made responsible for making all the necessary arrangements in the aftermath of the accident.

Besides, the travel industry also pointed out that for professional liability insurance, it would be necessary to prove that the accident was caused by negligence on the part of the travel agents and it would take a very long time to go through all the formalities required. As for compulsory travel insurance, that is, travel agents taking out insurance coverage for their clients, the operating cost will increase as a result, thus constituting a disadvantage to small travel agents. In addition, the third-party insurance is incapable of safeguarding the real and vital interests of travellers.

Speaking from the consumer point of view, it is the hope of the Liberal Party that travellers can be truly safeguarded. In fact, the formulation of whatever measure is intended to serve an ultimate purpose. Whether a measure is deemed successful and feasible will depend on whether the designated ultimate purpose is attained in the course of its implementation. In this connection, we believe that in putting forward proposals the TIC and other organizations are seeking to safeguard the rights of travellers. The proposed contingency fund is aimed at providing immediate relief to travellers whereas the compulsory insurance system is for the purpose of providing travellers with the basic insurance coverage. They are not mutually exclusive, instead they should be able to complement each other. Yet, we must know that whatever kind of insurance, be it on a compulsory or voluntary basis, the premium required will be passed onto the travellers. Just as a number of Members said earlier on, 'the wool will come from the sheep anyway'.

Such being the case, I would suggest that before formulating any measure or mechanism, the Government must fully consult the various sectors in the community, for instance, by setting up a committee inviting the travel industry, the insurance sector and the Consumer Council to participate in devising, framing and studying a diversity of alternative measures and their specific details so as to draw on the collective wisdom in making a decision. In doing so, the interests of the travel industry as well as those of the consumers will be balanced out and protected in various aspects. The Liberal Party is of the view that before the formulation of any measure a government which is genuinely committed to its responsibility of governance and which cares for its people will undertake full consultation and meticulous consideration, act cautiously, and

execute its policies in earnest. Only in so doing can the Government accomplish twice as much as the effort put in.

With these remarks, I support the motion of the Honourable Howard YOUNG.

MR TAM YIU-CHUNG (in Cantonese): Madam Deputy, last Christmas, a group of Hong Kong tourists had an accident in Thailand. This has since caused a lot of public concern about the protection for outbound Hong Kong travellers while travelling overseas. A lot of people suggest making it mandatory through legislation for travel agents to take out travel insurance on behalf of their clients. However, after having exchange views with the travel industry and the insurance industry, the Democratic Alliance for the Betterment of Hong Kong (DAB) is of the view that compulsory insurance cannot provide the kind of assistance to clients in the event of an accident. At the same time, the implementation of compulsory insurance would entail insurmountable technical difficulties. Hence, DAB maintains that in order to provide the necessary protection to Hong Kong travellers, another form of cover is needed. I tentatively agree that the “contingency fund” proposed by the Travel Industry Council yesterday is in principle acceptable.

This is because the fund by its very nature is one which provides assistance regardless of liability. This makes it different from insurance. The fund would provide immediate financial assistance if a tour group has an accident or if travellers suddenly fall sick so that travellers may receive treatment at a hospital. In the event of death, the fund would help relatives of the victim to travel to the scene and to arrange for bringing the body back to Hong Kong. As regards the source of the fund, we may copy from the Travel Industry Compensation Fund by levying a certain percentage of outbound fare as its source.

One of the major merits of the fund is that it may in the event of an accident provide immediate financial assistance to the victim or his/her family members. Although financial assistance can also come after an accident from insurance, the insurance company may need to establish certain facts about the accident before releasing the money because in insurance the issue of liability comes into play. For example, the insurance company needs to find out who is responsible for the accident before making a decision as to whether compensation should be paid or not. The fact-finding process may take time and the victim or his/her family members may not be able to obtain immediate assistance. This is what we call a slow remedy, which cannot meet an urgent need.

In making it mandatory for travel agents to take out insurance cover for their clients, one further difficulty arises. It concerns the kind of insurance and the insured amount. As we know, different insurance companies have different insurance plans to offer, and travel agents have different itineraries for their

tours. Should travel agents take out different insurance covers for different tours or should they take out the same insurance cover for all the tours? As a matter of fact, no one knows the needs of the consumers better than the consumers themselves. Why do we not let travellers decide whether to take out insurance and how much to insure against? This is why I do not advocate a “group travel accident insurance”. Moreover, the establishment of a “contingency fund” would not preclude the taking out of insurance by travellers. They may obtain extra cover for themselves by taking out additional insurance. Nor would the fund get in the way of travellers claiming compensation, in the event that a certain party is found to be responsible after an accident.

At present, there are around 1300 registered travel agencies in Hong Kong. Small agencies may have several employees and large ones several hundred. Even if the same type of insurance is taken out by all travel agencies, large agencies may be at an advantage as they have more clients and may therefore bargain for better terms. On the other hand, small travel agencies will probably have to pay more in terms of premiums as they have fewer clients. This will indirectly promote unfair competition. Small agencies may be driven out of the market. Eventually, consumers may be deprived of their right to choose.

In addition, people in the trade have pointed out that if compulsory insurance were implemented, a supervisory body would be required. The administrative expenses of the supervisory body may exceed the premium. Such expenses would eventually be passed on to the consumers. In contrast, if the “contingency fund” is to be supervised by the Travel Industry Council, which is currently administering the levy and supervision of the Travel Industry Comprehension Fund, expenses may be minimized.

I need, however, to emphasize that the present proposal of the Travel Industry Council is just an outline, far from being perfect. Members’ opinions are required so that, by pooling their wisdom, they can devise a way to provide enhanced protection to outbound travellers. For instance, ideas are needed on how to prevent any abuse of the fund, given the fact that accidents more often not occur overseas, and there is a need to release money from the fund within a short time. Even if there are upper limits for assistance, there is a need for a supervisory body to be established.

Figures show that, in the past three years, casualties arising from outbound tours are not too worrying. There have only been three deaths and 103 injuries. In other words, people who need assistance would not be many. Borrowing experience from the Travel Industry Compensation Fund, I wish to suggest that the Administration advance money by way of contribution to the contingency fund for the time being to enable the fund to operate immediately. Then, a levy at a reduced percentage, such as 0.1% or 0.2% (0.5% for the Travel Industry Compensation Fund), of the outbound fare may be collected for repayment by instalments to the Administration afterwards. When the loan

from the Administration is settled, we may consider either stopping or reducing the levy to avoid the unnecessary snowballing of the fund.

Talking about levying, some may think that if compulsory insurance was adopted, relevant costs would have to be borne by travel agents and consumers would not have to pay anything. This is all very good to hear but I am afraid this may not be practical.

With these remarks, I support the motion.

MR CHIM PUI-CHUNG (in Cantonese): Madam Deputy, I believe this question is a matter of concern to Hong Kong people and a controversial one to boot. The heart of the matter is how best to deal with the question in order to solve problems that may arise in the future.

As time passes, human society progresses. And mankind's desires and aspirations grow in tandem with such progress. Going on tours is a pleasurable activity. I remember that when I visited Korea more than 10 years ago the first day of the tour was spent travelling about on a coach. We all sat tight on the seats. On the second day, we began to show signs of fatigue. And on the third day none of us was seen sitting but we were all lying behind the seats sleeping. This is one of the reasons why so many accidents happen to travellers.

Most travellers would not wish to see accidents happen when they go on a tour. It is because a stranger in a foreign land would find himself under numerous constraints. In the event of an accident, he will be in dire straits. However, given the vast global advances in various spheres of activity, it would be difficult to convince people not to travel outside Hong Kong on the ground that accidents might happen. Hong Kong, for instance, has been successful in many respects. It ranks ninth or tenth in the world in terms of trade and thirteenth or fourteenth in terms of foreign exchange reserve.

Undeniably, China, as a tour destination, still leaves a lot to be desired and there is ample room for improvement. This is reflected by the fact that Thailand is visited again and again by Hong Kong people who do not seem to have grown tired of visiting it. On the other hand, many people are not interested in revisiting a place in China, a scenic spot though it may be. Guilin is a case in point. Many people would lose their interest in revisiting it after going there once or twice. It should be a key spot for the Chinese authorities to develop the tourism industry and make qualitative improvements.

We have to analyze the question of travel insurance from different angles. Firstly, from the angle of the consumer, that is to say, the traveller. Although an accident is a tragic event and a mishap, yet many would regard it as an opportunity to make a windfall like winning the Mark Six Lottery and would claim huge compensation from the travel agent and the insurance company concerned. Theoretically, however, we should make assessment from a variety of viewpoints. In the first place, it should be up to the consumer, or the

traveller, to make his own decision. If the traveller considers he has a higher personal worth, he may take out special insurance cover on his own. The choice is his.

Secondly, we have to consider the question from the angle of the travel agent. As Mr Howard YOUNG has just said, some travel agents only act as intermediaries and earn their share of charges from going through the necessary procedure on the client's behalf. Hence, when a tour group is formed or when it starts on its tour, the responsibility has already passed to an overseas travel agent. Some travel agents just transfer the clients who join their tour groups to other big travel agencies in Hong Kong and their duty is then considered done. Of course, there are some big travel agencies who will assume full responsibility for their tour groups right from the moment the tour starts. These travel agencies have branch offices overseas and own tourist facilities such as hotels and means of conveyance.

Thirdly, we should consider the question from the angle of the insurance sector. The premiums received by an insurance company may include different kinds of insurance cover, such as life insurance, accident insurance or cover against a specific eventuality. These covers are too numerous to mention. The question is whether the traveller himself has taken out insurance or not. The more business the insurance sector does, the more risks it will have to bear. In the normal course of events, there are bound to be profits earned and losses suffered. Therefore, we have to bear in mind the saying "sheep's wool comes out of sheep's body anyway." When one travels, one should not hope to make extra profit out of mishaps.

I would therefore suggest that the various units or divisions under the Secretary for Economic Services should, together with the regulatory authorities of the travel and insurance industries or the relevant government departments, form a special committee to conduct, through the pooling of wisdom, an overall review of the travel industry. The review should cover, for instance, the question of who should be liable to pay compensation or how much premium a traveller would be refunded if, after the traveller has registered to join a tour with a travel agency and paid the tour costs, the travel agency should close down or the tour should fall through due to unexpected events. This is point one.

Point two: Who should be liable for any accident that may happen to a traveller when he is on his way to the airport or after he has boarded the plane? Generally speaking, the airline takes out insurance to cover the traveller's air trip from departure to arrival at destination. Then is it necessary to take out additional insurance cover?

Besides, many travel agents do organize tours to Europe, the United States and Canada. After arriving at the first destination, the tour group will travel from one country to another. Who should be responsible for any accident that may occur on the journey? Or is it necessary to list out clearly the responsible person in each different place that the tour group passes through on its way back

to Hong Kong? Furthermore, on arrival at a destination, who should be responsible for accidents such as food poisoning? Extending this responsibility issue to extreme scenarios, who should be responsible in the event of an accident happening to a traveller when he visits a nightclub in the evening? In case an accident occurs in a place where no one is specified as the responsible person, it will then be entirely a matter for the traveller to attend to on his own.

The above arrangement will enable the traveller to know which part of his trip is covered by insurance where he can tour and make merry with peace of mind. As for the part of his trip not covered by insurance, he should take extra precaution. This may be a feasible arrangement.

With a sound system in place to protect the travel agents, travellers and insurers, the responsibilities each party has to bear will be clearly defined. We hope earnestly that such a system can be established under which insured items will be expressly and clearly listed out. The insurance industry, having written the insurance policies according to its ability to meet claims, must discharge its obligations. Under such a system, the industry will not be subject to unnecessary criticism or loss in terms of its reputation or other qualities. As far as the consumers are concerned, they would not wish to be denied avenues of complaint after an accident has occurred.

Madam Deputy, I think the Government is duty-bound to bring together all the parties concerned, pool their wisdom and implement a comprehensive responsibility system. Of course, before the establishment of such a responsibility system or a formal compensation fund to insure against risks, the travel agencies should be brought together to set up a special fund to pay partial compensation, leaving the question of responsibility to be determined at a later date.

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

MR HENRY TANG (in Cantonese): Madam Deputy, if we were to legislate to the effect that travel agents will have to take out mandatory insurance policies on behalf of the clients, I believe that the disadvantages would certainly outweigh the advantages. First of all, it takes time to make laws, and therefore the public will not be offered maximum protection in the upcoming peak travel season. Secondly, by so doing, we will be indirectly depriving the citizens of their right and freedom to decide whether insurance policies should be taken out. For example, those who have taken out life or accident insurance policies might not think it necessary to have another insurance policy to cover a particular trip because insurance companies would only compensate the claimant once irrespective of the number of insurance policies that the claimant has taken out. Moreover, the geographical proximity between Hong Kong, Macau and China has made it commonplace for travellers to travel between Hong Kong and Macau, Shenzhen, Shekou, Dongguan. I am afraid that inconvenience will be

caused and additional expenditure will be incurred if it is made mandatory for outbound travellers to take out travel insurance.

More importantly, travel agents might pass the cost of taking out insurance policies on to the public. It is only too plain that “without a sheep, there can be no wool.” There is no reason whatsoever that outbound travellers should pay an additional sum in exchange for no better protection.

While it is not viable to legislate, the existing system is nevertheless defective. Take for example the existing practice that some sizable travel agencies take out “Public Liability Insurance” for travellers. This appears to be a good move. However, in the case of “Public Liability Insurance”, the insurance policy will only cover accidents occasioning injuries, illnesses or loss of property where the insured party (or the travel agents) has to be held responsible for the outbreak of the accidents. Where the responsibility lies in a grey area, for example, when the accident happens on a coach or in a hotel, that will further complicate the payment of compensation.

The other type of insurance is called “Travel Accident Insurance”. Among the 1300 travel agents around the territory, only 16 or 17 of them will take out this type of insurance on behalf of the clients. The travellers would only be compensated in the event of casualties and disabilities in the aftermath of accidents. However, in the past three years, only 12 people died and 103 sustained injuries in serious accidents happening out of the territory. Compared with the multitude of outbound travellers each year, that number is only a drop in the ocean — very small indeed. As a result, the premium paid is substantial while the compensation from the insurance companies is minimal. On the contrary, the above insurance package does not offer optimum protection to travellers because those regular occurrences such as luggage theft, tour postponement, flight delay and loss of personal property are not covered.

Moreover, there is another type of insurance called “Professional Liability Insurance” which offers protection to clients who suffer from losses as a result of negligence on the part of professionals or the employees under their charge in the course of discharge of their duties. Since such insurance relates to liability and negligence, the insurance company will have to ascertain whether the loss is really a result of professional negligence before paying compensation payment. This process may drag on for one to two years and the affected parties may eventually fail to get compensated if investigation findings reveal that the travel agent cannot be held responsible for neglect of duty. This is readily understandable because there is a fundamental difference between the emotional response of the travellers due to accidental loss on the trip and the insurance company’s professional code of practice and their view of the matter in issue.

I am not saying that travel agents should not take up the responsibility of providing insurance protection for clients. I merely wish to point out the inadequacies in the existing system. From the perspective of an ordinary member of the public and a consumer, I hold that the Government should expeditiously and actively pursue studies with the insurance industry, the travel industry and the Consumer Council with a view to plugging the existing loopholes. The peak travel season is fast approaching. I wish everyone a joyful and fully-protected vacation.

With these remarks, I support the motion.

MRS SELINA CHOW (in Cantonese): Madam Deputy, there are apt to be contradictions between consumers and service providers in terms of the respective positions they take. In the travel industry, very often, we heard complaints from travellers of the services provided by travel agents. Particularly when Hong Kong travellers go to other countries where accidents resulting in deaths and injuries occur, the issues of compensation and liability would arise. This would affect the travellers' impression of the travel industry as a whole.

Over the past three years since 1992, there were about 10 accidents involving Hong Kong tour groups during overseas journeys, resulting in 12 deaths and over 100 injuries, of which 90% were caused by traffic accidents. Of course, accidents are hard to predict. But, in order to prevent accidents and to avoid disputes where accidents occur, we need to enhance understanding between travel agents and consumers to make sure that they will take precautions and pay attention to issues which are important to both parties. In fact, both travel agents and consumers are under an obligation to do this.

Firstly, as consumers, we are entitled to ask travel agents to provide services which are of reasonable and the best quality. As accidents may occur during overseas tours, it is understandable that consumers would expect travel agents to assign reliable and reputable airlines, travel companies, hotels and so on to provide respective services. Travel agents may even request these companies to provide safety guidelines and contingency plans to deal with accidents to make sure that tour guides have full understanding of such information so as to enhance the sense of security and protection on the part of travellers.

Some less popular or newly developed tour destinations certainly have their novel appeal. But the fact that they are newly developed could mean potential dangers to tourists. It is therefore essential for travel agents to have comprehensive planning, and select activities which would involve no more than acceptable risks when setting the itineraries. At the same time, travel agents are duty-bound to explain clearly to their clients the potential risks involved so as to allow travellers to make their own decisions whether or not to participate in these activities. Furthermore, travel agents may consider advising their clients



to take out insurance by putting up notices in conspicuous places to enhance the public's awareness of the need to take out travel insurance which is a prerequisite for a happy journey.

Secondly, travellers are strangers in a strange place. In the event of an accident, particularly when it occurs in a remote area, travellers will be isolated and helpless. The travel agent concerned should make proper arrangement for medical services and deal with the aftermath of the accident. I think the travel agent concerned should go to the country where the accident occurred in the first instance to provide manpower and financial assistance and arrange for the travellers to return to Hong Kong at the earliest opportunity. Alternatively, the travel agent should arrange for their clients' family members to go to the country where the accident occurred. At the same time, the travel agent has an obligation to claim compensation from the party directly causing the accident on behalf of their clients to protect the interests of the travellers.

On the other hand, I was once Chairman of the Consumer Council. So I had experience in this respect. In my view, when consumers patronize travel agents, they should assert their right to know. In this regard, the Government is also duty-bound to step up its effort to educate travellers about striving for their own rights. As far as consumers are concerned, taking out an appropriate insurance policy for overseas journeys does not cost much, but rather, it can safeguard their interests. In the event of a mishap, even for minor cases such as loss of luggage, an insurance policy can always protect travellers against such loss. When travellers join package tours organized by travel agents, they should require full information on the possible risks involved and take out the appropriate type of travel insurance.

Thirdly, a wise consumer must be sure of what are being covered by the insurance. At present, for some travel agents, in particular those mainly providing package tour service, in order to extend the scope of service and to solicit customers, they often publicize in the advertisement that they will take out insurance cover for their clients free of charge. This, of course, will help ensure the safety of travellers. But on the other hand, this could also mislead them into thinking that they are already covered, and for this reason, they may be lulled into a sense of security. Actually, there are different types of travel insurance cover ranging from death and injury to loss of luggage. In such circumstance where there is insufficient hotel accommodation, as a matter of fact, is it covered by travel insurance? This is really an area for travellers to probe. They cannot simply query the liability of travel agents once accidents occur. At present, the insurance policies taken out by travel agents are mostly travel accident insurance which only covers travellers against accidents causing death or injury but not minor accidents.

According to a document prepared by the Trade and Industry Branch, the insured amount under such an insurance policy is around \$100,000. Individual travellers may not necessarily regard it as satisfactory. If they do not ask about it in the first place, they are forfeiting their right to know.

Fourthly, as to certain dangerous activities such as parachuting and water-skiing, travellers should weigh the risks before deciding whether to participate in order to ensure their own safety. If travellers have any doubt as to the qualification of drivers or pilots, safety of routes, weather, topography and so on, they are absolutely justified to ask questions or even elect not to participate in those activities. They must under no circumstances yield to group pressure and disregard their own safety and other relevant factors. Our life is in our own hands. Travellers have their own part to play in preventing accidents.

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

MR FRED LI (in Cantonese): Madam deputy, the question of safety concerning outbound travellers joining package tours has become a cause of general concern ever since a Hong Kong tourist group suffered a traffic accident in Thailand resulting in many casualties during last year's Christmas holidays. After the accident, the Democratic Party made an appointment and met with the Chairman of the Advisory Committee on Travel Agents, Mr TANG Kwai-nang J.P., and sent a letter to the Travel Industry Council (TIC) to express our opinion on that matter. The Democratic Party's stance has always been consistent: that legislation should make compulsory the taking out of public liability insurance by the travel agent to cover each and every member of a tour group before the tour actually sets off, so as to ensure adequate protection for the travellers. As regards personal travel insurance, such as medical cover, cover against luggage losses or flight delays and so on, we are of the view that it should be up to members of the tour group to decide whether to take out such cover provided that the travel agencies must give detailed explanation to tour group members on the particulars of the insurance to be taken out, such as the types of policy, level of protection, and the sum insured for and so on.

Praiseworthy is that fact that both the Government and the Advisory Committee on Travel Agents responded positively to this particular matter. In a meeting of the Advisory Committee on Travel Agents on 10 February this year, a consensus was reached by members attending the meeting — among them Mr Simon HAU, Deputy Chairman of the TIC — that the taking out of “collective travel insurance against accidents” by the travel agent to cover each and every member of a tour group would be made compulsory. Mr HAU also agreed that the code of practice should be amended as soon as possible to make taking out of “collective travel insurance against accidents” a prerequisite for application and renewal of travel agency licences. In a longer-term perspective, Mr HAU agreed that relevant legislation should be amended to incorporate the code of practice into the existing Travel Agents Ordinance. The minutes have had all of these recorded.

As far as the Government is concerned, the Trade and Industry Branch has also remarked with confidence to the Panel on Trade and Industry of this Council that tourists joining tours will be protected by “collective travel insurance against accidents” no later than this summer. I personally heard this

remark at a meeting of the panel. This certainly will relieve travellers, who are at the same time consumers, of their worries.

However, the TIC announced all of a sudden yesterday that it would shelve the “collective travel insurance against accidents” proposal and substitute it with a “Contingency Fund” on the excuse that “compulsory travel insurance of any kind is unfeasible and unable to solve the relevant problems”. In order to know why the TIC changed its stance so abruptly, some members of the Democratic Party, including I myself, immediately met with representatives of the TIC, including Mr HAU, yesterday. I want to give a general analysis of this issue.

First, the TIC stressed repeatedly that they had consulted experts in the industry and the conclusion was that the collective travel insurance was technically unfeasible. However, until the end of February, nothing of this sort was heard from the insurance industry. As a matter of fact, the TIC has never consulted the Trade and Industry Branch, the Advisory Committee on Travel Agents, or the Consumer Council on the setting up of such a “Contingency Fund”. This hasty decision has been reached with no consultation whatsoever, and therefore its true intention is dubious. I hope no conflicts of personal interests are involved behind the scenes, lest consumers be “sandwiched” in between.

Second, the “Contingency Fund” to be unilaterally set up by the TIC will be exactly modelled on the present Travel Industry Compensation Fund. Now the point is this. Under the existing law the Travel Industry Compensation Fund is subject to supervision, with formal supervising mechanisms instituted. The Government is also playing a role. If the TIC sets up a fund all by itself without corresponding legislative support and supervising mechanisms, who are going to bear responsibilities in case of mismanagement or fraud?

Third, the TIC stressed that tourists need not worry about having to bear the additional administrative costs the “Contingency Fund” will entail and that the consumer’s right to choose will still prevail. However, from the standpoint of the consumer, it will not make any difference whether it be a contingency fund pooled from drawing a certain percentage from the tour fees, or a collective insurance set up by having a certain percentage of the tour fees appropriated for this particular purpose. From another perspective, the contingency fund could, in case of an accident, help to arrange victims’ relatives to get to the scene to make post-accident arrangements, to transport the victims and the injured back to Hong Kong, to pay for hospital charges, relatives’ accommodation and perhaps to give a small amount of *ex gratia* payments and so on, but this will include no insurance payout. A collective travel insurance could do this.

Of course, we shall not turn down the proposal of setting up a “Contingency Fund” prematurely when enough information is still not available. Or, alternatively, both the contingency fund and the collective insurance could be implemented at the same time — that may work as well, although it certainly will take longer time for a more detailed study to be undertaken. But the TIC’s failure to honour its promise really has upset and annoyed the Democratic Party. What is more, it is worrying that consumers joining tours will fail to have their safety protected before this summer.

Madam deputy, in my capacity as the Democratic Party’s policy speaker on consumer’s rights, I wish to make the following main points:

1. we urge the Government to come up with contingent measures to protect outbound tourist before the advent of the tourist season this summer;
2. we urge the Government to consult the Advisory Committee on Travel Agents, the Consumer Council and the insurance industry in preparation for a feasible and cost-effective long-term plan to accord adequate protection to outbound tourists;
3. we urge the TIC to provide the public with detailed information on the establishment of the “Contingency Fund”, such as the estimated reserves of the fund, its mode of operation, mechanisms for supervision, protection coverage, level of compensation and so on. In the meantime, the Trade and Industry Branch, the Advisory Committee on Travel Agents, the Consumer Council and the general public should be consulted.

I agree that awareness on the part of tourists of the importance of travel insurance should be encouraged and enhanced, but travel agencies, by virtue of their being fully empowered agents for tours, certainly have responsibilities to bear.

Madam Deputy, the last point I want to make is that at present 30% of the travel agencies have taken out no insurance whatsoever, and this is in effect a potential threat to the consumers. The motion moved by Mr Howard YOUNG is rather unbiased and it has the support of the Democratic Party.

Such are my remarks.

SECRETARY FOR TRADE AND INDUSTRY: Madam Deputy, I am most grateful to Honourable Members for moving the present motion for debate, and for other Honourable Members who have spoken for their helpful comments. We will study carefully the suggestions and comments they have made in our consideration of the proposals for the protection of outbound travellers to be submitted by the Travel Industry Council.

The Government agrees in principle with Honourable Members that measures should be introduced speedily to improve the protection available to outbound travellers against the risks to their lives and properties while travelling overseas. The question is how and to what extent. Over the years, we have, in conjunction with the outbound travel industry, introduced new initiatives to enhance the protection of outbound travellers. This is an ongoing process which requires the support and co-operation of the travel industry and outbound travellers. We have always kept under review the need for new protection measures.

As the Honourable Fred LI recognized, since December 1994, the Government has been in close touch with the Travel Industry Council and the Consumer Council with a view to formulating proposals to improve protection for outbound travellers in case of accidents occurring outside Hong Kong. In particular, we have focused on the need for insurance cover for both outbound travellers and travel agents. At the same time, the Consumer Council and the Travel Industry Council have strengthened their publicity efforts to promote awareness among the general public of the benefits of being covered by an insurance policy while travelling outside Hong Kong. Travel agents have been advised to remind their clients to take out insurance cover to protect themselves.

As several Members have pointed out, there are three basic types of travel insurance available on the market which may give protection to outbound travellers and travel agents, namely personal travel insurance for individuals, group travel accident insurance for travellers and public liability insurance for travel agents. When travelling abroad, individual travellers may protect themselves by taking out personal travel insurance according to their own needs. The insurance package for individual travellers can be tailor-made to cover death, injury and medical expenses in the event of an accident, as well as loss of luggage, delayed flights, loss of cash and so on. I agree entirely with Members who have spoken about this subject that the taking out of such insurance cover is entirely a matter for the individual traveller. The second type of insurance is group travel accident insurance which may enable travellers to claim compensation payments at the earliest opportunity in case of accidents without the need to prove that the travel agent is at fault. This type of insurance may offer protection to travellers as well as travel agents. The third type of insurance is public liability insurance. As a general rule, travel agents are responsible for liabilities arising from the operation of their businesses irrespective of whether they have taken out public liability insurance. Public liability insurance would insure travel agents against possible claims from their clients and enable travellers to get compensation upon proof of negligence on the part of the travel agent.

The Advisory Committee on Travel Agents discussed the question of providing insurance cover for outbound travellers at its meeting in February 1995. The Committee considered the views of the public and the travel industry, submissions received from organizations and individuals, and relevant requirements for insurance coverage in other countries. It recommended that

travel agents should be required to take out compulsory group travel accident insurance for their clients initially through changes to the Travel Industry Council's membership requirement, and in the long term, through legislative changes. In addition, outbound travellers should have the choice of taking out an insurance policy according to their own needs. Travel agents should encourage their clients to take out insurance to provide additional coverage and to inform them of the details of any insurance coverage included in the travel package. We welcome the recommendations of the Advisory Committee on Travel Agents in principle, and have requested the Travel Industry Council to study the feasibility of these recommendations and come up with firm proposals for our consideration.

The Travel Industry Council has appointed a committee to consider possible options. The committee has held several meetings to discuss the matter, including meetings with representatives of the insurance industry. I understand the Travel Industry Council has finalized its proposals and we are looking forward to receiving them from the Council.

As an interim measure, the Travel Industry Council has asked its members to encourage their clients to take out travel insurance themselves and to provide them with detailed information on the travel insurance services available on the market. It has also advised travel agents to disclose details of any insurance coverage included in the travel services provided to their clients.

Turning now to the more specific points made by Members. Several Members have referred to the technical difficulties in requiring travel agents to take out compulsory group travel insurance for their clients and the need for the Government to undertake broad-based consultation before arriving at a decision on the best way forward. In fact, the Honourable Miriam LAU, the Honourable CHIM Pui-chung and the Honourable Henry TANG all urged the Government to consult concerned parties before formulating proposals. We fully recognize the need for adequate and broad-based consultation. The Honourable Miriam LAU suggests that a working group, drawing members from interested parties should be established to deliberate on the issue. In this regard, I am pleased to point out that members of the Advisory Committee on Travel Agents is already playing this role. Its members are drawn from all walks of life, in particular, the Travel Industry Council and the Consumer Council. The Honourable TAM Yiu-chung suggested that a special fund should be established to grant ex gratia payment to victims of travel accidents. We would study his suggestion in conjunction with the proposal for establishing a contingency fund unveiled by the Travel Industry Council yesterday. The Honourable Fred LI has expressed concern about the proposal for establishing a contingency fund announced by the Travel Industry Council yesterday. We are awaiting the details of this proposal from the Council and will no doubt take into account the views of this Council in examining the proposal from the Travel Industry Council.

In conclusion, we share Honourable Members' views that travellers should be encouraged to take out individual travel insurance according to their own needs. We are pleased to note that according to the information released by an insurance company, increasing awareness of the perils of travel abroad has triggered a five-fold jump in the number of local residents taking out personal travel insurance since 1990. This is a good sign. I do hope more and more travellers will be aware of the benefits of taking out travel insurance notwithstanding the concern about bringing bad luck as the Honourable Howard YOUNG has pointed out. As regards insurance cover for travellers and travel agents, we have yet to receive a formal submission from the Travel Industry Council. In the light of the proposals and the advice of the Advisory Committee on Travel Agents, we shall consider whether it is necessary to require travel agents to take out group insurance for their clients and if so, to what extent and how.

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

THE PRESIDENT resumed the Chair.

PRESIDENT: Mr Howard YOUNG, you are now entitled to reply and you have three minutes 18 seconds out of your original 15 minutes.

MR HOWARD YOUNG (in Cantonese): Mr President, seven Members have spoken on this motion. It shows that travel insurance is of concern to the community, including Members of this Council.

The subject in question can be taken as a matter of substance and can also be treated as a triviality. Many people think that accidents are most likely to happen when people are travelling, such as plane crash which is a headline grabber attracting copious press coverage. Some people hold a different view thinking that accidents related to land transport, that is to say, car crashes, are most dangerous. As far as I know, from the result of a survey conducted in the United States, the kind of accident which causes the highest casualty toll in the United States does not happen to people while they are travelling on planes. Nor does it happen to people while they are travelling by car. Surprisingly, it happens when people slip in the bath tub while taking a bath. Despite this finding, we have to address the subject in question.

Just now Dr TANG Siu-tong made reference to professional liability insurance. He said that travel agents should be encouraged to take out different kinds of insurance so that their clients would be covered by more than one insurance policy. I would like to point out that a client who has taken out more than one insurance policy may not necessarily be protected by all policies in all cases. Perhaps Mr CHIM Pui-chung will share my view. If you take out life

insurance policies from three insurance companies and unfortunately die afterwards, all three insurance companies will probably pay compensation. But if you take out medical insurance policies from three insurance companies and fall ill, it is possible that only one company, not all three of them, will pay compensation. The ultimate beneficiaries will be the insurance companies rather than the consumer, for the consumer has paid three times as much by way of premium.

Moments ago, Mrs Miriam LAU gave her support to the drawing up of contingency measures. Mr TAM Yiu-chung also accepted in principle the contingency plan that the Travel Industry Council (TIC) proposed yesterday and pointed out that consumers themselves are the ones who best know their own needs. To me, these are sensible thoughts. Mr CHIM Pui-chung said that some people who have taken out insurance feel as if they are winners of Mark Six when compensation is paid to them. While his remarks are humorous, he has hit the nail on the head, telling us that no matter whether it be the consumer or the travel agent who pays for the premium, it is always true that “the wool will come from the sheep anyway”. Mr TAM also pointed out that while a person is covered by several insurance policies, it may turn out that this person will receive compensation from one insurer only at the end of the day. Mrs Selina CHOW mentioned the right to know. I cannot agree with her more. Travel agents have to tell consumers clearly to what extent they are covered by insurance.

A while ago, Mr Fred LI expressed doubt with regard to the TIC's motive in announcing its proposals yesterday. He even wondered if any conflict of personal interests was involved. While I am not a member of the TIC, my impression is that members of the TIC's executive committee have sacrificed their time to participate in the TIC without getting any remuneration at all. I do not think that they have any personal interest in putting forward these proposals. Neither do I think they have reneged on their promise. Of course, the concept of Collective Travel Insurance or Public Liability Insurance that Mr LI broached well deserves out serious attention. Yet, the most important question is: What is the coverage of this kind of insurance? If the TIC's proposals will include the kind of coverage provided by the above mentioned Collective Travel Insurance and Professional Liability Insurance or even a far wider coverage to encompass all eventualities on the basis of a better mechanism and at a more reasonable cost, I think that the proposals are acceptable.

*Question on the motion put and agreed to.*



**PRIVATE MEMBER'S BILL****First Reading of Bill****THE HONG KONG UNIVERSITY OF SCIENCE AND TECHNOLOGY  
(AMENDMENT) BILL 1995**

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

**Second Reading of Bill****THE HONG KONG UNIVERSITY OF SCIENCE AND TECHNOLOGY  
(AMENDMENT) BILL 1995**

MR SIMON IP moved the Second Reading of: “A Bill to amend the Hong Kong University of Science and Technology Ordinance.”

MR SIMON YIP: Mr President, I move the Second Reading of the Hong Kong University of Science and Technology (Amendment) Bill 1995.

The Bill seeks to amend the Hong Kong University of Science and Technology Ordinance to change the titles of the Vice Chancellor, Pro-Vice Chancellor and Treasurer of the Council of the University of Science and Technology. Many academic institutions around the world mistakenly regard the title of Vice Chancellor as the title for a deputy or its subordinate official. On the other hand, the title of President is rightly recognized internationally as the chief executive of an academic institution.

First, the Bill seeks to to amend the Ordinance by repealing the title of Vice Chancellor wherever it appears and substituting the title of President. Also, the title of Pro-Vice Chancellor will be repealed wherever it appears and substituted with the title of Vice President.

Secondly, since the duties and responsibilities of the Treasurer of the Council extends beyond the Council to the University in general, the Bill also seeks to amend the Ordinance by changing the title of Treasurer of the Council to Treasurer of the University.

Mr President, the Hong Kong University of Science and Technology (Amendment) Bill 1995 seeks only to amend three titles to reflect more accurately, both in Hong Kong and to the rest of the world, the significant responsibilities of these executive officials at this internationally respected university.

I commend the Bill to Members for their consideration. Thank you.

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

#### **ADJOURNMENT AND NEXT SITTING**

**PRESIDENT:** In accordance with Standing Orders I now adjourn the Council until 2.30 pm tomorrow 27 April 1995.

*Note:* The short titles of the Bills/motions listed in the Hansard, with the exception of the Securities (Insider Dealing) (Amendment) Bill 1995, Drug Trafficking (Recovery of Proceeds) (Amendment) Bill 1995, Organized and Serious Crimes (Amendment) Bill 1995 and Builders' Lifts and Tower Working Platforms (Safety) Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

