

OFFICIAL RECORD OF PROCEEDINGS

立法局會議過程正式紀錄

Wednesday, 4 June 1997

一九九七年六月四日星期三

The Council met at half-past Two o'clock

下午 2 時 30 分會議開始

MEMBERS PRESENT

出席議員：

THE PRESIDENT

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

主席黃宏發議員，O.B.E., J.P.

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

李鵬飛議員，C.B.E., J.P.

THE HONOURABLE MRS SELINA CHOW LIANG SHUK-YEE, O.B.E., J.P.

周梁淑怡議員，O.B.E., J.P.

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

李柱銘議員，Q.C., J.P.

DR THE HONOURABLE DAVID LI KWOK-PO, O.B.E., LL.D. (CANTAB), J.P.

李國寶議員，O.B.E., LL.D. (CANTAB), J.P.

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

倪少傑議員，O.B.E., J.P.

THE HONOURABLE SZETO WAH

司徒華議員

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

劉皇發議員，O.B.E., J.P.

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

何承天議員，O.B.E., J.P.

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

夏佳理議員，O.B.E., J.P.

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

劉健儀議員，O.B.E., J.P.

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

梁智鴻議員，O.B.E., J.P.

THE HONOURABLE ALBERT CHAN WAI-YIP

陳偉業議員

THE HONOURABLE CHEUNG MAN-KWONG

張文光議員

THE HONOURABLE CHIM PUI-CHUNG

詹培忠議員

THE HONOURABLE FREDERICK FUNG KIN-KEE

馮檢基議員

THE HONOURABLE MICHAEL HO MUN-KA

何敏嘉議員

DR THE HONOURABLE HUANG CHEN-YA, M.B.E.

黃震遐議員，M.B.E.

THE HONOURABLE LEE WING-TAT

李永達議員

THE HONOURABLE ERIC LI KA-CHEUNG, O.B.E., J.P.

李家祥議員，O.B.E., J.P.

THE HONOURABLE FRED LI WAH-MING

李華明議員

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

唐英年議員，J.P.

THE HONOURABLE JAMES TO KUN-SUN

涂謹申議員

DR THE HONOURABLE PHILIP WONG YU-HONG

黃宜弘議員

DR THE HONOURABLE YEUNG SUM

楊森議員

THE HONOURABLE HOWARD YOUNG, J.P.

楊孝華議員，J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

黃偉賢議員

THE HONOURABLE CHRISTINE LOH KUNG-WAI

陸恭蕙議員

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

田北俊議員，O.B.E., J.P.

THE HONOURABLE LEE CHEUK-YAN

李卓人議員

THE HONOURABLE CHAN KAM-LAM

陳鑑林議員

THE HONOURABLE CHAN WING-CHAN

陳榮燦議員

THE HONOURABLE CHAN YUEN-HAN

陳婉嫻議員

THE HONOURABLE ANDREW CHENG KAR-FOO

鄭家富議員

THE HONOURABLE PAUL CHENG MING-FUN

鄭明訓議員

THE HONOURABLE CHENG YIU-TONG

鄭耀棠議員

DR THE HONOURABLE ANTHONY CHEUNG BING-LEUNG

張炳良議員

THE HONOURABLE CHEUNG HON-CHUNG

張漢忠議員

THE HONOURABLE CHOY KAN-PUI, J.P.

蔡根培議員，J.P.

THE HONOURABLE DAVID CHU YU-LIN

朱幼麟議員

THE HONOURABLE ALBERT HO CHUN-YAN

何俊仁議員

THE HONOURABLE IP KWOK-HIM

葉國謙議員

THE HONOURABLE LAU CHIN-SHEK

劉千石議員

THE HONOURABLE AMBROSE LAU HON-CHUEN, J.P.

劉漢銓議員，J.P.

DR THE HONOURABLE LAW CHEUNG-KWOK

羅祥國議員

THE HONOURABLE LEE KAI-MING

李啟明議員

THE HONOURABLE LEUNG YIU-CHUNG

梁耀忠議員

THE HONOURABLE BRUCE LIU SING-LEE

廖成利議員

THE HONOURABLE LO SUK-CHING

羅叔清議員

THE HONOURABLE MOK YING-FAN

莫應帆議員

THE HONOURABLE MARGARET NG

吳靄儀議員

THE HONOURABLE NGAN KAM-CHUEN

顏錦全議員

THE HONOURABLE SIN CHUNG-KAI

單仲偕議員

THE HONOURABLE TSANG KIN-SHING

曾健成議員

DR THE HONOURABLE JOHN TSE WING-LING

謝永齡議員

THE HONOURABLE MRS ELIZABETH WONG CHIEN CHI-LIEN, C.B.E.,
I.S.O., J.P.

黃錢其濂議員，C.B.E., I.S.O., J.P.

THE HONOURABLE LAWRENCE YUM SIN-LING

任善寧議員

MEMBERS ABSENT

缺席議員：

THE HONOURABLE EMILY LAU WAI-HING

劉慧卿議員

THE HONOURABLE LAW CHI-KWONG

羅致光議員

PUBLIC OFFICERS ATTENDING

出席公職人員：

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

CHIEF SECRETARY

行政局議員布政司陳方安生女士，C.B.E., J.P.

MR RAFAEL HUI SI-YAN, J.P.

FINANCIAL SECRETARY

財政司許仕仁先生，J.P.

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

ATTORNEY GENERAL

行政局議員律政司馬富善先生，C.M.G., J.P.

MR CHAU TAK-HAY, C.B.E., J.P.

SECRETARY FOR BROADCASTING, CULTURE AND SPORT

文康廣播司周德熙先生，C.B.E., J.P.

MR GORDON SIU KWING-CHUE, J.P.

SECRETARY FOR TRANSPORT

運輸司蕭炯柱先生，J.P.

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

SECRETARY FOR HOUSING

房屋司黃星華先生，O.B.E., J.P.

MRS KATHERINE FOK LO SHIU-CHING, O.B.E., J.P.

SECRETARY FOR HEALTH AND WELFARE

□ 生福利司霍羅兆貞女士，O.B.E., J.P.

MR JOSEPH WONG WING-PING, J.P.

SECRETARY FOR EDUCATION AND MANPOWER

教育統籌司王永平先生，J.P.

MR PETER LAI HING-LING, J.P.

SECRETARY FOR SECURITY

保安司黎慶寧先生，J.P.

MR KWONG KI-CHI, J.P.

SECRETARY FOR THE TREASURY

庫務司鄭其志先生，J.P.

MISS DENISE YUE CHUNG-YEE, J.P.

SECRETARY FOR TRADE AND INDUSTRY

工商司俞宗怡女士，J.P.

MR STEPHEN IP SHU-KWAN, J.P.

SECRETARY FOR ECONOMIC SERVICES

經濟司葉澍堃先生，J.P.

CLERKS IN ATTENDANCE

列席秘書：

MR RICKY FUNG CHOI-CHEUNG, SECRETARY GENERAL

秘書長馮載祥先生

MR LAW KAM-SANG, DEPUTY SECRETARY GENERAL

副秘書長羅錦生先生

**MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL**

助理秘書長林鄭寶玲女士

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

助理秘書長陳欽茂先生

OBITUARY**悼辭**

主席：各位議員，我以極沉痛的心情，發言悼念剛剛在今晨逝世的黃秉槐議員。黃議員在一九九一年循工程、建築、測量及都市規劃界的功能組別選舉成為本局議員。在一九九五年本屆立法局選舉，再循工程界功能組別當選為議員，在任期間黃議員積極參與本局事務，在本屆立法局除了出任財務委員會轄下之公務小組委員會主席之外，亦以其他委員會的主席或成員身分，盡心參與審議眾多條例草案和監察政府政策推行的工作。本局議員從黃議員的參與，尤其是就他專業知識範疇所提供的精闢意見，獲益良多，使本局制訂法例的工作更臻完善。

黃議員從加入本局以至逝世時，均積極投身服務公眾。他自一九八三年至一九九五年出任市政局議員，亦曾任城市規劃委員會的委員、土地發展公司的董事局成員、環境污染問題諮詢委員會的委員、教育統籌委員會的委員、體藝教育基金有限公司主席暨賽馬會體藝中學校監，以及香港浸會大學的校董。他自一九九五年開始出任職業訓練局的主席，亦曾經擔任職業再培訓局的主席。在服務每一個機構期間，黃議員都是鞠躬盡瘁，無私地作出他的貢獻。

就中國內地的工程學和科技發展方面，黃議員亦有參與。黃議員擔當西安交通大學、華南理工大學和上海同濟大學顧問教授，對促成兩地的科技交流，起了催化作用。

黃議員的逝世，是本局和香港的巨大損失，我們將會懷念這位同工和他所作的貢獻。

我謹向黃議員的遺孀和子女致深切的慰問，希望他們能夠節哀順變。

在各位議員致悼辭完畢之後，我會請各位起立，為黃議員的逝世默哀一分鐘。

DR LEONG CHE-HUNG: Mr President, there will be many farewells this month in Hong Kong and in this Council, but none of them can be more sad than the farewell we are saying today, for we are gathering here to say a permanent farewell to a colleague, a friend, a prominent member of the engineering community and Hong Kong at large.

In bidding farewell to Samuel WONG, or Sam as we favouritely call him, we are also paying tribute to him. Sam hailed, as we all know, from the engineering functional constituency since 1991 and had remained in this Council ever since. His involvement with this Council was two-fold and we will no doubt miss the expertise that he had instilled into this Council both relating to his professional experience and otherwise, experience which had built up with years of public service, both in the Vocational Training Centre and in the Urban Council and others.

Sam had the ability to take things easy and had repeatedly instilled into colleagues a jovial mood to take stress on what are very heavy pressure daily chores. We will no doubt miss his warm and cheerful smiles and mood.

Sam had an immense interest in politics for the improvement of Hong Kong. It was, therefore, somewhat of a disappointment that he was not elected into the provisional legislature. Yet, his jovial attitude got the better of him and with the support of his wife, Clarisse, and his three wonderful children, the effect was short-lived. Perhaps his greatest disappointment was that he could not personally witness the sovereignty change-over which he had longed for a very long time.

Mr President, the final crunch came to Sam on Sunday when he felt ill on that same evening. His wife suggested that he should see a doctor, but he refused on the grounds that he did not want to disturb anybody on Sunday. This, therefore, Mr President, was the type of man we pay tribute to, a man who was willing to contribute but not to receive, a man who had worked throughout his career for the service of Hong Kong.

Mr President, Sam will be permanently missed. We express the deepest condolences to Clarisse and his family, and my honourable friend Eric LI joins me to express our condolences.

MR MARTIN LEE: Mr President, Sam WONG was always happy. Every time I bumped into him in the Ante Chamber he always spoke to me in jokes and he has got a huge repertoire of it. Perhaps his great disappointment in life was his failure to be selected into the provisional legislature, but he joked about that too.

He said that he was rejected by both sides, by both the 26 Democrats and the 33 provisional legislators. But, Mr President, he cannot be more wrong, because as we mourn his sudden passing away I am sure both the 26 Democrats and the 33 provisional legislators will miss him.

May God take him to Heaven where his jokes will bring laughter to the angels. My 18 colleagues in the Democratic Party join with me in sending our deepest condolences to members of his family.

MR RONALD ARCULLI: Mr President, it is with a heavy heart that I rise to speak on behalf of the Liberal Party over the untimely and sad loss of a dear colleague and a friend, Sam WONG.

Sam is no stranger to the Liberal Party. I say this because when most of us worked together as the Co-operative Resources Centre Sam was a member. He joined, I believe, because he shared our common values and beliefs, but sadly for us he left because he was fearlessly independent and on occasions had decidedly strong views which he understandably felt he was not prepared to give way to majority views. We respected him for his independence of mind.

Sam was also a fearless defender of his constituents and their interests but not, I am happy to say, at the expense of Hong Kong's overall interests.

I also knew Sam as a keen and lucky horse-owner. His absence from the races will also be felt. I also knew that he was minded to put himself forward as a candidate for the election of stewards later on this year. All I can say is that his absence will seriously diminish the calibre of candidates for that election.

It is, therefore, with these sentiments, Mr President, that the Liberal Party convey our deepest condolences to his widow, Clarisse, and their children, and I hope that today's proceedings will be forwarded to his family to let them know how we feel about Sam WONG.

葉國謙議員致辭：主席，黃秉槐議員已經離開了我們，與世長辭。噩耗傳來，令人感到惋惜。對黃議員的逝世，我代表民建聯的 6 位立法局議員表示沉重的悼念，並對黃議員的家屬表達深切慰問。

雖然我們與黃議員共事只有短短一年多時間，可是他豪爽的性格，爽朗的笑聲已深深給我們留下一個印象。黃議員自九一年加入立法局，至今已有六年多時間，他為香港市民服務，又在社會上擔任多項公職。他今次的離去使我們的社會痛失了一位願意將自己貢獻給社會，將自己的專業、時間和精神貢獻給社會的精英，這是香港市民和我們各位同事一個重大的損失。

還有 28 天，就是香港回歸的日子，黃議員不能與我們一起度過，但是從黃議員過往積極參與籌組未來特區的工作，可以充分顯示出黃議員對香港的前途充滿信心，以及他自己的承擔。他今天逝世，不能與我們一起見證香港的一個歷史性時刻，我們感到惋惜及難過。

我在此代表民建聯向黃議員過去多年來為本局、為社會、為市民作出的每一分力，表示崇高的敬意及深切的懷念。

馮檢基議員致辭：主席，黃秉槐議員是我加入建制 14 年以來共事最長的同事。在一九八三年，我循選舉途徑加入市政局，而他則獲委任加入市政局。我們同時在一九九一年加入立法局，他透過功能團體選舉，而我則透過分區直選加入立法局。

在 14 年的共事中，黃秉槐議員一直給我的印象是他對工程工作具有非常專業的意見。無論對香港政府抑或市政局，他對工程的一些精闢看法，都令局內同事，甚至政府公務員很是欣賞。這麼多年來，我覺得他對議會工作非常積極參與，在自己有專業見地的地方，永遠不會放過提供意見給政府的機會。

黃議員給我的另一個印象是，他是一位很獨立的議員，他絕少（除了一段短時期）加入政團或政黨。在我的印象中，他是一位政治上的“獨行俠”。雖然他很多時與我的政治見解不同，但我們從來沒有爭吵，因為雖然意見不相同，但也可以進行討論；而且在討論時，我還會覺得很舒服，很開心，因為每次他跟我討論一些政治問題時，如大家有不同意見，他都會以一種談笑用兵的方式，將他自己的看法透過一種軟性的表達方式，希望說服我接受。

我最記得，也是印象最深刻的，就是當年討論機場撥款時，他希望爭取我們的一票。在休息的 5 分鐘時間內，他花了很多時間與我討論那一票以支持撥款。當時時間很緊張，而我知道他內心也很緊張，因為他想撥款獲得通過，但是他仍然面帶笑容，說出他自己心底裏為何覺得應該興建機場。雖然已經事隔四、五年，但是留給我的印象就好像昨天發生的事一樣。他這種處

理議會不同意見的方式，我十分欣賞。

當然，我更欣賞的就是他在九一年看到政制朝着一個民主方向發展，他不再堅持，不再透過政府的委任方式，而踏出了第一步，參與功能團體選舉。雖然我們認為這種選舉方式是一個小圈子選舉，但我覺得對黃秉槐議員來說，一位多年來都是在委任圈子的議員，他踏出這一步，實在很有勇氣、很勇敢。

今天他突然逝世，我覺得很難過，並在此表示對他的懷念，更希望他的家人節哀順變。黃秉槐議員突然離開我們，我們民協 4 位議員都感到難過，他的說話和做事的風采都會留在我們心中。

劉漢銓議員致辭：主席，本局同事黃秉槐議員不幸於今晨病逝，我和港進聯全人對黃議員的辭世表示極度哀痛及悼念，並對黃議員遺屬致以深切慰問。

黃秉槐議員為人忠直，待人誠懇，處事公正，本身既是一位資深及出色的工程師，同時對議會工作也很有經驗，積極投入議會工作，處處顯出黃議員對建設香港的誠意和貢獻。

黃議員是一位愛國愛港人士，他的離去是香港人的一大損失。我深信黃議員服務社會的精神將會長存在我們香港市民的心坎中。願他安息。

劉千石議員致辭：主席，過去兩天以來，我曾 3 次探望黃議員，雖然知道他的病情非常危險，但是心裏仍盼望他能早日康復，料不到昨天的一面是最後一面。

我記得我第一年加入立法局時，剛巧基督教工業委員會在經濟上出現困難，需要捐款。黃議員教我，說以我結領帶為題，呼籲其他同事籌款，收到的款項就可捐給基督教工業委員會。結果籌得 12 萬元，協助工業委員會度過了難關。

最近，柴玲來港，黃議員問我柴玲是否需要助學金，因為有一個屬於他父親的基金，可以幫助她。雖然他的政治理念不同，但他對青年的教育有着清楚的承擔。

主席，我尤其欣賞黃議員過去數年在開創再培訓局方面的貢獻，該項工作實在非常艱巨。同時，他對工業安全也非常關心，並經常以專業人士的身分對手挖沉箱問題提出寶貴意見，使我感到敬佩和欣賞。香港正進入一個重要時刻，立法局和社會都需要黃秉槐議員這種人士。

最後，我代表前綫向他的家人 — 黃太和他的子女，表示深切問候。願上主的平安與他們同在，亦願黃秉槐議員主懷安息。

鄭耀棠議員致辭：主席，我認識黃秉槐議員，最初是在熒光幕上。我在熒光幕上看見他對問題作出精湛的分析，以及對問題持有不偏不倚的態度，令我對他相當敬佩。我加入本局後，能夠直接聽到他的精采演說，以及與他共事年多，他開朗的態度，使我留下深刻印象。

更令人敬佩的是，在香港經濟結構轉型下，他擔任了僱員再培訓局主席的職務。在當時一個這樣艱辛的時期，他擔當這個職務是相當困難的，但他盡忠職守，完成任務，實在令人非常敬佩。

黃秉槐議員與世長辭，我和工聯會其他兩位議員對他的逝世表示深切哀悼，並向他的家人致以深切慰問。

MRS ELIZABETH WONG: Mr President, it is with a heavy heart that I rise to mourn the sad loss of a dear friend and a dear colleague of this Council, Dr the Honourable Samuel WONG.

I have known him actually for many years when I was in the Government as the former Deputy Secretary for Lands and Works, and in more recent years as Member of this Council.

I have always admired his sense of humour and his sense of analysis, his power of analysis and his contribution to industrial safety, education and engineering. He used to pass me papers on engineering, things I may not understand but he would like to share with us his view.

In more recent weeks, I remember when I first marched in the street in protest against the provisional legislature, he came into this room and he said,

"Hey, Libby, you are more democratic than the Democrats!". And only last week he came up to sit beside me during the Establishment Subcommittee meeting and we chatted a little bit, and it was only that little bit that I remember. He asked me how I felt, to try to compose a kind of feeling about leaving this Council at the end of this month. I said, "So, so. No big deal, when I do not join the provisional legislature." And he said good-humouredly, "You are like me. We are not hooked on politics." Whereupon he got up and left the room. I wished I had chatted with him some more, but it was in the middle of a meeting. We did not want to disturb the meeting.

It shows to me the fragility of life and therefore I would like to join my colleagues in showing, conveying my most sincere, deepest condolences to his wife and his family and children.

MISS CHRISTINE LOH: Mr President, I am shocked to hear that one of my colleagues has passed away. In my time in this Council, I think we have seen a lot of changes. We have seen people leaving us and I feel very sad. I cannot say Sam WONG was a friend, but he was a colleague and I treasure the times that I spend in this Council with my colleagues here.

The last time I spoke to Sam was only last week where he was looking robust and so I am deeply shocked that he is not with us just after a few days.

Sam and I had a strange relationship because he would come to me from time to time and he would say, "I support you." One day I was sitting in this Council not very long ago, maybe a month ago, surprisingly he passed me a note, a totally unexpected note in which he said, "Dear Christine, I know you are leaving this Council. I know you will stand for election again in 1998. Count on my support. There must be something that I can do for you." That came out of the blue. However, a week later, we were in this Council and we were voting on my Education (Amendment) Bill and he came to me and said, "Christine, I have come back specially tonight to vote against you as I usually do."

I just want to tell this story to highlight the kind of very special relationship that we do have with each other in this Council, and whilst as I said

we are good colleagues, although Sam and I are not good friends, he added much to my time here and to the flavour of this Council for me, and I also wish to add my voice to console his family for the loss of a good colleague.

任善寧議員致辭：主席，我為黃秉槐議員的逝世感到悲痛及惋惜。由於黃秉槐議員和我都是工程師出身，所以我們經常有一些特別的話題，我在此代表全香港的工程師向黃秉槐議員為工程界所作的一切，作出頌讚。

正如剛才李柱銘議員所說，黃秉槐議員是一位風趣的人物。他在處理工務小組委員會的事務時，也有非常傑出的表現。

至於有關臨時立法會的事，我們曾經有一次談到這個問題。黃秉槐議員說他除了立法局的事務外，還要花很多時間在香港其他公眾事務上，所以他沒有時間拉票。當然，對他而言，這是一件可惜的事。我在此希望全港市民能體會黃秉槐議員為香港社會所作出的種種服務和努力，他的確為市民鞠躬盡瘁。

我們現在對他表示哀悼，希望他的家人節哀順變。我謹代表香港市民對他所作出的一切表示敬意。

CHIEF SECRETARY: Mr President, on behalf of the entire Administration, I join Members of this Council in bidding a sad farewell to Sam WONG.

Sam had a distinguished record of community service and represented his constituency most ably in this Council for many years. His untimely death is a great loss to the entire community and he will be sadly missed for his unfailing good humour, his friendship, his independence of spirit and his selflessness in serving the community.

On behalf of the entire Administration, I extend our deepest sympathy and condolences to Clarisse and her family.

主席：請各位起立，為黃秉槐議員默哀一分鐘。

PAPERS

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Employees Retraining Ordinance (Amendment of Schedule 2) (No. 2) Notice 1997	287/97
Leveraged Foreign Exchange Trading Ordinance (Cap. 451) (Commencement) Notice 1997	288/97
Television (Amendment) Ordinance 1997 (21 of 1997) (Commencement) Notice 1997	289/97
Television (Advertising) Regulation (L.N. 277 of 1997) (Commencement) Notice 1997	290/97
Television (Programmes) Regulation (L.N. 278 of 1997) (Commencement) Notice 1997	291/97
Traffic Accident Victims (Assistance Fund) (Amendment) Ordinance 1997 (45 of 1997) (Commencement) Notice 1997.....	292/97
Road Traffic (Driving Licences) (Amendment) (No. 2) Regulation 1997 (L.N. 183 of 1997) (Commencement) Notice 1997.....	293/97
Justices of the Peace Ordinance (47 of 1997) (Commencement) Notice 1997.....	294/97
The Open Learning Institute of Hong Kong (Amendment) Ordinance 1997 (50 of 1997) (Commencement) Notice 1997.....	295/97

文件

下列文件乃根據《會議常規》第 14 條第(2)款的規定而正式提交：

項 目

附屬法例	法律公告編號
《1997 年僱員再培訓條例（修訂附表 2） （第 2 號）公告》	287/97
《槓桿式外匯買賣條例（第 451 章）1997 年 （生效日期）公告》	288/97
《1997 年電視（修訂）條例（1997 年第 21 號） 1997 年（生效日期）公告》	289/97
《電視（廣告宣傳）規例（1997 年第 277 號法律公告） 1997 年（生效日期）公告》	290/97
《電視（節目）規例（1997 年第 278 號法律公告） 1997 年（生效日期）公告》	291/97
《1997 年交通意外傷亡者（援助基金） （修訂）條例（1997 年第 45 號） 1997 年（生效日期）公告》	292/97
《1997 年道路交通（駕駛執照）（修訂） （第 2 號）規例（1997 年第 183 號法律公告） 1997 年（生效日期）公告》	293/97
《太平紳士條例（1997 年第 47 號）1997 年 （生效日期）公告》	294/97
《1997 年香港公開進修學院（修訂）條例 （1997 年第 50 號）1997 年（生效日期）公告》 ...	295/97

Sessional Papers 1996-97

- No. 103 - Report of changes to the approved Estimates of Expenditure approved during the final quarter of 1996-97 Public Finance Ordinance : Section 8
- No. 104 - 1996 Annual Report by the Commissioner of the Independent Commission Against Corruption
- No. 105 - The Independent Commission Against Corruption Complaints Committee 1996 Annual Report

一九九六至九七年度會期內提交的文件

- 第 103 號 — 一九九六至九七年度最後季度
批准對核准開支預算作出修改的報告
公共財政條例：第 8 條
- 第 104 號 — 總督特派廉政專員
一九九六年年報
- 第 105 號 — 廉政公署事宜投訴委員會
一九九六年年報

ADDRESSES

發言

1996 Annual Report by the Commissioner of the Independent Commission Against Corruption

總督特派廉政專員一九九六年年報

李家祥議員致辭：主席，作為貪污問題諮詢委員會成員，本人能向各位介紹今天提交立法局的廉政專員於一九九六年所進行工作的年報，深感榮幸。

廉政公署於一九九六年共接獲 3 086 宗貪污舉報。舉報數字於一九九三年起進入高峰期後持續高企。然而，令人振奮的一點，是本港集團式貪污沒有死灰復燃。舉報數字增加，在某方面可再度證實市民支持反貪污工作。一九九六年一項民意調查顯示，99%被訪者支持廉政公署的工作。舉報貪污人士中，有三分之二願意透露身分，表示對廉政公署具有信心。

除了應付這沉重的工作量之外，廉政公署在調查工作方面，採取了積極主動的策略。同時加強與各執法機構的聯繫和合作，務使及早發現可能出現貪污的地方。廉政公署現正重整調查組別的架構，以增加人員處理前綫調查工作。

廉政公署權責檢討委員會所建議的法例修訂，有部分須與新的法庭程序配合方能生效；一切修訂預期可於月底前全面實施。透過法庭更大的參與，廉政公署行使權力的透明度和問責性可獲進一步改善。

一九九六年內，貪污問題諮詢委員會與其他 3 個有關貪污調查、防止貪污和社區關係的廉政公署諮詢委員會建立了更緊密的聯繫，提高了各委員會在監察廉政公署政策及運作上的整體工作成效。

廉政公署於一九九四年展辦“商業道德推廣運動”，至今仍繼續致力推行。多間公司及工商團體已制訂紀律守則。廉政公署亦不斷鼓勵更多公司向其職員，尤其是青年人，推廣職業道德。這是廉政公署向青年人貫徹進行道德行為教育工作的其中一部分。在防止貪污工作方面，廉政公署為政府部門及公共機構完成了 102 項審查研究。

主席，在提交本報告的同時，本人願與一九九六年廉政專員梁文建先生一起感謝市民對廉政公署的支持及各廉政公署諮詢委員會成員於是年所作的寶貴貢獻，並向精誠不渝、盡忠職守的全體廉政公署人員致意。

The Independent Commission Against Corruption Complaints Committee 1996 Annual Report

廉政公署事宜投訴委員會一九九六年年報

楊孝華議員致辭：主席，我謹代表廉政公署事宜投訴委員會，向立法局提交《廉政公署事宜投訴委員會一九九六年年報》。

這是委員會發表的第二份年報，詳述委員會的職能和運作方式，並撮述過去一年委員會處理的工作。委員會出版這份小冊子，目的是定期向市民交代委員會的工作。

各位議員如對年報的內容有任何意見，歡迎向委員會秘書提出，年報內載有委員會秘書的辦公地址。

HOUSING ORDINANCE (AMENDMENT OF SCHEDULE) ORDER 1997

1997 年房屋條例（修訂附表）令

MR RONALD ARCULLI: Mr President, with your permission, I rise to speak on the Housing Ordinance (Amendment of Schedule) Order 1997 gazetted on 2 May 1997 and laid on the Table of this Council on 7 May 1997 regarding the relaxation of resale restrictions on flats sold under the Home Ownership Scheme and the Private Sector Participation Scheme.

The Order relaxes *inter alia* the resale period of flats under the two schemes from five years to three years and provides for the resale of such flats to existing or prospective public rental housing tenants at a negotiated price. A Subcommittee was formed under the House Committee of which I was elected Chairman. The Subcommittee has met with the Administration to examine the proposals, and members are generally in support of the principles of the revised restrictions as these will help to increase the turnover of such flats to meet the demand for subsidized home ownership flats, and make available public rental housing flats for reallocation to persons in genuine need.

The Subcommittee is however concerned with three particular aspects which I shall summarize as follows.

Firstly, many aspects of policy intent are specified only through administrative arrangements and have not been reflected in the Order. Examples include the eligibility of existing or prospective public rental housing tenants as purchasers in the permitted resale and the determination of eligibility of persons on the public rental housing Waiting List. The Subcommittee is worried about the ambiguity which this may create.

The Administration advises that eligibility comes under the term "a prescribed nominee" specified in the Order and that the arrangements are intended to provide for flexibility in the case of policy changes in the future. To address members' concern, the Administration has undertaken to increase the transparency of the scheme by clarifying and announcing the details publicly when the Order becomes effective.

The second concern is the cumbersome procedure a prospective vendor will have in applying for a Certificate of Availability for Sale, and a prospective purchaser will have in applying for both a Certificate of Eligibility to Purchase and a Letter of Nomination from the Housing Authority. Members in particular do not see the need for a purchaser to apply for both the Certificate and the Letter especially when the Certificate will only be valid for six months. Members are also worried about the possible addition of conditional clauses in the provisional agreements such as the status of a public housing tenant as this will bring confusion to the system.

The Administration has affirmed that the two steps are necessary in the interests of the vendor and the Housing Authority so that any future resale of the flats will still be subject to conditions as specified in the Schedule to the Housing Ordinance. As regards the addition of conditional clauses in the provisional agreements and other practices not legally permissible, the Administration is hopeful that the Estate Agents Authority to be set up will draw up practical guidelines to regulate the trade.

The last concern relates to the fees payable for obtaining the Certificates and Letters I have mentioned. A vendor has to pay \$500 for the Certificate, while a purchaser has to pay \$550 for the Certificate and another \$700 for the Letter. Members have urged the Administration to reconsider the appropriateness of the level of fees as the need for so many documents does not appear justified and persons paying such fees are after all those in need of subsidized housing. The Administration advises that the fees are charged on a cost recovery basis, but has nevertheless undertaken to review the level of fees after the scheme has been in operation for some time.

I hope the Administration will follow up on the various issues as promised.

With these remarks, Mr President, I seek Members' support for the Order.

ORAL ANSWERS TO QUESTIONS**議員質詢的口頭答覆****Delayed Delivery of Drugs to Public Hospitals and Clinics****延誤向公營醫院及診所交付藥物**

1. **DR LEONG CHE-HUNG:** *Mr President, regarding recent press reports about the delay of the Government Supplies Department (GSD) in the delivery of drugs to public hospitals and clinics, will the Government inform this Council:*

- (a) *of the delivery time following the receipt of orders agreed between the GSD and public hospitals and clinics; and whether different drugs have different delivery times and, if so, what the details are;*
- (b) *of the current number of orders for drugs received by the GSD in the past five months which have not met the agreed delivery time, and the reasons therefor;*
- (c) *of the range of time, as well as average time, taken by the GSD for delivery of drugs following the receipt of orders in the past five months, together with the corresponding figures in the past three years;*
- (d) *of the impact of the delay in the delivery of drugs on patients in the past five months, and whether the Government is aware of the measures put in place by the Hospital Authority and the Department of Health to cope with the situation so as to minimize the effect on patients; and*
- (e) *whether the Government is aware of the proportion of drugs used by public hospitals which is supplied by the GSD?*

Thank you.

SECRETARY FOR THE TREASURY: Mr President, as Honourable Members may know, the GSD relocated its warehouse operations to the new warehouse in Chai Wan towards the end of last year. To facilitate the relocation, the GSD arranged a temporary closure of its warehouse operations for the period from 16

October to 17 November 1996. To minimize any inconvenience, the GSD gave users advance notice of the arrangements, including special arrangements for the requisition of urgent requirements. The intention was to resume operations in phases thereafter with a view to achieving normal delivery service in January 1997. Regrettably, this has been delayed because of the longer time taken to fully commission the new computer system for warehouse operations, stock management and stores requisition in the new Chai Wan warehouse. The Director of Government Supplies has worked closely with the computer system vendor to rectify the situation and he now expects the supplies operations to reach normal delivery service levels by the end of this month.

As regards the supply of drugs to public hospitals and clinics, I would like to first answer the last part of Dr LEONG's question to put the problem in its proper context. About 6% of the drug items, by value, used by public hospitals are supplied directly from the GSD's stores as common-user items. These are normally less expensive items with larger stock turnover used commonly by the Hospital Authority (HA). The remaining 94% are contract items for which deliveries are made by the contract supplier to the hospitals as and when required. Only the supply of the former has been affected by the relocation problems encountered by the GSD.

My answers to the remaining parts of the question raised by Dr LEONG are *seriatim* as follows:

(a) For all items supplied from the GSD's stores, the performance target is to deliver them to users within 14 working days from the receipt of the stores requisition order in 85% of the cases. There is no separate specified delivery time for drugs agreed between the GSD and the public hospitals and clinics. However, priority is always given to the supply of drugs, especially those required urgently by the users.

(b) Upon relocation to the Chai Wan warehouse, there were some delays in the GSD's delivery service for the reasons I have just explained. In the period January to April 1997, the delivery time for 36% of the total drug items ordered was more than 14 working days. The delays were attributable to the picking of drugs according to the requisition order in the new warehouse, rather than in the actual delivery from the stores to public hospitals and clinics. Specifically, this is because the bulk picking features in the new computer system were not operational in time.

-
- (c) In the period January to April 1997, the time taken to deliver drugs to public hospitals and clinics from the receipt of the requisition order ranged from one working day to 63 working days and the average delivery time was 23 working days. The situation has improved since the beginning of May as latest available statistics for the month show that the delivery time range has been reduced to three to 24 days and the average was 16 working days. Corresponding figures for the preceding years 1994-95, 1995-96 and the first half of 1996-97 prior to the relocation were one working day to 28 working days and an average of 14 working days.
- (d) In view of the longer delivery time experienced upon relocation to the Chai Wan warehouse, the GSD has been liaising closely with the HA and the Department of Health since December 1996 to try to minimize any consequential impact on the supply of drugs to public hospitals and clinics. For example, the GSD has requested the HA and the Department of Health to advise individual hospitals and clinics to place their requisition orders earlier, to maintain a more comfortable level of stock and to notify the GSD of urgent orders by phone or fax. Special measures taken include deploying existing staff in the GSD from other sections to speed up drug picking, assigning part of the GSD fleet supplemented by contract transportation service to deliver drugs and making special delivery arrangements for urgent requirements. To further minimize any likely impact on patients, both the HA and the Department of Health have arranged transfers of drugs in their stock-holding amongst hospitals and clinics and, on some occasions, the hospital and clinics have arranged their own transport to collect the drugs from the GSD. In addition, we understand that the HA has made minor direct purchases of drugs with a total value of about \$165,000 with suppliers. As a result of these measures, HA and the Department of Health have both confirmed that drug supply in hospitals and clinics remains uninterrupted and there has been no adverse impact on the medical treatment of patients. However, there were report of a few instances where dispensing to patients was reported to be affected in the sense that the full supply of drugs for a course of treatment was provided in two batches. As a result, a few patients had to make a second visit to collect the full supply.

DR LEONG CHE-HUNG: *Mr President, according to the main answer from the Administration, about 6% of the drugs items, by value, used by public hospitals are supplied by the GSD stores as common-user items. I wonder if the Administration could inform this Council what is the rationale behind the fact that since the HA has already been established now for some six years they are still relying on government stores for a small percentage of drugs?*

SECRETARY FOR THE TREASURY: Mr President, the reason why there is still this arrangement for the GSD to procure on behalf of the HA common-user drugs is that by doing so it provides a more cost-effective service. For example, with centralized storage provided in the GSD, it provides us with bigger negotiating power in getting supplies from overseas suppliers who may not have a local delivery service.

黃震遐議員問：主席，關於物料供應處其實為醫管局提供通用物品，我相信政府也知道外國有些經驗，是供應商向其顧客經常供應通用貨品，如果那供應商按訂單的經驗，定期向顧客送貨，是不需要等顧客落單，如果他們甚至可代顧客作存貨管理(inventory control)的話，是可以節省很多送貨的時間，並可減少行政費用。請問政府物料供應處可否考慮用這些方法改善對醫管局的服務？

庫務司答：主席，很感謝黃議員的意見，我們會考慮。

Civic Education in Educational Institutions

教育機構內的公民教育

主席：劉慧卿議員今天因病不能出席會議，該項質詢經劉議員同意，改由李卓人議員提出。

2. 李卓人議員問：據悉，某工業學院的公民教育主任最近接獲院方發出有關舉辦公民教育活動的行政指令，該行政指令內容包括：(i)禁止公民教育導師舉行“令當權者不悅”的活動；(ii)不鼓勵舉辦讓同學討論政治問題的活動；(iii)禁止教職員鼓勵同學參加任何與政治有關的行動，包括投票或向

政府反映意見；及(iv)禁止教職員在校內張貼資料，宣傳任何政治團體的活動。此外，該院校亦忽然改變以往慣例，規定所有告示及海報，必須事先經院方高層審核及批准，才可在學院內的報告板張貼。就此，政府可否告知本局：

- (a) 是否知悉上述事件；
- (b) 院方根據甚麼權力禁止他們參加任何與政治有關的活動；
- (c) 如何確保教育機構不會以政治理由干預公民教育的推行；及
- (d) 如何確保教育機構行政人員不能扼殺學生言論自由及參與社會和政治活動的自由？

教育統籌司答：主席，根據職業訓練局（“職訓局”）給我的資料，該局屬下院校開辦公民教育的原則是：

- i) 公民教育課程的內容應兼顧各方面，觸及不同類型的課題（包括政治和非政治性問題），以及不同的意見和立場；
- ii) 當課程觸及具爭議性的課題時，教師應盡量陳述所有相關的觀點，藉以培養學生的獨立思考能力，以及能以客觀和不偏不倚的態度分析事物。

職訓局又表示，該局屬下7間工業學院並沒有發出行政指令，勸籲教職員不要舉辦學生可以討論政治問題的活動。這些學院亦沒有禁止教職員鼓勵學生參與某些活動，例如投票或向政府反映意見。對於張貼的資料，院方通常不會預先審查所有資料後才批准張貼。不過，學院規定海報或張貼的資料必須符合一些基本標準，包括內容不得含有不雅成分，以及不能帶有商業宣傳或誹謗成分。

根據上述情況，現在我回答劉議員分四部分提出的質詢 —

- (a)-(b) 劉議員在提問中所述的事件經報章報道後，政府便與職訓局接觸，了解事情的始末。據我所知，職訓局現正與有關的公民教育主任和工業學院的管理階層會晤，調查這宗指稱。在現階段，職訓局相信這僅屬個別事件，可能是雙方誤會而引致。不

過，由於發生了這宗事件，職訓局決定在短期內發出更詳盡的指引，就推廣公民教育和舉辦有關活動，特別是涉及政治問題的活動，為教職員提供更明確的指示。

- (c) 教育署負責監察所有官立學校和根據《教育條例》註冊的學校。該署向學校發出《學校公民教育指引》，指出公民教育的其中一個目的，是“培養學生批判性思考的素質及解決問題的技能，使他們能用客觀的態度去分析社會及政治問題，並能作出合理的判斷。”因此，教師在向學生講解任何課題（包括政治思想、制度和程序）時，必須保持客觀和持平的態度。

教育署負責確保學校在推廣公民教育時，都會參考這些指引。如校方採取不合理措施，任何人士均可向教育署投訴。如職訓局屬下院校出現這種情況，則可通知職訓局理事局跟進。至於高等教育局，由於這些院校享有自主權，因此，個別院校的校董會將會調查有關情況。

- (d) 根據上文(c)點所述，學生應可享有言論自由，以及參與社會及政治活動的自由。

李卓人議員問：主席，今次於工業學院所發生的政治審查事件，證實了布政司所說的香港“要提防小人”的問題。可是，教育統籌司在答覆中似乎迴避這問題，想把問題掃入地氈底下便了事。教育統籌司在主要答覆(a)-(b)段曾提到職訓局決定在短期內發出更詳盡的指引。我剛剛收到那份更詳盡的指引，其中說到，邀請講者到工業學院演講和張貼任何海報，要得到校方的副校長批准。從教育署的角度看，這是否符合教育署的指引？如果行政機關人員有權審查誰來演講和審查可否張貼海報，其實與教育統籌司答覆中所說的不符，……

主席：李卓人議員，請提出你的質詢。

李卓人議員問：我現正提出質詢。

教育統籌司的主要答覆提到，對於張貼的資料，院方通常不會預先審查。主要答覆說不會審查，但最新的指引卻要審查誰來演講和審查海報，這

是否符合教育署的指引？

教育統籌司答：主席，我要澄清，正如我在主要答覆中所說，這件事發生後，職訓局已採取了跟進措施。第一，該局會就這事件作出調查；第二，該局決定於短期內發出更詳盡的指引。這項指引主要涉及公民教育和舉辦有關活動等情況。

剛才李議員說他接到了一份很詳盡的指引，是職訓局發出的，但我手邊並沒有這份資料，也沒有接到職訓局的通知。如果李議員在會後可以將該份文件交給我，我承諾會看一看，然後繼續作出跟進。

李卓人議員問：主席，教育統籌司並沒有回覆我的質詢。我的質詢是，如果指引寫明邀請講者和張貼海報要得到副校長的批准，即校方的行政人員批准，這是否符合教育署的指引？

教育統籌司答：主席，我不能單憑李議員在某一份文件引述的一句句子便作出判斷。如果李議員可以將整份文件交給我，讓我把全份文件看清楚，先要確定這份文件是否源自職訓局，在甚麼情況下發出，上文下理如何，然後我才可作出判斷。正如我剛才所說，我很樂意就李議員手邊的文件作出跟進。

主席：李卓人議員，現在並非討論時間。你是否願意把該份文件交予教育統籌司。

李卓人議員問：主席，我願意將該份文件交出，但他一直沒有回答我的質詢，其實他無須這樣繞圈子。我只是想問，教育署的指引是否容許校方作出審查？其實我只是想提出這項質詢，就是教育署是否容許校方審查講者和海報？他一直也沒有回答這項質詢。

主席，我請你作出裁決。

教育統籌司答：首先，主席，教育署的《學校公民教育指引》只適用於官立學校和根據《教育條例》註冊的學校，這是第一點。

第二點，根據我手邊的資料，教育署的《學校公民教育指引》並沒有詳細說明有關邀請講者的問題。該項指引的最重要原則，其實我在主要答覆中也指出，是有關公民教育的任何推廣和任何學習都要全面客觀，包括各方面的觀點。因此，正如我剛才所說，我現在只能做的是就李議員的文件作進一步跟進。

張炳良議員問：主席，剛才教育統籌司回答劉慧卿議員的質詢的第一部分時，提及公民教育活動應該兼顧各方面，包括不同的課題，不同的意見和立場。教育統籌司可否進一步澄清，劉慧卿議員原質詢中所提到某間學校的行政指令指出要禁止公民教育導師舉行“令當權者不悅”的活動，這些“令當權者不悅”的活動是否仍然符合《學校公民教育指引》？

教育統籌司答：主席，我在主要答覆中其實已清楚說明，職訓局和其屬下的工業學院並沒有發出任何行政指令，提到有關劉議員原質詢的事情。在知悉這件事後，職訓局會進行研究，然後發出詳盡指引，就某些問題作出澄清。

張炳良議員問：主席，我的質詢的焦點是，“令當權者不悅”的活動是否仍然符合《學校公民教育指引》？

教育統籌司答：首先，正如我剛才所說，職訓局並沒有發出行政指令，禁止公民教育導師舉行“令當權者不悅”的活動。

第二，根據我們推廣公民教育的原則，市民和學生有權充分發表意見，包括對政府或其他團體的意見。這些意見是否會影響其他團體或政府，令它們高興或不高興，實際上並不是一個問題。

鄭家富議員問：主席，越接近回歸，在政治問題上的自我約束和審查必定會越來越嚴重，相信這並非政府所樂意見到的。問題的癥結是，例如劉慧卿議員所提及的數點，政府如何確保在這種政治氣氛下，政治不會干預公民教育。主席，請問政府會否重新仔細考慮配合現時的政治環境，把《學校公民教育指引》寫得更詳細？又對那些違反指引的學校會否作出懲罰或警告？

教育統籌司答：主席，教育署所發出的《學校公民教育指引》，政府認為已清楚說明了原則。如果議員對這份文件有一些富有建設性的意見，我們當然很樂意作出參考。

鄭家富議員問：他沒有回答我的第二項質詢，即違反這項指引的學校會否受到懲罰或警告？

教育統籌司答：主席，根據《教育條例》，如果學校違反教育署的指引，包括《學校公民教育指引》，教育署有權向其發出書面指示或其他指示。官立學校屬於政府架構的一部分，教育署當然有權採取制裁措施。對於津貼學校，教育署也可根據《教育條例》，在有需要時運用權力，採取適當的制裁行動。

陳偉業議員問：主席，我有一項質詢，如果教育統籌司未能回答，希望律政司可以代答。

有關工業學院內所舉行的活動，包括學生和僱員的活動，是否受《人權法》的保障？如果是的話，政府會否調查這件事是否有任何人員，包括高層人員違反《人權法》？如果調查屬實，政府會採取何種法律行動？

教育統籌司答：主席，首先，就劉議員原質詢所提到的事件，正如我在主要答覆中所說，職訓局現正調查這宗個案。至於學生在學校範圍內的活動是否受到《人權法》的保障，據我的理解，是應該受到保障的。如主席容許的話，由於這是法律問題，我相信應由律政司回答。

ATTORNEY GENERAL: Mr President, I will need to have notice of that question.

主席：若陳偉業議員想提出此項質詢的話，可否於下次會議席上提出？

陳偉業議員：主席，我同意律政司以書面回答此項質詢，因問題關乎活動範圍。

PRESIDENT: Can a written reply be given, Attorney General?

ATTORNEY GENERAL: Mr President, I will want to be very clear as to what it is that I am being asked, and whether I am being asked to furnish a legal opinion. I normally give legal opinions to the Government and not to separate educational establishments. That is why I say I will need to know what the question is before I can decide whether it is a question that I can properly answer. Thank you.

梁耀忠議員問：主席，主要答覆的(a)-(b)段提到，職訓局相信這件事僅屬個別事件，但事後卻認為需要發出更詳盡的指引，令人感到這並非個別事件，而是整體性的事件。因此，請問教育統籌司，在這事件中，教育統籌科將會扮演甚麼角色，以及如何處理這問題？

教育統籌司答：主席，職訓局在這件已發生的個別事件上，考慮到是否因雙方出現誤會；而為了日後避免誤會繼續發生，職訓局考慮發出更詳盡的指引，我覺得這是非常負責任的做法。

至於教育統籌科與這事件的關連，首先我一定要澄清，職訓局是一個獨立的法定機構，政府包括教育統籌科並不會牽涉於其日常運作之中。不過，政府有 4 名官方代表，包括教育統籌科人員，在職訓局理事局擔任成員，所以如有問題政府認為需要職訓局注意，或須提出討論，政府的代表當然有權在職訓局理事局中提出。

梁耀忠議員問：主席，剛才我問政府如何處理這事件，但教育統籌司只回答說他們有這項職責，以及有數位人士在職訓局理事局任成員，但他並沒有說會作出甚麼行動。他將會如何處理這件事呢？

教育統籌司答：主席，政府會否再作行動，須視乎職訓局完成調查，政府看過調查報告後，然後才可作出決定。此外，政府也有興趣知道職訓局發出的更詳細指引，內容是否完善。正如我所說，政府在職訓局理事局內有代表，相信這可以解釋政府與職訓局的關係。

蔡根培議員問：主席，直至目前為止，當局一共收到多少宗有關教育機構以各種原因阻止或干預推行公民教育的投訴？

教育統籌司答：主席，直至目前為止，教育署並沒有收到有關學校干預推廣公民教育的投訴。

One-way Exit Permits

單程證

3. 周梁淑怡議員問：主席，有關中方超額批出單程證的事宜，政府可否告知本局：

- (a) 有否向中方反映去年中國有關部門超額批出 6 500 個單程證來港的問題；
- (b) 超額批出單程證有否違反中英政府在一九八二年就簽批單程證定下的協議；若然，香港政府可否拒納被中國有關部門超額批准持單程證來港的人士；
- (c) 單程證配額的協議是否具有法律效力，還是一項沒有法律約束力的君子協定；及
- (d) 保安科有否通知統計署有關中方超額批出單程證的事實；若否，保安科是否失職、濫權，或行政失當？

SECRETARY FOR SECURITY: Mr President,

- (a) In the summer months of 1996, we noticed that the number of arrivals was faster than normal. The situation was brought up for discussion with the Chinese side in late 1996 and the excessive number of 6 279 arrivals in 1996 was offset by a corresponding reduction in the first four months of 1997.
- (b) The number of One-way Permit (OWP) holders entering Hong Kong each year does not represent the number of OWPs issued in that year, because OWP holders may choose not to enter Hong Kong immediately after the issue of the permit. For this reason, we do not rigidly limit the daily arrivals to be exactly 150 per day. But when we observed that the number of arrivals was larger than normal over a period of time, we did request the Chinese side to issue a smaller number of OWPs in the following months. Over the past years, the overall quota has, by and large, been followed, although the actual number of arrivals varies from month to month and from year to year.
- (c) The OWP system is an administrative scheme based on understanding reached between the two sides.
- (d) All the information that the Census and Statistics Department received is correct and complete. The Security Branch has not withheld any data from the Census and Statistics Department.

周梁淑怡議員問：主席，雖然入境處的官員前天曾向保安事務委員會提及單程證的問題時，表示審批權在北京，但最近宣布的計分法無可否認反映了港府向中國中央提出的建議。請問港府有沒有與北京定下經常性的會議和議程，以確保國內抵港的人數完全符合兩方面原先訂下的數目，並且在入境人士的年齡、性別及來港的性質都有預先的計劃，以免引致香港在各種社會服務方面陣腳大亂呢？

SECRETARY FOR SECURITY: Mr President, let me make it clear before I answer the question that the excess of arrivals over the agreed quota in the summer months of 1996 was offset by a corresponding reduction of arrivals in the first four months of 1997. Since the overall figure of arrivals for 1996 as well as for the first four months of 1997 does not really exceed the agreed quota, although individual month shows variations, it does not on its own create any major problems about our services coping with the new arrivals.

Coming back to the Honourable Mrs Selina CHOW's question, the answer is a very definite yes. The Director of Immigration liaises regularly not only with the public security authorities in Guangdong Province, but also liaises regularly with the Exit and Entry Administration Bureau of the Ministry of Public Affairs in Beijing. As far as I know, the Director of Immigration has a regular arrangement whereby she and the Director of the Exit and Entry Bureau of the Ministry of Public Affairs meet regularly every half year. Indeed, as I speak now, the Director of the Exit and Entry Administration Bureau of the Ministry of Public Affairs is at present in Hong Kong in discussion with the Director. Throughout these discussions in the past and as far back as I am aware, the question of OWP entry has been a constant subject on the agenda of those regular liaisons. Those discussions in the past included questions about age, questions about sex, questions indeed about sub-quotas for different kinds or categories of people including children with the right of abode after 1 July 1997, including long separated spouses and so on and so forth. So, indeed, to cut a long answer short, there is a regular system of liaison and discussion between the Director of Immigration and the central authorities in Beijing on this question.

周梁淑怡議員問：主席，根據我們得到的資料，顯示香港獲得單程證人士的資料是在他們抵港之後，因此，對於他們獲審批的事宜上，香港沒有認真很大的影響力。在這一方面，香港政府會否向北京盡力爭取，能夠與北京方面加強批准個案數目有一定的平均性，批准手續和抵港人數盡量掛鉤，務求使香港能預先有一定的計劃接收這些抵港人士？

SECRETARY FOR SECURITY: Mr President, it is true that we do not have a system of monitoring every individual OWP approved by the relevant authorities

in China. The way in which the system operates depends partly on our regular discussion, liaison and agreement with the Chinese side on the overall quota as well as the sub-quotas for individual category within the overall quota. But partly it also of course depends on our monitoring of the actual arrival. As I made clear in the main part of my reply, the actual arrivals do not always correspond with the agreed average daily number of quotas to be issued. But we monitor the arrivals very closely and when there is a substantial deviation over a period of time, we always raise that with the relevant Chinese authorities and although sometimes it takes them a little time gap before they can respond, on the basis of past records, they have responded whenever we make representations. I would not say that the current arrangements are 100% perfect, we know of course that there are many areas which can be improved and indeed I believe the Chinese authorities know that there are many areas within the operation of the system which can be improved. So the first step that they have taken, which is to institute a point system which makes the operation of the system more transparent, is a very welcomed one and we will continue to discuss with the Chinese authorities what further improvements might be made. I just add that it is not true to say that the Hong Kong immigration authorities do not have direct involvement in the process of dealing with individual applications. All applications from children who claim to have a right of abode in Hong Kong after 1 July 1997 are referred to the Director of Immigration in Hong Kong with all the details and supplementary documents and they are verified by the Director of Immigration in Hong Kong and returned to China before OWPs are issued.

MR HOWARD YOUNG: *Mr President, the Secretary mentioned that the Hong Kong Government monitors arrivals but of course the Chinese Government issues permits. Inevitably there is a time lag. I would like to know whether the so-called monitoring system referred to, the purpose of which is hopefully to allow us to detect surges or abnormal increases in arrivals, depends on periodic overviews of the system in which case there will always be a time lag? Or is there any system built in so that we can almost on-line or instantaneously see what the current trend is, for instance, like when you are driving a car even nowadays that pressing a button can show immediately what the average fuel consumption and things like that, and you do not have to rely on having a meeting and digging out figures to see what the current situation is as far as*

trends are concerned?

SECRETARY FOR SECURITY: Mr President, as I have said before, the arrival figures are of course monitored very closely by the Immigration Department where when we do detect a trend of abnormal arrivals we do take them up with the Chinese authorities. Obviously, the record of one day or two days or for that matter a week does not by itself constitute a reasonable belief that the trend is going wrong. We do take figures over a slightly longer period. We do, for example, monitor the figures so that we arrive at a monthly average arrival rate to see whether the figure exceeds the agreed quota and how far it exceeds the quota and whether any corrective action needs to be taken in the light of the figures in the past few months. When we do detect over a substantial period of time that the figures exceed the agreed quotas we do take them up with the Chinese authorities. As I said before, although there is a time lag before which the Chinese authorities take measures to correct it, inevitably they would do so.

Increasing Expenditures on Hawker Control

不斷增加的小販管理支出

4. 陳偉業議員問：主席，市政局及區域市政局近年在小販管理方面的支出不斷增加。政府是否知悉：

- (a) 兩個市政局於一九九四/九五、一九九五/九六及一九九六/九七年度在管理小販方面的支出及人手編制分別為何；及兩個市政局預計於一九九七/九八年度在此方面的支出及人手編制又分別為何；
- (b) 在一九九四/九五、一九九五/九六及一九九六/九七年度內，每年各區的有牌及無牌小販數目為何，以及每年檢控無牌小販的數字分別有多少；及
- (c) 兩個市政局有否對管理小販的工作進行衡工量值的評估；又會否全面檢討有關的法例，以確保小販管理的工作具成本效益？

文康廣播司答：主席，陳偉業議員提出的 3 個質詢，我現根據市政總署和區域市政總署提供的資料，答覆如下：

- (a) 市署九四至九五年度小販管理的實際開支為 4.921 億元，九五至九六年度則為 5.893 億元。市署九六至九七年度小販管理的預算撥款為 7.62 億元，九七至九八年度則為 7.495 億元。九四至九五年度市政局轄區小販事務隊的編制為 1 640 人，九五至九六年度為 1 781 人，九六至九七年度為 1 943 人，九七至九八年度則為 1 958 人。區署九四至九五年度小販管理的實際開支為 2.614 億元，九五至九六年度則為 3.097 億元。區署九六至九七年度小販管理的預算撥款為 3.541 億元，九七至九八年度則為 4.1 億元。九四至九五年度區域市政局轄區小販事務隊的編制為 982 人，九五至九六年度為 996 人，九六至九七年度為 1 052 人，九七至九八年度則為 1 122 人。市署和區署小販管理的職員費用，同樣約佔小販管理總開支 80%。
- (b) 九四／九五年度至九六／九七年度市區和區局轄區持牌及無牌小販的數目，以及檢控無牌小販的數字，各位議員可參閱會上我已經提交的統計數據。恕我不在這裏讀出來。
- (c) 最後一個質詢問及市局和區局曾否就小販管理進行衡工量值的評估，以及會否檢討有關法例，以提高小販管理工作的成本效益。據市署及區署給我的答覆，市署及區署不時分別按照市局及區局所訂的政策目標，檢討小販管理工作的成本效益、效率和成效，以及人手需求和職員調配安排。市局轄下非法販賣管制工作小組、區局轄下違例擺賣及店鋪違例擴展營業範圍小組委員會，以及區局屬下各區委員會，都分別負責定期監察市局及區局轄區內政策和執法措施的成效。最近一次有關市區小販管理組織職員調配及人手需求的檢討，已於一九九六年年底完成，市局已通過在一九九七年二月實施有關建議。至於現行小販管理法例會否全面檢討，市署和區署表示，香港法例第 132 章《公眾衛生及市政條例》及其附屬法例，已賦予有關方面足夠的法律權力管理小販。此外，觸犯《公眾衛生及市政條例》的非法擺賣事項，罰款額已於一九九六年適當調整。事實上，市署及區署不時因應不斷轉變的情況，檢討有關法例。

各區持牌及無牌小販數目以及檢控數字

(I) 市政局轄區

固定攤位小販牌照數目（市政總署）

分區	九四年四月一日	九五年四月一日	九六年四月一日	九七年四月一日
東區	707	640	630	624
灣仔	721	695	680	662
中區	792	760	726	705
西區	623	515	353	338
南區	118	114	112	110
觀塘	367	357	355	332
黃大仙	97	94	94	92
九龍城	377	351	282	264
油尖	1 795	1 777	1 778	1 745
旺角	1 927	1 904	1 882	1 841
深水埗	1 543	1 524	1 494	1 445
總數	9 067	8 731	8 386	8 158

流動小販牌照數目

	九四年四月一日	九五年四月一日	九六年四月一日	九七年四月一日
總數	2 563	2 016	1 189	991

估計無牌小販數目（市政總署）

分區	九四年四月一日	九五年四月一日	九六年四月一日	九七年四月一日
東區	456	502	610	752
灣仔	411	402	504	276
中區	149	304	318	265
西區	373	296	237	89
南區	250	184	135	74
觀塘	572	664	365	283
黃大仙	411	420	349	258
九龍城	959	654	670	473
油尖	388	502	704	611
旺角	727	594	493	457
深水埗	1 095	920	823	614
總數	5 791	5 442	5 208	4 152

違例擺賣的檢控總數（市政總署）

分區	九四至九五年		九五至九六年		九六至九七年		九七年四月	
	持牌小販	無牌小販	持牌小販	無牌小販	持牌小販	無牌小販	持牌小販	無牌小販
港島總區 特遣隊	-	-	831	7 602	797	7 799	104	690
東區	896	14 960	632	11 178	480	6 791	38	436
灣仔	1 814	4 160	2 121	5 482	1 333	4 931	93	247
中區	2 473	3 539	2 390	3 293	2 498	2 888	239	269
西區	1 634	3 564	1 400	3 372	698	1 677	61	114
南區	174	2 222	130	1 992	66	1 728	7	115
九龍總區 特遣隊	31	3 913	507	5 847	1 124	6 229	37	789
觀塘	2 829	9 177	3 903	6 538	5 133	5 972	298	357
黃大仙	279	4 397	269	4 410	112	4 213	5	294
九龍城	390	9 248	675	9 032	278	7 828	16	733
油尖	1 562	4 632	2 071	4 551	2 230	4 244	141	338
旺角	835	11 530	726	9 956	824	10 684	50	861
深水埗	1 430	7 595	1 458	7 337	1 332	6 734	91	478

總數 14 347 78 937 17 113 80 590 16 905 71 718 1 180 5 721

(II) 區局轄區

固定攤位小販牌照數目（區域市政總署）

分區 九四年四月一日 九五年四月一日 九六年四月一日 九七年四月一日

葵青	111	98	97	92
荃灣	291	283	271	263
屯門	88	86	85	74
元朗	81	79	68	67
北區	221	91	91	88
大埔	69	69	67	49
沙田	67	67	67	69
西貢	6	5	4	3
離島	5	5	5	5
總數	939	783	755	710

流動小販牌照數目

九四年四月一日 九五年四月一日 九六年四月一日 九七年四月一日

總數 830 791 757 737

估計無牌小販數目（區域市政總署）

分區 九四年四月一日 九五年四月一日 九六年四月一日 九七年四月一日

葵青	260	150	210	167
荃灣	49	64	63	57
屯門	272	207	170	174
元朗	173	154	149	146
北區	177	139	174	130
大埔	259	298	167	185
沙田	219	229	240	238
西貢	51	63	65	63
離島	94	102	102	98
總數	1 554	1 406	1 340	1 258

違例擺賣的檢控總數（區域市政總署）

分區	九四至九五年		九五至九六年		九六至九七年		九七年四月	
	持牌小販	無牌小販	持牌小販	無牌小販	持牌小販	無牌小販	持牌小販	無牌小販
葵青	944	2 044	1 185	2 144	1 388	1 969	103	116
荃灣	305	1 650	334	1 696	345	1 808	12	126
屯門	41	3 286	87	3 299	132	2 862	8	220
元朗	132	4 772	145	4 847	92	3 929	7	315
北區	311	3 585	260	2 836	223	2 425	14	192
大埔	555	3 390	874	3 941	690	3 204	2	139
沙田	163	3 275	284	3 559	257	2 705	11	191
西貢	2	469	5	620	-	818	-	51
離島	-	48	-	85	-	98	-	7
總數	2 453	22 519	3 174	22 997	3 127	19 818	157	1 357

陳偉業議員問：主席，政府提供的數字，顯示浪費程度很驚人。我簡單將數字作小小的比較。現時總共有六千多個無牌小販，但事務隊的成員有二千多人，比例是 1 個事務隊成員對 3 個無牌小販。如果用財政開支作比較，每年 11 億元的開支，除以 6 300 個無牌小販，即每年 1 個無牌小販的管理費用是 18 萬元。我在質詢第三段內問有否衡工量值的評估，文康廣播司雖然提到兩個市政署有進行檢討，但肯定沒做過衡工量值的評估，我想問一問文康廣播司，或許庫務司也可幫忙回答，政府看到這驚人的數字及不符合成本效益的做法，會否要求中央政府檢討小販方面的管理方式及財政開支的問題呢？

文康廣播司答：主席，我聽到陳議員剛才的一番批評，我會轉述給兩個市政局及兩個市政總署，我作為文康廣播司，在這裏的責任是代兩個市政局將他們的答覆提交給議員，我的責任不是在這裏批判他們。根據我今天上午與兩個市政總署的同事商談，了解到他們覺得陳議員提出這種比較，即用那些數字、用多少錢、聘請多少人與無牌小販估計的數字比較，不是很有意義的，因為他們認為那些小販少了，應該是因為他們執法有效，如果他們不是用那麼多人力資源去執行，那數字肯定大得多，那時候的比較可能易些。至於提到衡工量值的評估，我確有留意到似乎沒有直接回答到這質詢，所以我亦可將陳議員這要求轉交給兩個市政總署，由他們考慮。（眾笑）

陳偉業議員問：主席，我很多謝文康廣播司如此坦白，因為我對兩個市政署毫無信心，所以才在立法局提出這項質詢，否則我可透過其他渠道質詢兩個市政署。我想問庫務司，能否承諾研究這問題，特別是關於衡工量值，因為是公帑的開支，如果涉及政策方面，我想應該留待兩個市政局和兩個市政署考慮。過去兩年，每年的開支應該是 11 億元，這是很大的開支？

庫務司答：據我了解，核數署署長所做的衡工量值工作，亦包括兩個市政局。

周梁淑怡議員問：主席，大家聽到陳偉業議員剛才所計算那些數目，事實上是很驚人的，我亦是第一次聽政府說，原來那些數字與結果不能掛鈎。我感到有些奇怪，不過，如果將這幾年來的數目計算則更驚人。在徹底解決非法擺賣方面，無可否認大家隨街可見到小販，確可知道兩個市政局其實是束手無策，而且建設街市以吸引無牌小販遷入，亦不見得很成功，而那筆款項還未計算在內。請問政府會否將小販管理隊納入紀律部隊的行列——這並非很奇怪的提議，其實是應該做的——並且加強法例，以杜絕非法擺賣對大小零售商造成的不公平競爭？

文康廣播司答：主席，首先我想指出周梁淑怡議員可能有些誤解我答覆陳偉業議員一部分的質詢，我並無說到兩個市政局用於管理無牌小販或禁制無牌小販工作上的成本與效果是不可掛鈎的，我說那掛鈎是反比例，即他們越成功越少，所以如果用每一個無牌小販要多少個執法人員或政府花費多少成本才可以管制他們，我覺得不是一個有意義的比較，而我想我可以代兩個市政總署的同事說說他們在這方面工作的實際成效。

根據他們提供的資料，其實本港近年的小販管理問題已大有改善，在兩個市政總署轄下小販事務隊的努力下，無牌小販的數目陸續下降，在市政局轄區內，無牌小販數目由一九八七年的 14 000 名減至目前的 4 200 名，即下降 70%。我相信這個在 1 年內下降的百分率不可以說是微不足道的，而區域市政局轄區的無牌小販人數亦由九四年的 1 500 名下降至九七年的 1 300 名，即減少了 13%，所以不可說他們的工作無成效。

至於小販管理主任職系可否納入紀律部隊內管理，這問題其實很有趣，因為十多年前小販管理隊確是一個紀律部隊，不過是撥歸市政總署管轄，但

後來因為各種原因，因為其薪酬，例如與亦是紀律部隊警務人員所領取的根本上相差很遠，所以招聘得的人手質素越來越降低，管理上及其本身在市民心目中的聲譽、聲望等均發生很多問題，後來才解散成為文職人員。據我以往所知，市政局在檢討無牌小販政策時，也曾要求警方協助管理這事情，那時的詳細討論我當然知情。所以這只是舊事重提，我會將周梁淑怡議員的意見轉交給兩個市政總署，由他們轉交給兩個市政局。

鄭家富議員問：主席，根據資料顯示，正如剛才陳偉業議員所提及，政府運用達 10.63 億元的公帑，在市政總署及區域市政總署，聘請共 2 995 名小販管理隊隊員，在一九九六至九七年，拘捕了 111 568 名違例擺賣的小販，根據這比例，即一個小販管理隊人員一年拘捕 37 名違例的小販，雖然剛才文康廣播司回答，表示這個數目可能正因為他們的工作有效，於是乎違例擺賣的小販便不那麼多。正因為如此，為何政府在衡工量值後，仍然覺得耗用 11 億元還可以接受？主席，我們希望文康廣播司真的要積極面對這問題，考慮將公帑數字大大降低。

主席：你想提的質詢為何？

鄭家富議員問：質詢是他為何仍能接受？因為他說他仍能夠很容易接受，不會覺得震驚。（眾笑）

文康廣播司答：主席，雖然可能要多花各位寶貴的時間，但我覺得有需要在這裏再次澄清政府與兩個市政局的關係。兩個市政局在憲制上是獨立的法定組織，各自受本身的法例所規管，負責公眾衛生及其他法律所賦予他們的職責，有絕對的自主權。正如各位議員也知道，目前兩個市政局都是全部民選，可以說是選民的代表、民意的代表。文康廣播科作為兩個市政局與政府的溝通橋樑，所負責的只是處理行政當局及兩個市政局之間的一般聯絡工作，處理不屬任何決策科所負責的事項，如小販管理隊，充當行政當局與兩個市政局之間的諮詢聯絡點，以及代表兩個市政局向立法局提交周年報告、代表兩個市政局向立法局提交有關市政局的新法例或修訂法例、代表兩個市政局在立法局回答無政策科管轄的問題，並在有需要時，負責協調兩個市政局、藝術發展局及康體發展局之間的文化及康體政策。所以鄭議員提到我能否接受的問題，根本是不存在的，即我是否接受，及以一個市民的身分是否接受，與這件事情完全無關係，亦不由我是否接受。所以我會將鄭議員的意

見提交給兩個市政總署，由他們提交給兩個市政局。

謝永齡議員問：主席，我想用一九九六至九七年市政局管理小販的費用作一個例子，他們拘捕了 88 623 名小販，用了 7.62 億元，用除數計算，每拘捕一個小販便須動用 85,982 元。主席，九六至九七年區域市政局拘捕了 22 945 名小販，用的費用是 3.541 億元，用除數計算，每一名小販花費了 154,325 元。我想讓小販不做生意還容易。政府會否考慮現時需要十多萬元捕捉一名小販，便宜的也要 8 萬元，這會否真的是浪費了公帑，會否考慮私營化？我想很多人真的願意以這價錢拘捕小販，謝謝主席。

文康廣播司答：主席，我再次重複，小販管理這問題，包括有牌、無牌小販，都是在政府已經下放給兩個市政局的權力範圍之內，在他們的法例規管下，他們有絕對的自主權，所以成本效益是否可以接受，恕我真的不能在這裏作出批評。至於是否需要核數署署長再做一些衡工量值的檢討或調查，我相信要由兩個市政局自己決定，是否要求核數署署長做這工作，或如果核數署署長察覺有這問題，他自己會否採取主動去做這調查及檢討。

謝永齡議員問：主席，我的質詢是政府會否考慮私營化小販管理隊的工作？

主席：剛才的答覆是私營化與否及執行方式是由兩個市政局決定。我相信議員亦想質詢這方面的事，或者把質詢修改一下：政府是否打算提出建議，修訂有關法例，把管理小販的權力從兩個市政局收回，由中央執行？這可能是謝議員要問的真正問題。哪一位司級官員可以回答？

文康廣播司答：主席，也許讓我嘗試回答。既然政府已經將處理小販管理這問題的權力全部下放給兩個市政局，目前中央政府並無一個政策科負責監管這方面的政策或檢討這方面的政策，所以目前我可以回答鄭議員的是，政府內部沒有這樣的計劃。

Facilitating Overseas Travels of CI Holders

便利身分證明書持有人出外旅行

5. 楊孝華議員問：主席，鑑於現時很多國家不接受有效期不足 6 個月的旅

行證件，政府可否告知本局：

- (a) 將在本年下半年度期滿的身分證明書數目；及
- (b) 上述身分證明書的持有人如需在今年下半年度出外，政府會採取甚麼措施，方便該等人士取得有效的旅行證件？

保安司答：主席，有關問題(a)部分，身分證明書由簽發日期起計 10 年內有效。根據一九八七年簽發的身分證明書數目，估計會有 7 644 本身分證明書將於一九九七年七月內期滿，另有 54 642 本將於一九九七年下半年（即一九九七年七月至十二月期間）期滿。根據現行政策，身分證明書持有人可提早換證，因此，在一九九七年七月及一九九七年下半年期滿的身分證明書實際數目，應該比我剛才列舉的數字為少。此外，有些身分證明書持有人可能已成功入籍或登記成為香港英國屬土公民，取得英國屬土公民護照／英國國民（海外）護照等。

至於問題(b)部分，身分證明書將於本年下半年期滿的人士，可於七月一日前申請更換身分證明書，或於七月一日或該天之後申請香港特別行政區護照。香港特區護照的申請表格將於六月印備，七月一日開始辦理申請。身分證明書已過期，或將於 12 個月內期滿的人士，可獲優先處理。

楊孝華議員問：主席，保安司的最後一段提及於 12 個月內期滿的人士可獲優先處理，但根據第一段提供的數字，今年下半年期滿的人便差不多有 55500 人，如此推算，這個所謂“12 個月內期滿”的人士可能約有十萬人那麼多。入境處除了以 12 個月內期滿作為一個準則給予優先處理之外，有否考慮過更細緻、詳盡的優先次序的準則，以免日後第一個星期所有人便蜂擁去申請，人力資源方面是應付不來的？

保安司答：主席，我相信入境處處處理特區護照的申請也有一定的程序，而有關的表格可望在最近的將來公布。至於處理數目方面，入境處已經有足夠資源去處理每天 2 500 宗特區護照申請，甚至假如申請特區護照的人數每天超過這個數目，今個財政年度（一九九七至一九九八年）的撥款裏，已預留一筆款項，當申請數目超過 2 500 宗時，便動用這筆資源，增加入境處的人手，以協助處理每天達到四千多宗的申請。當然，在處理申請時，我們都呼籲市民不須在七月一日立刻前來申請，因為在通常的處理過程中，由申請到領取特區護照所需的時間約 15 天，假如某些緊急人士需要在 15 天內出外旅

遊，入境處也相應地加快處理申請，在真正緊急的情況下，我們可以即日辦理妥當。

周梁淑怡議員問：主席，無可否認，鑑於有些國家不接受有效期不足 6 個月的旅遊證件，那些身分證明書如在七月一日過期或屆時不足 6 個月有效期的人士，明顯地他們的需要比較特別緊急。對於這些人士來說，他們能獲優先處理的意思，是否意味着他們能很迅速獲發旅行證件，如果是很快的話，快的程度會是怎樣？

保安司答：主席，這個詳細工作程序及有關的文件或申請表格，我們還須待數天才可公布。但關於優先處理方面，原則上，假如有緊急需要一個有效的旅行證件短期出外旅行，我們盡可能盡快辦妥。我亦提及過，如果市民有十分緊急的理由要出外的話，可以即日辦妥。此外，我想藉此提醒市民，如果他們的身分證明書在七、八、九、十月（下半年）會期滿的話，他們不須待期滿才申請特區護照，他們可以現在向入境處申請一個新的身分證明書，而這個身分證明書是 10 年有效期的，他們在六月三十日或之前申請，我們會完全處理妥當。

Public Rental Housing for Elderly Persons

高齡人士公屋

6. 馮檢基議員問：有關高齡人士申請公屋事宜，政府是否知悉：

- (a) 現時在輪候公屋登記冊上的申請中，全部成員均為 60 歲或以上的家庭及最少有一名成員為 60 歲或以上的家庭分別為數若干；
- (b) 獨居的 60 歲或以上人士及二人均為 60 歲或以上的家庭的平均輪候公屋時間分別為何；
- (c) 最少有一名成員為 60 歲或以上的家庭的平均輪候公屋時間為何；及
- (d) 本年預留了多少個公屋單位分別撥給“共享頤年優先配屋計劃”及“高齡單身人士優先配屋計劃”，預計該等預留單位可編配予多少名在輪候冊上的獨居的 60 歲或以上人士及二人均為 60 歲或以上的家庭，並估計該等家庭何時可獲編配公屋？

房屋司答：主席，房屋委員會並沒有就公屋輪候冊上申請人的年齡作分類統計，但是根據 3 個為 60 歲或以上的申請人而設的優先配屋計劃的資料如下：

計劃	服務對象	在公屋輪候冊登記 的申請數目	編配公屋時的 平均輪候時間
高齡單身人士 優先配屋計劃	年滿 60 歲或以上 的高齡單身人士	10 300	2 年
共享頤年優先 配屋計劃	2 至 3 名年滿 60 歲 或以上申請共住的 高齡人士	4 000	2 年
家有長者優先 配屋計劃	與最少一名年滿 60 歲或以上的親 人同住的家庭	5 200	4 年

房屋委員會並沒有設單位數目的上限，規定編配給這些高齡人士或家庭。他們的申請會根據登記的先後次序及已輪候時間辦理。我們估計，在一九九七至九八年度，可分別編配約 2 900 及 900 個租住公屋單位給在“高齡單身人士優先配屋計劃”和“共享頤年優先配屋計劃”下登記的人士。

馮檢基議員問：主席，根據房屋司答覆中列表所提供的數字，我想先作出一些分析，然後才提出跟進質詢。根據該列表的數字，60 歲以上或全部 60 歲以上的家庭，現正輪候的合共有 14 000 個，他們平均須輪候兩年。家中有一名老人家的有 5 200 個家庭，平均輪候時間為 4 年。房屋司在第二段又告知我們，給第一類老人家的有 2 900 個單位，給第二類的則有 900 個單位。以此計算，給所有有老人家的家庭，若輪候兩年，其實只得 5 800 個單位，但是現在有 14 000 個家庭正在輪候。房屋司怎可以告訴我們，他們只須輪候兩年便可以獲配房屋呢？因為尚欠八千多個單位，在“家有長者優先配屋計劃”方面，則尚欠 1 400 個單位，因為每年 900 個單位，4 年就是 3 600 個，即還欠 1 400 個單位。房屋司卻說他們只須輪候 4 年便可獲配單位，但事實上卻尚欠 1 400 個單位。還欠這麼多單位，但房屋司卻告訴我們，他們只須輪候兩年，這與單位數目是完全不相稱的。房屋司怎樣解釋他們只須輪候兩年呢？

房屋司答：主席，在登記冊上輪候的申請人與每年的配屋數字並不是有一個很大的直接關係，因為房屋委員會每年預留的這些供分配的公屋單位，是因應那些合資格的老人家來作出編配，所以單憑馮檢基議員所提出的質詢，關於九七至九八年度的編配額來計算，我們不可單以這個數字來除總數，就當作是否達到編配時間的可能性。因此，在數字上我們要小心處理。

黃偉賢議員問：主席，根據剛才房屋司的答覆，似乎他認為現時正輪候的這 3 類家庭，可能有很多未必符合資格，所以未必有需要編配公屋。房屋司可否向我們提供這方面的資料，即過去在調查後，不符合資格的家庭所佔的比率？房屋司現時說須輪候兩年和 4 年，但有多少家庭已經輪候超過兩年和 4 年呢？房屋司可否向我們提供這些資料？

房屋司答：主席，有關那 3 類人士不符合資格的情況，我們沒有特別作出數字上的統計。但是，一般來說，以公屋輪候冊的申請是否符合資格的情況來看，則大約有剛多於一半的申請人，即大約 54%是符合資格的。至於老人家的數字，我們沒有詳細的有關資料。此外，有關輪候家庭的數目，我們也沒有這類數字。

陳婉嫻議員問：主席，今天馮檢基議員提出這項質詢，可能是由於跟我一樣，接到很多有關這方面的投訴，說現時單身老人家申請公屋，不能如政府所說只須輪候兩年。請問政府，既然你們說那 3 類老人家的平均輪候時間分別是兩年、兩年和 4 年，你們能否提出這樣的服務承諾呢？當老人家到房屋署遞交表格時，你們要以此作為一個服務承諾的指標，讓那些老人家知道輪候公屋的時間。請問政府能否這樣做呢？

房屋司答：主席，在這 3 個計劃下，其實房屋委員會無形中已經作出了服務承諾。不過，這服務承諾是以一般的平均輪候時間來計算，並不代表每一宗個案都能依足這個輪候時間。根據過往的情況來看，從房屋委員會提交的資料顯示，他們是可以在這個已公布的平均輪候時間內編配公屋給老人家。有些時候，其實是因為老人家本身並不接受那些單位，對單位所在的區域或單位的種類感到不滿意或不適合，所以加以拒絕。一般來說，房屋委員會是可以達到這已公布的輪候時間。

李永達議員問：主席，以房屋司剛才的說法，其實那些資料是否顯示了一個事實，即房屋委員會在申請人輪候兩年後，便可以向他們提供房屋選擇“housing offer”，但由於那選擇不符合他們的要求，所以他們最終沒有接受？我想房屋司澄清那些資料是否作如此解釋，即所謂兩年，並不是平均等候兩年便可入住公屋，而是平均輪候兩年，房屋委員會可以配屋給申請人，由他們決定是否入住那些單位？

房屋司答：主席，現有的計算方法是以房屋委員會為申請的老人家提供單位，以至他們接受的時間來計算。如果以李議員的準則，即房屋委員會只作出編配房屋的建議，則房屋委員會自然可以做得更快一些。不過，一般的情況是以申請人最後願意接受單位的編配來計算輪候時間。

馮檢基議員問：主席，總督九四年的施政報告，曾經為當年輪候的 60 歲以上老人家額外撥出 5 幅市區土地來興建老人房屋，以解決當時的輪候“長龍”。請問房屋司，現時有 14 000 人輪候，政府會否也考慮採用同樣方法，再撥出 5 幅土地呢？

房屋司答：主席，其實據我們的估計，以我們現有的公屋單位流量，加上我們在數年前所作的承諾，再多建 22 000 個單位給老人家，我相信其實已能滿足在申請輪候冊上老人家的需要。

WRITTEN ANSWERS TO QUESTIONS

議員質詢的書面答覆

Corruption Problem

貪污問題

7. 曾健成議員問：根據廉政公署（“廉署”）一九九六年的調查顯示，七成市民對一九九七年後本港的貪污問題有所憂慮。就此，政府可否告知本局：

(a) 過去 10 年，廉署接獲牽涉國內機構在港進行貪污活動的投訴數

字為何；其中有就多少宗提出檢控；又成功檢控個案的數字有多少；

- (b) 廉署在過渡期內的最後 3 年有何特別部署和對策，打擊及防止國內的黨、政人士及企業在港的商業貪污活動；及
- (c) 廉署及政府部門在處理涉及國內機構在港貪污的投訴個案時有何困難，及有否因臨近主權移交而遇到特別的困難？

布政司答：主席，

- (a) 廉署記錄了一些與中國有關的貪污舉報數字，但沒有把涉及中國機構的貪污舉報數字分開記錄。不過，廉署自今年年初開始記錄有關“越境貪污”舉報的數字。越境貪污是指利用貪污手法，把人口或貨物偷運過境，也指中港貿易中的貪污活動。這類舉報的統計數字詳載於附錄 1。自一九八九年以來，中國國民在港被控貪污的人數以及檢控結果載於附錄 2。
- (b) 廉署對所有涉嫌觸犯香港反貪污法例的人士及公司，不論國籍，都會進行調查。廉署與廣東省人民檢察院建立了良好的工作關係，雙方在調查工作及安排會見證人方面互相協助，並就專業培訓、防貪污教育及方法交流經驗。此外，廉署與廣東省人民檢察院合作，為粵港投資者編製了一本指南。廉署設有大陸聯絡組，為訪港中國官員舉辦有關本港反貪污法例和廉署工作的講座及介紹活動，並為駐港中資機構的職員舉辦講座。
- (c) 臨近政權交接，廉署處理越境貪污案件並沒有特別困難。

附錄 1

越境貪污舉報

可追查個案 無法追查個案 貪污舉報總數 非貪污舉報數字

一九九七年 (一月至四月)	22	12	34	9
------------------	----	----	----	---

附錄 2

中國國民被檢控的人數

中國國民

一九八九年	2
一九九零年	0
一九九一年	0
一九九二年	12
一九九三年	5
一九九四年	4
一九九五年	8
一九九六年	0
一九九七年 (一月至四月)	0

	31

上述檢控個案的結果

中國國民

候審	1
入罪	23
無罪釋放	7

	31

Chinese Medicine Services in Out-patient Departments

中醫藥門診服務

8. 莫應帆議員問：有關公立醫院的中醫藥門診服務，政府可否告知本

局：

- (a) 是否知悉有多少間公立醫院設有中醫藥門診服務；過去 3 年，市民每年到該些中醫藥門診部求診的人次；
- (b) 有否調查市民使用傳統中醫藥的情況；若然，在過去 3 年，市民使用傳統中醫藥的人數、年齡和教育水平為何，及使用傳統中醫藥的原因；及
- (c) 有關當局有否計劃制訂政策，推廣公立醫院的中醫藥門診服務；若有，詳情為何；若否，原因為何？

衛生福利司答：主席，

- (a) 醫院管理局轄下的公立醫院並無提供中醫藥門診服務。東華醫院及廣華醫院自設的中醫藥門診部自四十年代開始提供服務；目前，這兩間診所的經費由東華三院機構負責，衛生署提供部分資助。
- (b) 一九九六年的綜合住戶統計調查範圍包括調查被訪者在訪問前兩星期內的求診次數，及其求診的對象。初步結果顯示，接受調查的市民向中醫求診的次數佔他們總求診次數約一成。該次統計的調查資料，並沒有詳細分析使用中醫藥人士的年齡分布、教育水平和其使用中醫藥的原因。
- (c) 我們並無計劃在本地公營醫療機構提供中醫藥門診服務。政府現正審議中醫藥發展籌備委員會最近發表的報告書中載列的各項建議，並會優先考慮為傳統中醫藥業在香港設立規管架構，訂定可以接受的執業標準。

Hong Kong Population Projections 1997-2016

《香港人口推算 1997-2016》

9. 陳婉嫻議員問：根據近期公布的《香港人口推算 1997-2016》報告顯示，未來 20 年本港來自內地的移民將會高達 1 095 000 人。就此，政府可否告知本局：

- (a) 以何種方法及假設來推算本港未來 20 年來自內地移民的數目、年齡及性別的資料；及
- (b) 按年齡組別及性別列出在一九九七年至二零一六年期間來自內地移民的人口推算？

財經事務司答：主席，

- (a) 一九九七年至二零一六年的香港人口推算所採用的“組成部分法”，是人口推算的標準方法。按照這方法，先將某基準年的人口按年齡及性別劃分，然後結合生育、死亡及人口遷移的分別推算，逐年向前推，直至推算期末年。

從中國內地來港定居人士是人口遷移推算的一個組成部分。這個組成部分的假設是根據中國及香港的相互協議。由一九九五年七月一日起，來自中國內地單程證的新移民限額為每日 150 人，即每年 54 750 名。假設現行政策不變，內地來港定居人士在一九九七年至二零一六年間會約達 110 萬。

因為不能確定未來從內地來港定居人士的年齡及性別，所以只能假設其過去的年齡及性別模式將會延續，並在推算時考慮本港居民在內地所生子女的估計數目及在內地與香港男士結婚女士的估計人數。

- (b) 在未來 20 年(即一九九七年年中至二零一六年年中)按年齡組別及性別劃分的從中國內地來港定居人士推算人數載列於附表。

附表

未來 20 年(即一九九七年至二零一六年)按年齡組別及性別劃分的
從中國內地來港定居人士的推算人數

年齡組別	性別	人數	百分比
0 歲至 19 歲	男性	235 280	21%
	女性	222 200	20%
	小計	457 480	42%

20 歲至 39 歲	男性	215 030	20%
	女性	245 520	22%
	小計	460 550	42%
40 歲至 59 歲	男性	67 770	6%
	女性	54 870	5%
	小計	122 640	11%
60 歲及以上	男性	22 100	2%
	女性	32 230	3%
	小計	54 330	5%
所有年齡	男性	540 180	49%
	女性	554 820	51%
	總計	1 095 000	100%

由於進位原因，統計表內個別項目的數字加起來可能與總數略有出入。

Ma On Shan Rail Link

馬鞍山鐵路

10. 謝永齡議員問：政府在一九九四年公布的《鐵路發展策略》中承諾馬鞍山鐵路會在二零零一年或之前完成；而在一九九六年施政報告中，政府表示會研究馬鞍山鐵路延伸至九龍的可行性。就此，政府可否告知本局：

- (a) 上述可行性研究是否已經完成；若然，結果為何及何時會公布結果；
- (b) 政府各部門及行政局需經過哪些程序審批上述鐵路計劃及所需時間為何；預計有關工程何時開始動工；及
- (c) 鑑於現時新界東北地區集體運輸工具在繁忙時間相當擠擁，政府會否加快有關工作進度，使馬鞍山鐵路能早於二零零一年或

以前通車？

運輸司答：主席，

- (a) 馬鞍山至大圍鐵路綫（“馬鞍山鐵路”）連同九廣鐵路紅磡至尖沙咀支綫（“尖沙咀支綫”），是一九九四年《鐵路發展策略》所建議的其中一項優先計劃。有關馬鞍山鐵路和尖沙咀支綫的工程可行性研究已經完成。政府現正考慮工程顧問的建議。我們也在研究有關的財務安排，以及由哪個機構推展這項計劃。我們擬訂初步的建議後，便會徵詢立法局和有關方面對這項計劃發展路向的意見。

至於興建第二條由大圍直達市區的鐵路綫，根據政府顧問的評估，長遠來說有需要提供這條支綫。馬鞍山至大圍鐵路綫的土木工程設計，已顧及日後擴展的需要。我們在本年稍後時間全面檢討《鐵路發展策略》時，會考慮日後延長馬鞍山鐵路的路綫和興建時間表。

- (b) 審批馬鞍山鐵路和尖沙咀支綫計劃的程序，與其他大型基建計劃相同。政府會審慎考慮有關的技術和財務安排，以及由哪個機構推展這些工程，然後向行政局和公眾提出建議。我們就馬鞍山鐵路和尖沙咀支綫計劃擬訂建議的工作，已進入最後階段。至於詳細的興建時間表，則有待財務安排以及建造和營運機構確定後，方可擬訂。
- (c) 我們會竭盡所能，盡快完成所需的籌劃工作，務使馬鞍山鐵路能夠早日建成。

Temporary Staff of Urban and Regional Services Departments

市政總署及區域市政總署聘用的臨時員工

11. 梁耀忠議員問：本年三月十九日立法局會議席上，公務員事務司以書

面回答一項關於市政總署及區域市政總署聘用臨時員工的質詢時，表示在過去 3 年內有 108 名臨時員工因工受傷。就此，政府可否告知本局：

- (a) 過去 3 年內，有多少名該等臨時員工獲得續約，有多少名不獲續約；及
- (b) 兩個市政總署採取甚麼準則釐定是否與因工受傷的臨時員工續約？

公務員事務司答：主席，在過去 3 年，兩個市政總署共有 108 名臨時合約員工因工受傷，其中 67 人（市政總署有 4 人，區域市政總署有 63 人）獲得續約，其餘 41 人（市政總署有 10 人，區域市政總署有 31 人）不獲續約，原因如下：

	市政總署	區域市政總署
(i) 員工辭職／沒有申請續聘	6	5
(ii) 再無服務需要	3	24
(iii) 員工基於健康狀況不能執行規定的職務	1*	—
(iv) 員工按常額條款獲聘用	—	2
	---	---
合計	10	31

（* 由於部門提交予本科的數據出錯，我於本年三月十九日立法局會議質詢第 19 條提交的書面答覆無意中遺漏了此一項因員工基於健康狀況不獲續約的個案。）

兩個市政總署的員工的續約申請，均會根據服務需要、申請人過往的工作表現，以及申請人是否有能力執行規定職務等因素考慮。該兩個部門亦會根據工作需要，研究應否改聘常額人員。

Kai Tak VIP Lounge Extension

啟德機場貴賓室的擴建

12. **MISS EMILY LAU** asked: *The Government has spent \$9 million to build an extension to the VIP lounge at the Kai Tak Airport. As the Kai Tak Airport will close down next year when the new airport at Chek Lap Kok comes into operation, will the Government inform this Council of:*

- (a) *the reasons for proceeding with the above extension project and, given the fact that the extension could only be used for less than a year, the Government's justification for the cost-effectiveness of the project; and*
- (b) *the reasons for not putting the funding proposal for the project to the Finance Committee of this Council for consideration?*

SECRETARY FOR ECONOMIC SERVICES: Mr President,

- (a) A large number of guests and delegates of various governments and international organizations will come to Hong Kong to attend the Handover Ceremony and the 1997 Annual Meetings of the Boards of Governors of the World Bank Group and the International Monetary Fund in the next few months. According to the Handover Ceremony Co-ordination Office, the Hong Kong Monetary Authority and the Director of Protocol, about 5 000 of these guests and delegates will be using the VIP facilities at the Kai Tak Airport. In addition, there are expected to be another 11 000 users of the VIP facilities in the next 10 months before the new airport at Chek Lap Kok comes into operation. From a protocol viewpoint, it is important for VIPs to be properly received at the airport, as in other major cities and financial centres.

Before the extension, the VIP lounge only had four rooms, each of which could accommodate one VIP group of not more than 10 persons at any one time. Additional VIP facilities are therefore required to cope with the substantial surge in the number of VIPs expected to visit Hong Kong in the next 10 months.

- (b) The extension project was funded under the Capital Works Reserve Fund block allocation Head 703 Subhead 3101GX- Minor building works, which is a subhead for funding minor building works, fitting out works, minor alterations, additions and improvement works, subject to a ceiling of expenditure of not more than \$15 million per item. The Finance Committee of this Council has delegated to the Secretary for the Treasury the power to approve funding for

individual projects under the block allocation. The VIP lounge extension project, which costs around \$9 million, was therefore not put to this Council for specific approval. It was approved, on the advice of the Minor Building Works Committee, by the Director of Architectural Services with the delegated authority from the Secretary for the Treasury.

Hospital Authority Expenditure on Stroke, Coronary Heart Disease and Cancer Treatment

醫院管理局用於治療中風、冠心病及癌症的開支

13. 黃震遐議員問：政府是否知悉：

- (a) 過去 5 年，為治療中風、冠心病及癌症而使用的開支，每年佔醫院管理局（“醫管局”）整體開支的百分比分別為何，及該 3 類病症病人每類所佔公立醫院病人及床位數目的百分比又分別為何；
- (b) 有何措施預防及減低上文(a)項所述疾病的發病率；及
- (c) 醫管局和衛生署以何種準則釐定分配予上文(a)項所述疾病的資源是否足夠？

衛生福利司答：主席，

- (a) 根據醫管局的紀錄顯示，在一九九五年，中風、冠心病和癌症病人的出院人數，分別佔該年度的出院病人總數的 2.2%、1.7% 和 8.0%。由於醫管局的電腦化醫療紀錄摘要系統是在一九九五年設立，因此未能提供一九九五年前的有關資料，一九九六年的數據現正整理中。
- (b) 由於醫管局部分的規劃工作和備存紀錄，是按專科類別而不是疾病類別處理，因此未能提供資料，說明治療中風、冠心病和癌症佔醫管局開支的百分率，以及用於這些疾病的醫院病床，佔病床總數的百分率。
- (c) 患中風、冠心病和癌症的原因，往往與生活方式有關，因此，

醫管局和衛生署一向集中推廣健康的生活方式，包括定期檢查身體和評估健康狀況，以便預防這些疾病和其他類似疾病，並減低發病率。推廣活動的形式包括健康講座、展覽、反吸煙活動、電話熱綫服務及其他教育活動。

- (d) 在評估治理和預防各類疾病所需的資源時，衛生署和醫管局會考慮多個因素，包括人口變動、服務使用率、疾病模式、輪候治療的時間和科技發展。這些因素互有關聯，互相影響。評估和規劃是持續進行而不斷轉變的工作。

Duration of Waiting for Hearing by Lands Tribunal

土地審裁處的輪候審理時間

14. 黃偉賢議員問：政府可否告知本局：

- (a) 過去 3 年，土地審裁處共接獲多少宗有關大廈管理問題的投訴；
- (b) 上述投訴個案的平均及最長輪候審理時間為何；
- (c) 有何措施縮短(b)項答案所述的輪候時間；及
- (d) 長遠而言，會否考慮另外成立一個大廈管理審裁處；若會，何時成立；若否，原因為何？

布政司答：主席，

- (a) 根據司法機構的紀錄，在過去 3 年，土地審裁處處理的大廈管理個案總數如下：

年份	數目
一九九五年	188 宗
一九九六年	160 宗
一九九七年（截至五月二十日止）	75 宗

這些個案的處理情況載於附表。

- (b) 平均候審時間（由提出申請至第一次聆訊）約為 60 天。緊急個案（例如向審裁處申請強制令）通常可在數天內處理。

- (c) 司法機構認為這些個案的平均候審時間可以接受。雖然個案排期進行第一次聆訊的時間不會太長，但審結卻往往需時過久，這正是問題癥結所在。審結需時過久，是因為大部分個案的申請人和答辯人都沒有由律師代表，以致大多數人在出席第一次聆訊時都沒有充分準備，例如沒有傳召證人、沒有所需的文件、執業會計師審核帳目可能需時多月等。在這些情況下，聆訊便須押後，以致個案可能需要相當長的時間才可審結。

根據司法機構所提供的資料，土地審裁處現正考慮在答辯人提出答辯理由後的1個月內，進行簡短的提訊，以便能順利和有效率地進行有關的程序。土地審裁處可在提訊中就大廈管理法例和證據規則提出一般意見，並就審訊的預備工作發出命令；可能的話，更會協助當事人和解。

- (d) 由於土地審裁處運作成效良好，我們認為無須成立大廈管理審裁處。

附表

土地審裁處處理的大廈管理個案

個案	一九九五年	一九九六年	一九九七年 (截至五月二十日止)
1. 展開訴訟	188 宗	160 宗	75 宗
2. 已審理的個案	55 宗	43 宗	14 宗
(a) 在第一次聆訊 中和解或解決	21 宗	28 宗	10 宗
(b) 已審理	34 宗	15 宗	4 宗
3. 審理中止／撤銷	48 宗	30 宗	2 宗
4. 申請人提出申請後 再沒有進一步行動	85 宗	87 宗	59 宗

Excessive Noise Emission by Marine Vessels

海面船隻發出的過量噪音

15. 陳偉業議員問：多年來，荃灣海灣附近的居民在深夜及凌晨時分，經常受海面船隻發出的噪音，特別是船上擴音器的聲浪所騷擾。居民代表先後

多次向水警及海事處反映此問題，立法局有關事務委員會亦曾討論此事，但至今有關情況不但毫無改善，反之更有惡化的趨勢。就此，政府可否告知本局：

- (a) 在過去 3 年，有多少船隻因發出過量噪音被警告及檢控，請列出地點及檢控結果；及
- (b) 上述問題多年來毫無改善，水警及海事處有何措施可減少該處的噪音，以免居民生活受到不必要的滋擾？

規劃環境地政司答：主席，

- (a) 自一九九五年以來，我們共收到 8 宗投訴荃灣區船隻造成噪音滋擾的個案。我們對 3 宗可以確定噪音來源的個案，發出了口頭警告。有關我們所調查個案的詳細資料載於附件。
- (b) 我們已採取下列措施，以減低船隻所造成的噪音滋擾：
 - (i) 警方已加緊在荃灣和青衣一帶巡邏，並特別注意船隻所發出的噪音；
 - (ii) 海事處和水警定期與香港註冊船隻和中國內河船隻的經營者舉行聯絡會議，並向他們勸諭，除非情況緊急，否則不要使用揚聲器；及
 - (iii) 我們已向本地從事航運業的人士派發《在船上使用揚聲器及擴音系統的指引》。該指引載述在使用揚聲器時應採取的預防措施，並警告切勿對附近環境造成噪音滋擾。

為對不遵守指引的船隻加強採取執法行動，我們現正考慮修改法例，要求舵手或船隻負責人承擔防止船隻製造噪音滋擾的責任，以簡化確定違例者身分的程序。

附件

對造成噪音滋擾的船隻採取的執法行動（一九九五至九七年度）
地點及執法行動

年份	地點	噪音類別	執法行動	總數
一九九五年	醉酒灣	由船隻發出	不能找出噪音來源。	
	清麗苑	由拖船使用的發電機發出	已發出警告。	
	海濱花園	由躉船使用的發電機發出	不能找出噪音來源。	3
一九九六年	無個案	不適用	不適用	0
一九九七年	荃灣對出的海面	由船隻使用的揚聲器發出	不能找出噪音來源。	
	青龍頭	由躉船使用的揚聲器發出	已發出警告。	
	海濱花園	由躉船使用的揚聲器發出	不能找出噪音來源。	
	海濱花園	由拖船使用的發電機發出	已發出警告。	
	灣景花園	由船隻發出	不能找出噪音來源。	5

"Travel Pass" System

“旅遊通行證”系統

16. **MR HOWARD YOUNG** asked: *It was reported in October last year that Immigration Department was undertaking a study on the feasibility of introducing the "Travel Pass" system which aims to shorten immigration processing time of bona fide frequent travellers to Hong Kong. In this connection, will the Government inform this Council of the up-to-date progress of the study, including details on:*

- (a) *the eligibility criteria and application fee for the "Travel Pass";*
- (b) *whether holders of the "Travel Pass" will still be required to fill in the arrival card;*
- (c) *whether holders of the "Travel Pass" can have their immigration clearance procedures processed at the immigration counters designated for holders of Hong Kong permanent identity cards and Hong Kong identity cards; and*
- (d) *the expected implementation date of the "Travel Pass" system?*

SECRETARY FOR SECURITY: Mr President,

- (a) It is proposed that a visitor who is not a resident of China or Taiwan will be eligible for a travel pass if:
 - (i) he holds a valid national passport or a Macau Visit Permit, and fulfills the normal immigration requirements for entry; and
 - (ii) he has come for visits trouble free on more than five occasions in a 12-month period immediately preceding the application; or
 - (iii) he can satisfy the Director of Immigration that his visits will bring economic benefits to Hong Kong.

An application fee will be levied to recover the cost of the scheme.

The costing exercise is still in progress. We will make further announcements in due course.

- (b) Travel pass holders will still need to produce an arrival card for immigration clearance. Information on the arrival cards is required for statistical purposes.
- (c) Travel pass holders will be able to use the resident counters, but not the counters for permanent identity card holders.
- (d) Subject to availability of funds, we expect to announce details of implementation and operation of the scheme towards the end of 1997.

Referrals to the Coroner

轉介給死因裁判官研訊的個案

17. 黃震遐議員問：據悉，近期有醫院因與死亡病人家屬就病人死因持不同意見，而將個案轉介給死因裁判官研訊。就此，政府是否知悉：

- (a) 過去1年，各公立醫院轉介多少宗個案給死因裁判官研訊，每宗個案轉介的原因為何，有多少宗該等個案是應死者家屬要求而轉介的，及有多少宗是死者家屬反對轉介的；
- (b) 上文(a)項第一部分所述個案中，有多少宗是死因裁判官認為無須進行驗屍的；及
- (c) 醫院管理局有否就將個案轉介予死因裁判官的事宜制訂指引，以避免不必要地作出轉介？

衛生福利司答：主席，

- (a) 一九九六年，公營醫院共轉介了 2 069 宗個案予死因裁判官調

查。由於專業醫護人員須逐一翻查有關檔案，才可收集資料，說明每宗個案的轉介原因、應死者家屬要求而轉介或遭他們反對轉介的個案數目，因此我們未能提供這方面的資料。

- (b) 在上述 2 069 宗轉介個案中，死因裁判官決定無須進行驗屍工作的有 480 宗。
- (c) 為免出現不必要的轉介，醫院管理局已向全港公營醫院發出指引，闡明在甚麼情況下，有關的醫生須向死因裁判官報告死亡個案，這些情況包括在受官方看管時死亡的個案、懷疑與自殺、意外、罪行、藥物、毒藥、受虐待、飢餓、疏忽、手術和麻醉藥有關連的死亡個案，以及醫生不能陳述在醫學上的死亡原因的個案。新的《死因裁判官條例》已在四月制定，預計不久便會生效。條例也會列出類似的須予報告的死亡個案。

University Academic Staff Contracts

大學教員的合約

18. 黃偉賢議員問：政府是否知悉：

- (a) 在過去 3 年，本港各大學分別有多少名教員被解僱或不獲續約，當中有多少名被認為是“不符合大學要求”；及有關大學如何界定“不符合大學要求”；及
- (b) 該等被認為是“不符合大學要求”的教員的職級及教學年資分別為何？

教育統籌司答：主席，

- (a) 受大學教育資助委員會（“教資會”）資助的院校屬法定自主機構，關於教職員和教務等內部事宜，各院校有絕對酌情權，按他們認為適當的方式處理。院校對於教職員的聘用、解僱，以及不獲續約等事所作的決定，須受內部規則和有關僱傭合約規管。院校所訂的合約或相關條例，均沒有提及“不符合大學要求”，是教學人員可被解僱或不獲續約的理由。

根據教資會資助院校提供的資料，在過去 3 個學年（一九九三／九四學年至一九九五／九六學年），有 3 間院校曾解僱教學人員。香港理工大學和香港科技大學以行為不當的理由，分別辭退 3 名和 1 名教學人員，香港城市大學則基於紀律原因，解僱 1 名教學人員。

教資會資助院校提供的資料又顯示，過去 3 年共有 163 名教學人員不獲續約。除香港中文大學和香港大學未存備細分數字外，其餘院校提供的數字，並不包括本身不擬續約的人員，而所有數字亦沒有把不獲續約的客座學者計算在內。各院校提供的數字如下：

教資會資助院校	不獲續約的教學人員數目
香港城市大學	30
香港浸會大學	5
嶺南學院	1
香港中文大學	37
香港理工大學	38
香港科技大學	12
香港大學	40
香港教育學院	—

總計	163

- (b) 遭解僱或不獲續約的教學人員，其職級由副講師至教授不等，大部分的教學年資不足 10 年。

Pilot Scheme for Display of Publicity Materials in Designated Public Places 在指定公眾地方展示宣傳資料的試驗計劃

19. 葉國謙議員問：政府於去年十一月在灣仔區推行一項為期 6 個月的試驗計劃，在指定的公眾地方展示宣傳資料。就此，政府可否告知本局：

- (a) 有否檢討該項試驗計劃；若然，檢討的結果為何；及
- (b) 會否打算在全港各區推行上述計劃；若否，原因為何？

規劃環境地政司答：主席，在灣仔區推行的試驗計劃剛剛結束。政府的目的，是要測試可否實施管制計劃，限制非商業海報（包括標語牌、布告牌及橫額）的展示範圍。根據該項試驗計劃，某些地方會被劃為展示海報的指定地點。我們現正檢討這項計劃，預計檢討工作會於短期內完成。初步結果顯示，在試驗計劃推行後，灣仔區的環境大有改善，同時，該計劃亦得到灣仔區議會及灣仔區居民支持。我們檢討這項計劃時，會研究應否把計劃擴展，在全港各區推行，同時也會研究擴展計劃的方法。

Merger of Land Fund and Exchange Fund

土地基金與外匯基金合併

20. 單仲偕議員問：鑑於香港特別行政區政府土地基金（“土地基金”）即將與外匯基金合併，政府亦正進行接收工作，政府可否告知本局：

- (a) 過去 3 年，每年由金融管理局（“金管局”）直接投資處所管理的資產金額、該部門的僱員人數及其薪金支出分別為何；同期，由土地基金內部管理的金額、涉及的僱員人數及其薪金支出分別有多少；
- (b) 過去 3 年，每年金管局及土地基金分別外聘了多少名投資經理以及每年這些投資經理分別為該兩機構所管理的資產金額為何；及
- (c) 就過去 3 年的投資組合而言，外匯基金與土地基金有何異同？

庫務司答：主席，

- (a) 過去 3 年，香港金融管理局（“金管局”）直接投資處負責外匯基金投資管理的職員人數、他們每年的薪金總數，以及該處管理的資產金額如下：

職員人數	每年薪金總數	管理資產金額
------	--------	--------

一九九四年	4	360 萬港元	3,200 億港元
一九九五年	7	850 萬港元	3,530 億港元
一九九六年	6	740 萬港元	4,160 億港元

至於土地基金方面，正如我在一九九七年三月十九日答覆鄭家富議員的提問時解釋，有關土地基金的管理和披露基金資料的事宜，屬該基金受託人處理的事務。

- (b) 過去 3 年，金管局的外聘經理數目，以及外聘經理所管理的資產金額如下：

	外聘基金經理數目	資產金額
一九九四年	21	850 億港元
一九九五年	22	1,070 億港元
一九九六年	23	1,180 億港元

至於土地基金方面，披露這類資料的事宜，屬該基金受託人處理的事務。

- (c) 外匯基金的投資劃分為 3 個不同的投資組合：

- (i) 負債對沖組合 — 這個組合包括那些用作對沖外匯基金中有息負債部分的資產；
- (ii) 流動資產組合 — 這個組合的資產可隨時提供市場運作所需的資金；及
- (iii) 長期投資組合 — 這個組合的目的在於為資本作長遠保值。

在過去 3 年，這些投資組合安排維持不變。

至於土地基金方面，披露有關其投資組合資料的事宜，屬該基金受託人處理的事務。

GOVERNMENT MOTIONS**政府議案****CORONERS ORDINANCE****《死因裁判官條例》*****THE CHIEF SECRETARY to move the following motion:***

"That the Coroners (Witnesses' Allowances) Rules, made by the Acting Chief Justice on 12 May 1997, be approved."

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

The Coroners Ordinance (Ord. No. 27 of 1997) was passed by this Council on 23 April and received the assent of the Governor on 1 May. Under section 54 of the Ordinance, the Chief Justice may make rules providing for the payment of an allowance to witnesses at coroners' inquests. Such rules may, in particular, provide for the classification of witnesses, the payment of different rates of allowance to different classes of witnesses, and the rate of allowance which may be paid to witnesses in a particular class. The section also provides that rules made under it shall be subject to the approval of the Legislative Council.

The Acting Chief Justice has, under section 54 of the Ordinance, made the Coroners (Witnesses' Allowance) Rules. The Rules classify witnesses into three categories, namely, professional witnesses, expert witnesses and lay witnesses. The Rules then provide for different rates of allowance to these three classes of witnesses. Under the Rules, a daily allowance of \$1,690 and an allowance of \$845 for attendance of less than four hours is payable to both professional and expert witnesses. As for lay witnesses, the rates are \$280 and \$140 respectively. These rates are identical to those payable to witnesses attending criminal proceedings before other courts. The Rules also provide that witnesses have to claim the allowance payable to them within three months after attendance at a coroner's inquest.

In accordance with section 54(4) of the Coroners Ordinance, the Rules now require the approval of this Council.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

議案之議題經提出待議，隨即付諸表決，並獲通過。

GOVERNMENT BILLS

政府條例草案

First Reading of Bill

條例草案首讀

SUPPLEMENTARY APPROPRIATION (1996-97) BILL 1997

《1997 年追加撥款（1996-97 年度）條例草案》

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

條例草案經過首讀，並依據《會議常規》第 41 條第(3)款的規定，受命安排二讀。

Second Reading of Bill

條例草案二讀

SUPPLEMENTARY APPROPRIATION (1996-97) BILL 1997

《1997 年追加撥款（1996-97 年度）條例草案》

***THE SECRETARY FOR THE TREASURY to move the Second Reading of:
"A Bill to approve a supplementary appropriation to the service of the
financial year which ended on 31 March 1997."***

庫務司致辭：主席，我動議二讀《1997 年追加撥款（1996-97 年度）條例草案》。

《公共財政條例》第 9 條規定：“在結算任何財政年度的帳目時，記在任何總目上的開支如超逾撥款條例撥予該總目的款額，超額之數須包括在追加撥款條例草案內，而該條例草案須在出現該超額開支的財政年度終結後，於切實可行範圍內盡快提交立法局。”

庫務署署長現已完成一九九六至九七財政年度的開支帳目結算。在總共 90 個開支總目中，52 個的開支超出《1996 年撥款條例》原先撥給該等總目的款項。各總目所出現的超額開支，均經由財務委員會批准或該委員會授權批准，給予追加撥款，而該等追加撥款亦已由來自同一總目或其他總目節省的款額，或總目 106 — 雜項服務項下的“額外承擔”撥款所抵銷。《1997 年追加撥款（1996-97 年度）條例草案》的目的是對經財務委員會或該委員會授權批准撥給各有關開支總目的追加撥款數額，給予最終的法律權力依據。

該 52 個開支總目所需的追加撥款數額合共 73.444 億元。與往年一樣，引致超額開支的主要因素，是在年內實施一年一度的公務員及政府補助機構員工的薪酬調整（45.078 億元）。其他較重要的因素，包括支付綜合社會保障援助和公共福利金計劃增加的開支（15.132 億元）、撥給僱員再培訓局的補助金（8 億元），及撥款設立藝術及體育發展基金（3 億元）。在編製有關年度的原來預算時，我們已在“額外承擔”分目下預留撥款，支付一九九六年的薪酬調整，以及綜合社會保障援助和公共福利金計劃下各項援助金按通脹的調整。

由於多個開支總目中均有省下款項，而原先在預算中亦有就額外承擔預留撥款，所以即使計及本條例草案所要求的追加撥款，一九九六至九七財政年度的開支總額仍未超逾《1996 年撥款條例》原先撥出的款額。

Question on the motion on the Second Reading of the Bill proposed.

條例草案二讀議案之議題經提出待議。

Debate on the motion adjourned and Bill referred to the House Committee pursuant to Standing Order 42(3A).

辯論中止待續，條例草案依據《會議常規》第 42 條第(3A)款的規定交付內務委員會處理。

Resumption of Second Reading Debate on Bill

恢復條例草案二讀辯論

RAILWAYS BILL

《鐵路條例草案》

Resumption of debate on Second Reading which was moved on 18 December 1996

恢復於一九九六年十二月十八日動議二讀辯論

陳鑑林議員致辭：主席，本人謹代表鐵路條例草案委員會發言，而本人是獲選為該委員會的主席。該條例草案旨在建立法律架構，作為實施新鐵路工程計劃的依據，並且設立制度，以便取得土地供建造鐵路之用。條例草案委員會先後與當局舉行 8 次會議，並曾與九廣鐵路公司、地下鐵路公司及新界鄉議局會晤。

兩間鐵路公司都歡迎當局提出條例草案。九鐵公司要求當局盡快把條例草案制定成為法例，以便該公司可據以建造新的鐵路工程計劃，例如西部走廊鐵路。雖然兩間鐵路公司都支持條例草案，但亦關注到條例草案對處理有關擬議鐵路方案的反對意見，未有制定法定期限。議員充分理解兩間鐵路公司的意見，而考慮到過往解決道路工程計劃反對意見所需的時間，亦同樣對這問題感到關注。條例草案委員會感到高興的是，當局完全了解有需要避免新鐵路公程的竣工日期受到延誤，並且接納議員的建議，訂立處理反對意見的法定期限。當局答應在提出反對意見的 60 天期限屆滿後 9 個月內，解決有關的反對意見。至於任何未被撤回的反對意見，當局會呈交總督會同行政局考慮。在憲報刊登的鐵路方案如需修訂，則另有 3 個月的時間處理有關該項修訂的反對意見。議員相信，透過修正案把這項安排納入條例草案內，是反對機制的一大改善。

本人必須指出，條例草案委員會研究如何進一步改善反對機制時，曾深入而全面地討論有否需要設立一個法定的獨立委員會，負責處理反對意見。這項建議是由我們的同事何俊仁議員提出的。根據何議員的建議，該法定委員會應就一些較重要或較具代表性的個案，舉行公開聆訊。雖然其他議員對何議員所提建議的優劣利弊及是否可行意見分歧，但條例草案委員會一致贊成有必要設立一個公開、公平及具透明度的機制，處理反對意見。儘管當局強調條例草案建議的反對機制已推行多年，並經證實行之有效，但對於當局

在這事上的開明態度，條例草案委員會表示欣賞。經連串討論後，當局同意實施行政安排，就反對意見舉行公開聆訊。由於運輸司答應在他的演辭中進一步闡釋這些行政安排，本人會留待運輸司向議員解釋有關詳情。

議員亦請注意，除了反對機制之外，條例草案委員會又對補償的問題感到關注。議員曾把鐵路條例草案中關乎補償的條文，與《收回官地條例》、《地下鐵路（收回土地及有關規定）條例》（“地鐵條例”）及《道路（工程、使用及補償）條例》的相關條文比較，並信納這些條文的規定大致相若。對於當局在不同情況下須支付的補償，議員特別關注騷擾補償金。條例草案訂明有關人士可就不同行動引致的騷擾提出補償申索，包括設定、終絕或限制地役權或土地、道路、前濱或海床的權利。當局亦須就鐵路工程令任何土地或建築物遭受結構上破壞而引致的騷擾，支付補償。議員注意到，任何行業或業務受到干擾持續超過 14 天，亦可獲得補償。當局已向議員解釋評定商業損失的方法，而在不同的情況下，可申請的索償項目亦有所不同。當局向議員保證，為了減輕經營者在當局處理法定申索期間所蒙受的損失，當局會在有需要時向受影響人士預先支付特惠款項。

本人想請議員注意條例草案建議授予建築事務監督的權力，其中包括拒絕批准被視為與鐵路方案不相容的建築工程圖則，或對圖則施加條件的權力。由於建築事務監督如根據條例草案行使權力，令土地擁有人蒙受損失，則受影響的人士有權就此獲得補償，議員對這安排感到滿意。

當局亦澄清，雖然條例草案授權總督會同行政局可藉命令將某工程項目豁免，使其不在條例草案的實施範圍內，但當局打算豁免不受條例草案規管的工程項目，即現有地下鐵路各支綫所須的改善工程，當局向議員保證，鐵路計劃獲得豁免而缺乏其他法律架構規限的情況不會出現。為使這事免生任何疑問，當局會對條例草案動議一項修正案，訂明只會在《地鐵條例》廢除前豁免某項工程計劃，而且豁免令會在該條例廢除後失效。

條例草案委員會希望條例草案制定成為法例後，可使西部走廊鐵路的建造路綫早日劃定，並且利便有關方面日後能以迅速而有效的方式建造鐵路。如當局對條例草案動議各項修正案，本人謹向議員推薦這條條例草案。

主席，本人謹此陳辭。

劉健儀議員致辭：主席，過去二十多年，地下鐵路公司可以“按時”又“不超支”的情況下完成地鐵各綫的計劃，成績是有目共睹。進入二十一世紀，

本港將會有多項龐大的鐵路發展計劃，即將完成的機鐵也不應例外。在未來的日子，香港能否在鐵路發展方面維持過往的效率，需要密切關注。

《鐵路發展策略》中確定今後集體運輸的發展方向，而其中 3 項優先鐵路計劃肯定有其迫切性。然而，3 項優先鐵路工程現時很可能無法在預期的二零零一年通車，西部走廊鐵路境內客運綫要在二零零三年九月才完成，地鐵將軍澳支綫亦要等到二零零二年，但市民大眾仍然希望這 3 條鐵路可以與地鐵一樣，在“按時”又“不超支”的情況下盡早投入服務。

其實，地鐵的成功並非必然，其中是有賴《地下鐵路（收回土地及有關規定）條例》賦予地鐵公司恰當的權力，以便順利收地開展建造工程。可以這樣順利，是由於有關的《地鐵條例》是以賠償權代替反對權，換言之，受影響的人士無權反對，但法例保障受影響人士申索賠償的權利。

鐵路工程必然涉及收地，除了賠償問題外，當中亦會招致很多反對的意見，但如果過分遷就反對意見，很可能會拖延或窒礙有關計劃。外國有很多大型基建計劃，有些爭議數十年仍然落實無期，有些胎死腹中，有些半途而廢，這些情況香港應引以為戒。

不過，時代變遷，今天再難繼續採用地鐵當年的收地模式，即只賠償而不接受反對。政府應該設有渠道，讓受影響人士充分表達反對意見。然而，政府照顧個人利益的同時，亦應顧及社會整體的利益，在兩者之間尋求平衡。由於《鐵路條例草案》對處理反對意見的程序未訂有時限，我關注到這可能會導致鐵路計劃的進程受到阻延，令大眾的利益受損。

條例草案第 10 條(1)款，為受影響人士向運輸司提交書面反對意見設下 60 天的時限，但在第 11 條，並沒有就政府完成審議反對意見供行政局考慮設下時限。若然如此，政府便沒有壓力要盡快進行審議及處理有關反對意見，用 1 年、兩年或甚至更長時間也可，市民大眾亦無從逼使政府加快審議速度，結果鐵路計劃可能會一拖再拖而不能如期展開，即使能夠展開，建造成本亦會因延誤而大大增加。因此，我認為必須訂下政府審議反對意見的時限，而我很高興政府接納我的意見，並同意有此需要。

我認為有關時限應該是 6 個月，因為根據條例草案第 34 條(6)款，運輸司就申索作出決定的時限是訂定為 6 個月。我個人認為，審議申索賠償與審議反對意見的性質大致相近，因此在截止收取反對意見後，政府用 6 個月時間審議反對意見應該已經足夠。但由於政府擬採用行政安排就反對意見舉行公開聆聽，這方面可能需要一點時間，政府現時是建議以方案反對期屆滿 9

個月及就修訂方案提出反對期屆滿後 3 個月作為時限。

雖然我個人認為就反對意見進行公開聆聽並無多大實質作用，但如果能令反對者覺得制度對他們較為公開及公平，我並不反對這個安排。因此，政府將時限由我建議的 6 個月延長至 9 個月，我認為尚可接受。自由黨是會支持政府在委員會審議階段提出的修正。

至於政府在修正之內加入一條條文，即總督可容許較長的時限，其實是政府為自己留一個後路，但我認為只可以在非不得已之下才可運用此權力，以免破壞加入時限條文背後的立法精神。

主席，本人謹此陳辭，支持《鐵路條例草案》。

劉皇發議員致辭：主席，政府早已在九四年就香港的鐵路發展諮詢公眾，但當局直到快要落實建設西北鐵路時，才察覺需要為有關發展訂立法例，以確保新鐵路建設不會延誤，於是便匆匆推出了《鐵路條例草案》。由於沒有充足時間諮詢和討論，以致條例草案中一些涉及原有政策的不公平的條文，尤其是一些損害業權人權益的條文，將無法獲得妥善處理，本人對出現這種情況感到失望。

條例草案在收地賠償方面參考《收回官地條例》的賠償準則，正是不公平的來源。政府現時在新界收地，是以特惠補償金作為補償，但在《收回官地條例》第 12 條(c)款的影響下，“特惠補償”基本定率的計算，並沒有將土地的“潛在利益”包括在內，完全抹煞了土地的潛在利益，使土地業權人無法得到公平合理的賠償。而新界鄉議局在這問題上，一直向政府作出建議，要求將《收回官地條例》第 12 條(c)款予以廢除。

因為土地除了表面市值之外，還有潛在的發展價值；如果土地沒有被政府強行徵用，業權人是可以等待土地價值上升後再行出售，或自行發展，而所獲得的利益則遠比政府收地補償為大。若然土地一旦被徵收，即使日後該土地如何升值，或改變用途，一切利益都歸政府所有，與原有業權人無關。過去在有換地政策的時候，受收地影響的業權人，還可以運用《換地權益書》，俟機向政府申請換地發展，但自從這個制度取消之後，連換地發展的希望都幻滅，業權人只能夠一次過接受“特惠補償”，以彌補土地被徵收的損失；可惜，“特惠補償”一直以來卻存在不公平的情況，例如“補償分區”的等級劃分，政府部門沒有按實際發展的情況作出跟進檢討和加以調整；而基本定率的計算與市值脫節，經常偏低，嚴重損害土地業權人的利

益。

此外，在收地補償的利益問題上，新界鄉議局一直認為，政府收地，如果補償金有需要延遲發放，則應該要付回利息給業權人。由於目前新界許多土地業權人，都是倚靠土地的租金、或農業耕作的收入，以維生計。當土地被徵收時，由憲報生效之日起，有關土地實際上已成為官地，業權人是無權再進入及使用有關土地；換言之，業權人賴以為生的土地收入，將會即時停頓，生活會受到影響；在這個情況下，業權人原則應該即時獲得政府發放補償金，方為合理；但由於政府各個部門工作協調不足，令送地領款的手續變得繁複，根據政府資料顯示，業權人往往需要 3 個月之後或更長的時間，才可以取得補償款項；雖然在憲報生效日期起至收款日止這一段期間內，補償金名義是業權人所有，但本金卻仍然存放於政府庫房之內，不過政府是不會將利息付還給業權人，業權人正如俗語所謂，是“連息都蝕埋”。大家都知道交易有所謂“貨銀兩訖”，現在政府“收地爽手”，“俾錢遲遲”，實在有“打茅波”之嫌，有違公平原則。

另外，現時政府在新界收地，是以分區等級辦法作出補償，這個方法，在區域發展上還可以用得上，但作為在發展鐵路時，這個方式就有問題。因為鐵路是一個完整而獨立的發展計劃，整條鐵路每一個段落都是同等重要，不應有“站頭”“站尾”的分別，既然貢獻一樣，利益應該是一樣，所以收地賠償便要一視同仁，不應該採用厚此薄彼的分區級別辦法，作為補償依據，以免對業權人造成不公平。此外，一些毗鄰鐵路沿綫的土地，其發展用途將會因鐵路而遭受政府凍結，永不超生，對於這些土地，當局亦應該一併徵收，或給予同等待遇的補償。

主席，基於早日建設鐵路對解決香港市民交通問題有莫大好處，為了香港的整體利益，本人在有保留的情況下，支持通過《鐵路條例草案》。不過，我認為政府應盡快就土地賠償問題，作出全面檢討，而在檢討未完成之前，應透過有效的行政措施作出補救。

何俊仁議員致辭：主席，《鐵路條例草案》旨在為實施新鐵路工程計劃提供合適及必需的法律架構，對於需要盡快興建的鐵路，尤其是西北鐵路來說，是絕對需要及非常重要的。我們民主黨全力支持有關條例草案獲得通過，亦希望西北鐵路工程可以盡快展開。

雖然西北鐵路工程是非常緊急，但這條條例草案仍然是為日後所有鐵路工程而設的，因此我們必須從長遠的角度去考慮整條條例草案的運作，考慮是否已兼顧到各方面的利益。絕對不應該因為西北鐵路緊急性而草率對待一

條影響深遠的條例草案。

《鐵路條例草案》有關收地的程序方案，基本上是以《道路條例》為藍本的，但是《道路條例》卻是七十年代所制定，相對於目前香港的社會環境而言，可以說是已經是一條過時的條例。我們感到尤其不滿的地方，就是政府在《鐵路條例草案》中所建議處理反對意見的機制，竟然摒棄了現時《城市規劃條例》中就反對意見進行聆訊的制度及程序，更無考慮城市規劃白紙條例草案內所建議考慮更為進步的機制，反而沿用《道路條例》中既不合時宜、又缺乏透明度，一面倒偏幫政府的處理反對意見的機制，我認為這不單止是落後和倒退的做法，而且與世界先進地方越趨公平、公開和透明的制度背道而馳。

主席，為了制訂一個獨立、公平、公開的機制去處理有關收地的反對意見，本人曾代表民主黨在條例草案審議期間建議在條例草案中引進一個由政府委任的非官方人士組成的法定獨立委員會，專責處理反對鐵路方案的意見，而這委員會有權就個別個案進行公開聆訊，並向總督會同行政局提交報告。但很可惜，這在條例草案委員會審議期間，我知悉很多議員提出很多疑慮，並且對這意見表示不支持，有些議員甚至批評這建議的機制會令程序變得複雜，會令鐵路工程受到拖延，會影響整體進度的效率。其實我覺得這些批評是難以理解的，尤其我覺得作為民選議員來說，我們更應該站在普羅市民的立場，維護他們的權益，維護建立一個公平、公開及具有透明度的制度，所以我覺得反對建立一個聆聽反對意見的機制的看法，真的很難接受的。在整件事上，根據政府給我們的資料，我們看到以磋商的方法、協商的方法來處理反對意見，亦同樣地費時失事。

主席，鑑於我本人感覺到我們建議成立一個法定的非官方委員會，處理聆聽反對意見，是得不到委員會大部分同事的支持，所以，我並沒有提出修正案，但最後政府亦終於承諾以行政措施來建立一個聆聽制度的機制；政府說願意作出一個試驗，日後再作檢討，我也覺得這是可以接受的安排，亦表示政府接納我們提出這建議的理據是充分，是難以反駁的，我們為了讓條例草案可以盡快順利獲得通過，民主黨願意接受政府這行政措施的承諾，根據我們所理解，政府的承諾是運輸司將會委任一個由獨立人士組成的委員會，負責就未被撤回的反對意見集體或個別進行聆訊，委員會會就其審議或聆訊之後的結果編撰報告，供運輸司參考。

雖然我們民主黨作出妥協，但我們仍然強調我們所建議處理反對意見的行政安排希望應用在西鐵工程後，或西北鐵路興建方案後，必須進行檢討。此外，日後當《城市規劃條例》的白紙條例草案 — 即將來經過政府檢討

後 — 提出一個新的藍紙條例草案時，亦應同時對現有鐵路關乎處理這反對意見的機制作出同樣的檢討，以及相應的修訂。

主席，本人謹此陳辭，支持政府這條例草案。

顏錦全議員致辭：主席，西北鐵路的落成，對早日解決新界西北的交通困難刻不容緩。《鐵路條例草案》雖然是作為以後所有新鐵路工程計劃的法律依據，但條例草案的早日通過，卻可以即時直接地促成西北鐵路的興建可以盡快展開，因此本人衷誠希望通過實施這條條例，可以更順暢地取得土地供建造西鐵之用。本人亦借此機會，再次促請政府加快興建西鐵的步伐，能夠依照已經一再推延的時間表，在今年年中公布西鐵的鐵路方案，以保證在二零零二年終完成至元朗段，並在二零零三年九月完成至屯門段。

對於這條條例草案，本人認為最需要關注的是受收地影響的人士獲得補償的權利。政府在委員會審議階段，澄清了各項在不同情況下須支付補償的具體做法，並提出一項委員會審議階段修正案，訂立處理市民對鐵路方案的反對意見的法定時限，這些都有助於保障受影響居民的權益。同時，對於可以爭取到政府加設一套行政措施，就方案的反對意見進行公開聆訊，以提高機制的公平性及透明度，本人甚為欣慰。

但是，在以下 4 個方面，我促請政府更重視受影響居民的權益，針對這項問題，作出實質的回應。

第一，政府收回私人土地的賠償金額制度已實施多年，其中有不少地方已不能符合現實的環境。根據新界土地分區特惠補償制度，一幅位於 B 區被收回作商業及住宅發展的農地，每呎的賠償額只約有 310 元，價錢低微，居民又不能夠享有土地發展的增益，因此對他們殊不公平。

第二，西鐵工程涉及不同補償分區，根據現行制度，政府一般都會採用相同的收地補償率。但政府至今對興建西鐵的收地和補償安排，仍以路線未確定為理由，而不肯作出承諾，我希望政府可以盡快作出一個更公平合理的安排。

第三，過往的統計顯示，政府收回土地 3 個月之後，仍然有差不多七成的受影響人士仍未收到賠償金，對依靠那些土地維生的居民無疑造成嚴重影響。

第四，原居民的丁屋權方面，因鐵路計劃收回土地以致其申請興建小型屋宇被拒絕或被撤回，原居民應該得到補償，優先輪候興建申請。

主席，我們希望政府可以對以上 4 項問題給予市民一個滿意的答案。本人謹此陳辭。

THE PRESIDENT'S DEPUTY, DR LEONG CHE-HUNG, took the Chair.

代理主席梁智鴻議員暫時代為主持會議。

運輸司致辭：代理主席，首先我非常感謝條例草案委員會主席陳鑑林議員和各位成員，在過去一段時間，盡心竭力審議這條關乎本港基建發展的重要法例。他們提出寶貴的意見和建議。

我稍後動議的委員會審議階段修正案，都是完全參照這些建議而作出的。

這條法例的作用，是令各項鐵路計劃可以順利推展。條例草案的藍本是根據《道路（工程、使用及補償）條例》，這項條例和其架構在議員眼中可能仍有未臻善處，但已實行多時，大部分也可說是行之有效。

有兩點是我想特別回應的。第一，關於註定時限，各位議員所提出的意見，根據《鐵路條例草案》，任何人士可以在首次公布鐵路方案後的 60 天內提出反對，但條例草案並未訂明政府須於某一段時間內，完成處理這些意見。正如剛才數位議員提及，委員會對於這情況可能會導致鐵路計劃的進展受到阻延，表示關注。

正如陳鑑林議員指出，於條例草案委員會研究法案期間，劉健儀議員建議，應該於條例草案中訂明一個法定時限，規定運輸司須在該時限內，把有關的鐵路方案連同所有未被撤回的反對意見，提交總督會同行政局考慮。這建議獲得條例草案委員會的成員以及向委員會提出意見的團體和機構（包括兩間鐵路公司）支持。

我們相信訂定法定時限，可讓有關的鐵路計劃有更明確的進度，因此政府支持這種做法。在考慮過以往一些主要道路工程計劃在處理反對意見平均所需的時間，以及有需要給予提出反對人士公平的聆聽，政府建議條例草案訂明，須在 9 個月的時限內，完成處理反對意見。我稍後會就這個安排，動

議一項委員會審議階段修正案。關於如何盡量縮短處理土地帶來的問題，我也想向各位議員保證，在選綫這方面，過去數月和未來數月，政府和鐵路公司均會特別小心，會以盡量少影響居民為選綫的原則，這樣做應該可幫助縮短處理土地所帶來的時間問題。

關於公開聆聽的問題，議員普遍希望有一個更公開、公平和具透明度的機制去處理反對意見。正如何俊仁議員所說，他曾提出給予提出反對人士公開聆聽的權利。雖然政府對公路建設收地處理反對意見的程序用上很長時間，或可於某程度上說是經得起時間的考驗，但若有了公開聆聽這個過程，可以令人覺得有關機制更公平和具透明度。因此，政府同意採取下述行政措施，就反對鐵路方案的意見，進行公開聆聽：

- (a) 於收到所有反對意見的一段時間後，政府會委任一組獨立人士負責進行聆聽；
- (b) 聆聽委員會的任務，是聽取反對者和政府兩方面的意見、把反對意見分類，以及就聆聽結果編寫報告；
- (c) 上述報告會提交運輸司考慮；及
- (d) 除非出席聆聽的人士提出異議，否則聆聽委員會的報告，會以額外附件的形式，與上述反對意見同時提交總督會同行政局。

我們的目標，是以公開、有效和高效率的方式，推展各項鐵路計劃。我相信委員所提出的各項建議，應該會有助《鐵路條例草案》發揮其預定的功用。

關於劉皇發議員和顏錦全議員提及業權人和補償金額的問題及原居民權益的看法，我非常了解兩位的關注，但因為修改賠償的原則和金額，不單止會影響這條條例草案，其實也會影響政府的其他數條條例，所以我會將各位的意見記錄在案，包括劉議員說“打茅波”的意見在內，交予有關部門詳細研究，然後作出決定。

此外，條例草案委員會成員和立法局的法律顧問也提出不少建議，改善這項條例草案的措辭，並使一些條文的意義更清晰。我謹此再次多謝各位，也感謝立法局的法律顧問。政府已接納了大部分的建議，我稍後會動議有關的委員會審議階段修正案。

代理主席，我謹此陳辭，向各位議員推薦《鐵路條例草案》和今天稍後在委員會審議階段提出的修正案。

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

條例草案二讀之議題經付諸表決，並獲通過。

Bill read the Second time.

條例草案經過二讀。

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

依據《會議常規》第 43 條第(1)款的規定，將條例草案付委予全體委員會審議。

DISCOVERY BAY TUNNEL LINK BILL

《愉景灣隧道及連接道路條例草案》

Resumption of debate on Second Reading which was moved on 23 October 1996

恢復於一九九六年十月二十三日動議二讀辯論

李永達議員致辭：代理主席，本人謹以愉景灣隧道及連接道路條例草案委員會主席的身分，向議員匯報條例草案委員會的商議工作，並藉此機會感謝香港興業有限公司及愉景灣城市業主委員會對條例草案提出寶貴意見。

條例草案的主要目的，是容許愉景灣隧道有限公司（“隧道公司”）建造隧道及引道（“隧道及連接道路”），連接愉景灣及位於北大嶼山的小蠔灣。該隧道公司是香港興業有限公司全資擁有的一間附屬公司。此外，條例草案為隧道及連接道路的妥善經營及維修而向隧道公司委以職責和賦予權力，並准許使用隧道及連接道路以供運輸署署長所決定的車輛交通通過。

條例草案委員會了解到，建造隧道及連接道路對愉景灣居民，以至整體社會均有好處。議員關注的事項主要是隧道公司須向政府繳付的專營權費的水平。雖然隧道公司並不期望收回這計劃的建設成本，但仍希望透過徵收使用費，收回經營及維修費用。此外，根據條例草案訂明繳付專營權費的安排，隧道公司須由開始經營日期起，繳付經營收入的 2.5% 作為專營權費。如只准許住宅巴士及服務車輛使用隧道的計劃日後獲得放寬，該公司須繳付

的專營權費數額將會更大。

議員曾把本港其他類似隧道的專營權費的收費率、專營權費收入及維修費用，與隧道及連接道路在這些方面的預計數字詳加比較。議員普遍認為，政府對隧道公司所訂的專營權費規定過於苛刻。由於隧道及連接道路只對若干類別的車輛開放，即使隧道公司不打算賺取利潤，議員關注該公司須繳付的專營權費，或會對隧道使用費的水平造成壓力。議員憂慮隧道及連接道路或須仿效大老山隧道的做法，藉着頻頻增加使用費，以維持其經營能力。為釐定較合理的專營權費水平，條例草案委員會與當局磋商後決定動議全體委員會審議階段修正案，以減低專營權費的收費率。本人將在全體委員會審議階段進一步解釋修正案的詳情。

當局亦會針對條例草案委員會就隧道人員權力所提出的關注事項，動議全體委員會審議階段修正案。條例草案訂明，隧道人員在執行規管交通及防止交通違例事項的職責時，可要求任何司機提供其所駕駛的車輛的登記車主姓名或名稱及地址。鑑於規定司機即時提供有關資料，可能存在實際困難，條例草案委員會要求當局修正這條文，訂明如司機知道這些資料，才須提供有關詳情。此外，當局應條例草案委員會的建議，答允動議一項全體委員會審議階段修正案，刪除條例草案第 9(6)條這項免責條文；議員認為這條文過分保障政府，對隧道公司有欠公允。根據條例草案第 9 條，政府可將任何其他道路連接於在隧道及連接道路內的引道，而第 9(6)條則訂明，就政府在上述條文下的任何權力的行使，無須向隧道公司支付任何補償。

代理主席，本人謹請立法局支持條例草案，以及分別由本人代表條例草案委員會及由當局動議的各項全體委員會審議階段修正案。

謝謝代理主席。

劉健儀議員致辭：代理主席，一直以來，我認為在運輸基建方面，既然政府的資源有限，政府可以鼓勵私營公司投資。在這基礎上，我非常支持《愉景灣隧道及連接道路條例草案》。但政府鼓勵私營公司投資的同時，似乎忘記了自己的責任。

由私營公司投資運輸基建，政府在無須出錢的同時，還可以有收入，例

如大老山隧道，雖然公司仍在蝕本，還要向政府繳交專營權費。大老山隧道以至其他私營隧道是牟利的，政府這樣做也無可厚非。不過，建造愉景灣隧道的出發點是方便居民出入，並非為牟利，而所收取的通行費只可抵銷營運成本，並非要取回建造成本。

政府自己不建隧道，但又要利用隧道作排污用途，還要向愉景灣隧道收取如大老山隧道一般高的專營權費用，實在是有些過分。政府當然振振有詞說給予發展商發展隧道的權利，便應徵收專營權費，但政府往往忘記有關費用始終會轉嫁到使用者，即市民大眾。我認為對一些如愉景灣隧道只為方便市民而非牟利的設施，應該不收取專營權費，即使收，也只是象徵式的收，因此，自由黨會支持李永達議員稍後在全體委員會審議階段提出降低專營權費的修正案。

在這次事件上，政府應作出檢討。政府在鼓勵私人投資的同時，不可忽略政府有一個不可推卸的基本責任，即要為市民提供所需的道路，不可每每計較財政收益。

代理主席，我謹此陳辭，支持條例草案。

運輸司致辭：代理主席，首先，我要多謝愉景灣隧道和連接道路條例草案委員會主席和各委員過往數月在審議這條例草案時所作的一切工作。我感謝他們審慎而有效率地審議條例草案。各位所提出的寶貴意見和建議，政府認為非常有用，並已作出積極回應。稍後我動議的全體委員會審議階段修正案，已包括了這些意見和建議。

《愉景灣隧道和連接道路條例草案》的目的是授權愉景灣隧道有限公司建造、經營和維修一條私人隧道和道路，連接大嶼山愉景灣和北大嶼山的小蠔灣。條例草案使政府得以對隧道的建造、經營、維修和管理等事項，加以適當的監管，也可向公司徵收經營此隧道和連接道路的專營權費。

對於愉景灣的居民來說，建議的道路會為他們提供一條更直接、更方便的車道，通往新機場、東涌和日後的大嶼山港口發展區。

普羅大眾由於這條隧道的興建也可得以受惠，因為隧道會附設一條污水管，將坪洲和愉景灣的污水輸送至小蠔灣污水處理廠。因此，一旦興建愉景

灣隧道，這條原本按目前污水設施計劃興建的污水管，就可提早數年完成。

條例草案委員會審議此條例草案期間，對第 23 條表示關注。這條文將使用隧道的車輛限於運輸署署長所決定和指明的類別。實施這項管制的目的，是要確保前往愉景灣的車輛不會導致北大嶼山道路網，特別是青嶼幹綫出現過多的交通量。

有部分議員建議容許的士使用隧道，政府會於接近隧道通車日期，即大約二零零零年時考慮這項建議，屆時會探討放寬使用隧道的限制，對青嶼幹綫和相關的道路網可能造成的交通影響。目前，我們會根據與隧道公司先前達成的協議，容許愉景灣區內巴士、校車、服務車輛和緊急服務車輛使用這條隧道。

此外，條例草案委員會也對專營權費的安排提出很多意見，劉議員和李議員剛才已經提及。政府支持李永達議員就條例草案第 7 條所提出的全體委員會審議階段修正案，因為隧道將由隧道公司全資建造，但隧道公司只能收回日後經營和維修的成本。

此外，政府也考慮到議員提出的意見，隧道於最初經營的數年，行車量可能較少，因為這樣而容許隧道公司在經營隧道初期，可以從隧道費收入保留多些收益，並非不合理。這樣也能減低可能增加隧道費的壓力。

代理主席，我會動議數項全體委員會審議階段修正案，這些修正案全部條文已經得到條例草案委員會的同意，其中一項修正案與條例草案第 29 條有關，該條文訂明獲授權的隧道人員的權力。提出修正案是為使隧道人員得以要求司機就其所知，提供所駕駛車輛登記車主的姓名、名稱和地址。修正案的目的是使第 29 條與《青馬管制區條例》和《行車隧道（政府）條例》相若條文一致。

另一項修正案是與第 9 條有關。根據條例草案目前的文本，政府於行使權力將其他道路連接通往隧道的道路時，可無須向隧道公司支付任何補償。委員認為這樣對隧道公司不公平，政府了解委員對這件事的關注。我向各位議員保證，政府從來沒有意圖以不合理或不公平的方式使用有關權力。為了消除議員的疑慮，在徵詢律政署的意見後，政府同意刪除第 9(6)條。

條例草案委員會也提出其他修正事項，這些修正主要屬於改進條文的草

擬方式和技術性質，令有關條文更為清晰。

代理主席，我謹此陳辭，推薦本條例草案。

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

條例草案二讀之議題經付諸表決，並獲通過。

Bill read the Second time.

條例草案經過二讀。

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

依據《會議常規》第 43 條第(1)款的規定，將條例草案付委予全體委員會審議。

MIDWIVES REGISTRATION (AMENDMENT) BILL 1997

《1997 年助產士註冊（修訂）條例草案》

Resumption of debate on Second Reading which was moved on 19 February 1997

恢復於一九九七年二月十九日動議二讀辯論

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

條例草案二讀之議題經付諸表決，並獲通過。

Bill read the Second time.

條例草案經過二讀。

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

依據《會議常規》第 43 條第(1)款的規定，將條例草案付委予全體委員會審議。

VOLUNTEER AND NAVAL VOLUNTEER PENSIONS (AMENDMENT) BILL 1997

《1997 年義勇軍及海軍義勇軍恩恤金（修訂）條例草案》

Resumption of debate on Second Reading which was moved on 5 March 1997

恢復於一九九七年三月五日動議二讀辯論

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

條例草案二讀之議題經付諸表決，並獲通過。

Bill read the Second time.

條例草案經過二讀。

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

依據《會議常規》第 43 條第(1)款的規定，將條例草案付委予全體委員會審議。

AUXILIARY MEDICAL SERVICE BILL

《醫療輔助隊條例草案》

Resumption of debate on Second Reading which was moved on 9 April 1997

恢復於一九九七年四月九日動議二讀辯論

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

條例草案二讀之議題經付諸表決，並獲通過。

Bill read the Second time.

條例草案經過二讀。

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

依據《會議常規》第 43 條第(1)款的規定，將條例草案付委予全體委員會審議。

CIVIL AID SERVICE BILL

《民眾安全服務隊條例草案》

Resumption of debate on Second Reading which was moved on 9 April 1997

恢復於一九九七年四月九日動議二讀辯論

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

條例草案二讀之議題經付諸表決，並獲通過。

Bill read the Second time.

條例草案經過二讀。

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

依據《會議常規》第43條第(1)款的規定，將條例草案付委予全體委員會審議。

OFFICIAL SECRETS BILL

《官方機密條例草案》

Resumption of debate on Second Reading which was moved on 18 December 1996

恢復於一九九七年十二月十八日動議二讀辯論

MISS CHRISTINE LOH: Mr Deputy, I rise to speak as the Chair of the Bills Committee on the Official Secrets Bill. The Bill localizes the provisions of the British Official Secrets Acts currently applying in Hong Kong, with some modifications to reflect local circumstances. The Bill deals with two broad categories of offences: espionage, and unlawful disclosure of official information.

The Bills Committee held eight meetings with the Administration, including two meetings with the Hong Kong Bar Association, the Law Society of Hong Kong, the Hong Kong Journalists Association and the Hong Kong Human Rights Monitor.

In general, the Bills Committee, supported by deputations, considers that the Bill should not strictly be a localization bill. The British Acts, passed in the first quarter of the century, are unnecessary and undesirable for adoption by

Hong Kong at the end of the century. Some provisions of the Bill have no place in present-day Hong Kong. Some are too vague and broad, even draconian. The Bills Committee has therefore proposed a number of amendments to improve and modernize the Bill, and also in order to prevent possible abuse. In drawing up these amendments, the Bills Committee took into consideration the views of deputations, relevant precedents from Britain, relevant reports and recommendations of the Australian Criminal Law Review Committee and jurisprudence of the United States in the area of freedom of expression and protection of official secrets.

A member of the Bills Committee shares the view of the Hong Kong Bar Association (BAR) that apart from the perceived need to anticipate the requirements of the Basic Law Article 23, there appears to be no pressing reason for having domestic "state secrets" legislation. On the whole, he considers that there is no need to enact specific laws to protect official secrets. He argues that in order to protect official information from unauthorized disclosure, the existence of the common law doctrine of confidentiality (Mr Deputy, that is, breach of confidence) would be adequate to deal with such situations. Therefore, he opposes the Bill in principle. However, other members of the Bills Committee are of the view that breach of confidence is only a civil wrong. Unauthorized disclosure of official information, especially defence information, could have very serious consequences. Such kind of offence should be prohibited through enactment of criminal law. Legislation on official secrets is therefore necessary.

Having stated the general views of the Bills Committee on the Bill (and I am sure other members of the Bills Committee will present their personal views and their parties' view on the Bill); I would like to go into the details of some of its major concerns. Let me begin with the offence of espionage.

Spying (clause 3)

The Bills Committee has very thoroughly scrutinized clause 3 on spying which is of prime concern to members and deputations because it is too broad and loose for an offence liable to imprisonment for 14 years. We also question its compatibility with the International Covenant on Civil and Political Rights (ICCPR) and the Hong Kong Bill of Rights Ordinance (HKBORO).

The relevant offences of spying are set out in subclause (1). Subclauses (2), (3) and (4) are evidential provisions designed to facilitate proof of the offence. Subclause (5) is a definition provision.

In subclause (1), the Bills Committee and deputations are particularly worried about the absence of a clear and comprehensive definition of what constitutes the "safety or interests" of the United Kingdom or Hong Kong. The exclusion of any clarification on such a fundamental issue gives rise to concern that this vagueness may be abused in future unless some limitation is placed upon the possible interpretation of the phrase. In the same way, the inclusion in this offence of spying of an element of the accused's presence "in the neighbourhood" of a prohibited place may be open to abuse by the prosecution. Members are also concerned about the lack of a definition for "enemy", which might mean "a potential enemy with whom one might some day be at war". Subclause (2) contains a blatant presumption of guilt on the basis of evidence of the accused's known character, conduct and circumstances of the case. Subclauses (3) and (4) shift the burden of proof on to the defendant and conflict with the presumption of innocence. The provisions in subclauses (2) to (4) would make the evidential burden too light. They would be open to abuse and are therefore unacceptable. The definition of "foreign agent" in subclause (5) is also considered too embracing.

After much deliberation, the Bills Committee proposes to amend clause 3(1) by incorporating the requirement of a specific intent, as in the relevant United States legislation and deleting the phrase "in the neighbourhood of". As suggested by the deputations, subclauses (2) to (5) are also to be deleted.

Duty to give information (clause 8)

Clause 8(1) provides that the Governor might grant permission to the Commissioner of Police to investigate an offence under clause 3 in relation to a person whom he reasonably believes to be able to furnish information about the offence. The Bills Committee considers that the permission should be granted by the court to avoid possible abuse of detention of a person. The Bills Committee proposes that clause 8 should be amended to incorporate safeguards in line with those in the Organized and Serious Crimes Ordinance (Cap. 455)

Search warrants (clause 11)

The Bills Committee is of the view that, as in the proposed warrant system of the White Bill on Interception of Communications, a Superintendent of Police should be required to apply for an *ex post facto* warrant from the court within 48 hours of the issuance of any written order in emergency cases.

Mr Deputy, the above concerns relates to espionage. I shall now turn to the Bills Committee's concerns on the offence of unlawful disclosure.

Relevance of the Bill to the Basic Law Article 23

Some members question how "unauthorized disclosure of official information" in the Bill is related to "theft of state secrets" referred to in the Basic Law Article 23. It would seem that the latter has a narrower meaning than the former. The BAR Association considers that the Basic Law Article 23 does not expressly require legislation that prohibits the dissemination of official information. The "theft of state secrets" provision is a phrase more apt to describe spying. It is open to debate whether the Bill goes further than the Basic Law requires in that it deals with the dissemination of official information which is not stolen but is leaked and then disseminated.

Security and intelligence information — members of services and persons notified (clause 13)

The offence under clause 13(1) does not require that the disclosure in question is damaging, apparently due to an assumption about the responsibilities of members of security services and notified persons. The Bills Committee agrees with the BAR Association that a "harm test" should be incorporated in clause 13, as in clause 20.

Two new clauses (21A and 21B) are proposed by the Bills Committee to build in a public interest defence and a prior disclosure defence.

Public interest defence

Mr Deputy, firstly, the Bills Committee and deputations are unanimously concerned about the absence of a public interest defence in the Bill. This is an issue of vital importance for the protection of freedom of expression. Consideration is given to a wide-ranging public interest defence, and also a

specific one along the lines of that in section 30 of the Prevention of Bribery Ordinance which is confined to the areas of serious misconduct, illegality, and abuse of power. After thorough discussion, the Bills Committee decided on the broader version.

Prior disclosure defence

The Hong Kong Journalists Association is particularly anxious to include a prior disclosure defence in the Bill. The Administration argued that a judge would take prior disclosure into account in determining if a disclosure had caused actual harm. However, this is in fact not the case for all clauses in the Bill. The Bills Committee believes that the inclusion of such a defence would not alter the law. If indeed a judge would take prior disclosure into account, inclusion would merely alert a judge to the need to consider this defence in determining whether a prosecution should succeed. The Hong Kong Journalists Association proposed two approaches — a broad one and a narrower one. The majority of the Bills Committee agrees to the inclusion of a prior disclosure defence, adopting the narrower approach.

In closing, I wish to reiterate that the Official Secrets Bill as proposed by the Administration is outdated because it is based on the United Kingdom Official Secrets Bill 1911. It should have been a law reform exercise, not merely one of localization.

Now, please allow me to add a few personal remarks. This is a controversial Bill. We are told that Britain and China had agreed to the Bill, and as such, any amendment to it runs the risk of the post-1997 government throwing it out. If we were to adopt this attitude, then we might as well not have formed a Bills Committee at all. Having scrutinized the Bill, as it is this Council's job, it is hard to go along with all of it, as much of it is clearly unsuitable for the modern day Hong Kong. As such, the Bills Committee kept to what I will call a commendable, positive, legislative spirit. We took on the job of this Bill like we do with every other Bill. We considered every aspect and decided to reform the law in this area. The United Kingdom might have something to learn from our efforts. Perhaps, this is an example of the Empire striking back! We have not allowed the possibility, or even the probability, of the full Council voting down these amendments to debilitate us from our work. If nothing else, the record of our deliberation will prove that we did not shrink from our responsibility as legislators.

I would like to say a final word of thanks both to the representatives of the Administration, as well as our own hardworking staff. The Administration's representatives were most helpful to the Bills Committee, although their brief was clear. They had to resist each and every of our reformatory attempts. Our own staff was most efficient at a time when they must be under intense pressure to serve the final days of this elected Council. I thank them all on behalf of myself and all members of the Bills Committee.

Mr Deputy, with these remarks, I support the Bill subject to the amendments to be moved by me on behalf of the Bills Committee later.

THE PRESIDENT resumed the Chair.

主席恢復主持會議。

MISS MARGARET NG: Mr President, the only reason I support the Second Reading of the Official Secrets Bill is that I have to accept, in principle, that it is legitimate for Hong Kong to have laws to protect information the disclosure of which would endanger the community. However, I do not accept that the right way to do so is to re-enact the Official Secrets Acts of the United Kingdom. Neither do I accept that there is any compelling need to do so arising from Article 23 of the Basic Law, under which the Hong Kong Special Administrative Region is to enact laws prohibiting the "theft of state secrets", among other things.

The Bill is far too wide in scope. It goes far beyond the legitimate purpose I have just stated. It exceeds even the prohibition of "theft of state secrets".

Leaving aside Part I, which deals with preliminaries, Part II is supposed to be about espionage and related offenses. One may think that the offence of "spying" refers to secretly obtaining sensitive information affecting security. But the provisions are so drafted as to punish people who cannot be described as spying by any stretch of the imagination.

Clause 3(1)(a) provides, for example, that a person commits an offence if

he approaches a "prohibited place" for " a purpose prejudicial to the safety or interests of the United Kingdom or Hong Kong".

Although the offence can attract a sentence of 14 years' imprisonment, a very trivial act can be made the basis of a conviction. The "prohibited place" may be the airport. A person may "approach" the airport to stage a demonstration. And yet, if it is established that the "purpose" of being near the airport is "prejudicial to the safety or interests of the United Kingdom or Hong Kong", he may be convicted for spying!

As such, notorious case as *Chandler v DPP*, a case decided in 1965 in England, demonstrates what is "national interest" is pretty much what the government of the day says it is.

Mr President, what is especially objectionable about this clause is the low requirement of evidence to establish the "purpose" referred to in the offence. Indeed, one may say that instead of real evidence, all that is required is suspicion, even if it is described as "reasonable suspicion". Clause 3(2) allows a court to convict a person "if, from the circumstances of the case, or his conduct, or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the United Kingdom or Hong Kong".

This is very worrying indeed, because one reading of these words is that a person may be convicted on what is supposed to be his "character". This offends the fundamental principle that one cannot be convicted on the basis of character, and the rule that character evidence is in any case inadmissible as evidence of having committed an offence.

So do clauses 3(3), (4) and (5). These provide for certain presumptions, the effect of which is to reduce the evidential requirement to an extremely low level, and to allow for highly subjective evidence.

It is the opinion of the Bar that these subclauses violate Article 14(2) of the International Covenant on Civil and Political Rights on the presumption of innocence. This kind of legislation is repugnant to this Council and must be opposed.

It is no argument to say that the Bill is simply a local re-enactment of

nearly identical United Kingdom Acts applicable to Hong Kong. These Acts, particularly the provisions referred to just now, have attracted the strongest criticism even in the United Kingdom. Clause 3 of the present Bill is lifted from the Official Secrets Act 1911, passed in the United Kingdom in a great hurry under the imminent threat of war. In the debate of the 1988 Act, this part was just not discussed at all. As the Bill is now put before us, we are entitled to consider the matter afresh, in the light of Hong Kong's own needs and circumstances. We must take into consideration the importance of the protection of human rights to the maintenance of confidence in Hong Kong. The fact must also be taken into consideration that, in the United Kingdom, there is at least the safeguard that an elected government will be more wary of invoking such laws.

Part III of the Bill deals with "unlawful disclosure", and aims at punishing disclosure rather than the "theft" of any secrets. Mr President, as I have said earlier, a government may well have information the disclosure of which would endanger the safety of the community, and it is legitimate to protect it. But we cannot use this as the pretext to apply criminal sanction to all kinds of government information and all kinds of disclosure. In an age when openness, transparency and accountability are taken as principles of government, non-disclosure has to be justified according to very stringent criteria.

It is relevant to consider the closely related question of public interest immunity. The modern development of the law is that a government official can only refuse to disclose a document on specific grounds, and not merely because it belongs to a particular class of documents. The particular harm to the public interest, if the information is disclosed, has to be specified. Usually, a court deciding on a question of public interest immunity will be balancing the public interests involved. It is seldom the case that public harm, or public interests is all to one side.

Yet Part III seeks to protect six categories of information subject only to what is called a "harms test" in some of the categories. Provided it can be established that the disclosure "causes damage" or the information is of "such a nature that its unauthorized disclosure would be likely to" cause such damage, a person making such a disclosure would be guilty of an offence. There are no provisions for any mechanism of balancing the different interests that may be involved, such as the interests of openness and transparency, and the public's

right to know.

Apart from defence information, and the disclosure of security and intelligence information by the staff of these services, I see no necessity in prohibiting non-disclosure by criminal sanction of any other categories of information. In my view, much of Part III of the Bill is an unnecessary restriction on the disclosure of information in the possession of government officials, and should not be there at all.

The Bills Committee has taken a very moderate approach with the Bill from the start. With respect to Part II, major amendments have to be made to clause 3 before it can be accepted at all. But with respect to Part III, the main amendments are only to put in a public interest defence and a "prior disclosure" defence. The public interest defence enables the court to do the balancing exercise the court already considers proper and entirely viable in relation to public interest immunity claims. The defence of prior publication, so that a person is not guilty if what he discloses has already been published, is, in my view, just a variation of the theme of balancing public interests.

Mr President, the Bills Committee was told, from the start, that the Administration will make no changes to the Bill for fear of upsetting an understanding with China that the enactment of the Bill, as is, would sufficiently take care of legislation against "theft of state secrets" under Article 23 of the Basic Law. However, for all the reasons I have stated, the Bill's provisions expose the individual to very grave dangers of being unjustly convicted of serious offences, and unjustifiably restrict the freedom of information. We cannot in conscience allow this to happen. We have to do our best at least to prevent the worse harm by narrowing down the offences and putting in the appropriate safeguards. It is only in anticipation of the amendments that the Honourable Miss Christine LOH will move at the Committee stage on behalf of the Bills Committee that I support the Second Reading of the Bill.

Thank you, Mr President.

涂謹申議員致辭：主席，我很高興能聽到吳靄儀議員的陳辭，她說的論點我全部贊同，我只是想將幾點意見特別和大家分享，因為我相信這個議會是一個仍然可說道理、以好的觀點和強的觀點來互相說服的場地。

第一就是剛才吳靄儀議員說及制定在英國的法例，尤其是在第 3 條的間諜罪行是在一個完全不同的社會背景、在大戰前夕來制定的。很明顯，當時所考慮的處境或英國當時所受到的威脅和要採取相應的措施，以及甚嚴苛的法律，例如 20 年前本港的貪污罪盛行到某一個很嚴重程度時，我們在當時賦予廉署苛刻的權力，亦是相稱的。但是在 20 年之後，我們亦曾經做過一個檢討，所以九五年我們亦都將很多法律納回正軌，配合時代，包括我們已經制定《人權法》，和開放社會的時代所應該要配合的一些法律體制。

我覺得如果彭定康政府只是用一個理由，就是我們能夠本地化而不能夠做一個全面改革，因此而將這些那麼苛刻的法律繼續加諸香港的身上，而是仍然容讓特區繼續使用的話，我覺得這是非常不負責任的，這亦會是彭定康在任內最大、最羞耻的兩件事，包括第一是這一個法律是違反《人權法》很多地方，並且是對新聞自由和資訊自由作出很大的限制，並且存在很大的矛盾點。另一是，據我所理解，他仍然拒絕引進有關截取通訊而受法院監察制度的法例。

如果這原擬本的條例草案獲通過的話，我們便會返回五、六十年代，受到政治部所用的殘酷的手段，以及以長期監禁拘留來對付異己的手段，這是絕對有可能重複進行的。為何我這樣說呢？我和大家特別分享第 8 條。第 8 條看來很簡單，就是說警方可以向總督申請一個法令，要求某一個人提供資料，但是大家看不到的一個玄機就是，事實上這一條文正是數十年前，警方說請你回去，跟着他說懷疑你是間諜或其他等；於是在摩星嶺也好，哪個機構也好，要你招供、提供資料，不說就繼續拘留，是一個永久或甚至是長期的監禁，甚至失蹤，那時是生是死也沒有人知道。如果你說拒絕回答，他就說你可能牽涉第 8(4)條的罪行，而根據該條文亦可以有進一步的拘捕權力，因此他就是拘捕你，直至你說出資料為止。

在現今社會裏，我們沒有一個公眾的利益的答辯理由，同時亦造成了一個很怪的現象，試想一下在美國的情況之下，揭發水門事件的記者竟然可能因為我們這法例在香港的實施而要坐牢，我們未必有這樣的民主機制，令總統或檢控官不敢檢控。事實上，這對於新聞界是一個很大的掣肘和一個無形的威脅。我很難想像，直至今時今日，政府仍然可以同意總督能夠發出命令而令一個人給剝奪其保持緘默的權利。我覺得很詫異，政府竟然在這樣的社會環境之下，同意這樣的條文。即使在《有組織及嚴重罪行條例》中，我們都用了兩年多時間爭論一點，就是如果我們要奪去一個人保持緘默的權利，提供資料，即使不是他自己而因為其他人而作證時，亦需要種種的程序上、

法律上的保障。但是現在第 8 條內竟然讓總督有這樣的權力，我真的很詫異。

事實上，在第 11 條裏有關搜查令中，亦與第 8 條有很大的相違背，因為如果要搜查時，已經要向裁判署申請搜查令，但第 8 條使一個人遭剝奪其保持緘默的權利，竟然是總督一個人可以去做這種行為，我相信這是如何也說不通的。如果你說用國家安全來做擋箭牌的話，我可以說出更多例子，有很多的國家包括美國中央情報局一些授權的法例，在加拿大也好，是需要法院向申請才可以取得這樣的權力，包括是偷聽、包括扣留他回來問話等，和奪去他某一些保持緘默的權利。我很難想像為何香港可以這樣，我相信答案只有一個，就是因為過往是殖民地的法律，殖民地的法律可以這樣做，因此時間繼續下去。我覺得這個時間仍容許這樣的法律是很詫異的。

另一方面，剛才吳靄儀議員已經說過某一部分的涵蓋範圍是太濶了，例如一些推斷的條文，事實上，眾所周知，如果你說與一些領事的官員接觸過，或甚至往一些領事的官邸討論過這些問題，又或酒會也好，我們不會否認其實香港也好，全世界也好，很多的領事官員——我們相信香港一定有的——是牽涉在這些情報搜集，我們不要以為特務一定是那些零零七這樣特別的人，他可能是一個默默搜集資料的人而已。事實上，他亦可能做着一些情報的工作。當我們推斷一些接觸，就推斷我們交換資料，推斷交換資料就可以當我們做了一些事危害國家安全的行為，因而可以入罪。這樣的法律有甚麼理由，為甚麼還可以在我們香港的法例內出現呢？

還有，吳靄儀議員亦說到從她過往的行事、為人的軌跡，或他的性格，或他過往的行為，就作出一些推斷，我覺得這樣太危險了。另外，我們的涵蓋範圍亦包括一些譬如調查罪行等，事實上，如果他真是通風報信的話，我們已經具備法例打擊妨礙司法公正、串謀妨礙司法公正，甚至提供資料令人逃脫等行為，加以監禁，亦具備追捕的權力，在法例內已經有眾多這些普通法罪行和警隊條例罪行可以禁制這些通報的。但是如果說我們完全沒有辦法能夠證明這種種個別會危害的項目，而是純粹控之以譬如說是非法披露的話，是十分危險的。

最後，我要說的就是究竟應由誰執行這些法例呢？我們是否說政府告訴我們中英政府同意了這罪行，寫了“警司”這個詞，就是說《基本法》第二十三條，或所有的罪行的執法皆由皇家警察，或將來的特區警察部門來執行呢？這問題懸而未決。以我所知，中國正在研究某個方案，而個別的預委亦在以往說過是要重新成立政治部。政治部給我們的記憶太過恐怖了，我們相信國家的安全是需要人來執行，但是在現在我們種種事情也未知的情況下，

賦予當局這樣大的權力、這麼苛刻的法律、涵蓋面這樣廣，在我們社會這個時代出現，並且予以執行，我覺得是對人權自由的一個很大、很大的危害和威脅。我相信大家是說道理的，因此我要在這裏用幾分鐘時間，將我自己心中的憂慮跟大家分享，希望大家投理性的一票。

MR RONALD ARCULLI: Mr President, I have listened to the Chairman of the Bills Committee, the Honourable Miss Christine LOH, and I simply would like to put the record straight — if she has in fact done so when I was out of the room then I do apologize — and that is, as far as the Liberal Party is concerned, we made it quite clear at the Bills Committee that we support the Bill and not the amendments, and I will therefore like to spend just a couple of minutes explaining why we are doing that.

Firstly, what I would like to do is to ask Members to consider what is the purpose of the Bill? In a word or in a sentence, the purpose of the Bill is to really protect Hong Kong and for the moment, for the next couple of weeks, I imagine, to protect the United Kingdom which I doubt very much would need protection as far as we are concerned, but there may well be some dark secrets lurking around in the corridors of the administrative offices of the Hong Kong Government that the United Kingdom Government may wish to prevent disclosure of. Whether that is so or not I really have no idea, but that is certainly a possibility.

What the Bill seeks to do is really to protect Hong Kong's interest in two areas. One I imagine is what we would call, again, spying, and two, the more general phrase "unlawful disclosure of confidential information". As far as spying is concerned, the section in the Bill sets out relatively broadly and clearly as to what will happen if information which is prejudicial to the interests or safety of Hong Kong is in fact obtained by any individual. And I must say that on first reading, some of the concerns that we have heard here this afternoon are probably not, I would say, totally wild in the sense that if you approach a prohibited place with a certain intention. But if you simply look at it on the basis that the offence is completed by simply approaching a prohibited place without looking at the other elements that are required under section 3, then of course there is great cause for alarm. But that is not the case. In order to establish successfully a prosecution of espionage against any individual, other elements will have to be complied with as well.

In terms of the Bill, we are told that this is a localization of English acts right now, and the Honourable James TO has very eloquently explained why he thinks that we should not blindly follow English law in this particular area, although it was alright for us to blindly follow English law in, I guess, 99.9% of the time.

But I would ask those Members who actually sit on the Mutual Legal Assistance Bills Committee to actually compare the assistance we are asked to give, let us say to a country like the United States, in terms of a treaty that has been signed by the Hong Kong Government and the Government of the United States — and in fairness this will have to be subject to ratification by both legislative bodies — whether or not it will be done in Hong Kong, of course, is still an open question because we are still considering in detail the terms of the Bill. But a mutual legal assistance agreement between two territories actually gives quite a wide scope and in some instances, in my view, unacceptably wide scope for foreign governments to pray in aid the terms of the agreement to carry out investigations. And the word "investigations" is used in the normal sense of the word, Mr President, not trying to get evidence to support a criminal charge or a criminal trial.

We are told that the word "investigations" is necessary simply because in non-common law jurisdictions their methodology of doing things are a little different. So, in some ways there is a sort of inconsistent position *vis a vis* the current Bill that we are considering right now and indeed the Mutual Legal Assistance Bill. I do not want to speak too much on the Legal Assistance Bill but if the agreement with the United States is ratified by this Council then United States authorities can come and make enquiries or make investigations about tax matters in Hong Kong, about foreign exchange control matters in Hong Kong, about customs duties or other revenue matters. So, the scope is extremely wide. So, I think on the one hand we are trying to protect Hong Kong's interests, but on the other we seem to be giving it away in some other form.

But be that as it may, I would like to come back to the Official Secrets Bill. The other area that we find unacceptable and, perhaps I would not say alarming, but of some concern to Liberal Party really, is the introduction of the defences of public interest or prior disclosure. As far as public interest is concerned, I think in a different context we have had a run-in with the Administration recently when the Chief Secretary claimed public interest immunity against disclosing the

Operations Review Committee Report to the Select Committee when enquiring into the departure of the former Director of Immigration, Mr Lawrence Leung.

So, I think it is areas like public interest and prior disclosure that we are quite familiar with, and indeed in terms of the justification for that it seems to me that, well, if it is in the public interest to disclose it, well, it should come out on the one hand. On the issue of prior disclosure, but since someone else has already disclosed it, what is wrong with talking about it a second time? Well, if life were actually that simple then I perhaps would not be objecting to those defences as strongly as I am. But it seems to me that with the introduction of these two elements, Mr President, whatever protection we seek to try and give Hong Kong under the Official Secrets Bill, or Ordinance if passed, you could literally drive a horse and coach through it. So, is that what we really want, I think as far as Hong Kong is concerned? And I think in terms of the amendments, therefore, Mr President, I respect the views that my colleagues have expounded on and have elaborated on, and I certainly respect the hard work that they have put in. I accept that their views are genuine, but despite that, I think on this particular occasion, I regret to say that we have to agree to disagree.

SECRETARY FOR SECURITY: Mr President, the Official Secrets Bill was introduced into the Legislative Council for its First and Second Readings on 18 December 1996.

The Bill seeks to localize the provisions of the United Kingdom Official Secrets Acts which currently apply in Hong Kong. These Acts will cease to apply in Hong Kong on 1 July 1997; we thus need to introduce local legislation to replace them. This is the so-called localization of laws programme of which Honourable Members are familiar and have indeed, under this programme, passed many Bills in the past.

Honourable Members of this Council have in the main expressed broad support for the need for local legislation to protect official secrets. There is no question that certain kinds of official information must be protected from illegal acts and unlawful disclosure.

We have addressed this problem in a manner which gives us certainty and security, through the continuity of the localized legislation. We have modelled

the Bill on the Official Secrets Acts themselves, modified to reflect local circumstances. The Bill deals with two broad categories of offences: espionage and the unlawful disclosure of information. As regards unlawful disclosure, the Bill covers six key areas of information. These are: security and intelligence, defence, international relations, information obtained in confidence from other states or international organizations, crime and special investigations under statutory warrants. We have deliberately defined these areas in narrow terms, so that the unlawful disclosure of information concerning one of these areas would, in itself, cause or be likely to cause substantial harm to the public interest.

We have proposed to amend or remove various other provisions in the Official Secrets Acts which are either covered in other legislation, or are outdated, or which are not in line with current Hong Kong legislative practices. These changes have been generally accepted by the Bills Committee and, I believe, would be welcomed by Honourable Members.

The Bill I introduced into this Council in December last year is one that will provide continuity through 1 July 1997 and beyond. It is based largely on current legislative practices, grounded in the common law system, and was agreed by the Chinese side of the Joint Liaison Group after detailed discussions, so that its provisions will provide a familiar and reasonable foundation for the future. This is a particularly important consideration when we bear in mind that the Bill encompasses that part of the provisions in Article 23 of the Basic Law, that the Hong Kong Special Administrative Region (SAR) shall enact laws on its own to prohibit, *inter alia*, the theft of state secrets. The Bill as it stands will require minimal adaptation in order for the SAR to fulfil this requirement, thus providing the continuity that we all desire.

Members of the Bills Committee studying this Bill have given it searching and comprehensive scrutiny, for which I am grateful. The discussion in the Bills Committee has already focused our attention on the aims and purposes of the Bill, and has reinforced the consensus that these aims and purposes in their broad sense are entirely correct and appropriate. However, Members of the Bills Committee have raised concerns about some key aspects of the Bill which are the subject of various amendments to be introduced at the Committee stage by the Honourable Miss Christine LOH.

The key elements of these amendments concern clause 3 of the Bill dealing

with espionage; the threshold criteria for a harm test; and proposals to introduce the defences of public interest and prior disclosure.

Section 3 of the Bill as it stands is based on well-established law, as are the criteria in the Bill for establishing whether harm has ensued from any particular act. For the record, it is not and has never been the Administration's intention to propose a law which would restrict a person's rights and freedoms to act in a lawful and socially acceptable manner, within the norms already well-established in our society. Specifically, in response to a question asked by the Bills Committee, I can confirm that it has never been our intention to limit the existing practices for public meetings and public processions in any place — and not merely in the vicinity of a "prohibited place" — by the provisions in the Official Secrets Bill. For these reasons, the Administration find the need for amending clause 3 and the harm tests in the Bill to be at least questionable and, indeed, could be counterproductive.

We also do not accept that there is any justification for the proposed public interest and prior disclosure defences. The six areas of protected information prescribed under the Bill are narrowly defined on the basis that any disclosure of such information would, of itself, be damaging to the public interest. To therefore include a defence allowing that such a damaging disclosure is in the public interest is self-contradictory. Similarly, we consider the proposed prior disclosure defence to be unjustified. Any disclosure, in its particular circumstances, of the prescribed types of information could have the potential of damaging the public interest. Consequently, every such disclosure should be judged by the Courts within its own circumstances, and not by whether or not there has been prior disclosure.

Let me make it clear again that the Bill is a piece of localizing legislation. While we have amended, as necessary, various provisions of the Official Secret Acts to take account of local circumstances, it is not the occasion to undertake a comprehensive review of the official secrets legislation. We do not consider that such a comprehensive review is either necessary or appropriate for a localization of laws exercise. The Administration therefore do not support any of the proposals now before us which seek to amend the Bill substantially. If the key Committee stage amendments are adopted, it will throw open the future of the whole Bill, and there is no guarantee that such a Bill will survive the change of sovereignty. The law in this sensitive area will then be left in a state

of uncertainty, and the future SAR legislature may then be left with no option but to re-open the whole issue soon after 1 July 1997. We strongly believe that this would not be in the best interest of Hong Kong. Therefore, the Administration can only support the Bill essentially as it was first introduced into this Council on 18 December 1996.

Thank you, Mr President.

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

條例草案二讀之議題經付諸表決，並獲通過。

Bill read the Second time.

條例草案經過二讀。

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

依據《會議常規》第 43 條第(1)款的規定，將條例草案付委予全體委員會審議。

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1997

《1997 年稅務（修訂）（第 2 號）條例草案》

Resumption of debate on Second Reading which was moved on 30 April 1997

恢復於一九九七年四月三十日動議二讀辯論

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

條例草案二讀之議題經付諸表決，並獲通過。

Bill read the Second time.

條例草案經過二讀。

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

依據《會議常規》第 43 條第(1)款的規定，將條例草案付委予全體委員會審議。

REGISTERED DESIGNS BILL

《註冊外觀設計條例草案》

Resumption of debate on Second Reading which was moved on 19 March 1997

恢復於一九九七年三月十九日動議二讀辯論

陳鑑林議員致辭：主席，本人以註冊外觀設計條例草案委員會主席的身分，向各位議員匯報條例草案委員會的商議工作。

《註冊外觀設計條例草案》旨在把現行法例本地化，使本港在一九九七年七月一日前擁有獨立的外觀設計註冊制度。條例草案主要基於法律改革委員會提出的各項建議，但為配合國際趨勢，當局提出採用形式上的審查及全球性的新穎標準。

條例草案委員會已經考慮設計行業及設計使用者提出的各項意見，而委員普遍支持此項條例草案。委員會曾就下述關注事項進行討論。

委員察悉，條例草案的內容涵蓋林林總總的各類商品，包括家庭用品、玩具、傢俬、紡織品、時裝、珠寶，而該等商品能否成功銷售，往往取決於其外觀設計。鑑於條例草案對貿易及工業，特別是對中小型企業會有影響，議員認為應協助設計行業和設計的使用者了解條例草案的各項條文，特別是其中各項新的特點。政府當局接納了條例草案委員會的意見，在一九九七年四月二十三日及五月三日舉辦了兩次座談會，向設計人協會和設計的使用者解釋條例草案的內容。條例草案委員會察悉，擬議的外觀設計註冊制度獲得設計人普遍支持。此外，政府當局亦答應印製資料小冊和舉辦講座，以協助業界人士在條例草案通過成為法例後，遵守有關規定。

政府當局建議跟隨國際趨勢，為外觀設計的註冊採用免審查或形式上的審查的做法，理由是任何方式的實質審查難免有主觀成分。當局亦認為，不值得投入大量資源以進行查檢和實質審查，以判定外觀設計是否新穎及可予註冊。至於有關申請人在註冊前查檢其設計新穎程度的途徑，註冊外觀設計註冊處會保存所有註冊外觀設計的紀錄，包括設計的詳情，以及繪圖或照片，有關紀錄會公開予公眾查閱。議員察悉，擬議的免審查方式，與本港的短期專利制度的做法一致。

關於外觀設計在註冊方面的新穎標準，政府當局亦建議跟隨國際趨勢，要求設計的新穎程度合乎全球性的標準，而非只要求有關設計在本地具有新穎性。政府當局表示，根據這項建議，申請人為某項外觀設計申請註冊時，必須就該項外觀設計的新穎程度作出聲明，而這建議在公眾諮詢階段獲得支持。

條例草案委員會關注到，就一項外觀設計是否可予註冊方面，條例草案存有不明確之處。政府當局澄清，可予註冊的新外觀設計，其各項特色包括物品的形狀、構形、式樣或裝飾等，必須是透過工業程序塑造，並且能夠產生美感。相反，如果一項外觀設計不符合可予註冊的準則，例如由於其外觀上並無美感，或屬於違反公共秩序或道德，均不可予註冊。議員亦察悉，電腦程式及集成電路布圖設計（拓撲圖）不列入條例草案的保障範圍，該等程式及設計分別受到版權法及《集成電路的布圖設計（拓撲圖）條例》所保障。

部分議員曾詢問，可否對“可予註冊”的外觀設計及“不可予註冊”的外觀設計訂出更為精細的定義。政府當局的回應是，由於有關事項相當複雜，又沒有具決定性的裁決，倘企圖對上述兩種類別作出詳細界定，將會不必要地增加條例草案的條文和內容。倘出現這方面的爭議，將由法庭作出裁決。

關於條例草案中有關藝術作品的條文，條例草案委員會察悉，平面繪圖或主要屬藝術性質而不打算用作工業用途的物品，根據條例草案不須註冊。政府當局已接納條例草案委員會的建議，會就條例草案第 8 條提交全體委員會審議階段修正案，以消除條例草案在應用範圍方面的不明確之處。

議員關注到，《註冊外觀設計條例草案》及《版權條例草案》就賦予藝術作品的保護方面，可能出現不明確之處。政府當局澄清，藝術作品的擁有人在其有生之年及其後的 50 年內享有作品的版權。不過，倘一項藝術作品經採用工業程序處理而成為一種設計，並複製於物品上作商業用途，則版權擁有人須根據《註冊外觀設計條例草案》為其設計註冊，以取得為期 25 年的專有權；否則，根據《註冊外觀設計條例草案》可予註冊但並未註冊的設計，其版權保護期只有 15 年。

對於擬議的註冊外觀設計法例會否侵蝕藝術作品的版權的問題，議員表示有所保留。政府當局的回應是，立法的意圖，並非為減少對藝術作品的

版權保護，反而是為保留現行的做法，一項設計一旦按註冊外觀設計法例註冊得到保護後，其版權的保護期將會縮短。經與委員會商議後，政府當局同意就《版權條例草案》提出修正，以消除不明確之處。由於受到關注的事項主要關乎版權方面，《註冊外觀設計條例草案》無須作出修正。

為一項設計註冊的其中一項重要考慮，是創作該項設計的意圖，即有關設計會否透過工業程序應用於物品之上。條例草案委員會建議，在條例草案中界定“工業程序”的定義。政府當局表示，附屬法例將訂明有關定義。根據現行的聯合王國標準，一項設計若已複製於多過 50 件的物品之上，將被視為工業設計，而同一標準將適用於香港。

條例草案委員會察悉，根據條例草案第 48 至 57 條，有關人士對侵犯註冊外觀設計的行為，只可採取民事的補救措施。政府當局澄清，由於未經註冊但可予註冊的外觀設計將有 15 年的保護期，未經註冊但可予註冊的外觀設計的擁有人亦可就模仿其設計的行為，要求採取補救措施。

最後，議員亦關注到應就過渡性安排進行宣傳，使現時已在聯合王國註冊的外觀設計，繼續在香港受到保障。為避免可能出現誤解或爭議，政府當局接納了委員會的意見，除了在聯合王國的專利及設計期刊刊登廣告外，並會就過渡性的安排，在本港及聯合王國展開宣傳活動。政府當局亦會透過印製資料小冊及舉辦研討會，通知本地的設計行業及有關機構此等過渡性安排。

以上概述了條例草案委員會所討論的主要事項。主席，本人謹代表條例草案委員會，請議員支持本條例草案，以及由工商司在全體委員會審議階段提出的各項修正案。

本人謹此陳辭。

SECRETARY FOR TRADE AND INDUSTRY: Mr President, I would like to thank the Chairman, the Honourable CHAN Kam-lam, and members of the Bills Committee for completing the scrutiny of the Registered Designs Bill in the most constructive and helpful manner within an extremely short timeframe.

As I had explained when introducing the Bill into this Council in March, we do not have a separate designs registry in Hong Kong at the moment. Designs are protected here only by virtue of their having been registered in the

United Kingdom.

The proposed legislation is therefore of great significance to us. It will enable us to establish within Hong Kong our own independent registered designs system. The new system will be in line with international standards and will continue through and beyond 1997.

In our new system, any design which has been published anywhere in the world, which is applied to an article by means of an industrial process, and which appeals to the eye, will be eligible for registration. The Registrar of Designs, once satisfied with the formality examination, will register and publish the design. The protection will be for an initial period of five years, extendable for four periods of five years each, totalling therefore a maximum of 25 years.

Mr President, I would like to pause here and relay to this Council the consideration behind the Administration's preference for a formality examination against the Law Reform Commission's recommendation of a substantive examination system. The main reason is because since publication of the Law Reform Commission's report in November 1993, we have seen the European Union proposing to adopt a formality examination system as the norm for the registration of designs by 1999. We have also seen intellectual property authorities in other places switching to this new approach. In view of the new trend and the fact that any form of substantive examination is bound to be subjective, we do not consider it worthwhile to invest substantial resources to conduct research and examination to determine the novelty and registrability of designs. Legal practitioners have supported our formality examination approach.

I would also like to refer to another recommendation by the Law Reform Commission which we have not accepted. The Law Reform Commission had recommended adoption of a local novelty test. However, we prefer applying a world-wide novelty test. The main reason for our recommendation is again to follow more closely the international trend of using worldwide novelty as the registration pre-condition. Again, we have received broad support for this change during our consultation stage.

Mr President, as we will be introducing a new system, it is important, as Mr CHAN Kam-lam has just said, to provide for an adequate transitional

arrangement. Accordingly, we propose that designs already registered in the United Kingdom before and remaining in force on the commencement of the new law will be deemed to be Hong Kong registered designs after commencement. The deemed registered designs, however, will have to be renewed in Hong Kong within six months of the commencement date of the new law, or six months before the design's renewal date in the United Kingdom, whichever is the later, if they are to receive continued protection in Hong Kong.

The renewal applications have to be accompanied by copies of the registration documents issued by the United Kingdom Designs Registry. As listed in clause 92(3)(d) of the Registered Designs Bill, these are as follows:

- (a) a representation of the design as registered under the Registered Designs Act 1949 in the United Kingdom;
- (b) a certificate confirming registration of the design issued by the Registrar of the United Kingdom Designs Registry; and
- (c) a certified copy of an entry in or a certified extract from the United Kingdom Designs Registry stating the full name of the proprietor of the design immediately preceding the application for renewal.

Since the new system is likely to benefit Hong Kong's design industry, the Bills Committee, under Mr CHAN Kam-lam, has suggested that firstly, we should promote awareness of the Bill, especially amongst the small and medium enterprises in Hong Kong; and secondly, we should notify all parties affected by the transitional arrangement well in advance to avoid misunderstandings.

We have taken on board the Committee's suggestions. To enhance awareness of the Bill, we organized a seminar for the Hong Kong Designers Association on 23 April and helped arrange a second one on 3 May 1997. We have explained and clarified the provisions of the Bill to over 70 designers, design users and academics from various industries. We are glad to report that there is strong support from them for introducing the registered designs system in Hong Kong.

With regard to publicizing transitional arrangements, we have explained to

the Bills Committee that, prior to and immediately after the enactment of the Bill, we will launch a publicity programme in both the United Kingdom and Hong Kong. To inform interested parties of the transitional arrangements, we will advertise the main contents of the Bill, including the transitional arrangements, in the United Kingdom Patent and Design Weekly Journal periodically. Locally, we will publish a user-friendly information brochure on the registered designs system and organize a series of talks and seminars for the design industry and other related organizations.

The Bills Committee has expressed a third area of concern, which is that the distinction between registered design on the one hand and copyright protection on the other in relation to artistic works seems to require clarification. As we have explained to the Bills Committee, this is a difficult area. I think it would be useful for me to set out before this Council our policy objectives:

- (a) First of all, the Registered Designs Bill is intended to protect eye-appealing designs that are applied to articles by any industrial process. The Copyright Bill, on the other hand, is intended to protect, among other things, artistic works irrespective of their artistic quality.
- (b) Secondly, if an artistic work has been registered as a design under the Registered Designs Ordinance, it will have protection under this law for a maximum of 25 years. After 25 years, the artistic work will no longer be eligible for protection as a registered design, and the copying of the artistic work will no longer be an infringement under the copyright law.
- (c) Thirdly, if an artistic work has been applied and marketed as a design industrially, then, even if it has not been registered under the Registered Designs Ordinance, the artistic work will only be entitled to 15 years of full protection under the Copyright Bill as from the date of industrial application.

Mr President, basically, all types of intellectual property protection are designed to protect creative work. Since the rights they confer on the proprietor

or owner of the copyright product are exclusive monopoly rights, there are risks and need to limit the application of these laws to avoid duplication or over-protection. Therefore, any copyright owner who wants to have copyright protection for his product during his lifetime plus 50 years thereafter can do so by refraining his application from an industrial process. If he chooses to put his artistic work to industrial use, it should be subject to the protection of a different law, that is, the Registered Designs Ordinance because the nature of the subject matter has changed. If he so registers under the latter system, he can have 25 years of protection under the law. If he does not register under the Registered Designs Ordinance, he can only have a "limited" term of protection, that is, 15 years under the copyright law.

In the interest of clarity, I shall move a number of Committee stage amendments later on. These amendments have been discussed with and endorsed by the Bills Committee.

Mr President, the Registered Designs Bill laid before the Council will enable Hong Kong to develop its first registered designs system which forms part of our modern intellectual property protection regime. We aim to put the new system in operation in late June, upon the making of the necessary subsidiary legislation. In anticipation, I would like to thank the Bills Committee and this Council once again for the assistance rendered in seeing through the exercise.

Mr President, I recommend the Bill to this Council subject to the amendments to be moved at the Committee stage. Thank you.

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

條例草案二讀之議題經付諸表決，並獲通過。

Bill read the Second time.

條例草案經過二讀。

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

依據《會議常規》第43條第(1)款的規定，將條例草案付委予全體委員會審議。

OUTER SPACE BILL

《外層空間條例草案》

Resumption of debate on Second Reading which was moved on 14 May 1997

恢復於一九九七年五月十四日動議二讀辯論

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

條例草案二讀之議題經付諸表決，並獲通過。

Bill read the Second time.

條例草案經過二讀。

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

依據《會議常規》第 43 條第(1)款的規定，將條例草案付委予全體委員會審議。

CIVIL AVIATION (AMENDMENT) BILL 1997

《1997 年民航（修訂）條例草案》

Resumption of debate on Second Reading which was moved on 28 May 1997

恢復於一九九七年五月二十八日動議二讀辯論

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

條例草案二讀之議題經付諸表決，並獲通過。

Bill read the Second time.

條例草案經過二讀。

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

依據《會議常規》第 43 條第(1)款的規定，將條例草案付委予全體委員會審議。

Committee stage of Bills

條例草案全體委員會審議階段

Council went into Committee.

本局進入全體委員會審議階段。

RAILWAYS BILL

《鐵路條例草案》

Clauses 1, 3, 4, 6, 8, 12, 13, 14, 17 to 22, 28, 29, 30, 34 to 40, 42 and 43 were agreed to.

條例草案第 1、3、4、6、8、12、13、14、17 至 22、28、29、30、34 至 40、42 及 43 條獲得通過。

Clauses 2, 5, 7, 9, 10, 11, 15, 16, 23 to 27, 31, 32, 33, 41, 44, 45 and 46

條例草案第 2、5、7、9、10、11、15、16、23 至 27、31、32、33、41、44、45 及 46 條

運輸司致辭：主席，我謹動議按照發送給各位委員傳閱的文件所述，修正所指明的各項條文。

“鐵路”的定義

首先有關第 2 條“鐵路”一詞的定義，為了清楚說明車站之上的發展不包括在“鐵路”的定義範圍之內，並且不屬“鐵路”的一部分，我們便作出有關的修正，這類在鐵路上的發展須根據《城市規劃條例》所規定的一般程序申請批准。

關於法定時限

政府已經採納了條例草案委員會的建議，就處理有關鐵路方案的反對意見，訂明法定時限。政府建議條例草案加入新訂的第 11(1A)條。這項條文訂明，運輸司須在提出反對意見的 60 天期限屆滿後的 9 個月內，把鐵路方案 and 任何未被撤回的反對意見，提交總督會同行政局考慮。

新訂的條文授權總督會同行政局經考慮某一個案的情況後，批准延展上

述期限。由於日後進行的各項鐵路計劃的複雜程度和規模並不相同，因此有實際需要採取這項較有彈性的安排。

豁免、廢除及過渡性條文

目前，根據《地下鐵路（土地收回及有關規定）條例》（第 276 章），政府可收回土地和行使其他權力，以便建造各條地鐵路綫。條例草案第 45 條的用意，是廢除第 276 章，令所有新鐵路計劃根據《鐵路條例草案》實施。不過，政府有需要豁免那些已根據第 276 章而落實的地下鐵路計劃，使這些鐵路不在《鐵路條例草案》的實施範圍內；而第 276 章內也有一些條文需要保留，這些條文是關於索償，以及根據該條例建造的鐵路的安全運作和維修保養事宜。

政府亦參照了條例草案委員會的意見，建議修正第 45 條，以便更清楚說明政府的政策方針。建議新訂的第 45(3)(a)條訂明，第 276 章由“指定日期”起應予廢除，而“指定日期”的定義，是運輸司藉憲報刊登的公告所指定的日期。

建議新訂的第 45(2)(a)條，授權總督會同行政局只可以在指定日期之前豁免鐵路計劃，使鐵路計劃不在《鐵路條例草案》的實施範圍內。新訂的第 45(2)(b)條訂明，除非得到獲豁免的鐵路在指定日期之前建成，否則這些豁免命令在指定日期即告無效。

雖然第 276 章在指定日期廢除，建議新訂的第 45(3)(b)條訂明，第 276 章某些條文仍繼續適用於那些受有效豁免命令涵蓋的鐵路。由於這些條文與第 276 章的索償事宜，以及根據第 276 章而建造的鐵路的安全運作和維修保養有關，因此有需要保留。

主席，我謹提出議案。

Proposed amendments

擬議修正案內容

Clause 2

條例草案第 2 條

That clause 2 be amended —

-
- (a) in the definition of "railway" -
- (i) by adding ", except in section 45," before "means";
 - (ii) by deleting "or an amended scheme published under this Ordinance";
 - (iii) by deleting "(other than developments above stations or other railway property)";
 - (iv) by adding "but excludes non-railway developments above stations or above other railway property" after "uses".
- (b) by deleting the definition of "scheme" and substituting -
- ""scheme" (方案) means -
- (a) subject to paragraphs (b) to (d), a scheme referred to in section 4, 5 or 6;
 - (b) subject to paragraphs (c) and (d), where a scheme has been amended under section 7, or corrected under section 8, or amended under section 7 and corrected under section 8, the scheme so amended or corrected or amended and corrected, as the case may be;
 - (c) subject to paragraph (d), where a scheme has been authorized under section 11 or 12(1), the scheme so authorized;
 - (d) where a scheme has been amended under section 12(2), the scheme so amended,
- and includes the plan attached to the scheme;"

Clause 5

條例草案第 5 條

That clause 5 be amended, by deleting subclause (3).

Clause 7

條例草案第 7 條

That clause 7 be amended, by deleting "The amended scheme" and substituting "Subject as otherwise provided in this Ordinance, the amended scheme".

Clause 9

條例草案第 9 條

That clause 9(1) be amended, by adding "22," after "20,".

Clause 10

條例草案第 10 條

That clause 10(1) be amended, by deleting "A" and substituting "Subject to other provisions of this section, a".

That clause 10(4)(a) be amended, by deleting "通知" and substituting "公告".

Clause 11

條例草案第 11 條

That clause 11 be amended —

- (a) in subclause (1), by deleting "the time for lodging objections" and substituting "the period for lodging objections under section 10(1)".

- (b) by adding -

"(1A) Subject to subsection (1), the Secretary shall not later than -

- (a) subject to paragraphs (b) and (c), 9 months after the expiration of the period for lodging objections under section 10(1) in respect of the scheme;

- (b) subject to paragraph (c), where there is any amendment to the scheme under section 7, 3 months after the expiration of the period for lodging objections under section 10(1) in respect of any such amendment or, where there is more than one amendment, the last of any such amendment;

- (c) such further period or periods as the Governor may, having had regard to the circumstances of the case, allow,

submit to the Governor in Council for consideration the scheme and any objections lodged under section 10(1), and not withdrawn, within time."

- (c) in subclause (2), by deleting everything after "and any objections" and substituting -

"lodged under section 10(1), and not withdrawn, within time."

Clause 15

條例草案第 15 條

That clause 15 be amended —

(a) in subclause (1)(c) -

- (i) by deleting "by him" and substituting "to be exercised by him";
- (ii) in subparagraphs (i), (ii) and (iii), by deleting "close" and substituting "authorize the closure of";
- (iii) in subparagraph (iii), by deleting "execute" and substituting "carry out".

(b) by adding -

"(1A) The Secretary may, where the exercise of any of the powers specified in subsection (1)(c)(i), (ii) or (iii) is required for the carrying out of any works described in subsection (1), exercise any such powers for the carrying out of the works."

(c) by adding -

"(3) In this section, "road" (道路) means a public road."

Clause 16

條例草案第 16 條

That clause 16 be amended, by adding "or 12(1)" after "11".

Clause 23

條例草案第 23 條

That clause 23(2)(d) be amended, by adding "and" at the end.

Clause 24

條例草案第 24 條

That clause 24(1) be amended —

- (a) by adding "，或為任何土地、建築物或其他物業評定價值，或為確定該土地或建築物的狀況而" after "為方案".
- (b) by deleting everything after "劃定界線" and substituting a full stop.

Clause 25

條例草案第 25 條

That clause 25(2)(c) be amended, by deleting "該期間開始前的 28 天之前" and substituting "不遲於該期限開始前的 28 天".

Clause 26

條例草案第 26 條

That clause 26(3) be amended —

- (a) in paragraph (c), by deleting "該期限開始前 28 天之前" and substituting "不遲於該期限開始前的 28 天".
- (b) in paragraph (d), by deleting "不獲補償" and substituting "可獲補償".

Clause 27

條例草案第 27 條

That clause 27(7)(d) be amended, by deleting "不少於 2 年" and substituting "2 年或".

Clause 31

條例草案第 31 條

That clause 31 be amended, by deleting the clause and substituting —

**"31. No recovery of money except
under this Ordinance**

Except to the extent of the rights to compensation under section 32, a person does not have any right against the Government or any other person to recover money -

- (a) for any use authorized under this Ordinance; or
- (b) for any works or anything else authorized under this Ordinance."

Clause 32

條例草案第 32 條

That clause 32(1) be amended, by adding "right to" before "compensation".

Clause 33

條例草案第 33 條

That clause 33(2) be amended —

- (a) in paragraph (b) -
 - (i) by deleting "column 1" and substituting "column 4";

(ii) by adding "or" at the end.

(b) by deleting everything after "cause" and substituting a full stop.

Clause 41

條例草案第 41 條

That clause 41 be amended, by deleting the clause and substituting —

"41. Certain statements to be evidence

A statement which is -

(a) a statement in an order or a notice, or in a declaration in an order or a notice, made or given under this Ordinance to the effect that -

(i) the resumption of any land;

(ii) the reversion to the Government or the vesting in the Financial Secretary Incorporated of any land;

(iii) the creation of an easement or right; or

(iv) an authorization or a declaration under section 22(1)(a), (b) or (c),

is for the purposes of or incidental to the scheme;

(b) a statement in a notice given under this Ordinance to the effect that -

(i) any power is exercised under section 5 in order to prepare, correct or amend a plan or scheme;

(ii) any power is exercised under section 24

for the scheme, an assessment of the value of any land, building or other property or to ascertain the condition of the land or building; or

- (iii) the exercise of any power under any of the provisions of this Ordinance is necessary or required for the scheme;

- (c) a statement made in writing by the Secretary for the purposes of section 15 to the effect that -

- (i) any works are minor in respect of any physical or structural operations involved; or

- (ii) a road serves no useful purpose,

shall be admissible as sufficient evidence of the facts stated therein, until the contrary is proved."

Clause 44

條例草案第 44 條

That clause 44 be amended —

- (a) by deleting subclause (1) and substituting -

"(1) Service of a notice required to be served on any person other than the Secretary under this Ordinance shall be effected -

- (a) subject to paragraph (b), by -

- (i) delivering it to the person personally;

- (ii) leaving it at the last known address of the person; or
 - (iii) sending it by post addressed to the person at his last known address;
- (b) where the address of the person is unknown and cannot be reasonably ascertained, by affixing it on or near the affected land or building as is appropriate in the circumstances in a manner and location which makes it conspicuously visible."
- (b) in subclause (2), by deleting everything after "languages" and substituting a full stop.
- (c) by deleting subclause (3).
- (d) in subclause (4), by deleting "ordinary".

Clause 45

條例草案第 45 條

That clause 45 be amended, by deleting subclauses (1) to (3) and substituting —

"(1) The Secretary may by notice published in the Gazette appoint a date as the appointed date for the purposes of this section.

- (2) (a) Subject to paragraph (b), the Governor in Council may at any time before the appointed date by order published in the Gazette exempt from the operation of this Ordinance any railway or any part of a railway specified in the order.

- (b) An exemption under paragraph (a) shall as from the

appointed date cease to have effect in respect of a railway or any part of a railway, unless the railway or the part of the railway, as the case may be, is immediately before the appointed date an existing railway.

(3) (a) Subject to paragraph (b), the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) shall as from the appointed date be repealed.

(b) For so long as an exemption under subsection (2) has effect in respect of any existing railway at any time on or after the appointed date, the provisions of the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) shall, notwithstanding paragraph (a), continue to have effect subject however that -

(i) (A) any reference therein to railway shall be regarded as a reference to any such existing railway;

(B) any reference therein to railway area shall be regarded as a reference to the land delineated as railway area in respect of any such existing railway under that Ordinance immediately before the appointed date;

(ii) (A) subject to sub-subparagraphs (B) and (C), sections 3 to 7 and 9, and section 15(3) to (5), of that Ordinance shall be regarded as having been repealed;

(B) sections 8 and 20 of that Ordinance

shall be regarded as having effect as if sections 3 to 7 and 9 of that Ordinance had not been repealed;

(C) references in sections 31 and 34 of and Schedules to that Ordinance to any of the provisions of section 3 to 7 and 9 of that Ordinance shall be regarded as references to such provisions whilst in force;

(iii) section 16 of that Ordinance shall be regarded as having been amended -

(A) by repealing "5(2)(a)(i), 7(2)(a)(i), 9,";

(B) by repealing "or lawfully exercising any power consequential or incidental to an easement or right created pursuant to section 6".

(4) In this section -

"appointed date" (指定日期) means the date appointed by the Secretary under subsection (1);

"existing railway" (現有鐵路) means a railway or any part of a railway -

(a) in respect of which any land has been delineated as railway area under the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) immediately before the appointed date; and

(b) the construction of which has been completed at any time before the appointed date."

Clause 46

條例草案第 46 條

That clause 46 be amended, by deleting the clause and substituting —

**"46. Works, etc. authorized under Roads
(Works, Use and Compensation)
Ordinance and scheme authorized
under Railways Ordinance**

Section 13A of the Town Planning Ordinance (Cap. 131) is amended -

- (a) by adding "or any scheme authorized under the Railways Ordinance (of 1997)" after "(Cap. 370)";
- (b) by adding "or that scheme" after "that use".

Question on the amendments put and agreed to.

修正案之議題經付諸表決，並獲通過。

Question on clauses 2, 5, 7, 9, 10, 11, 15, 16, 23 to 27, 31, 32, 33, 41, 44, 45 and 46 as amended, put and agreed to.

經修正的條例草案第 2、5、7、9、10、11、15、16、23 至 27、31、32、33、41、44、45 及 46 條之議題經付諸表決，並獲通過。

Heading before New clause 46A

新訂的第 46A 條之前的標題

New clause 46A

新訂的第 46A 條

Lands Tribunal Ordinance

《土地審裁處條例》

Ordinances under which matters
may be submitted to the Tribunal
for determination

將有關事宜呈交審裁處裁定
所根據的條例

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

條例草案條文經過首讀，並依據《會議常規》第 46 條第(6)款的規定，受命安排二讀。

運輸司致辭：主席，我動議二讀新訂的 46A 條，這條文已經載列於發送給各位委員傳閱的文件中。

新訂的第 46A 條的目的是修訂《土地審裁處條例》的附表，在附表中加入《鐵路條例》，以便《鐵路條例》下的事宜，可以提交審裁處審裁。

主席，我謹提出議案。

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

條例草案條文二讀之議題經提出待議，隨即付諸表決，並獲通過。

Clause read the Second time.

條例草案條文經過二讀。

運輸司致辭：主席，我動議條例草案加入新訂的第 46(A)條。

Proposed addition

擬議的增補

Heading before new clause 46 and new clause 46A

新訂的第 46 條之前的標題及新訂的第 46A 條

That the Bill be amended, by adding before the heading before clause 46 —

"Lands Tribunal Ordinance

46A. Ordinances under which matters

**may be submitted to the
Tribunal for determination**

The Schedule to the Lands Tribunal Ordinance (Cap. 17) is amended by adding -

" of 1997. Railways Ordinance."."

Question on the addition of the Heading before new clause 46A and new clause 46A proposed, put and agreed to.

增補新訂的第 46 條之前的標題以及新訂的第 46A 條之議題經提出待議，隨即付諸表決，並獲通過。

Schedule

附表

運輸司致辭：主席，我謹動議按照發送給各位委員傳閱的文件所述，修正上述的附表。附表的修正主要是涉及技術和修辭方面，而中文本的修正是反映條文草擬方案的改善。我謹向各位委員推薦這些修正。

Proposed amendment

擬議修正案內容

Schedule

附表

That the Schedule be amended —

- (a) in section 6 of Part I, by deleting "工程" and substituting "方案".
- (b) in Part II -
 - (i) in item 1, in column 1, by deleting "section 16 of";

(ii) in item 3(a), in column 1, by deleting "section 28(2)" and substituting "section 18(2)";

(iii) in item 4 -

(A) in column 1 -

(I) by renumbering it as item 4(a);

(II) by adding -

"(b) Disturbance resulting from that closure, extinction, modification or restriction.";

(B) in column 3 -

(I) by renumbering it as paragraph (a);

(II) by adding -

"(b) Same as in paragraph (a).";

(C) in column 4 -

(I) by renumbering it as paragraph (a);

(II) by adding -

"(b) Same as in paragraph (a).";

- (iv) in item 7, in columns 1 and 4, by adding "5 or" before "24";
- (v) in item 9, in column 4, by deleting "building" and substituting "building works".

Question on the amendment put and agreed to.

修正案之議題經付諸表決，並獲通過。

Question on the Schedule, as amended, put and agreed to.

經修正的附表之議題經付諸表決，並獲通過。

DISCOVERY BAY TUNNEL LINK BILL

《愉景灣隧道及連接道路條例草案》

Clauses 1, 3 to 6, 10, 11, 12, 14, 18, 20, 22, 23, 31 to 34 were agreed to.

條例草案第 1、3 至 6、10、11、12、14、18、20、22、23、31 至 34 條獲得通過。

Clauses 2, 8, 9, 13, 15, 16, 17, 19, 21, 24 to 30, 35, 36 and 37

條例草案第 2、8、9、13、15、16、17、19、21、24 至 30、35、36 及 37 條

運輸司致辭：我動議按照發送給各位委員傳閱的文件所述，修正所指定的各條文。

有關第 9 條的修正，正如剛才我在條例草案二讀時所說，政府考慮到各位議員對這件事情的關注，亦接納了法律意見，同意刪除第 9(6)條。政府建議的其他修正主要涉及技術方面，目的是使條例草案的有關條文更清晰。

主席，我謹向各委員推薦這些修正案。

Proposed amendments

*擬議修正案內容***Clause 2**

條例草案第 2 條

That clause 2(1) be amended, in the definition of "未批租區域", by deleting "該".

Clause 8

條例草案第 8 條

That clause 8 be amended, by deleting "or further royalty".

Clause 9

條例草案第 9 條

That clause 9 be amended, by deleting subclause (6).

Clause 13

條例草案第 13 條

That clause 13 be amended —

- (a) by adding ", at its own expense," after "shall".
- (b) by adding "bear the costs of" before "the operation".
- (c) by deleting "at its own expense" at the end.

Clause 15

條例草案第 15 條

That clause 15(a)(i) be amended, by deleting "成本" and substituting "費用".

Clause 16

條例草案第 16 條

That clause 16(5) be amended, by adding "at its own expense" after "restore".

That clause 16(7) be amended —

- (a) by adding "原狀" after "回復".
- (b) by deleting "成本" and substituting "費用".

Clause 17

條例草案第 17 條

That clause 17(3) be amended —

- (a) in paragraph (b) by adding "referred to in paragraph (a)" after "system".
- (b) in paragraph (d) by adding "referred to in paragraph (c)" after "system".

Clause 19

條例草案第 19 條

That clause 19(2)(a) be amended, by adding "tunnel" before "facilities)".

Clause 21

條例草案第 21 條

That clause 21 be amended —

- (a) in the heading, by deleting "成本" and substituting "費用".
- (b) by deleting "成本" wherever it appears and substituting "費用".

Clause 24

條例草案第 24 條

That clause 24(14) be amended, by deleting "the system" and substituting "any system for the collection of tolls installed by the Company".

Clause 25

條例草案第 25 條

That clause 25(1) be amended, by adding "out" after "carry" where it thirdly appears.

Clause 26

條例草案第 26 條

That clause 26(6) be amended, by adding "計" after "起".

Clause 27

條例草案第 27 條

That clause 27(7) be amended, by adding ", at its own expense," after "out".

Clause 28

條例草案第 28 條

That clause 28(1)(c) be amended, in the Chinese text, by deleting subparagraph (i) and substituting —

- "(i) 就公司所提供負責隧道區內交通的管制、限制及安全的人員的權力，訂定條文；及".

Clause 29

條例草案第 29 條

That clause 29(3)(d) be amended, by adding ", where that information is within his knowledge," after "him".

Clause 30

條例草案第 30 條

That clause 30(1)(d) be amended, by adding "in the tunnel area" at the end.

Clause 35

條例草案第 35 條

That clause 35(4)(b)(i) be amended, by deleting "or breach".

Clause 36

條例草案第 36 條

That clause 36(1) be amended, by adding "法律" before "責任" where it twice appears.

That clause 36(2) be amended, by deleting "成本" and substituting "費用".

Clause 37

條例草案第 37 條

That clause 37(1)(d) be amended, by deleting "up".

Question on the amendments put and agreed to.

修正案之議題經付諸表決，並獲通過。

Question on clauses 2, 8, 9, 13, 15, 16, 17, 19, 21, 24 to 30, 35, 36 and 37, as amended, put and agreed to.

經修正的條例草案第 2、8、9、13、15、16、17、19、21、24 至 30、35、36 及 37 條之議題經付諸表決，並獲通過。

Clause 7

條例草案第 7 條

李永達議員致辭：主席，本人動議修正條例草案第 7 條，修正案內容載列於以我名義提出並已送交各委員的文件內。

一如本人在較早前發言時解釋，隧道公司須繳付的專營權費水平應予降低。根據條例草案的規定，隧道公司須由開始經營日期起，繳付經營收入的 2.5% 作為專營權費。條例草案委員會建議改用下述的專營權費收費率：由開始經營日期起計的 5 年期間內，收費率為經營收入的 1%；其後則為經營收入的 2.5%。如日後對使用隧道及連接道路的限制予以放寬，則由放寬日期起適用的原來專營權費將維持不變，即隧道公司須繳付的專營權費收費率如下：由放寬日期起計的 5 年期間內，收費率為經營收入的 5%，另加淨經營收入中超逾預計淨經營收入的部分的 15%；其後的收費率則為經營收入的 5%，另加淨經營收入中超逾預計淨經營收入的部分的 30%。

主席，本人謹此動議。

Proposed amendment

擬議修正案內容

Clause 7

條例草案第 7 條

That clause 7 be amended, by deleting subclauses (1) and (2) and substituting —

"(1) Subject to subsection (2), the Company shall pay to the Government, for the duration of the powers given under section 4, a royalty at the rate of -

- (a) 1% of the operating receipts for a period of 5 years commencing from the operating date; and

- (b) thereafter, 2.5% of the operating receipts, instead of at the rate specified in paragraph (a).

(2) If the restriction on the use of the Tunnel Link is relaxed, the Financial Secretary may require the Company to pay to the Government, commencing from the date of relaxation and for the duration of the powers given under section 4, a royalty, instead of at the rate specified in subsection (1), as follows -

- (a) at the rate of 5% of the operating receipts; and
- (b) in addition -
 - (i) for the period of 5 years following the date of relaxation, at the rate of 15% of the net operating receipts in excess of the projected net operating receipts; and
 - (ii) thereafter, instead of at the rate specified in subparagraph (i), at the rate of 30% of the net operating receipts in excess of the projected net operating receipts."

Question on the amendment put and agreed to.

修正案之議題經付諸表決，並獲通過。

運輸司致辭：主席，我謹動議按照發送給各委員傳閱的文件所述，進一步修正第 7 條。這項修正純屬技術性質，目的是使條例草案有關的條文更清晰。

我謹向各位委員推薦這項修正案。

Proposed amendment.

擬議修正案內容。

Clause 7

條例草案第 7 條

That clause 7 be further amended —

- (a) by deleting subclause (3) and substituting -

"(3) The payment of royalty shall be due in respect of each period of -

- (a) 6 months or part thereof, in the case of royalty payable under subsections (1) and (2)(a);
- (b) 12 months or part thereof, in the case of any royalty payable under subsection (2)(b)(i) and (ii),

during which the powers given under section 4 are effective, commencing from the operating date or the date of relaxation, as may be appropriate, and shall be paid within 60 days of the end of each such period."

- (b) by deleting subclause (7) and substituting -

"(7) In this section -

"date of relaxation" (放寬日期) means the date on which a determination under section 23(1), in respect of which the Commissioner (with the agreement of the Director of Lands) has made a determination described in subsection (6)(b), comes into effect;

"net operating receipts" (淨經營收入) means the operating receipts reduced by the royalty payable in respect of those receipts under subsection (1) or (2)(a), as the case may be;

"operating date" (開始經營日期) means the date determined under section 18(1);

"operating receipts" (經營收入) means the total gross sums received by the Company in respect of the tolls and fees charged under section 24;

"projected net operating receipts" (預計淨經營收入) means

the projected operating receipts prepared by the Company and accepted by the Commissioner for each year during which the Tunnel Link is operated by the Company under this Ordinance reduced by the royalty under subsection (1) or (2)(a), as the case may be, which would be payable in that year upon those receipts."

Question on the further amendment put and agreed to.

進一步修正案之議題經付諸表決，並獲通過。

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

經修正的條例草案第 7 條之議題經付諸表決，並獲通過。

MIDWIVES REGISTRATION (AMENDMENT) BILL 1997

《1997 年助產士註冊（修訂）條例草案》

Clauses 1 to 28 were agreed to.

條例草案第 1 至 28 條獲得通過。

Heading before new clause 29

新訂的第 29 條

New clause 29

新訂的第 29 條之前的標題

Consequential Amendments Midwives

(Registration and Disciplinary

Procedure) Regulations

相應修訂《助產士

（註冊及紀律處分程序）規例》

Repeal

廢除

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

條例草案條文經過首讀，並依據《會議常規》第 46 條第(6)款的規定，受命安排二讀。

衛生福利司致辭：主席，我動議二讀新訂的第 29 條之前的標題，以及新訂的第 29 條，內容已載列於發送給各位委員的文件內。建議加入第 29 條，訂明廢除原有的附屬規例。該條文會在新附屬規例擬定和通過後，才正式生效，以便配合新規例的實施時間。

Question on the Second Reading of the clause proposed, put and agreed to.
條例草案條文二讀之議題經提出待議，隨即付諸表決，並獲通過。

Clause read the Second time.
條例草案條文經過二讀。

衛生福利司致辭：主席，我動議本條例草案應增補新訂的第 29 條之前的標題，以及新訂的第 29 條。

Proposed addition
擬議的增補

Heading before new clause 29 and new clause 29
新訂的第 29 條之前的標題及新訂的第 29 條

That the Bill be amended, by adding —

"Consequential Amendments

Midwives (Registration and Disciplinary Procedure) Regulations

29. Repeal

The Midwives (Registration and Disciplinary Procedure) Regulations (Cap. 162 sub. leg.) are repealed."

Question on the addition of the Heading before new clause 29 and new clause 29 proposed, put and agreed to.

增補新訂的第 29 條之前的標題以及新訂的第 29 條之議題經提出待議，隨即付諸表決，並獲通過。

**VOLUNTEER AND NAVAL VOLUNTEER PENSIONS (AMENDMENT)
BILL 1997**

《1997 年陸軍義勇軍及海軍義勇軍恩恤金（修訂）條例草案》

Clauses 1 to 7

條例草案第 1 至 7 條

SECRETARY FOR HEALTH AND WELFARE: Mr Chairman, I move that the clauses specified be amended as set out in the paper circularized to Members.

Proposed amendments

擬議修正案內容

Clause 1

條例草案第 1 條

That clause 1 be amended, by adding the following as the Chinese text of the clause —

"1. 簡稱及生效日期

(1) 本條例可引稱為《1997 年陸軍義勇軍及海軍義勇軍恩恤金（修訂）條例》。

(2) 本條例自衛生福利司以憲報公告指定的日期起實施。"

Clause 2

條例草案第 2 條

That clause 2 be amended, by adding the following as the Chinese text of the clause —

"2. 修訂詳題

《陸軍義勇軍及海軍義勇軍恩恤金條例》（第 202 章）的詳題現予修訂 -

(a) (i) 廢除“使到”而代以“訂定條文，以”；

- (ii) 廢除“或從事實際服務”；
- (b) 廢除“去世、殘廢或患病而支付的”而代以“的傷殘或去世而支付”；
- (c) 廢除“撫恤金成為有效”而代以“律貼，並就恩恤金評議局的設立以及附帶或有關的事宜訂定條文”。

Clause 3

條例草案第 3 條

That clause 3 be amended, by adding the following as the Chinese text of the clause —

"3. 加入第 I 部標題

在第 1 條之前加入 -

“第 I 部

導言”。

Clause 4

條例草案第 4 條

That clause 4 be amended, in the proposed section 2(3) —

- (a) in paragraph (a)(i)(B), by deleting "has been and remains aggravated" and substituting "had been and remains to have been aggravated";
- (b) in paragraph (b)(i), by deleting "remains aggravated" and substituting "remains to have been aggravated".

That clause 4 be amended, by adding the following as the Chinese text of the clause —

"4. 釋義

第 2 條現予修訂 —

(a) 將該條重編為第 2(1)條；

(b) 在第(1)款中 —

(i) 廢除“命令”的定義；

(ii) 加入 —

““主席”(Chairman)指評議局的主席；

“申索”(claim)指根據第 21(1)條呈交的申索，並包括申索的一部分；

“合資格人士”(qualified person)指 —

(a) 曾服第(2)(a)(i)款所提述的兵役的軍官或隊員；

(b) 曾服第(2)(a)(ii)款所提述的兵役的成員；

“尚存配偶”(surviving spouse)就一名合資格人士而言，指該名合資格人士去世時以其配偶身分尚存的人；

“配偶”(spouse)就一名合資格人士而言 —

(a) 指藉基督教婚姻或其相等的世俗婚姻而與該名合資格人

士結婚的該名合資格人士的
合法配偶；

(b) 如該名合資格人士沒有一名
(a)段所指的配偶 —

(i) 在該名合資格人士已
以丈夫身分締結中國
舊式婚姻的情況下，
指根據適用於該名合
資格人士的法律承認
為該名合資格人士的
結髮或填房妻子者；

(ii) 在任何其他情況下 —

(A) 除 (B) 分節另有
規定外，指根據
適用於該名合資
格人士的法律承
認為該名合資格
人士的配偶者；

(B) 如該名合資格人
士根據適用於他
的法律同時與多
於一人合法結
婚，指該等法律
承認為該名合資
格人士的主要配
偶者；

“評議局” (Board) 指由第 3 條設立的恩恤
金評議局；

“傷病” (injury) 包括損傷和疾病，以及
並存的多於一項傷病；

“傷殘程度”(degree of disablement)就一名合資格人士而言，指第 6 條所指的該名合資格人士的傷殘程度；

“撫恤金”(grant)指根據本條例須以恩恤金、補助金或其他津貼形式支付的任何款項，並包括撫恤金的一部分。”；

(c) 加入 -

“(2)為施行本條例 —

(a) 除第(3)及(4)款另有規定外，凡提述“服役” —

(i) 就軍官或隊員而言，須視為提述該軍官或隊員（視屬何情況而定）在 1941 年 12 月 7 日或之後在根據《1933 年陸軍義勇軍條例》（1933 年第 10 號）組成的香港陸軍義勇軍中根據該條例所服的實際兵役；

(ii) 就成員而言，須視為提述該成員在 1939 年 8 月 30 日或之後在根據《1933 年海軍義勇軍條例》（1933 年第 30 號）組成的香港海軍義勇軍中根據該條例所服的實際兵役；

(b) 凡提述“由於服役以致”或“由服役引致”，須據此解釋。

(3) (a) 為施行本條例，如在一合資格

人士服役終止後，任何人就於該名合資格人士在服役終止後發生的由服役引致的傷殘或去世的情況呈交申索，則在該人向評議局證明而使評議局信納下述項目後，該名合資格人士的傷殘或去世（視屬何情況而定）須視為是由服役引致的 —

(i) 如屬傷殘的情況，該名合資格人士的傷殘是由下述傷病引致的 —

(A) 可歸因於服役的傷病；或

(B) 在服役前已存在或在服役期間產生並曾經由此而加重且仍然是經如此加重的傷病；

(ii) 如屬去世的情況，該名合資格人士的去世是由於下述項目引致或由於下述項目而在很大程度上加速造成的 —

(A) 可歸因於服役的傷病；或

(B) 在服役前已存在或在服役期間產生的傷病因役而加重。

(b) 就本條例所指的任何申索而言 —

(i) 除非在該申索呈交時，有關

的傷病如(a)(i)(B)段所指仍然是經加重的，否則該段所列出的條件不得視為已經符合；

(ii) 如根據可靠證據，就(a)段所列出的任何條件是否已經符合一事存有合理疑點，該合理疑點的利益須給予呈交該申索的人；

(iii) 如與(a)段所列出的任何條件有關的具關鍵性事實並沒有在同時期正式紀錄中載錄，該項事實的其他可靠佐證可予接受。

(4) 為施行本條例，如一名合資格人士去世時，他已根據本條例獲支付根據第 10 條須以經常照顧津貼方式而就截至其去世為止的任何期間支付的撫恤金，或根據本條例另有權獲支付上述撫恤金，則如就該名合資格人士的去世呈交申索，該名合資格人士須視為是由於服役以致去世。

(5) 為施行本條例 —

(a) 凡提述任何合資格人士的軍階，須當作提述該名合資格人士在其服役於香港陸軍義勇軍或香港海軍義勇軍（視屬何情況而定）期間所達到的最高軍階；

(b) 凡提述軍官軍階或隊員軍階 -

(i) 就香港陸軍義勇軍而言，即提述附表 1 第 2 欄內的任何軍階中，在與該附表第 1 欄內所列出的一項適用的級別

相對之處所列出的軍階；

- (ii) 就香港陸軍義勇軍而言，即提述附表 1 第 3 欄內的任何軍階中，在與該附表第 1 欄內所列出的一項適用的級別相對之處所列出的軍階。 ” 。 ”.

Clause 5

條例草案第 5 條

That clause 5 be amended —

- (a) in the proposed section 14, by deleting "and of aids" and substituting "or of aids".
- (b) in the proposed paragraph 1(b) of Part I of Schedule 2, by deleting "has been and remains aggravated" and substituting "had been and remains to have been aggravated".

That clause 5 be amended, by adding the following as the Chinese text of the clause —

"5. 取代條文

第 3 至 6 條現予廢除，代以 —
“第 II 部

恩恤金評議局

3. 恩恤金評議局

- (1) 現設立一個評議局，名為恩恤金評議局。
- (2) 評議局由以下人士組成 —

- (a) 庫務署署長；庫務署署長須出任主席；
 - (b) 衛生署署長，或一名由其指定為其代表且屬首席醫生或以上職級的公職人員；及
 - (c) 不多於 3 名由總督委任的成員。
- (3) 根據第(2)(c)款作出的委任須在憲報公布。
- (4) 根據第(2)(c)款委任的評議局成員 —
- (a) 須在總督決定的期間並按總督決定的條款任職；
 - (b) 可隨時藉向總督發出書面通知而辭職；
 - (c) 在總督信納其因身體或精神上的疾病以致喪失履行職務能力，或因其他理由而不能夠或不適宜履行評議局成員的職能的情況下，可被總督免任。
- (5) 評議局須按主席決定為評議局根據本條例履行任何職能和行使任何權力所需的頻密程度舉行會議。
- (6) 除非在評議局會議上，有 3 名評議局成員出席而符合法定人數，否則評議局在該會議上除押後會議外不得處理其他事務。
- (7) 出席的評議局成員的過半數決定即為評議局的決定，如無過半數決定，則主席的決定即為評議局的決定。
- (8) 在符合本條的規定下，評議局可決定其本身的程序。

4. 評議局的職能及權力

(1) 評議局須履行根據本條例委予或授予評議局的職能。

(2) 評議局可作出一切對更佳地根據本條例履行其職能屬需要或屬如此履行職能附帶引起或對如此履行職能有利的的事情，而在不局限前述條文的一般性的原則下，尤可 —

- (a) 設立評議局認為合適的委員會以協助評議局根據本條例履行其職能和行使其權力；
- (b) 委任評議局認為合適的人（包括並非評議局成員的人）出任根據(a)段設立的任何委員會的成員；
- (c) 聯絡或諮詢評議局認為對根據本條例履行其職能和使其權力屬需要或適宜的人或機構（不論是在香港或在其他地方的）；
- (d) 就根據本條例支付任何撫恤金（不論以恩恤金、補助金或其他津貼的形式支付），不時發表說明及指引和提供說明及指引以供查閱。

第 III 部

就傷殘付款

5. 由服役引致的傷殘

如任何合資格人士由於服役以致傷殘，則除本條例其他條文另有規定外，根據本部須就此支付的任何撫恤金（不論以恩恤金、補助金或其他津貼的形式支付），須支付予該名合資格人士。

6. 傷殘程度的評定

任何合資格人士的傷殘程度，須是按照附表 2 第 I 部所列出的評定原則而評定為該名資格人士的由服役引致的傷殘程度者。

7. 傷殘恩恤金

如任何合資格人士的傷殘程度不低於 20%，則除第 9 條另有規定外，須以恩恤金的方式而按附表 3 第 2 欄所列並適合其傷殘程度及其軍階的付款率支付撫恤金。

8. 輕度傷殘補助金

如任何合資格人士的傷殘程度低於 20%，則除第 9 條另有規定外，須以補助金的方式支付下述撫恤金 —

- (a) 如該項傷殘是由屬附表 4 第 I 部第 1 欄所列出的傷病類別的傷病引致的，即為以整筆款項的形式支付而款額是該部第 3 欄所列並適合該傷病、其傷殘程度及其軍階者的撫恤金；
- (b) 在任何其他情況下，則為以整筆款項的形式支付而款額是附表 4 第 II 部第 3 欄所列並適合其傷殘估計持續的時間、其傷殘程度及其軍階者的撫恤金。

9. 在特殊情況下的綜合付款

如任何合資格人士由服役引致傷殘，而 —

- (a) 該項傷殘是由下述因由引致的 —
 - (i) 屬附表 4 第 I 部第 1 欄所列出的傷病類別的傷病；及
 - (ii) 並不造成該名合資格人士完全傷殘的傷病；及
- (b) 以綜合評定的方式就(a)(i)及(ii)段所提述的兩項因由而評定所得的傷殘程度，並不高於單獨

就 (a)(ii) 段所提述的因由而評定所得傷殘程度，

則須支付下述撫恤金，以代替若非因本條原須根據第 7 或 8 條就該項傷殘而支付的任何撫恤金 —

- (i) 假若該項傷殘僅由 (a)(i) 段所提述的因由引致則須根據第 8 條支付的撫恤金；及
- (ii) 假若該項傷殘僅由 (a)(ii) 段所提述的因由引致則須根據第 7 或 8 條支付的撫恤金。

10. 經常照顧津貼

如 —

- (a) 任何合資格人士根據本條例（不論是否憑藉第 7 或 9(ii) 條的適用）有權獲支付任何根據第 7 條須以恩恤金方式而就任何程度不低於 80% 的傷殘支付的撫恤金；及
- (b) 已向評議局證明而使評議局信納該名合資格人士由於該項傷殘以致需要經常照顧，

則除根據本部須支付的任何其他撫恤金外，須以經常照顧津貼的方式而按評議局在顧及有關個案的全部情況後不時厘定並且不超過附表 5 第 2 欄就該項津貼所列出的付款率支付撫恤金。