

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 28 May 1997

The Council met at half-past Two o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

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

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

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

THE HONOURABLE SZETO WAH

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE MICHAEL HO MUN-KA

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

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

THE HONOURABLE FRED LI WAH-MING

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

DR THE HONOURABLE SAMUEL WONG PING-WAI, O.B.E., F.Eng., J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

THE HONOURABLE CHRISTINE LOH KUNG-WAI

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

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE CHAN KAM-LAM

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE CHENG YIU-TONG

DR THE HONOURABLE ANTHONY CHEUNG BING-LEUNG

THE HONOURABLE CHEUNG HON-CHUNG

THE HONOURABLE CHOY KAN-PUI, J.P.

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE IP KWOK-HIM

THE HONOURABLE LAU CHIN-SHEK

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

DR THE HONOURABLE LAW CHEUNG-KWOK

THE HONOURABLE LAW CHI-KWONG

THE HONOURABLE LEE KAI-MING

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE BRUCE LIU SING-LEE

THE HONOURABLE LO SUK-CHING

THE HONOURABLE MOK YING-FAN

THE HONOURABLE MARGARET NG

THE HONOURABLE NGAN KAM-CHUEN

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE TSANG KIN-SHING

DR THE HONOURABLE JOHN TSE WING-LING

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

THE HONOURABLE LAWRENCE YUM SIN-LING

MEMBERS ABSENT:

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

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

THE HONOURABLE JAMES TO KUN-SUN

PUBLIC OFFICERS ATTENDING:

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

MR RAFAEL HUI SI-YAN, J.P.
FINANCIAL SECRETARY

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

MR CHAU TAK-HAY, C.B.E., J.P.
SECRETARY FOR BROADCASTING, CULTURE AND SPORT

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

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

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

MR RAFAEL HUI SI-YAN, J.P.
SECRETARY FOR FINANCIAL SERVICES

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

MR BOWEN LEUNG PO-WING, J.P.
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

MISS DENISE YUE CHUNG-YEE, J.P.
SECRETARY FOR TRADE AND INDUSTRY

THE HONOURABLE LAM WOON-KWONG, J.P.
SECRETARY FOR THE CIVIL SERVICE

MR STEPHEN IP SHU-KWAN, J.P.
SECRETARY FOR ECONOMIC SERVICES

MRS STELLA HUNG KOWK WAI-CHING, C.B.E., J.P.
SECRETARY FOR HOME AFFAIRS

CLERKS IN ATTENDANCE:

MR RICKY FUNG CHOI-CHEUNG, SECRETARY GENERAL

MR LAW KAM-SANG, DEPUTY SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

PAPERS

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Child Care Centres (Amendment) Regulation 1997.....	272/97
Fugitive Offenders (Indonesia) Order.....	273/97
Fugitive Offenders (Drugs) Order	274/97
Prison (Amendment) Rules 1997.....	275/97
Plant Varieties Protection Regulation.....	279/97
Banking Ordinance (Declaration Under Section 2(14)(d)) Notice.....	280/97
Occupational Safety and Health Ordinance (39 of 1997) (Commencement) Notice 1997.....	281/97
Enduring Powers of Attorney (Registration) Rules.....	282/97
Supreme Court Fees (Amendment) Rules 1997	283/97
Rules of the Supreme Court (Amendment) (No. 2) Rules 1997	284/97

Sessional Papers 1996-97

- No. 100 — Report by the Commissioner of Correctional Services on the Administration of the Prisoners' Welfare Fund for the year ended 31 March 1996
- No. 101 — Regional Council
Revised Estimates of Expenditure 1996-97
- No. 102 — Urban Council
Schedule of revisions to the 1996-97 Estimates approved by the Urban Council during the fourth quarter of the 1996/97 financial year

ANNOUNCEMENT

PRESIDENT (in Cantonese): The Council today shall start now. Honourable Members, during the debate on the motion moved by the Honourable SZETO Wah at the last sitting, I said that I would announce at this sitting whether it was appropriate for the Honourable Albert CHAN to use the phrase "卑劣的手法" (base and disgusting means) in his speech. Having watched the video tape afterwards, I found out that Mr CHAN actually said on that day that the Hong Kong Association for Democracy and People's Livelihood (ADPL) employed "卑劣的手法" (base and disgusting means) in handling the application for erecting the "Pillar of Shame". According to the Xiandai Hanyu Cidian (Dictionary of Modern Chinese), "卑劣" means "base and disgusting" and thus renders the term insulting. If the term is used in this Council to refer to Members' moral integrity, it should be regarded as unparliamentary.

Later, I had a meeting with Mr CHAN, who clarified that at that moment, he was not referring to the moral integrity of Legislative Council Members belonging to the ADPL. Instead, he was talking about the way in which the application for erecting the "Pillar of Shame" was handled. Hence, I think it is acceptable for Mr CHAN to use the term then. I must however emphasize that the term "卑劣" (base and disgusting) itself is insulting and should be avoided in this Council even if it is not used to refer to the personal moral integrity of any Members. If in future any

Member happens to use the term "卑劣" (base and disgusting) again, I would ask him/her to clarify that it does not refer to the moral integrity of Members of this Council and to apologize for any misunderstandings so caused.

As regards any direct use of the term "卑劣" (base and disgusting) against Members, I would regard it as unparliamentary and would order the Member concerned to withdraw it and apologize.

ORAL ANSWERS TO QUESTIONS

Tuberculosis

1. **MR MICHAEL HO** asked (in Cantonese): *Regarding the recent spate of tuberculosis cases involving workers in the service industries, will the Government inform this Council whether the number of people suffering from tuberculosis in Hong Kong is higher than those in Western European countries and developed regions in Asia; if so, what the reasons are, and what specific plans does the Government have to bring the number of tuberculosis patients in the territory down to the level in Western European countries?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, the present average notification rate for tuberculosis (TB) in Hong Kong is about 100/100 000. According to data released by the World Health Organization, in 1994, the average notification rates in Asia are about 270/100 000 in the Philippines, 80/100 000 in Thailand, 35/100 000 in Japan and 60/100 000 in Singapore. As for Western Europe, the average notification rates are about 10/100 000 in the United Kingdom and Italy and 15/100 000 in France and Germany.

When comparing the above notification rates, we should take note of differences in the notification systems of infectious diseases in different countries. Moreover, the notification rate for TB is affected by such factors as population density, aging population, living conditions, and so on.

In fact, the notification rate for TB in Hong Kong has dropped from 360/100 000 in the 1960s to about 100/100 000 at present, which represents a decrease of more than 70%. During the same period, the notification rate in such

West European countries as the United Kingdom has also declined by approximately 70% from about 40/100 000 to about 10/100 000.

The Government will continue to adopt a three-pronged approach — prevention, treatment and public education to fight TB. A number of anti-TB measures are implemented:

Regarding preventive measures, almost all new-born babies are vaccinated against TB. They will be vaccinated again while in primary school. Upon detection of the disease, the Department of Health will follow up the case immediately so that patients can receive treatment as early as possible. Those who have had close contact with the patients will be screened in order to prevent the disease from spreading.

Regarding the treatment of TB, the Department of Health operates 17 tuberculosis and chest clinics which provide free services for patients. Five specialist units under the Tuberculosis and Chest Service in public hospitals under the Hospital Authority provide in-patient services for TB patients in more acute condition. In the 1970s, we took the lead in adopting "Directly Observed Treatment" through which patients received treatment under the supervision of medical staff. The treatment, designed to facilitate the early recovery of patients, has been recognized and recommended by the World Health Organization.

The Government will continue to step up public education on TB. Various programmes, including exhibitions and talks, will be organized jointly with professional bodies to promote the prevention of TB and give publicity to the tuberculosis and chest services available, and to encourage people with TB symptoms to undergo screening as soon as possible. We will, of course, continue to promote a healthy lifestyle, a balanced diet, adequate rest and appropriate amount of exercise which will strength on our resistance to diseases.

We will spare no effort in implementing the above anti-TB measures with a view to minimising the number of TB cases in Hong Kong and bringing down the notification rate to the level in Western countries.

MR MICHAEL HO (in Cantonese): *Mr President, we can see from the reply of the Secretary for Health and Welfare that the notification rate for tuberculosis in*

Hong Kong is more than 10 times of that in Western Europe. In my original question I asked what specific plans there were to bring the number of TB cases in Hong Kong down to the level in Western Europe, but the Government's reply only mentioned the existing measures. If our notification rate is still more than 10 times of those of other countries despite our existing measures, could the Government tell this Council what other specific measures can be taken in order to bring down the notification rate for TB?

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, the preventive measures and treatment we are now adopting are those generally adopted by the World Health Organization and other advanced countries and are recognized as the best. We can of course do much more and better in this area but our general approach, especially the "Directly Observed Treatment", is a more advanced practice in Hong Kong, which has been in use since 1970s. We must understand that there is definitely a notification rate, which cannot possibly be brought down to zero, but we also recognise that there is still a lot to do and that our notification rate is indeed higher than that of the Western European countries. This is due to the environment in Hong Kong. For example, the population density and the aging population are some of the factors.

PRESIDENT (in Cantonese): Mr HO, are you claiming that the reply has not fully answered your question?

MR MICHAEL HO (in Cantonese): *Mr President, the Secretary for Health and Welfare has not answered my question. My question is about other measures that can be taken to step up efforts in this area. Just now in her reply the Secretary for Health and Welfare has said there is still a lot of work to do and my question is exactly what the work is.*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): The efforts that we need to step up are that, for example, we seldom in the past paid attention to the promotion of a healthy lifestyle and the strengthening of our population's resistance to diseases. We will step up our efforts in this aspect in future. The

most important thing is to ensure that the local population has adequate resistance to diseases.

PRESIDENT (in Cantonese): Five more Members wish to raise supplementary questions. I shall draw a line there.

MR HOWARD YOUNG (in Cantonese): *Mr President, just now the Secretary for Health and Welfare quoted the data of the World Health Organization and some neighbouring and advanced countries in comparison with those of Hong Kong. I consider that these data can facility our formulation of policies and deployment of resources. Could the Secretary for Health and Welfare advise this Council whether such a comparison between the authoritative data and the situation in Hong Kong is an inherent internal system within the Government of Hong Kong or whether such information is available only because a Legislative Council Member has raised a question? If such a system is an inherent one, may I ask whether the same comparing mechanism is available for other common serious diseases?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, we adopt comparative figures of other countries for notification rates and general health indicators. However, I have already pointed out clearly in my main reply that we should not rely solely on such comparisons because the notification system varies from place to place. We must note that Hong Kong's notification system is more comprehensive because most of the information comes from public bodies. Other methods are also used to follow up the health indicators. We do not rely alone on comparisons with other countries.

DR HUANG CHEN-YA (in Cantonese): *Mr President, could the Government inform this Council whether any clear analysis has been made on the types of risk factors of tuberculosis patients in recent years? For example, are the aged, Chinese immigrants and singletons whose living conditions and nutrition are extremely poor more prone to the disease? Could this Council be provided with such data, if they are available, so that we know the Government could adopt some more precise and target-oriented preventive measures?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Our record shows that the notification rate of those aged above 65 is very high while that of those aged below 19 is very low. Perhaps I could give you all some figures for comparison. The notification rate of those aged above 65 accounts for almost 30% while that of those aged below 19 is probably 5%. We do not have proofs that the risk of contracting the disease of Chinese immigrants is greater than that of local residents.

DR LEONG CHE-HUNG (in Cantonese): *Mr President, we can see from the reply of the Health and Welfare Branch that the notification rate in the 1960s was 360/100 000 while the prevailing rate is 10/100 000. This is a comparison with the figure 37 years ago. May I ask whether the Government has more recent comparative figures? In other words, can it be shown whether the trend of contracting tuberculosis in recent years has been rising or dropping, or has been steady? If it has been steady, can some progress be achieved? If it has been rising, has the Government identified the cause?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): In the past three to four years, there were 6 300 to 6 500 cases a year, without much increase or decrease. One of the reasons is that our population structure has undergone changes. The population has been gradually aging in the past 10 years and the elderly account for a larger percentage of the notification rate.

DR JOHN TSE (in Cantonese): *Mr President, in the area of prevention, the Secretary for Health and Welfare mentioned that almost all new-born babies were vaccinated against tuberculosis. By "almost", it means it is not 100%. As far as I know, the Government's present target is only 98% to 99%. May I ask when more resources will be allocated to ensure that 100% of the new-born babies in Hong Kong will be vaccinated against tuberculosis? And may I also ask what special arrangements will be made to ensure that Chinese immigrants are also vaccinated?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, our immunization programme is voluntary in nature rather than compulsory, but

we have the support and co-operation of many mothers. In the maternal and child health centres, 90% of the babies have been vaccinated. The present situation is not due to inadequacy of resources. In fact we have full resources. Any person's baby can be taken to a maternal and child health centre for vaccination. As to schools, we have sent colleagues in the Department of Health to schools to remind parents that if their children have not been vaccinated, they can be taken to a maternal and child health centre for vaccination. As for Chinese immigrants, we will remind them through contacts with schools and organizations providing services to them that if there is the need, they can be vaccinated. In fact, apart from tuberculosis vaccination, they can receive other immunization vaccination in the maternal and child health centres. In this area, the response we get is quite satisfactory.

MR LAW CHI-KWONG (in Cantonese): *Mr President, the Secretary for Health and Welfare mentioned the problem of aging population. Just now when she answered Dr HUANG's question, she also mentioned that 30% of those contracting the disease were old people. Since a majority of the babies are vaccinated, does the Government have any specific measure to reduce the chance of old people contracting the disease? There are some 6 000 people contracting the disease every year, 300 to 400 of whom eventually die. I believe that such a figure is indeed very unsatisfactory.*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, maybe I did not express myself clearly just now. Not every patient dies. The figure I mentioned was the notification rate, not the death rate. The medical service in Hong Kong now is quite advanced. Even if one contracts the disease, the possibility of dying is very low. Maybe we are still influenced by the era depicted in the old Cantonese films in which once one contracted tuberculosis, one would die. In fact, the medical system and medication in Hong Kong are very advanced and the disease is now curable. The mortality rate is therefore very low. However, it is true that the notification rate of persons aged above 65 is very high. In fact, that of those aged above 75 is even higher.

MR LAW CHI-KWONG (in Cantonese): *Mr President, my question is what specific measures are in place to reduce the chance of old people contracting the*

disease and dying from it. The figure I mentioned just now, that is, 300 to 400 tuberculosis patients die every year, has been provided by the Census and Statistical Department.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, if one contracts the disease, one should go to a clinic as soon as possible to seek treatment. If the situation is very serious, one can go to the hospital for further treatment. If an old person contracts the disease, he will also be given treatment. The most important thing is that they take good care of themselves by following the medical staff's instructions. This is something that can be done.

Prosecutions against Smokers in No Smoking Areas

2. **MR YUM SIN-LING** asked (in Cantonese): *Currently, certain types of areas are designated as no-smoking areas under the relevant legislation which also prescribes penalties for offenders. In this connection, will the Government inform this Council:*

- (a) of the number of persons prosecuted in the past three years for smoking in designated no smoking areas, and the number of such persons being sentenced to pay the maximum fine of \$5,000;*
- (b) which government department is currently responsible for instituting prosecutions against smokers contravening the law, and whether any officers in the department concerned are specifically charged with the duty of instituting prosecutions;*
- (c) whether the person responsible for the management of a designated no smoking area is liable to criminal proceedings for failing to enforce the no smoking regulations; and*
- (d) of the channels open to the public for reporting cases of smoking in designated no-smoking area?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): The existing statutory no smoking areas prescribed under the Smoking (Public Health)

Ordinance (Cap. 371) include public transport carriers, cinemas, theatres, concert halls, amusement game centres and public lifts. The number of people prosecuted for smoking in these areas in 1994, 1995 and 1996 were 2 648, 1 809 and 1 784 respectively. These figures do not include cases which occurred in land transport carriers other than the Mass Transit Railway (MTR), Kowloon Canton Railway (KCR) and Light Rail Transit (LRT), where statistics are not available. As far as we know, no offender has been fined the maximum penalty of \$5,000.

The primary responsibility for enforcement in designated no smoking areas rests with the managers of these areas. The Ordinance empowers the manager of a no-smoking area to stop people from smoking there. Where the person fails to stop smoking, the manager is empowered to obtain the name, address and proof of identity of the person to enable the relevant department to take follow-up action. Where necessary, the manager can call for the assistance of the police.

Prosecution against smokers in cinemas, theatres and concert halls is the responsibility of the prosecution units of the two municipal departments. In relation to smoking in ferries, action rests with Marine Department's prosecution unit. For smoking in the MTR, KCR and LRT, the companies make the necessary arrangements themselves. The police take responsibility for the remaining prosecutions.

The law only makes it an offence to smoke in no smoking areas and empowers the manager of the area to enforce the law. The manager concerned is not liable to criminal proceedings for failing to enforce the no smoking provisions.

If members of the public find people smoking in statutory no smoking areas, they can report to the manager of the premises concerned for him to take action. Obviously there is a need for such report to be made on the spot, otherwise there will be no evidence for the manager to act on. Alternatively, members of the public may remind smokers that smoking in the area is not allowed. They may also make their general observations regarding any smoking offences found in the premises known to the manager concerned, so as to urge the manager to pay more attention to the enforcement of the law.

To encourage more public places to be designated as no smoking areas, we have introduced into this Council the 1997 Smoking (Public Health) (Amendment) (No. 2) Bill, which proposes that managers of restaurants, banks, supermarkets and

shopping malls should be given the right to decide whether or not to set up statutory no-smoking areas in their premises in order to protect non-smokers from passive smoking. The enforcement action will rest with the managers. When the managers voluntarily choose to designate their premises as statutory no smoking areas, I am sure they will be prepared to take active action to enforce the requirement.

MR YUM SIN-LING (in Cantonese): *Mr President, it is mentioned in paragraph five of the main reply that managers of the premises concerned are not liable to proceedings. Accordingly, apart from reporting the offence to the manager of the premises as stated in the reply, which department can members of the public report the offence to?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): I already mentioned in my main reply that should members of the public encounter such a situation and wish to lodge a complaint, they should do so to the manager of the premises.

MR YUM SIN-LING (in Cantonese): *Sorry, what I asked was that if the offence was reported to the manager of the premises but because he was not liable to proceedings, no effective action was taken, what department could members of the public report to?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): We receive letters from members of the public or organizations every now and then lodging complaints. I welcome their writing to me so that I can follow up.

DR LEONG CHE-HUNG (in Cantonese): *Mr President, it can be seen from the Government's main reply that those who were prosecuted for smoking in no smoking areas accounted for an extremely small percentage of their large number. As for the fine, none of the offenders has been imposed the maximum fine of \$5,000 and therefore, it has no deterrent effect at all. The Government has indicated that a new bill was introduced to propose the addition of no smoking areas, but this*

does not mean more effective enforcement. May I ask what measures the Government has that are really effective in deterring smokers from smoking in no smoking areas?

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, prosecuting offenders is just one of our ways to enforce the law. We consider that the most effective long-term way is public education. We can see that this has had certain effect in recent years. Many organizations are abiding by the law voluntarily and on their own accord, and there are also many offenders who stop smoking after verbal admonition. Accordingly, prosecution is not the only way to stop smokers from causing nuisance to non-smokers.

MR CHOY KAN-PUI (in Cantonese): *Mr President, could the Government advise us on the number of officers responsible for prosecution work and what their establishment and distribution are?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): The officers responsible for law enforcement and prosecutions belong to different government departments and organizations while the relevant prosecution teams are also responsible for other duties. Hence it is not possible to identify the officers responsible for instituting prosecution under the Smoking (Public Health) Ordinance. The Marine Department has its own prosecution team, and so do the MTR, LRT and KCR. The two municipal councils have their own prosecution teams too. It is therefore not possible to give a breakdown specifying the officers responsible for prosecution work under the Ordinance.

Litigation Proceedings Arising from Localization Policy

3. **MRS ELIZABETH WONG** asked: *Mr President, the Hong Kong Government's localization policy has given rise to legal disputes between the Government and the Association of Expatriate Civil Servants (AECS) of Hong Kong. The result of the proceedings in both the High Court and the Court of Appeal was that many fundamental aspects of the localization policy as applied to*

overseas officers and former overseas officers who are permanent residents of Hong Kong were held to be unlawful. Will the Government inform this Council:

- (a) what proposals, if any, are being discussed with the AECS to obviate the possibility of further litigation proceedings; and*
- (b) if there are such proposals, whether the proposals are aimed at full compliance with the declarations made by the High Court and the Court of Appeal; if not, why not?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, let me clarify from the outset that the Courts have not overturned the fundamentals of our localization policy. As the Court of Appeal has stated in its judgement, and I quote, "there is no suggestion that localization is in itself unlawful".

The judgement by the High Court and the Court of Appeal on the judicial review sought by the Association of Expatriate Civil Servants (AECS) is directed primarily at certain arrangements, introduced since July 1993, for overseas agreement officers who are permanent residents of Hong Kong to transfer to local agreement terms, and the restriction on these officers to apply for transfer to local permanent and pensionable terms.

The Administration will give effect to the Courts' judgement. In this connection, we have put forward a package of proposals to the Staff Side of the Senior Civil Service Council in February 1997. The Panel on Public Service of this Council have been briefed on the details of these proposals. To highlight, we have offered to redress the tangible loss of demoted officers by reimbursing them the salaries and increments to which they would have been entitled had they not been demoted. We have proposed to remove two restrictions: the promotion restriction on overseas agreement officers who have transferred to local agreement terms; and the restriction on those who have transferred to local agreement terms to further apply for transfer to local permanent and pensionable terms. We have also proposed criteria for officers serving on local agreement terms to transfer to permanent and pensionable terms.

Let me stress again that these proposals are meant to give effect to the Courts' judgement, in a manner that is reasonable, practical to implement, and realistic in resource requirements.

I should also add that these proposals concern both former overseas agreement officers who have transferred to local agreement terms and serving local agreement officers. We are therefore discussing these proposals with the Staff Side of the Senior Civil Service Council of which the AECS is a constituent member. The discussion is continuing and we hope to have the Staff Side support for these proposals so that they can be implemented as soon as possible.

Thank you.

MRS ELIZABETH WONG: *Mr President, I do not really understand the Secretary's reply, in particular the second last paragraph. So, may I ask the Secretary to clarify his second last paragraph in which he says "Let me stress again that these proposals are meant to give effect to the Courts' judgement in a manner that is reasonable, practical to implement, and realistic in resource terms."*

So, my question is whether the Secretary considers that the implementation of the law is negotiable, subject to the practicalities of the day and the resources of the time; if so, whether he considers that this is a dangerous precedent which undermines the rule of law? Because the issue here is not a question of

PRESIDENT (in Cantonese): Mrs Elizabeth WONG, would you please raise your question?

MRS ELIZABETH WONG: *Does he consider that the practical side of implementation undermines the legality itself?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, the meaning, I think, in my second last paragraph of my answer is self-explanatory. We of course have to implement the judgement of the Courts, but there are interpretations of that judgement which in our view are not totally reasonable, and that is why we have put in the sentence as it stands.

MRS ELIZABETH WONG: *The question I did ask was whether these proposals are aimed at full compliance with the declarations made by the High Court and the Court of Appeal, and I do not think the Secretary has answered that. Mr President, my follow-up is, has the Secretary experienced any difficulty in his discussions with the Staff Side; if so, what are the difficulties and how does he propose to overcome them, to obviate the necessity of further being taken to court?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, we are still in discussion with the Staff Side so I do not want to pre-judge the outcome of that. Suffice it for me to say that at this stage we are still trying, trying very hard, to come to an agreement with the Staff Side on the package to implement the Court of Appeal's judgement. I think we have, on numerous occasions or through discussions, narrowed the gap somewhat and we are still working towards a solution that is agreeable to all.

MRS ELIZABETH WONG: *Can the Secretary advise this Council whether he has considered the possibility of the use of an independent arbitration or enquiry — a proposal of part of the mechanism suggested in 1968 which would expedite the solution to the problem and enable an early agreement to be reached? And if not, why not?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, we have not considered such a need because we do not think there is such a need.

Rehousing Urban Squatters

4. **MR DAVID CHU** asked: *Mr President, the Governor pledged in 1992 to rehouse all urban squatters on government land by 1996. As there are still urban squatters around and in view of the outbreak of fire in a squatter area in Diamond Hill last month, will the Government inform this Council of:*

- (a) *the reasons for the authorities concerned not being able to rehouse all the urban squatters on government land by the above target date;*

- (b) *the date at which the remaining urban squatters on government land and private land are expected to be rehoused; and*
- (c) *the measures which will be taken by the authorities concerned to safeguard the safety of urban squatters before they are rehoused?*

Thank you.

SECRETARY FOR HOUSING: Mr President, the Government's pledge to offer rehousing to all urban squatters residing on government land by March 1996 was successfully completed on time. Over 33 000 squatters have been offered rehousing, and over 32 000 of these have already been rehoused.

As regards part (b) of the question, we will continue to encourage eligible urban squatters residing on government land to accept our rehousing offers. For squatters residing on urban mixed lots, such as those in the Diamond Hill squatter area, the Government's pledge did not cover them. Under existing policy, they will not be evacuated and the land resumed unless there is a specific public requirement for the land involved, such as development for a public purpose, or unless the land is susceptible to geotechnical risk. In other words, the Government does not have a plan at present to clear the squatters on these mixed lots.

I would like to point out that we have proposed in the *Long Term Housing Strategy Review Consultative Document* that the Housing Authority should consider the feasibility of clearing all squatters on urban mixed lots, having regard to the availability of rehousing resources. This proposal, together with others in the *Consultative Document*, is now the subject of public consultation until the end of this month.

As regards part (c) of the question, the Housing Department has installed facilities in all urban squatter areas for fire fighting purposes, including fire hydrants and fire breaks. The Department will continue to remind squatters to take fire prevention measures through the distribution of pamphlets, and meetings with residents and local organizations.

MR BRUCE LIU (in Cantonese): *Mr President, it is known that a special team under the Planning Department is studying and planning for the development of the land on these mixed lots. Unfortunately, no development plans have been confirmed by the study so far because no public use can be designated yet. Accordingly, the squatters on these mixed lots have not been cleared to date, so much so that a lot of this type of squatters still exist today on these lots in the urban centre of Hong Kong, an international metropolis. Could the Government make a public commitment of according priority treatment to the issue of urban squatters (mixed lots), and deciding and confirming a development programme at an early date, under which all the squatters on the urban mixed lots will be cleared as soon as possible within a reasonable period, say about three to five years, so as to prevent candidates for the position of Chief Executive from using these urban squatters again as tools for establishing their image, canvassing and befriending the people?*

SECRETARY FOR HOUSING (in Cantonese): Mr President, as I mentioned from the outset, in the Long Term Housing Strategy Review Consultative Document prepared by the Administration, we considered in the review process whether there was a need to clear the squatters on the mixed lots. We did put forth a proposal for the Housing Authority's consideration. In fact, when we put up the consultation proposal, we certainly had the intention to carry out the job, but at the present stage we cannot make any promise. Nevertheless, I strongly believe that after the consultation exercise is completed and the issue of resources is considered by the Housing Authority, a feasible plan can be put up.

MR CHOY KAN-PUI (in Cantonese): *Mr President, has the Government laid down a specific clearance programme for the squatters to be cleared? If so, what are the details?*

SECRETARY FOR HOUSING (in Cantonese): Mr President, about the squatters on the urban mixed lots, I have just given my explanation. As for the squatters in the other areas of Hong Kong, such as those in the New Territories, the Government has no specific plan yet. If they are to be cleared, it will have to depend on whether there is any designated use or development plan. Sometimes no

clearance programme will be made unless there is the geotechnical issue, and the squatters there will not be cleared.

PRESIDENT (in Cantonese): I believe that the question was whether there were any clearance plans for the urban squatters on government land.

SECRETARY FOR HOUSING (in Cantonese): Mr President, concerning the urban squatters on government land, I have already given my answer in the main reply. The Government made a pledge and fulfilled it as scheduled, which was stated in paragraph one of the main reply. We made housing offers to 33 000 squatter residents and 32 000 of them accepted the offers. The remaining 1 000 stay put in the squatter areas because they do not want to move out. Thank you, Mr President.

MR FREDERICK FUNG (in Cantonese): *Mr President, I want to follow up the question. According to the Government's pledge made in 1992, all the urban squatters on government land were to be cleared by March 1996. After a debate between the Panel on Housing of the Legislative Council and the Housing Branch, the deadline for clearance was changed from "by March 1999" to "by March 1996", but now, further changes have been made in that the residents are only given housing offers. This is in fact no more than changes in wording. According to the original pledge, they must be cleared, even if there are only some 1 000 people remaining. In fact when will all the squatters on government land be cleared? Even if there is only one resident remaining, clearance must go ahead. When will they be cleared? Or are they not going to be cleared at all?*

SECRETARY FOR HOUSING (in Cantonese): Mr President, the Government's pledge was to provide public housing to the then squatter residents to rehouse them. So far the Government has already fulfilled its pledge, except for a small minority who has refused to accept the Government's proposal. I can tell you that some of the Members of this Council too proposed that they should not be forced to leave the squatters. In this respect, the Government has not resorted to any violence and forced them to move out. However, if the residents do not accept the Government's housing offers, I consider that under such circumstances, there is really nothing the Government can do. Thank you, Mr President.

MR LEE WING-TAT (in Cantonese): *Mr President, a number of squatters had been cleared before the urban squatters were cleared. As far as I know, in every urban squatter area to be cleared, there are bound to be various amounts of private land, that is, there is the question of "mixed lots" in every clearance area. I want to ask the Secretary for Housing why in other clearance areas, all the crown land and private mixed land are cleared while the Diamond Hill, where the amount of private land is undoubtedly comparatively large, is not covered by the pledge? On what principle is this so? My question is: was private land included in the squatter areas that were cleared in the past?*

SECRETARY FOR HOUSING (in Cantonese): Mr President, as far as I know, when the Government cleared the squatters on government land, the squatters on private land were not included.

MR LEE WING-TAT (in Cantonese): *Mr President, could the Secretary for Housing provide us in writing the information showing that no private land was included in the urban squatters the clearance of which has been completed, because from the information I got from the Panel on Housing, I understand that some squatter areas did include private land.*

SECRETARY FOR HOUSING (in Cantonese): Mr President, I could provide a written reply. (Annex)

Life Span of Public Rental Housing Flats

5. **MR FREDERICK FUNG** asked (in Cantonese): *Does the Government know of:*

- (a) *the respective numbers of public rental housing (PRH) flats demolished in each of the past five years;*
- (b) *the net increase in the number of PRH flats (the number of new PRH flats minus the number of demolished PRH flats) in each of the past five years; and*

- (c) *the longest, shortest and average lifespan of the PRH flats demolished in the past five years?*

SECRETARY FOR HOUSING (in Cantonese): Mr President, the numbers of PRH flats demolished and constructed in each of the past five years, together with the corresponding net increases, are given in the Annex.

As regards part (c) of the question, the longest and shortest lifespan of public rental housing flats demolished during the past five years are 39 years and 19 years respectively. The average lifespan of these flats is 28 years.

Annex

Public rental housing flats demolished and new flats constructed

	<i>Flats demolished</i>	<i>Flats constructed</i>	<i>Net balance</i>
1992-93	21 599	22 852	1 253
1993-94	17 099	20 274	3 175
1994-95	7 434	24 440	17 006
1995-96	16 418	14 828	(1 590)
1996-97	14 535	15 917	1 382

() denotes negative figure

MR FREDERICK FUNG (in Cantonese): *Mr President, according to the estimate of the trade, the normal lifespan of a building is 40 years, but the average lifespan of the public housing blocks demolished in the past five years is 28 years. May I ask the Secretary for Housing how the lifespan of the housing blocks built by the Housing Authority can be guaranteed to keep up with that of the buildings on the market, that is, 40 years?*

SECRETARY FOR HOUSING (in Cantonese): Mr President, I consider that as far as the lifespan of buildings is concerned, just the number of years after which the building is demolished does not indicate whether it is durable or not. A lot of

urban buildings in Hong Kong are quite new, but they too are demolished. When the Housing Authority and the Housing Society demolish any PRH, the main consideration is whether these housing flats are self-contained or not. Some of the housing built in the early period are not self-contained. For example, toilets are not provided within the flats. Therefore, when redevelopment is planned, these buildings will be accorded priority. Some buildings might have other problems, while others are demolished for redevelopment together with the adjacent block which need to be demolished. Accordingly, when buildings with shorter lifespan is demolished, it does not mean at all that it is of poor quality.

MR FREDERICK FUNG (in Cantonese): *Mr President, the Secretary for Housing has not answered my question. I asked him how to assure the public that in terms of lifespan, the buildings constructed by the Housing Authority can be kept for about 40 years, which is the normal lifespan of the buildings on the market. This has not been mentioned in his reply.*

SECRETARY FOR HOUSING (in Cantonese): Mr President, on the question of the lifespan of buildings, that of the buildings constructed by the Housing Authority in recent years is in fact rather long. As far as I know, there would not be any problem even if the buildings reached the age of 50. The buildings constructed in the past were demolished earlier than this simply because of the reasons I have just given.

MR LEE WING-TAT (in Cantonese): *Mr President, it can be seen from the Annex that the net growth of PRH is in fact very limited. In 1995-96, the overall growth in the number of rental flats was even in the negative, meaning that instead of any increase, there was a decrease of 15%. My calculation shows that the annual net increase of public rental flats in the past five years was only 4 500. May I ask the Secretary for Housing whether he is confident in fulfilling its performance pledge that by 2001 that people on the Waiting List will be allocated a public rental flat within five years on average, in the face of the small net increase?*

SECRETARY FOR HOUSING (in Cantonese): Mr President, although this question is irrelevant to the main question, I would still like to let Mr LEE know

that we should not simply look at the net increase, because a lot of flats in the existing PRH are available for allocation, such as those vacated by tenants who have bought Home Ownership Scheme flats or private housing, or for other reasons. After these vacated flats are refurbished, they will be allocated to other eligible applicants. Hence, there is a large pool of flats which can be allocated to those in need. Generally speaking, at least some 18 000 flats are available every year on average. Furthermore, the number of flats constructed in the coming few years will gradually increase. Hence the Government is confident that there will be enough flats for allocation to the people by 2001.

MR FREDERICK FUNG (in Cantonese): *Mr President, the numbers of flats constructed and demolished in the past five years were roughly the same. Just now Mr LEE pointed out that the difference on average was about 4 000 flats. May I ask whether the Government has ever conducted a review to find out the reasons for the small production in the past five years and its small difference from the number of flats demolished? If so, what were the reasons?*

SECRETARY FOR HOUSING (in Cantonese): Mr President, the main reason was that in the early 1990s, the amount of land allocated to the Housing Authority was comparatively small. Accordingly, the production rate in the past year was comparatively low and so will the production rate in the next couple of years. However, with the increase in the amount of land allocated to the Housing Authority in recent years, there will certainly be a corresponding growth in production in the ensuing years.

WRITTEN ANSWERS TO QUESTIONS

Floating Class System

6. **DR LAW CHEUNG-KWOK** asked (in Chinese): *As the floating class system is still being adopted in some secondary schools, will the Government inform this Council:*

- (a) *of the number of secondary schools in which the floating class system is still being adopted; and*

- (b) *whether it has any plan to abolish the floating class system completely; if so, what the details are (including the estimated number of new secondary schools to be built and the amount of public funds involved)?*

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): Mr President,

- (a) At present, 316 Government and aided secondary schools in Hong Kong still operate floating classes.
- (b) The Government's policy is to abolish floating classes in Secondary 1 to 5. We plan to achieve this by the year 2000. For this purpose, the Government will build seven additional secondary schools at a cost of about \$440 million, and will provide a total of about 200 additional classrooms for those secondary schools which require extra classrooms under the "School Improvement Programme" at a cost of about \$230 million. The Government will review the situation of Secondary 6 and 7 after floating classes in Secondary 1 to 5 have been completely abolished.

Fixed Telecommunication Network Service Operators

7. **MRS MIRIAM LAU** asked (in Chinese): *In 1995, the Government issued a new type of licence for the provision of fixed telecommunication network services in order to bring in competition. In this connection, will the Government inform this Council:*

- (a) *whether the three new operators of fixed telecommunication network services have fully complied with the licence conditions stipulated in the Telecommunication Ordinance since obtaining their licenses; if not, which of the licence conditions have not been complied with;*
- (b) *how the authority concerned monitors the three operators to ensure that they comply with the relevant licence conditions; and*
- (c) *given that the three operators had undertaken to invest in the construction of exchange buildings and other infrastructure facilities, of the progress to date in the construction of such facilities?*

SECRETARY FOR ECONOMIC SERVICES (in Chinese): Mr President, the three new operators of local fixed telecommunications network services have fully complied with their licence conditions.

The Office of the Telecommunications Authority (OFTA) monitors the operators' compliance with the licence conditions. OFTA has the power to intervene when necessary to resolve disputes between operators on interconnection, sharing of facilities and other matters relating to the compliance with licence conditions. OFTA would actively deal with any complaints from consumers or operators about non-compliance with licence conditions and take action as necessary. The operators have deposited performance bonds with OFTA under which the bonded sums could be forfeited if specific licence conditions are not complied with.

Under the licences issued, the three new operators are committed to achieving specific investment milestones by the dates specified in the licences. These milestones include the injection of capital of \$500 million into each of the licensee companies. The milestones to be achieved by the end of 1996 include the completion of an optical fibre backbone network on Hong Kong Island and Kowloon Peninsula, the installation of the necessary exchanges and the provision of services to specified numbers of buildings. OFTA has verified that the three operators have satisfactorily achieved the milestones due by the end of 1996.

In the coming year, there are additional milestones to be achieved concerning the extension of the network to reach commercial and residential customers. To meet these milestones, the new operators are installing additional optical fibre cables through the Mass Transit Railway tunnels. They are installing equipment in the exchange buildings of the Hong Kong Telephone Company Limited (HKTC) to interconnect with its local loops. For new buildings, the new operators and HKTC are co-ordinating with the developers for the provision of in-building block wiring.

Local Software Development Technology

8. **MR JAMES TIEN** asked (in Chinese): *The findings of a survey conducted recently by the Hong Kong Productivity Council (HKPC) show that there is an increasing demand for application software in the local import and export industry*

and that the software required is becoming increasingly complex. In this connection, will the Government inform this Council of the following:

- (a) whether, in the past three years, the HKPC has provided assistance to the import and export industry in such areas as software development, technology transfer, technological support and the training of technical staff, if so, what the details are; and*
- (b) what plans does the HKPC have to ensure that, in the long run, the local software development technology can match the development of the import and export industry and trade developments in the territory?*

SECRETARY FOR TRADE AND INDUSTRY (in Chinese): Mr President, the Hong Kong Productivity Council (HKPC) has spent more than \$57 million (including staff costs) over the past three years in software development and promotion of software applications, principally to assist our import and export (I/E) industry in the areas of software development, technology transfer, technology support and the training of technical staff, as follows:

- (a) Software development — enhancement of GM-SYS, which is a garment management information system for use by garment exporters and I/E firms; development of a low cost software, TRENDS, for the Trade electronic data interchange (EDI) service introduced by the Hong Kong Article Numbering Association (HKANA); and customized software for their clients in the I/E trade.
- (b) Technology transfer — co-operation with the HKANA to train software vendors to use world-wide EDI standards and implement EDI enabled software; and provision of software quality assurance service to software developers on EDI standards.
- (c) Technology support — co-operation with the HKANA and the CargoNet to promote the use of electronic commerce, so as to improve the efficiency of the I/E trade; establishment of the Software Industry Information Centre which completed a survey on the I/E sector entitled 1997 Software Study; co-operation with the Chinese Manufacturers' Association to organize training programmes and

seminars on the use of internet for small and medium enterprises (SMEs), a number of which are engaging in the I/E trade; and development of the SME Net information network to facilitate information search and promotion.

- (d) Training — co-operation with Tradelink to train up more than 800 staff from 300 companies to use the EDI technology for lodging Trade Declarations and applications for Restrained Textile Export Licences; and organization of over 100 advanced IT training courses with leading IT vendors.

In order to ensure that software development technology in Hong Kong meets the changing needs of our trade and the I/E industry in the long run, the HKPC has devised the following strategies:

- (a) further strengthening of the services provided by the Software Industry Information Centre to support software developers and to increase the communication with I/E trade associations;
- (b) promotion of the convergence of internet, EDI and the World Wide Web to form an Extranet for the use of the services industry, especially the I/E industry;
- (c) development of a management information software package for small and medium I/E firms;
- (d) development of a model trading desk which demonstrates the latest IT technologies;
- (e) development of new programmes on software quality improvement; and
- (f) continued promotion of new IT technology and products and provision of advanced training on state-of-the-art IT technologies.

Central-Wan Chai Bypass and Island Eastern Corridor Link Consultancy Study

9. **DR SAMUEL WONG** asked: *In order to ease the heavy road traffic between Hong Kong Island West and Hong Kong Island East, funds were allocated two years ago for the commissioning of the Central-Wan Chai Bypass and Island Eastern Corridor Link Consultancy Study. In this connection, will the Government inform this Council:*

- (a) of the latest progress of the above study; and*
- (b) whether the Government will proceed with the Central-Wan Chai Bypass and Island Eastern Corridor Link project; if so, when the Government will start reclamation work between Star Ferry Pier and Hing Fat Street to facilitate the construction of the Bypass?*

SECRETARY FOR TRANSPORT: Mr President,

- (a) Following allocation of funds by the Finance Committee of the Legislative Council, we embarked on the Consultancy Study for the Central-Wan Chai Bypass and Island Eastern Corridor Link in March 1995. The scope of the study involved:
 - (a) detailed investigation and design of the proposed trunk road; and
 - (b) associated site investigations.

The consultants commissioned to undertake this study have substantially completed the preliminary design of this project. Having carried out an environmental impact assessment as well as a comprehensive review of a number of relevant studies, such as the Territory Development Department's reclamation feasibility studies for the area, the consultants have come up with a recommended alignment and layout for the project.

The proposed Central - Wan Chai Bypass and Island Eastern Corridor Link lies within an existing reclamation site, that is, the Central Reclamation Phase I site

(CRI), and two proposed reclamation sites, that is, the proposed Central Reclamation Phase III site (CRIII) and the proposed Wan Chai Reclamation Phase II site (WRII). A location plan is annexed.

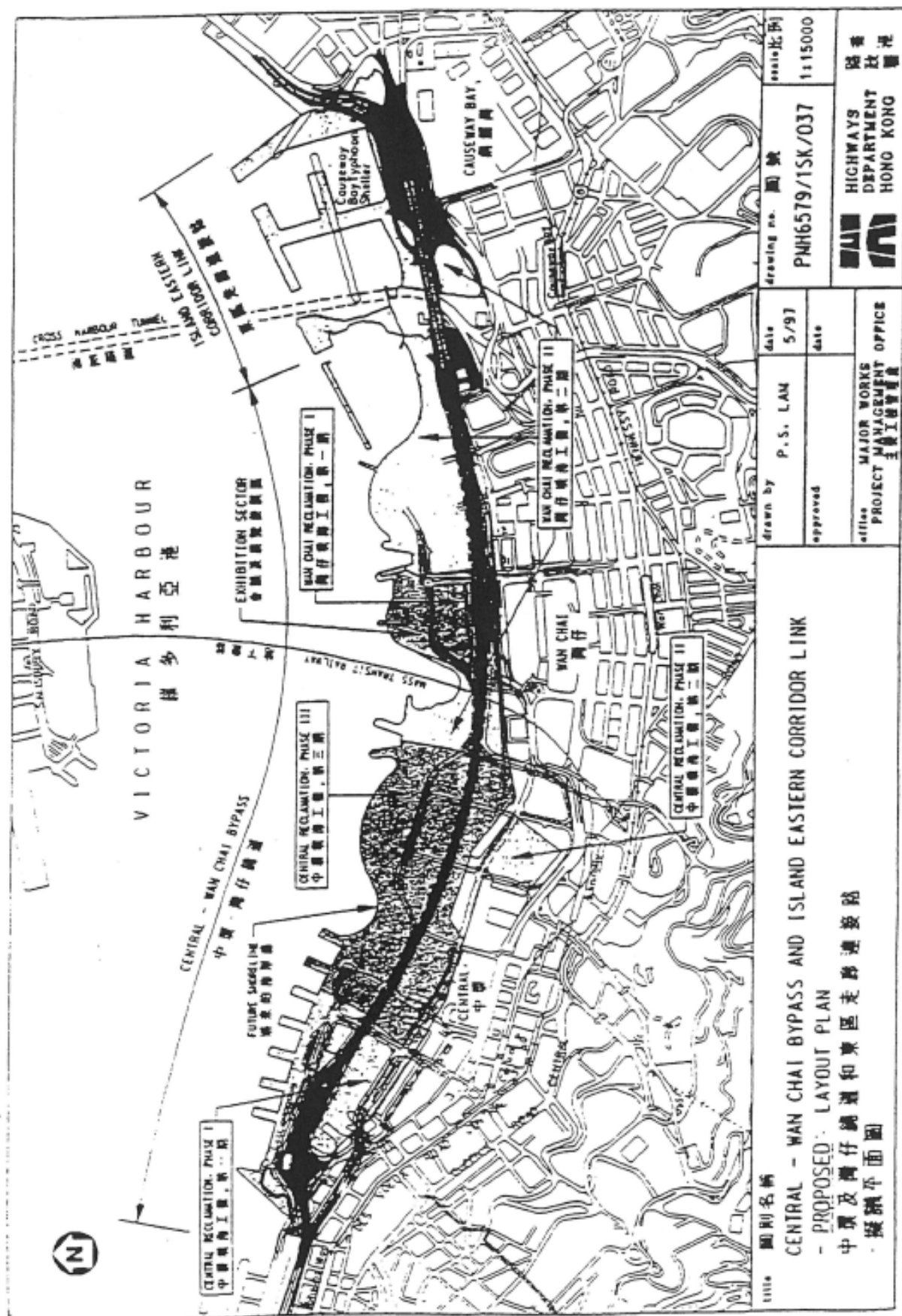
The detailed design work for the section of the road project within the CRI site near the Airport Railway Hong Kong Station is ongoing; to date, about 35% of the detailed design has been completed. We expect to complete all design work by early 1998.

As regards the section of the road project, which will be in the form of an underground tunnel, within the CRIII site, the consultants have largely completed the detailed design of the tunnel structure.

As regards the section of the road project within the WRII site, we intend to carry out the necessary design work in conjunction with the detailed design of the reclamation project, as there would be a lot of interface issues between the two projects, such as the siting of the interchange and the land use pattern, which might affect the trunk road design.

- (b) The construction programme of the Central-Wan Chai Bypass and Island Eastern Corridor Link is dependent on the development of the Central Reclamation Phase I (CRI), the Central Reclamation Phase III (CRIII) and the Wan Chai Reclamation Phase II (WRII) projects. The CRI reclamation work was completed in mid-1996. The detailed design for the CRIII project commenced in November 1995 and has been substantially completed. The Preliminary Project Feasibility Study for the WRII project commenced in June 1995 and was completed in June 1996.

The Administration is reviewing the programme for CRIII and WRII in the context of the current Territorial Development Strategy Review. The programme of the Central-Wan Chai Bypass and Island Eastern Corridor Link is dependent upon this review. We intend to consult members of the public, the district boards concerned and the Legislative Council on the implementation programme in the near future.



Income Groups Profile

10. **MR CHENG YIU-TONG** asked (in Chinese): *Will the Government inform this Council:*

- (a) *whether it can provide a breakdown of the data in respect of the following five income groups by "type of housing resided", "geographical area", "household size" and "household composition" in 1986, 1991 and 1996 respectively:*
 - (i) *below \$4,000;*
 - (ii) *\$4,000 to \$5,999;*
 - (iii) *\$6,000 to \$6,999;*
 - (iv) *\$7,000 to \$7,999;*
 - (v) *\$8,000 to \$8,999; and*
- (b) *if not, what the reasons are; and whether it will consider collecting such information and publishing it on a regular basis?*

SECRETARY FOR FINANCIAL SERVICES (in Chinese): Mr President, the requested statistics are given in the following tables:

- Table 1: No. of employees by monthly earnings from main employment by type of housing
- Table 2: No. of employees by monthly earnings from main employment by district of residence
- Table 3: No. of employees by monthly earnings from main employment by household size
- Table 4: No. of employees by monthly earnings from main employment by household composition

These four tables are compiled based on findings from the Population Census/By-census. The monthly earnings from main employment refers to the overall amount earned from main employment excluding New Year bonus and double pay.

Table 1: No. of employees by monthly earnings from main employment by type of housing
表一：按每月主要收入及房屋類型劃分的僱員數目

1986 Population By-census
一九八六年中期人口統計

1986 income group (at 1996 price level) 一九八六年收入組別 (以一九九六年價格水平計算)	Type of Housing 房屋類型					Overall 總計
	Public rental housing 公營租住房屋	Housing Authority and Housing Society subsidized sale flats* 房屋委員會及房屋協會補 助出售單位*	Private permanent housing 私人永久性房屋	Temporary housing 臨時房屋	Non-domestic housing 非住宅用字單位	Marine Vessels 水上船艇
Under \$4000 4000 元以下	252077	12159	189182	45731	6566	6115
\$4000 - \$5999	328149	22260	313306	60298	8680	3265
\$6000 - \$6999	130466	13720	137375	24465	2779	1145
\$7000 - \$7999	68376	8876	70462	9667	1449	468
\$8000 - \$8999	62664	10038	70574	6958	1778	152239
\$9000 and over 9000 元及以上	85547	31598	283192	6244	6958	227
Overall 總計	927479	98651	1064091	153363	28210	11648
						512030
						736158
						309950
						159298
						152239
						413767
						228
						2283442

1991 Population Census
一九九一年人口普查

1991 income group (at 1996 price level) 一九九一年收入組別 (以一九九六年價格水平計算)	Type of Housing 房屋類型					Overall 總計
	Public rental housing 公營租住房屋	Housing Authority and Housing Society subsidized sale flats* 房屋委員會及房屋協會補 助出售單位*	Private permanent housing 私人永久性房屋	Temporary housing 臨時房屋	Non-domestic housing 非住宅用字單位	Marine Vessels 水上船艇
Under \$4000 4000 元以下	128333	13048	107145	15053	5275	1099
\$4000 - \$5999	252986	29637	246803	27381	4824	573
\$6000 - \$6999	96500	12459	72140	8648	1842	108
\$7000 - \$7999	123009	18379	100009	10378	2239	342
\$8000 - \$8999	121181	22579	110418	10637	2078	123
\$9000 and over 9000 元及以上	225011	91985	497257	14312	9187	181
Overall 總計	947020	188087	1133772	86409	25445	2426
						269953
						562206
						191697
						254356
						267016
						837933
						2383159

*figures refer to Housing Authority subsidized sale flats only.
數字只包括房屋委員會補助出售單位

Table 1: No. of employees by monthly earnings from main employment by type of housing
 表一：按每月主要收入及房屋類型劃分的僱員數目

1996 Population By-census
 一九九六年中期人口統計

1996 income group (at 1996 price level) 一九九六年收入組別 (以一九九六年價格水 平計算)	Type of housing 房屋類型					Overall 總數
	Public rental housing 公營租住房屋	Housing Authority and Housing Society subsidized sale flats 房屋委員會及房屋協會補 助出售單位	Private permanent housing 私人永久性房屋	Temporary housing 臨時房屋	Non-domestic housing 非住宅用屋單位	Marine Vessels 水上船隻
Under \$4000 4000 元以下	75228	21015	144049	5182	2296	847
\$4000 - \$5999	145028	22991	113385	9895	1844	442
\$6000 - \$6999	110998	19765	80802	5594	1186	80
\$7000 - \$7999	117154	23555	83952	5815	1053	215
\$8000 - \$8999	135762	29724	98326	5831	2076	177
\$9000 and over 9000 元以上	406241	201096	787162	17950	7349	530
Overall 總數	990411	317946	1307876	50267	15804	2291
						2684589

Table 2: No. of employees by monthly earnings from main employment by district of residence
表二：按每月主要收入居住地區劃分的僱員數目

1986 Population By-census
一九八六年中期人口統計

1986 income group (at 1986 price level) 一九八六年收入組別 (以一九八六年價格水 平計算)	District of Residence* 居住地區*							
	Central and Western 中西區	Wan Chai 灣仔區	Eastern 東區	Southern 南區	Yau Tsim Mong 油蔴地區	Sham Shui Po 深水埗區	Kowloon City 九龍城區	Wong Tai Sin 黃大仙區
Under \$4000 4000 元以下	16261	11004	37660	18970	30107	45416	37009	31641
\$4000 - \$5999	33075	23562	63105	33110	49098	62650	56413	72856
\$6000 - \$6999	13307	10472	26453	12971	22806	26579	24136	28756
\$7000 - \$7999	7378	5803	14903	6300	10689	12922	12572	13622
\$8000 - \$8999	7196	5572	15274	6622	9646	11914	11732	11312
\$9000 and over 9000 元及以上	33684	26782	60522	23646	25396	28448	41062	18473
Overall 總計	110901	83195	217917	101619	147742	187929	182924	198660
								300748
								181518

1986 income group (at 1986 price level) 一九八六年收入組別 (以一九八六年價格水 平計算)	District of Residence* 居住地區*							
	Tuen Wan 荃灣區	Tuen Mun 屯門區	Yuen Long 元朗區	North 北區	Tai Po 大埔區	Sha Tin 沙田區	Sai Kung 西貢區	Islands 離島區
Under \$4000 4000 元以下	24346	24773	20286	13314	11711	25620	3388	3731
\$4000 - \$5999	37912	27020	24451	15820	16506	39956	5950	4529
\$6000 - \$6999	14812	14672	9821	7616	7301	18970	2205	2002
\$7000 - \$7999	6986	9443	4347	3640	4298	10864	1127	798
\$8000 - \$8999	7000	9905	4361	3143	4046	12761	798	227
\$9000 and over 9000 元及以上	17717	15344	9555	6195	7574	34328	3486	3423
Overall 總計	108773	101157	72821	49728	51436	142499	16954	15253
								11648
								2283442

The boundaries of the District Board districts have been revised three times since 1986. The effect of the boundary revision on the geographical distribution of population was small in most districts. The major change is the combination of Yau Tsim and Mong Kok districts into Yau Tsim Mong District Board district in 1994. Inter-district comparison of district population should be made with this consideration in mind. 自一九八六年開始，區議會分區的區界曾作三次作過修訂。修訂區界對大部分地區的人口分布影響甚微。主要的改變是在一九九四年將油蔴地及九龍城區合併為油蔴地區。在比較各人口數字時，應留意上述的區界改變。

Table 2: No. of employees by monthly earnings from main employment by district of residence
表二：按每月主要收入居住地區劃分的僱員數目

1991 Population Census
一九九一年人口普查

1991 income group (at 1996 price level) 一九九一年收入組別 (以一九九六年價格水平計算)	District of Residence* 居住地區*									
	Central and Western 中西區	Wau Chi 灣仔區	Eastern 東區	Southern 南區	Yau Tsim Mong 油尖旺區	Sham Shui Po 沙田區	Kowloon City 九龍城區	Wong Tai Sin 黃大仙區	Kwan Tong 觀塘區	Kwai Tsing 葵青區
Under \$4000 4000 元以下	9524	6323	20925	10384	15981	21226	19079	21230	33772	2550
\$4000 - \$5999	24179	17374	51191	25619	28864	41821	41403	43608	64839	5419
\$6000 - \$6999	6808	4135	17659	9504	8409	12609	13278	15970	23141	1945
\$7000 - \$7999	9635	5919	22012	13232	12503	18157	16801	21350	29178	2395
\$8000 - \$8999	10124	6672	24573	11842	13268	18763	17720	21666	29781	2263
\$9000 and over 9000 元及以上	50517	37687	113694	41196	39495	48717	65238	46766	72463	5050
Overall 整體	110787	78110	250054	111777	118520	161295	173519	170390	253174	19623

1991 income group (at 1996 price level) 一九九一年收入組別 (以一九九六年價格水平計算)	District of Residence* 居住地區*									
	Tuen Wan 荃灣區	Tuen Mun 屯門區	Yuen Long 元朗區	North 北區	Tai Po 大埔區	Sha Tin 沙田區	Sai Kung 西貢區	Islands 離島區	Marine 水上	Overall 整體
Under \$4000 4000 元以下	11914	17446	11686	6689	8642	20857	5739	1935	1099	26995
\$4000 - \$5999	30547	31102	21059	13889	16672	39602	12094	3770	573	56220
\$6000 - \$6999	10731	10931	6550	5248	5886	16802	3883	1191	108	19169
\$7000 - \$7999	13289	15945	8748	6865	7877	20656	6219	1676	342	25435
\$8000 - \$8999	13887	18577	9389	7430	8489	24164	6564	1352	123	26701
\$9000 and over 9000 元及以上	43220	49264	24487	17320	28855	84782	17199	6349	181	83791
Overall 整體	123588	143265	81919	57441	75821	206863	51698	16273	2426	238315

The boundaries of the District Board districts have been revised three times since 1986. The effect of the boundary revision on the geographical distribution of population was small in most districts. The major change is the combination of Yau Tsim Mong and Kwai Tsing districts into Yau Tsim Mong District Board district in 1994. Inter-censal comparison of district population should be made with these considerations in mind.
自一九八六年開始，區議會分區的區界曾經三次作出修改。修改區界對人口分佈數字影響甚微，主要的改變是在一九九四年時將油尖旺區與葵青區合併為油尖旺區。在比較各區人口時，應留意上述的區界改變。

Table 2: No. of employees by monthly earnings from main employment by district of residence
表二：按每月主要收入居住地區劃分的僱員數目

1996 Population By-census
一九九六年中期人口統計

1996 income group (at 1996 price level) 一九九六年收入組別 (以一九九六年價格水平計算)	District of Residence* 居住地區*							
	Central and Western 中西區	Wan Chai 灣仔區	Eastern 東區	Southern 南區	Yau Tsim Mong 油尖旺區	Sham Shui Po 沙田區	Kowloon City 九龍城區	Wong Tai Sin 黃大仙區
Under \$4000 4000 元以下	14947	12755	25881	13953	10250	15052	18555	21108
\$4000 - \$5999	10895	6453	24049	11616	13516	17709	17348	30824
\$6000 - \$6999	7145	4542	18643	9044	10301	13252	12817	23988
\$7000 - \$7999	7211	4105	19926	9543	10102	14046	12275	24466
\$8000 - \$8999	8104	4641	23564	12442	11423	16463	15009	29693
\$9000 and over 9000 元及以上	75842	48617	161690	74145	52507	73718	90986	130772
Overall 整體	124144	81113	273753	130743	108149	150240	166990	260851
								209080

1996 income group (at 1996 price level) 一九九六年收入組別 (以一九九六年價格水平計算)	District of Residence* 居住地區*							
	Tsuen Wan 荃灣區	Tuen Mun 屯門區	Yuen Long 元朗區	North 北區	Tai Po 大埔區	Sha Tin 沙田區	Sai Kung 西貢區	Islands 離島區
Under \$4000 4000 元以下	11034	15823	11391	6915	9635	21933	6382	2779
\$4000 - \$5999	14143	22622	16188	9829	12613	24196	8788	2562
\$6000 - \$6999	10241	16774	10227	7516	8718	18711	6503	1785
\$7000 - \$7999	10409	18246	11369	7691	9934	21954	8026	80
\$8000 - \$8999	11360	21134	13873	9344	11448	25652	8553	215
\$9000 and over 9000 元及以上	67882	97130	64416	47522	61378	140434	44079	177
Overall 整體	125069	191729	127464	88817	113726	252880	82331	26461
								248617
								293785
								218425
								231544
								271896
								1420322
								2684589

The boundaries of the District Board districts have been revised three times since 1986. The effect of the boundary revision on the geographical distribution of population was small in most districts. The major change in the combination of Yau Tsim Mong and Kwai Tsing districts into Yau Tsim Mong District Board district in 1994. Inter-district comparison of district population should be made with these considerations in mind.

自一九八六年開始，區議會分區的地區界線曾經三次作出修改，修改區界對大部分地區的人口分布數字影響甚微。主要的改變是在一九九四年將油尖旺區與葵青區合併為油尖旺區。在比較各區人口時，應考慮上述的改變。

Table 3: No. of employees by monthly earnings from main employment by household size
表三：按每月主要收入及住戶人數劃分的僱員數目

1986 Population By-census
一九八六年中期人口統計

1986 income group (at 1996 price level) 一九八六年收入組別 (以一九九六年價格水平計算)	Household size 住戶人數						Overall 總數
	1	2	3	4	5	6+	
Under \$4000 4000 元以下	35040	58427	73555	94269	91480	159259	512030
\$4000 - \$5999	43133	83143	104530	136055	135098	234199	736158
\$6000 - \$6999	18101	39325	49350	64630	55798	82746	309950
\$7000 - \$7999	8203	20181	26754	36138	28879	39143	159298
\$8000 - \$8999	7035	19158	23942	36778	28544	34782	152239
\$9000 and over 9000 元及以上	22392	66598	78638	102486	72919	70734	413767
Overall 總數	133904	286832	358769	470356	412718	620863	2283442

1991 Population Census
一九九一年人口普查

1991 income group (at 1996 price level) 一九九一年收入組別 (以一九九六年價格水平計算)	Household size 住戶人數						Overall 總數
	1	2	3	4	5	6+	
Under \$4000 4000 元以下	21973	37071	46090	58912	49090	56817	269953
\$4000 - \$5999	33715	64227	92786	123006	110725	137745	562204
\$6000 - \$6999	9373	21988	33462	43620	36764	46490	191697
\$7000 - \$7999	13387	30578	46054	58820	48967	56550	254356
\$8000 - \$8999	13518	35933	48948	65695	50020	52902	267016
\$9000 and over 9000 元及以上	51737	147423	169375	213158	141871	114369	837933
Overall 總數	143703	337220	436715	563211	437437	464873	2383159

Table 3: No. of employees by monthly earnings from main employment by household size
 表三：按每月主要收入及住戶人數劃分的僱員數目

1996 Population By-census
 一九九六年中期人口統計

1996 income group (at 1996 price level) 一九九六年收入組別 (以一九九六年價格水 平計算)	Household size 住戶人數						Overall 整體
	1	2	3	4	5	6+	
Under \$4000 4000 元以下	9729	21098	36538	70072	62147	49013	248617
\$4000 - \$5999	17098	35613	54413	77375	55871	53415	293785
\$6000 - \$6999	9725	23921	40667	59057	43288	41767	218425
\$7000 - \$7999	9738	26364	43089	62853	46456	43044	231544
\$8000 - \$8999	12361	32309	50768	75602	53655	47201	271896
\$9000 and over 9000 元及以上	87844	248490	287884	379760	243347	172997	1420322
Overall 總計	146495	387795	513379	724719	504764	407437	2684589

Table 4 : No. of employees by monthly earnings from main employment by household composition
 表四：按每月主要收入及住戶結構劃分的僱員數目

1986 Population By-census
 一九八六年中期人口統計

1986 income group (at 1986 price level)	Domestic households 家庭住戶						Collective households 團體住戶	Overall
	Nuclear family households 核心家庭住戶				Non-nuclear family households 非核心家庭住戶			
	One unextended nuclear family 未擴展的 單核心家庭住戶	One vertically extended nuclear family 垂直擴展的 單核心家庭住戶	One horizontally extended nuclear family 水平擴展的 單核心家庭住戶	Two or more nuclear families 多個核心家庭	One person 單人住戶	Others 其他		
一九八六年收入類別 (以一九八六年價格水 平計算)	299747	74058	13313	51533	28524	37561	7294	512030
Under \$4000 4000 元以下								
\$4000 - \$5999	419607	105068	21721	77996	36603	63501	11662	736158
\$6000 - \$6999	176233	42679	10703	34600	15134	26317	4284	309930
\$7000 - \$7999	95703	21046	5334	17058	6817	11226	2114	159298
\$8000 - \$8999	95807	20510	4543	15077	5271	9036	1995	152239
\$9000 and over 9000 元及以上	273608	52472	11081	35378	18087	19221	3920	413767
Overall 總計	1360705	315833	66695	231642	110436	166862	31269	2283442

Table 4: No. of employees by monthly earnings from main employment by household composition
表四：按每月主業收入及住戶結構劃分的僱員數目

1991 Population Census
一九九一年人口普查

1991 income group (at 1996 price level)	Domestic households 家庭住戶						Collective households 團體住戶	Overall
	Nuclear family households 核心家庭住戶				Non-nuclear family households 非核心家庭住戶			
	One unextended nuclear family 未擴展的 單核心家庭住戶	One vertically extended nuclear family 垂直擴展的 單核心家庭住戶	One horizontally extended nuclear family 水平擴展的 單核心家庭住戶	Two or more nuclear families 多個核心家庭	One person 單人住戶	Others 其他		
Under \$4000 4000 元以下	161066	36397	6237	20051	21367	20098	4737	269953
\$4000 - \$5999	346342	78147	13529	49878	33085	37656	3567	562204
\$6000 - \$6999	121109	25917	4721	16304	9137	12881	1628	191697
\$7000 - \$7999	159555	32885	7154	23059	12946	17170	1587	254356
\$8000 - \$8999	168238	34828	7974	22209	13170	18920	1677	267016
\$9000 and over 9000 元及以上	556225	96458	22361	58925	49972	49235	4757	837931
Overall 整體	1512535	304632	61976	190426	139677	155960	17953	2383159

Table 4: No. of employees by monthly earnings from main employment by household composition
表四：按每月主要收入及住戶結構劃分的僱員數目

1996 Population By-census
一九九六年中期人口統計

1996 income group (at 1996 price level)	Domestic households 家庭住戶						Collective households 團體住戶	Overall 整體
	Nuclear family households 核心家庭住戶				Non-nuclear family households 非核心家庭住戶			
	One unextended nuclear family 未擴展的 單核心家庭住戶	One vertically extended nuclear family 垂直擴展的 單核心家庭住戶	One horizontally extended nuclear family 水平擴展的 單核心家庭住戶	Two or more nuclear families 多個核心家庭	Others			
					One person 單人住戶	其他		
Under \$4000 4000 元以下	171157	30628	3948	17352	9694	13931	1907	248617
\$4000 - \$5999	187731	38917	5471	27158	17042	15688	1878	293785
\$6000 - \$6999	139962	29344	4161	21359	9669	12386	1544	218425
\$7000 - \$7999	149280	31180	4518	22715	9655	13059	1137	231544
\$8000 - \$8999	175546	37257	5332	25359	12214	15129	1059	271896
\$9000 and over 9000 元及以上	955885	159918	25523	102450	87359	82943	6244	1420322
Overall 整體	1779561	327144	48953	216393	145633	153136	13769	2684589

Missing Hong Kong Residents

11. **MR CHOY KAN-PUI** asked (in Chinese): *Will the Government inform this Council of:*

- (a) *the number of Hong Kong residents currently listed as missing persons, together with a breakdown of their sex and age group;*
- (b) *the longest period of disappearance among the above missing persons, and whether there are special measures to deal with cases of people missing for a long period of time;*
- (c) *whether the Government will take the initiative to offer various kinds of assistance to family members of the missing persons, including financial assistance and psychological counselling; and*
- (d) *in the event of such missing persons being found in places outside the Chinese territory after the transfer of sovereignty, whether assistance will continue to be given to them and their family members?*

SECRETARY FOR SECURITY (in Chinese): Mr President,

- (a) There are 291 Hong Kong residents currently listed as missing persons. Below is their breakdown by sex and age:

<i>Age Group</i>	<i>Sex</i>	
	<i>Male</i>	<i>Female</i>
0-6	3	3
7-15	10	38
16-20	9	39
21 and above	99	90
Total	121	170

- (b) The longest period of disappearance among the missing persons in part (a) is seven years.

Police officers in the Regional Missing Person Units are responsible for investigation of missing person cases. They will review each reported case every seven days. A police officer of the rank of Superintendent will review all reported cases of missing persons after 28 days. Taking into account the circumstances of each individual case, the Superintendent will then decide whether further actions should be taken. The review will continue until the Superintendent is satisfied that all reasonable steps have been taken and further enquiries will serve no useful purpose.

- (c) The Police will refer appropriate cases of missing persons to the Social Welfare Department (SWD). Depending on individual circumstances, caseworkers of the SWD will contact family members of the missing persons to offer appropriate assistance. The SWD will provide services such as counselling service and referrals for welfare assistance including financial assistance and psychological service.
- (d) We do not have statistics on the number of requests for assistance in respect of Hong Kong residents found missing abroad but our experience shows this happens rarely. Any Hong Kong resident in distress can request help for assistance through consular posts or the Immigration Department. Such assistance will continue to be given to them and their family members after the transfer of sovereignty.

Altars and Temples in Private Buildings

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

- (a) *of the current total number of altars and temples situated in private buildings, and the main districts in which they are located;*
- (b) *whether the above-mentioned altars and temples are required to be registered; if so, of the total number of such altars and temples which are not currently registered, as well as the number of these not registered altars and temples which are privately managed or owned;*

- (c) *whether there are any laws regulating the altars and temples situated in private buildings; if so, of the monitoring measures in place to ensure that they are in compliance with the provisions of the Deed of Mutual Covenant and the relevant fire safety regulations; and*
- (d) *if vegetarian food is provided in these altars and temples, whether there are currently any laws stipulating that the food provided in these premises should be up to the required hygiene standards; if so, of the details of the monitoring measures?*

SECRETARY FOR HOME AFFAIRS (in Chinese): Mr President,

- (a) According to the records of the Chinese Temples Committee, there are a total of 79 registered Chinese temples situated in private buildings. They are mainly located in Central and Western District, Eastern District, Wan Chai, Sham Shui Po, Yau Tsim Mong District, Kowloon City, Kwun Tong and Tsuen Wan.
- (b) According to the Chinese Temples Ordinance (Cap. 153), the above-mentioned Chinese temples are required to be registered. The Chinese Temples Committee or the Government has no record of altars and temples which are not registered.
- (c) At present, altars and temples situated in private buildings must comply with the provisions of the Deed of Mutual Covenant and relevant ordinances. First, if the establishment or operation of an altar or temple contravenes the provisions of the Deed of Mutual Covenant, the owners of the building or the Owners' Corporation may apply to the Lands Tribunal for arbitration under the Building Management Ordinance (Cap. 344). In addition, the Buildings Ordinance (Cap. 123) stipulates that prior approval of the Building Authority is needed if the establishment of an altar or temple inside a private building causes a material change in the use of the flat(s). The Building Authority may reject the application or prohibit the owners from using the flat(s) for the existing or similar purpose on the ground that the altar or temple in question may affect the structural conditions of the building or impede fire safety measures and so on.

Furthermore, the Fire Services Department may institute proceedings under the Fire Services Ordinance (Cap. 95) and the Dangerous Goods Ordinance (Cap. 295) if it discovers fire hazards in an altar or temple inside a building, or that excess dangerous goods are stored in it.

- (d) If these temples inside private buildings provide vegetarian food service, food hygiene is subject to regulation by the Food Business (Regional Council) By-laws and the Food Business (Urban Council) By-laws under the Public Health and Municipal Services Ordinance (Cap. 132). According to the two by-laws, a temple which provides vegetarian meals needs to apply for a food premises licence from the Regional or the Urban Council. The temple must meet the hygiene standards required by the Regional or the Urban Council, as one of the conditions for the grant of licence. After being granted the licence, the licensee of the temple canteen has to follow a set of licence conditions to ensure good hygiene standards of the premises. On the other hand, health inspectors pay regular visits to these licensed food premises to make sure that the licensees and the staff who handle the food abide by hygiene laws. The health inspectors will institute prosecution for violation of the licence conditions and hygiene laws as well as give guidance to the licensees for improvement. Inspections will be stepped up as and when necessary. If a temple canteen repeatedly violates the law, the Regional or the Urban Council may mete out punishment by suspending or revoking its licence.

Increasing Aircraft Movements at Kai Tak

13. **MR HOWARD YOUNG** asked: *Will the Government inform this Council whether there are any plans to increase the number of aircraft movements at the Kai Tak Airport to 31 per hour; if so, what the details are?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, plans are in hand to increase the maximum number of aircraft movements at the Kai Tak Airport to 31 per hour from 7 am to 9 pm during the coming winter scheduling season.

To achieve this target, the Civil Aviation Department has taken the following measures to increase its air traffic capability:

- (a) upgrading the Radar Data Processing and Display System and the Flight Data Processing System;
- (b) recruiting and training additional air traffic controllers; and
- (c) introducing additional air traffic control positions.

Regulation on Transfer of Stock Exchange Membership

14. **MISS EMILY LAU** asked: *In his testimony given at the trial of a former vice-chairman of the Hong Kong Stock Exchange on bribery charges, the Chairman of the Securities and Futures Commission said that taking commission in the transaction involving the transfer of stock exchange membership was considered a grey area. In this connection, will the Government inform this Council whether there are plans to amend the relevant legislation to stipulate that the taking of such commission is an offence under the law?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, what the Chairman of the Securities and Futures Commission said in his testimony at the trial was that he did not know the full facts so whether it was black, white or grey, he was unable to judge.

A transaction involving the transfer of membership of the Stock Exchange of Hong Kong is a sale of a share in the Exchange Company which is a private company. Such a transfer is a private transaction and the payment of a commission is in itself not a criminal offence. In the trial to which the Member refers, the issue was whether the commission was accepted as an inducement to or reward for favouring an applicant. Since such a transaction requires approval by the Council of the Exchange Company, the parties concerned in the transaction could be liable criminally under section 9 of the Prevention of Bribery Ordinance (the Ordinance) if, in connection with approving the transfer, a commission is paid to a Council Member as an inducement or reward to that Council Member for refraining from exercising his or her duty as a Council Member or for acting in breach of that duty.

However, no offence is committed under section 9 of the Ordinance unless the inducement or reward is offered or accepted, as the case may be, without lawful authority or reasonable excuse of the permission of the principal.

A Council Member of the Exchange Company who receives a commission for the transfer of a share could place himself or herself in a position of conflict of duty and interest in that his or her duty to the Exchange is to vote in the interest of the Exchange Company, and his or her interest in the share transaction lies in its completion. The Exchange Company has guidelines for declaring conflict of interest. The Securities and Futures Commission will pursue with the Exchange Company the whole question of the enforcement and adequacy of such guidelines after studying proceedings of the recent court case involving the former vice-chairman of the Exchange Company.

Sites for New Multi-storeyed Car Parks

15. **MR WONG WAI-YIN** asked (in Chinese): *It is learnt that the Government's Working Group on Parking has proposed the inclusion of 10 sites in the Land Sales Programme in the coming three years for building multi-storey car parks. In this connection, will the Government inform this Council of:*

- (a) *the exact locations of the above sites for building multi-storey car parks;*
- (b) *the estimated number of parking spaces to be provided by these car parks upon their completion; and*
- (c) *the scheduled dates on which these car parks will come into operation, and how the commissioning of these car parks can contribute to alleviating the shortage of parking spaces in the territory?*

SECRETARY FOR TRANSPORT (in Chinese): Mr President, the locations of the 10 multi-storey vehicle park sites recommended by the Working Group on Parking for inclusion in the Land Sales Programme in the coming three years, and the number of parking spaces tentatively planned for each site are shown in the attached table. They will provide parking spaces for a total of 1 900 goods

vehicles and 1 100 private cars. One site has already been brought forward for inclusion in the Land Sales Programme of 1996-97 and sold.

The dates on which the new vehicle parks will come into operation will depend upon the successful sale of the sites and the length of time required for the design and construction of the individual developments by the private sector. The Working Group will monitor the progress.

These 10 multi-storey car parks alone will not be sufficient to meet the territory wide shortfall of goods vehicle parks. The Working Group has implemented and will continue to pursue other measures recommended in the Parking Demand Study to increase spaces for parking goods vehicles, including the provision of Short Term Tenancy Sites, identification of additional on-street parking spaces, in particular overnight parking spaces. The implementation of the revised Hong Kong Planning Standards and Guidelines will also provide more parking spaces in residential, commercial and community facilities.

Proposed Multi-storey Vehicle Park Sites

<i>Land Sales Programme</i>	<i>Location</i>	<i>Estimated No. of Spaces</i>
1. (Sold by auction on 25 March 1997)	Siu Sai Wan Reclamation, Chai Wan	336 PCs and 35 motorcycles
2. 1997-98	Kowloon Bay	200 PCs, 75 LGVs, 25 MHGVs
3. 1997-98	Sai Kung	90 LGVs, 35 MHGVs
4. 1997-98	Shek Mun, Sha Tin	100 PCs, 110 LGVs, 120 MHGV
5. 1997-98	Shek Mun, Area 11 Sha Tin	100 PCs, 35 LGVs, 120 MHGVs
6. 1998-99	Kwun Tong	200 PCs, 75 LGVs, 25 MHGVs
7. 1998-99	Hung Hom Bay Reclamation	200 LGVs, 25 HGVs
8. 1998-99	West Kowloon Reclamation	300 LGVs, 100 MHGVs
9. 1999-2000	Lo Shue Pai, Chai Wan, Reclamation	200 LGVs, 200 MHGVs
10. 1999-2000	Kowloon Bay	200 PCs, 75 LGVs, 25 HGVs

Notes:

PC= Private Car

LGV= Light Goods Vehicle

MHGV= Medium/Heavy Goods Vehicle

Chinese Descriptions of Imported Health Food

16. **MR DAVID CHU** asked (in Chinese): *Will the Government inform this Council:*

- (a) *whether there is any legislation which stipulates that packages of imported health food on sale in drug stores or health-food shops must contain labels with Chinese descriptions; if so, whether the contents of such labels are subject to regulation under the relevant legislation; and*
- (b) *whether there is currently any legislation which regulates the direct sale of imported health food; if so, what monitoring measures have been put in place to ensure that such health food possesses the effects as claimed by the manufacturers?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Mr President, at present, "health food" is not defined in law. All food items, including those imported health food on sale in drug stores or health-food shops, or through direct sale, are subject to the control of the legislation which governs foods.

- (a) Labelling of pre-packaged foods and the labels' contents are controlled through the Food and Drugs (Composition and Labelling) Regulations made under the Public Health and Municipal Services Ordinance (PHMSO), (Cap. 132). The Regulations allow, in general, the use of either Chinese or English or both languages in food labels. They also require that both English and Chinese must be used in relation to certain parts of the food label, such as indication of durability, and labels of stipulated food items, such as milk products.
- (b) Although there is no specific legislation which requires that imported health food must have the efficacy as claimed by the manufacturers, the legal framework for control of foods in general is also applicable to health food. For example, Part V of the PHMSO and its subsidiary legislation provide that the sale of any food intended for, but unfit for, human consumption is an offence. Any substance with claims for treatment or prevention of specific diseases is required to be registered

under the Pharmacy and Poisons Ordinance (Cap. 138). The registration criteria of a pharmaceutical product include examination of the safety, quality and efficacy of the product, which have to be substantiated by scientific evidence. There are also provisions in the Undesirable Medical Advertisement Ordinance (Cap. 231) to prohibit the advertising of any substance for the purpose of treatment and prevention of specified diseases. We believe that the existing legal framework is sufficient for the purpose of protecting public health.

Policy on Training Courses for Paging Operators

17. **MR JAMES TIEN** asked (in Chinese): *According to the statistical data provided by the Office of the Telecommunications Authority, the number of pager users has been decreasing since October last year whereas the number of portable phone users has been on the rise. In this connection, will the Government inform this Council:*

- (a) *what changes the Employees Retraining Board has adopted in its policy on the provision of training for employees in the paging industry in the face of the above market trend;*
- (b) *of the number of training courses for paging operators offered this year, together with the number of trainees in each of these courses; and*
- (c) *of the comparison between the employment situation of trainees who completed the training courses for paging operators in the first four months of this year and the employment situation of those who completed such courses in the past two years?*

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): Mr President, whilst the number of mobile phone users in Hong Kong is indeed increasing, mobile phones have yet to be able to take over a substantial share of the market of radio pagers, let alone displacing it. In fact, many mobile phone users are also customers of paging services. Moreover, many mobile phone service providers offer messaging services that need to be supported by paging operators.

There is no evidence that this market trend has led to a significant fall in the labour demand of the paging industry or to an increasing number of paging operators being displaced from the industry.

Against this background, my replies to the specific parts of the questions are as follows:

- (a) As a matter of principle, all specific skills training courses provided by the Employees Retraining Board (ERB), of which retraining courses for paging operators form a part, aim at equipping trainees with the skills required of the relevant jobs.

To ensure that trainees who have completed these courses can subsequently re-enter the labour market, the ERB requires all training bodies providing courses to set up a steering committee comprising representatives from employers of the relevant industry, trainers and retrainees to monitor the design and operation of the courses, so that these can be adjusted in response to changes in market demand. In addition, training bodies are also expected to attain an average overall placement rate of around 70% before they are allowed to continue running the same courses.

The ERB has also been organizing tailor-made training courses for paging operators in that such courses are specifically designed in accordance with the needs of employers of particular paging companies offering a relatively large number of vacancies at the same time. The employment opportunities of retrainees attending such courses are thus basically secured before the commencement of such courses.

The contents of the retraining courses for paging operators comprise not only training in job-specific skills of paging operators, but also training in basic computer operating skills and basic customer service techniques for the services sector. As a result, retrainees completing such courses are able to take up other jobs outside the paging industry, such as clerks, sales persons, and customer service assistants.

We will continue to work closely with the ERB to monitor developments in the communications industry and their impact on the labour market so that suitable and timely changes can be made to the relevant retraining courses.

- (b) Since the commencement of the retraining courses for the paging industry and up to the end of April 1997, the ERB has provided 75 classes for 1 310 persons. For the first four months this year, the ERB have provided 14 such classes for 251 retrainees. As of 30 April 1997, two classes for 42 retrainees were in progress.
- (c) During the past two years, the retraining courses for the paging industry were able to achieve an average overall placement rate of about 73%. Of this, 68% were employed by the paging industry, while the remaining 32% rejoined the labour market in a wide range of posts, including clerks, salespersons, cashiers, customer service assistants and shop assistants.

For those classes which were completed in the first four months of 1997, the preliminary average placement rate was 65%. The overall placement rate will be available when the placement records are finalized later.

Adult Education

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

- (a) *of the following information concerning adult education in the past three years:*
 - (i) *the numbers and types of formal retrieval education courses from primary school to Secondary 6 levels provided by the Adult Education Section of the Education Department, and the numbers of persons who completed such courses;*

- (ii) *the numbers and types of informal courses provided by the 10 Adult Education and Recreation Centres of the Education Department respectively, and the numbers of persons who completed such courses;*
 - (iii) *the voluntary organizations which had received subsidy from the Education Department for running adult education courses, the amounts of subsidy involved, and the types and numbers of such courses;*
 - (iv) *whether the Education Department can provide a breakdown of the data in respect of persons who completed the above three types of courses, by "sex and age"; "sex and industry"; "age and industry"; "sex and occupation"; and "age and occupation";*
 - (v) *whether other types of adult education courses were provided by the Education Department; if so, of the types and numbers of such courses, together with a breakdown of the persons who had completed the courses, by "sex and age"; "sex and industry"; "age and industry"; "sex and occupation"; and "age and occupation";*
- (b) *if the answers to (a)(iv) and (v) above are in the negative, of the reasons why the Education Department has not collected such information, and whether it will consider collecting the relevant information and publishing it on a regular basis; and*
- (c) *whether the Education Department will consider expanding the adult education currently offered; if so, what the details are; if not, why not?*

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): Mr President,

- (a) (i) The formal education courses run by the Adult Education Section of the Education Department and the number of persons who completed such courses in the past three years are as follows:

<i>Course</i>	<i>1994-95</i>	<i>1995-96</i>	<i>1996-97</i>
1. Adult Education (General Background) Course (primary level)	229	201	258
2. Government Evening Secondary School Course (Secondary 5)*	1 568	1 558	1 693
3. English Course (primary, secondary and General Certificate of Education levels)	808	802	646

* The matriculation classes of the Government Evening Secondary School Course started in 1995-96. The first batch of students have not yet completed the course.

- (ii) The 10 Adult Education and Recreation Centres ceased operation in September 1996. In the past, these Centres provided two types of short courses in the form of hobby groups: (i) educational hobby groups such as Putonghua classes, English classes and so on, and (ii) cultural/leisure hobby groups such as photography classes, Chinese calligraphy classes, social dance classes and so on.

A total of 4 506 and 1 742 persons completed the courses at the Adult Education and Recreation Centres in 1994-95 and 1995-96 respectively.

- (iii) Voluntary organizations which participate in the Subvention Scheme of the Education Department to run adult education courses include religious bodies and social services agencies. There are seven major types of courses including basic literacy, prevocational and job-oriented training, labour and career education, moral and social education, pre-retirement and retirement education, re-orientation for newcomers to Hong Kong and special education.

The number of these voluntary organizations, the amount of subsidy and the number of persons who attended such courses are as follows:

	<i>1994-95</i>	<i>1995-96</i>	<i>1996-97</i>
No. of Organizations	74	78	83
Amount of Subsidy (\$M)	11.2	12.9	14.8
No. of Participants	17 796	20 042	21 070

- (iv) The relevant statistics are at the Appendix. For formal adult education courses, the Education Department can only provide statistics with breakdown by sex and age as the Department does not have information on the occupation or position held by the students. For informal adult education courses run by the Adult Education and Recreation Centres or voluntary organizations, the Education Department can only provide statistics with breakdown by sex as the Department has only kept records on the sex of the students.
- (v) The Education Department does not provide other adult education courses.
- (b) The Education Department has no plan to collect statistics on the occupation or position held by the students of the formal adult education courses and subsidized courses, as such information is not directly relevant to the design of the curriculum or the administration of the courses.
- (c) The Education Department regularly reviews the adult education courses in order to meet changing needs. A three-year Secondary 6 course leading to the Hong Kong Advanced Level Examination was introduced in the 1995-96 school year. Besides, with effect from the 1996-97 school year, the minimum admission age of adult education courses was lowered from 18 to 15.

Appendix

(i) Number of students who completed the Adult Education (General Background) Course

	<i>1994-95</i>		<i>1995-96</i>		<i>1996-97</i>	
<i>Age</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>
20 or below	0	6	2	21	2	24
21-30	7	39	7	40	9	42
31-40	15	111	14	68	18	104
41-50	4	40	2	38	3	46
51 or above	0	7	0	9	0	10
Subtotal	26	203	25	176	32	226
Total	229		201		258	

(ii) Number of students who completed the Government Evening Secondary School Course

	<i>1994-95</i>		<i>1995-96</i>		<i>1996-97</i>	
<i>Age</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>
20 or below	244	484	363	501	325	531
21-30	260	400	200	349	251	404
31-40	49	84	22	69	37	92
41-50	16	31	14	40	18	35
51 or above	0	0	0	0	0	0
Subtotal	569	999	599	959	631	1 062
Total	1 568		1 558		1 693	

(iii) Number of students who completed the English Course

	<i>1994-95</i>		<i>1995-96</i>		<i>1996-97</i>	
<i>Age</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>
20 or below	9	11	10	11	9	10
21-30	64	132	61	135	48	110
31-40	61	296	54	299	42	239
41-50	45	170	46	168	38	135
51 or above	4	16	3	15	2	13
Subtotal	183	625	174	628	139	507
Total	808		802		646	

- (iv) Number of persons who completed courses run by Adult Education and Recreation Centres

	1994-95	1995-96	1996-97
Male	1 208	496	ceased
Female	3 298	1 246	operation
Total	4 506	1 742	

- (v) No. of Persons who completed courses run by voluntary organizations

	1994-95	1995-96	1996-97
Male	4 054	4 298	4 660
Female	13 742	15 744	16 410
Total	17 796	20 042	21 070

Blood Bags Discarded by Public Hospitals

19. **MR WONG WAI-YIN** asked (in Chinese): *Does the Government know:*

- (a) *of the breakdown of the number of blood bags discarded by each public hospital each month in the past three years, and the proportion of the discarded blood bags to the total number of blood bags obtained each month from the Hong Kong Red Cross, in the corresponding period;*
- (b) *of the reasons for public hospitals discarding such blood bags; and*
- (c) *whether the Hospital Authority has issued any guidelines to public hospitals on how to handle blood bags approaching their expiry dates; if so, what the details are, and what mechanism is in place to ensure that the guidelines are being followed in public hospitals?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Mr President, hospitals need to maintain an adequate blood supply for day-to-day clinical operations. Blood however has a limited shelf life and given the fluctuation in demand, the shelf life of some blood units stored in public hospitals may expire before it can be used for transfusion and require to be discarded. Some of these expired blood units are used for various laboratory tests, such as blood typing and anti-body studies.

According to the Hospital Authority's records, in the past three years, an annual average of only 1.1% of the blood units obtained from the Hong Kong Red Cross Blood Transfusion Service (HKRCBTS) becomes expired. A detailed breakdown by hospital is at Annex. Members may wish to note that in major hospitals, the percentage of expired blood units to the total number of blood units received is generally lower. Due to the higher number of patients requiring blood transfusion, major hospitals have been able to adopt a universal compatibility matching procedure (that is, a pool of blood units is allocated to a large number of patients requiring transfusion instead of reserving a number of blood units to individual patient) to improve the utilization of donated blood units.

To maximize the utilization of donated blood, the HKRCBTS and concerned public hospitals have in place some agreed procedures to handle blood units approaching their expiry dates. Each bag of blood is clearly marked with an expiry date indicating the period during which it can be safely used. They are distributed to hospitals by the HKRCBTS on a daily or weekly basis, and used in hospitals for transfusion on "first-in first-out" basis. Hospitals are required to redirect blood units approaching expiry to other hospitals in the cluster to enable them to be used before expiry.

All hospitals with blood banks report regularly to the HKRCBTS on the blood stock level, including the amount of blood units redirected and expired. In addition, they also conduct regular audits to ensure proper utilization of blood units and that the agreed procedures are strictly followed.

一九九四至九五年公營醫院過期血液單位數目

註：(1) 醫管局轄下醫院當中，有23間設有血庫。

(2) 由於主要醫院有較多病人需要輸血，這些醫院現已可採用共同配血程序(即向多名需要輸血的病人分配一批共用的血液單位，而不是為個別病人預留某一個數量的血液單位)，以便善用捐出的血液單位。

(3)* 並無收到香港紅十字會輸血服務中心(輸血服務中心)的血液單位。

(4) 括弧內數字為輸血服務中心提供的所有血液單位中，過期血液單位所佔的百分率。

醫院	四月	五月	六月	七月	八月	九月	十月	十一月	十二月	一月	二月	三月	總數
瑪麗醫院	48 (2.3%)	31 (1.7%)	7 (0.3%)	0 (0.0%)	6 (0.2%)	0 (0.0%)	0 (0.0%)	11 (0.6%)	15 (0.7%)	0 (0.0%)	20 (1.0%)	3 (0.1%)	141 (0.6%)
寶有醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
東華醫院	2 (2.0%)	0 (0.0%)	0 (0.0%)	2 (1.8%)	2 (1.1%)	3 (2.5%)	0 (0.0%)	16 (12.8%)	7 (5.0%)	15 (11.8%)	4 (3.3%)	4 (3.5%)	55 (3.8%)
根德公爵夫人兒童醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	3 (7.3%)	0 (0.0%)	0 (0.0%)	3 (0.8%)
東區尤德夫人那打素醫院	1 (0.3%)	1 (0.2%)	11 (3.1%)	3 (0.7%)	4 (0.8%)	3 (0.7%)	11 (2.1%)	5 (0.9%)	4 (1.1%)	7 (1.5%)	0 (0.0%)	0 (0.0%)	50 (0.9%)
律敦治醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	3 (1.5%)	6 (2.0%)	0 (0.0%)	0 (0.0%)	9 (0.4%)
東華東院	4 (6.8%)	3 (5.2%)	9 (10.1%)	5 (6.5%)	4 (5.2%)	6 (11.8%)	5 (7.1%)	7 (5.4%)	9 (10.5%)	13 (12.7%)	4 (6.7%)	0 (0.0%)	69 (7.3%)
耶靈堅醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	2 (20.0%)	0 (0.0%)	1 (14.3%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	3 (4.1%)
伊利沙伯醫院	3 (0.2%)	0 (0.0%)	4 (0.2%)	1 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	11 (0.5%)	25 (1.0%)	28 (1.2%)	6 (0.0%)	0 (0.0%)	72 (0.3%)
九龍醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
香港佛教醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
廣華醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
聖母醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
基督教聯合醫院	0 (0.0%)	0 (0.0%)	12 (2.2%)	7 (0.9%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
聖寶醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
威爾斯親王醫院	14 (0.8%)	2 (0.1%)	24 (1.5%)	4 (0.2%)	0 (0.0%)	0 (0.0%)	6 (0.9%)	27 (1.4%)	22 (2.7%)	29 (3.2%)	21 (2.8%)	0 (0.0%)	124 (1.4%)
屯門醫院	0 (0.0%)	1 (0.1%)	2 (0.2%)	8 (0.8%)	5 (0.5%)	9 (0.9%)	2 (0.2%)	19 (1.1%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
博愛醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	37 (2.7%)	8 (0.8%)	1 (0.1%)	1 (0.1%)	0 (0.0%)	164 (0.8%)
瑪嘉烈醫院	6 (0.6%)	5 (0.5%)	31 (3.5%)	27 (2.7%)	26 (2.5%)	18 (1.7%)	16 (1.9%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	74 (0.5%)
明愛醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	3 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
仁濟醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
葛量洪醫院	25 (5.7%)	5 (2.3%)	8 (3.3%)	7 (3.3%)	4 (1.5%)	1 (0.3%)	3 (0.5%)	5 (1.4%)	0 (0.0%)	10 (3.8%)	5 (1.4%)	0 (0.0%)	73 (1.9%)
南朗醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
總數	103 (0.9%)	48 (0.4%)	108 (1.0%)	64 (0.5%)	51 (0.4%)	42 (0.3%)	53 (0.4%)	142 (1.1%)	128 (1.0%)	146 (1.1%)	98 (0.8%)	19 (0.1%)	1002 (0.6%)

一九九五至九六年度公營醫院過期血液單位數目

註：(1) 醫管局轄下醫院當中，有23間設有血庫。

(2) 由於主要醫院有較多病人需要輸血，這些醫院現已可採用共同配血程序(即向多名需要輸血的病人分配一批共用的血液單位，而不是為個別病人預留某個數量的血液單位)，以便善用捐出的血液單位。

(3)* 並無收到香港紅十字會輸血服務中心(輸血服務中心)的血液單位。

(4) 括弧內數字為輸血服務中心提供的所有血液單位中，過期血液單位所佔的百分率。

醫院	四月	五月	六月	七月	八月	九月	十月	十一月	十二月	一月	三月	總數
瑪鋈醫院	6 (0.3%)	13 (0.6%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	3 (0.2%)	14 (0.8%)	15 (0.7%)	4 (0.2%)	5 (0.3%)	1 (0.1%)	67 (0.2%)
寶育醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
東華醫院	6 (5.8%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	5 (5.4%)	10 (11.2%)	5 (6.0%)	5 (5.6%)	11 (10.7%)	1 (1.3%)	52 (4.0%)
根德公爵夫人兒童醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (2.9)	0 (0.0%)	0 (0.0%)	4 (8.5%)	0 (0.0%)	5 (1.1%)
東區尤德夫人那打素醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (0.2%)	0 (0.0%)	21 (3.4%)	10 (1.5%)	1 (0.1%)	2 (0.3%)	0 (0.0%)	0 (0.0%)	35 (0.4%)
律敦治醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	2 (1.0%)	5 (2.3%)	0 (0.0%)	3 (1.2%)	7 (2.5%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	17 (0.6%)
東華東院	5 (7.8%)	2 (1.7%)	0 (0.0%)	1 (1.0%)	1 (1.3%)	11 (16.4%)	11 (14.7%)	3 (6.1%)	10 (16.4%)	0 (0.0%)	10 (23.3%)	59 (7.3%)
鄧肇堅醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
伊利沙伯醫院	6 (0.3%)	0 (0.0%)	2 (0.1%)	0 (0.0%)	0 (0.0%)	6 (0.3%)	13 (0.5%)	4 (0.2%)	12 (0.5%)	8 (0.4%)	2 (0.1%)	56 (0.2%)
九龍醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	7 (38.9%)	1 (2.8%)	5 (9.1%)	3 (7.9%)	4 (12.5%)	0 (0.0%)	21 (4.4%)
香港佛教醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
廣華醫院	1 (0.1%)	0 (0.0%)	3 (0.3%)	1 (0.1%)	5 (0.5%)	6 (0.7%)	0 (0.0%)	3 (0.3%)	2 (0.2%)	1 (0.1%)	0 (0.0%)	23 (0.2%)
聖母醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	9 (7.8%)	1 (0.8%)	1 (0.9%)	13 (0.8%)	0 (0.0%)	0 (0.0%)	35 (2.2%)
基督教聯合醫院	28 (4.1%)	0 (0.0%)	62 (8.6%)	43 (5.4%)	19 (2.6%)	46 (5.4%)	31 (4.3%)	25 (3.6%)	35 (3.6%)	18 (2.5%)	13 (1.7%)	328 (3.6%)
寶實醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	2 (3.8%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	3 (16.1%)	1 (2.4%)	6 (0.9%)
威爾斯親王醫院	29 (1.5%)	15 (0.8%)	32 (1.6%)	51 (2.8%)	13 (0.7%)	32 (1.5%)	48 (2.4%)	77 (3.8%)	51 (2.4%)	34 (1.7%)	30 (1.5%)	416 (1.7%)
屯門醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	8 (0.6%)	20 (1.6%)	13 (1.0%)	8 (0.7%)	3 (0.2%)	2 (0.2%)	55 (0.4%)
博愛醫院	3 (4.9%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	4 (20.0%)	10 (13.9%)	11 (21.2%)	9 (20.9%)	4 (5.2%)	24 (35.8%)	77 (11.4%)
瑪嘉烈醫院	5 (0.5%)	15 (1.5%)	10 (1.1%)	34 (3.8%)	13 (1.6%)	8 (0.9%)	20 (2.3%)	20 (1.8%)	38 (4.2%)	25 (2.4%)	25 (2.5%)	244 (2.1%)
明愛醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (0.2%)	0 (0.0%)	1 (0.0%)
仁濟醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	9 (3.9%)	2 (0.5%)	14 (5.7%)	7 (12.1%)	2 (0.6%)	2 (0.6%)	36 (1.1%)
葛量洪醫院	3 (0.9%)	5 (1.5%)	82 (20.6%)	13 (3.3%)	14 (3.5%)	4 (1.1%)	23 (6.6%)	12 (2.9%)	14 (3.8%)	12 (3.3%)	11 (3.6%)	223 (5.2%)
南朗醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
總數	92 (0.8%)	50 (0.4%)	191 (1.5%)	146 (1.2%)	74 (0.6%)	181 (1.4%)	218 (1.8%)	216 (1.7%)	213 (1.6%)	135 (1.1%)	122 (1.0%)	1756 (1.1%)

一九九六至九七年度公營醫院過期血液單位數目

註：(1) 醫管局轄下醫院當中，有23間設有血庫。

(2) 由於主要醫院有較多病人需要輸血，這些醫院現已可採用共同配血程序(即向多名需要輸血的病人分配一批共用的血液單位，而不是為個別病人預留某一個數量的血液單位)，以便善用捐出的血液單位。

(3)* 並無收到香港紅十字會輸血服務中心(輸血服務中心)的血液單位。

(4) 括弧內數字為輸血服務中心提供的所有血液單位中，過期血液單位所佔的百分率。

醫院	四月	五月	六月	七月	八月	九月	十月	十一月	十二月	一月	二月	三月	總數
瑪麗醫院	1 (0.1%)	1 (0.0%)	0 (0.0%)	7 (0.3%)	0 (0.0%)	0 (0.0%)	11 (0.5%)	4 (0.2%)	8 (0.3%)	24 (1.0%)	3 (0.1%)	5 (0.2%)	64 (0.3%)
寶育醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
東華醫院	8 (10.4%)	5 (7.5%)	3 (2.8%)	7 (6.3%)	12 (13.2%)	6 (8.2%)	10 (10.5%)	20 (29.9%)	16 (32.0%)	10 (14.1%)	5 (10.0%)	2 (2.0%)	104 (10.2%)
根德公爵夫人兒童醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
東區尤德夫人那打素醫院	2 (0.4%)	0 (0.0%)	5 (0.8%)	0 (0.0%)	0 (0.0%)	37 (5.0%)	19 (2.2%)	21 (2.6%)	12 (1.2%)	18 (2.0%)	5 (0.7%)	24 (2.9%)	143 (1.5%)
律敦治醫院	2 (1.0%)	0 (0.0%)	1 (0.1%)	0 (0.0%)	1 (0.4%)	8 (3.8%)	17 (7.4%)	0 (0.0%)	4 (1.8%)	18 (8.2%)	8 (3.3%)	4 (1.6%)	63 (2.2%)
東華東院	20 (28.6%)	11 (16.4%)	10 (27.8%)	16 (18.2%)	19 (47.5%)	8 (14.8%)	15 (22.7%)	0 (0.0%)	18 (37.5%)	25 (43.9%)	15 (60.0%)	0 (0.0%)	157 (25.6%)
鄧肇堅醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
伊利沙伯醫院	15 (0.7%)	6 (0.3%)	8 (0.4%)	6 (0.3%)	12 (0.5%)	7 (0.3%)	6 (0.2%)	8 (0.3%)	21 (0.8%)	12 (0.4%)	0 (0.0%)	17 (0.8%)	118 (0.4%)
九龍醫院	0 (0.0%)	2 (5.4%)	6 (20.7%)	1 (2.4%)	3 (7.9%)	5 (17.9%)	2 (10.5%)	1 (4.5%)	3 (13.6%)	1 (2.3%)	6 (19.4%)	2 (7.7%)	32 (8.4%)
香港佛教醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
廣華醫院	0 (0.0%)	5 (0.5%)	1 (0.1%)	6 (0.7%)	0 (0.0%)	3 (0.4%)	22 (2.6%)	3 (0.4%)	0 (0.0%)	13 (1.3%)	1 (0.1%)	0 (0.0%)	54 (0.6%)
聖母醫院	3 (3.1%)	0 (0.0%)	3 (3.1%)	1 (0.8%)	12 (8.5%)	11 (14.3%)	4 (2.9%)	5 (4.8%)	18 (12.8%)	32 (39.5%)	12 (11.2%)	12 (*)	113 (8.9%)
基督教聯合醫院	21 (3.1%)	20 (2.4%)	19 (2.6%)	20 (2.4%)	30 (4.1%)	23 (2.9%)	14 (1.7%)	18 (2.0%)	41 (4.3%)	44 (5.0%)	3 (0.4%)	16 (1.8%)	269 (2.7%)
靈實醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
威爾斯親王醫院	17 (0.8%)	8 (0.4%)	55 (3.0%)	14 (0.7%)	13 (0.6%)	17 (0.9%)	20 (1.0%)	20 (0.9%)	18 (0.8%)	130 (6.1%)	14 (0.7%)	33 (1.5%)	359 (1.5%)
屯門醫院	3 (0.2%)	4 (0.3%)	10 (0.9%)	5 (0.4%)	8 (0.7%)	12 (1.0%)	3 (0.2%)	6 (0.5%)	8 (0.7%)	27 (2.1%)	1 (0.1%)	1 (0.1%)	88 (0.6%)
博愛醫院	12 (36.4%)	10 (13.7%)	9 (29.0%)	2 (1.8%)	2 (2.6%)	6 (11.8%)	0 (0.0%)	6 (9.8%)	8 (15.7%)	6 (8.9%)	12 (35.3%)	8 (*)	81 (12.7%)
瑪嘉烈醫院	25 (2.8%)	28 (2.8%)	25 (3.0%)	39 (4.5%)	11 (1.1%)	21 (2.2%)	13 (1.4%)	46 (4.8%)	24 (2.3%)	43 (10.6%)	32 (9.4%)	18 (4.8%)	327 (3.4%)
明愛醫院	0 (0.0%)	4 (0.7%)	18 (4.0%)	6 (1.0%)	3 (0.3%)	8 (1.7%)	8 (1.7%)	5 (0.9%)	27 (5.7%)	56 (11.0%)	10 (2.2%)	10 (2.0%)	155 (2.6%)
仁濟醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	3 (0.7%)	3 (0.7%)	2 (0.4%)	2 (0.5%)	18 (5.0%)	22 (4.6%)	41 (9.9%)	8 (1.9%)	27 (7.1%)	126 (2.4%)
葛量洪醫院	30 (10.3%)	13 (3.3%)	31 (11.7%)	18 (4.8%)	13 (4.9%)	23 (7.8%)	22 (7.6%)	3 (0.9%)	19 (6.7%)	8 (3.0%)	0 (0.0%)	0 (0.0%)	180 (5.9%)
南朗醫院	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
總數	159 (1.3%)	117 (0.8%)	204 (1.7%)	151 (1.1%)	142 (1.1%)	197 (1.6%)	190 (1.4%)	184 (1.4%)	267 (1.9%)	508 (3.8%)	135 (1.1%)	179 (1.8%)	2433 (1.6%)

GOVERNMENT MOTION**COMPANIES ORDINANCE**

THE SECRETARY FOR FINANCIAL SERVICES to move the following motion:

"That the Companies (Winding-up) (Amendment) (No. 2) Rules 1997, made by the Acting Chief Justice on 5 May 1997, be approved."

SECRETARY FOR FINANCIAL SERVICES: Mr President, I move the motion standing in my name on the Order Paper.

The Companies (Winding-up) (Amendment) (No. 2) Rules 1997 have been made by the Acting Chief Justice under section 296 of the Companies Ordinance. The Amendment Rules seek to update insolvency practices and streamline procedures for the Official Receiver and the liquidators in dealing with winding-up of companies by the court.

The proposed changes are primarily procedural in nature. These include raising the minimum aggregate amount of miscellaneous expenses that is required to be taxed by the Registrar of the court from \$1,000 to \$3,000. This will relieve the Official Receiver and the liquidator of the obligation of taxing minor bills for work done by their agents.

The archaic provision which requires proxy forms to be completed in handwriting will be repealed, and we propose that proxy forms, except for signatures, can be printed and thereafter lodged by facsimile transmission.

We also propose that the amount of deposit to be placed with the Official Receiver before an order appointing a provisional liquidator is made be raised from \$3,000 to \$3,500. This amount has not been revised since 1993, and the proposed increase is nominal and lower than the accumulated inflation rate in the past four years. We hope that this modest increase will encourage more appointments of private sector insolvency practitioners as liquidators.

Under the Amendment Rules, the period within which the liquidator shall give notice of his intention to declare a dividend will be extended from two months to four months, to allow sufficient time for complicated proofs to be finalized and avoid the expense of further advertisement.

Amendments are made to Rule 88 in respect of the rate of interest payable in the event of a surplus and the period over which such interest to be calculated to be consistent with that applied in the Bankruptcy Ordinance.

Amendments are also made to Rules 142 and 202 so that the liquidator may place notifications in the Gazette direct without having to go through the Official Receiver.

Consequential amendments will be made to Forms 25, 80 and 81. Form 28 will be amended to require the liquidator's identification to be provided and minor textual amendment is proposed for Form 61 in the Schedule.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

GOVERNMENT BILLS

First Reading of Bills

JUDICIAL SERVICE COMMISSION (SPECIAL PROVISIONS) BILL 1997

CIVIL AVIATION (AMENDMENT) BILL 1997

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

Second Reading of Bills

JUDICIAL SERVICE COMMISSION (SPECIAL PROVISIONS) BILL 1997

THE CHIEF SECRETARY to move the Second Reading of: "A Bill to make a transitional arrangement in respect of any meeting of the commission established by the Judicial Service Commission Ordinance (to be known as the Judicial Officers Recommendation Commission Ordinance on the day following 30 June 1997) held on the day following 30 June 1997."

She said: Mr President, I move that the Judicial Service Commission (Special Provisions) Bill 1997 be read the Second time.

We have identified a practical problem that will arise at the first meeting of the Judicial Officers Recommendation Commission to be held on 1 July 1997. Section 3(3) of the Judicial Service Commission Ordinance (Cap. 92) (to be retitled the Judicial Officers Recommendation Ordinance with effect from 1 July 1997 by virtue of item 10 of the Schedule to the Hong Kong Court of Final Appeal Ordinance (Cap. 484)) provides that the Chairman and no fewer than six other members may exercise and perform any of the functions, powers and duties of the Commission. However, when the Commission holds its first meeting to recommend the appointment of the Chief Justice of the Hong Kong Court of Final Appeal (CFA), no judges will have been appointed in the Hong Kong Special Administrative Region (SAR). Without the Chief Justice of the CFA as the Chairman and the two judges appointed under section 3(1)(c)(i) of the Ordinance, there will only be six members of the Judicial Officers Recommendation Commission. This is below the quorum specified in section 3(3) of the Ordinance.

We therefore propose that, as a one-off transitional arrangement, legislative provision should be made to enable a person who serves as a judge immediately before 1 July 1997 to be appointed to the Commission as a member who is a judge for the purpose of any meeting of the Commission to be held on 1 July 1997. This would allow two judges to participate in the first meeting of the Commission and also to take part in making recommendations on the appointment of other judges at any Commission meeting to be held on 1 July 1997. Their appointment would expire at midnight on 1 July 1997.

Mr President, this Bill is a technical one which seeks to provide a practical solution to a practical problem. It must be enacted before 1 July in order to validate meetings of the Judicial Officers Recommendation Commission (JORC) held on that day, and hence the appointment of the Chief Justice of the CFA and the entire Judiciary of the SAR. Clearly we must do everything we can to remove any doubt about the legal status of the JORC and the Judiciary. I therefore commend the Bill to this Council for early passage into law.

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

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

CIVIL AVIATION (AMENDMENT) BILL 1997

THE SECRETARY FOR ECONOMIC SERVICES to move the Second Reading of: "A Bill to amend the Civil Aviation Ordinance."

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, I move that the Civil Aviation (Amendment) Bill 1997 (hereafter referred to as the Bill) be read a Second time.

The Civil Aviation Ordinance enacted in 1994 represents the first stage in the localization of relevant United Kingdom civil aviation enactments applying to Hong Kong. The Civil Aviation (Amendment) Bill 1997 before Members represents the second and final stage in the localization of such United Kingdom enactments and reflects our agreement with the Chinese side last month. It is essential for ensuring the continuation of Hong Kong's civil aviation management system beyond the transition. It is also necessary to maintaining Hong Kong's position as a centre of international and regional aviation.

The purpose of the Bill is to localize section 8 of the United Kingdom Civil Aviation Act 1949 (hereafter referred to as the 1949 Act) as extended to Hong Kong under the United Kingdom Civil Aviation Act 1949 (Overseas Territories) Order 1969, and to save the Air Navigation (Hong Kong) Order 1995 (hereafter referred to as 1995 Order) so that they will continue in effect after 30 June 1997. Section 8(1) of the 1949 Act is an enabling provision, which empowers Her Majesty in

Council to make provisions for implementing the Chicago Convention of 1944, and its Annexes relating to international standards and recommended practices, and for regulating air navigation generally. Section 8(2) of the 1949 Act sets out specific matters on which provisions could be made. The 1995 Order was made by Her Majesty in Council under section 8 of the 1949 Act, and provides the legal basis for Hong Kong's civil aviation management system covering matters such as the registration and marking of aircraft, air operators' certificates, airworthiness and aircraft equipment, aircraft crew and licensing, the operation of aircraft and the control of air traffic.

The Bill amends the principal Ordinance by adding provisions of section 8 of the 1949 Act and saving the 1995 Order, both with appropriate modifications. The important modifications are:

- (a) the power to make provision for implementing the Chicago Convention and its Annexes and for regulating air navigation generally is vested in the Governor in Council in place of Her Majesty in Council;
- (b) such provision deals with routine business and technical management of civil aviation;
- (c) the Governor in Council may, by order, make provision for prohibiting aircraft from flying over such areas in Hong Kong as may be specified, except by reason of national defence or during a state of emergency or state of war. In those exceptional circumstances, he shall only make such an order upon the instruction of a Secretary of State. The power of the Governor to make regulations for such prohibition under the 1995 Order is also similarly modified; and
- (d) commensurate with the offence, the maximum fine for non-compliance with the 1995 Order, or any instruments made thereunder, is increased from the existing level of 400, set over 20 years ago, to level six, which is equivalent to HK\$100,000.

Mr President, with these words, I commend the Civil Aviation (Amendment) Bill 1997 to this Council.

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

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

Resumption of Second Reading Debate on Bills

GOVERNMENT RENT (ASSESSMENT AND COLLECTION) BILL

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

MR ALBERT CHAN (in Cantonese): Mr President, I rise to speak on behalf of the Bills Committee on Government Rent (Assessment and Collection) Bill of which I was elected Chairman. The Bill seeks to implement the provisions in paragraphs two and three of Annex III to the Sino-British Joint Declaration regarding charging of Government rent. Although the Administration has put to members of the Bills Committee that the Bill only provides for the assessment and collection of Government rents payable for leases as specified in these provisions, the Bills Committee, in the course of deliberations, has found that the legal effect of the Bill is far more than what is intended. This explains why the Bills Committee has held ten meetings with the Administration. As I will move an amendment to the Bill at the Committee stage, I do not intend to touch on the issue relating to the amendment now. My speech will focus on other concerns raised by members of the Bills Committee.

At present tenements specified in section 36 of the Rating Ordinance are exempted from assessment to rates. These tenements fall into 12 different categories, including agricultural land, agricultural dwelling houses, village type houses and tenements wholly or mainly used for the purpose of public religious worship. Unless these tenements are held by a person descended through the male line from a person who was in 1898 a resident of an established village in Hong Kong, they are liable to pay Government rent under the Bill. Although the Bill has provided for ascertainment of rateable values of these tenements, members have questioned the legal basis upon which the rateable values of these tenements are capable of being so ascertained for the purpose of charging Government rent. It should be noted that if a tenement is exempted from assessment to rates under

section 36 of the Rating Ordinance, the question of ascertainment of rateable value does not arise. Apart from the doubtful legal basis for charging Government rent on these tenements, members of the Bills Committee are also concerned about the effect of payment of Government rent on the financial position of churches and temples. In an example given by the Administration, the estimated rateable value of a large church is \$1,452,000 and the Government rent payable will be \$43,560 per annum. Members of this Council will probably agree that this is not an insignificant amount to a church. Since the estimated total Government rents for churches, temples, monasteries and agricultural land will only be \$20 million per annum, the overall effect on public revenue is minimal. The Bills Committee has proposed to add a new clause to the Bill to deem the rateable value of each of the tenements exempted from assessment to rates under section 36 of the Rating Ordinance below the prescribed minimum rateable value. This, in effect, means that the rateable value of each of these tenements will be deemed to be \$1 per annum. Although this amendment has been ruled by Mr President to have charging effect, I consider it necessary to state the stance of the Bills Committee on the issue.

Members may wish to note that paragraph two of Annex III to the Joint Declaration specifically excludes short-term tenancies and special purpose leases from block extension. Their extension is considered on a case-by-case basis. This being the case, members doubt whether the charging of Government rent should apply to short-term tenancies and special purpose leases. The Bills Committee is concerned in particular about special purpose leases which have been granted at a concessionary premium. The Administration has admitted that it is not obliged under Annex III to charge Government rent at 3% of the rateable value for extension of special purpose leases. This arrangement has been discussed and agreed by the Land Commission. The Administration contends that new leases that are granted from the entry into force of the Joint Declaration until 30 June 1997 are required to pay Government rent under paragraph three of Annex III. These new leases include special purpose leases which are granted at a concessionary premium. The Administration argues that it will be anomalous not to charge the same rate of Government rent on all special purpose leases.

May I remind Members that the Administration has all along been saying in public that the charging of Government rent for extension of non-renewable leases has been enshrined in the Joint Declaration and there leaves no room for negotiation. It has now come to light that the charging of Government rent on special purpose

leases is not derived from this basis but from an agreement reached in the Land Commission. Members of the Bills Committee have every reason to believe that the Administration has misled the special purpose lessees into believing that payment of Government rent is a prerequisite condition for extension of leases in accordance with Annex III to the Joint Declaration. It is not therefore surprising that none of the special purpose lessees have raised any objection to this condition. Most, if not all, special purpose leases granted at a concessionary premium before the entry into force of the Joint Declaration have now been extended. The Administration has created a *fait accompli* situation. Although members of the Bills Committee have no intention of overriding contractual liabilities by legislative means and consider it more appropriate for individual lessees to take up the matter with the Government through civil action if necessary, I have to stress that the majority of members of the Bills Committee have expressed great disappointment at the way the Administration has handled the extension of special purpose leases.

I would like to draw Members' attention to another issue which has been discussed in depth by the Bills Committee. The Bill empowers the Government to demand Government rent from the lessees of an applicable lease, or the person who is liable to pay the rates for a tenement erected on land under an applicable lease. The liability to pay Government rent therefore does not rest with the lessee alone but the ratepayer too. The Administration has advanced several reasons for such an arrangement. The main reasons are that the Administration does not have an accurate list of lessees' names and addresses and it will take 70 man-years to compile this list. Since over 90% of ratepayers are lessees, the Administration considers it sensible to demand Government rent from ratepayers. I have to say that members do not consider this an entirely satisfactory arrangement although members appreciate the Administration's practical difficulties in issuing a rent demand note to lessees. Members' concern is however allayed to a certain extent by a provision in the Bill which provides that where the ratepayer is not the lessee but pays the rent, the sum so paid is a debt due to the ratepayer by the lessee unless there is an express agreement otherwise. At members' suggestion, the Administration has agreed to move an amendment to the effect that the relevant provision in the Bill will prevail any agreement which contains a general prohibition against the setting off of monies owed from any monies, including rent, payable under the agreement.

Mr President, albeit divergent views held by the Administration and the Bills Committee on various issues, the Administration does take on board some suggestions made by members. These include specifying in the Schedule to the Bill the relevant standard lease conditions which will be overridden by the Bill and amending the existing form for notifying ratepayers to set out clearly the reasons for refusing an objection to assessment of rateable values.

Mr President, these are my remarks on the deliberations of the Bills Committee.

MR NGAN KAM-CHUEN (in Cantonese): Mr President, as a member of the Bills Committee, I must state my position and that of the Democratic Alliance for the Betterment of Hong Kong (DAB).

The Government Rent (Assessment and Collection) Bill is aimed at providing a mechanism to allow the Administration to assess and collect Government rent payable for leases for which Government rent has to be paid in accordance with the provisions in Annex III to the Sino-British Joint Declaration. Such an arrangement enables the people to extend their leases without having to pay any premium. Hence the DAB supports the Bill.

Mr Albert CHAN, on behalf of the Bills Committee, proposed to move an amendment to the Bill at the Committee stage, whereby clause (4) would be added to section 8, to deem the rateable value of each of the tenements exempted from assessment to rates under section 36 of the Rating Ordinance below the prescribed minimum rateable value. Although this amendment could not be put forth eventually because it had been ruled by the President of this Council to have charging effect, I still wish to make one point clear and that is, Mr CHAN's proposed amendment is contrary to the provision in Annex III to the Joint Declaration.

As I pointed out earlier in my letter to Members, according to Annex III to the Joint Declaration, only the properties specified in paragraph two are exempted from Government rent. The rateable value of those tenements which are now exempted from assessment to rates should be assessed according to their land use, instead of, as Mr CHAN proposed, compulsorily exempting through legislation the leases for which Government rent is payable. Anyone who is not satisfied with

the assessment of Government rent could petition the Lands Tribunal on the value assessed instead of asking for exemption.

In fact, tenements which are exempted from assessment to and collection of rates under section 36 of the Rating Ordinance are obliged legally to pay Government rent and the legal responsibility does not depend on whether any rates has been paid or is now being paid. Moreover, there is no reference in Annex III to the Joint Declaration stipulating that a tenement must be assessed to rates before it is obliged to pay Government rent.

As for those churches/temples and cemeteries for which some Members have requested exemption from Government rent, they were granted at a concessionary premium when the lease was first granted and the payment of Government rent in lieu of payment of premium itself was already a concessionary measure. The Government is simply charging, under Annex III to the Joint Declaration, 3% of the rateable value from time to time when the land is leased, instead of charging a lump-sum premium when these leased properties are renewed. Moreover, the terms of lease of most of the churches/temples for which special-purpose leases have been granted already stipulate that 3% of the rateable value of the leased land from time to time is payable as Government rent.

Furthermore, the Government's assessment to rates of these tenements is not too high. The rate of 3% is not too much and its impact on the tenements is not likely to be too great. Government statistics show that there are about 362 churches/temples in Hong Kong and 513 churches/temples situated in commercial and residential buildings and that their Government rent ranges only from \$9,000-plus to \$26,000 a year on average, generating a total annual revenue of about \$15 million. As for subsidized non-government bodies, they can even apply for reimbursement of the Government rent already paid.

Mr President, it is the wish of the people of Hong Kong that both the Chinese and British governments will abide by the Sino-British Joint Declaration. As a member of the Hong Kong legislature, we should set an example by upholding the Joint Declaration. We should not challenge the law by being the ones to violate it. If we misbehave, how can we expect others to act properly?

Mr President, with these remarks, I support the Government Rent (Assessment and Collection) Bill.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I would like to thank the Honourable Albert CHAN, Chairman of the Bills Committee and the other members of the Committee for their close examination of the Bill and for their suggestions on how to enhance the clarity of the Bill in many areas.

I shall move amendments to the Bill at the Committee stage, most of which are technical in nature, to take on board their suggestions as far as possible.

I have to reiterate that the Bill does not introduce a new government policy. Its main purpose is to implement and accede to the Sino-British Joint Declaration. The requirement to pay new Government rents was publicized when the Joint Declaration was signed and subsequently made known to the property owners when their non-renewable leases were extended or when they were granted new leases. These leases include those in the New Territories, including New Kowloon, which would expire on 27 June 1997 had they not been extended to 30 June 2047 under the New Territories Leases Extension Ordinance, and those special purpose leases which the Government has granted or extended with provision requiring the payment of ground rent on similar terms.

It should be noted that no premium is charged upon the extension of the leases concerned. The new Government rents to be charged are equivalent to 3% of the rateable value from time to time of the land leased. In the course of deliberations, some members of the Bills Committee questioned the legal basis upon which tenements exempted from assessment to rates under the Rating Ordinance were capable of being so assessed under this Bill and assigned to rateable values for the purpose of charging Government rent. They also queried why the Administration would charge Government rent on those special purposes leases, especially for churches and cemeteries, which have been granted a concessionary premium.

On the first issue, rateable value is given a statutory meaning in clause 2 of the Bill, which sets out that a rateable value may be ascertained under the Bill apart from under the Rating Ordinance. A tenement has a rateable value for the purposes of the Bill which could be ascertained whether or not it is exempted from assessment to or payment of rates under the Rating Ordinance. The fact that a property did not have one or was not assessed for rates as at the entry into force of

the Joint Declaration does not mean that it cannot have a rateable value for government rent purposes.

On the second issue, charging Government rent on special purpose leases which have been granted a concessionary premium is not a change in existing policy. This is one of the conditions upon which special purpose leases may be extended. Details of the arrangements for such extension were publicly announced in April 1987. It was explained that when special purpose leases were extended an annual rent equivalent to 3% of the rateable value from time to time would be charged. These arrangements have been discussed and agreed by the Land Commission. The fact that certain special purpose leases were originally granted a concessionary premium does not affect the amount of Government rent to be charged.

Paragraph 3 of Annex III to the Joint Declaration provides that Government rent at 3% of the rateable value from time to time is also charged after 30 June 1997 on new leases that are granted from the entry into force of the Joint Declaration until 30 June 1997. These new leases include special purpose leases which are granted a concessionary premium and the lessees are required to pay the new Government rent.

As the Administration promised to the Bills Committee meetings, I would like to assure Members that persons who have lodged objections under the Bill or the Rating Ordinance will be informed of the reasons for the decisions of the Commissioner of Rating and Valuation on their objections and that the information to be sought by the Commissioner by virtue of clause 31(1)(a) of the Bill will only be for the purposes of the Bill.

Mr President, with these remarks, I recommend the Bill to this Council subject to the amendments I shall move at the Committee stage.

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

Bill read the Second time.

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

PATENTS BILL

Resumption of debate on Second Reading which was moved on 10 July 1996

MR AMBROSE LAU: Mr President, I speak in my capacity as the Chairman of the Bills Committee on the Patents Bill. The Bill seeks to give effect to the proposals in the Patent Steering Committee Report relating to the establishment of a new law on patents. The Bills Committee has held 11 meetings with the Administration. It has met with the Law Society of Hong Kong and has received a submission each from the Hong Kong Institute of Trade Mark Practitioners and the Hong Kong Bar Association. All major concerns raised by organizations which the Administration had consulted on the Patent Steering Committee Report and on the draft Bill have been considered by the Bills Committee. I shall highlight the main issues deliberated by members.

The Bill empowers the Governor in Council to designate a patent office established outside Hong Kong such that the patents granted in that office for an invention may be used as the basis for the grant of a patent for the same invention in Hong Kong. The patent offices to be designated include the United Kingdom Patent Office, the Chinese Patent Office, and the European Patent Office in respect of patents designating the United Kingdom. Some members have queried the reasons for designating the Chinese Patent Office but not the United States Patent Office given the differences in the legal systems between China and Hong Kong. The Administration's explanations are that in considering designating the proposed three Patent Offices, it has taken note of their reputation, the similarity of the patent systems, the high level of trade between Hong Kong and these countries, strong links between China and Hong Kong, and the need to provide sufficient choice to users of the system. Members note that the Patent Steering Committee has given full consideration to the possibility of registering patents from the United States. However, the United States operates on a first-to-invent system as opposed to Hong Kong's first-to-file system. This significant difference precludes the United States Patent Office from being designated. The Chinese system, on the other hand, is a Paris Convention system. Its scope, basic criteria for patentability, eligibility of applicants, term, and priority claims under the Paris Convention are by and large consistent with the European system.

Members may wish to note that the subject of short-term patents has been the focal point of deliberations of the Bills Committee. Members have considered

in depth the need for a short-term patent system and its proposed features. In discussing the proposal of a short-term patent system, Members have made reference to overseas jurisdictions which have a similar system in the form of petty patents or utility model patents, in particular, the Australian petty patent system. Both the Law Society and the Institute of Trade Mark Practitioners welcome the introduction of a short-term patent system in Hong Kong. The Law Society considers it a world-wide trend to provide a quick and relatively easy way of patent protection for inventions for businesses which make products with a short commercial life. The Bar, on the other hand, has reservations regarding the introduction of a short-term patent system. It doubts the need to create, alongside standard patents, short-term patents which protect the same subject matters and have the same standards of patentability. In the Bar's view, if a short-term patent system is introduced at all, it should be kept distinct from the standard patent system, require a lower level of inventiveness and cover a restricted scope of subject matters in order to cater for Hong Kong's need.

The Administration has explained to Members that the results of the public consultation exercise have indicated substantial commercial support for the idea of a short-term patent. In recognition of the needs of local businesses which frequently work with products with a short-term market, the Administration considers that the most flexible arrangement for Hong Kong businesses is to have the widest possible range of matters which can be protected by a short-term patent. Standard patents and short-term patents are designed to cater for different types of goods. The Administration expects that few people will apply for both types of patents for the same invention. Taking into account Hong Kong's unique situation, the absence of an acceptable reference base, and subjectivity in determining the level of inventiveness, the Administration does not recommend a lower level of inventiveness for short-term patents.

After establishing the need for a short-term patent system, the Bills Committee then deliberated when a search report should be submitted. A search report gives information on users on the prior art and assists them in assessing the validity of a patent. Both the Law Society and the Institute of Trade Mark Practitioners object to the proposed requirement to submit a search report at the point of application. They are of the view that the high costs of preparing a search report will discourage the use of the system by small businesses, defeating its very purpose to give a quick and cheap means of protection to local inventors. The Law Society and the Institute suggest that an applicant for a short-term patent

should only be required to submit a search report prior to initiating proceedings against an infringer. Their view, however, is not shared by the Bar which considers it reasonable to require the submission of a search report in filing an application. The Administration has clarified that the reason behind the proposed requirement is to prevent abuse to restrict third party use. The Administration, nevertheless, acknowledges the concern about the cost of a search report. Noting that Australia is considering revising its system such that a petty patent is granted after a formality examination only, the Administration discussed the matter further with the two legal professions and the Institute of Trade Mark Practitioners and then modifies its proposal such that only a formality examination will be conducted on an application and a search report is to be filed before grant of a short-term patent. Members welcome this revised proposal.

The most contentious issue throughout the deliberations of the Bills Committee has been whether interlocutory injunctive relief should be made available to proprietors of short-term patents. The Bar strongly opposes to making available this remedy which, in its view, provides an easy way by which a short-term patentee can block third parties from entering the market to compete for a product with a short commercial life. On the other hand, the Law Society and the Institute of Trade Mark Practitioners are adamant that it is most crucial for interlocutory injunctive relief to be made available to a short-term patentee to enable him to immediately stop any suspected infringement. Removal of this remedy will render short-term patents effectively worthless. The majority of members of the Bills Committee share the view of the Law Society and the Institute. In arriving at this stance, members have considered the Administration's advice that Article 50 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) of the World Trade Organization (WTO) requires all WTO members to make available interlocutory injunctive relief to patent proprietors. Withholding this remedy for short-term patents risk exposing Hong Kong to being challenged at the WTO for failure to comply with the TRIPS Agreement. The Administration has undertaken to review the short-term patent system after its operation for a certain period of time and report the results of the review to Members.

The Bills Committee welcomes the Administration's decision for taking on board a number of suggestions made by members. These include removing the limit of subsidiary claims in respect of an invention and leaving it to the common

law to decide on a case-by-case basis as to whether goods in transit fall within the meaning of importation.

Last but not least, on behalf of the Bills Committee, I wish to thank the Administration for its open-mindedness, co-operation, and promptness in providing information to clarify each and every query raised by members in the seven-month deliberations of the Bills Committee. May I also thank the staff concerned of the Legislative Council Secretariat for providing efficient support in the course of the scrutiny of this complex Bill. Subject to the Committee stage amendments to be moved by the Administration, I commend this Bill to Members.

MISS MARGARET NG: Mr President, Hong Kong needs to set up its own system for the protection of patents after 1 July. The Patents Bill which is the instrument to achieve this purpose, therefore, has to be passed before that date, and I support that.

However, the Bill also seeks to create something new. Something Hong Kong has never had before, and that is the creation of a system of "Short-Term Patents".

Not only is this new to Hong Kong, but it is unlike anything in any other part of the world. First, in terms of what can be patented, there is no difference between the standard patent and short term patent.

However, unlike standard patent, it is an unexamined system. All you have to do for registration is to meet certain formal requirements, including the filing of a search report. In other words, you do not have to prove that the invention you want to patent is inventive, or that you are the rightful innovator. But once registered, you get the same protection as standard patent owners. The only difference is that under the standard patent, your right is for a longer period; whereas under the short-term patent, you enjoy the right for eight years.

Moreover, there is nothing in the Bill to prevent anyone from applying for both a standard patent and a short-term patent at the same time in respect of the same invention. While your application for a standard patent is being examined with all the usual high standards, you can already enjoy all the rights under a short term patent without having to prove anything.

Mr President, the Bills Committee is told by the industry and those representing it that short-term patents will greatly enhance commerce and industrial developments in Hong Kong and is very good for business. Let us assume that this is entirely true.

However, the Bar is very concerned about the potential for abuse of such an unexamined system. This is particularly because under the Bill, every remedy available to the examined, standard patent is also available to the unexamined short-term patent. This includes interlocutory injunction which, in the experience of practitioners in the field, may be obtained on superficial proof.

If the matter comes to trial, then of course a wrongfully obtained injunction may be discharged with the penalty of costs and damages. But, again as a matter of experience, very few of these matters ever arrive at the point of trial. Commercial consideration would drive even a wrongfully sued defendant to settle. Against this reality, the provision of speedy trial is more illusory than real.

As the Bar envisages, small businesses will be the most vulnerable to this abuse. We cannot refrain from speaking out on this potential loophole for injustice.

There must be a balance somewhere. In the Bills Committee, I have argued that it is for this reason that the short-term patent is unsatisfactory. I have also stated that I would be less worried if an amendment can be made to remove the remedy of interlocutory injunction from short-term patents. However, it is argued for the other side that, without interlocutory injunction, a short-term patent will be almost worthless. Those rightfully owning patentable inventions will be without effective remedy.

It is therefore an "all or none" situation with short-term patents.

Mr President, I am relieved to hear that those representing the Administration do not regard my concerns as unreasonable or far-fetched. They have agreed that the operation of short-term patents be kept under review, particularly with respect to the use of interlocutory injunctions. They will note how many applications are made and granted, and of these how many proceed to trial and with what result, and an evaluation will be made in a year or so. In the meantime, efforts will be made to ensure the court is fully informed of the nature

of short-term patents. In the Administration's reply today, I hope these pledges will be confirmed. I cannot say that these assurances fully meet my concern or effectively prevent abuse. However, if we were to take time to search for an answer to short-term patents satisfactory to all, this will mean a substantial delay to the Bill, and that, Mr President, we cannot afford.

It is in these circumstances that I support the Second Reading of the Bill. But I wish to put on record the misgivings which I share with the Bar, and the promise of the Administration to keep the matter under review.

Thank you, Mr President.

SECRETARY FOR TRADE AND INDUSTRY: Mr President, I am most grateful to the Chairman, the Honourable Ambrose LAU, and members of the Bills Committee for examining and giving us advice on the Patents Bill in the most meticulous and professional manner.

The Committee has met 11 times since last November and has put forward many constructive suggestions which the Government has been pleased to adopt. As I have explained to this Council before, a patent gives an inventor an exclusive right to exploit his invention within a said term. It protects and therefore encourages technical innovation. In exchange for the patent protection the inventor has to disclose his new technology. As such, a patent system also facilitates technology transfer.

The new patent system set out in the Bill will preserve the well-recognized virtues that the existing United Kingdom-based regime already offers. It will also bring us three additional advantages. Firstly, while still requiring applicants for standard patents to complete their substantive search and examination requirements at reputable designated patent offices elsewhere, our Registrar of Patents will be able to administer the patent once granted independently of the status of that patent in the relevant designated patent office. Once granted in Hong Kong, each patent will be capable of being tested for validity, amended, revoked and enforced in the Hong Kong courts in accordance with Hong Kong law.

Secondly, we plan to designate three patent offices to facilitate applications for standard patents in Hong Kong. They are the Chinese Patent Office, the

United Kingdom Patent Office and the European Patent Office designating the United Kingdom. The new system will, therefore, provide more choice to applicants while maintaining continuity with the existing system. I am grateful to the Honourable Ambrose LAU just now for explaining so succinctly to this Council why the Administration does not consider it appropriate to designate the United States Patent Office.

Thirdly, the new system offers a new form of protection. Other than the grant of standard patents covering protection of up to 20 years, we will grant short-term patents of up to eight years. Interlocutory injunction will be allowed as a remedy against infringement of short-term patents.

Mr President, the Honourable Ambrose LAU has just explained to this Council the Bills Committee's concern and deliberations about the propriety of short-term patents, the justifications for allowing interlocutory injunction as a remedy against infringement and the timing for submission of search reports for short-term patent applications. The Honourable Miss Margaret NG also spoke on this subject just now. I think it would be appropriate for me to explain the Government's thinking on these matters in a little more detail.

The purpose of providing short-term patents is to allow proprietors of inventions with a short-term commercial life to have recourse to a quicker and less costly form of patent protection as compared with standard patents. The need for doing so was identified by the Patents Steering Committee which recommended that the Registrar of Patents should grant a short-term patent upon completion of a formality examination only. The Government has accepted this recommendation. The Government's position is strongly supported by the professional bodies with the exception of the Bar as well as the business sector. Here I would like to state for the record that in recent years, a trend to non-examination systems can be seen being practised more and more widely. In this connection, I refer to Australia's practice in respect of innovation patents. I also refer to the practice in mainland China in respect of utility models, as well as the practice adopted in Japan.

However, the absence of a requirement for substantive search and examination for short-term patents has raised concern about possible abuses. Accordingly, we have included four specific safeguards in the Bill. The first safeguard is to require an applicant to file with the Registrar before grant and publication of the short-term patent a search report made by a prescribed searching

authority. This search report will give information to users on whether the short-term patent under application is new or in technical terms a prior art. A second safeguard is to clarify in the Bill the fact that a short-term patent has been registered shall be of no account in any proceedings before a court for the enforcement of rights conferred under the ordinance to be enacted. This means that the onus always rests on the plaintiff or the patent owner to prove that his patent is a valid one.

The third safeguard is to stipulate that if an interlocutory injunction is made, the defendant may apply to the court for the matter to proceed to early trial. This would minimize the defendant's damage pending trial. The fourth safeguard is to provide a civil remedy for groundless threats of infringement proceedings. Any person aggrieved by the threats may bring proceedings in the court against a person making the threats for relief, including damages, declaration that the threats are unjustifiable and injunction against a continuance of the threats.

Some members of the Bills Committee have also suggested that interlocutory injunction may be too powerful a remedy against infringements of short-term patents which are granted without substantive examination. We have consulted the relevant professional bodies again and reviewed the issue very seriously. We remain convinced that interlocutory injunction should be an integral part of the system for a number of reasons. First of all, we consider that without the remedy, the convenience and attractiveness of the short-term patent system would be seriously undermined. The Law Society and the Institution of Trade Marks Practitioners have both confirmed this view.

Secondly, we note that the principles for the grant of interlocutory injunctions are authoritatively laid down in the House of Lords case *American Cyanamide v. Athecon*. A key guiding principle, for example, is that the action must not be frivolous or vexatious. Further, if granted an interlocutory injunction, the plaintiff must give a cross-undertaking to the court to pay the defendant damages if he is unsuccessful at full trial. There are also practice directions issued by the Chief Justice relating to the practice and procedures of the application of interlocutory injunctions.

Thirdly, under the agreement on Trade-Related Intellectual Property Rights (or TRIPS, in short) all members of the World Trade Organisation, including Hong Kong, are required to make available provisional measures to prevent an

infringement of any intellectual property right from occurring and to preserve relevant evidence in regard to the alleged infringement. We are providing for this remedy in respect of standard patents. On legal policy grounds, we believe we should extend this remedy to cover short-term patents as well.

With regard to the undertaking sought by the Honourable Miss Margaret NG just now, I am happy to give this undertaking that the Administration will review the provisions for interlocutory injunctions a year after the new law coming into effect to see if there are indications that this form of remedy is being abused. I should also like to say we are happy to take on board other constructive suggestions from the Bills Committee in this particular regard.

Mr President, I would now like to turn to a number of other issues addressed by the Bills Committee and to which I shall propose amendments at Committee stage. The first issue relates to control of goods in transit. Initially, we considered that, from a trade policy angle, goods in transit should not be considered to be import for the purpose of clause 73 in the Patents Bill relating to civil infringement action. Given Hong Kong's free port status and the huge volume of goods into and transit through Hong Kong on a daily basis, our view then was that there should be no unwarranted interference with the flow of trade.

However, the Law Society, the Hong Kong Institute of Trade Marks Practitioners and some members of the Bills Committee have made strong representation to us, pointing out that patent owners should have the right to take civil action in respect of goods in transit. They have also advised that there should be no specific exclusion of goods in transit but that the question should be left to the common law and the courts to develop. We accept that taking out the exclusion clause will enhance the integrity of our patent protection regime without necessarily compromising the free flow of goods. I will accordingly propose a Committee stage amendment to delete the exclusion clause in clause 73(2).

The second issue relates to timing for the submission of search reports for short-term applications which the Honourable Ambrose LAU also referred to just now. While agreeing that an applicant for short-term patents should submit a search report before grant, some members of the Bills Committee have asked whether the applicant would have practical difficulty in securing such report at the time of application and whether there would be scope for flexibility.

We have reviewed the relevant provisions in the Bill and can confirm that the proposed system will allow the search report to be submitted any time before grant, rather than at the time of filing an application. Clause 119 of the Bill also provides an option for an applicant to request for deferral of the grant of a short-term patent for a maximum period of six months after the date of filing an application. To provide additional flexibility, I will propose a Committee Stage amendment to extend this deferral period to 12 months. This will effectively allow the applicant six more months if he so wishes to complete his formalities.

The third issue is about the procedural arrangements for international applications for short-term patents. The Patents Bill already contains a provision to deal with international applications for standard patents provided for under the Patent Co-operation Treaty. For completeness and upon clarification with our counterparts in the Chinese Patent Office, we will add a new provision to make it clear that our short-term patent system will also be able to deal with international applications seeking utility model protection in the Mainland provided that these applications comply with all requirements relating to local short-term patents as set out in the Bill. I will again propose the necessary amendment at Committee stage.

Mr President, the Patents Bill laid before the Council this afternoon will enable Hong Kong to develop a modern patent protection regime that is compatible with international standards in all respects. Subject to its enactment, I will return to this Council to invite it to approve a series of subsidiary legislation to facilitate the administration of the new system. The task ahead of us, especially colleagues in the Intellectual Property Department, is pressing and most challenging, but we are all geared up for that. We look forward to the target commencement of the new Hong Kong patent system towards the latter part of June. In anticipation, I would like to thank the Patents Bill Bills Committee and this Council once again for helping to make this possible.

With these remarks, I commend the Patents Bill to this Council subject to the amendments I shall move at Committee stage.

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

Bill read the Second time.

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

Committee Stage of Bills

Council went into Committee.

CHAIRMAN (in Cantonese): Before the Government Rent (Assessment and Collection) Bill is committed to a Committee of the whole Council, I wish to explain briefly why for the purpose of Standing Order 45(6) I ruled that the amendment to clause 8 of the Bill, which Mr Albert CHAN proposed to move, had "a charging effect". I understand that this amendment was proposed by Mr Albert CHAN on behalf of the Bills Committee tasked with the deliberation of the Bill.

Under the Bill, there are two categories of leases for which Government rent is payable. The first is leases extended until 30 June 2047 by the operation of section 6 of the New Territories Leases (Extension) Ordinance. Apart from the rare exception of rural holding specified in section 9 of the Ordinance, it is stipulated in section 8 that the annual Government rent of the land leased shall be 3% of the rateable value determined from time to time.

The second category covers those leases which have been extended to or granted up to 30 June 2047. The contractual liability of payment of the annual rent has already been clearly specified in these leases, which is also equivalent to 3% of the rateable value determined from time to time.

On 19 May 1997, Mr CHAN gave notice that he would propose amendments to Clauses 8 and 36 of the Bill. The proposed amendment to Clause 36 did not require my ruling.

As for clause 8, Mr CHAN's amendment was to add a new clause 4, that is, "for the purpose of the Ordinance, to deem the rateable value of each of the tenements exempted from assessment to rates under section 36 of the Rating Ordinance (Cap. 116) below the prescribed minimum rateable value". According to an amendment proposed by a public officer later to clause 2 of the Bill, for the purpose of the first Government Rent Roll, "the minimum rateable value" will be \$3,000. This public officer later will also propose an amendment to clause 8 so

that the Bill will provide that if the rateable value of an tenement considered by the Commissioner of Rating and Valuation does not exceed the minimum rateable value, its rateable value shall be deemed to be \$1. If these two amendments are passed, and if Mr CHAN is allowed to move his proposed amendment and if the amendment is also passed, then the total effect would be that the Government rent that the Government can collect from the tenements covered by Mr CHAN's amendment would be fixed at 3 cents (that is, 3% of \$1, the minimum rateable value). It is claimed by the Government that under such circumstances, there would be a loss of \$35 million in revenue in a full year, or \$26 million for the remainder of the current financial year.

It can be seen that there is a statutory requirement that the Government is entitled to collect Government rent of an amount equal to 3% of the rateable value during the extension period of the first category of leases. Although collection has not yet started, the Government does have the authentic and prevailing right to collect the rent. Accordingly, if Mr CHAN's proposed amendment is passed, the Government will no longer be able to collect the appropriate rent payable for the tenements covered by the clause 8(4) proposed by Mr CHAN while there is indeed a long list of such tenements in section 36(1) of the Rating Ordinance!

As for the second category of leases, which are new leases granted in the form of contract up to 30 June 2047, or leases extended to 30 June 2047 in the form of contract since the Sino-British Joint Declaration came into force, although they are in the form of contract, the same bottom-line has been laid down in respect of the annual rent payable, that is, 3% of the rateable value. According to the Government, there are about 130 such leases, covering about 4 000 properties, for which rent has already been paid. The passing of Mr CHAN's amendment would also render it impossible for the Government to collect the appropriate rent from the tenements covered by section 36(1) of the Rating Ordinance.

Accordingly, I consider that for the purpose of Standing Order 45(6), Mr CHAN's proposed amendment has "a charging effect" on the Government's revenue and as such, the proposal can only be put forth with the authorization of the Governor.

GOVERNMENT RENT (ASSESSMENT AND COLLECTION) BILL

Clauses 1, 2, 4, 6 to 11, 13, 15, 16, 18, 19, 23 to 26, 29 to 35, 38, 40, 41, 43, 44, 46, 47 and 48

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, I move that the clauses specified be amended as set out in the paper circularized to Members. As I explained earlier, most of the amendments are technical in nature. I would, however, highlight a number of the amendments.

Clause 1 has been amended to allow the Ordinance to come into operation when gazetted. Clause 2 has been amended to allow for better interpretation of the Bill by adding a number of definitions. Clause 4 has been amended to better set out the exemption criteria. Clause 8 has been amended to deem the rateable value of a tenement, if not exceeding the minimum rateable value, to be \$1. Clauses 10 and 11 have been expanded to make it clear that the Governor may direct the Commissioner of Rating and Valuation to prepare a new Government Rent Roll or a part of the Government Rent Roll.

Clause 16, as suggested by the Bills Committee, has been reworded to make clear that it is the entry in the government rent roll and its rateable value that can be objected to or appealed against. Clause 38, as suggested by Members, has been amended to show, by reference to a schedule, the covenants and conditions in a lease which are to be overridden by the Bill. Clause 43 has been amended to provide that the period in which complaints can be made is reduced from six years to one year. The process of raising an interim valuation of the tenement takes up to one year to be completed and the complaint period is to be at least to match this.

Clause 44, as suggested by the Bills Committee, has been amended to allow the Commissioner of Rating and Valuation to delete the rateable value and make an interim valuation of where a person is convicted of an offence under the Bill. The wording of clause 46 has been tightened up as suggested by the Bills Committee. The clause now relates to an inadvertent misnomer. We agreed to the Bills Committee's suggestion that clause 47 should be deleted. Clause 48, as suggested by the Bills Committee, has been expanded to remove ambiguity and to ensure that the printing of a name of an authorized person as duly authorized by the Commissioner.

These amendments have been made known to members of the Bills Committee who have not raised any objection. Thank you, Mr Chairman.

Proposed amendments

Clause 1

That clause 1 be amended —

- (a) in the heading, by deleting "**and commencement**".
- (b) by deleting subclause (2).

Clause 2

That clause 2 be amended —

- (a) in the definition of "Government Rent Roll", by adding ", and includes part of the roll" after "values".
- (b) in the definition of "lease" -
 - (i) by adding "is" before "granted";
 - (ii) by deleting "and a lease within the meaning of section 8(1) of the Crown Rent and Premium (Apportionment) Ordinance (Cap. 125)".
- (c) in the definition of "rateable value" -
 - (i) in paragraph (a), by deleting "for an identical tenement,";

- (ii) in paragraph (b), by deleting "assessed" and substituting "ascertained".
- (d) in the definition of "resite house grant", by adding "or to a tso or tong" after "villager".
- (e) in the definition of "returned requisition", by deleting ", owner" and substituting "or the owner".
- (f) in the definition of "small house holding" -
 - (i) by deleting "holding" and substituting "grant";
 - (ii) by deleting "土地)" and substituting "批租約)".
- (g) by adding -

""comprised" (包含) means wholly or partly comprised;

"exemption from liability to pay Government rent" (繳交地租的法律責任的豁免) means the exemption from liability to pay Government rent under section 4, and "exempted from liability to pay Government rent" (獲豁免繳交地租的法律責任) shall be construed accordingly;

"minimum rateable value" (最低應課差餉租值) means -

- (a) for the first Government Rent Roll, \$3,000;
- (b) for subsequent Government Rent Rolls, the amount prescribed by resolution of the Legislative Council for the purposes of section 36(1)(l) of the Rating Ordinance (Cap. 116);

"mortgage (按揭), in relation to any interest held under an applicable lease, includes a charge in respect of that interest;

"mortgagee in possession" (管有承按人) means a person who in the right of a mortgage has entered into and is in possession of the interest subject to the mortgage;

"rates" (差餉) means the rates within the meaning of the Rating Ordinance (Cap. 116);

"Regional Council area" (區域市政局轄區) has the meaning assigned to it under the District Boards Ordinance (Cap. 366);

"section" (段) means any portion or division of a lot, which portion or division has been assigned, alienated or retained for the whole of the term or interest created by the lease of the lot by or under the terms of an instrument registered in the Land Registry;

"small house holding" (丁屋) means land held under a small house grant;

"specified form" (指明表格) means a form specified by the Commissioner under section 34(2);

"Urban Council area" (市政局轄區) has the meaning assigned to it under the District Boards Ordinance (Cap. 366);".

Clause 4

That clause 4(1) be amended —

- (a) by deleting "An" and substituting "Subject to other provisions of this section, an".

- (b) by deleting "in land".
- (c) in paragraph (b), by adding "or" at the end.
- (d) in paragraph (c)(ii), by adding "or" at the end.
- (e) by deleting paragraph (ii) and substituting -
 - "(ii) which -
 - (A) has not since its ceasing to be held by the indigenous villager been conveyed to any person who is not a lawful successor in the male line of the indigenous villager; and
 - (B) continues to be held by a person who is a lawful successor in the male line of the indigenous villager."

That clause 4(2) be amended —

- (a) by deleting "as provided for in subsection (1) applies to an interest that is an undivided share in land and to a section in a lot" and substituting "under subsection (1) or (1A) applies to an interest that is a section of or an undivided share in the land leased".
- (b) by deleting "after a subsequent transaction in relation to the land" and substituting "or the eligible tso or tong, as the case may be, after a subsequent transaction in relation to the land leased".

That clause 4(3) be amended —

- (a) by deleting "as provided for in subsection (1) applies" and substituting "under subsection (1) or (1A) applies to an interest that is a section of or an undivided share in the land leased".

- (b) by deleting "in the lot" and substituting "of".
- (c) by deleting everything after "land leased" and substituting "not being exempted from liability to pay Government rent."

That clause 4(4) be amended —

- (a) by deleting "An" and substituting "Subject to other provisions of this section, an".
- (b) by deleting "in land".
- (c) by deleting everything after "rural holding" and substituting -

"or a resite house grant that an eligible tso or tong held on 30 June 1984 and has since 30 June 1984 continued to be so held".
- (d) by renumbering it as clause 4(1A).

That clause 4 be amended, by deleting subclause (5) and substituting —

"(5) Subject to subsections (2) and (3), an exemption from liability to pay Government rent under subsection (1) or (1A) does not apply to an interest held under an applicable lease, unless all other interests held under that applicable lease (excluding any interest held by way of a mortgage but including any interest held by a mortgagee in possession) is -

- (a) held by 1 or more eligible indigenous villagers, or by 1 or more eligible tsos or tongs, or by any combination of both; and
- (b) exempted from liability to pay Government rent under subsection (1) or (1A).

(5A) Subject to subsections (2) and (3), an exemption from liability to pay Government rent under subsection (1) or (1A) does not apply to an interest held under an applicable lease that is held by more than 1 holder (excluding a holder holding the interest by way of a mortgage but including a holder holding the interest as a mortgagee in possession), unless -

- (a) each of such holders is either an eligible indigenous villager or an eligible tso or tong; and
- (b) the interest so held in so far as each of such holders is concerned would, apart from this subsection, have been exempted from liability to pay Government rent under subsection (1) or (1A)."

That clause 4(6) be amended —

- (a) by adding "in respect of an interest held under an applicable lease" after "Government rent".
- (b) by deleting "ownership of an interest under a lease" and substituting "the interest".
- (c) in paragraph (a), by deleting "under his ownership" and substituting "from liability to pay Government rent in respect of the interest".
- (d) in paragraph (b) -
 - (i) by deleting "held under the lease";
 - (ii) by deleting "for exemption" and substituting "for the exemption".

That clause 4(7) be amended —

- (a) by adding "an interest held under" before "an applicable lease".

- (b) by adding "in respect of that interest" after "the rent payable".

That clause 4(8) be amended —

- (a) by adding "held" after "an interest".
- (b) by deleting "his interest" and substituting "the interest held".
- (c) by adding "from liability to pay Government rent" after "exemption".

That clause 4(9) be amended, by deleting "applies to an interest held under a" and substituting "from liability to pay Government rent applies to an interest held under an applicable".

That clause 4 be amended, by adding —

- "(12) (a) For the purposes of subsections (2) and (3), a reference to an undivided share in relation to any land leased shall be regarded as a reference to an undivided share in a lot comprised in the land leased, the owner of which share is, as between himself and the owners of the other undivided shares in that lot, entitled under the terms of an instrument registered in the Land Registry to the exclusive possession of any part of any building erected on the lot or of any part of the lot.
- (b) For the purposes of this section, a reference to an eligible indigenous villager shall, in relation to an interest held under an applicable lease, be a reference to a person who -
 - (i) is an indigenous villager; and
 - (ii) in relation to that interest, is the lawful successor in the male line of an indigenous villager holding the interest on 30 June 1984.

- (c) For the purposes of this section, a reference to an eligible tso or tong shall be a reference to a tso or tong -
 - (i) which is a tso or tong recognized as such under Chinese custom;
 - (ii) all members of which have been on and since 30 June 1984 indigenous villagers; and
 - (iii) in respect of which prescribed certificates, reports and information have been submitted in accordance with the regulations."

Clause 6

That clause 6(1) be amended —

- (a) by deleting "The" and substituting "Subject to section 4, the".
- (b) by deleting "Government rent to the Commissioner each year" and substituting "by way of Government rent to the Commissioner in accordance with this Ordinance an annual rent".
- (c) by deleting everything after "the land leased" and substituting a full stop.

That clause 6(2)(a) be amended, by deleting "will" and substituting "is required to".

That clause 6(2)(b) be amended, by deleting "calculated" and substituting "ascertained".

That clause 6(2)(d) be amended —

- (a) by adding "subject to any specific provisions of this Ordinance," before "any refund".
- (b) by deleting "tenement" and substituting "land leased".

That clause 6(3)(b) be amended, by deleting "under section 4" and substituting "from liability to pay Government rent".

That clause 6(3)(c) be amended, by deleting "a contractual" and substituting "an express".

That clause 6(5)(b) be amended, by deleting "erected on" and substituting "comprised in".

That clause 6(5) be amended —

- (a) by deleting "徵收地租" where it twice appears and substituting "要求繳交地租".
- (b) by deleting "所徵收" and substituting "所要求繳交".
- (c) by deleting "徵收任何" and substituting "要求繳交任何".

That clause 6(6) be amended —

- (a) by deleting "erected on" and substituting "comprised in".
- (b) by adding "express" after "is an".

That clause 6(7) be amended, by adding after "the lessee" —

"even if any agreement between the lessee and the person contains a general prohibition against the setting off of monies owed against or deduction of monies owed from any monies, including rental payments, payable under the agreement".

That clause 6(8) be amended —

- (a) by deleting "not required to repay" and substituting "required to refund".
- (b) by deleting "except in refund of Government rent paid" and substituting "in respect of a tenement".

That clause 6(11) be amended, by adding "Government" after "to refund".

Clause 7

That clause 7 be amended —

- (a) by renumbering it as clause 7(1).
- (b) by adding -

"(2) The rateable value of the land leased under an applicable lease or of any tenement comprised in the land leased can be ascertained by reference to the rateable value set out in respect thereof in -

- (a) the Government Rent Roll; or
- (b) if an interim valuation has been made, the notice of interim valuation,

and the rateable value so set out in the Government Rent Roll or the notice of interim valuation, as the case may be, shall, subject to other provisions of this Ordinance, be regarded as the rateable value of the land leased or the tenement, as the case may be."

Clause 8

That clause 8(1) be amended —

- (a) by adding "comprised therein" after "tenement".
- (b) by deleting "determine" and substituting "ascertain".

That clause 8(2) be amended, by deleting "assessment" and substituting "ascertainment".

That clause 8 be amended, by adding —

"(3) For the purpose of this Ordinance, where the rateable value of a tenement does not in the opinion of the Commissioner exceed the minimum rateable value, the rateable value of the tenement shall be deemed to be \$1."

Clause 9

That clause 9(2) be amended —

- (a) by deleting "the land leased" and substituting "any land leased under an applicable lease".
- (b) by deleting "該租出土地" and substituting "該土地".

That clause 9(3) be amended, by deleting "the land leased" and substituting "any land leased under an applicable lease".

That clause 9(4) be amended —

- (a) by deleting "the land leased" and substituting "any land leased under an applicable lease".
- (b) by deleting "determine the rateable value" and substituting "ascertain the rateable value".

Clause 10

That clause 10(1)(a) be amended, by deleting everything after "prepare" and substituting —

",in respect of the rateable values of tenements comprised in land leased under an applicable lease which are situated in the Urban Council area or of such tenements situated in the Regional Council area or of both, a new Government Rent Roll or any new part of a Government Rent Roll, whether or not by way of replacement of an existing Government Rent Roll or any part of an existing Government Rent Roll, in accordance with section 11; and".

That clause 10(1)(b) be amended —

- (a) by deleting "roll" and substituting "Government Rent Roll or that new part of the Government Rent Roll, as the case may be".
- (b) by deleting "tenements in the Urban Council area or Regional Council area" and substituting "any of the tenements".

Clause 11

That clause 11(1) be amended —

- (a) by adding "or a part of a Government Rent Roll, as the case may be," before "containing".
- (b) in paragraph (a), by deleting everything after "every tenement" and substituting -

"the rateable value of which has been ascertained for the purposes of the Government Rent Roll or the part of the Government Rent Roll, as the case may be, which he is directed to prepare under section 10; and".

- (c) in paragraph (b), by deleting everything after "of the rateable value" and substituting "ascertained under section 9 where the tenement is situated partly on land leased under an applicable lease."

That clause 11 be amended, by deleting subclause (2).

That clause 11(3) be amended —

- (a) by adding "and" after "lease".
- (b) by deleting "payment of" and substituting "liability to pay".

That clause 11(4) be amended, by adding ", subject to any such determination," after "and may".

That clause 11(6)(a) be amended, by deleting "Rolls" and substituting "Roll".

That clause 11(8) be amended, by deleting "in land".

That clause 11(9) be amended, by deleting "in the rent roll".

Clause 13

That clause 13(1)(a) be amended, by deleting "Rolls" where it twice appears and substituting "Roll".

Clause 15

That clause 15(3) be amended, by adding "Government" before "rent or the imposition".

Clause 16

That clause 16 be amended, by deleting subclause (1) and substituting —

"(1) Subject to subsection (2), a person may object to, make a proposal on, or appeal against, an entry in the Government Rent Roll, including the rateable value ascertained under this Ordinance."

That clause 16(2) be amended —

- (a) by deleting "amount of an assessment" and substituting "rateable value of a tenement recorded in the Government Rent Roll".
- (b) by deleting "his tenement recorded in the Government Rent Roll" and substituting "the tenement".

That clause 16 be amended, by deleting subclause (3).

Clause 18

That clause 18(2) be amended —

- (a) by deleting "other than rateable value" and substituting ", other than rateable value, made in respect of an identical tenement in the Valuation List".
- (b) by adding "to be made in respect of the identical tenement" after "same alterations".

That clause 18 be amended, by deleting subclause (4).

That clause 18 be amended, by deleting subclause (5) and substituting —

"(5) The Commissioner may make an appropriate amendment to the Government Rent Roll where he has altered the entry of a corresponding tenement, which is not an identical tenement, in the Valuation List as a result of a correction, deletion, interim valuation, objection, proposal or appeal under the Rating Ordinance (Cap. 116).".

Clause 19

That clause 19(1)(b) be amended, by adding "and" at the end.

That clause 19(3) be amended, by adding "Government" after "surcharges on".

Clause 23

That clause 23(2) be amended, by deleting "in land".

Clause 24

That clause 24(2) be amended, by adding "is not included, but" before "should".

That clause 24(5) be amended, by deleting "interest in an applicable lease" and substituting "interest held under an applicable lease".

That clause 24(6) be amended —

- (a) by deleting "'lessee, owner or occupier" (承租人、擁有人或佔用人)" and substituting "'the lessee or the owner or occupier" (承租人或擁有人或佔用人)".
- (b) by deleting "the lessee, owner or occupier" and substituting "the lessee or the owner or occupier".

That clause 24(7) be amended, by deleting everything after "payable" and substituting —

"(the "effective date of deletion") is -

- (a) subject to paragraph (c), for a tenement where the effective date of deletion is prescribed by regulations made for the purposes of this section, the effective date so prescribed;

- (b) subject to paragraph (c), for any other tenement, the date on which the notice of the deletion could have first been served had the Commissioner proposed so to do; or
- (c) the date the Commissioner may determine in any particular case."

That clause 24(8) be amended —

- (a) by deleting "(the "effective date")" and substituting "(the "effective date of interim valuation")".
- (b) in paragraphs (a) and (b), by adding "subject to paragraph (c)," at the beginning.
- (c) in paragraph (a) -
 - (i) by deleting "must be determined in accordance with" and substituting "of interim valuation is prescribed by".
 - (ii) by deleting "a date that is so determined" and substituting "the effective date so prescribed".

That clause 24(9) be amended —

- (a) by deleting "subsection (8)(a)" and substituting "subsections (7)(a) and (8)(a)".
- (b) in paragraphs (b) and (c), by adding "of deletion or the effective date of interim valuation" after "effective date".
- (c) in paragraph (d), by adding "a deletion or" before "an interim valuation".

Clause 25

That clause 25(1)(b) be amended, by adding "or" at the end.

That clause 25(2) be amended, by deleting "do agree" and substituting "so agree".

Clause 26

That clause 26(2)(a) be amended —

- (a) by deleting "interest in an applicable lease" and substituting "interest held under an applicable lease".
- (b) by adding "from liability to pay Government rent" after "exemption".

Clause 29

That clause 29(5) be amended, by deleting "不能" and substituting "無法".

Clause 30

That clause 30(4) be amended, by adding "but" after "subsection (1)".

That clause 30(5) be amended, by adding "but" after "subsection (1)".

Clause 31

That clause 31(1)(a) be amended, by adding "comprised in land leased under the applicable lease" after "tenement".

That clause 31(1)(b) be amended —

- (a) by adding "comprised in land leased under the applicable lease" after "a tenement".
- (b) by deleting "the tenement" and substituting "the interest held under the applicable lease or the tenement, as the case may be".

That clause 31(1)(c) be amended —

- (a) by deleting "to make copies of" and substituting "for making copies".
- (b) by deleting "tenement," and substituting "interest held under the applicable lease or the tenement, which have been".

That clause 31(1)(d) be amended —

- (a) by deleting "the tenement or of the lessee" and substituting "a tenement comprised in land leased under an applicable lease or of the lessee of the applicable lease".
- (b) by deleting "a tenement" and substituting "the tenement".
- (c) in subparagraphs (i) and (iv), by deleting "interest in the applicable lease" and substituting "interest held under the applicable lease".
- (d) in subparagraph (i), by adding "的應課差餉租值" after "權益".
- (e) in subparagraph (iii), by deleting "未" and substituting "沒有".
- (f) in subparagraph (iv), by adding "的估價" after "權益".

That clause 31(2) be amended —

- (a) by deleting "the tenement under" and substituting "a tenement under".

- (b) by deleting "lessee, owner" and substituting "lessee of the applicable lease, or the owner".
- (c) by deleting "tenement for the" and substituting "land or the tenement, as the case may be, for the".
- (d) by deleting "during day-light".
- (e) by deleting "and tenement" and substituting "or the tenement, as the case may be,".
- (f) by adding "或獲估價署長書面授權的人" before "可向".

That clause 31(3) be amended, by deleting "lessee, owner or occupier of the tenement" and substituting "lessee of the applicable lease, or the owner or occupier of the tenement, as the case may be,".

Clause 32

That clause 32(1) be amended, by adding "under section 31(1)(a)" after "on him".

That clause 32(2) be amended, by deleting "The" and substituting "Upon an application to him under subsection (1), the".

Clause 33

That clause 33 be amended, by deleting "interest in an applicable lease held" and substituting "interest held under an applicable lease".

Clause 34

That clause 34(1) be amended —

- (a) in paragraphs (a), (b), (f) and (g), by deleting "determining" and substituting "ascertaining".
- (b) in paragraphs (a) and (b), by deleting "interests in applicable leases" and substituting "interests held under applicable leases".
- (c) in paragraph (d), by deleting "of the assessment".
- (d) in paragraph (f), by deleting "a partial re-development" and substituting "a development or a partial development or a redevelopment or a partial redevelopment".
- (e) in paragraph (h), by adding "a deletion and of" after "effective date of".
- (f) in paragraph (i), by deleting everything after "Government rent for" and substituting "tenements and interests held under applicable leases with rateable values not exceeding the minimum rateable value;".
- (g) by adding -
 - "(ja) submission of certificates, reports and information in connection with eligibility for exemption from liability to pay Government rent;
 - (jb) prescribing any matter or thing which is referred to in this Ordinance as prescribed;".

Clause 35

That clause 35(2) be amended —

- (a) by deleting "sufficient".
- (b) by adding "there being" before "any arrears".

Clause 38

That clause 38 be amended —

(a) in the heading, by deleting "**, etc., over-ridden**" and substituting "**overridden**".

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

"(1) (a) Subject to paragraph (b), this Ordinance and regulations made under this Ordinance override the covenants and conditions (however described) under an applicable lease that are in all material particulars to the like effect as any of the covenants and conditions set out in Parts I and II of the Schedule.

(b) For so long as an interest held under an applicable lease is exempted from liability to pay Government rent, the rent which would apart from this section have been payable in respect of that interest under the applicable lease shall remain payable and shall be so payable in the same manner as such rent would have been payable under the applicable lease."

That clause 38(2) be amended —

(a) by deleting "in a covenant" and substituting "in or of a covenant".

(b) by deleting "over-ridden by this Ordinance" and substituting "overridden under this section".

That clause 38(3) be amended —

- (a) by deleting "over-ridden by this Ordinance" where it twice appears and substituting "overridden under this section".
- (b) by deleting "現有" and substituting "待決的或".
- (c) by adding "現有" before "權利、法律".

Clause 40

That Clause 40(a) be amended, by deleting "or".

That clause 40(c) be amended, by deleting "for an interest" and substituting "from liability to pay Government rent for an interest held".

Clause 41

That clause 41(a) be amended, by deleting "or neglects".

That clause 41(b) be amended —

- (a) by adding "held" after "interest".
- (b) by adding "by virtue of section 31(1)(b)" after "required to produce".

That clause 41(c) be amended —

- (a) by deleting "to copy" and substituting "for making copies".
- (b) by adding "held" after "interest".

Clause 43

That clause 43 be amended —

- (a) in the heading, by deleting "6 years" and substituting "1 year".
- (b) by deleting "6 years" and substituting "1 year".

Clause 44

That clause 44(1) be amended —

- (a) by deleting "delete the rateable value and make an interim valuation of an interest" and substituting ", in respect of an interest held".
- (b) by adding "comprised in land leased under an applicable lease, make a deletion from the Government Rent Roll, make an interim valuation, or both," after "tenement" where it first appears.

That clause 44(2) be amended, by deleting everything before "are effective" and substituting —

"(2) A deletion and an interim valuation under subsection (1)".

Clause 46

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

"46. Inadvertent misnomer

An inadvertent misnomer or misdescription of a person, place, lease or tenement in a document required under this Ordinance does not invalidate the document."

Clause 47

That clause 47 be amended, by deleting the clause.

Clause 48

That clause 48 be amended, by deleting everything after "required" and substituting
—

"under this Ordinance or to be given for the purposes of this Ordinance by the Commissioner or a person authorized in writing by him under this Ordinance shall not be invalid solely because the name of the Commissioner or the person so authorized, as the case may be, is, if so authorized by the Commissioner, printed instead of signed therein."

MR ALBERT CHAN (in Cantonese): Mr Chairman, the amendment proposed by the Secretary for Planning, Environment and Lands is supported by the Bills Committee. I wish to take this opportunity to respond to some of the comments made by the Honourable NGAN Kam-chuen on the Bills Committee when the Bill was read the Second time just now. He accused the Bills Committee of proposing the amendment, that is, the one ruled by Mr Chairman to have charging effect and vetoed. Just now Mr NGAN said that in proposing this amendment, the Bills Committee had violated the provisions in the Joint Declaration.

I wish to clearly explain and point out here that in proposing the amendment, the Bills Committee did not have any intention. Neither did it have any factual evidence or any legal analysis or arguments when arriving at the conclusion. Just as I pointed out in my speech during the Second Reading of the Bill, when the Bills Committee studied the Bill, most of the members, especially those members in the legal field, pointed out clearly that there is a big question concerning the legal basis for collecting Government rent from property owners who are now exempted from rates. The question lies in the fact that Government rent is based on 3% of the ascertained rateable value — I stress, the ascertained rateable value — but since the property owners concerned are exempted from rates under the Rating Ordinance, the question of ascertainment of rateable value should not arise at all.

The properties concerned have an "assessed" rateable value, but in the law, they do not have any "ascertained" rateable value. By logic, if there was no ascertained rateable value, there would be no legal basis at all to collect Government rent from properties which do not have an ascertained rateable value. This is purely an analysis and a comment from the legal point of view. In the course of discussion, with the Commissioner of Rating and Valuation

CHAIRMAN (in Cantonese): Mr CHAN, are you referring to Mr NGAN's speech made just now or my ruling?

MR ALBERT CHAN (in Cantonese): I am referring to Mr NGAN's speech. I have no objection to Mr Chairman's ruling made just now.

CHAIRMAN (in Cantonese): I will explain after you have finished. Please go on.

MR ALBERT CHAN (in Cantonese): Hence, after discussion, the Bills Committee considered that the proposal should be put forth in the form of legal definition, in order to keep as close as possible in line with the intent of the Joint Declaration and the Rating Ordinance. Of course, in the end it was up to Mr Chairman to make the ruling, which the Bills Committee respected and accepted. However, I must clarify once again that throughout the deliberation, there was neither any intention nor basis. Although Mr NGAN voiced his views at the Bills Committee meetings, he did not, throughout the discussion, advance any new arguments on the explanation and interpretation of the legal point of view to challenge the rationale I mentioned just now. Hence I am disappointed and regret that Mr NGAN has brought up this accusation again today.

Thank you, Mr Chairman.

CHAIRMAN (in Cantonese): I wish to mention two points as supplementary explanation on my ruling, because some of Mr NGAN's arguments mentioned by

Mr CHAN in his speech might have something to do with my ruling. The first point is that my ruling has absolutely nothing to do with the Sino-British Joint Declaration. What I said is related to the prevailing laws of Hong Kong some existing leases of the Government and lessees.

Regarding the 3% Government rent, as a base rateable value, I consider it a rateable value determined in the normal manner. Under section 36(1) of the Rating Ordinance, some properties are exempted from assessment to rates but the Government still has the right to determine their rateable value. Accordingly, when Members proposed that the rate of Government rent be lowered from 3% to 2%, a "charging effect" was created. When the proposal of lowering the rate from 3% to 2% has a "charging effect", the Government has the right to speak out. As to whether in so doing, it would violate the international undertaking of the leases, it is up to the Government to be held responsible. My ruling is purely related to the "charging effect". I hope I have made myself clear on this point. In particular, if the base for the assessment of rateable value is lowered because of some different means, a "charging effect" will be created.

MR NGAN KAM-CHUEN (in Cantonese): Mr Chairman, I too regret that Mr CHAN expressed his regret.

I did not make any accusation against him in the speech I made just now. I was only commenting that this had violated the Joint Declaration and expressed my opinion on the issue.

I already expressed my reservation about this during the liberation of the Bills Committee, but when he spoke just now, no mention was made of the fact that there was such a view in the Bills Committee. Hence I feel regret.

Thank you, Mr Chairman.

Question on the amendments put and agreed to.

Question on clauses 1, 2, 4, 6 to 11, 13, 15, 16, 18, 19, 23 to 26, 29 to 35, 38, 40, 41, 43, 44, 46, 47 and 48, as amended, put and agreed to.

Clauses 3, 5, 12, 14, 17, 20, 21, 22, 27, 28, 37, 39, 42 and 45 were agreed to.

Clause 36

CHAIRMAN (in Cantonese): Both the Secretary for Planning, Environment and Lands and Mr Albert CHAN have given notice to move an amendment to clause 36. In accordance with Standing Order 25(4), I would first of all ask Mr CHAN to move his amendment.

MR ALBERT CHAN (in Cantonese): Mr Chairman, on behalf of the Bills Committee on the Government Rent (Assessment and Collection) Bill, I move an amendment to delete clause 36 from the Bill.

Clause 36 provides, *inter alia*, that a demand for or recovery of Government rent does not give lawful authority to the occupation of or any form of legal title to a tenement which includes an unauthorized structure. Members of this Council must be aware that the Administration has long been criticized for collecting rates on a tenement which is an unauthorized structure without recognizing its legal status. Clause 36 extends this unreasonable policy further to the collection of Government rent. Only after a series of meetings has the Administration agreed to disregard any known unauthorized structure in assessing the rateable value of a tenement and to refund the Government rent paid for such a structure. Although the Administration is prepared to amend clause 36 to delete reference to unauthorized structures, members are of the view that the amended version fails to allay their concern. The legal effect of clause 36, if amended, will be that payment of Government rent *per se* will not create a legally binding lessor-lessee relationship. May I advise Members that this is exactly the crux of the issue. The Bills Committee cannot consent to the spirit of the provision which allows the Administration to demand Government rent from a person but at the same time deprive him of any right which payment of such rent may entail. This is apparently an inequitable arrangement and should in no way be enshrined in the law. Enactment of clause 36 may prejudice any right a person may have arising from payment of Government rent, in particular the equitable remedy of estoppel if such a person is taken to court. Albeit members' understanding of the rationale for clause 36 as put by the Administration, that is, to avoid the inadvertent creation

of a lessor-lessee relationship between the Government and the payee, members remain of the view that it is the onus of the Administration to avoid any inadvertent inclusion of a tenement which is not liable to payment of Government rent in the Government Rent Roll.

With these remarks, Mr Chairman, I beg to move the amendment.

Proposed amendment

Clause 36

That clause 36 be amended, by deleting the clause.

CHAIRMAN (in Cantonese): I propose that the amendment to clause 36, proposed separately by Mr Albert CHAN and the Secretary for Planning, Environment and Lands, be debated together in a joint debate.

Committee shall debate the amendments to clause 36, proposed separately by Mr Albert CHAN and the Secretary for Planning, Environment and Lands to speak on the amendment proposed by Mr Albert CHAN as well as his own proposed amendment, but will not ask the Secretary to move his amendment unless Mr Albert CHAN's amendment has been negatived. If Mr CHAN's amendment is agreed, that will by implication mean that the Secretary for Planning, Environment and Land's proposed amendment is not approved.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, as the Administration discussed with members of the Bills Committee, we do not consider it appropriate for clause 36 to be deleted. Clause 36 has been included in the Bill to make clear that any payer of Government rent who is not a lessee cannot assert that an implied lease between him and the Government has been created and that no government lessee can assert any rights against the Government or attempt to prevent the Government from taking enforcement action for breaches of lease conditions solely on account of his having paid the Government rent. Clause 36 seeks to put the position beyond argument.

Nevertheless, I wish to reiterate that even if clause 36 is deleted, the Government's position is that no implied lease will be created, nor will a government lessee be entitled to assert rights or seek to prevent enforcement action for his own breaches of lease conditions in consequence of his paying Government rent.

Mr Chairman, although I am not moving my proposed amendment, I would like to take this opportunity to explain that my proposed amendment to clause 36 is to better reflect the Administration's position, in particular the demand for or recovery of Government rent by itself gives rise to any additional rights to the occupier against a lessee or the Government.

Thank you, Mr Chairman.

Question on Mr Albert CHAN's amendment put and agreed to.

CHAIRMAN (in Cantonese): Secretary for Planning, Environment and Lands, as the amendment moved by Mr Albert CHAN to Clause 36 has already been agreed, you cannot move any further proposed amendment to the clause, because it is not compatible with the decision just made. The decision just made was to delete clause 36.

New clause 38A	Deed of mutual covenant overridden
Heading before New clause 49	Consequential Amendments
New clause 49	Lands Tribunal Ordinance
	Ordinances under which matters may be submitted to the Tribunal for determination
Heading before New clause 50	Rating Ordinance
New clause 50	Interpretation
New clause 51	Section added

New clause 52	Payment and recovery of rates
New clause 53	Payment of rates under an interim valuation
New clause 54	Rounding down of amounts due
Heading before New clause 55 New clause 55	Rating (Effective Date of Interim Valuation) Regulation Effective date of interim valuation
Heading before New clause 56 New clause 56	Crown Rent and Premium (Apportionment) Ordinance Application
Heading before New clause 57 New clause 57	New Territories Leases (Extension) Ordinance Burdens and covenants
New clause 58	Part repealed
New clause 59	Power to make regulations
Heading before New clause 60 New clause 60	New Territories Land (Exemption) Ordinance Interpretation
Heading before New clause 61 New clause 61	Sex Discrimination Ordinance Further exceptions to this Ordinance

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

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, I move that new clause 38A, heading before new clause 49, new clause 49, heading before new clause 50, new clauses 50, 51 to 54, heading before new clause 55, new clause 55, heading before new clause 56, new clause 56, heading before new clause 57 and new clauses 57, 58, 59, heading before new clause 60, new clause 60, heading before new clause 61 and new clause 61, as set out in the paper circularized to Members be read the Second time.

Clause 38(A) provides for certain provisions contained in deeds of mutual covenant in relation to payment of Government rent to be overridden by the Bill. Clauses 49 to 61 provide for consequential amendments to the Lands Tribunal Ordinance, the Rating Ordinance, the Rating (Effective Date of Interim Valuation) Regulation, the Crown Rent and Premium (Apportionment) Ordinance, the New Territories Leases (Extension) Ordinance, the New Territories Land (Exemption) Ordinance and the Sex Discrimination Ordinance. These amendments have been made known to members of the Bills Committee who have not raised any objection.

Thank you, Mr Chairman.

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

Headings and clauses read the Second time.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, I move that new clause 38(A), heading before new clause 49, new clause 49, heading before new clause 50, new clauses 50, 51 to 54, heading before new Clause 55, new clause 55, heading before new clause 56, new clause 56, heading before new clause 57 and new clauses 57, 58, 59, heading before new clause 60, new clause 60, heading before new clause 61 and new clause 61 be added to the Bill.

*Proposed additions***New clause 38A**

That the Bill be amended, by adding—

"38A. Deed of mutual covenant overridden

(1) This Ordinance and regulations made under this Ordinance override the provisions (however described) under a deed of mutual covenant for any land leased under an applicable lease, in so far as such provisions relate to -

(a) any contribution to -

(i) the payment of any of the Government rent payable in respect of the land or any part thereof (other than in respect of any of the common parts of that land or of any building erected thereon or of both); or

(ii) the payment of any monies (however described and whether or not described as comprising any such Government rent), to the extent that such payment comprises any such Government rent;

(b) any payment of any of the Government rent payable in respect of the land or any part thereof (other than in respect of any of the common parts of that land or of any building erected thereon or of both); or

- (c) any right to seek or recover a contribution within the meaning of paragraph (a) or a payment within the meaning of paragraph (b).

(2) To the extent that there is a default or breach subsisting at the date of commencement of this section in or of a provision under a deed of mutual covenant that is overridden under this section, the rights and obligations under the deed of mutual covenant relating to the default or breach are not extinguished by this section and may be exercised and enforced in the same manner and to the same extent as they could have been before the commencement of this section.

(3) To the extent that a deed of mutual covenant is not overridden under this section, the deed of mutual covenant remains in full force and effect subject to any existing rights, liabilities and remedies under the deed of mutual covenant. The rights and obligations under the deed of mutual covenant that are not overridden under this section may be exercised and enforced in the same manner and to the same extent as they could have been before the commencement of this section.

(4) In this section -

"common parts" (公用部分), in relation to any land leased under an applicable lease or any building erected thereon or both, means the whole of the land or the building or both, as the case may be, except such parts as have been specified or designated in an instrument registered in the Land Registry as being for the exclusive use, occupation or enjoyment of an owner;

"deed of mutual covenant" (公契), in relation to any land leased under an applicable lease or any part thereof, means a document which -

- (a) defines the rights, interests and obligations of owners of the undivided shares in the land among themselves; and

(b) is registered in the Land Registry;

"Government rent" (地租), in relation to any land leased under an applicable lease or any part thereof, means -

(a) Government rent as defined in section 2; or

(b) any monies (however described) payable by way of rent under the lease of the land;

"owner" (業主) means -

(a) a person who for the time being appears from the records at the Land Registry to be the owner of an undivided share in land on which a building is erected;

(b) a registered mortgagee in possession of such share."

Heading before new clause 49 and new clause 49

That the Bill be amended, by adding—

"Consequential Amendments

Lands Tribunal Ordinance

49. 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. Government Rent (Assessment and Collection) Ordinance."

Heading before new clause 50 and new clause 50

That the Bill be amended, by adding—

Rating Ordinance

50. Interpretation

Section 2 of the Rating Ordinance (Cap. 116) is amended -

- (a) in the definition of "owner" by adding "or chargee" after "mortgagee";
- (b) by adding -

""Government rent" (地租) has the meaning assigned to it under section 2 of the Government Rent (Assessment and Collection) Ordinance (of 1997);

"Government Rent Roll" (地租登記冊) has the meaning assigned to it under section 2 of the Government Rent (Assessment and Collection) Ordinance (of 1997);

"identical tenement" (相同物業單位) means a tenement the entry for which in the Government Rent Roll is identical to an entry in the valuation list;"

New clause 51, 52, 53 and 54

That the Bill be amended, by adding—

51. Section added

The following is added -

**"16A. Alterations on changes to
corresponding entry in the
Government Rent Roll**

The Commissioner may make an appropriate amendment to the valuation list where he has altered the entry of a corresponding tenement, which is not an identical tenement, in the Government Rent Roll as a result of a proposal, correction, objection or appeal under the Government Rent (Assessment and Collection) Ordinance (of 1997).".

52. Payment and recovery of rates

Section 22 is amended by adding -

- "(5) (a) Subject to paragraph (b), the Commissioner may demand any of the rates payable in respect of a tenement under the demand note to be issued in respect of any of the Government rent payable in respect of that tenement.
- (b) Where under paragraph (a) any of the rates and the Government rent payable in respect of a tenement are demanded under the same demand note, there shall be set out in the demand note the respective amounts payable as the rates and as the Government rent in respect of that tenement.

- (6) (a) If the amount received by the Commissioner in respect of a demand note under which any of the rates and the Government rent payable in respect of a tenement are demanded is more than or less than the aggregate amount of the rates and the Government rent so payable, he may in his discretion apportion the amount so received, subject to any specific instructions from the payer.
- (b) The acceptance or receipt of payment of any part of the amount of the rates demanded under a demand note shall not be a waiver by the Commissioner for the part not paid."

53. Payment of rates under an interim valuation

Section 29 is amended by adding -

"(4) Where the Commissioner has made an interim valuation in respect of a tenement, he may demand any of the rates payable in respect of that tenement in the manner specified in section 22(5), and section 22(6) shall apply accordingly."

54. Rounding down of amounts due

Section 50A(1) is amended by adding "or the Government Rent (Assessment and Collection) Ordinance (of 1997)" after "Ordinance".

Heading before new clause 55 and new clause 55

That the Bill be amended, by adding—

**Rating (Effective Date of Interim
Valuation) Regulation**

55. Effective date of interim valuation

Section 3 of the Rating (Effective Date of Interim Valuation) Regulation (Cap. 116 sub. leg.) is amended by adding -

"(3) Section 71 of the Interpretation and General Clauses Ordinance (Cap. 1) does not apply to the determination of an effective date under this section."

Heading before new clause 56 and new clause 56

That the Bill be amended, by adding—

**Crown Rent and Premium (Apportionment)
Ordinance**

56. Application

Section 3 of the Crown Rent and Premium (Apportionment) Ordinance (Cap. 125) is amended -

(a) by adding before subsection (1) -

"(1A) (a) Subject to paragraph (b), this Ordinance does not apply to any interest in land held under an applicable lease within the meaning of the Government Rent (Assessment and Collection) Ordinance (of 1997) as from -

-
- (i) in the case of an applicable lease extended by section 6 of the New Territories Leases (Extension) Ordinance (Cap. 150), 28 June 1997;
 - (ii) in the case of an interest held under an applicable lease which was exempted from liability to pay Government rent under the Government Rent (Assessment and Collection) Ordinance (of 1997), the date on which the exemption ceases to apply;
 - (iii) in the case of an applicable lease under which there is an express obligation to pay an annual rent of 3% of the rateable value from time to time of the land leased, the date specified in the lease as the date from which the rent is payable.
- (b) Nothing in paragraph (a) shall affect any right or liability already acquired or incurred in respect of any interest referred to in that paragraph under or by virtue of any provision of this Ordinance at any time before this Ordinance ceases to apply to such interest by virtue of that paragraph.";

- (b) in subsection (1), by repealing "This" and substituting "Subject to subsection (1A), this".

Heading before new clause 57 and new clause 57

That the Bill be amended, by adding—

New Territories Leases (Extension) Ordinance

57. Burdens and covenants

Section 7(1)(c) and (d) of the New Territories Leases (Extension) Ordinance (Cap. 150) is repealed and the following substituted -

"(c) a reservation of -

- (i) subject to subparagraph (ii), the Government rent payable under the Government Rent (Assessment and Collection) Ordinance (of 1997);
 - (ii) in the case of an exemption from liability to pay Government rent under the Government Rent (Assessment and Collection) Ordinance (of 1997), the annual rent payable immediately before the period of extension; and
- (d) a covenant by the lessee to pay the Government rent specified in paragraph (c)(i) or the annual rent specified in paragraph (c)(ii), as the case may be -
- (i) in the case of such Government rent, in accordance with the Government Rent (Assessment and Collection) Ordinance (of 1997);

- (ii) in the case of such annual rent, in the same manner and on the same days as applied immediately before the period of extension."

New clauses 58 and 59

That the Bill be amended, by adding—

58. Part repealed

Part III is repealed.

59. Power to make regulations

Section 11(a) to (h) and (j) is repealed.

Heading before new clause 60 and new clause 60

That the Bill be amended, by adding—

New Territories Land (Exemption) Ordinance

60. Interpretation

Section 2 of the New Territories Land (Exemption) Ordinance (Cap. 452) is amended -

- (a) in subsection (1), in the definition of "rural land", by adding "holding" after "small house";
- (b) in subsection (2) -

- (i) by adding "holding" after "small house";
- (ii) by repealing "New Territories Leases (Extension) Ordinance (Cap. 150)" and substituting "Government Rent (Assessment and Collection) Ordinance (of 1997)".

Heading before new clause 61 and new clause 61

That the Bill be amended, by adding—

Sex Discrimination Ordinance

61. Further exceptions to this Ordinance

Section 1 of Part 1 of Schedule 5 to the Sex Discrimination Ordinance (Cap. 480) is amended in the definition of "indigenous villager" by repealing "section 9 of the New Territories Leases (Extension) Ordinance (Cap. 150)" and substituting "section 2 of the Government Rent (Assessment and Collection) Ordinance (of 1997)".

SCHEDULE

[s. 38]

COVENANTS AND CONDITIONS OVERRIDDEN

PART I

- 1. (a) From 1 July 1997 until the expiry of the term hereby granted the rent for the lot shall be calculated and paid with reference to the period commencing on 1 April and ending on 31 March in each year, and the Lessee shall pay and there shall be collected by the Director as rent for the lot for each such period an amount equal to 3% of the rateable value from time to time of the lot,

the said rent to be paid by four equal quarterly instalments in advance on 1 April, 1 July, 1 October and 1 January in each year, and the first quarterly payment together with all accrued arrears of rent becoming due and to be paid on 1 July 1997.

- (b) For the purposes of this General Condition the rateable value of the lot shall be the rateable value as set out from time to time in the list declared or the interim valuation made by the Commissioner under the Rating Ordinance (Cap. 116) or any legislation amending or replacing the same, of the tenement, or, if there is more than one tenement, the aggregate of the rateable values and/or interim valuations as so set out or made of all the tenements comprised wholly or partly within the lot.
- (c) For the purposes of subparagraph (b) -
 - (i) a rateable value in a new list, when declared, and an interim valuation, when made, and a correction, alteration or variation of a rateable value or an interim valuation, when made, shall take effect from the effective dates for the same under the Rating Ordinance (Cap. 116);
 - (ii) if the effective date of an interim valuation is earlier than the date of the making of the interim valuation, or if the rateable value has been corrected, altered or varied and the effective date of such correction, alteration or variation is earlier than the date of the making of the correction, alteration or variation, and as a result the rent for the lot is increased, the rent due for the period since the effective date of the interim valuation or the correction, alteration or variation shall, in so far as it has not been already paid, be added by the Director to the next payment of rent due following the date of the making of the interim valuation, correction, alteration or variation, and if as a result

of the making of the interim valuation, correction, alteration or variation the rent for the lot is reduced, any amount found to be overpaid by the Lessee may be deducted by the Director from the next payment of rent due following the date of the making of the interim valuation, correction, alteration or variation, or shall be otherwise credited to the account of or refunded to the Lessee;

- (iii) a tenement shall be deemed to be comprised partly within the lot if the building in which it is contained stands partly within the lot; and where a tenement is so deemed to be comprised partly within the lot, there shall be included for the purpose of determining the rateable value of the lot only the same proportion of the rateable value in the list declared or the interim valuation made under the Rating Ordinance (Cap. 116) or, as the case may be, the rateable value fixed under sub-subparagraphs (iv), (v) and (vi), as, in the opinion of the Director whose decision thereon shall be final, the area of the lot bears to the area of all the lots on which the building stands;
- (iv) in the event that no rateable value has been ascertained under the Rating Ordinance (Cap. 116) in respect of a tenement, whether by reason of the exemption of such tenement from assessment to rates or otherwise, the Director may cause to be fixed such rateable value as if the tenement were assessable to rates under that Ordinance, and the rateable value so fixed shall be the rateable value of the tenement;
- (v) in the event that as a result of the demolition of a tenement or of a tenement being unoccupied by reason of an order of the Government its rateable

value is deleted under the Rating Ordinance (Cap. 116), the rateable value of the lot shall, if the Director in his absolute discretion thinks fit and until an interim valuation of a tenement or tenements wholly replacing the demolished or unoccupied tenement is made under the Rating Ordinance (Cap. 116), include the rateable value of such tenement as last ascertained by the Commissioner; and

- (vi) where an interim valuation is made of a tenement or tenements which replace part of a former tenement in respect of which the rateable value as last ascertained by the Commissioner was included in the rateable value of the lot in accordance with sub-subparagraph (v) the rateable value of the part of the former tenement not replaced by the interim valuation shall be such portion of the rateable value of the former tenement, as last ascertained by the Commissioner, as the Director shall in his absolute discretion consider appropriate to that part.
- (d) There shall be added to the yearly rent of the lot fixed in accordance with subparagraph (a) such sum as may be necessary to make the total number of dollars a multiple of 4.
2. (a) In lieu of the collection of the yearly rent by the Director under paragraph 1(a), there may in addition to the rates to be collected quarterly by the Commissioner or the Collector of Rates, as the case may be, under the Rating Ordinance (Cap. 116) in respect of any tenement comprised wholly or partly within the lot, be demanded and collected by the Commissioner or the Collector of Rates, as the case may be, from the Lessee an amount equal to one fourth of 3% of the rateable value of any such tenement together with such sum as may be necessary to make the total number of dollars in any such demand an integer. For the

purpose of this subparagraph the provisions of paragraph 1(c)(i) and (ii) shall apply mutatis mutandis.

- (b) For the purpose of subparagraph (a), in the event that only part of a tenement is comprised within the lot the amount that may be demanded in respect of that part shall bear the same proportion to 3% of the rateable value of the tenement as, in the opinion of the Director whose decision shall be final, the area of such part bears to the area of the whole of such tenement.
- (c) Upon a demand being made by the Commissioner or the Collector of Rates, as the case may be, under subparagraph (a), the Lessee shall pay the amount so demanded within the time specified in such demand.
- (d) Payment under subparagraph (c) of an additional demand under subparagraph (a) shall operate as an absolute discharge for the Lessee from his liability to pay the rent in respect of the quarter for which such demand was made.

3. The reference in paragraph 1(b) to the rateable value of a tenement as set out from time to time in the list declared or to an interim valuation made under the Rating Ordinance (Cap. 116) shall include in a case where such rateable value or interim valuation is corrected, altered or varied under that Ordinance, a reference to such rateable value or interim valuation as so corrected, altered or varied.

PART II

- 1. (a) Subject to subparagraph (e), from 1 July 1997 until the expiry of the term hereby granted the rent for the lot shall be calculated and paid with reference to the period commencing on 1 April and ending on 31 March in each year, and the Lessee shall pay and there shall be collected by the Director as rent for the lot for each such period an amount equal to 3% of the rateable value from time to time of the lot, the said rent to be paid by four

equal quarterly instalments in advance on 1 April, 1 July, 1 October and 1 January in each year, and the first quarterly payment together with all accrued arrears of rent becoming due and to be paid on 1 July 1997.

- (b) For the purposes of this General Condition the rateable value of the lot shall be the rateable value as set out from time to time in the list declared or the interim valuation made by the Commissioner under the Rating Ordinance (Cap. 116) or any legislation amending or replacing the same, of the tenement, or, if there is more than one tenement, the aggregate of the rateable values and/or interim valuations as so set out or made of all the tenements comprised wholly or partly within the lot.
- (c) For the purposes of subparagraph (b) -
 - (i) a rateable value in a new list, when declared, and an interim valuation, when made, and a correction, alteration or variation of a rateable value or an interim valuation, when made, shall take effect from the effective dates for the same under the Rating Ordinance (Cap. 116);
 - (ii) if the effective date of an interim valuation is earlier than the date of the making of the interim valuation, or if the rateable value has been corrected, altered or varied and the effective date of such correction, alteration or variation is earlier than the date of the making of the correction, alteration or variation, and as a result the rent for the lot is increased, the rent due for the period since the effective date of the interim valuation or the correction, alteration or variation shall, in so far as it has not been already paid, be added by the Director to the next payment of rent due following the date of the making of the interim valuation, correction, alteration or variation, and if as a result

of the making of the interim valuation, correction, alteration or variation the rent for the lot is reduced, any amount found to be overpaid by the Lessee may be deducted by the Director from the next payment of rent due following the date of the making of the interim valuation, correction, alteration or variation, or shall be otherwise credited to the account of or refunded to the Lessee;

- (iii) a tenement shall be deemed to be comprised partly within the lot if the building in which it is contained stands partly within the lot; and where a tenement is so deemed to be comprised partly within the lot, there shall be included for the purpose of determining the rateable value of the lot only the same proportion of the rateable value in the list declared or the interim valuation made under the Rating Ordinance (Cap. 116) or, as the case may be, the rateable value fixed under sub-subparagraphs (iv), (v) and (vi), as, in the opinion of the Director whose decision thereon shall be final, the area of the lot bears to the area of all the lots on which the building stands;
- (iv) in the event that no rateable value has been ascertained under the Rating Ordinance (Cap. 116) in respect of a tenement, whether by reason of the exemption of such tenement from assessment to rates or otherwise, the Director may cause to be fixed such rateable value as if the tenement were assessable to rates under that Ordinance, and the rateable value so fixed shall be the rateable value of the tenement;
- (v) in the event that as a result of the demolition of a tenement or of a tenement being unoccupied by reason of an order of the Government its rateable

value is deleted under the Rating Ordinance (Cap. 116), the rateable value of the lot shall, if the Director in his absolute discretion thinks fit and until an interim valuation of a tenement or tenements wholly replacing the demolished or unoccupied tenement is made under the Rating Ordinance (Cap. 116), include the rateable value of such tenement as last ascertained by the Commissioner; and

- (vi) where an interim valuation is made of a tenement or tenements which replace part of a former tenement in respect of which the rateable value as last ascertained by the Commissioner was included in the rateable value of the lot in accordance with sub-subparagraph (v) the rateable value of the part of the former tenement not replaced by the interim valuation shall be such portion of the rateable value of the former tenement, as last ascertained by the Commissioner, as the Director shall in his absolute discretion consider appropriate to that part.
- (d) There shall be added to the yearly rent of the lot fixed in accordance with subparagraph (a) such sum as may be necessary to make the total number of dollars a multiple of 4.
- (e) For so long as the lot is beneficially owned by the Lessee or in an unbroken line of succession in title to the lot by a person who is descended through the male, but not the female, line from him the yearly rent for the lot shall be the sum of \$20, if demanded, provided that if an undivided share or interest in the lot together with the right to the exclusive use and occupation of all or a part of a building on the lot is beneficially owned by a person other than the Lessee or in an unbroken line of succession in title to such undivided share or interest a person who is descended through the male line from him the rent for

the lot shall be calculated and paid in the manner described and shall be the amount specified in subparagraph (a) in which event for the purpose of this proviso -

- (i) the rateable value of the lot shall be the rateable value of the said building or part thereof; and
 - (ii) the yearly rent or a due proportion thereof for the lot under subparagraph (a) shall become due and shall be paid on the first quarterly day after the date on which the said undivided share or interest was first beneficially owned by a person other than the Lessee or in an unbroken line of succession in title to the said undivided share or interest a person who is descended through the male line from him.
- 2. (a) In lieu of the collection of the yearly rent by the Director under paragraph 1(a), there may in addition to the rates to be collected quarterly by the Commissioner or the Collector of Rates, as the case may be, under the Rating Ordinance (Cap. 116) in respect of any tenement comprised wholly or partly within the lot, be demanded and collected by the Commissioner or the Collector of Rates, as the case may be, from the Lessee an amount equal to one fourth of 3% of the rateable value of any such tenement together with such sum as may be necessary to make the total number of dollars in any such demand an integer. For the purpose of this subparagraph the provisions of paragraph 1(c)(i) and (ii) shall apply mutatis mutandis.
- (b) For the purpose of subparagraph (a), in the event that only part of a tenement is comprised within the lot the amount that may be demanded in respect of that part shall bear the same proportion to 3% of the rateable value of the tenement as, in the opinion of the Director whose decision shall be final, the area of such part bears to the area of the whole of such tenement.

- (c) Upon a demand being made by the Commissioner or the Collector of Rates, as the case may be, under subparagraph (a), the Lessee shall pay the amount so demanded within the time specified in such demand.
- (d) Payment under subparagraph (c) of an additional demand under subparagraph (a) shall operate as an absolute discharge for the Lessee from his liability to pay the rent in respect of the quarter for which such demand was made.

3. The reference in paragraph 1(b) to the rateable value of a tenement as set out from time to time in the list declared or to an interim valuation made under the Rating Ordinance (Cap. 116) shall include in a case where such rateable value or interim valuation is corrected, altered or varied under that Ordinance, a reference to such rateable value or interim valuation as so corrected, altered or varied."

Question on the addition of the new clauses 38A, Heading before new clause 49, new clause 49, Heading before new clause 50, new clauses 50, 51 to 54, Heading before new clause 55, new clause 55, Heading before new clause 56, new clause 56, Heading before new clause 57 and new clauses 57, 58, 59, Heading before new clause 60, new clause 60, Heading before new clause 61 and new clause 61 proposed, put and agreed to.

PATENTS BILL

Clauses 1, 3, 4, 6, 7, 9, 10, 11, 13, 14, 17, 18, 20, 21, 25 to 28, 30 to 36, 38 to 42, 44, 45, 47 to 50, 53, 54, 55, 57 to 60, 63 to 72, 76 to 80, 83 to 90, 92, 93, 95 to 103, 105, 107, 108, 111, 112, 114, 116, 118, 120 to 124, 126, 127, 129, 131, 133 to 139, 141, 142, 143, 145 to 155 and 159 to 162 were agreed to.

Clauses 2, 5, 8, 12, 15, 16, 19, 22, 23, 24, 29, 37, 43, 46, 51, 52, 56, 61, 62, 73, 74, 75, 81, 82, 84, 91, 94, 104, 106, 109, 110, 113, 115, 117, 119, 125, 128, 130, 132, 140, 144, 156, 157 and 158

SECRETARY FOR TRADE AND INDUSTRY: Mr Chairman, I move that the clauses specified be amended as set out in the paper circularized and tabled for Members' consideration.

Apart from the key amendments which I referred to in my Second Reading debate speech, most of the amendments are drafting and technical in nature. They serve to remove ambiguities or inconsistencies and introduce procedural refinements. We have briefed the Bills Committee on all proposed amendments.

Mr Chairman, I beg to move.

Proposed amendments

Clause 2

That clause 2(1) be amended —

- (a) by deleting the definition of "convention country".
- (b) in the definition of "international application", by deleting "Co-operation" and substituting "Cooperation".
- (c) in the definition of "Patent Co-operation Treaty", by deleting "Co-operation" and substituting "Cooperation".
- (d) by adding -

""Paris Convention country" (巴黎公約國) means -

- (a) any country for the time being specified in Schedule 1 as being a country which has acceded to the Paris Convention;
- (b) any territory or area subject to the authority or under the suzerainty of any country specified in Schedule 1 pursuant to paragraph (a), or any territory or area

administered by any such country, on behalf of which such country has acceded to the Paris Convention;

"WTO member country, territory or area" (世界貿易組織成員國) means any country, territory or area for the time being specified in Schedule 1 as being a country, territory or area which has acceded to the World Trade Organisation Agreement."

That clause 2(1) be amended, in the definition of "註冊與批予請求", by deleting "公布" wherever it appears and substituting "發表".

That clause 2(1) be amended —

- (a) in paragraph (b) of the definition of "專利產品" by deleting "的" where it first appears.
- (b) in paragraph (c) of the definition of "提交日期" by adding "為提交日期" after "指明".

That clause 2(2) be amended, under the column "Expression" by deleting "(公布)" and substituting "(發表)".

Clause 5

That clause 5 be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 5 be amended, in the heading, by deleting "公布" and substituting "發表".

That clause 5(1)(a) be amended, by deleting "(公布)" and substituting "(發表)".

That clause 5(2)(d)(ii) be amended, by deleting "Co-operation" and substituting "Cooperation".

Clause 8

That clause 8 be amended, by deleting "regulation" and substituting "notice published in the Gazette".

Clause 12

That clause 12(1)(a) be amended, by deleting "於香港提出的指定專利申請下的" and substituting "指定專利申請下於香港的".

That clause 12(1)(b) be amended, by deleting ", or his successor in title".

Clause 15

That clause 15(1) be amended, by deleting "12" and substituting "12(1)".

That clause 15(1) be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 15(2) be amended —

- (a) by adding "be signed by the applicant and" after "such request shall".
- (b) in paragraph (a), by deleting "verified copy" and substituting "photocopy".
- (c) in paragraph (b), by deleting "the name of the inventor" and substituting -

"a statement identifying the person or persons whom the applicant believes to be the inventor or inventors".

(d) by adding -

"(ba) the name and address of the person making the request;".

(e) by deleting paragraph (c) and substituting -

"(c) where the person filing the request is a person other than the person named as applicant in the designated patent application, a statement explaining his entitlement to apply for the grant of a standard patent for the invention and prescribed documents supporting that statement;".

(f) in paragraph (d)(ii), by deleting "and".

(g) in paragraph (e) -

(i) by deleting "corresponding";

(ii) by deleting the full stop and substituting "; and".

(h) by adding -

"(f) an address in Hong Kong for service of documents.".

That clause 15(2) be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 15(6) be amended, by deleting "公布" wherever it appears and substituting "發表".

Clause 16

That clause 16 be amended —

- (a) by deleting "Co-operation" and substituting "Cooperation".
- (b) in paragraph (b), by deleting "verified copy" wherever it appears and substituting "photocopy".

That clause 16 be amended —

- (a) in paragraph (b)(iii) -
 - (i) by deleting "作出" and substituting "發表";
 - (ii) by deleting "公布".
- (b) in paragraph (d), by deleting "為" where it first appears and substituting "第".

That clause 16(a) be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 16(b)(i) be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 16(b)(ii) be amended, by deleting "公布" wherever it appears and substituting "發表".

Clause 19

That clause 19(4) be amended, by adding "solely" after "relating".

Clause 22

That clause 22(1)(a) be amended, by adding "and has not been refused, withdrawn or deemed to be withdrawn" after "section 20".

That clause 22(1)(b)(i) be amended, by adding "corresponding" before "designated patent application".

That clause 22(1)(b)(ii) be amended, by adding "corresponding" before "designated patent application".

That clause 22(1) be amended —

- (a) in paragraph (b)(iii), by adding "申請" after "專利".
- (b) by deleting "公布日期" wherever it appears and substituting "發表日期".

Clause 23

That clause 23(1) be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 23(2) be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 23(3) be amended, by deleting paragraph (b) and substituting —

- "(b) if the person filing the request is a person other than the person named in the register as the applicant for a standard patent for the invention, a statement explaining the first-mentioned person's entitlement to

apply for the grant of a standard patent for the invention and prescribed documents supporting that statement;"

That clause 23(3) be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 23(3)(c) be amended, by deleting "而具有優先的權利" and substituting "利而具有優先權".

Clause 24

That clause 24 be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 24(1)(a) be amended, by deleting "已".

That clause 24(2)(a) be amended, by deleting "publication of the specification" and substituting "date of grant".

Clause 29

That clause 29(3) be amended, by deleting "The" and substituting —

"Where prior to the refusal or deemed withdrawal of the application mentioned in subsection (1)(i) the request to record had been published under section 20, the".

Clause 37

That clause 37(1) be amended, by deleting ", subject to section 134,".

Clause 43

That clause 43 be amended, by deleting subclause (2) and substituting —

"(2) The Registrar shall record the amendment to the specification of the designated patent by making an appropriate entry in the register and upon that recording the standard patent shall be treated as having been amended in a like manner.

(2A) As soon as practicable after a standard patent has been amended under this section the Registrar shall -

- (a) publish the amendment;
- (b) advertise the fact of the amendment by notice in the Gazette."

That clause 43(2) be amended, by deleting "公布" wherever it appears and substituting "發表".

Clause 46

That clause 46(2) be amended, by deleting "法律效力" and substituting "有效性".

That clause 46(5) be amended, by deleting "On filing of the court order and supporting documents" and substituting "Upon receipt of the court order and supporting documents filed".

That clause 46(5) be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 46(7) be amended, by deleting "因應該項申請而使任何法院命令生效" and substituting "就實施法院因應該項申請所作出的任何命令".

Clause 51

That clause 51(1) be amended, by deleting "under" and substituting "for the purposes of".

That clause 51(2) be amended —

(a) in paragraph (a) -

(i) by deleting "requiring" and substituting "providing for";

(ii) in subparagraph (ii), by adding "published" before "applications".

(b) in paragraph (b), by deleting "the requirements in".

That clause 51(2) be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 51(2)(a)(ii) be amended, by deleting "中或在專利和專利的申請" and substituting "之中或之".

That clause 51(11) be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 51(13) be amended, by deleting "或" and substituting "及".

Clause 52

That clause 52(1) be amended, by deleting paragraphs (a), (b) and (c) and substituting —

"(a) either -

- (i) application has not been made for registration of the earlier transaction, instrument or event; or
- (ii) in the case of any application for a standard patent which has not been published or any application for a short-term patent, notice of the earlier transaction, instrument or event has not been given to the Registrar in accordance with rules (if any) made for the purposes of section 51(2)(c); and

(b) the person claiming under the later transaction, instrument or event did not know of the earlier transaction, instrument or event."

That clause 52(3)(c) be amended, by adding at the beginning "在專利或申請下的".

Clause 56

That clause 56(1) be amended, by adding "或" after "特許".

That clause 56(3) be amended, by deleting "that section" and substituting "section 55".

Clause 61

That clause 61(2)(a) be amended, by deleting "在香港受僱" and substituting "受僱於香港".

That clause 61(2)(b) be amended, by deleting "並非主要在任何地方受僱" and substituting "沒有主要受僱於任何地方".

That clause 61(5) be amended, by deleting "it" and substituting "the patent".

That clause 61(8)(b)(ii) be amended, by adding "亦" after "則".

That clause 61(8)(b)(iv) be amended, by adding "亦" after "則".

That clause 61(8)(c)(i) be amended, by deleting "則指" and substituting "則亦指".

That clause 61(8)(c)(ii) be amended, by adding "亦" after "則".

That clause 61(8)(c)(iii) be amended, by deleting "高級".

That clause 61(8)(c)(iv) be amended, by deleting "高級".

Clause 62

That clause 62(2) be amended, by deleting "section" and substituting "Ordinance".

That clause 62(6)(a) be amended, by deleting "specific" and substituting "specified".

That clause 62(4)(b) be amended, by deleting "一筆" and substituting "一整筆".

Clause 73

That clause 73(1) be amended, by deleting paragraphs (a), (b) and (c) and substituting —

"(a) in relation to any product which is the subject-matter of the patent -

- (i) making, putting on the market, using or importing the product; or
- (ii) stocking the product, whether for the purpose of putting it on the market (in Hong Kong or elsewhere) or otherwise;

(b) in relation to any process which is the subject-matter of the patent -

- (i) using the process; or
- (ii) offering the process for use in Hong Kong when the third party knows, or it is obvious to a reasonable person in the circumstances, that the use of the process is prohibited without the consent of the proprietor of the patent;

(c) where the invention is a process, then in relation to any product obtained directly by means of that process -

- (i) putting on the market, using or importing the product; or

- (ii) stocking the product, whether for the purpose of putting it on the market (in Hong Kong or elsewhere) or otherwise."

That clause 73 be amended, by deleting subclause (2).

Clause 74

That clause 74(2) be amended, by deleting the passage beginning "except" and ending "person supplied" and substituting —

"unless the supply or offering is made for the purpose of inducing the person supplied or, as the case may be, to whom the offer is made".

Clause 75

That clause 75 be amended, by deleting paragraphs (d) and (e) and substituting —

"(d) the use of the invention which is the subject of the patent -

- (i) on board vessels registered in any of the Paris Convention countries or WTO member countries, territories or areas, other than Hong Kong; or
- (ii) in the body of such vessels, or in the machinery, tackle, gear or other accessories of such vessels,

when such vessels temporarily or accidentally enter the territorial waters of Hong Kong, but only if the invention is used in such waters exclusively for the needs of the vessel;

- (e) the use of the invention which is the subject of the patent in the construction or operation of -

(i) aircraft, hovercraft or land vehicles of Paris Convention countries or WTO member countries, territories or areas, other than Hong Kong; or

(ii) such aircraft, hovercraft or land vehicle accessories,

when such aircraft, hovercraft or land vehicles temporarily or accidentally enter Hong Kong;"

That clause 75(c) be amended, in the Chinese text, by deleting "'registered medical practitioner'" and substituting "'註冊醫生'".

Clause 81

That clause 81 be amended, by adding —

"(5) Without limiting the effect of subsection (4), where an order has been made by the court under section 46(1) allowing an amendment of the specification of a patent, no damages shall be awarded in any proceedings for an infringement of the patent committed after the date on which the order is made and before a copy of the order is filed with the Registrar for the purposes of section 46(5)."

That clause 81(4) be amended, by deleting "公布" wherever it appears and substituting "發表".

Clause 82

That clause 82 be amended, by deleting subclauses (1) and (2) and substituting —

"(1) If the validity of a patent is put in issue in proceedings for infringement of the patent and it is found that the patent is only partially valid,

the court may, subject to subsection (2), grant relief in respect of that part of the patent which is found to be valid and infringed.

(2) Where in any such proceedings it is found that a patent is only partially valid, the court shall not grant relief by way of damages or costs, except where the plaintiff proves that the specification for the patent was framed in good faith and with reasonable skill and knowledge, and in that event the court may grant relief in respect of that part of the patent which is valid and infringed, subject to the discretion of the court as to costs and as to the date from which damages should be reckoned."

That clause 82(3) be amended, by deleting "修改" where it twice appears and substituting "修訂".

Clause 84

That clause 84(2) be amended, in the Chinese text, by deleting ""indemnity basis"" and substituting ""彌償基準"".

Clause 91

That clause 91(1) be amended —

- (a) in paragraph (e), by adding "which is invalid" after "of the patent".
- (b) by deleting paragraphs (f), (g) and (h) and substituting -
 - "(f) that the patent is one of 2 standard patents for the same invention, the applications for which were filed by the same person and have the same deemed date of filing;
 - (g) that the patent is one of 2 short-term patents for the same invention, the applications for which were filed by the same person and have the same date of filing;

(h) that -

- (i) the patent is one of 2 patents for the same invention, one such patent being a standard patent and the other being a short-term patent, the applications for which were filed by the same person and have the same deemed date of filing or date of filing; and
- (ii) the 2 patents are not under the proprietorship of the same person;"

That clause 91(1)(d) be amended —

- (a) by deleting "的申請書" and substituting "的申請".
- (b) by deleting "專利申請書" and substituting "專利的申請".

That clause 91 be amended, by adding —

"(3) In subsection (1)(f), (g) and (h) -

- (a) reference to the date of filing or deemed date of filing of an application for a patent shall be read as a reference to that date or, if priority was claimed in respect of the application, to the date of priority of the application;
- (b) reference to the applications for 2 patents being filed by the same person shall be read as a reference to that case or to the case where -
 - (i) the person filing one of the applications is the successor in title to the person filing the other application; or

- (ii) the persons filing the applications are both successors in title to the same former proprietor of the invention."

Clause 94

That clause 94(2)(a) be amended, by adding "standard" before "patent".

That clause 94(3) be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 94(3)(a) be amended, by deleting "a patent" and substituting "a standard patent".

Clause 104

That clause 104(3) be amended, by deleting "現聲明".

That clause 104(4)(b) be amended, by deleting "的任何" and substituting "中任何".

That clause 104(4)(c) be amended, by adding "提交採用該其他語文的該文件及" after "規定".

That clause 104(5) be amended, by deleting "under" and substituting "for the purposes of".

That clause 104(5)(a) be amended, by adding "譯本" after "文件".

Clause 106

That clause 106 be amended, by deleting subclause (2) and substituting —

"(2) If -

- (a) the language of the proceedings before the designated patent office is other than one of the official languages; and
- (b) the corresponding designated patent or designated patent application as translated into one of the official languages confers protection which is narrower than that conferred by it in the language of the proceedings before the designated patent office,

then a translation into one of the official languages of the specification of the corresponding designated patent or of the claims of the corresponding designated patent application shall be treated as the authentic text of the specification of the standard patent or of the claims of the standard patent application respectively for the purpose of any proceedings under this Ordinance, other than proceedings for the revocation of the patent."

That clause 106(3) be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 106(3) be amended —

- (a) in paragraph (a), by deleting "該項申請" and substituting "該項徵用".
- (b) by deleting "使用" wherever it appears and substituting "徵用".

That clause 106(4) be amended, by deleting "公布" wherever it appears and substituting "發表".

Clause 109

That clause 109 be amended —

- (a) in paragraph (a), by deleting "當其時就該項發明的申請人或" and substituting "就申請人或當其時該項發明的".
- (b) by deleting "專利申請書" and substituting "專利申請".
- (c) by deleting "支持該項符合任何訂明條件的" and substituting "符合任何訂明條件的支持該項".

That clause 109(b) be amended, by deleting "at the date of commencement of this Ordinance".

Clause 110

That clause 110(1)(a) be amended, by deleting "convention country" and substituting "Paris Convention country or WTO member country, territory or area".

That clause 110(2)(a) be amended, by deleting "convention country" and substituting "Paris Convention country or WTO member country, territory or area".

That clause 110(2)(b) be amended, by deleting "convention country" and substituting "Paris Convention country or WTO member country, territory or area".

That clause 110(3) be amended —

- (a) in paragraph (a), by adding "of an application for a short-term patent" after "filing".

- (b) in paragraph (b), by adding "for a short-term patent" after "previous first application".
- (c) in paragraph (c), by adding "for a short-term patent" after "previous application".
- (d) by deleting ""regular filing" (正規提交)" and substituting ""regular filing of an application for a short-term patent" (短期專利申請的正規提交)".
- (e) by adding "for the short-term patent" after "the application" where it first appears.

That clause 110(4) be amended, by deleting "convention country" and substituting "Paris Convention country or WTO member country, territory or area".

That clause 110(4) be amended, by deleting "型號" and substituting "新型".

Clause 113

That clause 113(1) be amended —

- (a) by adding "be signed by the applicant and" after "short-term patent shall".
- (b) in paragraph (b)(ii), by deleting "and 4 subsidiary claims".

That clause 113 be amended, by deleting subclause (2) and substituting —

"(2) An application for a short-term patent -

- (a) shall state the name and address of the applicant;

- (b) shall identify the person or persons whom the applicant believes to be the inventor or inventors and shall specify the last known address of that person or persons;
- (c) where the applicant is not the sole inventor or the applicants are not the joint inventors, shall contain a statement indicating the derivation of his or their entitlement to exercise the right to the short-term patent; and
- (d) shall specify an address in Hong Kong for service of documents."

That clause 113(4)(b) be amended —

- (a) in subparagraph (iii), by deleting "or".
- (b) in subparagraph (iv), by deleting the full stop and substituting a semicolon.
- (c) by adding -
 - "(v) in relation to any invention which requires for its performance the use of a micro-organism, information concerning the availability to the public of samples of the mirco-organism."

That clause 113(4)(b) be amended, in the Chinese text, by deleting subparagraph (ii) and substituting —

- "(ii) 按照第 111 條所作出的就任何較早的專利申請具有優先權的聲稱和該條所指的支持優先權的文件".

That clause 113(8)(a) be amended, by adding "報告" after "查檢的".

Clause 115

That clause 115(1) be amended, by deleting "mentioned in" and substituting "made for the purposes of".

That clause 115(4) be amended, by deleting "優先的" and substituting "優先".

Clause 117

That clause 117 be amended, by deleting paragraph (d) and substituting —

"(d) any matter specified in section 45, 77, 78, 79, 93, 94, 96, 97, 100, 109, 110, 111(2) to (6) or 120(2).".

That clause 117 be amended, by deleting "明文的" and substituting "有明文".

Clause 119

That clause 119(1) be amended, by deleting "不得在" and substituting "不得".

That clause 119(1)(b) be amended, by deleting "6" and substituting "12".

Clause 125

That clause 125(1)(b) be amended, by adding "and (2A)" after "(2)".

That clause 125 be amended, by adding —

"(2A) Despite subsection (2), where the date of grant of a short-term patent occurs after the expiry of the 4th year from the date of filing of the application for that patent then -

- (a) the prescribed renewal fee may be paid at any time before the expiry of 3 months beginning from the date of grant and in the event of such payment the patent shall remain in force for the balance of the period of 4 years specified in subsection (2);
- (b) the patent shall cease to have effect under this section if, and only if, the prescribed renewal fee is not paid as provided in paragraph (a).".

That clause 125(4) be amended, by adding "or (2A), as the case may be," after "(2)".

That clause 125(4) be amended —

- (a) by deleting "緊接".
- (b) by deleting "的有效期".
- (c) in paragraphs (b) and (c), by deleting "的有效期沒有" and substituting "未曾".

That clause 125(5)(b) be amended, by deleting "生效" and substituting "有效".

That clause 125(5)(b) be amended, by adding "or (2A)" after "(2)".

Clause 128

That clause 128(1)(a) be amended, by deleting "registered" and substituting "granted".

Clause 130

That clause 130(1) be amended, by deleting "is entitled to appear" and substituting "shall be entitled to appear or be represented".

Clause 132

That clause 132(1) be amended —

(a) in paragraph (b), by deleting "he" where it first appears and substituting "the Registrar".

(b) by adding -

"(3) Reference in subsection (1) to an option to make an application either to the court or to the Registrar includes reference to an option to refer a question either to the court or to the Registrar.".

Clause 140

That clause 140 be amended, by deleting the clause and substituting —

"140. Falsification of register, etc.

A person who -

(a) makes or causes to be made a false entry in any register kept under this Ordinance, knowing the entry to be false; or

(b) makes or causes to be made a writing falsely purporting to be a copy or reproduction of an entry in any register kept under this Ordinance, or produces or tenders or causes to be produced or

tendered in evidence any such writing, knowing the writing to be false,

commits an offence and is liable -

- (i) on summary conviction, to a fine at level 5 and to imprisonment for 6 months;
- (ii) on conviction on indictment, to imprisonment for 2 years."

Clause 144

That clause 144(2)(b) be amended, by adding "行" after "可公訴罪".

That clause 144(7) be amended, by deleting "shall be guilty of the like offence" and substituting "is also guilty of the offence and liable to be proceeded against and punished accordingly".

Clause 156

That clause 156 be amended, by deleting subclause (2) and substituting —

"(2) Subject to subsection 3 and to necessary modification -

- (a) sections 73 to 75, 80, 81, 85 to 87, 89 and 90 shall apply to any act done on or after the commencement date which infringes an existing registered patent; and
- (b) sections 82 to 84 shall apply to any such act which infringes an existing registered 1977 Act patent,

as those sections apply to infringements of a patent granted under this Ordinance."

Clause 157

That clause 157(1) be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 157(2) be amended, by deleting "公布" wherever it appears and substituting "發表".

That clause 157(2)(d) be amended, by adding "的" after "法令專利".

That clause 157(3) be amended —

(a) in paragraph (g) -

- (i) by deleting "entries appearing at the commencement date in the register kept under the repealed Ordinance" and substituting "details of patents registered under the repealed Ordinance before the commencement date";
- (ii) by deleting "such entries" and substituting "such details";
- (iii) in subparagraph (ii), by deleting "of an entry in the register." and substituting "in the register of such details;"

(b) by adding -

- "(h) for the amendment by the Registrar by notice published in the Gazette of any time limit specified in, or any Schedule to, such rules."

That clause 157(3)(c) be amended, by deleting everything from "即使" to "會具有效力" and substituting "在生效日期當日或之後生效的在聯合王國的現有註冊專利的任何修訂或撤銷，即使或會自任何早於生效日期的日期起在聯合王國具有效力，"。

Clause 158

That clause 158 be amended, in the definition of "待決的將專利根據已廢除條例註冊的申請", by deleting "的申請（該項申請並非屬一項在生效日期時已根據廢除條例註冊的申請）" and substituting "（但在生效日期時仍未根據已廢除條例註冊）的申請；"。

That clause 158(1) be amended —

- (a) by deleting the definition of "existing registered patent" and substituting -

""existing registered patent" (現有註冊專利) means a 1949 Act or 1977 Act patent which -

- (a) was registered under the repealed Ordinance before the commencement date; and

- (b) at the commencement date -

- (i) was still in force in the United Kingdom;

- (ii) had ceased to have effect in the United Kingdom, but subsequently is treated for the purposes of the 1977 Act as having never expired; or
 - (iii) had ceased to have effect in the United Kingdom but subsequently is restored by an order made under the 1977 Act;"
- (b) by deleting the definition of "published application for a 1977 Act patent" and substituting -

""published application for a 1977 Act patent" (已發表的 1977 年法令專利的申請) means an application for a patent -

- (a) pursuant to which there could be granted a 1977 Act patent; and

- (b) published before the commencement date,

and in the case of an international application reference in paragraph (b) to publication shall be read as a reference to such publication of the application by a designated patent office as serves to indicate that the international application has validly entered its national phase;"

Question on the amendments put and agreed to.

Question on clauses 2, 5, 8, 12, 15, 16, 19, 22, 23, 24, 29, 37, 43, 46, 51, 52, 56, 61, 62, 73, 74, 75, 81, 82, 84, 91, 94, 104, 106, 109, 110, 113, 115, 117, 119, 125, 128, 130, 132, 140, 144, 156, 157 and 158, as amended, put and agreed to.

New clause 124A

Short-term patent application
based on international application

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

SECRETARY FOR TRADE AND INDUSTRY: Mr Chairman, I propose that new clause 124A as set out in the paper circularized to Members be read the second time.

Clause 124A makes it clear that our short-term patent system will also be able to deal with international applications seeking utility model protection in the Mainland. This new clause is supported by the Bills Committee.

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

Clause read the Second time.

SECRETARY FOR TRADE AND INDUSTRY: Mr Chairman, I move that new clause 124A be added to the Bill.

Proposed addition

New clause 124A

That the Bill be amended, by adding immediately after clause 124 —

**"124A. Short-term patent application based
on international application**

(1) Where an international application seeking a patent for a utility model and designating the People's Republic of China has entered its national phase in the People's Republic of China, the applicant in the international application may apply for a short-term patent for the invention (if any) disclosed in that application.

(2) An application for a short-term patent made pursuant to this section may be filed at any time before a date 6 months after the entry

into the national phase of the international application in the People's Republic of China, or such other date as may be prescribed by rules.

(3) An application for a short-term patent made pursuant to this section shall contain -

- (a) a photocopy of the international application as published by the International Bureau under Article 21 of the Patent Cooperation Treaty;
- (b) a photocopy of the international search report in relation to the international application as published under Article 21(3) of the Patent Cooperation Treaty (whether contained in the international application as published or separately published);
- (c) the date of entry of the international application into the national phase in the People's Republic of China;
- (d) a photocopy of the translation of the international application (if any) published by the Chinese Patent Office; and
- (e) a photocopy of any information that may be published by the Chinese Patent Office concerning the international application.

(4) Section 113 applies in relation to an application for a short-term patent made pursuant to this section as if for subsection (1)(b) to (d) of that section there was substituted a reference to the documents specified in subsection (3)(a) to (e) of this section.

(5) Where an application made pursuant to this section results in the grant of a short-term patent, the application shall be deemed to have as its date of filing the international filing date accorded to the

international application for the purposes of Article 11 of the Patent Cooperation Treaty and, in this Ordinance, reference to the date of filing of an application in relation to a short-term patent which has been granted pursuant to an application made as provided for in this section shall be construed accordingly.

(6) In this section, "Chinese Patent Office" (中國專利局) means the office established under the laws of the People's Republic of China for the granting of patents for inventions."

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

Schedules 1 and 2

SECRETARY FOR TRADE AND INDUSTRY: Mr Chairman, I move that the Schedules be amended as set out in the papers circularized and tabled for Members' consideration. The changes are technical and we have briefed the Bills Committee on these.

Mr Chairman, I beg to move.

Proposed amendments

Schedule 1

That Schedule 1 be amended —

(a) by deleting the Schedule heading and substituting "PARIS CONVENTION COUNTRIES AND WTO MEMBER COUNTRIES, TERRITORIES AND AREAS".

(b) by deleting -

**"Countries which have acceded
to the Paris Convention"**

and substituting -

"Paris Convention countries"

The following are specified for the purposes of the definition of "Paris Convention country" in section 2(1) as countries which have acceded to the Paris Convention -".

- (c) under the heading **"Paris Convention countries"**, by adding -

"Colombia
Equatorial Guinea
Nicaragua
Panama
Sierra Leone
United Arab Emirates".

- (d) by deleting -

**"Countries, territories and areas
which have acceded to the World
Trade Organisation Agreement
(not including countries
which have acceded to
the Paris Convention)"**

and substituting -

**"WTO member countries, territories
and areas (not including Paris
Convention countries)"**

The following are specified as being countries, territories or areas which have acceded to the World Trade Organisation Agreement -".

- (e) under the heading **"WTO member countries, territories and areas (not including Paris Convention countries)"** -

(i) by deleting -

"Colombia
Nicaragua
Tanzania
United Arab Emirates";

(ii) by adding -

"Angola
Papua New Guinea
Solomon Islands".

That Schedule 1 be amended, under the heading "Paris Convention countries" —

(a) by deleting -

"中華人民共和國
馬其頓
梵蒂岡
摩爾達維亞";

(b) by adding -

"中國
馬其頓，前南斯拉夫共和國
摩爾多瓦共和國
羅馬教廷".

Schedule 2

That Schedule 2 be amended, by deleting everything after "如下 —" and substituting —

""7G. 過渡性條文

(1) 任何關於以下方面的問題 -

- (a) 在生效日期前由政府或獲總督授權的人根據第 7B 條（按第 7B 條在緊接生效日期前的內容）作出的作為，是否構成官方服務而徵用一項專利發明；或
- (b) 就任何上述徵用而須作出的任何付款（不論是付給有權就該項發明註冊專利的人或專利持有人或專用特許持有人），

須按照第 7B 至 7D 條（按第 7B 至 7D 條在緊接生效日期前的內容）予以裁定。

(2) 凡一項作為是在生效日期之前開始作出並在該日期當日或之後持續作出，而如該項作為根據在緊接該日期前有效的法律是會構成官方服務而徵用一項專利發明的，則該項作為的持續，即構成本條例所指的官方徵用，而非構成對權利的侵犯。

(3) 在本條中，“生效日期” (commencement date) 指《1996 年知識產權（世界貿易組織修訂）條例》（1996 年第 11 號）第 11 條開始實施的日期。”。

Question on the amendments put and agreed to.

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

Council then resumed.

Third Reading of Bills

THE SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS reported that the

GOVERNMENT RENT (ASSESSMENT AND COLLECTION) BILL

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

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

Bill read the Third time and passed.

THE SECRETARY FOR TRADE AND INDUSTRY reported that the

PATENTS BILL

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

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

Bill read the Third time and passed.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Two motions without legal effect. I had already accepted the House Committee's proposed time limits on the speeches to be made in connection with the motion debate and Members were duly informed on 26 May. Each Member moving the motion may have 15 minutes to speak, including replying to queries, in addition to five minutes to speak on proposed amendments. Those Members moving amendments and the others will each have seven minutes. Under Standing Order 27A, I may order anyone who speaks beyond the time limit to stop.

SUPPRESSING PROPERTY PRICES

Miss CHAN YUEN-HAN to move the following motion:

"That this Council urges the Government to take further effective measures to suppress property prices, lest speculative activities cause property prices to soar beyond the affordability of the public; moreover, in order that the public will not be affected by various property speculation tactics, the

Government should increase the transparency of the information on property, so as to help potential buyers to make informed decisions; furthermore, the Government should expeditiously implement the following recommendations:

- (a) publishing annually the volume of land supply earmarked for the construction of housing in the next five years;
- (b) publishing annually the information relating to the supply of housing, so as to apprise the public of the types, locations and number of units under construction; and
- (c) ensuring the availability of a one-year land reserve to cater for the sudden increase in the demand for housing."

MISS CHAN YUEN-HAN (in Cantonese): Mr President, I move that the motion standing in my name on the Order Paper be approved.

Mr President, the old issue of housing is again brought up in the Legislative Council for debate. I think this is something we cannot help. Indeed, we can see that much of discussions we had in the Legislative Council in the past was closely related to the issue of housing. While we may keep debating, the government policy remains unchanged. The housing problem of the Hong Kong people is still the biggest problem of the entire community and this is indeed infuriating. Mr President, I move this motion today for two reasons. On the one hand, I want to bring up the debate on the issue concerning the Government's refusal to accept the proposals of the Consumer Council. On the other hand, it has to do with my earlier visit to Shanghai to study the housing situation there. In particular, the concept of the housing policy of the Mainland government is people-oriented in that the government holds itself responsible for the provision of housing for the people. For example, as far as purchase of housing is concerned, under the government policy, there is no question of non-affordability, let alone the crazy speculative activity in Hong Kong.

What anti-speculation measures can Hong Kong learn from the Shanghai visit? Mr President, I will leave it to my colleague, the Honourable CHENG Yiu-

tong, to brief you later. As for myself, I will focus on discussing the problem of supply of land for housing.

Mr President, a lot of people are saying that no matter what changes the policy undergoes and how ideal it is, in the end the long-term housing problem has to be solved and increasing the supply of land for housing seems to be the only way out. However, I consider that while increase of land supply is essential, good land planning is all the more important. What does this mean? We can see for ourselves that all along there is no co-ordinated land policy mechanism among the government departments, each of which is simply operating on its own.

Let me quote some examples for illustration. The Territory Development Strategy Study of the Planning, Environment and Lands Branch covers the period up to 2006 while the production plan of the Housing Department is only up to 2003. The study conducted by the Housing Branch on the Long Term Housing Strategy is up to 2006 but the population development projection of the Census and Statistics Department extends to 2016, while the transport development assessment of the Transport Branch is only up to 2011.

It can be seen from the above how chaotic the planning for Hong Kong's future land, population, housing, traffic and transportation is. There is at present not a government department to co-ordinate the supply, planning and distribution of land. Neither is there any department which can inform the public of the exact figures in connection with the planning of a specific year. I consider that in order to improve the pace of study of various departments, it is essential that there is a department which will release regularly information on land supply.

Mr President, I move that the Government be asked to release annually the information on the supply of land for housing production in the following five years, so that the general public and housing developers may know the supply of land for housing. This would enable the developers to assess whether the selling prices of land are reasonable and determine the market prices, while potential buyers would be prevented from buying houses in swarms to "follow the herd". It would also reduce considerably the speculative activity and enhance the transparency of housing supply. In fact this proposal aims at forcing the various government departments to step up co-operation and collate the different long-term plans as soon as possible so as to give the public a specific long-term development plan.

The question now is — what is the most appropriate way to release the information on supply of land for housing? Mr President, I consider that there are merits in laying down a rolling programme. In fact, as early as 1983, a similar measure was adopted by the Housing Authority. Every year the Housing Authority announced publicly the contents of the public housing comprehensive redevelopment programme for the following five years, including the number of units to be demolished, the areas concerned and the years of demolition. Such a measure not only enabled residents of the old areas to be advised earlier of the date of removal, but also enhanced considerably the transparency of the production plan of the Housing Authority. Mr President, why do we not learn from these good things? I consider that the Government can enhance the transparency in the supply of land for housing through this measure. This will benefit both the public and the industrial and commercial sectors. As to how the issue of the supply of housing units should be handled, I will leave it to my colleague the Honourable CHAN Wing-chan to present the details.

Nevertheless, I consider that releasing information on land supply alone would not guarantee an adequate supply of land. Therefore, I move at the same time that the Government should ensure the availability of a one-year land reserve to cater for the sudden increase in housing demand. The main reason for this proposal is that in 1991, the amount of land the Government supplied to the Housing Authority was considerably underestimated and the repeated policy errors resulted in the particularly serious shortage of public housing supply in the past couple of years, which in turn has pushed up the prices of private properties. Mr President, had there been a land reserve, the supply of land would not have been affected and the prices of properties would not have soared because of the shortage of land for housing. My proposal is by no means something new. It was tried by the Government in 1994 and should now be used again to save for the rainy days.

Mr President, after securing transparency and stability in the supply of land, it will be necessary to lay down reasonable measures against speculation. I propose that the property value-added tax should be introduced.

Mr President, the Hong Kong Federation of Trade Unions (FTU) has all along advocated the introduction of the tax, that is, the asset value-added tax. As

today's motion is related to housing, I will focus on elaborating the property value-added tax.

We consider that a property added-value tax would add to the cost of speculation, thereby directly discouraging the activity. In the past the Government resorted to taxation to discourage the activity but it headed for the wrong way. Raising the stamp duty is an appropriate example. In reality, for each housing transaction, the Government gets a large sum in the form of stamp duty. It collects stamp duty from the transactions, be they made by speculators or genuine home-buyers. In so doing, no assistance is given to the genuine home-buyers at all. On the contrary, it adds to their cost of owning a home. The gains go only to the government treasury. As everyone is aware, for a wage-earner who is thinking of buying a flat, ten or twenty thousand dollars would mean a lot and their dream of owning a home might burst simply because of the stamp duty which is but an insignificant amount to the Government.

Hence, I consider that there is a need to change the taxation a bit. First of all, the stamp duty should be reduced so as to relieve genuine home-buyers of the tax burden. Furthermore, a property value-added tax should be introduced. I consider that under the principle of "one family should own one home", no property value-added tax should be levied on the additional value arising from flat swapping. For example, if an owner buys a flat for \$2 million and sells it for \$3 million several years later, he should not be required to pay the property value-added tax as long as he buys back a flat for his own use.

On the other hand, if someone owns a flat for investment or speculation in addition to one used mainly for residence, the profit he gets should be subject to the payment of the property value-added tax. I believe that in this way, speculators would be discouraged from speculation because the tax burden adds to the cost of the activity.

Mr President, to sum up, the objectives of my proposal are to provide members of the public with adequate information on land and housing so that they can make a sensible decision when buying their homes, and to bring the exorbitant prices of properties down to the healthy level, or the level affordable to the people, through a series of measures. I hope that under the premises of suppressing

property prices and ensuring an ideal living environment for the community, Members will support my motion.

Mr President, these are my remarks. Thank you.

Question on the motion proposed.

PRESIDENT (in Cantonese): Mr LEE Wing-tat has given notice to move an amendment to the motion, as set out in the Order Paper circularized to Members. I propose that a joint debate be made on the original motion and the amendment.

This Council will have a joint debate on the original motion and the amendment. I will ask Mr LEE to speak and move his amendment. After I have put the question on the amendment, Members may express their views on the original motion and the amendment.

MR LEE WING-TAT's amendment to MISS CHAN YUEN-HAN's motion:

"Delete the "and" in (b); in (c), add "setting up a land and housing development fund to provide infrastructural facilities for vacant land to increase land supply and land reserve, thereby" before "ensuring", add "at least" after "land reserve" and after "the demand for housing" add "; and (d) levy a short-term assignment tax on non-owner-occupied residential flats to curb speculation."

MR LEE WING-TAT (in Cantonese): Mr President, I move to amend Miss CHAN's motion.

There are two points in my amendment. Before going into the amendment, I wish to point out that the Democratic Party supports the contents of the Honourable Miss CHAN's original motion. One of the points we wish to raise is the setting up of a land and housing development fund to provide infrastructural facilities for vacant land in order to increase the land supply and land reserve. In the past several years, in spite of the Government's great efforts in developing the

supply of land for housing, tight supply is often witnessed. In January this year I had a meeting with Mr POPE, Director of Lands, and that was the first time he told our party that the Government had never had anything called land reserve. Mr Bowen LEUNG also admitted this at a meeting of the Legislative Council, saying that any reserve was sold on the market the moment it became available. In other words, the land we create every year is almost immediately exhausted without any reserve at all. In fact, this is in contravention with one of the important recommendations of the Government Land Supply and Property Prices Committee in 1994 and that is, the Government should at any time maintain an adequate supply of land and a land reserve for at least one year's use.

Apart from planning and approval vetting, one of the issues involved in the process of land development is funding. In its annual estimate of expenditure, the Government has to conduct the Resource Allocation Exercise, in which each policy branch has to compete with other policy branches for funding for future services and activities. The main reason why the Democratic Party has proposed the establishment of a land and housing development fund is that such a fund should be set up while there is an adequate surplus, so that the fund need not compete for allocation of resources in the following year with other policy branches. This would ensure a steady financial source for land development, which would in turn establish our future land supply. This is the reason for our proposed establishment of the land and housing development fund.

The second point in the amendment is to levy a short-term assignment tax on non-owner-occupied residential flats to curb speculation. Just now I heard Miss CHAN say that the Hong Kong Federation of Trade Unions supported a property value-added tax. This is in fact no different from our concept because according to Miss CHAN, the property value-added tax was targeted against non-owner-occupied properties and properties involving speculation in the assignment process. It has been the Democratic Party's view that the long-term solution to the questions of housing supply and property prices lies in the question of supply but if we failed to dampen the overheated speculative activities in the short term, social instability would intensify.

We just experienced soaring property prices in the two to three months from late 1996 to early 1997. Around March and April, the Secretary for Housing introduced some new measures which were directed mainly against confirmors'

transactions but hardly had property transactions eased off for one and a half months before transactions on the secondary market revived, with prices rocketing in the last two weeks, that is, since the beginning of this month. Property prices have gone up 5% to 10% since two to three months ago and the queues of property buyers re-emerge. As far as I know, according to the statistics released recently by the Government, the percentage of flats re-sold after being bought for less than three months rose from 3% at the end of last year to 12% last month. Selling a flat after barely three months obviously indicates that it is not meant to be a home but meant for speculation. The percentage of short-term assignments has not dropped at all despite the measures of the Secretary for Housing.

This leads to the question of what we can do. Firstly, of course we can further cut down on the mortgage rate, but this is a knife with two sharp edges which can do harm to both speculators and genuine home-buyers. If the mortgage rate was lowered to 60%, as in the case of luxurious flats now, young couples or home-buyers would have to save enough for the 40% down payment. To them, this would be impossible. Hence we consider that the Government should reconsider levying a short-term assignment tax on non-owner-occupied residential flats. We consider that people possessing several properties for short-term rather than long-term investment should be made to bear additional cost by paying the above tax. This would not have any implication on home-buyers or on those buying flats for long-term investment. The tax would only be levied on non-owner-occupied residential flats re-sold within two years. We are of the view that the Government should consider this proposal, or else property prices would rise to such a level before July 1997 that it would become unmanageable for the Hong Kong Special Administrative Region Government.

Mr President, I move the amendment.

Question on the amendment proposed.

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

MR FREDERICK FUNG (in Cantonese): Mr Deputy, the Government announced the first Long Term Housing Strategy in 1987, which laid down the

housing objectives up to 2001. The Government's housing strategy is that the housing market should be led by private housing, with public housing as the supplement. No change was made to this principle in the Consultation Paper on Long Term Housing Strategy released in 1997. However, the Government has not monitored the private housing market properly, so much so that the private housing market is now being manipulated by private developers and estate groups. They are in possession of a large land reserve and have their residential flats hoarded until prices go up while the Government adheres to a free and *laissez-faire* economy, thereby pushing up private property prices and rents. Speculation has become the order of the day and housing is no longer affordable to the common people.

The Hong Kong Alliance for Democracy and People's Livelihood (ADPL) wishes to ask the Government to implement various measures to solve the problem of private housing. The Government should enhance the transparency of housing information to enable members of the public aspiring for home ownership to make sensible decisions. For example, information on housing supply should be released annually to let the public know the types, locations and numbers of the housing under construction. When well-informed about the market situation, people can assess rationally whether it is worthwhile to buy a flat.

The ADPL also considers that the crux of the problem of soaring property prices lies not only in whether there is an adequate housing supply but also in certain features of the private housing market, such as the existence or otherwise of monopoly in land auctioning and property transactions, which could result in exorbitant property prices. The ADPL proposes that anti-monopoly law and fair trade law be promulgated as soon as possible so that any cases of monopoly on the market would be dealt with according to the law, thereby preventing the overall economic interests from being jeopardized by groups of people with vested interests and syndicates.

Mr Deputy, the Government may also consider introducing the "long term pre-completion sale arrangement" for private housing and the Home Ownership Scheme. After the building plan of each estate is approved, "long term pre-completion sale arrangement" may be introduced by phases, so as to reduce the demand for private housing. The Phase One pre-completion sale arrangement under the Home Ownership Scheme, say, can be two years, the Phase Two pre-

completion sale arrangement can be increased to two and a half years while Phase Three can be extended to three years. The corresponding pre-completion sale terms for private housing can be one and a half years, two years and two and a half years. Pre-completion sale arrangement can also be introduced by the Housing Society for its sandwich class housing, so as to ease off people's yearn for a home on the private market as soon as possible in view of the ever-increasing prices. It would enable the sandwich class to buy a flat on the public housing market earlier so as to reduce the level of dependence on the private housing market.

The ADPL also considers that deadlines be imposed on redevelopment schemes to prevent developers from delaying the progress of redevelopment and putting the redeveloped buildings on sale only at an opportune moment to artificially stimulate the market and push up the prices. In the long term, the public housing programme should be expanded to produce more government-subsidized public housing and Home Ownership Scheme housing so as to allay the heavy demand on private housing. The supply of residential land should also be increased, thereby making it impossible for big developers to hoard the flats until prices go up. It is only then that land prices would drop and become steady. It would also ease the pressure on rising prices.

Mr Deputy, I consider that the Government should consider the total repeal of the bank interest agreement. At a time when savings are depreciating because of the high inflation rate, the low interest rate for deposit offered jointly by banks serves only to induce the people to stake their savings on investment with high returns. Speculations on properties and ballots are two of the examples. They have resulted in the speculation craze and the soaring property prices.

Lastly, I agree to Mr LEE's tax proposal. The ADPL calls it "short-term speculation value-added tax", which is the same in meaning. We consider this to be the most effective means to curb speculation in the short term. We propose that a 60% tax be levied on profits derived from property transactions made within half a year, 40% on those made within half a year to one year and 30% on those made within one to two years. We consider that only heavy taxation can be of active and immediate effect in curbing speculation. We hope that the Government will consider these views.

With these remarks, I support the motion and the amendment.

MR CHENG YIU-TONG (in Cantonese): Mr Deputy, for a long time, the Government has been trying to solve the problem of housing — a major problem of livelihood — through stopgap measures only. Although the soaring property prices did slightly drop in the face of its anti-speculation measures, as shown by the fact that there was a temporary drop after the measures aimed at suppressing prices were introduced two months ago and in 1994, they went up again shortly afterwards and the prices were even higher than before. What are the reasons for this?

All in all, it is because the Government dare not touch upon the problem of monopoly in the estate sector at all. It also lacks a comprehensive solution to the housing problem of Hong Kong. As a result, the property market has got out of control. When I say that it has got "out of control", I am not exaggerating. Just look at the way the Government has been granting land under the high land price policy, which in turn has stimulated speculation. We understand that there is a land disposal exercise early next month. It is reported that a site in the southern district on Hong Kong Island to be auctioned will cost as much as \$8 billion, or almost \$20,000 per square foot for an average flat in terms of the site cost alone. On completion of the project, the price might probably be as high as some \$30,000 per square foot. This is hardly imaginable.

For a professional, let alone an average wage-earner, to own a home has become something quite beyond his means. Mr Deputy, I have justifications for this statement of mine. In the last two weeks, the Honourable Miss CHAN Yuen-han and I, together with some members of the Hong Kong Federation of Trade Unions (FTU), visited Shanghai to see the housing development there. We were deeply impressed by the efforts of the Shanghai government in their production of and safeguards for housing. For the introduction and implementation of the policy concerned, the standard of living and affordability of the people were the major considerations. A "people-oriented" housing strategy was adopted in solving the housing problem of the residents of Shanghai City.

Mr Deputy, there is no active speculation on residential housing in Shanghai but this by no means indicates a small local demand for housing. On the contrary, the local residents have very great demand in terms of quantity and quality for housing. The average price, however, is only some 1 000 RMB per square metre.

For an average family in Shanghai, the mortgage repayment is merely 10% to 15% of its monthly income. Why can both the property price and mortgage repayment be maintained at such low levels? The reason is very simple. Under the well-established policy of the Chinese Government, housing is the main protection of livelihood, and therefore adequate land is provided to facilitate the speedy planning for and construction of flats. At present, a "happy home scheme" similar to Hong Kong's Home Ownership Scheme is being implemented in China. I will not go into details but the main difference between Hong Kong's housing policy and the "happy home scheme" on the Mainland lies in the stipulation of sale prices. In China, sale prices are determined by the construction cost with a discount based on the service period of the buyer and age of the housing flat. The housing policy of the Shanghai government aims at taking care of the people's housing needs, thereby fulfilling the goal of ploughing back any gains into the community.

Apart from fixing prices at a level affordable to the people, other supplementary measures are in place in China to help home-buyers. Since 1991, Shanghai has taken the lead in carrying out housing reforms. The housing provident fund scheme was introduced then, under which joint contribution to the provident fund is made by enterprises and employees. After accumulation and growth in a few years, the provident fund will be used to pay for the downpayment or even the whole price of the flats. At the same time, a portion of the money derived from the sale of each flat is put aside by the government as the building's maintenance fund.

Mr Deputy, now let us look at the Home Ownership Scheme (HOS) housing in Hong Kong. One may say that the price is already lower than that of private housing, but it is still two to four times the construction cost or even pegged to private market prices. I cannot help asking: If the solution to the housing problem in Hong Kong is based on the consideration of making money, how can the people's needs be practically satisfied? Although it might not be practical for Hong Kong to replicate exactly the housing policy and scheme in China, the Chinese government's concept of providing reasonably affordable sale flats is something that the Hong Kong government should learn from. There is one thing which you all should know, though. According to the government authorities concerned in Shanghai, they copied the scheme from Hong Kong. I find it strange. Why that this is not being practised in Hong Kong?

All in all, apart from the land factor, which is the main cause for the speculation craze, the Government's determination and sincerity in solving the housing problem is equally important. I hope the Government will attach importance to the housing problem of the working masses and give them a cozy and snug home so that they may lead a happy life.

Mr Deputy, these are my remarks.

MR CHOY KAN-PUI (in Cantonese): Mr Deputy, property prices suddenly soared up 30% early this year. There was widespread discontent then and a bomb hoax was placed outside the Legislative Council by someone to vent his grievances. Under the pressure from various quarters, the Hong Kong Government hastily introduced some rather moderate measures to tackle the speculation problem. At the beginning they seemed to work. The speculators restrained themselves and property prices dropped a little, but good things do not last long. The quiet market soon revived with the prices rocketing again. What could be the cause for the recurrence of such situations? It can be attributed to the Government's failure in tackling the housing problem at the root. For a long time, the Government's has been lacking far-sight in its housing policy and implementing only stopgap measures. As we all know, the fundamental cause for the rising property prices and overheated speculative activity is the marked imbalance of supply and demand. In the past few years, the population of Hong Kong has grown drastically. The massive influx of Chinese immigrants and the large number of former Hong Kong residents returning from overseas have created an additional demand on various types of housing. Instead of adjusting the planned production of public housing in response to the population growth, the Government has actually been producing fewer flats than its forecast. The number of private housing flats produced by estate developers is also below the forecast. When the drastic growth in demand is not met with a corresponding growth in supply, property prices naturally soar and speculation overheats.

Mr Deputy, it is generally considered that the scarcity in land coupled with a large population is the main cause of the housing problem in Hong Kong. This is but a misconception. In fact there is a lot of land which can be used and developed, such as the outlying islands and the north-west part of the New Territories. The development of Hong Kong Island and Kowloon is the prime

concern, while the New Territories is overlooked. The town planning package is far from being satisfactory. If the Government is determined to develop an efficient transportation network, all areas will be less than one hour's drive from the town centre. Faraway parts will come close. Remote areas in the New Territories and on the outlying islands will soon be bustling. Maximization of use of land, enlargement of the plot ratio and change of land use will also bring about considerable increase in housing supply.

Certainly housing supply is affected by changes in land supply. The lack of transparency in land development and housing supply has forced those who are worried that prices of flats would rise to such a level that they could no longer afford to buy one or even rent one to get hold of a flat even at a high price even though they are fully aware of the fact that it is already beyond their affordability. If the Government lets the public know about the amount of land supply for the next few years and that there will be an adequate housing production, thereby assuring them that the supply of housing will keep coming in with more choices, they would be less anxious in buying a flat. In turn property prices will become steady and speculators would be forced out of business.

Mr Deputy, it takes the problem-maker to solve the problem. The Government must assume the responsibility of solving the problem of housing demand. I hope that alongside the series of anti-speculation measures, the supply of land would be increased and the approval process accelerated so as to ensure a significant growth in housing production for the coming years. In the long term, the impact of the past policy of charging expensive land price should be reviewed and the ratio of land for public housing should be raised for the construction of more public housing. When there is an adequate supply of public housing, the better-to-do can buy an HOS flat or private housing flat while those who are less well off can rent a public housing flat. In this way, there would no longer be any fear of becoming "snails without shells".

Mr Deputy, these are my remarks.

MR CHAN WING-CHAN (in Cantonese): Mr Deputy, it has been almost three years since the anti-speculation measures were first announced in June 1994. Property prices over the past three years have been rising instead of falling. The

situation clearly indicates that the effect of the anti-speculation measures is questionable.

There is certainly a relationship between the rising property prices on one hand and supply and demand on the other. The first anti-speculation measures not only failed to suppress prices, but also induced the big estate developers to slow down the pace of production, resulting in an under-supply. In the past there was on average an annual supply of 30 000 private housing flats but in 1996, it was less than 20 000. Who is to be blamed for this adversity? Furthermore, the population growth projection has been wrong. The most recent statistics indicate that the population growth for the next ten years would exceed the figure estimated four years ago by one million. One million, Mr Deputy, is about one-sixth of the current population!. To meet the additional demand on housing, nearly 300 000 flats would be needed. As I said just now, there was on average an annual supply of only 30 000 residential flats in the past. Even if this production rate was maintained, the supply for the next ten years would at most satisfy the demand arising from this natural population growth. But then, what about the housing demand of former residents returning to Hong Kong and immigrants from China?

The Government has been telling us that further anti-speculation measures will be worked out after the fluctuations in property prices are clearly studied. I do not believe that the Government has never considered introducing effective measures. Rather, it is incapable of doing so. There are no effective measures at all to control the rising prices. Mr Deputy President, may I ask whether Mr Dominic WONG, the Secretary for Housing, can assure everyone before all Members of the Legislative Council that there are measures which will ease the market and stamp out speculation? I stress - it is to "stamp out" rather than simply bring about a short-lived effect as in the past. I do hope the Secretary for Housing is brave enough to make some undertaking and respond when it is his turn to speak.

Mr Deputy, time and again government officials have on public occasions advised members of the public that they must be cautious in picking the right moment to buy a flat, that they should buy a flat only after they have a full grasp of the market movements. However, no proper mechanism has ever been developed to keep the people informed of the most updated market situation, thereby enabling them to ascertain the most opportune moment to make their purchase. Very often, when the public actually accept the Government's advice

and postpone their purchase, property prices increase by a number of times or even several times. On the one hand, the people are advised to make prudent choices but on the other, property prices keep rising. May I ask the Government when actually is the right time for us to make the purchase?

Mr Deputy, I consider that a "housing market information" mechanism with a high level of transparency should be set up. This would provide information on the housing production of the Government, private developers, Housing Authority, Housing Society, Land Development Corporation and housing builders, so that members of the public may know the types, locations and numbers of the housing flats under construction. This mechanism must be easily accessible. With a clear picture of the estate market, potential home-buyers may decide whether they should make the purchase and where and when the purchase should be made having regard to their needs and affordability.

I believe that this mechanism, coupled with the policy of land supply and land reserve proposed by the Honourable Miss CHAN Yuen-han in her motion, should be effective in improving the present situation of speculation.

Mr Deputy, with these remarks, I support Miss CHAN's motion. Thank you, Mr Deputy.

MR LEUNG YIU-CHUNG (in Cantonese): Mr Deputy, like air, water, sunlight and food, housing is a necessity for livelihood. We are not living in the barbaric age. We can no longer live outdoors, with the sky and ground as the roof and floor. Hong Kong is an affluent society. We need stable accommodation.

But, what have those in complete control of housing matters brought us these years? Mr Dominic WONG, the Secretary for Housing, and Miss Rosanna WONG, the Chairman of the Housing Authority, are in control of the housing accommodation of the six million people in Hong Kong, but what they have brought us are the most exorbitant property prices in the world, a long queue of 150 000 people waiting for public housing allocation and thousands of "cages" which are the laughing stock of the world and the mass media.

We cannot expect everyone to be an excellent manager, but if one is incapable, one should not occupy these positions at all. Even if unfortunately they were placed in these positions in a muddle, they should at least have the decency to lend a ear to the general public, listen to them and be sympathetic to their needs. However, for more than a decade, those aloft power-holders have simply been sticking to old ways and dare not interfere with the capitalists' enormous vested interests. Under the "free market" label, they have made the masses toil and moil their entire life just to own a home.

Those who are not poor enough to apply for public housing, as well as the 150 000 applicants who just cannot wait any more and those who are suffering from expensive rents naturally fall preys to the developers. In brief, if not for the ambition to make big money and for the consecutive exploitation of developers, estate agents and speculators, why should a flat of some 300 sq ft be priced as much as \$2 million to \$3 million? At such a price, one can own a flat ten times as large in Europe, Australia and other countries. What could be the cause for this other than the developers' desire to make big money? Do not tell me that the construction materials in Hong Kong are more expensive. Even so, could they be ten times as expensive? And our salary could not be ten times that of other countries, could it?

Hence, I believe what accounts for the prevailing phenomenon is that the estate developers in Hong Kong have not made any contribution to society at all. Neither are they concerned for the community. They do not have a sense of responsibility towards the community. Neither have they acted on their conscience. The weaker the government, the more aggressive they are. Many visitors to Hong Kong are puzzled by the phenomenon that "additional flats are put on sale". What does it mean? Such a phenomenon is unique to Hong Kong. The developers claim that in order to test the market prices, the flats are put on sale by phases, but it is generally known that they are not testing the market at all. Instead, they are creating an objective situation in which when potential buyers fail to buy a flat, the prices would keep rising. There could be a difference of six to seven times in price between the flats sold in phase one and those sold in phase six. The users could do nothing but be exploited implicitly and manipulated by the developers.

What has the Government done for the general public, who are incapable of fighting back? Around March and April, Mr Dominic WONG, the Secretary for Housing, put on a show and proposed some anti-speculation measures. But how have they helped? So far property prices still stand high and speculation on flats sold before completion remains active. Many flats are being hoarded up for higher prices.

There is no insoluble problem. It all depends on determination. Is it because there is no land in Hong Kong? It is hardly so. There will be 4 300 hectares of vacant land which can be developed in the next ten years. There will be 1 400 hectares of land for rental public housing and 4 300 hectares of residential land. These figures are real. The question is how hard and what efforts our government will try and make to really produce more residential flats for the people of Hong Kong. The Government told us that a lot of things had not fallen into place, but how determined is the Government, how hard will it try and what efforts will it make? These are what we consider to be the core of the question.

What we witness about the above vacant land is that firstly, the Government has not accelerated the approval process or formed the land, which has resulted in the annual supply of land failing to meet the public demand. Secondly, very often houses are constructed without a corresponding provision of infrastructure. Hence some areas cannot be fully utilized for housing production. The recent cases of the eight military sites are very good examples. Lacking auxiliary facilities such as highways, schools other facilities, the eight sites have been changed to accommodate only medium-density or low-density residential development, thereby wasting a lot of land resources. Thirdly, in my opinion the most important thing is that the Government refuses to correct its mistake and withdraw the policy of charging expensive land price to benefit the people of Hong Kong. Nor is it willing to allocate more resources for the construction of more public housing in a bid to frustrate the developers, who are thus encouraged to do whatever they please.

I hope the Government appreciates that we are all eager for a good solution. If neither the Secretary for Housing nor Miss Rosanna WONG is capable of doing this, I can only place my hope on the future Chief Executive because he has said he is determined to solve the housing problem in Hong Kong. I earnestly hope

that he is determined to introduce drastic changes and show concern for the housing problem of the people of Hong Kong.

Thank you, Mr Deputy.

MR AMBROSE LAU (in Cantonese): Mr Deputy, there is a very close relationship between property prices and the overall economy of Hong Kong. Too sharp a rise in property prices not only places an impossible burden for the people but also increases the costs of doing business in Hong Kong, which is detrimental to the overall economic development. Worse still, too high a price will render it impossible for the younger generation to own their homes, and they will have no sense of belonging to Hong Kong. This will have profound effect on the long-term development of Hong Kong. On the other hand, other than those living in public housing, of the 900 000 households in Hong Kong, about 600 000 households own their homes. Taking drastic action on property prices will give rise to negative effects, and may also affect the stability of the financial system. The crux of the problem must first be identified if effective and reasonable measures are to be designed to suppress property prices. In that way, we can get the right solution for the right problem, and it should also be kept in mind that genuine users should not be affected by these measures.

Mr Deputy, as to what should be done to suppress property prices and combat property speculation, Hong Kong Progressive Alliance (HKPA) made a proposal on combating speculation last January. We analyzed the factors that caused such rampant speculation in the property market, and expressed our views on combating speculation.

Mr Deputy, there are four main causes for the rampant speculation we see in the property market, and the interaction of these causes forces the price to surge. Based on these four causes, HKPA makes a series of proposals on combating speculation. These proposals involve actions on the part of the Government, the banks and the developers. With respect to the Government, HKPA proposes that it should increase land supply. Firstly, more newly developed land should be supplied. Secondly, the use of industrial land, agricultural land or other land uses should be relaxed to enable these types of land to be used for residential purpose. Thirdly, the speed of urban renovation should be accelerated. Fourthly, the plot

ratio of certain districts can be raised. At the same time, the Government should provide concerted traffic and environmental facilities to match the plans of the developers. The Government should also simplify the approval procedures for housing development and increase the staff of the Rating and Evaluation Department. Consideration must also be given to setting up a co-ordinating department so that the approval procedure can be speeded up. The government should cap the number of units a developer can sell to company-purchasers at 20% of the development; and the Government should require that any "option chip" sold to an individual or company-purchaser shall not be resold. Only when the rampant speculation remains unchecked should the Government consider imposing a short-term re-sale tax on non-owner occupied residential property. As this proposal touches upon the current taxation system in Hong Kong, I hope that the Government can conduct in-depth study and consult the views of the whole society before coming to a decision.

Mr Deputy, with respect to the banks, HKPA proposes that the banks, for the benefits of itself and society, may consider the following measures to help combat speculation. Firstly, additional penalty should be imposed on borrowers who make early repayment. Secondly, high interest rates should be applied to borrowers who purchase the property not for their own use to increase the costs to the speculators. Thirdly, the percentage of mortgage for luxurious property should be lowered. The three proposals together can help the banks protect themselves against the crisis of "bubble economy" when the property market becomes excessively speculative, and against running up large amount of bad debts.

Mr President, with respect to the developers, HKPA appeals to the developers that they should exercise self-discipline to help the Government combat speculation. With respect to residential property developed on new granted land, the developers should limit the number of units sold to company-purchasers to 20% of the development. The developers should also allow prospective buyers to register in different ways so that speculators cannot gain an advantage over the genuine buyers.

Mr President, since last January when HKPA put forth its proposals to combat property speculation, the authority has adopted some of them, which have been proved to be effective to a certain extent. HKPA has drawn up a detailed proposal on the long-term housing development in Hong Kong, giving our

suggestion on how to solve the problem of housing development in the short term and in the long run. The proposals of the HKPA on combating speculation and on the strategy for long-term housing development are different in some way from the motion and amendment proposed by Members of this Council, but there are also aspects where they can complement each other. I hope that the Government can truly consider and implement the proposals.

Mr Deputy, these are my remarks.

MR RONALD ARCULLI: Mr Deputy, I rise to speak to a debate which I should call "The Dominic WONG Sandwich motion". On the one hand, he is caught between the entreaties of the Democratic Alliance for the Betterment of Hong Kong (DAB) and the Democratic Party, and on the other hand, he is faced with the persuasion of the Liberal Party because he knows that ours is one of reason and not one of politics.

In terms of the arguments that have been put forward, the Secretary for Housing must be wondering what on earth did he do to deserve yet another debate on this rather tired but nonetheless emotive issue. He has heard repetition of increasing land supply, short-cut procedures, streamline procedures, better planning, rezoning, urban renewal, and so on, and so on. Nothing, Mr Deputy, nothing new has been brought out this evening.

In terms of the original motion by the Honourable Miss CHAN Yuen-han, the specific measures that she has set out in paragraphs (a), (b) and (c) are nothing new. In fact, one of them, in (b), which asks for publication of information regarding the supply of housing annually, is even more modest than the measure in place today. The developers, through the Real Estate Developers Association (REDA), have undertaken and indeed are doing, giving statistics to the Secretary for Housing, to the Housing Branch, and whenever they pre-sell any particular development. They actually provide facts and figures. So, I really do not know, you know, what we are doing as far as that is concerned.

As regards the supply of land and five-year rolling forecast, that again has been repeated and I think the Government, in fairness to them, has said that it can certainly do three years but they will try and do five.

On the third measure regarding a one-year land reserve, I imagine the promise was made, I think, in 1994 by the Government and yet we have not seen a land reserve. Well, if we do not have enough land how on earth do we create a land reserve? I certainly hope that with the renewed vigour with which the Secretary for Housing is tackling the problem that we would not have to rely on the land reserve.

But the interesting point in Miss CHAN Yuen-han's motion is the one that is not in writing. It is not set out in her motion, and that really belies the purpose of her motion, and that is, capital gains tax. For the Democratic Party, at least, I have got to give them some credit for coming forth, and they have been fairly consistent in terms of a short-term re-sale tax and in their view short-term, Mr Deputy, is two years. Well, I do not know. If one week is a long time in politics, why is two years a short time in property cycles?

But in terms of the Democratic Party's amendment, the second point really deals with the question of setting up a land and housing development fund. I am completely baffled as to why we need a fund. If we do not have money then we need to put money aside or we need to use the proceeds of land sales to make sure that things like infrastructure, and so on, everything is done. Then perhaps I can understand the suggestion. But we are absolutely flooded with money. The Public Works Department cannot even adhere to the programme in terms of spending and creating public works, so the necessity of setting aside a development fund totally escapes me. Apart from anything else, perhaps, I ought to remind Members that I think the management of public finances by our Administration does not allow for or encourage what I call hypothecation of revenue. The creation of a special land and housing development fund, it seems to me, would be moving contrary to that particular view.

Lastly, Mr Deputy, there has been criticism by a Member who is no longer in this Chamber of the developers, of the fact that they are after nothing but profit. Obviously, if you choose to ignore the entreaties by the REDA of the Government in terms of land supply, if you choose to ignore the REDA's co-operation with the Government in terms of measures to curb excessive speculation including, for instance, sales to companies, then there is really very little that one can say to answer except to repeat the fact that the REDA is determined, in conjunction with the Government, to ensure that land supply is adequate for all purposes in Hong

Kong, not just for residential. The REDA is determined to persuade the Government to streamline procedures, streamline planning, use rezoning, use even compulsory acquisition to aid urban renewal and use other measures, including perhaps relaxing pre-sale restrictions to allow for more supply to reach the market.

To have stable prices, Mr Deputy, you cannot fix the demand. If the demand is there, it is there. What you must do is try to fix the supply. So, Mr Deputy, I suspect it comes as no surprise to my colleagues that the Liberal Party will vote against the original motion and the amendment.

MISS CHRISTINE LOH: Mr Deputy, I appreciate why the Honourable Miss CHAN Yuen-han wants to raise this debate today, but what she is proposing is to suppress property prices. I have some problems with the motion of suppression and also I think what she is trying to do is to "suppress" the symptoms, but not the underlying cause of housing shortage in Hong Kong.

You might remember, Mr Deputy, that the Government's action in 1994 to restrain property prices by administrative measures did not actually have the desired effect. What happened was that it slowed down supply, and when the rush came again, prices were even higher. It is easy to ask the Government to "suppress" or to control prices, but this does show a lack of understanding as to how markets work, or do not work.

The underlying causes of the present housing crisis include the Government's policies which together encourage high land prices. The Government vigorously denies that it has a high-land-price policy. Well, maybe it does not, Mr Deputy, but the result of its policies is that land prices are kept very high. This has, in turn, created an alliance between property developers and banks, and both have interests in keeping prices high.

The Government determines the amount of new land to be released on the market each year. In 1995-96, the Government raised over \$62 billion from land transactions. That represented, Mr Deputy, 32% of total government revenue. Since the Government uses land sales and land-related transactions to raise a significant portion of its revenues, you might say that the Government itself also has an interest in keeping prices high.

The social consequence of high property prices is that many people pay very high rents, and very expensive mortgages for their accommodation. The Government has to provide subsidized public housing for a large section of the population who cannot afford private housing. With property prices continuing to climb, many people will not be able to own homes, or to up-grade what they already have.

Today, it take 6.5 years for the average household, saving 30% of gross income each month to accumulate the 30% mortgage down-payment needed for a 430 sq ft flat. In 1995, it took 4.5 years. Mr Deputy, are we surprised that people are getting more frustrated.

The solution to increasing housing units will need to be fought on many fronts. Mr Deputy, perhaps, just allow me to name a few.

First of all, I think that the Government should state what its land policy is. It cannot be revenue maximization, but what is it and how will the Government implement its land policy?

Secondly, the Government could delay collecting payment of land premiums in priority areas to jump-start urban renewal. Right now, the Government only seem to be willing to do this with the Land Development Corporation. But why? Why not open this method up to other people?

Thirdly, the Government should also accelerate land assembly. This will help urban renewal. The Government should enable a majority owner to purchase the remaining shares at fair market price in order to allow redevelopment to go ahead.

Fourthly, the Government can also raise the cost of developers hoarding land. It can impose expiry dates on land-use classification, and also to require in the building covenants completion periods.

Fifthly, if Miss CHAN Yuen-han wants to curb speculation, I suggest that she considers advocating change in conveyancing requirement. Right now, speculators can buy an option to purchase for just 10% of the total cost of a property. This is great in a rising market. There is no reason why the Government cannot

ensure that with the payment of the 10%, no transferability is allowed until payment has been made in full. This will be, in my opinion, Mr Deputy, the most effective method to curb speculation in the secondary market.

As regards Miss CHAN's various suggestions, I do not have any problems with parts (a) and (b). There is no harm in either of them. But I am not sure about the Honourable LEE Wing-tat's amendment to (c). If it is possible to create a reserve of prepared land ready for building equal to one year's normal supply, then surely we want that land straight away. What we have right now is the housing crisis. We have a shortage. What is the reason for holding land back? Demand surges very quickly in Hong Kong, whereas to build housing, you know, it takes several years. So I cannot really see that having this reserve is going to help anything.

As regards Mr LEE's part (d) amendment, well, surely, we already have a tax on short-term resale of flats — if he has missed it, it is called profits tax! If he feels that profits tax is not being assessed effectively enough, then we should look at the problem and not create another tax to do essentially the same job.

Mr Deputy, I am very sympathetic to the motion today, but I am uncomfortable with many aspects of it as I have said, so I would abstain on Miss CHAN Yuen-han's motion and I will vote against Mr LEE Wing-tat's amendment.

MR NGAN KAM-CHUEN (in Cantonese): Mr Deputy, having one's own home is a dream of everyone in Hong Kong, but the sharp rise in property prices has reached a level that is way beyond the affordability of most people. Hence this dream has become unattainable. Taking a 400 sq ft unit in the urban area as an example, its price is equivalent to 24 times the salary per annum of a graduate who has just joined the workforce. How many years has he to save his money before he can own his home?

The underlying cause of the sharp rise in property prices in Hong Kong is an imbalance in demand and supply, which is the result of the under-estimation by the Government on population growth and housing needs. The shortage in land supply is also an important factor. Now the Government resorts to administrative measures to combat speculation. These measures, however, fail to address the

problem at its root. To ward off the speculators and to prevent property prices from being pushed up, the only solution is to increase land supply and accelerate the construction of related facilities.

Moreover, large number of light industries have moved into China, leaving old factory buildings unused and a lot of resources wasted. With the shrinking of the manufacture sector, there is a continuous growth in demand for service industry and office building, but industrial land is oversupplied. In 1993, industrial land was oversupplied by 62.4 hectare. If the oversupply in the previous ten years was included, the total amount reached 206 hectares. By 2011, the figure will reach 300 hectares. If the Government can accelerate the approving procedure, and allow change of land use with a reasonable payment of land premium so that the industrial land can be rezoned for residential purpose, then that will greatly boost the supply of private residential properties.

How to ensure that land supply will meet the need for housing? On this age old problem, the Democratic Alliance for the Betterment of Hong Kong (DAB) has stressed many times that land in the New Territories should be put to proper use by further developing the land resources of the New Territories so as to relieve the pressure for housing land in the urban areas. The development focus should be in the North-Western New Territories, North-Eastern New Territories, Northern Lantau and Sok Kwun Wat, Siu Lam, Sai Kung and Junk Bay, so that these places can be developed as sub-commercial district as soon as possible for further development. Studies should be carried out to develop the boundary area. A review of agricultural policies should also be considered so that land that is not suitable for agriculture or with low economic efficiency should be rezoned for commercial and residential uses.

As with long-term development, the DAB proposes that the Hong Kong Special Administrative Region (SAR) Government should establish a strategic planning committee to formulate long-term strategies for land-reclamation and territory-wide development, to establish long-term strategies on land use and town-planning, and to set the strategic planning cycle for land and housing on the territory base at 30 years, instead of the current ten to 15 years. The SAR Government also has to formulate strategies for contingency land-use and town-planning to cope with long-term population development.

As to the Honourable LEE Wing-tat's proposal to levy a short-term re-sale tax on non-owner-occupied properties, the DAB considers that it would only complicate the simple tax system that Hong Kong practises now, and compared with capital gains tax, it will fall into the trap of "rather err on being unjust than being lenient". Capital gains tax is only levied from those who make a profit from the sale of properties, but under the proposal of Mr LEE, whoever makes a short-term sale would be taxed, no matter whether

DEPUTY PRESIDENT (in Cantonese): Mr LEE Wing-tat, is it a point of order?

MR LEE WING-TAT (in Cantonese): Mr Deputy, I want to clarify that the Honourable NGAN Kam-chuen has misunderstood my tax proposal. As he does not understand my proposal, he has misstated it

DEPUTY PRESIDENT (in Cantonese): Mr NGAN, are you willing to let Mr LEE continue explaining what he thinks you have misunderstood?

MR NGAN KAM-CHUEN (in Cantonese): Capital gains tax is only levied from those who make a profit from the sale of properties, but under the proposal of Mr LEE, whoever makes a short-term sale would be taxed, no matter whether he has made a profit

DEPUTY PRESIDENT (in Cantonese): Mr LEE Wing-tat, is it a point of order?

MR LEE WING-TAT (in Cantonese): Mr Deputy, every council has its own culture, so if one is given the opportunity to make oneself clear, that certainly is very nice. Of course, Mr NGAN has the right not to allow me to clarify my point. Now he does not give me the time. Mr Deputy, as for point of order, when can I have the opportunity to clarify the misunderstanding of Mr NGAN on my tax proposal? Thank you, Mr Deputy.

DEPUTY PRESIDENT (in Cantonese): After other Members have spoken, you can then respond. You should have the opportunity then.

MR LEE WING-TAT (in Cantonese): No, I would not have it. I ask you for it because I know that I would not have the chance. If I can have that opportunity, I would not have asked you.

DEPUTY PRESIDENT (in Cantonese): I think I have to suspend this Council for a few minutes so that I can consult Mr President. Now I declare that this Council be suspended for a while.

6.17 pm

Council suspended.

6.22 pm

Council then resumed.

DEPUTY PRESIDENT (in Cantonese): Mr LEE Wing-tat, according to Standing Orders 28(2), you will be given a short period of time to explain what you have been misunderstood after Mr NGAN's speech. Mr NGAN, you may continue.

MR NGAN KAM-CHUEN (in Cantonese): But under the proposal of Mr LEE, whoever makes a short-term sale would be taxed, no matter whether he has made a profit or not. Even if he has made a loss, he will still be taxed.

The housing shortage is still very serious at the moment. As there are now only 34 days left before the handover, the Hong Kong Government cannot be expected to achieve much within the remaining days. The DAB expects that the housing subgroup under the leadership of the Honourable LEUNG Chun-ying of the Executive Council can provide a solution to a problem which has been a

headache for a lot of Hong Kong people. I also urge the SAR Government, on assuming governmentship, to increase the supply of public housing and to build more Home Ownership Scheme flats, to accelerate the development of new towns and the related facilities, and to publish its long-term land grant programme, and to rezone industrial land for residential purposes. It is only under such a multi-prong approach and with the achievement of equilibrium in demand and supply can the housing problem be completely resolved. By then the speculators will find that they cannot do much in the market and property prices will naturally return to a level that matches the affordability of the people.

Mr Deputy, these are my remarks, and I support the original motion of the Honourable Miss CHAN Yuen-han and oppose the amendment of Mr LEE Wing-tat.

DEPUTY PRESIDENT (in Cantonese): Mr LEE Wing-tat, please speak, but it must be brief and you can only explain the part that you think you have been misunderstood.

MR LEE WING-TAT (in Cantonese): Mr Deputy, I shall be as brief as possible.

First of all, on the short-term re-sale tax on non-owner occupied residential property, it has a number of meaning. Firstly, all residential property owners who want to change their property and those owners who want to swap their smaller units for bigger ones are not within the ambit of this tax. Secondly, anyone who buys a property for long-term investment and owns it for more than two years will also be exempted from this tax. The tax is targeted at those owners who have more than one property and make a profit through speculation by selling their properties within a short time. So this is not the case, as Mr NGAN has said, that "no one would be spared". What, as Mr NGAN has said, if a loss is made? Within our concept, if a loss is made as a result of short-term speculation, then no tax needs to be paid. Therefore only those who have made a profit need to pay tax.

How can these restrictive proposals make the owners suffer loss? If Mr NGAN thinks that no tax should be levied from these "frequent speculators", then

is he speaking on behalf of these speculators and making those who really want to own their own homes to pay an exorbitant price?

Thank you, Mr Deputy.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy, housing is a very serious problem in Hong Kong. The Chief Executive (Designate), though yet to take up his official duties, has already listed it as one of his three main tasks. This shows how concerned he is of the housing problem of Hong Kong.

In discussing this problem, we must analyse the situation of the past. What past means here is what factors give rise to the situation of today. Firstly, the public thinks that properties are a very important commodity to hedge against inflation. The public should keep cool and avoid thinking that "I should have it when everyone else has the same". Seeing that their relatives or friends can make a lot of money after purchasing a property, some people feel that "they would be foolish if they do not follow suit". This is the sort of thinking most Hong Kong people have. After all, they feel that they have suffered losses if they do not have a property. That is why this has long been a major issue.

Secondly, prices of luxurious properties have recently surged at an alarming rate. There are two factors causing this. One of them is that the handover is imminent and China has a population of 1.2 billion. Though the average quality or income of the people is not high, this is a population much bigger than that of Hong Kong. Strapped with public funds, departments of various provinces and cities in China, when they come to Hong Kong, would snap up any property, caring nothing how high the price is. This is also another factor. Some Hong Kong people have got pretty rich recently. In the past a flat of \$1 million, \$2 million or \$3 million was way beyond their affordability, but now they can buy flats at \$10 million, \$20 million, \$50 million, \$60 million or even \$100 million. Another factor is that the quality of the people has improved.

Thirdly, it has something to do with the way the real estate developers operate. For example, if they have a development with 100 flats to be sold, they will set a high price on any land or property in the vicinity of the development so that there exists a market price and the price of the development will go up as well.

Fourthly, the property market has a lot of speculators, and this is an indisputable fact.

Before going about anything, we must first understand the fact, and then the Government will consider what policy it should adopt to tackle the problem. Firstly, it is for sure that the real estate developers have been adopting a profiteering policy in the past few years. They can make a return two or three times their initial investment, and this is unique in the world. Some thirty years ago, that was the time before the riots, between 1964 and 1967, many of the present day billionaires had not yet involved themselves in the real estate business. At that time, land auctioned by the Government could be paid off by instalments over a period of 10 years, and the downpayment was only 10%. When riots broke out in 1967, many real estate developers forfeited their deposits. Though they now can make a big profit, they had suffered a lot back then. This is only a change in time.

How should the Government treat these facts? Just now some Members have proposed many solutions. I think that the foremost thing to do is to deal with the problem of land supply. Hong Kong is not running out of land; the problem is how to use it properly. Firstly, when the airport moves from Kai Tak to Chek Lap Kok next year, a lot of land will be available. Some Members have mentioned that many factories and industrial buildings have lost their proper use. If it is so, the Government should first consider how to alter the land use as places like these have already had the necessary traffic and other facilities. At the same time, consideration must be given to raise the plot ratio. At present, commercial building is 15 times, and residential building is 5 times to 10 times. The Government should look into this. Secondly, there is land in the New Territories too. In fact, it is abundant. The problem is, if we are to construct a housing estate there, the matching facilities will still take a few years to complete. I hope that the Government has a sense of urgency in this matter. Thirdly, the approval procedures should be accelerated. If the Government accords top priority to these three aspects, the problem can be resolved.

Mr Deputy, some Members consider that residential property is a necessity; I share the same view, too. However, it does not mean that one must own a property. The Government should have the obligation and duty to provide ordinary housing to the general public, that is to provide them with a shelter. That does not mean a very comfortable home. We have to understand that there is no

such thing as "free lunch" in this world. We have to strive for what we want. If after our hard work, the luxurious property market still remains steady and has a demand there, then we have put our minds at ease. What the Government has to be concerned with is to provide accommodation to those from the lower class, but not to combat property prices of the luxurious property market. So doing would only diminish the revenue of the Government.

I have been watching the movements in the property market, and understand that there are speculators operating in the market. The Government should target at these speculators. What Mr LEE suggests is not totally unworkable. The real estate developers have never repudiated the help they have from the speculators. When the Government has to combat the speculators, it must first look into this.

The Government must show its sincerity in drawing up a comprehensive plan. We believe that the Chief Executive of the Hong Kong Special Administrative Region is also having his advisers working on this problem. Our views will help them in their work.

Mr Deputy, these are my remarks.

MR LEE CHEUK-YAN (in Cantonese): Mr Deputy, I read in the newspaper a few days ago that Mr Dominic WONG, the Secretary for Housing, considered the current property prices still acceptable. If this is truly what he said, the citizens, especially the sandwich class, would say from their hearts that this is really unacceptable. They cannot bear the pain of being a "snail with no shell" any longer. They cannot bear someone saying that the current property prices are still acceptable. The problem at the moment is that, to the sandwich class, their savings can never catch up with the ever rising property prices. Their quest has become an endless chase and they have to bear the insecurity of having to rent their homes.

The Secretary for Housing may have great forbearance, but the most important thing is that he should not let his forbearance keep him from drinking any water. If he did so, and did not even take a drop at the end of a day, today's paper said that this would cause a lot of health problems such as bad breath, dry and dull skin, constipation, inflammation of the urethra and kidney stone. The

newspaper today mentions this, so I hope that he will take more water to keep himself healthy. If he can have good health by drinking more water, we also hope that he will prescribe some medicine for our property prices, so that the price can be brought down and the overall economy of Hong Kong can have healthy development.

The current high property prices have created six illnesses. The first is that the whole economic and property structure of Hong Kong is completely off balance. All funds are poured into the property market, benefiting only the financial and property sectors, while all the other sectors suffer as a result of such development in the property sector.

The second illness is that property speculation has become very rampant. People are encouraged to make a living without having to take a proper job. Some rich people, who are still running their own businesses, may leave their original industries and turn to speculation. Speculation, to them, is better than running their own business. The general public, instead of going to work, would also turn to speculation. Both phenomena are undesirable.

By speculating in property sales, people can make hundreds of thousands dollars in one transaction. Who would then go the hard way to make a living? The third illness is that the current high property prices punish the hardworking folks but reward and encourage the speculators. Such a trend should not be allowed to continue in our society. In fact, the property market and the financial system can be kept from collapse just because there are people who, instead of taking the easy way out, work hard to pay for their rent or mortgage. These hardworking folks keep the whole property market from falling. But what have become of these hardworking folks? What have become of those who do not speculate? They have to work like cattle and horses. This has thus punished the hardworking folks, but rewards the speculators.

The fourth illness is the widening of the chasm between the rich and the poor. The developers and the related businesses may have very brisk business. As the Honourable CHIM Pui-chung said, the developers can make a return of two or three times on what they have invested. The wealth of Hong Kong is thus concentrated in the hands of a handful of people, the so-called "ten big families", while the

ordinary folks are being exploited by the developers and squeezed dry of their hard-earned money.

The fifth illness is the imbalance caused to the whole economy. Hong Kong is now experiencing a "bubble economy". Mortgage is taking up ever higher a proportion in bank loans. Some banks even have recorded a proportion as high as 45%, making the banks rely almost entirely on mortgages for their profits. Over the past few years, most of the growth in the economy of Hong Kong has relied to a large extent on property speculation. This has created a dilemma. If too drastic remedies are effected to combat speculation, it might burst the economic bubble. The consequence may have extensive ramification. If nothing is done or the remedies are not effective enough, property prices cannot be brought to a level affordable to the citizens, who will then have to suffer greatly. The consequence is just as bad. Under such a situation, if nothing is done, if neither the present Hong Kong Government nor the incoming Hong Kong Special Administrative Region (SAR) Government takes any decisive action, the bubble will further inflate and burst by itself in the end. It is therefore better for the Government to take decisive actions to address the problem earlier so as to minimise the shock that this bubble may cause when it bursts, and the economy, it is hoped, can continue to develop. If nothing is done, the situation would not be easy to handle when the bubble gets too large and burst.

The last illness is that high property prices will cause social instability. Now the grudge of the public is mainly against high property prices. However, when the dissatisfaction mounts up and the public feel that the decision-making body within the SAR Government in future fails to heed their problems, coupled with a decision-making structure mainly dominated by real estate developers, the situation will become very worrying and may pose great threat to social stability.

I therefore support the Honourable LEE Wing-tat's proposal to impose a tax on speculators. This is a short-term measure, but it can be effective in curbing speculation. In the long term, land supply must be increased and the procedure for granting land and building infrastructure should be speeded up, so as to maintain a sufficient supply of residential units. Moreover, I hope that in the long term, the focus of the housing strategy will be on public rental housing and Home Ownership Scheme housing to resolve the housing problem faced by the general public.

The housing problem may not be insoluble. It depends mainly on our determination and decisive actions. I hope that the debates today will prompt the Government to take decisive action to combat high property prices.

Thank you, Mr Deputy.

MR CHAN KAM-LAM (in Cantonese): Mr Deputy, the Democratic Alliance for the Betterment of Hong Kong (DAB) in principle supports the objectives of the Hong Kong Government's housing policy, that is to assist all families to have appropriate and affordable housing, and to encourage the citizens to own their homes. The problem is the Government has been acting erratically in achieving these objectives, resulting in prices rising so steeply that they go beyond the affordability of the public.

To enhance people's sense of belonging, home ownership is just one of the good ways. However, the Government, by hook and crook, tries to force public housing tenants whose living has just improved a bit to move out. At the same time, it controls the supply of land, which also affects the supply of flats, so as to maintain the policy of high land price. After arousing the desire of the public to own their homes, the Government cannot keep up the supply of Home Ownership Scheme (HOS) flats with the demand. In recent years, applications for HOS flats made on green form far exceed the supply of flats. This has resulted in increased pressure on the private housing market and an imbalance in supply and demand. When property prices get too high, the Government would hurriedly introduce all sorts of administrative measures to curb the demand, creating a distorted situation in the property market today.

Whenever an imbalance in supply and demand exists in the property market, the Government would only try to tackle the problem by curbing demand. Rarely would it think of resolving the problem by increasing supply. In the case of public housing, the well-off household policy is another obvious example of this sort of tactic. According to the Government, people whose living has just improved a bit do not need any subsidy, and by making them to pay a higher rent, the Government forces these people to buy their own homes. In the private property market, the Government required the mortgage ceiling be lowered. In 1994, the Government required that the developers could only apply for pre-sale of their development 9

months before completion. Early this year, this period was relaxed to 18 months. All these are the administrative measures that the Government tries, through demand management, to suppress property prices, but they are not really useful in increasing supply.

A few months ago, the Government again introduced a number of administrative measures. Though the property market slowed down a bit in early April, it surged again in early May because the problem has not been tackled at the root. Mr Dominic WONG, the Secretary for Housing, has admitted this. People in the real estate sector also think that the current property prices have already exceeded the peak in March.

Mr Deputy, Government officials always wishfully believe that there will be a large supply in residential units in the coming few years, and have on a number of occasion stressed that between 1995 and 2001, a total of 195 000 units will be completed. However, if they have got their figures right, after deducting the 40 000 units completed in the past two years, 39 000 units will have to be completed each year in the coming four years. According to the review report of the Rating and Valuation Department, 22 000 units will be completed this year, and the figure for 1998 is only 33 000. Even if the developers are to sell these units this year under the new measures the pre-sale of uncompleted units, the quantity is just enough to meet the need of 1997 and 1998, without taking into account of the accumulated shortfall over the past few years. As to the figure for the period from 1999 to 2001, no guarantee has been given by the Government up to now. The estimated provision of 195 000 flats may not be materialized after all.

As for public housing units that are for sale, including those of the HOS and Sandwich Class Housing Schemes, 39 000 units were completed between 1995 and March 1997, which was 20 000 short of the target set by the Government. If 175 000 units were to be completed by 2001, as set down in the Policy Speech, then 34 000 units must be built each year in the coming four years. Even though we have the target set down, whether such practical issues as the supply of land and the ability to complete so many units can be resolved leave one in doubt if the target can be met.

On the supply of land, the Government has shown in the past two years its willingness to increase the grant of residential land. At present, on average, land

required for building 40 000 units is granted each year. However, less than half of the land is made available through direct grant. The rest of the land has to rely on the initiative of the developers to apply for exchange of land or for alteration of land lease. In the processes, the developers have to go through a series of administrative measures and procedures. By the time the units are completed, four or five years may have lapsed.

Mr Deputy, Hong Kong is not short of land. It is only that the planning and policies of the Government have not been able to meet the actual need. Take the recent eight plots of military land for example. According to the current plan of the Government, only the plot of 7.15 hectare of land at Choi Hung is for high-density residential development, in which 3 000 units will be built. The remaining seven plots are still under planning, or for low-density residential development. The 7.4 hectares of land of Kowloon Military Hospital will be used for constructing 700 luxurious units, and the 26.5 hectares of So Kwun Barracks will accommodate 3 000 units. While there is an extreme shortage of residential units, the current planning practice of the Government is wasting land resources.

Mr Deputy, it takes increased supply to bring down the high property prices, and to increase the supply of flat requires first an increase in land supply. Using any other administrative measures would only tip further the imbalance in supply and demand. The DAB therefore supports the Honourable Miss CHAN Yuen-han's original motion.

Mr Deputy, these are my remarks.

THE PRESIDENT resumed the Chair.

DR YEUNG SUM (in Cantonese): Mr President, I would like to respond to the views expressed by some Members.

Firstly, the Honourable NGAN Kam-chuen cast doubts on the proposal of the Honourable LEE Wing-tat to impose a short-term re-sale tax on non-owner occupied residential property, saying that such a practice was basically one that "no one would be spared" and once there was a transaction, tax would be levied. Mr LEE Wing-tat has made it clear that "short-term" here means two years, so the tax

basically targets at the speculators. We all know that many speculators make quick sales within two years. The properties concerned are not for accommodation but for speculation, so within two years or less the speculators can see substantial growth in their wealth. The Government takes from the wages and salaries of the workers and the professionals, who work hard every month, a sum as income tax. Those speculators who make large sums of money within a short period, however, are not required to pay a re-sale tax. This is an encouragement for them to speculate. The Democratic Alliance for the Betterment of Hong Kong (DAB) shows great concern in the housing problem, and is eager to see some ways drawn up to combat speculation. I hope that after our explanation, Members from the DAB will vote in support of the new measures proposed by Mr LEE Wing-tat. Otherwise, they would be seen folding their arms in the face of such rampant speculation. I believe that the DAB is not supporting the speculators to force up the rentals or property prices.

I would like to respond to two points raised by the Honourable Ronald ARCULLI. He said that we did not have land at the moment, but Mr LEE Wing-tat mentioned land reserve. If we had no land, how could we have a land reserve? Mr ARCULLI said that the Financial Secretary often mentioned, and the Basic Law has also stipulated, that growth in public expenditure should not exceed the economic growth. When the Financial Secretary said that there would be 5% growth in economy, the growth in public expenditure would be limited to 5%. When Mr LEE Wing-tat proposed to set up a land and housing development fund, this would be a new account, making expenditure higher than the economic growth. However, what Mr LEE Wing-tat proposed is not recurrent expenses, but capital expenses. It is one-off expenditure, not on-going expenditure. There is a basic difference between recurrent and capital expenses.

Mr Ronald ARCULLI said that as there was no land, we could not have a land reserve. This view is very close to that advanced by the Honourable Miss Christine LOH, who also said that no land was available at the moment; even if there was any, it would be put on the market, leaving nothing for the reserve. Actually the two Members did not understand Mr LEE Wing-tat's proposal well. What Mr LEE meant is that if a land and housing development fund were to be established, the Government would be able to have a sum of money. The required fund would be coming from the Land Fund, so that is "taken from land, and ploughed back to land". We find this a sound idea. Members have to admit that

there is a shortage in land supply. That is why we have the proposal of setting up a land and housing development fund and land bank. The purpose is to enable the Government to have enough land development fund so that land can be developed in a short time and made available for infrastructure purposes. Mr President, I want to stress that there must be infrastructure on these pieces of land for development. I hope that the Secretary for Housing will respond to this later.

In fact, the Housing Authority also admits that it will not have sufficient land a few years later. At a meeting of the Panel on Housing Affairs, the Administration confirmed this. Basically, these pieces of land should have infrastructure facilities. Mr President, when we met with the Financial Secretary a couple of days ago, he recognized that it was a good idea because he said that the Hong Kong Government did not have land with infrastructure. So should errors occur in the population estimate, which the Government often bungles, such as the number of homes for the aged failing to meet the demand, and not enough places having been purchased, that will leave many aged without a place in those homes. If the Government can set up a land bank which has all the necessary infrastructure, the land can be put on the market when there is the need. It will not have to wait for many years for the land to be developed for the market. We think that this is a new way to tackle the problem, and the Financial Secretary also thinks that this idea worth considering.

Therefore, I hope that we all agree to this, so that a land and housing development fund can be set up. We propose to the Government that it is very useful to have sufficient land reserve. This will let the market know that the Government has sufficient land in hand, which has the necessary infrastructure and can be put on the market whenever such need arises. This is "ready land", not "raw land", as Mr LEE Wing-tat put it. That is to say, the land has the necessary infrastructure, with no need for plumbing and other works. This will induce an anticipation effect in the market, making the developers and the general public know that land can be put on the market immediately whenever such need arises. This will have a cooling effect on property prices. This land and housing development fund has a large amount of money, and I want to stress again that "money gained from land should be ploughed back on land". This is an innovation of Hong Kong and will help greatly in housing supply.

In short, firstly, the Government should levy a short-term re-sale tax on speculators who have made money in property speculation. This tax is levied only when money is made, but not as Mr NGAN Kam-chuen said, whenever there is a transaction. Moreover, the resale must be made within two years, otherwise, no tax is payable. I think this measure can help curb speculation. Secondly, a land and housing development fund must be set up so that the Government can be made to show its determination to build up a reserve of land with infrastructure. I believe that this land reserve will have a cooling effect on the property market and have concrete effect on housing supply. I hope that the Government can seriously consider the two proposals made by Mr LEE Wing-tat.

Thank you, Mr President.

PRESIDENT (in Cantonese): The Honourable Miss CHAN Yuen-han, you can now speak in respect of the amendment. You have 5 minutes.

MISS CHAN YUEN-HAN (in Cantonese): Mr President, I thank the 14 Members of this Council who have taken part in the debate. In fact, as I have already said at the beginning of my speech, the housing problem has been discussed many times in this Council, but this is still the biggest social issue in Hong Kong. The incoming government also considers this to be the problem that needs to be dealt with first. I therefore do not mind taking all the trouble to raise this issue for further debate in this Council. I thank all Members for their participation.

As to the two points raised by the Honourable LEE Wing-tat in the amendment he made in respect of my original motion, they are actually the concepts we have held all along. Though different in wording, his proposal for a short-term re-sale tax on non-owner occupied residential property is similar to our proposed property gains tax under the assets gains tax and the purpose served is actually the same. Other than the series of measures that Members have referred to for stamping out speculation at various levels, I think that that tax is also very important. In fact, there are a lot of people in the market who, through short-term speculation, spur up the property price, fanning further speculation and price hike. The Hong Kong Federation of Trade Unions (FTU) already proposed an assets gains tax a few years ago, under which a property re-sale tax aiming at short-term speculation activities was proposed.

Just now the Honourable Miss Christine LOH said that under the existing taxation system, there is already provision for the collection of such tax. But I want to stress that the tax rate in this respect as collected by the Government now is different from that we proposed. Furthermore, the specific mode of operation is also different. I therefore hope that Miss Christine LOH can reconsider our proposal. If we do not want to see the already unhealthy speculative situation worsen, I hope that she can support our concept.

On the land and housing development fund, we also hold a similar view. The Land Fund has about \$200 billion. Why is the money not used on housing — our biggest social problem? My colleagues have already said that to develop a piece of land to the stage it is available for use, that is from "raw land" to "ready land", there is a whole host of formalities to go through. This hoard of money should be used on the most important social problem and to resolve all problems related to land. The Honourable CHENG Yiu-tong also mentioned his experience he got from his Shanghai visit. Now in the face of such a high property price, many people in Hong Kong actually do not have the resources to have their own property. What should we do? The Government can use this Fund, or think out ways, such as assistance in tax, to help the first-time buyer, or set up for them a pension similar to that operated in Shanghai. We can have a lot of ways to go about it. Besides providing the money to develop land, this Fund can also be used to provide all the facilities for better living. The most important of all is whether the Government sees "housing" as a necessity in one's living. If it thinks that it is a necessity, then the present and the future governments should consider how to use this large reserve to resolve this serious social problem.

Mr President, the two points raised by Mr LEE in his amendment are very similar in concept with what the FTU has been holding. We therefore support these two points, and since the amendment of Mr LEE is the same as our previous views, which we still hold currently, Members from the FTU will vote in support of this amendment. Thank you, Mr President.

SECRETARY FOR HOUSING (in Cantonese): Mr President,

Introduction

Having listened to the views expressed by Members on suppressing the property price and increasing property supply, I feel that some of the suggestions

have already been put into force by the Administration, or have been accepted in principle. I should thank you all for your support. However, the Administration does not share the same view on some of the suggestions made by Members. Now I would like to respond to the motion made by the Honourable Miss CHAN Yuen-han and the various suggestions made in the amendment introduced by the Honourable LEE Wing-tat. As some of the suggestions and views touch upon the work of a number of policy branches, including the Housing Branch, the Planning, Environment and Lands Branch and the Finance Branch, I have also discussed with these branches. The response I am going to make below represents an overall response from the Administration.

Specific Proposals

(1) Suppressing the property price and speculative activities

First of all, in respect of the proposal that urges the Administration to take further effective measures to suppress the property price and speculative activities, I would like to point out that the Administration has been monitoring the condition of the private property market. In principle, we adopt a free market economy approach with our policies, but this does not mean that the Administration would not take any action. To ensure smooth operation and steady development in our property market, the Administration will, when necessary, take appropriate action to correct any improper operation, maintain competitiveness within the market, protect the rights of the consumers and suppress excessive speculative activities.

The Administration actually has already introduced two measures this year to suppress property speculation and increase property supply, which have achieved remarkable result. Now property speculation conducted in the names of companies and "chip speculation" are virtually stamped out, the property market has become more stable than sometime earlier, property sale is conducted in an orderly manner, speculation by way of "confirmor" has been cracked down, the upsurge speed of property price has eased, and the supply of residential properties will gradually increase.

I have recently held discussions with property agents, urging them not to engage in speculative activities and asking them to show more self-discipline.

Their response has been very positive. Certain trade unions or property agents have already set down guidelines, prohibiting their members or staff taking part in speculation, requiring their staff to disclose their interests and to remind their clients of the risks of sales by way of "confirmor", prohibiting their staff taking part in "chip speculation" and "sneak sales" of Homer Ownership Scheme (HOS) units, and requiring them to act honestly and objectively to provide all-round and accurate market information to the clients.

I have also held discussion with the Law Society and have obtained their support in that notice will be sent out shortly to the lawyers, reminding them to explain clearly to the clients of the risks involved in relation to purchasing residential property from "confirmor".

At the same time, the Inland Revenue Department is also following up actively in investigating transactions of "chip speculation" conducted in the names of companies or speculation, and levying income tax from the people concerned. In fact, the Administration has successfully recovered \$2 billion in tax in the past 5 years. Only in last year, the Inland Revenue Department took follow-up action in respect of 7 000 such cases, involving \$1 billion tax.

The explanation I gave above and the response to be given later are evidence sufficient enough to show that the Administration has done a lot to curb speculation and increase the supply of residential units.

After the adjustment in the past few weeks, the property market naturally will attract those home-buyers to take this opportunity, and the property price therefore shows signs of change with increased demand.

Among those Members who have just spoken, some have urged the Administration to take administrative measures to suppress the property price and help the citizens to buy their homes. I do not think Members would expect the Administration to take administrative measures every time the property market became active or there was an increase in price. If such was the case, I am afraid no one would be willing to buy a property! In fact, I would like to stress four points:

Firstly, the property price is affected by a number of factors, which include how eager the citizens want to purchase a property for their own use or for investment purpose, the interest rates, economic factors and what confidence the citizens have in the property market. The Administration cannot, and would not carelessly interfere with the market, but should the Administration have to take any action, it would be as a result of very careful consideration.

Secondly, in assisting the citizens to purchase their properties, the Administration actually have introduced a number of home purchase schemes and loan schemes to low-income and middle-income families, which have a monthly income of less than \$60,000. Moreover, these families usually can obtain attractive mortgage arrangement from banks or financial institutes. These schemes actually have helped a lot of Hong Kong citizens purchase their properties. The Administration will continue to allocate funds and increase resources to extend such assistance schemes so as to benefit more families.

Thirdly, we all understand that, I believe, in any society there will inevitably be families which, for whatever reason, including economic ability, cannot purchase their own home on the private property market or under the home purchase schemes, and have to rely on public housing or to rent a home on the private market. Now Hong Kong has 52% of families owning their own homes, which is not a low proportion. Though, when compared with other developed countries and territories, there is still a difference in the proportion, Members are reminded that, except half of the total households that own their homes, 40% of the households in Hong Kong live in public rental housing, which is subsidized by the Administration. Actually, there are no developed countries or territories that would invest such a vast amount of resources like what the Administration does in Hong Kong in providing housing to their citizens. The Administration certainly have done a lot of positive work in this regard.

Fourthly, the price of private housing units basically is determined by the demand and supply of the market. The most important function of the Administration is to ensure a sufficient supply of land for building houses and improving the traffic network, and to open up new towns. Actually to own a home need not begin with buying a new property or buying the more

pricy second-hand property; there are a lot other residential properties on the market from which first-time buyer can make their choice. If one wants to purchase a housing unit on the property market, one should, as the first step in owning a home, weigh up one's ability and consider only those units with relatively basic facilities, before swapping for units which are more to one's liking or larger when one's economic situation improves. Now great improvement has already been made in public transport, home-buyers actually have a lot of residential units to choose from which are more affordable to them.

The Administration will continue monitoring the condition of the property market, and certainly will take appropriate measure when necessary.

(2) *Transparency in housing information and information on housing supply*

In the motion, the Administration is urged to increase the transparency of housing information and to publish annually information about housing supply to help home-buyers to make a wise decision. The Administration is in agreement with this. This suggestion is of special importance in Hong Kong as the local property market is often affected by many psychological factors, that is the so-called "herding effect". The Administration has done a lot of work in this regard. For example, last January, with the positive response from the Hong Kong Real Estate Developers Association, we prepared a code of practice, requiring all real estate developers to state clearly in the sales brochure and newspaper advertisement the number of units to be offered for sale. At the end of last March, we also agreed to the new requirement that every time a developer puts a batch of his units up for sale, that must represent at least 20% of all the units of the development to be offered for sale. This measure is to prevent any developer from putting only a very small number of units on the market, thereby creating a false impression that there is a short supply and making the buyers swarm for the limited supply.

As to Miss CHAN Yuen-han's suggestion that the Administration should publish annually information about housing supply, the Administration is very positive. We actually have done work in this respect. The Rating and Valuation Department publishes a "Hong Kong Property Review" every

year, assessing the number of units expected to be completed in the coming two years, which include the number, type, geographical distribution and the occupancy rate, vacancy rate and the number of units demolished for the year concerned. The Legal Advisory and Conveyancing Office of the Lands Department also publishes regularly the number of consent notices for pre-sale of uncompleted flats granted, the number of flats involved, and the number of consent notices pending approval.

In order to raise the accuracy in estimating the supply, we have already established a computerized Housing Information System in the Housing Branch to collect all information relating to land supply, the amount of units constructed and property market. This system will enable us to be more effective in monitoring the progress of housing construction and predicting the supply of residential units. We are conducting the first-phase test run on the system; the whole system will be completed and fully operational in the middle of this year. We shall also study how to properly organize the information within the system before publishing such information to the citizen, thereby raising the transparency of the information.

Furthermore, we have also held discussion with the Consumer Council about publishing in the monthly "Choice" more information on residential flats, for example, the amount of supply of new residential flats and their geographical distribution, the relation between the transaction price of second-hand residential flats and the affordability of households.

I would like to stress again what the Administration has published earlier: there will be steady increase in the supply of residential flats in the coming two years which include about 58 000 private residential flats and 35 000 flats for assisted home purchase. The citizens should not have any worry in respect of the amount of supply, rather they should decide their purchase in accordance with their own ability. As to those who do not have that ability to own their homes at the moment, they can continue to rent their homes.

(3) *Amount of land supply*

It is suggested in the motion that the Administration should publish the amount of housing land to be put on the market for the coming five years so as to stamp out the speculation in the residential property market and the

upsurge in property price. The Administration agrees, in principle, to publish this information as early as possible and maintain a sufficient and steady supply of land, so as to help the citizens plan their purchase.

My colleague the Secretary for Planning, Environment and Lands has already undertaken that he would consider drawing up a long-term land grant program. He is studying the details and an announcement will be made as soon as possible.

Actually the Territory Development Department has been publishing the amount of land supply, including formed land, land to be formed and land obtained after demolition, for the current year and the four years thereafter. These lands will be used for planned development projects, which certainly include housing development. Such information actually is open to all, and anyone can also check with the various district branches of the Territory Development Department for the details.

The Administration is determined to substantially increase the supply of land and housing in the coming few years, and will also accelerate the examination and approval process to meet the demands of the public. We actually have already stated that in the coming five years, the Administration will grant 587 hectares of land for housing development, of which 327 hectares will be for developing public housing, a 27% increase over the past five years, and 260 hectares will be for developing private residential premises, an 80% increase over the past five years; the overall supply has seen a 46% increase over the past five years. All these figures attest to the sincerity and determination of the Administration.

I would like to respond to the views of the Members on the supply of land. The Administration has made available sufficient land to meet the demands for public and private housing before 2001, so the Members need not worry about the supply of land for the coming few years.

(4) *Land reserves*

The Administration understands very clearly the Members' view that the Administration should have a land reserve for at least one year's use. In

fact, in 1995, we made ready 50 hectares of land as buffer reserve, which later were mostly allocated for housing development, especially public housing.

The effect of land reserves is to make available any formed land for future development, but given the current need for land in Hong Kong, especially the urgent need in housing development, the first task the Administration has to achieve is to grant as soon as possible all usable land for housing development. The Administration will continue to search for new land reserve.

(5) *Land and Housing Development Fund*

As to Mr LEE Wing-tat's proposed establishment of a "Land and Housing Development Fund" to provide infrastructure for "vacant land", my colleague the Secretary for Planning, Environment and Lands already explained to this Council on 30 April in his written reply to the question made by Miss CHAN Yuen-han that "vacant development land" means land that has been vacant or allocated for provisional use or under construction. Such land has been planned for different development purposes, and the funds required for constructing the necessary infrastructure have been grouped under the various heads of allocation in the Capital Works Reserve Fund, with the works being systematically planned and carried out according to a set schedule.

In 1994, the Administration made ready a special vote of funds to be under the direct administration of the Secretary for Housing, which was to accelerate the progress of those infrastructures with greater urgency in coping with housing development. I can tell you that under study are 63 housing-related infrastructure works and plans to be listed for fund allocation, with the amount involved for the coming five years reaching \$11 billion. The allocation will accelerate the completion of 90 000 residential flats, on average, the completion of the relevant works can be brought forward by a few months or a few years. With the administration under the Secretary for Housing, this vote of funds can bring about very favourable results.

Now we have already in place sufficient resources and special arrangement to meet the expenditure requirement for carrying out infrastructural projects related to housing and accelerating housing development; therefore there is no need for an additional fund.

(6) *Levying a short-term resale tax on non-owner occupied residential properties*

As to Mr LEE Wing-tat's proposed short-term resale tax on those non-owner occupied residential flats, my colleague the Secretary for the Treasury has, on a number of occasions, clearly indicated his reservation. The Administration is not of the opinion that levying a tax is the best way to resolve the problem of demand and supply in the private residential property market. After all, so doing will mean tampering with the simple and effective taxation system of Hong Kong. In fact, such a measure will only have a short-term effect, which cannot really solve the problem. The Administration is of the opinion that increasing the supply of land and housing is the only effective way to deal with speculation and price surge in the property market.

Conclusion

Mr President, to sum up, the Administration supports in principle the debate on the motion to increase the supply of land and housing, and the proposal to raise the transparency in housing information, as they can help more people own their own homes. However, the Administration does not agree to establishing a "Land and Housing Development Fund" and levying a short-term resale tax on new residential flats. The Administration will continue to monitor the development of the property market.

Thank you, Mr President.

Question on the amendment put.

Voice vote taken.

Mr Ronald ARCULLI claimed a division.

PRESIDENT (in Cantonese): Council shall now proceed to a division.

PRESIDENT (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that the motion moved by Miss CHAN Yuen-han be amended according to the amendment moved by Mr LEE Wing-tat.

Will Members please register their presence by pressing the top button and proceed to vote by choosing one of the three buttons below?

PRESIDENT (in Cantonese): Before I declare the result, Members may wish to check their votes. Are there any queries? The result will now be displayed.

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Dr YEUNG Sum, Mr WONG Wai-yin, Mr LEE Cheuk-yan, Miss CHAN Yuen-han, Mr Andrew CHENG, Mr CHENG Yiu-tong, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LEE Kai-ming, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted for the amendment.

Mr Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG, Miss Christine LOH, Mr James TIEN, Mr CHAN Kam-lam, Mr Paul CHENG, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr IP Kwok-him, Mr Ambrose LAU, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the amendment.

THE PRESIDENT announced that there were 27 votes in favour of the amendment and 20 votes against it. He therefore declared that the amendment was carried.

PRESIDENT (in Cantonese): Miss CHAN Yuen-han, you may give your reply. You may have five minutes 29 seconds out of your 15 minutes.

MISS CHAN YUEN-HAN (in Cantonese): Mr President, this is the third debate I raise in this Council. The first was on unemployment assistance payment and the second was on the Employment Committee. Now our concern is on suppressing property prices. In the last two debates, the response of the Government was the same as when I was not yet part of this Council: whatever I raised is for most of the time opposed. However, this time, the Government shows its rare agreement to our views. The relevant departments are prepared to consider my three proposals. On the transparency of information, the Government said that it would publish information related to land for the coming five years; on the housing condition, information will be made available every year, but the Secretary for Housing has not made himself clear if some land reserve will be set up to meet any urgent need. I hope that the Government will also agree to this latter point.

The reason for the Secretary for Housing to be so positive in giving his positive response to my debate is, I think, that housing has been truly a major problem in Hong Kong. This has nothing to do with one's ability as what the Honourable CHIM Pui-chung has just referred to. I feel that every one of us in Hong Kong is very able. But then why does it happen that even those of the middle-classes, not to mention those from the lower classes, are finding it so hard to own their own homes? We are all very able, but our goal to have our own homes is getting farther and farther away from our ability. This phenomenon has also been roundly criticized by people from all sectors of society. Thus, in this debate, the Government has responded positively to my three proposals.

The Honourable Ronald ARCULLI said just now, "Miss CHAN Yuen-han, your motion today is unnecessary." I do not think so. Mr ARCULLI, you have been taken in by the Government. Very often, the Government seems to have a policy, but in fact it does not. Just as the Secretary for Housing has said, different departments have different ways to tackle their problems, and the public may not have any idea what they are doing. What we want is some transparency in the dealings of the Government, or a mechanism to co-ordinate all the information to be published to the public. We say that it takes a lot of measures to suppress property prices. I have already said today that some of the measures will require that the Government continue its work, including those suggested by the Members today, in suppressing property prices. I think that it is important to find a way to make a systematic compilation of information and present it to the people of Hong Kong: Now you do not have to worry about what the real estate developers have

concocted; and you do not have to worry about being squeezed like a tube of toothpaste; and you do not have to worry about the news that has been circulating outside. I think this is a very important message. I think it is important that the Government, as the Secretary for Housing has just said, can establish such a mechanism within the relevant departments for the access of the public. The positive response that the Government made to the issue is, I think, a good one.

However, I am a bit disappointed by the Secretary for Housing in rejecting the amendment proposed by the Honourable LEE Wing-tat. It was to be part of my original motion, but it was dropped after I was advised to have my motion wider in scope and not to be too specific. I therefore have not included property capital gains tax in my motion. The Secretary for Housing said that there is no need to implement these proposals, but I feel that if the Government did not implement them, property prices would drop a bit at the introduction of certain measures, but rise again after remaining steady at a certain level and rise even higher, exactly as what we are having. I remember back in 1984, a Kornhill unit at Quarry Bay was sold at between a few hundred dollars to \$1,000 per square foot, but now it is \$8,000 per square foot. Such an alarming rise within a decade or so, with one wave higher than the previous one, has great impact on everyone of us. Housing is our basic necessity. I therefore feel that the Government should consider implement these measures.

What is important is that, already at such a high level, property prices would be hard to bring down even if we try to. But we cannot leave the situation as it is if we are not to bring it down. So why not set up a land and housing development fund to rectify such an unhealthy state? I hope that the Government can give serious thoughts to this proposal. As we have billions in reserve now, why do we not draw out some money to ease the hardship of the public?

Mr President, though my motion can only be passed after being amended, I still have to thank those Members who have supported the motion.

Question on the amended motion put.

Voice vote taken.

PRESIDENT (in Cantonese): Council shall now proceed to a division.

PRESIDENT (in Cantonese): I would like to remind Members that they are now called upon to vote on the motion that the motion moved by Miss CHAN Yuen-han and amended by Mr LEE Wing-tat be passed.

Will Members please register their presence by pressing the top button and proceed to vote by choosing one of the three buttons below?

PRESIDENT (in Cantonese): Before I declare the result, Members may wish to check their votes. Are there any queries? The result will now be displayed.

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Dr YEUNG Sum, Mr WONG Wai-yin, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Mr CHENG Yiu-tong, Dr Anthony CHEUNG, Mr Albert HO, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted for the motion.

Mr Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG, Miss Christine LOH, Mr James TIEN, Mr CHAN Kam-lam, Mr Paul CHENG, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr IP Kwok-him, Mr Ambrose LAU, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the motion.

Dr LEONG Che-hung abstained.

THE PRESIDENT announced that there were 27 votes in favour of the amended motion and 19 votes against it. He therefore declared that the motion was carried.

FINAL REPORT OF THE REVIEW ON TRADE EFFLUENT SURCHARGE

MR JAMES TIEN to move the following motion:

"In view of the fact that the Final Report of the Review On Trade Effluent Surcharge cannot objectively and comprehensively review the whole Trade Effluent Charge Scheme, this Council now urges the Director of Audit to conduct a value-for-money audit on the operation of the whole Trade Effluent Charge Scheme to study if the whole scheme is cost-efficient and if it has caused any wastage of public funds; and this Council also urges the Government to undertake that before the Director of Audit has completed the above-mentioned audit, it will freeze the surcharge at its present level and at the same time adopt measures to correct the injustices in the appeal system so that industrial and commercial concerns will not have to bear any unnecessary burden and pass any increase as a result to the people, whose livelihood would thus be affected."

MR JAMES TIEN (in Cantonese): Mr President, I move the motion as set out in the Order Paper.

Mr President, before implementing the Trade Effluent Charge Scheme, the Government firmly told the industrial and commercial sectors that the Scheme would have very little effect on businesses. However, since the implementation of the Scheme on 1 April, 1995, the din of objection has never stopped. Owners of dyeing factories, electroplating factories, restaurants and hotels had repeatedly requested the Government to review this Scheme, but the Government had always turned a deaf ear to them. It was only after a year's implementation that the Environmental Protection Department (EPD) engaged a consultant firm, which, I stress, was commissioned by the EPD, to conduct a perfunctory review. The result, as expected, is very disappointing. Instead of carrying out an objective and comprehensive review, the consultant suggested that the Government should make substantial increases in the Trade Effluent Surcharge (TES). Furthermore, to ensure that there would be sufficient targets to pay for the Scheme, the consultant firm suggested that more trades be included within the surcharge net. To put it simply, the report drawn up by the consultant firm is only a report that speaks for

the Government. It only aimed at finding ways to stop the gaps of the loss-making Scheme. A review like this, which did not ask what the causes of the loss were, but only cared for more payment, is unacceptable.

I think that to conduct a comprehensive review of a development project like the treating of trade effluent, which involves a huge financial input, the consultant firm should first study if the pace of development of the project is too fast. It should also look into the affected trades to see if they can afford the cost and then look again at the operation of the whole project. It should also examine how the allotted funds would be used by the department concerned, the Drainage Services Department in this case. Matters such as whether the funds were put to the right use, the time frame for the project to be carried out, and whether there was any inpropriety in administration that had led to wastage of public funds, should also be taken into account. However, the consultant firm just turned a blind eye to all these issues. The success of the Trade Effluent Surcharge Scheme depends on the actual ability of the businesses to pay that surcharge. The Report points out that as the Stonecutters Island Sewage Treatment Plant will soon be put into operation, the cost of water treatment and maintenance will increase by 3 folds, from \$640 million in 1996 to \$1.748 billion by the year 2000. If there is no substantial increase in the surcharge, the trading fund for sewage treatment will run into a deficit of \$1 billion. However, the consultant firm has made no further investigation into what effect this substantial increase, if to be borne by the industrial and commercial sectors, would have on the businesses.

Last year, there were about 9 000 restaurants and fast food shops in Hong Kong. As 80% of the TES was shouldered by these businesses, 1 000 of them had folded. I believe you still remember that when we held discussion on this issue earlier in 1995, a lot of the operators in the catering business had voiced their objection. If the Government acts on his own will and adopts the recommendation of the consultant firm to levy TES from other trades, I can tell the Government that we shall see more businesses fold up, in exactly the same way as the restaurants did. I really hope that the government can study in detail the negative effects of the recommendation.

Mr President, many foreign countries have similar sewage treatment projects, and they spread the cost over a longer period of time for the cost to be recovered from the businesses. The situation in Hong Kong is different. The Government

introduces such a large scale sewage treatment project within just a few years only, and tries to recoup the costs of operation and management from the businesses under the principle of "polluters pay". The consultancy report only makes a comparison of the sewage charges of Hong Kong and other countries, without giving regard to the length of time over which all the costs will be recovered. Actually, the report is biased towards the Environmental Protection Department. Mr President, the consultancy report points out that compared with other countries, the TES that Hong Kong businesses have to pay is very cheap. If what the consultant firm says were true, why is there such strong objection from the local restaurants, hotels and dyeing factories? Is it because the policy has been introduced too hastily? Or is it because the bureaucracy is too complicated? Or is it because the appeal mechanism is ineffective and makes the businesses feel that they have nowhere to vent their grievances? The consultant firm makes no mention of any of these problems. With all these pitfalls, the validity of the Report is really questionable. I hope that the Director of Audit, with his independent statutory status and professional background, can conduct a value-for-money audit to ensure that the industrial and commercial sectors can get what they pay for. The Audit Department in recent years has already conducted audit in respect of the projects of electronic coupling and construction waste landfill. On both occasions, impropriety in administration which resulted in wastage of public funds were identified. I hope that the Director of Audit can carry out similar audit in respect of the Scheme, so that the Government and the industrial and commercial sectors can know where the problem lies and find a solution for it.

Mr President, I want to stress that the industrial and commercial sectors have no intention of shirking their duty or trying to refuse to adhere to the principle of "polluters pay". If it is reasonable, we are willing to take up even a heavier burden. However, if it is unreasonable, especially if it is because of improper planning on the part of the Government, or because of impropriety in administration that results in wastage of public funds, we are determined not to take it up. From a more practical point of view, a reduction in income of the project could be the result of designating areas of Hong Kong as water control zones, making some of the high pollution trades cease operation. With the number of high pollution businesses diminishing, there should be improvement in the pollution problem. To the society as a whole, it should be good news. This is also the original intention of the Legislative Council. However, with the trading fund for sewage management diminishing, the Government will have to pay out of its own pocket to make up the

shortfall. Hence what is good news to society becomes bad news to the Government. The consultant therefore proposes to cast the net wider to catch those medium-level pollution businesses and make them pay TES as well. The Sewage Charge scheme, which was intended to encourage greater self-discipline amongst the polluters, becomes a way to help the Environmental Protection Department to make money. The whole scheme looks like a poisonous amoeba stretching its tentacle to the printing business today, and another tentacle to the car repair business tomorrow, and yet a further tentacle to the fuel stations, markets, hair salons and dental clinics the day after. The industrial and commercial sectors and the general public find such a policy unacceptable. The Government should draw up a long-term and reasonable and fair policy to rid us of our doubts.

Mr President, I am requesting the Government, before the Director of Audit has completed the above-mentioned audit, to freeze TES at its current level and to stop extending the net to other businesses. When I make the request, I have in my consideration not only the interests of the industrial and commercial sectors, but also the additional burden that the general public may have to shoulder if the Government substantially increases the charge. What is more, if the 3 200 shops engaging in tobacco, car repair and printing businesses are included in the charge net, these businesses will certainly pass the extra cost to the public. The ultimate victim will still be the public. Whether the issue is to be considered from the perspective of the industrial and commercial sectors or that of the public, the Government should adopt my suggestions.

Mr President, these are my remarks and I propose the motion.

Question on the motion proposed.

MR NGAI SHIU-KIT (in Cantonese): Mr President, it is every one's duty to protect the environment. On this problem, the Government and the businesses should be working closely together to improve our natural and living environment. However, pollution is very serious around Hong Kong. The harbour is gradually getting narrower, rubbish floats everywhere in our waters, improper zoning of industrial and commercial districts causes a lot of confusion and the atmosphere is badly polluted. The charges for sewage service is only a stop-gap measure. Its success is yet to be seen because, on the one hand, it depends on the effective

operation of the whole scheme, and on the other hand, it also depends on if concerted efforts can be solicited from the industrial and commercial sectors. The former factor is about the cost-efficiency of the scheme, and the latter is about the ability of the industrial and commercial businesses to pay the charge. Special consideration should be given to the latter factor as too high a charge levied on the industrial and commercial businesses would make them pass the charge onto the people and affect their livelihood, or would even stunt the development of the industrial and commercial sectors. All these may give rise to serious social problems.

Obviously, in handling the above problems, the Government is only taking frantic measures, without specifically reviewing the operation of the scheme and examining the cost-efficiency of the scheme according to the value-for-money principle. It has not had an open mind and listened to the views of the public to work out reasonable charge standards with the trades. In reviewing the surcharge scheme, the Government has not displayed the necessary degree of transparency. This gives us the impression that it works behind closed doors, without giving regard to reality. This disappoints and worries the industrial and commercial sectors.

I remember that last year the government official concerned promised that the guides given to the consultant firm in respect of writing the review report and the preliminary draft of the report will be given to the affected trades for advice. However, when the Government published the report in April this year, the promise had not been honoured. This has already aroused queries from the trades. I cannot help but ask if the Government, in reviewing the Trade Effluent Surcharge (TES), has maintained a fair and unbiased and neutral stance.

Mr President, I find the way that the Government went about with the review of the TES very dangerous. It will erode the foundation of mutual trust between the trades and the Government in working together to protect the environment. As a result, some trades have great doubt in the Government taking sewage samples, testing and setting the charge standards. I think that there is much to be desired in the scheme. The Government should not carry out such a superficial review, as it would only damage the trust between the trades and the Government. What the Government should do is to carry out a comprehensive review of the whole scheme.

Mr President, these are my remarks and I support the motion of the Honourable James TIEN.

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

DR JOHN TSE (in Cantonese): Mr Deputy, the Democratic Party supports environmental protection and conservation, and concurs on the principle of "polluters pay". The Democratic Party is also supportive of the Trade Effluent Surcharge scheme, mainly because we do not want to have a situation where the citizens are subsidising the businesses of businessmen. However, there are a number of practical problems which we must resolve. Can the surcharge achieve environment protection? Is the sewage services trading fund cost efficient? When dispute over the amount of surcharge arises, is it reasonable for the charge of lodging an appeal higher than the surcharge itself?

The answers to these questions regrettably are not found in the Final Report on Review of Trade Effluent Surcharge. The crux of this report is that because the revenue of the Sewage Services Trading Fund is diminishing, there is a need to increase the sewage charge. I think that this report is biased towards the Government. It seems that the industrialists and the public are made to pay for the mistakes the government officials and the consultant have made. What has gone wrong? Too high an estimation has been made of the revenue from the sewage surcharge. Now, of the 210 000 businesses, only 12 000 or less than 6% need to pay the sewage surcharge. With high administrative costs and maintenance charges, the deficit will only get bigger in future.

The proposals made in the Report resemble the dirty tricks in a football match, in which the rules were changed in the middle of the game. At first, chemical oxygen demand was used in calculating the sewage surcharge. Now a new variable, which is total suspended granular, is used. It is like turning the game from the original 7-a-side to 11-a-side, when the team was losing. When there are not enough people to foot the bill of the Scheme, more businesses and trades are made to pay the sewage surcharge.

In fact, we are talking about two basic questions. One is how we can increase sources and reduce expenditure and the other is whether the Government would raise the surcharge or inject more funds.

Regrettably, the Report only emphasises increasing sources for revenue, without any discussion on how to reduce expenses, especially how to cut the high administrative cost.

The second option is to raise the surcharge. The Report went to great lengths in discussing that the surcharge for certain trades has to be increased, but the Government has not considered the option of injecting funds. Of course, increasing the number of businesses means more trades have to pay the surcharge, and then more businesses, such as those in printing, car repair and tobacco, would be made to pay the surcharge. I think that a basic criterion should be that any business with a level of pollution higher than the general public should pay the sewage surcharge. Regrettably, when the surcharge was first determined, maybe because the report was done too hastily, no systematic study was made of the various businesses of Hong Kong. This review report has made the same mistake because it is not comprehensive enough. It is very disappointing.

The eventual questions are whether sewage charge or sewage surcharge is good value for money and whether the trading fund is efficient. Regrettably, these important issues have not been covered in the Report. What I can say is that the answer is negative.

The public may ask: If the Government has taken our money, will the water quality improve? Regrettably, only 20% of the sewage in Hong Kong will undergo a secondary biochemical treatment. Most of the water, that is 80%, will only have a primary treatment, that is, will only go through a simple filtering process. A simple filtering process will mean that an industrial operator only has to pay 20% of the sewage surcharge.

Every citizen and many commercial establishments have to pay sewage charge or sewage surcharge. However, does it mean that the water quality in the harbour will be so improved that you and me can swim across the harbour? If the Government does not inject funds, Hong Kong will only see improvement in 20%

of the sewage, and the remaining 80% will go into the sea. That means the water quality of the Victoria Harbour will not be improved.

In the long term, I hope that the Government should not aim at achieving a balance in revenue and expenditure. Environmental protection is a long-term investment and will carry with it a price. I hope that in the long term, the Government will set a higher target for its sewage treatment, so that 100% of the sewage will be given secondary treatment.

Thank you, Mr Deputy.

MR CHAN WING-CHAN (in Cantonese): Mr Deputy, ever since the Government began levying a sewage surcharge, the hotel and catering businesses have suffered great hardship. Most of the trade effluent surcharge is from the catering business, and the means to set the charge and the scale of charge are especially unfair to the hotel and catering businesses. Over the past two years, I have pointed this out many times in this Council, and operators in the hotel and catering businesses have also raised their views with the department concerned.

Therefore, before the publication of the review report on the sewage surcharge, the hotel and catering businesses had high hopes for the report. Before the review of the sewage surcharge was carried, trade representatives and I myself had been invited by the consultant firm to express our views on the surcharge. However, what the consultant firm did was to protect the interest of its employer, that is the Government, without considering the views of the hotel and catering businesses. Our views therefore have not been fairly and objectively reflected.

When this Final Report of the Review on Trade Effluent Surcharge produced by the consultant firm was first introduced to the Members of the Environment Affairs Panel of the Legislative Council, I was the first to speak on it, and I expressed how disappointed the hotel and catering businesses were at the result of the review.

I said just now that people in the hotel and catering businesses and I myself had high hopes for the report, but the result is very disappointing.

People in the hotel and catering businesses, especially those from the catering business, have over the past years continually pointed out that this surcharge and the sewage charge have greatly affected their operation, and they have also pointed out what they think to be unfair and their arguments for thinking so.

Now, people who intend to invest in the catering business take on a wait-and-see attitude because of the sewage charge and the Trade Effluent Surcharge (TES) which the Government levies on the business, and are not very enthusiastic in investing in this business. Some even close their business for good. (The Honourable Mr James TIEN has also mentioned this just now.) This has great impact on the provision of jobs, and more directly on the job opportunities of workers in the catering business.

In the Final Report of the Review on Trade Effluent Surcharge, the consultant firm made two proposals, one of which is to increase the sewage surcharge by 150% by the 2001-2002 financial year. This is a fanatic increase. With increases already on all sorts of items, this will only squeeze any breathing space out of the catering business. What is more, it has an impact on the livelihood of the people. Actually the concentration of sewage directly affects the surcharge to be paid. Last time at the Environment Affairs Panel meeting, I asked the government officials and the consultant firm where the water samples, the degree of pollution of which the charge standards are based, of the hotel and businesses were taken from, that is, whether they were taken from inside the grease traps or from the outlet of the grease traps. If samples were taken from the outlet, the water would not be as polluted as the samples taken from the inside of the pool because it had been filtered.

At that time, the government officials replied that the samples were taken from the outlet. Later I specially went to the hotels and restaurants to have a better understanding of the situation, and they all thought that the samples should have been taken from the inside of the pool. This greatly puzzled me. How can there be two versions of the same fact, with the Government giving one and the people of the trade giving another? What has the Government hidden? Will it give rise to a situation which would be unfair to the operators of the hotel and catering businesses?

The Association of Hotel Owners specially asked me to urge the Government to respond to the above questions. Moreover, the Association also pointed out that the Report had admitted that the hotels had been overcharged. Then how will the refund be made? If no refund is to be made, will the money be used to subsidised other users? I hope that the Secretary for Planning, Environment and Lands can respond to these questions in his speech. I do not want to keep posing Oral Questions to him.

The consultant report proposes that sewage charge should be calculated on 80% of water used. This is very unreasonable because most of the water used in restaurants is in the form of tea, or is used in preparing food, or is for cooking and steaming. The sewage discharged does not reach 80% of the water used, and this percentage should be reduced accordingly.

Right after this Report was published, I sent out a questionnaire to people in the trade. I received 127 returns, of which 87.8% said that the consultant report had not taken any of the views of the hotel and catering sectors.

I should also point out that the Sewage Services Trading Fund has no proper planning and management and carries too high an administrative cost. By 2001, it will run up a deficit of 39%. With such a poor performance, it would have long folded if it were a private company.

Finally, Mr Deputy, on behalf of the hotel and catering sectors, I have to express my greatest dissatisfaction with the Government, and my disappointment and deepest regret of the Report.

Mr Deputy, these are my remarks and I support the motion of Mr TIEN. Thank you.

MISS CHRISTINE LOH: Mr Deputy, the Honourable James TIEN asked for several things. Firstly, he claims that the Trade Effluent Surcharge (TES) Review is not objective and comprehensive. Secondly, he wants the Director of Audit to conduct a value-for-money audit on the whole TES charging scheme as soon as possible, and thirdly, in the meantime, he wants the Administration to freeze the TES rate at the existing level.

My own reading of the 70-page report with its numerous appendices is that, it is comprehensive to the extent that the consultant's brief was only to discuss the TES and its contribution to the Sewage Services Trading Fund. The ambit was narrowly set by the Government in the first place.

As to how objective it is, I am not prepared to take a definitive view on this because firstly, I do not know the extent to which the Administration has forced its own fingerprint on the report, and secondly, whether the Honourable James TIEN's allegation is also due to the fact that he does not like the conclusion.

Be that as it may, I do not quarrel with the proposal to ask the Director of Audit to review the TES charging scheme if that is going to settle the ongoing arguments. Assuming that the Director of Audit will take a good look at the whole scheme and how it could be fairly operated, the Honourable James TIEN might be surprised. At the end, everyone will have to pay a lot more for sewage treatment.

Mr Deputy, why do I say this? One thing that is glaringly clear from the report is that the operating costs of the Sewage Services Trading Fund is going to exceed revenues. Right now, the public is only paying to cover operations and maintenance cost and not capital cost and depreciation. The Fund will be underfunded by some \$100 million in the 1996-1997 financial year, and by the year 2001, it will be in deficit by about a billion dollars.

TES only makes up about 20% of the total cost of the Fund, so whatever adjustments may be made to the TES, it will not solve the problem of the total deficit. The report indicates that the trade effluent surcharges are meeting marginal treatment costs for extra pollution loading, but the general sewage charges are too low. In order for the Fund to be self-financing, the answer is clear: general sewage charges need to be raised.

Now, this is of course, Mr Deputy, a political minefield. You might well ask why were original sewage projections off by such a substantial margin? I think the official answer is probably that the financial estimates had to be tested and that the Government made certain assumptions that turned out to have been on the low side. A more cynical view would be that in 1994 the Government sold this Council and the public a lower-than-actual treatment cost in order to get us to accept them.

You might also want to consider a number of other factors compounding the problem. Firstly, this Council has so far rejected two attempts to raise the general sewage charges. Secondly, there are perhaps fewer polluting industries than before releasing effluent because of industrial change, so that there is actually less need to treat stronger effluent. And thirdly, we are also enjoying better-than-expected compliance of the licensing conditions of the water pollution control system so that lower sewage charges are being collected than expected.

It would seem, therefore, that the problem with the report is not so much the consultant's work but what the Government plans to now do. If they must increase sewage charges, what levels are needed to balance the Sewage Services Trading Fund? Further, who really in the Government is taking charge of this area of policy? I get the slight feeling that not all the responsible people in the Government knows what should be done.

So, if we want to keep the "polluter pays" principle, then sewage charges will need to be raised. Perhaps the way forward is for the sewage charges to be seen as a part of the cost associated with delivering water. Much more thinking is needed in this whole area of policy and I suggest, Mr Deputy, the Government gets cracking straight away.

DR LAW CHEUNG-KWOK (in Cantonese): Mr Deputy, the Hong Kong Association for Democracy and People's Livelihood (ADPL) has been supportive of the Government's "polluters pay" policy towards the industrial and commercial sector, and also agrees that the Government should take account of the situations of individual trade in the recovery of the operating and maintenance cost of sewage service by phases.

However, last year the Government proposed to substantially increase the sewage charge, and the proposal met with strong opposition from trades such as dyeing and catering. In the appeal in respect of the sewage charge of the catering business, it was found that the mechanism for calculating sewage charge was unreasonable, and that this policy was a waste of money and manpower and was in need of improvement.

At that time, the Legislative Council refused any increase in sewage charge, and the ADPL requested that the Government should consider amending the whole sewage charge scheme, and conduct a review in respect of the charge, financial feasibility, operation efficiency, fairness to different trades and different strata of society at different time and locations.

Last April, the Government published the Final Report of the Review on Trade Effluent Surcharge, saying that if no substantial increase was made to the sewage charge immediately, the difference between the cost and revenue would be augmented. To the public, such a conclusion is psychologically very disturbing.

In determining the charge scale and the phases by which the cost of the scheme is to be recovered, the Government should adopt a fair and scientific method to calculate the effluent surcharge. The ADPL considers that this Final Report has not fully reviewed the surcharge scheme. We strongly support the Honourable James TIEN's proposal that the Director of Audit be asked to conduct a value-for-money audit of the operating condition of the scheme, and agrees that the surcharge should be frozen at its present level.

These are my remarks and I support the motion.

MR CHOY KAN-PUI (in Cantonese): Mr Deputy, I concur that the operating cost of sewage service should in principle be borne by the polluters. Paying the cost of clearing up the pollution that his business has caused should be part of the operating cost of any business operator. The taxpayers should not be made to subsidise the business operators. In fact, the industrial and commercial sectors do not oppose to paying sewage charge. What is at issue is whether the method of levying that charge is appropriate, and whether any sector has been made the scapegoat for any fault of the whole scheme. In the Final Report of the Review On Trade Effluent Surcharge, the sewage cost will increase substantially in the coming few years. The revenue from sewage charge will drop as a result of some of the high polluting industries ceasing operation. It is estimated that four years later, there will be a deficit of one billion dollars. So there is the need to substantially increase domestic sewage charge and to levy sewage surcharge on medium polluting industries to ensure that the Sewage Service Trading Fund will

not collapse as a result of serious loss. I have reservation in the proposed charge scheme and immediate substantial increase in sewage charge.

Since the implementation of the Trade Effluent Surcharge (TES) scheme, some of the businesses, especially the hotel and catering business, have disputed the standard which the Government has set to calculate the sewage charge. Some 300 industrial and commercial businesses have also complained to the Government that the charge levied is too high, and have doubted whether the standard used in calculating the degree of pollution is reasonable. The review report expressed that the existing standard for calculating sewage charge will remain unchanged. The report has not objectively reflected the facts. On the other hand, the existing charge scheme is very complicated. The administrative costs take make up 20% of the revenue from TES. At the same time, there are a large number of appeal cases, in which each party has to pay \$30,000 to \$40,000. The appeal cost to the appellant and the Government is so high that some of the small businesses are forced not to institute their appeals. The Government therefore should re-establish a reasonable standard for calculating the charge and simplify the appeal mechanism, so that an efficient and fair charge mechanism can be formulated.

Mr Deputy, improving the sewage treatment system involves an enormous amount of investment, so it is understandable that the Government operates the scheme on a polluters pay principle so that the operation and maintenance costs can be recovered. The question is: Can the period for recovering the cost be longer? Is the charge scheme reasonable? Is the operation of the trading fund efficient in respect of the TES scheme? I would not concur with such a practice that, for fear of the trading fund making a loss, three trades, A, B and C, were added to the list of trades that are required to pay the sewage charge, and another three trades X, Y and Z were included on the list tomorrow. I therefore agree that a value-for-money audit be carried out by the Director of Audit, and before the audit of the whole scheme is completed, the charge should be frozen, and that the scope for trade effluent surcharge should not be extended.

In short, the Government should think out a long-term and fair sewage plan, and gradually raise the sewage charge accordingly.

Mr Deputy, these are my remarks and I support the motion.

MR IP KWOK-HIM (in Cantonese): Mr Deputy, earlier the Government promoted with all it might the Strategic Sewage Disposal Scheme and implemented the Strategic Sewage Services Trading Fund. At that time, the Government beautifully packaged the scheme as one that was for improving the water quality of the waters around Hong Kong and that the scheme would be operated on the principle of polluters pay. They certainly had won the hearts of many citizens. However, at that time a lot of people had also asked if some sort of a "trap" was hidden behind this "sugar-coated" package. Today, what we dreaded has occurred.

The Democratic Alliance for Betterment of Hong Kong (DAB) always holds that the way the sewage charge is collected now is very questionable. In principle, the Government has not so far given a convincing definition of "polluters". Sometimes water users are mixed with polluters. This is very unfair to the public. The complex calculation of the Trade Effluent Surcharge (TES) even brings bigger impact on the industrial and commercial sectors, and the hotel and catering businesses are especially dissatisfied.

Succumbing to public pressure, the Government finally agreed to review the trade effluent surcharge, and the consultant firm also produced a report not long ago. On the whole, the DAB is very disappointed with the review report. First of all, the Report only focused on the TES but not on the whole issue of sewage charge. The Report has not given a comprehensive review of the sewage charge operated as a trading fund. Instead, it only works out, under a pre-set framework, what charge would be levied in future, and how to improve the efficiency of the operation. This is not a review aiming at resolving the problem, and this is very disappointing. I even have doubts about the guides which the Government has given to the consultant firm for it to conduct the review.

Mr Deputy, the aspects of the TES that attracts the most criticism are its complicated calculation method and its overconcentration in one or two businesses, and the complex and expensive appeal mechanism. The review report pointed out that in respect of assessing the concentration of sewage and the rate of sewage discharge, the existing regime has much room for improvement, especially in the rate of sewage discharge. It was found that the rate for a number of trades was 80% or 100% lower than the estimated rate. The Government should look hard into this problem to ensure that the surcharge is collected fairly.

Mr Deputy, the administrative cost of the existing trade effluent surcharge accounts for about 20% of the overall surcharge collection, and a quarter of the expenditure is for handling appeals. The complex and inefficient appeal mechanism certainly has something to do with the high administrative cost. The whole appeal procedure may require tens of thousands of dollars and three or four months to complete, and the appeal award is only valid for a year. With such a high cost in money and time, businesses would rather back off, even if they had a very valid case for appeal. This would only perpetrate injustice. Mr Deputy, the consultant report has made a number of proposals to improve the appeal mechanism such as lengthening the valid period of an appeal award, implementing the set by the Environmental Protection Department under the Water Pollution Control Ordinance and authorizing laboratories to conduct ad hoc sampling. The DAB hopes that the Government can accept these proposals and improve the efficiency and cost-effectiveness of the appeal mechanism so as not to cause any wastage of public funds.

In short, the DAB thinks that the consultant report only proposes some solutions but they do not attack the problem at the root. It is disappointing that it has evaded the trading fund issue. The DAB supports an audit to be conducted by the Director of Audit in respect of the whole sewage charge scheme, not just a value-for-money audit in respect of the TES. Of course, the most comprehensive method is for the Government to conduct an overall review, beginning with the operation of the trading fund, and for the Government to consider injecting funds so that the public would not be subjected to any pressure of increased charge and burden because of the need to maintain a balance in the revenue and expenditure of the trading fund.

Mr Deputy, these are my remarks and I support the motion.

THE PRESIDENT resumed the Chair.

MRS SELINA CHOW (in Cantonese): Mr President, the Liberal Party considers that the reason for the public and the businesses being made the target for increases in sewage charge and the Trade Effluent Surcharge (TES) is that the trading fund needs to be self-financing. Regrettably, what is supposed to be a professional,

independent review has turned out to be an exercise in support of the continued collection of the surcharge. There is no intention of objectively and equitably finding a solution to solve the problem and resolve the public anger. It is no wonder that everyone is disappointed with the consultant and has no confidence in the Government.

The Administration has promised the catering businesses that it would make public the guidelines that it gave the consultant firm, and that the industrial and commercial sector could have a look at the draft of the report. However, none of these promises have been kept.

Five bodies of the restaurant business have jointly made a statement, criticising that the report has not responded to many of the questions. The criticisms include the following:

- The Government has not been scientific and objective in stipulating the standards for calculating effluent surcharge;
- The rationale of the Government for taking 80% of the water supplied as the standard for calculating the amount of effluent has not been analysed with scientific and professional approaches;
- No explanation has been given as to why sampling is not conducted with sewage that has already been passed into the sewer;
- There is no mention of the test results of the effluent that was taken again from 80 restaurants by the Government in 1995;
- No objective comments have been made on whether it is fair for the restaurant industry to take up 80% of the effluent surcharge; and
- There is no specific recommendation on how to improve the appeal mechanism.

Most of the insufficiencies shown in the consultant report, I think, should be the responsibility of the Government because the review was conducted under the

guidelines of the Government, and the consultant firm was only working according to the set of guidelines prescribed and delivered what its employer wanted.

In the course of the review, the Government promised to consult bodies of various trades. At first, the Government also promised that it would make reports to the Legislative Council Panel on Environmental Affairs, but nothing ever turned up. Has the Government lost its memory or there is something to hide?

When the Government reported to the Environmental Affairs Panel last month, it was the government officials, not the consultant firm, who rebut the questions and dissatisfaction of the Members. How can one trust the independence and objectiveness of the report?

As to the approach of the Report, it only focuses on how to increase revenue. It has not looked into the doubts of the public, especially the trades, on the fairness of the charge. Resort to such dirty tricks is insulting the intelligence of the public.

Most of the revenue of the surcharge is already paid by the trades, but the report proposes that new trades be added to the list of trades required to pay the surcharge. On the addition of new trades, the Government and the consultant firm have not done any scientific study to support the justification for these new trades to be included on the list.

Taking garages as an example, the Car Repair Management Association points out that the trade seldom uses water in car repair, as water can cause rusting. The sewage produced is basically similar in property to that produced in ship repairing. In other words, the chemical oxygen demand is about 191 mg/l.

However, the report used data collected before 1994, saying that the oxygen demand of garage sewage was more than 2000 mg/l. In fact, after 1994, most of the garages have been licensed under Water Pollution Control Ordinance and they all have their own water treatment facilities, and used oil is stored in grease traps to be carted away for treatment. Thus the pollution level that was the case in early years is no longer true now. The Government is punishing the innocent if it is to force the car repair business to be included in the list of businesses that are required to pay the surcharge.

I think that the Government would not, and dare not, deny that the basic reason in establishing the Sewage Service Trading Fund is to improve the environment, and not to make people pay fines, or not even to maintain the Fund through indiscriminate collection of charges.

Mr President, the provision of appeal channels is to counter any injustices, but when an appeal may cost a sum much greater than the disputed surcharge, that means the appeal channel deters the businesses from making appeals.

Information provided by the Modern Catering Management Association shows that a hot-pot group had lodged an appeal, the result was a branch of the group had spent more than \$50,000 on testing samples for the appeal; though the branch was awarded judgment, it still had to pay the surcharge, only \$6,000 less! With another branch of the same group, it spent \$28,000 on the appeal, and the award was that it could pay \$280,000 less!

These figures show how ridiculous the original data are. The appeal mechanism only acts as a deterrence for the businesses to lodge any appeal. If the amount overpaid is estimated to be less than the costs for lodging an appeal, it would be better for a business to pay the surcharge. At least it can be saved from going through all the trouble, unless it really wants to see that justice is done.

Modern Catering Management Association and Retail Management Association have reflected to me that they think that it is unreasonable for appellants, being of the same group and engaged in similar business, cannot institute an appeal in the name of the group but have to appeal in their own name, which would also increase the costs of their appeals by a large margin. What is more, even though they may get the award this year, they will have to appeal again next year. So, to law-abiders, such practice is very annoying and have great impact on business operations.

They hope that the Government can permit appeals to be instituted in the name of the group. It is because shops within a group will have similar operation, and tests can be made with samples taken randomly from shops within the group, with the results applied to all the branches within the group. In this way, both the Government and the group can save on administrative costs.

With respect to the criticism made by the catering business that the sample taken from restaurants to determine the pollution concentration is not representative enough, the proposal made in the report is to take sample from each branch of the same group. Who would not know that this is the most accurate way to determine the pollution concentration, but that would also increase the costs of testing. Who is to shoulder that costs? How can such proposal be made? This will greatly increase the administrative costs, which certainly will have to be borne by the group. Who would be that stupid?

Mr President, the Government should rethink the question of financing of the whole sewage treatment problem, and take drastic measures to correct those impractical principles, and show determination to resolve the whole problem.

Mr President, these are my remarks, and I support the motion proposed by the Honourable James TIEN.

MR HENRY TANG (in Cantonese): Mr President, in 1993, when the Legislative Council examined the Sewage Services Bill, the Administration promised us that the increase in sewage charge would be kept at about 10%. On hearing this, we were very supportive. Well, who would argue on the question of protecting the environment and polluters pay?

Now, over these past few years, the whole scheme has thrown up a lot of problems. First of all, there is the report from the Commissioner for Administrative Appeals, which shows that the Government has acted improperly in respect of the stipulation of trade effluent surcharge. A promise on an annual adjustment of 10% ended up in proposals for increases that were multiples of the original figure. The consultant report of the comprehensive review on the surcharge scheme also shows that the Government was wrong in its estimation of the volume of sewage discharge of seven trades, which resulted in hundreds of businesses paying more surcharge than they should have.

In fact, we are shocked by such a poorly drawn up and erroneous plan. It is also most disappointing to find the Government insisting that it has done nothing wrong and refuses to bear any responsibility, saying that since the Legislative Council has already passed the principle of polluters pay, the policy is irrevocable.

What the Government is doing is to cover up its mistakes. I finally come to a recognition of how it feels to be sold out!

The review report points out that the Sewage Service Trading Fund would run up a deficit of one billion dollars by the year 2000, so there is a need to substantially increase the surcharge by 65% before a balance in revenue and expenditure can be achieved. The Government is then advised to cast the net wider so that more trades will have to pay the surcharge, and seven more trades should be included, catching 7 800 businesses in the net.

Mr President, this is a ridiculous proposal. The Government wants us to adhere to principles, but it is not acting according to its principles. When the Government first drew up the list of trades that had to pay the surcharge, it must have had a standard to gauge the degree of pollution. In determining whether a trade is a high polluting, reference is made to the concentration of effluent passed out and the amount of water used. A high polluting trade is fined or punished by paying the cost for improving the water quality. This is what "polluters pay" means. Now, as the trading fund runs up a deficit and requires more funds to top it up, trades which were not targeted are now also caught in the scheme. So doing is in contravention to the original intention of the scheme. It is not only unfair to the businesses, but will also cause confusion, making the businesses not knowing what to do. As to the overpayment in surcharge it has received, the Government has no intention of refunding it. How can the public have confidence in such a policy!

Mr President, the sewage charge is riddled with problems. What we can now hope for is that the incoming SAR government will review the whole policy again, so that the problem of environmental protection can be dealt with more equitably, and the public will not be arbitrarily charged.

These are my remarks, and I support the motion.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, just now I listened with great attention and care to the speeches of Honourable Members on today's motion. Their speeches provoked a few feelings. First, having listened to so many speeches, it seems to me that

Members who have spoken appear to have great misunderstanding towards this review on the entire charging scheme. Second, many Members may not have studied thoroughly the entire review report. Third, many Members have forgotten the role played by the Legislative Council in formulating this charging scheme. They have forgotten that it was only after lengthy discussions that this Council came to the decision of approving the scheme, its charges and the procedures involved. It is therefore very rare for me to hear such criticisms from Members on legislation and schemes they themselves approved. It sounds as if they were totally indifferent to the matter. Finally, I have this feeling that some Members may have forgotten that the Audit Department had already played a role in the entire scheme and the trading fund.

I would like to start my response by referring to the first phrase of the first sentence in the motion which reads, "..... the Final Report has failed to provide an objective and comprehensive review on Trade Effluent Surcharge (TES) charging scheme". I have to say that I find this statement unfounded and unreasonable, particularly when it is used as a reason to move a motion. Right from the outset, the Administration had made it clear that the main objective of the TES review was to examine the various aspects of the TES scheme. The Review was undertaken through a tender process by an independent consultant who was not involved at all in the development of the original scheme. The consultant then drew on groups of specialists from different disciplines including economists, scientists and engineers to carry out the Review. I cannot see why Members still say that such an arrangement is neither fair nor objective. The fact that the findings do not support the preferences or prejudices of certain interested parties does not invalidate the Review or its results.

When introducing the sewage charging scheme in April 1995, the Administration gave an undertaking that the TES scheme would be reviewed after implementation and in the light of experience gained. In May 1996, we announced our plan to review the TES scheme and sent letters to relevant trade associations to invite their comments on the review exercise. Subsequently, meetings on the objectives and scope of the review were also held by the Administration with representatives of trades and concerned political parties. The views collected were incorporated into the study brief for the review.

The independent consultant started his work in October 1996. As part of the Review, the consultant also conducted a consultation programme by holding meetings with trade associations affected by the TES scheme and concerned political parties, as well as holding a public forum. The views expressed at these meetings and the forum were taken into consideration in the Review. We do admit that the concerned committee of this Council had asked the Administration to consult its opinion on the draft of the Final Report. We had considered this carefully but came to the decision that we could not do so as this is neither just nor fair. If the draft of the consultant report were submitted before being finalized, it might indirectly bring pressure on the consultant when the Final Report was to be made. Hence, in January 1997, we wrote to the Legislative Council Secretariat explaining our decision. In fact, Members will neither lose nor lack the chance to express their opinions on the findings of the review on TES because the Administration will only consider the opinion of the consultant after this six-week consultation period. We will listen to the result of the consultation before making our consideration.

As required by the consultancy brief, the Review has examined the current TES scheme, including the technical basis for charging, associated legislative framework, trading fund finances and related sewage charging matters. The Review also compared our TES scheme with similar schemes in other parts of the world. All these are covered in the Final Report. While the Report has generally endorsed the current TES scheme, it has also pointed out a number of areas where improvements might be considered, such as the appeals procedure. I would suggest that Members should read the whole Report. If you do so, you would agree with what the Honourable Christine LOH said -- the Review was not only comprehensive but was also conducted objectively and impartially.

The Legislative Council Panel on Environmental Affairs was consulted on the Final Report on 29 April 1997. Just as what I have said just now, this was followed by the announcement of a six-week consultation which will last until 10 June. A letter accompanying an Executive Summary of the Final Report was issued to organizations representing relevant trades and industries to invite their views on the outcome of the Review. The Administration will listen carefully to the views expressed by the people concerned during the current consultation period. The views expressed by Members during today's debate will, of course, also be taken into account. We shall then consider what administrative and legislative

changes should be made in order to fine tune the system in the light of actual operational experience. Let me assure Members that before we make any changes to the current charging scheme, we will need to consult this Council again, as indeed we had done so before implementing the current system.

Turning to the part of the motion which "urges the Director of Audit to immediately conduct a "value for money" audit on the operation of the entire TES charging scheme...", let me remind Members that the sewage charging scheme, just as I have just said, was introduced only after amendment and approval by this Council. The Sewage Services Bill and the relevant subsidiary regulations detailing the charging scheme are those which were passed by this Council after months of debate. The Administration is therefore doing no more but execute a scheme and enforcing a legislation approved by this Council. A Member said just now that this Council approved this scheme only because in introducing this scheme, the Administration told this Council that charges would see an approximate 10% increase annually. This however is not the complete picture. When the suggestion was introduced to the Council, the Administration had said that based on financial projections, charges would have to be increased by 10% in the first year of operation of this sewage charging scheme, 10% in the second year, 5% in the third year and 10% in the fourth year before a break-even could be projected. In fact, when the Administration made its first application to the Council for a 10% increase in charges, it was voted down by this Council. Hence, during its previous years of operation, sewage charges or trade effluent surcharges had never been increased. When we introduced this scheme to this Council, we had already projected the amount of increase required financially. TES is applied to those trades and industries which produce more polluting effluent than the average strength of domestic sewage, because additional cost is required to treat such pollution load. This is in line with the Polluter Pays Principle, and as I have said, supported by this Council. By world standards, our sewage charges have been set at very low initial levels, partly because we do not aim to recoup any of the capital costs of building the sewerage infrastructure. Traders who pay TES only pay for the direct operation and maintenance costs of sewage treatment system. The consultant found in the TES Review that Hong Kong customers are getting a "good deal", paying considerably less than their counterparts in other countries (in some case by as much as 60%). We should also bear in mind that all charges collected, instead of becoming part of the government's recurrent revenue, are paid

into the Sewage Services Trading Fund (SSTF)'s separate account and can only be used to pay for the provision of sewage services.

Mr President, the cost of administering the TES scheme forms part of the recurrent operating costs of the Trading Fund. These costs are already subject to detailed audit by the Director of Audit as required under the Trading Funds Ordinance. The audited accounts are also submitted to this Council as part of the annual report. Costs have therefore been fully accounted for, properly recorded and independently audited.

I would like to remind Members that trading fund accounts are also already subject to the scrutiny of this Council and the public. The SSTF is currently operated and administered entirely in accordance with the law which was thoroughly debated, amended and passed by this Council in March 1994. Since SSTF commenced full operations on 1 April 1995, this Council has received nine quarterly reports on the progress of the High Priority Programme, six reports on the operations of the trading fund and two sets of annual reports including audited accounts. The business plans were discussed with Members when the original charging scheme was considered and when subsequent amendments to the charging rates were proposed. This Council will again have the opportunity to comment on the SSTF's latest five-year Business Plan in due course.

The purpose of the TES scheme is to recoup from all polluters the costs of treating the pollution they produce. The costs must be met and, if the polluters do not pay, then the only alternative is for non-polluting businesses and members of the public to pay through their charges and taxes. This would be unfair to the non-polluting public if they were to be charged to subsidize the polluting businesses. Furthermore, any allocation from the tax revenue would result in the general public paying part of the polluting businesses' utility overheads, namely, their sewage and trade effluent charges, and thus providing an indirect subsidy to such businesses. It is not the practice in Hong Kong to either subsidize commercial business or to subsidize their utility bills. We do not subsidize their telephone, electricity or gas bills, so why should we subsidize their sewage and trade effluent charges?

Members also urge the Government to freeze the TES rate. I would like to remind this Council that there have been no increases in charges since the SSTF was launched over two years ago. Furthermore, in his reply to a written question

from this Council on 30 April 1997, the Secretary for Works stated that the Administration had no plan to increase sewage charges in the 1997/98 financial year. But I would like to reiterate that the SSTF is projected to operate at a deficit in 1997/98 and as many new sewerage infrastructure projects, including the Stonecutters Island Sewage Treatment Works, will be coming on stream over the next few years, it will be necessary for the sewage charges to be increased in the future to recover the increases in direct operation and maintenance costs in order for the Fund to break even. It is too early to say what increases may be proposed by the Administration, but any such proposals, I reiterate, will be subject to examination and approval by the Legislature.

The motion also urges the Government to rectify any unfairness in the current appeals system. Again, I must point out that the current appeals procedure, including the use of chemical oxygen demand to measure pollution and annual re-appeal, are part of the law which was approved by this Council. In asking the Government to rectify any unfairness in the current system, Members are actually attacking a decision made by this Council. The consultant has nevertheless suggested some refinements to the appeals procedure. We have also noted Members' views on the appeals procedure when we consulted the Environmental Affairs Panel on the Final Report on 29 April 1997. We shall study carefully the consultant's recommendations and the views collected during the current consultation period. We shall be happy to recommend improvements to the procedure if they are needed for the approval of this Council again.

Mr President, proper sewerage is essential if we are to abate the pollution problems. But proper sewage services do not come cheap. The Government has been spending billions of dollars to rebuild our sewerage network systematically. The public should help to contribute to the cost since they use and benefit from the improved sewage services. The Government funds all the initial capital and replacement costs of the existing and new sewerage programme; we do not seek any return on the capital investment in the sewerage infrastructure. The sewage charges only cover the direct maintenance and operation costs of running our sewage services. The charges are very modest and in line with the Polluter Pays Principle. They are not "unnecessary burdens" as alleged by the motion. Indeed, sewage charges represent an insignificant proportion of the operating costs of a business, including hotels and restaurants, compared to its expenditure on salaries, rent, materials and supplies, and so on. Saying that the charges would adversely

affect people's livelihood, or leading to the closure of 1 000 restaurants, is an exaggeration of the situation.

There have been criticisms from Members that the charges the Administration is imposing on traders are excessive. I would like to point out that the calculation of the cost involved in collecting TES was a complicated procedure and had to be based on a number of assumptions. When the Administration drew up the scheme in the first place, information gathered at that time was used as a basis. As this Council requested that the technical and administrative aspects of the scheme be made simple as far as possible in order to keep operating cost to the minimal, the Administration had accepted this opinion. Hence, the TES scheme endorsed by this Council had adopted a simple method of calculation for treating sewerage. According to this method, a uniform unit cost price was used to work out the charges imposed on all trades.

In addition, it is impossible to balance revenue and expenditure during the initial stage of the implementation of the new charging system. As indicated in the consultant's review report, revenue from the TES scheme for the years 1995-96 and 1996-97 was higher than its cost but such a scenario would not happen again thereafter. The review report also reminded us that by the year 2000, there would be a 39% deficit on the TES accounts. The review indicated clearly that our charges are comparatively lower than those in the other countries. I would like to reiterate that traders are only paying for the operating and maintenance costs which only account for about 30% of the total cost required for running sewage treatment service. As for construction costs, they are all covered directly by the Government. Therefore, it does not hold water to say that the charges imposed traders are excessive. Moreover, surplus for any of the years will be deposited into the trading fund to offset increased expenditure in the future resulting from an increase in costs.

Just now, some Members said that when conducting the review, the departments concerned or the consultancy collected their water samples from the grease traps. I would like to point out that such an accusation is totally unfounded. We reviewed over and again the examination process and I can hereby affirm that the water samples were taken from the sewage manholes of the hotels or restaurants concerned. In cases where there were no manholes for the officers concerned to collect samples, they would resort to all sewage outlets of the entire hotel or

restaurant, rather than taking samples from the grease traps as the rumour runs. We have also explained this clearly to the trades concerned which put forth this accusation.

Mr President, I would like to sum up by saying that the TES scheme is based on the Polluter Pays Principle which is supported by the general public and this Council. But support for the principle is not enough - to clean up our environment, and if we would like to have a clean environment, we have to implement it. The Administration is doing no more and no less than implementing a law and scheme approved by this Council.

With the above, Mr President, the Administration cannot support the motion.

PRESIDENT (in Cantonese): Mr TIEN, you may give your reply. You now have five minutes 56 seconds out of your 15 minutes.

MR JAMES TIEN (in Cantonese): Mr President, first of all, I thank all Members who have spoken today. Most of what they said are very close to our original motion and to what I said in my speech. The Secretary for Planning, Environment and Lands has made a number of points in his reply. The most of important of all is that if the Legislative Council has already passed the charge scheme, we should support it now. I believe Mr LEUNG can still remember that when he first brought the scheme up to this Council, he used the concept "users pay" or "polluters pay" in his speech. The charge would be set at a level that we all could afford to pay. At that time, we had debated what affordable meant. At that time, the government officials explained to us that the sewage surcharge would be about 20% of the payable water charges. That is to say, if a restaurant had a water bill of \$40,000, the monthly sewage surcharge would be around \$8,000. Under such circumstance, the Members certainly take the assumption of the Government as true and we therefore gave our support. However, the actual situation shows that many restaurants, that is restaurants of the class with a possible \$40,000 water charge, have to pay \$100,000 sewage surcharge. That is not 20%, but 200%. Under such a circumstance, is there anything wrong with the concept of "polluters pay" or "users pay" which we were said to have agreed to?

We have also mentioned that the industrial and commercial sectors accept the concept of "polluters pay", but this does not mean you could have the honour to host the banquet, but we were to foot the bill. If you do it, and do it well, we are willing to pay. However, we think that the officials of the Environmental Protection Department (EPD) have somehow bungled the operation. This consultant report was completed according to the views of the EPD officials. My motion therefore is to find a notary. Who is the best notary? The people of Hong Kong and the Legislative Council think that the Director of Audit has conducted himself fairly in a number of recent review reports, so we think that we should ask him to make an assessment of the concept of "polluters pay" and whether the restaurants should pay \$100,000 in sewage surcharge. If the result of his assessment is negative, then there would be much to be said on both sides. The Government certainly would say that the figure is correct, and would also say that the Legislative Council had already given the approval for them to go ahead with the scheme. However, when we gave our approval for you to go ahead, that does not mean that you can draw up a bill of whatever amount and make us pay it. Today Mr LEUNG also said that he did not accept this. He said that the sewage surcharge in Hong Kong was the lowest in the world, because the Government invested in the infrastructure and only recovered the operating and maintenance costs from the public. Yes, we accept this, but now the EPD and the consultant report cannot convince us, the industrial and commercial sectors or companies that have to pay the sewage surcharge, that this is the true cost. If this is the true cost, we would pay, with no blames.

We have also mentioned the channels for appeal. As the Honourable Mrs Selina CHOW said just now, the amount appealed may only be a few thousand dollars, but the cost for instituting the appeal can be as much as tens of thousands dollars. This actually force people to drop their appeals. It is very unfair. This is especially the case with the catering business. Some restaurants may have a number of branches. If they want to appeal, does it mean that one of them institute the appeal will be the same as all of them instituting the appeal, or if there were 10 branches, then every one of them have to spend tens of thousand dollars to institute the appeal?

Mr President, we have debated on most of the problems. The views of the Government apparently are different from ours. I therefore hope that the

Government can consider finding a notary, not a consultant engaged by EPD to do an assessment, so that we can all be convinced. Thank you Mr President.

Question on the motion put and agreed to.

MEMBERS' BILLS

Second Reading of Bills

Resumption of Second Reading Debate on Bills

THE HONG KONG AND SHANGHAI BANKING CORPORATION LIMITED (AMENDMENT) BILL 1997

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

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

Bill read the Second time.

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

MASS TRANSIT RAILWAY CORPORATION (AMENDMENT) BILL 1996

PRESIDENT (in Cantonese): Before this Council proceeds with the debate on this Bill and the Kowloon-Canton Railway Corporation (Amendment) Bill 1996 that follows, I would like to remind Members that, as the papers dispatched by the Secretariat to you all on 22 May, 1997 have noted, Mr SIN Chung-kai has not submitted a Chinese text for the two Bills in accordance with the requirement of section 4 subsection (1) of Official Languages Ordinance to enable the Bills to be enacted and published in both English and Chinese once the Bills are passed by this Council.

I shall therefore direct that if this Council passes either or both of the Bills for a Second Reading, I shall order that the Bill or both Bills be further dealt with at a later date when a meeting of the Committee of the whole Council is called, so that Mr SIN Chung-kai can have time to submit the Chinese texts of the two Bills as committee stage amendment for the consideration of the Committee of the whole Council.

Resumption of debate on Second Reading which was moved on 10 July 1996

MRS MIRIAM LAU (in Cantonese): Mr President, a point of order. Mr President, the Mass Transit Railway Corporation (Amendment) Bill 1996 to be debated and the Kowloon-Canton Railway Corporation (Amendment) Bill 1996 that follows are almost exactly the same. Both Bills propose to enable the Legislative Council to have control over fare increases of the two railways. I believe that the arguments given by Members in the debate on the two Bills will be very similar. In order to avoid the debate getting too long, I request that Mr President rule that the two Bills be debates in a joint debate.

Thank you, Mr President.

PRESIDENT (in Cantonese): I have considered whether I should propose to this Council that a joint debate be held for the Second Reading of these two Bills. My conclusion however is that such an arrangement will not be appropriate.

A joint debate was indeed held on 15 January 1997 when this Council debated on the Second Reading of the Housing (Amendment) Bill 1996 and Housing (Amendment) (No. 2) Bill 1996 proposed respectively by the Honourable LEE Wing-tat and the Honourable Bruce LIU. The reason for that was the two Bills proposed amendments of the same nature to the same Ordinance — that is, the Bills contained different recommendations as regards the composition of the Housing Authority. Hence, the holding of a joint debate on the Second Reading of the two Bills would be conducive to an efficient conduct of business.

Relatively speaking, although these two Bills of Mr SIN are of the same nature, that is, seeking this Council's agreement to the setting up of a mechanism

to scrutinize the fares imposed by the two transport institutions, the institutions involved are totally different and so are the Ordinances and Bills concerned. If the two debates are combined for the sole purpose of saving time, it will cause confusion to the debate to be held on the two Bills as individual Members may vote for one but against the other. Moreover, handling two debates in such a manner may lead to queries about the legislative procedure of this Council. I believe Members and the public officers concerned will not bring up tedious and repetitive arguments when debating the two Bills to be moved by Mr SIN.

MR WONG WAI-YIN (in Cantonese): Mr President, before I speak in respect of the Bill, I would like to raise a point. You have just determined that the two Bills will not be debated in a joint debate, but the Bills were examined at the same time by the Bills Committee. I was the Chairman of the Bills Committee, so are you suggesting that I should report on them separately or I can, at this stage, make a joint report of the result of deliberation of the Bills Committee of the two Bills?

PRESIDENT (in Cantonese): This is a point of order. This Council had in the past also examined Bills whose nature were similar, such as a series of Bills, an example of which is the legislation on the safety of toys, the relevant public officer or Member, in referring to the first Bill, said that there was a related second one to follow, so you may make a joint report. I hope that when you discuss the first Bill, that is the Mass Transit Railway Corporation (Amendment) Bill 1996, you can also discuss the one about Kowloon-Canton Railway; and in the debate that is to follow, you can then say that the argument has just been raised. But when it comes to the Committee stage, each clause will be examined separately; and that should not pose any problem. Mr WONG Wai-yin, your time begins now.

MR WONG WAI-YIN (in Cantonese): Thank you, Mr President. My speech will be divided into two parts. The first part is a report made in my capacity as the Chairman of the Bills Committee, and the second part comprises the views that I shall express on behalf of the Democratic Party in relation to the Bills.

Mr President, I now speak in the capacity of the Chairman of the Bills Committee of the Mass Transit Railway Corporation (Amendment) Bill 1996 and

the Kowloon-Canton Railway Corporation (Amendment) Bill 1996. I shall report on the deliberation and views of the Bills Committee on the two Bills.

Both Bills are introduced by the Honourable SIN Chung-kai. They seek to amend the relevant principal ordinances and the relevant By-laws made thereunder for fares of the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC) to be determined by way of subsidiary legislation under section 34 of the Interpretation and General Clauses Ordinance.

At present, fare increases of major franchised public transport are in one way or another monitored by the Government, but the fares of the MTR, KCR and Light Rail Transit System are decided by the respective operating companies and are not subject to approval by the Legislative Council or the Executive Council. Mr SIN considers that since the railway systems are major modes of transport for the travelling public, their fare increases have significant impact on the livelihood of the public. In the absence of an elected form of Government in Hong Kong, Mr SIN doubts whether the Administration has duly balanced the interests of the public and the railway operators when monitoring fare increases. On the other hand, as the Legislative Council is democratically elected, Mr SIN's proposal for the Legislative Council to play the role of monitor over fare price through legislative procedure may strengthen the accountability and efficiency of service of the two railway corporations.

Both the MTRC and KCRC strongly resist the two Bills, considering that the present regulatory framework has been working well. If the Legislative Council were to be given the power to veto and amend any increase, that would severely affect the good credit ratings which the two corporations are currently having, and the cost of raising loans would increase as a result. Should the Bills be passed, the two Corporations would experience great difficulty when they have to raise funds for large-scale development projects. The two Corporations have also quoted views of experts and conducted studies, stressing the evils of fare monitor by the executive and the legislative authorities. The Bills Committee met also with the former Chairman of New York City Transit and learnt that the New York underground railway had been maintaining a low fare structure but the quality of service also tended to be low.

The Administration does not support the two Bills and echoes the concerns expressed by the MTRC and KCRC. It holds the view that public transport services should be operated according to prudent commercial principles without any financial assistance from the Government. As to enhancing the accountability and transparency of the two Corporations, the Administration has assured Members that both the Government and the two Corporations will do their best to provide Members with the necessary information and material. After all, when the two Corporations are considering any fare increase, they will consult the District Boards, the Legislative Council and the Transport Advisory Committee.

The two Bills have not secured the support of the majority of the Bills Committee members, who hold different views. Members who support the Bills consider that the autonomy of the two Corporations to set fares has been over-emphasized as the key factor for their success. They point out that sustained efforts to improve management is equally important. On the other hand, some members are concerned that should the Bills be passed, the two Corporations would to a certain extent be subject to political pressure, which may sway them off the commercial principles and thus affect the quality and efficiency of their services. In the course of deliberation, reference has also been made to the Report of the Delegation to Study Mass Transit Systems in Overseas Cities compiled by the Panel on Transport. The information indicates that it is not common for the councils of foreign cities to play a direct role in determining fare prices, and most of the railway systems charging low fares have to rely on huge subsidy from the Government.

The Bills Committee have also considered the effect that the two Bills would have on the credit ratings of the two Railways Corporations. Mr SIN has put forth four financing proposals, which include having the Government as lender, on-lender or guarantor. However, the two Corporations and the Administration do not consider the options viable. They are worried that direct or indirect subsidy from the Government might act as a disincentive to the operation of the two Corporations, giving rise to higher operating costs and lower service quality.

The Bills Committee cannot come to a consensus in respect of the two Bills, but a wide spectrum of views have been heard and considered. Mr President,

these are the results of deliberation of the Bills Committee, and now I shall state the views of the Democratic Party.

PRESIDENT (in Cantonese): Mr WONG Wai-yin, I believe that your point of order before your speech may carry some overtone, which is made in the hope that I can give you some more time as you have to report on the progress on the two Bills. If you need to go more than 15 minutes, I will allow you five more minutes.

MR WONG WAI-YIN (in Cantonese): Mr President, but I am going to speak on behalf of the Democratic Party in respect of the two Bills.

PRESIDENT (in Cantonese): So what are you going to talk about now?

MR WONG WAI-YIN (in Cantonese): Just about the MTR.

PRESIDENT (in Cantonese): Please proceed.

MR WONG WAI-YIN (in Cantonese): Mr President, the Administration has been stressing that the MTR, though given the autonomy to set fares, would first consult the passengers and the Legislative Council before every fare increase. The Governor, through appointing directors to the Board of the MTRC, has had sufficient supervision over the Corporation. The Administration considers that the success of the MTRC and KCRC clearly reflects the effectiveness of the present regulatory framework and no change is necessary. The high quality railway services of Hong Kong is well-recognized, but this does not mean that the good reputation of the Corporations should allow the Administration and the Railway Corporations to turn a deaf ear to the objections of the public. Similarly, this does not mean that a corporation with quality service need not be monitored by the public. In fact, in recent years, whenever the railway corporations proposed a fare hike, the general public, social organizations and Members of the Legislative

Council would voice their objections, but the railway corporations have never listened to them. The dissatisfaction of the society with fare increases and the mechanism to govern the increase is nothing new, but the Government still defends that the current provision has already struck a balance between the autonomy of the railway corporations and their accountability. Is the Government not deceiving itself and the public?

The MTRC always says that it has exercised great restraint in respect of its fares. It maintains that the fare increases over the years have been kept on a par with the inflation rate and the fares are not high at all, and therefore Members' accusations are unreasonable. It is alleged that Members propose the amendments to solicit votes. I should say that MTRC has been very clever in its fare increases because every year it sets the overall increase broadly in line with the inflation rate for that year. However, the overall increase does not reflect the actual increase. A closer examination of the actual increase of the various categories of fare will reveal that the MTRC is trying to lengthen the time for discounted fares or lower the fares for sections with fewer passengers to level down the overall average increase. In fact, to most members of the public, the actual increase is not as low as claimed.

Taking the increases in 1994, 1995 and 1996 as example, the inflation rate for 1994 was 8.1%, and the overall average fare increase of the MTR was 7.1%. In that year, the MTR service cornered 67.1% of the market for franchised cross-harbour public transport and the increase in cross-harbour trips using adult stored value tickets (SVT) was between 6.2% to 10.1%, and the increase in adult single trip fare was between 7.7% and 11.1%. According to the detailed information provided by the Government, 57% of the public were affected by an increase of more than 7.1%.

In 1995, the inflation rate was 8.7%, and the overall average fare increase of the MTR was 7.8%. In that year, the MTR service cornered 67.6% of the market for franchised cross-harbour public transport and the increase in cross-harbour trips using adult SVT was between 8.7% to 11.2%, and the increase in adult single trip fare was between 7.1% and 10%. According to the detailed information provided by the Government, 76% of the public were affected by an increase ranging from 5% to 9%, and 13% of the public were affected by an increase ranging from 10% to 17%.

In 1996, the inflation rate was 6%, and the overall average fare increase of the MTR was 6.9%. In that year, the MTR service cornered 66.6% of the market for franchised cross-harbour public transport and the increase in cross-harbour trips using adult SVT was between 6.9% to 9.9%, and the increase in adult single trip fare is between 10.5% and 13.6%. According to the detailed information provided by the Government, 68% of the public were affected by an increase ranging from 7% to 10%, and 9% of the public were affected by an increase of more than 10%.

Mr President, these figures show that the claim of the MTRC that its average increases are broadly in line with the inflation rate is meaningless. In fact, I do not think pegging the increase with the inflation rate will make the increase reasonable because the expenses of the MTRC may not all be pegged with the inflation rate. A railway company should be flexible in its pricing and has to take into account a number of other factors, including the growth in passenger volume, the operation condition of the company and its financial arrangements. It is important to note that the MTRC has seen great increases in its profits over the past few years. It is unacceptable for it to increase the fares every year according to the inflation rate as a matter of course. It should not be overlooked that an increase initiated by the MTRC may lead to other increases, thereby aggravating the inflation. This issue should not be treated perfunctorily.

When the MTR system was first built, most of the capital required was raised through loans. During its early stages of operation, in order to meet its huge interest payment, the MTRC set its fare at a level higher than its competitors and had to make big increases every year. As its base figure was already relatively large, although its increases are broadly in line with the inflation rate now, the actual fares paid by the public are very high.

The Democratic Party understands that the interest payments borne by the MTRC during the 1980s were enormous. During the decade from 1980 to 1990, the interest expenditure of the Corporation had gradually dropped from 340% of the total fare income to 57.7%, and by 1996, such expenditure only took up 23.7% of the total fare income. It has been a very substantial drop. The MTRC first saw a surplus of \$789 million in 1997, and planned to pay a dividend of \$647 million to the Government. During its 17 years of operation, the interest burden of the Corporation was gradually lightened, and its financial condition was getting

more robust. This is not only an achievement of the management of the MTRC, but also the fruit of endeavour on the part of the general public. In fact, there is no one railway around the world that the construction and operation can all be paid for by its passengers without any subsidy from the government. However, when the MTRC is beginning to make a profit, it does not let the public share the fruit of the achievement. The Democratic Party expresses its greatest disappointment at this! At a time when its financial burden is lessening and the pressure for a fare increase is easing, the MTR has never lowered its magnitude of fare increases. Instead, it strives to make a profit and pays no heed to the interests of the general public.

Mr President, to ensure that the Legislative Council can play its role in monitoring the fares of the MTRC for the public, I request that all Members support Mr SIN's Bills.

Mr President, with these remarks I support the Second Reading of the Bills.

MRS MIRIAM LAU (in Cantonese): Mr President, for the long-term benefit of the general public of Hong Kong, I oppose strongly the Mass Transit Railway Corporation (Amendment) Bill 1996. The argument as expressed in my speech to follow will also be applicable to the Kowloon-Canton Railway Corporation (Amendment) Bill 1996 to be introduced later.

There are mainly three reasons for the Honourable SIN Chung-kai to propose the two Bills. Firstly, fare increases of franchised public transport has been monitored by the Government through various means and there is a need to standardize the monitoring system. Secondly, a fare increase in our railway service will have a great impact on the livelihood of the general public, so it should be under stringent control. Thirdly, in the absence of an elected government in Hong Kong, a democratically elected Legislative Council should be given the power to monitor fare increases of the railway service.

It appears that Mr SIN's arguments are very sound, but what are the justifications of these arguments? I think they are based more on the belief of Mr SIN or the Democratic Party than on facts and experience. I am asking Mr SIN to put aside his own belief and look at some facts.

Given the profound impacts of the two Bills, this Council set up a Bills Committee to study the two Bills. Furthermore, the Research and Library Services Division of the Legislative Council Secretariat has carried out two studies and published two reports: *Monitoring Mass Transit Systems* and *Credit Ratings of Mass Transit Systems*. The Panel on Transport and the Bills Committee met with the representatives of the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC) and a number of people who are all very experienced in railway operations, including Sir Wilfred Newton, former Chairman of the MTRC, Mr Alan Kiepper, former President of New York City Transit, and Mr William R. Steinmetz, Director of Railway Technology Strategy Centre, Imperial College, University of London. We also received the "London University Benchmarking Study - a report commissioned by the MTRC on mass transit system", and the research report of the KCRC entitled "Effects of Government Participation in Railway Operation as Seen in Europe, North America and Asia". We also met with representatives from two banks and a credit ratings agency. Moreover, members of the Panel on Transport formed a delegation to visit overseas cities to gain in-depth understanding of some European cities monitoring and operating their mass transit systems. Both Mr SIN and I went on the visit.

Mr SIN doubts whether the Hong Kong Government, not being a democratically elected institution, has properly balanced the interests of the public and the railway corporations while monitoring their fare increases. However, how do the national railway systems of the four countries which the delegation visited, namely England, France, Germany and Singapore, perform, although theirs are elected governments? Can these governments really protect the interests of the general public?

According to the analysis of the study group, it is not common for a parliament to directly take part in determining the fare or to have the power to approve or veto any increase. Mr SIN, of course, would say that even though the councils of these countries have not taken part in determining the fare, their governments are democratically elected, whereas this is not the case with Hong Kong, so there is a need for the Legislative Council to directly take part in setting the fares.

Let us look at the consequence that certain democratically elected governments have come to when they play a part in determining fares. All

literature materials and first-hand experience gained during the overseas visit point to one single conclusion: if the fare is determined by a government or if politicians can interfere with any increase, the permitted increase may not be as much as it should be, and that would give rise to a vicious cycle in which low income leads to poor service and reduced passenger volume. When the railway operator finds that its operation is regressing, the government will have to step in by providing huge subsidy. In fact, most of the railway systems in Europe and North America rely on subsidies to make up the shortfall in their operating costs, and the rate of subsidy ranges from 15% to 66%.

Why should cases of under-increase in fares arise ? Mr Kiepper, former President of the New York City Transit, pointed out that right from Day 1, the power to set the fares for the New York Subway had been in the hands of politicians, and became a pawn for these politicians to lure votes. Since its operation in 1904, New York City Transit had been charging five cents per trip for 44 years. As it had been running at a loss for a long time, much of the equipment lacked repair. Though from 1968 onwards, politicians have been kept away from fare matters, substantial adjustments in the fare structure have been made to accommodate actual needs, and the government has also made a further investment of US\$20 billion, the service of the New York Transit System is still far from satisfactory, despite an annual subsidy of US\$4 billion to US\$5 billion. Mr Kiepper stressed that the "culprit" for the desolate state of the New York Subway is that a reasonable income could not be generated from the fare charged, which is the result of intervention by politicians. The delegation also met with people in the railway business in London, and they expressed similar views. They did not support any action to weaken the decision-making power of the transport agency. They cited an example in the 1980s, when the leadership of the Greater London Council cut the fare by half, but could not achieve a corresponding jump in passenger volume, the transit system lacked operating fund as a result and the performance of the system got worse. Now the British government has to provide a 400 million pound subsidy to the system every year, but it is yet to reach a reasonable modern standard. Their conclusion is that the fare matters should be determined by professionals and not by politicians.

If a government or politicians were to take part in the pricing process of fares, not only would the performance of the railway be affected, it would have profound effect on the future development of the system. On the one hand, as the

management cannot make accurate prediction with respect to income, they cannot provide any undertaking for their investment programme, thus weakening the operability of the railway. On the other hand, since investors and creditors have no way to make projections on the future income of the railway, the operator would have to pay higher costs on loans it raises on the financial market. The representative from HSBC Investment Bank stressed that the financial sector were not worried about the Legislative Council making wrong decisions. However, if the two railway Corporations had no power to control their fares, thus failed to predict the income from fares during the repayment period, then the confidence of investors would diminish. The representative from the credit ratings agency Standard and Poor's pointed out that if the relevant Bill, that is the MTRC (Amendment) Bill, is passed, the credit situation of MTRC would be adversely affected.

Mr SIN may say that he is not doing this for votes; he is only mindful of the livelihood of the people. In the 1960s and 1970s, the Parisian politician also said that they were working for the livelihood of the public, but what was the result? A representative of the transport authority of Paris, the RATP, told us that the inflation rate was very high at that time, but the politicians insisted that the fare had to be kept low to prevent further aggravation of inflation. Income from fares therefore had not been achieved or had only seen very little growth. The Parisian government had to provide huge subsidy and make substantial increase to meet the shortfall. A recent increase was 3% higher than the inflation rate. We must understand that the fare of the Parisian railway can only cover a third of the actual operating cost, with the remaining two thirds being equally borne by government subsidy and the employer.

I remember that the Honourable Conrad LAM moved a motion on 5 July, 1995 to freeze the railway fare, and on 24 January, 1996, Mr SIN moved his own Bill to freeze charges of public corporations, including the three railway corporations. The arguments they put forward were high inflation and climbing unemployment rate. If the Democratic Party were successful in freezing any increase for two years, the railway systems of Hong Kong could have also gone down the same path as the New York Subway and the Parisian railway, or even the road of doom of New Zealand. Mr Kevin Hyde, former Chairman of the KCRC, told us that the New Zealand government froze railway fares for three years, and

the railway was thus forced to declare bankruptcy; but when the railway was reopened again, the fare increase was a whopping 67%.

Mr SIN has time and again stressed that Members will look at the problem of fare increase rationally, and even if Members were given the power, they would come to their decision according to the information provided by the operators, and would not necessarily be against any increase.

Barring anything further back, since 1991, the United Democrats of Hong Kong (UDHK) or the current Democratic Party have been objecting every time to the three railways, buses and ferries applying for fare increases, without considering whether the operators were making a profit or not. Members will have a clear notion of what the position of the Democratic Party is by looking at their arguments used in the series of debates over the proposed increase in ferry fares.

- On 25 November 1992, despite the fact that some services were cross-subsidising the other to maintain an overall service, the UDHK objected to the proposal of the Yaumatei Ferry charging holiday fare for its outlying island services.
- On 30 June 1994, ignoring the overall operation need of the Yaumatei Ferry, the UDHK was adamant that the fare for the ferry service between Tuen Mun and Central be frozen.
- On 20 January, 1996, the Democratic Party requested a freeze on the fare increase of the Yaumatei Ferry, even though the operator was operating at a severe loss.
- On 6 March, 1996, although it understood that freezing the fare increase would mean a loss to the operator, the Democratic Party still requested a freeze on the fares of the Star Ferry.

The fare increases of the three railways and franchised bus services do not require approval from the Legislative Council. However, when going over the newspapers, Members will find that the Democratic Party is always in the

opposition in respect of every fare increase. Thus, on the issue of fare increases, you can come to your conclusion as to whether the Democratic Party is rational!

Of course the Democratic Party is working under the banner that it is for the livelihood of the people and for the interests of the grassroots. However, as the Democrats will refer to one side of the materials only, how can people believe that if the Legislative Council were given that decisive power, all Members could assess whether the increase was reasonable, fair and just, and would consider all the objective factors and balance the interests of the service providers and the public?

Mr President, Mr SIN thinks that an increase in railway fare would have great impact on the livelihood of the public, so it should be subject to more stringent control. I agree that Members should have the responsibility to monitor the railways, but this responsibility should be discharged by the Legislative Council Panel on Transport. Since 1991, every time the two railway corporations plan an increase, they always report to and seek advice from the Transport Panel. In June 1994, I proposed a Bill requesting that public transport operators must disclose information and data when applying for fare increase, and the two railway corporations have been very co-operative in this regard. Though Members do not have the power to veto an increase, it does not mean that the relevant company is heedless of Members' views. For example, when Members raised objections in 1991 against the proposed surcharge during peak hours, the MTRC did not propose any increase, and the surcharge was cancelled in 1993. Similarly, in 1993, after considering the views of Members, KCR also cancelled the increase for the section from Fo Tan to Tai Wai and Sha Tin.

Mr President, finally I would like to respond to Mr SIN's request for a standard monitoring mechanism. Mr SIN's request is purely for the sake of standardization. Has the services of the MTR and the KCR become very unsatisfactory? Without any subsidy from taxpayers, both the MTRC and the KCRC have been able to earn enough income to meet the necessary expenditure, maintenance, interest payment and to repay its debts, and have put aside enough reserves to develop their railway systems. Their performance and service quality are the envy of the other railways around the world and are examples which others want to model after. Countries where the delegation visited wondered what Hong Kong could learn from them as Hong Kong already had such a good railway system.

The success of the MTRC and the KCRC may not have interested the Democratic Party, as what it concerns most is the fare. However, even though there is no direct government control, no direct Legislative Council control and no subsidy from the taxpayers, the increase in the railway fare of Hong Kong, on average, is lower than the inflation rate and the fare is cheaper than the railway service of many major cities where there is government subsidy. The fare of the London underground railway and that of the New York Subway are one or two times more expensive than that of Hong Kong, but their services are poorer. Of course, Mr SIN might say that Hong Kong has a very dense population, and the passenger volume is very large, so we cannot compare it with systems of other countries. But the New York Transit System carries 1.1 billion passengers every year, and the Parisian system has an annual passenger volume of 1.2 billion, both are higher than the 800 million passengers of the MTR and 200 million passengers of the KCR. The large passenger volume has no direct bearing on the quality of service and the fare charged.

After years operating on subsidies and borrowings, the railways in Europe and America have become a heavy burden of the taxpayers, and their governments are forced to reconsider their role. Since the three railways have been well-managed and have shown high efficiency, countries around the world are trying to learn from the successful modes adopted in Hong Kong. Governments in Europe and Japan are trying to minimise their ownership in railways, get less involved in the determination of fare, and provide less subsidy to the railways. Any increase should be considered in line with the actual operational need.

In April 1975 when the Mass Transit Railway Corporation Bill was debated by the Legislative Council, there were Members who opposed to the construction, and there were also Members who requested that any fare increase be passed by the Legislative Council. If the construction of the MTR had been vetoed 22 years ago, Hong Kong would not have had the prosperity it enjoys today, and today's debate would not take place. If the Legislative Council had been given the power to control fare increases of the railway, the transport history of Hong Kong would have to be rewritten. Instead of being examples for other countries to follow, the Hong Kong railway systems would become examples that we cited to show the bane of political interference in fare determination.

Given the experience of other countries, the performance of the Hong Kong railways, the feeble argument given by Mr SIN in respect of the two Bills, and, more importantly, the long-term, instead of short-term, interest of the public, I strongly oppose the Bills.

Mr President, these are my remarks.

MR CHEUNG HON-CHUNG (in Cantonese): As both the Mass Transit Railway Corporation (Amendment) Bill 1996 and the Kowloon-Canton Railway Corporation (Amendment) Bill 1996 are very similar in nature, my speech will be applicable to both Bills.

Mr President, the Member's Bill proposed by the Honourable SIN Chung-kai is to amend the fare determination mechanism of both railways and would have profound impacts. We should be very careful when we cast our votes. In a democratic and open society, it is a sign of progress for the two Bills to give the Legislative Council power to monitor the fares of the two railways. However, matter is not as simple as one plus one equals two.

Even if the Legislative Council were to set the fares, it does not mean all problems could be resolved. The resulting adverse effects may entail even graver and long-lasting consequence. In view of this, the Legislative Council sent a delegation to study the mode of operation and the mechanism for fare adjustment in the mass transit systems of other countries. I was one of the delegates. I observed that the modes of transport of some of the more advanced countries and territories have taken decades to develop, but they are, to varying degrees, still plagued by all sorts of problems. For example, the London Underground Railway, having been operated for a long time without sufficient funding from the government, is technologically backward in its operations. The system and concept of the mass transportation of Paris are different from ours. The government requires Parisian employers to pay a tax to maintain the operation of the local mass transit system. That practice is very different from ours, which requires the operators to be solely responsible for profit and loss. In Hamburg, Germany, the central government and local government often bicker over the cost to keep their underground railway operating and that leads to political confusion.

The people I met during the study trip all said that our mode of operation could be a model for them to study. They think that democratically elected representatives should, as far as possible, not be involved in the management and fare adjustment of mass transit transport as the political factor would affect the objective factors in fare determination. I had the opportunity to have lunch with some senior members of the English parliament, including those from the Tory, Labour and Liberal Democrat. They all said that it would be a very dangerous decision if a Members' bill like that of Mr SIN was introduced because the fare adjustment mechanism should be controlled by objective factors instead of politics. From their experience, because the elected members had to please their electorates, they would oppose any increase. However, if no adjustment is made for a long time, the transport concerned would be embroiled in economic hardship. There will be no improvement in the service and the transport system may even degenerate to the desolate state as the London or New York underground railway systems. In an objective sense, fare adjustment should be subject to service quality and competition from other modes of transport.

It has been pointed out that since the Hong Kong Government is not democratically elected, there should be a mechanism for elected representatives to monitor fare adjustment. The question, however, is to what extent these representatives should perform their monitoring function in respect of fare adjustment. There are a lot of factors affecting people's quality of life. If their logic were followed, would it also be the duty of Members to decide the price of vegetables? Basically such a concept is specious. Mr President, the two corporations and the financial institutions have explained to us that if Mr SIN's Bills were passed, the interest on the loans of the two corporations would increase. Who will pay for this increase in the long run? At the end of the day, it would also be the public to bear the consequence.

Mr President, the two railways are operating very effectively. When compared with territories where the economic conditions are similar to that of Hong Kong, the fares charged by the two railways are reasonable, and they also maintained a quality service. We think that there is no need to make any change just for the sake of making changes. The Democratic Alliance for the Betterment of Hong Kong will therefore oppose the two Members' Bills proposed by Mr SIN.

Mr President, Singapore has been very successful in managing mass transit transport. Its Public Transport Bureau is appointed to manage and monitor the fares and services of all modes of mass transport. The Bureau is in charge of issuing bus service licences, approving fare adjustment of various public transport and handling related complaints. The membership of the Bureau comprises representatives from the general public, professionals and people from transport businesses. They have the final say in matters relating to all modes of transport, and they all act independently, free from any political influence. This is something for us to learn from.

Mr President, while opposing the two Members' Bills proposed by Mr SIN, we request that the Government should establish an authority similar to that I mentioned above or extend the function of the Transport Advisory Committee. The membership should have extensive representation. In addition to its original functions, it should have the power to examine the fare adjustment of various public transport, to stipulate service quality standards and to have final decision in handling complaints. We believe that establishing such a mechanism will achieve positive effect in monitoring the mass transit systems in Hong Kong.

Mr President, I so submit.

MR EDWARD HO (in Cantonese): Mr President, I shall state at the same time my views on the two Bills proposed by the Honourable SIN Chung-kai in respect of the two railway corporations. Firstly, I have to declare my interest. I am a member of the Board of Directors of the Mass Transit Railway Corporation (MTRC). Despite my position, the consideration I give in my talk will not be restricted only to the effects of the two Bills will have on the two railways corporations. If the two controversial Members' Bills proposed by Mr SIN were passed, they would give rise to long-lasting and detrimental effects. Not only would the two railway corporations be affected, the proven successful way that Hong Kong uses in managing its public finance would also suffer. It would not be an exaggeration to say that the two Bills would hit Hong Kong's economy right at its foundation. Before voting on the Bills, Members should consider carefully the associated influences.

The public finance of Hong Kong has been robust. In fact this can be attributed to two golden rules or important principles. Firstly, it maintains a low taxation rate and a simple tax system. Secondly, it maintains its increase in public expenditure within the limit of its economic growth. These two principles can be successfully implemented because the Government has put in place a system for prudent public finance management. Statutory bodies such as the Housing Authority have autonomy in managing their own finances, and public bodies such as the two railway corporations are operated under prudent commercial principles. In other words, Government expenditure and subsidy are strictly limited to important and necessary social services, such as social welfare, housing and education. No matter what ideas Members may have, the two railway corporations are not part of our social services, and should not be so. Although railway is one of the best choices among the various modes of public transport, it is still a mode of transport that has to compete with other commercially operated systems. Hence we should not allow any other factors, other than those of a market economy, to affect the financial situation of the two railways. The two railways are owned by the Government, which means that they are also owned by the public, but that does not mean that we have to turn them into a social service that has to be heavily subsidised by taxpayers. There must be monitor and control, but taxpayers are the investors of the two railways, and the profit made should be for the public and be available for further railway development, or for paying dividend to the Government so that other services can be benefited.

Mr President, what we are discussing now are two most successful railways in the world. In studies of the service quality of the world's urban railway service, the Mass Transit Railway (MTR) almost tops the list. The MTR can provide advanced, safe and reliable service without any subsidy and guarantee from the Government. Since 1980, the fare of the MTR has been kept at a level lower than the inflation rate, and even lower than its competitors. What we should question is the motive behind the introduction of a politically-motivated mechanism for monitoring fare determination. The present mechanism has not only won the admiration of the major railway corporations of the world, but also achieved remarkable result. So, what exactly is the problem? Should the two railways lose their autonomy in adjusting their fares, they would also lose the discipline to operate according to prudent commercial principles. I think that this discipline is very important. When politicians were given the power to adjust fares to a level that was acceptable to their constituents, we would be going down a very slippery

path which means that the railway corporations would have to be subsidised by the Government and the maintenance would be of a poor quality. The Honourable Miriam LAU has said very clearly just now that the delegation of which she was the leader gained precious experience from the overseas visit: what others found unworkable, we should not follow. While attending the meetings of the Bills Committee of the Legislative Council, experts who are experienced in managing large-scale railway systems in other countries, including Mr Alan Kiepper, former President of New York City Transit and Sir Wilfred Newton, former Chairman of the MTRC, referred to the painful experience of many urban railway systems around the world, which Mrs. LAU has mentioned.

Mr President, when politicians propose that they be given the power to set the fares, they would put on an image that they were working for the benefit of the passengers and would strive to get a lower fare. However, they have not told the trustful public what experience the other countries have gone through: taxpayers are saddled with a very heavy burden and given a railway system is getting worse and worse day by day. Mr President, I urge Members not to support these Bills, which have not been well thought through.

DR LAW CHEUNG-KWOK (in Cantonese): Mr President, the purpose of the Mass Transit Railway Corporation (Amendment) Bill 1996 and the Kowloon-Canton Railway Corporation (Amendment) Bill 1996 proposed by the Honourable SIN Chung-kai is to achieve direct control over the fares of the two railways through the Legislative Council, thereby protecting the interests of the public. I greatly admire the good intention and hard work of Mr SIN. To conduct an overall review in respect of such an important issue just before the handover has its own historical significance.

Issues related to public transport are closely related to the livelihood of the general public, and have always been a concern of the Hong Kong Association for Democracy and People's Livelihood (ADPL). We consider that the two railways, being bodies wholly-owned and operated by the government, should be subject to appropriate government control. In considering any fare increase, the Government should have greater concern of the long-term interest of the public.

The "power to decide fare increase" has a great impact on the livelihood of the public and should not be treated perfunctorily. The ADPL has great reservation in Mr SIN's Bills for the following reasons:

- (1) Early this year, I went with the delegation of the Legislative Council to visit to a number of American and European cities, and found that it was uncommon for a council to approve the fares of public transport. The governments of these cities were of the same opinion that fare adjustment was an economic issue and should not be decided by the highly politicized councils, as so doing would only lead to inconceivable consequences. The power to decide fare adjustment is part of the administration authority. As the Legislative Council is an institution to monitor the Administration, it should not involve itself directly in such work. Fare adjustment of public transport is mainly an economic issue and should be dealt with through economic means and policies. I remember that when this Council examined the fare increase of the Yaumatei Ferry, some political parties put their interests above those of the public, thus giving rise to a very disappointing result.
- (2) If the power to approve fare increases were given to the Legislative Council, banks would think that the two railway corporations had lost their autonomy and their repayment ability in the future would certainly be affected. This directly affects the international credit ratings of the two railways, and the interest they have to pay may be one or two percent higher. This increase in interest payment would certainly be passed onto the public. Before any benefit from the change could be achieved, we would have to bear the adverse consequence first. Mr SIN thinks that by forcing the Government to inject more funds into the two railways, the pressure of fare increase would be reduced. I am not very optimistic that any Member who cares about the livelihood of the public could truly have that ability to force the Government to inject funds into the two railways.
- (3) In the coming 10 years, the two railway corporations will have to raise huge amount of funds to finance their development. If changes were

made to their fare mechanism now, their ability to raise loans might be affected and that would be detrimental to their development.

- (4) According to the Legislative Council election arrangement as stipulated in the Basic Law, it is very likely that the Legislative Council after 1997 will be biased towards the interests of the commercial sector. Even if the two Member's Bills of Mr SIN were passed, it would not be guaranteed that there would be genuine monitor on fares. The situation might even be worse.

Though the ADPL has great reservation in Mr SIN's Bills, we have not let go the two major issues of monitoring fare increases of the two railways and public transport policies. We think that the Government should provide the necessary guarantee and show improvement to the public. We therefore make the following two proposals:

- (1) With respect to the rate of fare increase of the two railways, the Government should not approve any increase higher than the inflation of that year. Should the Government approve an increase higher than the inflation rate, the public will have to shoulder only the part up to the inflation rate of that particular year, with the rest to be borne by other effective means of the Government.
- (2) Given the rather confused Government policy regarding the monitoring of public transport, a 'Public Transport Management Committee' should be set up to standardize the monitoring work of fares and services of all modes of public transport. Members of the Committee should represent a wide spectrum of society, including representatives of the three tiers of councils, professionals, the trade and various sectors. The operation of the Committee must be highly transparent and vested with specific decision-making power. The ADPL considers that establishing such a committee could achieve more effective monitor of the fares and services of the two railways and the other public transport and protect the interests of the general public.

The functions of the Committee should include: (1) examining fare adjustment; (2) determining and monitoring the quality and standard of services; and (3) handling complaints. Moreover, the Committee should have its own secretariat to ensure its independence and operational efficiency.

Mr President, these are my remarks and I hope that the Secretary for Transport can give a positive response to the two proposals of the ADPL.

Thank you, Mr President.

MR CHAN KAM-LAM (in Cantonese): Mr President, it is indisputable that the operations of Hong Kong's two railways rank top in the world in both their reliability and cost-efficiency. Their credit ratings and ability to raise loans also maintain at a very high level. However, this does not mean that they can be exempted from any regulation.

Actually, the independence the two corporations enjoy is also world-famous. Though in name they are fully owned by the Government, they are hardly subject to any sort of Government regulation. Barring anything too further back, just a few years earlier, the Mass Transit Railway Corporation (MTRC) was under severe public criticism for the additional fare it charged during peak hours for reason of too many passengers. The Kowloon-Canton Railway Corporation (KCRC) has appointed a large number of consultants to study the construction of the Western Railway, but the Government officials sitting on the Board of the KCRC had no knowledge of it. All these point to the fact that there is insufficiency in the present monitoring system.

Mr President, though at present the two railway corporations are not under public monitor, the two Bills proposed by the Honourable SIN Chung-kai only focus on the magnitude of fare increases of the two railway corporations by requiring that it be passed by this Council in the form of subsidiary legislation. The Democratic Alliance for the Betterment of Hong Kong (DAB) considers that the objective and direction of the Bills are erroneous.

The DAB opposes the two Bills of Mr SIN because we think that it should be the responsibility of the Government, not the Legislative Council, to monitor the two railways.

First of all, the Government should enhance its control over the two corporations and the control should be comprehensive. The DAB considers that the Government should expand the membership of the Transport Advisory Committee and vest in it certain powers so that it can truly perform its monitoring role through comprehensive examinations on the operation of the two railway corporations and approving or amending every application for fare increase.

Moreover, as said by Mr Alan Kiepper, former President of New York City Transit, despite his objection to the regulation of the legislature over railway fares, he agreed that the executive and the legislature both had a part to play in the operation and monitor of railways. The DAB also considers that the Government should make regular report to the Legislative Council in respect of the operation of the two railway corporations, and that the Government should listen to Members' views on the services of the two railways.

Mr President, with these remarks, I oppose to Mr SIN's Bills, but I also urge the Government to review the monitoring mechanism for the two railway corporations as soon as possible.

Thank you, Mr President.

MRS ELIZABETH WONG: Mr President, I think the Honourable SIN Chung-kai's proposed Bill sets the scene for the future, and if accepted, is certainly an option to monitor our public utilities, including transport facilities. But frankly, it surprises me to hear that so many of our colleagues in this Council despise so much the rightful function of our legislators and cast so much doubt on the motivation and the wisdom of our politicians.

Now, if we represent the people of Hong Kong we must care for the people of Hong Kong. Indeed, if we look down so much upon the motivation of ourselves, because we are all politicians, we have no right to be here. I am very

surprised and very sorry to hear the justifications put before us to counter the Honourable SIN Chung-kai's proposed Bill.

But I for one do not agree with him. I have my own reason, but I want to congratulate him for his vision, for his courage, for his daring in thinking of a new way of tackling the monitoring problem. However, I am sorry, the Honourable SIN Chung-kai, I do not agree with you. I have my reasons why.

I speak from the heart, Mr President. Years ago in the early 1960s I went to the United States. I travelled on the underground. I have had experience of witnessing the dirty trains and the graffiti on the walls. They were all used by the blacks of the 1960s. I do not know whether it is in fact a political problem because politicians were championing for that, or because of a racial problem. I do not know. I do not think it is up to us to hear and stand up and talk about things that we have no personal experience of. I have experienced the 1960s dirty trains in the New York City Transit. I think that is because they needed money and the people, the users, were very poor, with the result the United States Government, or the New York City is ploughing money into it. I think that was a right decision, but I do not think we should be simplistic by using the New York City Transit and quote verbatim the reasons given and countering the political interference at that time.

So, my reason, a very simple reason, is this. I dare say that the Hong Kong MTR is one of the most modern, safe and reliable railways in the world. I use it all the time. I use it at least three days a week. I am a regular commuter and I am comfortable with that situation. Now, for as long as the MTR is efficient, safe and reasonably cheap and I can afford to use it, I will support the management. I will monitor the management. I would not let the management off the hook, but I do not think I want at this stage to take over the management's job.

Now, it is not because I do not think politicians should be involved. Indeed, politicians ought to be involved. It is one of our primary functions to be involved, but I do not want to adopt the option of direct monitoring at this stage because I myself, as a people's representative, am satisfied with MTR's efficient management at this stage. But I am watching the management, and I am not letting the management off the hook.

MR LEE WING-TAT (in Cantonese): Mr President, as seen from the debate of today, I think that I can put the views or stance of my colleagues into three categories. Views of the first categories are closer to those of the Liberal Party. They think that the current monitoring on railway operation is already sufficient, and there is not much to be changed. Some other colleagues think that the present monitoring mechanism is unsatisfactory and should be improved.

The Democratic Party has made a formal proposal. Some other political parties, the Hong Kong Association for Democracy and People's Livelihood (ADPL) and the Democratic Alliance for the Betterment of Hong Kong (DAB) have also proposed some ideas today. There is one thing I do not quite understand. The Bills Committee has already examined the Bills for almost a year. If the various political parties have really examined the Bills seriously, and studied ways to improve the management and monitoring of the railways, they should have had enough time to think out a way that can really achieve these aims. Let us put aside the Liberal Party for a moment, but I do not quite understand why the ADPL and the DAB, having studied the Bills for so long, cannot come up with something which they think is workable. After listening to the speeches of the Honourable CHEUNG Hon-chung, the Honourable CHAN Kam-lam and Dr the Honourable LAW Cheung-kwok, I have the feeling that they are not satisfied with the fares, services and even the monitoring of the railways, either. However, they just give very vague and general opposition, saying that the proposal of the Honourable SIN Chung-kai is not workable and his approach may give rise to problems. Now, let us look at the proposals that they ask us to consider and see whether these proposals can provide the solution. Dr LAW asks the Secretary for Transport to look into the possibility of establishing a Public Transport Monitoring Council or something like that. Mr CHEUNG, whom I consider to be a representative of the DAB, also put forth a similar idea.

Let us assume that we had established such an institution, a Public Transport Monitoring Council, with members from different sectors of the society, and vested with the powers proposed by Dr LAW, that is, monitoring matters related to fares and operation. I would like to put to Dr LAW and the DAB and Mr CHEUNG and Mr CHAN, whether they are certain that this Monitoring Council would not be, just as you have criticised Mr SIN's Bills of, causing too much intervention. How can you be certain that members of this Council would not politicise the issues under discussion? How can you be certain that with the establishment of such a

Council, Standard and Poor's and Moody would not lower the credit ratings of the two railway corporations? How can you be certain that the members would be more rational than we legislators in looking at the issues? I do not see how some political parties can put forth such specious solution, without giving more thoughts to the reasons behind, especially when they have more than a year to consider, and then formally propose amendments to Mr SIN's proposal. The DAB can propose amendments, and so can Dr LAW, to scrap the whole of Mr SIN's proposals, and then put in its place a proposal for the establishment of a Public Transport Monitoring Council, and talk about what membership and power that Council should have. However, they should not have put forth such a vague proposal, without any concrete details. This is very irresponsible of them. It only shows how lazy that political party is. How can a political party be that lazy? If they have a proposal to make, they should prepare well for it. They should not have waited till today to give some specious reasons and ask the Secretary for Transport whether he

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, is it a point of order?

MR CHAN KAM-LAM (in Cantonese): Mr President, Mr LEE Wing-tat said that he would like to ask me, so could I answer?

MR LEE WING-TAT (in Cantonese): Mr President, I have not asked him, I just said that he was lazy.

PRESIDENT (in Cantonese): I was not here just now. When Dr LEONG Che-hung was presiding as Mr Deputy, there was an incident. Perhaps, from now on we can handle such things in this way: if it is a point of order, please stand up and say it is a point of order, and let me handle it. As to other matters, if clarification is required, please raise your voice. If the Member concerned does not give way, the clarification will not be dealt with. If you feel that you have been misunderstood, please raise your voice too. If I have not called out your name and have not asked the Member concerned to sit down, you cannot speak. That will be the rule from now on. If it is a point of order, please say so and stand up.

I shall ask that Member to sit down and let you put your point. Other interruption shall only be permitted if the Member is willing to give way.

MR LEE WING-TAT (in Cantonese): Mr President, I am not willing to.

PRESIDENT (in Cantonese): Mr LEE Wing-tat, please continue.

MR LEE WING-TAT (in Cantonese): Mr President, firstly, could you please adjust your clock because you have been talking all the time, and time just slips away. It is not my fault. Just now I have only talked for four minutes, but you have talked for 51 seconds.

Mr President, what I just said is only a comment. I mean that if any political party has any views on the Bills, it should have enough time to carry out its own studies. It should discharge its duties and put forth something more workable than that proposed by the Democratic Party, instead of being so lazy as to make some very vague suggestions and ask the Secretary for Transport to respond. These parties are just trying to find a way to back out by saying that the Secretary for Transport has given a positive response and that they feel very satisfied and will support the Government to vote against Mr SIN. They are using this ploy to shy away from revealing their position. We, the Democratic Party, have our cards lay out in broad daylight and this is the way we act.

Mr President, on this issue I cannot agree to the Honourable Mrs LAU's analysis. She seems to have brought out an issue that an elected Legislative Council would have its pitfalls in monitoring fares or financial matters. She has cited a lot of foreign experience. However, when we cite other's experience in our debates, we would immediately be bombarded by criticisms from other political parties, saying that foreign condition would not apply to Hong Kong. As democracy and human rights are not applicable to Hong Kong, why do we have to comment on Hong Kong affairs with reference to foreign conditions? So foreign experience is out of bounds with matters relating to democracy and human rights. However, when one's self-interest is put on the line, foreign experience is useful. Anyhow, suppose what she cited is correct. My view is like this, but firstly, I

have to say that sooner or later, the element of democracy of the Legislative Council will increase. If the Liberal Party and the DAB will not change their stance, their platform, I remember, is to go for complete direct election for the Legislative Council by 2007 and that is 10 years from now. I presume they really mean it. By 2007, when this legislature is completely elected, what would be the result? Of course, according to Basic Law, this legislature has no power to amend any ordinance, but can a legislature with some elected element force the Government to do something? That is the first question I have thought of. The second question is as follows. Very often the Legislative Council has to deal with monetary matters and problems concerning the welfare of the people, not just fare increases. Every year we have to deal with a lot of matters related to money, such as government charges and the Budget. With Mrs LAU's logic, all proposals or Bills submitted to the Legislative Council would be solely for the public. If this is the case, this elected Legislative Council will ask the Financial Secretary not to levy any income tax, and to freeze all other charges. In fact, in 1996, the Liberal Party tried to have all charges frozen for ever, and it even tried the same in respect of all matters that would increase the burden of the people.

Let us return to history. What has history told us? History tells us that this Legislative Council has never brought down a budget by huge tax reduction, never. There were instances where a budget was met with opposition, but that involved only minor welfare issues, such as the comprehensive social security assistance payment this year. Therefore, using our local legislative experience, I can not see any panic as described by Mrs LAU. And as my analysis shows, should there be such panic, no matter how hard we try, it would still be unavoidable. What I mean by unavoidable is that when an elected Legislative Council comes into existence on 1 July, it can still force the Government to amend the Bills and force the Government to set up such institution like the Public Transport Monitoring Council, which Dr LAW, Mr CHAN or Mr CHEUNG has mentioned, and then force the Government to appoint representatives from the DAB and the ADPL as members. The situation would not be anything different. Why can an elected Legislative Council be relied on to deal with so many local economic problems, using only our local experience? This Council has passed many Bills, which may be about copyright or sewerage charge, and every one of them affects the burden of the people, but when we debate on these problems, it seems that the Legislative Council is given the trust that it can deal with the Bills and proposals concerned with rationality. However, when it comes to fare and charge increases of public

utilities, this Council is not given that trust. Where is the logic? If Members of this Council are not worth any trust, then this Council should not be trusted with the passage of the Budget, and all charges, including government charges, need not be approved by this Council.

Of course, some colleagues have said that neither the MTRC nor the KCRC is a government department, and they are just corporations fully owned by the Government. In logic, however, what is the difference? If these corporations can have full subsidy from taxpayers, they are not different from any project conducted by the Government. Except its mode of operation according to prudent commercial principles, which is a bit different from the welfare services and financial policies managed by the Government, what other reasons can we give? If the same group of people can be trusted with monetary matters that may involve sums much larger than the fares of the two railway corporations, why can they not be trusted with one single matter of fare increase?

Mr President, finally I would like to point out one thing. That is about the credibility of a person or a political party. No matter how you look at the Democratic Party, we always state clearly our stance and views on these matter. We are not the type that only deals with any issue in a wishy-washy manner. Instead, we put up placards everywhere saying that we are stepping up the monitoring of public utilities and improving public services. The political platform of the DAB even says that it would restrict fare increases of public corporations and public utilities and suppress inflation. A political party like this can put forth such a platform but does not propose any workable solution, and even opposes a workable way proposed by the Democratic Party. I do not think any political party having any credibility in what they profess would act like this. Some political parties would say one thing, but do another. This is not the way of the Democratic Party. The DAB hangs out placards everywhere, saying that the public assistance payment should be increased to \$500, but the Honourable TAM Yiu-chung says that he does not agree to too big an increase, while the Honourable CHAN Kam-lam says that he agrees to the increase. What we are discussing now is not just about fare increases. What is more important is the credibility of an elected representative. Members can put down a set of ideas in their platforms, but will that be consistent with what they say on the billboards, and with their speeches in the Legislative Council and the way they vote? Please don not fool the public. You can say outside this Council that you are invincible and able to

accomplish anything, but in here you are always on the side of the capitalists. If you want to be a political party that serves the middle-class or the capitalists, then say so openly, so that others know what you are doing. Fearing that you would be criticized, you make up proposals that show that you are working for the people of the grassroots. This only shows that you are not acting with any credibility.

I hope that those DAB members who have not spoken can explain what their platforms are, what they mean by restricting fare increases of public corporations and public utilities and suppressing inflation. I really do not understand. The DAB has hung out billboards like these. Maybe they have been taken down. No matter what the case is, whatever a political party does should have its proposal clearly lay out. Mr President, I therefore cannot agree to the analysis of Mrs LAU made in respect of the role of the Legislative Council in handling fare increases. She may have doubts about the Bills, but I still think that there are a lot of desirable points in them, which can set the fare increase of the railways to an appropriate level. Thank you, Mr President.

MR FREDERICK FUNG (in Cantonese): Thank you, Mr President. Mr President, one should not label other political parties with certain adjectives too off-handedly, as each party has its own thinking that governs its actions. Of course, we can point out a fact, but if one hastily labels all parties that have spoken as lazy, I think that is too rash and too much. For example, as the Honourable SIN Chung-kai has a year to prepare the Bills, why are there no Chinese texts up to this moment? Why is it so? I would not say that he is lazy, as this could be an oversight, or might be due to some other reasons. After all, this is no big deal, and he can make up for it. I therefore would not use such word on my colleagues. We can debate on the cause of it.

Secondly, on the proposal of the Hong Kong Association for Democracy and People's Livelihood (ADPL), the Honourable LEE Wing-tat may have missed the speech by Dr the Honourable LAW Cheung-kwok on the monitoring of bus companies last time, or may also have not read carefully the discussion we had on this issue with the Secretary for Transport in the newspaper last week and the week before. Our proposal for a Public Transport Management Committee was not made today. The idea was in fact promoted by us, the ADPL, half a year ago. Why can we not propose an amendment to the Bill? To establish the Public

Transport Management Committee will have a financial implication. This Committee cannot come into existence out of nothing; nor can it operate by itself. There must be staff in charge of its business. With the present Bills, we cannot achieve that purpose. A Members' bill cannot achieve that, and after 1997, being subject to the Basic Law, it would even be harder. If we have to achieve that, we must force the Government into action. So, in fact, we are forcing the Government to establish the Public Transport Management Committee. You may not agree to the way I go about for it, but you should not have abused us by saying that we are "practising deception" or "say one thing but do another". We certainly have to clear the hurdle in legal principle and legality which the Legislative Council is subject to, and I believe you are more knowledgeable than I am in this issue. I have never proposed any Members' bill, but I do know of the difficulty involved. Anyhow, this proposal was not made today, and it had been in the creation for the past half year.

The second issue involves the question of "belief". Between the executive and the legislature, should the legislature rule supreme or should there be division between the two? At least I myself believe in the separation of powers: the executive is to carry out policies, the legislature is to enact legislation and may even formulate policies under legislation, but definitely not to enforce any policy. In other words, we can enact a legislation, requiring that a ceiling be set on fare increase, but we are not to enforce that legislation, which is tantamount to examining how the two railways are to make their increases, how much that increase is, by how many cents, or what percentage. I feel that it is a matter which the Legislative Council will find very hard to deal with.

We have talked about a council that is "both red and expert". A "red" council is one that has a nose in every matter. You have to know everything, but you are not expert in anything. Under such a situation, I think that we should voice our views to the Panels, criticise the Government, or exert pressure on the Government, but it is not up to us to calculate the increase for how many cents and so on. That is the job of the Government. What we can do is to set an upper limit, or formulate a policy, so that we all know what that limit is. We are qualified to do this. That is my conception about separation of the executive and the legislature, which perhaps may be an issue we hold different view from the Democratic Party. We see that the Democratic Party has recently proposed many Members' bills, which are to give power to the Legislative Council to enforce

certain policies, including the fare increases of the three buses and the two railways, and even the rental increase of the housing estates. Sorry, the proposal in respect of the rental increase of the housing estates was made by the Honourable LEUNG Yiu-chung. What we want is to have an upper limit, which shall not be higher than the inflation rate, and the inflation rate is our warning mark. Such is our basic belief, and under such a belief, we make two requests today, which Dr the Honourable LAW Cheung-kwok has mentioned. These two requests in fact have affected our decision. Dr LAW has also praised Mr SIN in his speech, because we think that there must be some sort of monitoring, and on this, we are the same. However, as to how the monitoring should be carried out, we differ in our beliefs and understanding, or we go for different approaches. We have said that if, in a short while, the Secretary for Transport responds to our two requests, which are an increase no more than the inflation rate, and the part of the increase above the inflation rate to be borne by the Government, we will not be wishy-washy with our requests, and they are very clear. Our other demand is the establishment of a Public Transport Management Committee. If the Secretary for Transport gets wishy-washy when he responds to our two demands, we would rather support the Bills proposed by Mr SIN. It is not because we have changed our belief. Instead, it is because we think that a certain degree of monitoring is better than no monitoring at all, but we do not want to take this as the option. This is the stance of the ADPL.

Furthermore, we think that the current state of affairs in respect of fare or fare increases or management of the public utilities is very confusing. Some matters can be decided by the Legislative Council, others have to undergo the consultation with the Transport Advisory Committee before decided by the Government, and still others can be decided by the operators themselves. We therefore propose a Public Transport Management Committee or Public Transport Council to oversee all these matters. We think that such an institution can ensure a more systematic handling of problems of management or fare increases of the public transport. We also propose that the membership of this institution should comprise professionals, members of the three tiers of councils, trade representatives and representatives from all sectors of society. However, because this institution is directly responsible to the executive, and not to the legislature, this institution, in our conception, is a special committee or a department of the executive authorized with the responsibility to examine specially assigned work. It will be accountable to the executive, and not to the legislature.

That institution may have some functions of a council. For example, the Housing Authority has some 30 members, who may form themselves into different groups. The operation of the Housing Authority may be different from that of the Legislative Council, but there are areas in which they are the same. I think that our proposal to establish such an institution is an improvement on having the monitoring function performed by a government official or a decision-making body. It is because this institution will involve more people and achieve higher degree of transparency, thus enhancing its monitoring role. This is the purpose of the institution when we first conceived of it. Up to now, we still think that, as legislators, we should set a policy standard, or an upper limit. With respect to the examination of the work of the executive, basically I think that it should be the responsibility of the executive. We therefore still stress the two proposals made by Dr LAW just now, which will be an important criteria for our vote a little later.

Thank you, Mr President.

MISS EMILY LAU (in Cantonese): Mr President, I rise to speak against the two Members' Bills proposed by the Honourable SIN Chung-kai. I have considered the matter for a long time, and have repeatedly discussed this with my supporters, including my staff. The views I got differ greatly. Some people strongly support that the Legislative Council should be given this power, but some people, such as the Honourable Mrs Miriam LAU, who have put it very clearly, think that a lot of difficulties are involved. Like the Honourable Elizabeth WONG, I would like to borrow a word from the Honourable IP Kwok-him, showing that I am "shocked".

Both Mrs LAU and the Honourable Edward HO have been rebuking those politicians. Mr President, I do not know whether, in their minds, you and me were amongst them. I am certain that I am one of those politicians, but I do not know if they have also placed themselves amongst the likes as politicians. "Politician" is a very bad word. There are people who are genuine politicians, that is those who try to seek an advantage at the expense of others and do not care to do anything concrete, but there are people who are just the opposite. However, they have referred to all those who have got themselves into the business of politics as politicians, and I think this is very erroneous. We always try to correct the media, saying that they should not use such word to refer to people in the business of politics, but now even Members of this Council are doing the same thing. I think

this is really bad. However, Mr President, I accept that an elected member may sometimes be subject to enormous pressure from his constituents that there should not be any fare increase. We also understand that when we have to debate on fare increases, my supporters would ask me not to approve any increase. But I am not the sort of people who would say that every increase is wrong. I understand that an elected council has this sort of problems.

I am also in agreement with Mr LEE Wing-tat's criticism made against the Liberal Party in respect of their selectively using experience of other countries. This is a fact. As to the foreign experience referred to by the Liberal Party on this occasion, I cannot agree more; it is rare that a council would be given this power. However, in the future when issues about human rights and the rule of law are being debated, I hope that the Liberal Party will not be as selective as they have been, nor act like Mr TUNG Che-hwa, who said, "Police in the governments of foreign countries also have the power to control the freedom of association." Please remember that those governments are democratically elected. It would not appropriate only to pick those that suit your purpose. I believe that we all have learnt something this time. I agree and do understand why there is such difficulty in the issue, especially when we talk about the situation in New York and London. What they are having there are fact. We, especially those of us who are elected, have to be responsible to the public. If I say that the Legislative Council should be given this power, some people may say that I have gone too far. I hope that the public can understand my arguments and why I put forth what I say.

Firstly, I must admit that the two railways have been run very well. We all can see that, but some people, especially those daily commuters, think that the MTR service is not as good as it used to be and there are times when the train breaks down. I have raised this with Mr Jack So, hoping that improvement can be made. However, if, in the end, this power is not given to this Council, I can accept why it is so. If, in the future, this Council is given this power, I wonder if Mr SIN would still be here. But anyway, anyone can raise this again. If the Council at that time has this power, legislation can be passed any time to decide on this. But after listening to the arguments put forth today, I would like to see Mr LEE Wing-tat rebutting each one of them, but instead and regrettably, he is too engrossed with attacking other political parties. Of course, you can try to square things out between yourselves, but I think that some Members have put forth very strong arguments. I therefore keep asking him if he would respond or let Mr SIN to

respond at the end. I really want to know how the Democratic Party will rebut each argument. If they really have sufficient reasons, I would consider supporting the Bills of the Mr SIN.

However, after listening to Mr LEE's speech, I do not think I am convinced. Mr President, how can the price be really subject to control? I think the most important of all is competition. At the moment, and I believe the Secretary for Transport will also tell you later, there is no other alternative modes of transport that can really compete with the two railways. You may say that there are buses, taxis, and public light buses, but we can all see that, in term of passenger capacity and other aspects, they can hardly be competitors of the two railways. I wonder if Mr Gordon SIU can tell us what other means can be considered. Some of my supporters say that there should be two railways, which would provide the necessary competition. Some people even say that the most important thing is that if there will be another railway, such as the Western Railway, it should not be operated by the Kowloon-Canton Railway Corporation, so that there will truly be competition. I think that competition is the best solution on this issue, much better than submitting it to this Council and letting us fight over it.

Mr President, I hope that more work can be done in respect of the monitoring of the two railways. Some of my colleagues have already put forth a lot of ideas and I do not want to repeat them here. It has also cross my mind that there could be more representatives from the grassroots on the board of the railway corporations. I hope that the Secretary for Transport can respond on this.

Our colleague the Honourable Edward HO is on the Board of Directors of the Mass Transit Railway Corporation. Is what the Board of Directors cares is profit, how to make more profits and how not to make a loss? Can some room be made in the Board for representatives from the grassroots and the ordinary passengers? Can more work be done to the current mechanism so that the general public can feel that monitoring work has been stepped up? Mr President, I believe that we would not dispute the fact that the two railways have been running pretty well. We hope that they will feel assured that the Legislative Council is very supportive of their work. But I still consider that there is still room for improvement, and hope that they can keep improving and doing their best. I believe that the Legislative Council would like to be given that power. In the

future Legislative Council, whoever has more votes can continue with this work. However, I do not agree to Mr LEE's saying that sooner or later, the element of democracy in the Legislative Council will become greater. He is much more optimistic than I do. Mr President, this is not a political debate, so I do not want to argue with him. I am pessimistic by nature. I feel that this issue about the monitoring power would be raised again in future. However, I have not been convinced of its urgency. Very sorry, Mr SIN, I am not going to support your two Members' Bills.

Thank you, Mr President.

MR IP KWOK-HIM (in Cantonese): Mr President, the stance of the Democratic Alliance for the Betterment of Hong Kong on the two Bills have been clearly expressed by the Honourable CHAN Kam-lam and the Honourable CHEUNG Hon-chung, but I would like to respond to what the Honourable LEE Wing-tat said just now.

Right at the very beginning Mr LEE said that the DAB had switched its stance. I cannot see how the DAB has switched its stance. Maybe it is on the 2007 issue, about the election of the Legislative Council or the legislature. I do not see why, for no obvious reason, he talked about this while debating on the fare increases of the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC). It could be that some Members would like to digress to the issue of switching stance, no matter what is under discussion. Perhaps he thought that this might be a derogatory term for some political parties.

I think that the credibility of a political party takes years of hard work to establish, and it is something that you cannot wish for. To gain the acceptance of the people of Hong Kong, a party must deliver what it promises. I do not want to just talk about credibility here. If one says that credibility can be wished for, it certainly would not have the agreement of anyone. But I can see clearly whether DAB has the acceptance of the people of Hong Kong. On the issue of credibility, you cannot say that a party has no credibility, and then that party will not have credibility. I am fully confident that the DAB would have the acceptance of the people.

From what Mr LEE said just now, it seems that not supporting the bills of the Democratic Party will imply that one is fooling the public. I am greatly surprised at this. Anyone considering

PRESIDENT (in Cantonese): Mr LEE, please state your point of order. Mr IP, please sit down first.

MR LEE WING-TAT (in Cantonese): Mr President, my point or order is that the Honourable IP Kwok-him has misquoted something I have not said. My term "fooling the public" refers to his platform and stance.

PRESIDENT (in Cantonese): Please sit down, this is not a point of order. Now do not try to make a speech in the disguise of a point of order. Mr IP, please continue.

MR IP KWOK-HIM (in Cantonese): Mr President, if not supporting the Democratic Party's bills is tantamount to fooling the public, to be on the side of the capitalists, that is tangling up all issues. I believe that the people of Hong Kong are perceptive enough to see this and I shall not make any response on this.

Let us look back at the platform of the DAB. It has been the platform of the DAB, which Mr LEE has also mentioned, that the fare and charge increases of public utilities should be restricted and inflation suppressed, and this is what the DAB has been working on all the time. I cannot see where we have not worked hard enough for the interests of the people. Be it bus fare increase or tram fare increase, every time we have made our stance clear, but this does not mean that we are against that the Legislative Council can have power to veto any increase. If we accept this Bill, then the fare increases of the KCRC and MTRC would have to be decided by the Legislative Council. This is what we have not put down in our platform. I think this is a twist on our point. I hope that every party will consider all factors first before making a decision, and this is what a responsible party should do.

Thank you, Mr President.

MR FRED LI (in Cantonese): Mr President, just now the Honourable Emily LAU said that the Bills of the Honourable SIN Chung-kai might not be passed this time, but still it could be raised again next time. It still an unknown whether Mr SIN would be here next time. Secondly, when the Hong Kong Special Administrative Region is established, Members' bills would not be proposed in the way we do now. The Basic Law has set up a lot of hurdles. For example, consent of the Chief Executive is required. Basically, the future Members' Bills will be different from those of today.

I have been listening quietly and calmly to many Members' speeches, and would like to make some responses. Firstly, Dr the Honourable LAW Cheung-kwok and the DAB, including the Honourable CHAN Kam-lam and the Honourable CHEUNG Hon-chung, have proposed some sort of public monitor, bearing names like "Public Transport Management Committee." Mr CHAN also proposes expanding the Transport Advisory Committee and giving it specific power to monitor the service quality and fares. In fact, both proposals, though taking different approaches, achieve the same result and that is to set up a mechanism. These proposes are made out of the dissatisfaction about the current monitoring mechanism, about the way the Government monitors the two railways. I am not going to debate on what name such a mechanism should have, as long as it is a mechanism for such matter.

Just now, the Honourable Frederick FUNG has not responded to one very important question. The two railways are trying hard to oppose Mr SIN's proposal, on the important ground that it would increase the interest costs on loans, and some Members have also referred to this point. However, how can he convince us and the Democratic Party that his mechanism, which he said would comprise members from the three tiers of councils and with extensive representation from the grassroots, would have the same amount of power and that the two railways would still be having the same credit ratings? Would the international institutes not feel worried? Would the interest rate not be raised one or two percent? I feel that he should clarify on these points. He said the proposals of Mr SIN would cause trouble; the proposals, if passed, will cause great trouble to the Mass Transit Railway Corporation (MTRC) and make the consumers suffer, and the increased costs will be passed on to the consumers. Now, I feel that his proposal is just old wine in a new wineskin; not much of a difference. No matter how he explains and how he counters the two major arguments made by the two railways, the two

railways will say that such a proposal is improper and will oppose it. Of course, they are better than the Liberal Party in having the gut to raise them. The Liberal Party just does not make any mention of this, because they are satisfied with the current monitoring mechanism. I take exception to the views expressed by Mrs Miriam LAU and Mr HO, especially Mrs LAU's. She has time again said that Mr SIN is going after votes, and that the Democratic Party always goes against any increase, which is a ploy used to get votes and only a politician would resort to this. Mr HO has used the term "politician" a number of times, on which Miss Emily LAU has also given her comment.

The question is: what is the purpose of the debate on the proposal made by the Honourable James TIEN? He is also doing this for his constituents. He asked that no sewerage surcharge be levied on the industrial and commercial sectors. Have we stood up and said that he was going after votes? I am not going to expose his intention; every one would do the same thing. We are all elected, and we certainly have to work for our constituency and the interest of our constituency. I would not oppose this. For example, it is the duty of the Honourable CHENG Yiu-tong to work for the interests of the labour. I would not stand up and say that he is going after votes and trying to be different. The Democratic Party has never stood up accusing other political parties of doing a certain thing to please their constituents, simply because we are also doing the same thing. We have to be accountable to our electors, and we will do the same. Mrs Miriam LAU has also to work for her transport constituency; it is just natural. I do not see any problem in this. However, we should never say that our colleagues are going after votes. I feel that this has to be made clear. For example, when we joined forces to freeze the water charges, the Liberal Party gave their support, and so did the Hong Kong Association for Democracy and People's Livelihood (ADPL) and the Democratic Alliance for the Betterment of Hong Kong (DAB). Now the water charges have remained unchanged. If the political parties can work together, why can we not understand the difficulties of the Government and still disallow it to raise the charges? Are we also going after the votes? We may all be going after votes. You are working for the industrial and commercial constituency, so you have to freeze the sewerage surcharge. I would not raise this to attack you. I therefore hope that you all see that this is a democratic system, under which we work for the interests of the respective constituencies. Please do not allow yourself the liberty to work for the interests of your own constituency, but attack others for doing the same for their own constituencies. This is double standard.

The Honourable Albert HO has always reminded me of Mrs LAU when we debated taxi fare increases. I do not want to quote further examples. *(Laughter)* You all see what I mean. I just want my colleagues, including the DAB and the ADPL, to think carefully. Now ferry fare increases can only take effect with a subsidiary legislation submitted to the Legislative Council, so are we suggesting that the Legislative Council should not involve itself in such matter? The Honourable Frederick FUNG has said that we have to ensure a clear separation of powers between the executive and the legislature. I would like to ask him: should we give up the power to scrutinize subsidiary legislation? The Secretary for Transport would be very happy, as this would greatly reduce these arguments. He needs not send some ten people to lobby us every time, and needs not phone each one of us every time. I understand what the Secretaries are thinking. They would rather we do away with all this. For ferry fare increases, would it not be better if it could be done without going through subsidiary legislation? In that way, the Legislative Council would be clear cut and it would not have power to intervene in the fare increases of the public utilities. What about increases in government charges?

PRESIDENT (in Cantonese): Mr. FUNG, is it a point of order? Is it really a point of order? *(Laughter)*

MR FREDERICK FUNG (in Cantonese): I believe I have never cheated you, Mr President. I feel that Mr LI has misunderstood what I said.

PRESIDENT (in Cantonese): This is not a point of order. *(Laughter)*

MR FREDERICK FUNG (in Cantonese): He has treated statements that I have not made as I have.

PRESIDENT (in Cantonese): After he has finished with his speech, you can explain that he has treated statement that you have not made as you have. This is not a point of order.

MR FRED LI (in Cantonese): If I have misstated or misquoted anything, Mr FUNG can correct me later. I think Mr SIN would further elaborate his thinking behind the Bills. Finally I want to say that the Legislative Council has the power to approve all government charges. Are we happy with this mechanism? Should we not interfere with such Government charges like water charges? Should subsidiary legislation be left untouched and let the Government make whatever increases it wants? Should we not monitor at all?

I think that we have to make clear our concept that the debates conducted in this Council are to enable ourselves to express our views and not to attack other people or matters. I want to raise this for debate. For example, the Honourable IP Kwok-him of the DAB refers to the issue of credibility. It certainly should be up to the public to judge, and the answer will be shown in elections. If you are elected, that means your party has got some support. We are all concerned about one question, which Mr IP has not answered. His party mentions that it will monitor the fare increases of public utilities, and I think the two railways are included. This is very obvious because every day millions of people travel on them. Now, with these Bills proposed, the DAB said that they would oppose them and proposed to expand the ambit of the Transport Advisory Committee. However, would expanding the ambit of the Transport Advisory Committee get rid of the problem with credit ratings? Coming back to this point, I hope that they can work with us to resolve the problem so that the public can be assured of quality services without having to bear hefty increases and guaranteed that no unreasonable increases will be made. This requires the work of everyone of us. They should not just raise one matter and evade the issues that Mr SIN raised. These are also the points of attack of the two railways. Mr SIN has talked about the issue of financing, that is to ask the Government to invest so as to get rid of the concern of interest burden or credit ratings. I feel that if you disagree, we can debate on it. This is nothing wrong.

Mr President, actually I am not prepared to speak, but after listening to the speeches of my colleagues, I feel that I must respond to some of their views. These are my remarks and I support the Bills proposed by Mr SIN.

PRESIDENT (in Cantonese): Mr FUNG, if you think that you have been misunderstood, please clarify what you mean, but according to Standing Order 28 (2), you are not to add any new material. (*Laughter*)

MR FREDERICK FUNG (in Cantonese): Just now I talked about the division between the executive and the legislature. I feel that the legislature has the power to make policy, especially through legislation, for example, setting an upper limit. Anything exceeding this upper limit will not be permitted. The executive is responsible for the implementation. I feel that the Bill under discussion is about implementation, and therefore it is within the jurisdiction of the executive.

SECRETARY FOR TRANSPORT (in Cantonese): Mr President,

Introduction

Since the Honourable SIN Chung-kai submitted the Mass Transit Railway Corporation (Amendment) Bill and the Kowloon-Canton Railway Corporation (Amendment) Bill last year, the Panel on Transport and Bills Committee of the Legislative Council, the Hong Kong Government, the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC) have worked for almost a year, during which the Administration carried out an in-depth review, and foreign railway and finance experts were invited to the Panel and the Bills Committee to analyze the effects of direct intervention of the Legislative Council in determining railway fares.

The Delegation of the Legislative Council Panel on Transport

To better understand the mode of operation and the fare pricing mechanism of the mass transit systems of major foreign cities, four members of the Panel on Transport —the Honourable Mrs Miriam LAU, the Honourable CHEUNG Hon-chung, Dr the Honourable LAW Cheung-kwok and the Honourable SIN Chung-kai, gave up their Chinese New Year holiday to go on a study tour in London, Paris, Hamburg and Singapore, as mentioned by a number of Members.

The four Members visited many organizations and met a lot of people, including heads of the supervisory authorities and brought back with them a lot of materials.

With these materials, the Secretariat of the Legislative Council produced a report of great value for our reference. The report enables us to make objective comparison between the mass transit system and the related supervisory mechanism of Hong Kong and their counterparts in other major cities. I would like to express here my gratitude for the four Members and the valuable work of the Legislative Council Secretariat.

My speech to follow is based largely on that report, which I think represents both the facts and the consensus of the four Members after visiting the four cities.

I would like to respond to a number of issues of principle. Firstly, it has been asked whether the Legislative Council should have in principle the power to approve railway fares. In this regard, Mr President, I would like to quote a section from the report. An observation is given in section 3.10:

"It is uncommon for a parliament to directly play a part in the fare determination process or to have the power to approve or reject fare adjustment."

In London, a proposal for fare adjustment is submitted to the Government for the Minister for Transport's approval after a consultation exercise carried out by the London Regional Transport.

In Paris, the transport authority, the RATP, applies to the Commission on Transport, or the STP, for fare adjustment. The latter will notify the Minister for Transport, who will consult the Minister for the Treasury. If the latter raises no objection, the new fare will become effective.

Section 3.13 of the report states, "In other countries, their parliaments do not officially take part in the fare determination process, and for the time being there is no indication of the parliaments attempting to take over this responsibility or to share it with the transport authorities, operating agencies and the government."

The Delegation discussed the fare mechanism with people in the railway business of London. According to section 3.11 of the report, "The executives in the railway business consider that the fare should be determined by professionals instead of politicians. These executives oppose any action that may be detrimental to the decision-making power of the transport agencies."

After reading the executive summaries of the reports, I feel that, when the MTRC and KCRC were respectively established in the 1970s and 1980s, the Legislative Council made a wise decision by giving the power to the two corporations to set their fares so that they could perform their statutory duties, that is to be solely responsible for their profits and losses, and to provide safe, efficient and reliable railway services.

It would be unreasonable if the two corporations were required by legislation to perform such duties but not given the power to set their fares.

After studying these few points, I have the idea that, in principle, the Legislative Council has the power to approve the fare, but whether it should exercise that power, and whether such practice is the trend in other parts of the world, is another matter.

Secondly, some Members asked: As the fare of other means of public transport has to be approved by the Executive Council or the Legislative Council, why should there be no such mechanism for the fare of the railways?

The Honourable Fred LI stared at me when I made those statements, wondering whether the Administration is considering instituting changes to other mechanisms to keep the Legislative Council totally out of the picture. In fact, this is not the case. The Administration respects the existing legal mechanism, including that for the Legislative Council to approve the fares of other modes of public transport. However, the fares for buses, ferries, tram and taxis have to be approved by the Executive Council. The fares of ferries and taxis, after being endorsed by the Executive Council, have to be submitted to the Legislative Council for deliberation. It is because, as you all know, such services are operated by private companies, and all the profits made will go to the private investors. Therefore, the mechanism for controlling these fares is completely different from that for controlling the two railways.

The two railway corporations are public companies owned by the Government on behalf of the public, which means that they are also possessed by the public. Any profit made in the operation will go to the Government and the public. The Boards of Directors of the two corporations are directly appointed by the Governor.

The investment made in respect of railway services is far greater than that made on buses, ferries and trams, and the time horizon is also much longer. The operators therefore must be given a certain degree of autonomy and flexibility in determining their fare structures. Otherwise, other problems, such as those in financing, may arise.

Thirdly, the question as to what the consequence would be if the Legislative Council were given the power to approve railway fares, in fact, has been answered by a number of Members.

We have studied the fare determination process of a number of cities in Europe, North America and the Asia-Pacific region. The materials indicate that if the decision on the fare structure could easily be swayed by politicians, that decision would be biased towards the immediate benefits of the passengers, instead of focusing on the maintenance, upgrading and development of the railway systems in the long term.

If the two Bills are passed, the credit of the two corporations will most likely be adversely affected. This has been made very clear in the minutes of the past meetings of the Panel and Bills Committee, and I am not going to repeat that today. What I want to say is that all the experts we have invited to testify, be they from the international credit rating agencies such as Standard & Poor or from the banking sector such Chase Manhattan Bank or the HSBC Investment Bank (Asia) Limited, they all held that if the two railway corporations lost their power to set their fares, the accuracy of the estimations on the cash flow of the corporations would be greatly undermined. Hong Kong has been very successful in making financing arrangements for its large-scale transport infrastructure projects. The key to such

success is that the operators are given much flexibility in determining their fare structure. This is the view of the foreign experts. Many governments in Asia, Europe and America are considering adopting our practice, instead of imposing greater legislative control over pricing.

The Administration therefore is worried that, if the Bills were passed, investors might think that there was a very basic change in the environment for investment in Hong Kong, which would affect their confidence in investing in the KCRC and other large-scale transport infrastructure in the territory.

Fourthly, Mr SIN has proposed project financing be borne by the Hong Kong Government, which would then pass the loans to the two railway corporations, so as to minimise their interest expenses. Mr SIN has also proposed that the Hong Kong Government be the guarantor so that the two corporations could obtain more favourable loan conditions.

The proposal appears to be well-based, but in principle and actual operation there are a lot of problems.

If the two corporations had the Government as their main backing in financing loans, they would gradually become more dependent on the Government, instead of depending on their own performance, to raise their credit level.

Should loan costs be unpegged from their performance, the two corporations would gradually lose the incentive to make improvement. Once the onus of financing was shifted to the Government, the commercial accountability of the management of the corporations would diminish greatly. They will be less alert in their commercial operations, which is in contravention of the legislative requirement that the two corporations should operate according to prudent commercial principles.

The credit ratings of the MTRC and the Hong Kong Government are similar, so the interest rate on loans made by the Hong Kong Government on the international money market may not be lower than those made by the MTRC itself.

Since 1975, both the MTRC and the KCRC have invested over HK\$140 billion in their railway systems. Most of the funds required were raised in the finance market, without any credit guarantee from the Government.

Once the two Corporations had to rely on the Government for their financing, their ability to raise funds on the international market would diminish gradually. They would experience great difficulty if in the future there was the necessity that they had to re-enter the international market.

Mr SIN has also proposed that the Hong Kong Government should draw on its reserves to finance loans to the two corporations. His argument is that the amount of interest the financial reserve can earn from the Foreign Exchange Fund is lower than the interest the two corporations have to pay when they raise their loans externally.

As at 1997, the financial reserves of the Government, together with the Land Fund, totalled only \$330 billion. In the coming five years, the funds required by the two corporations will well exceed a third of our reserves. If we give large amounts of loans to the two corporations from our reserves, that would greatly deplete our overall reserves.

In addition to meeting special needs in our recurrent expenditure in the future, the fiscal reserves of the Government have to invest in the development of various social services. Many of the investments, such as those in schools and education, public housing and medical services, do not have a commercial return. In fact, they should not be reckoned in terms of commercial return. If the MTRC and the KCRC have been successful in raising funds internationally, and making repayment on time, the Government should not draw too much from its reserves to finance loans to the two corporations. So doing would only deplete the funds that could be appropriated to the various social services that do not yield as high a commercial return.

Mr President, after considering the proposal of Mr SIN, the Administration will make appropriate investment in the two corporations according to the funding needs of their development plans, but it would be inappropriate if we give long-term loans to them from our reserves.

Fifthly, some Members have said that the Hong Kong Government is not an elected administration, so railway fares should be decided by the Legislative Council, a democratically elected institution.

From his overseas study, Mr SIN should have known that the railway fares of some cities are approved by democratically elected officials. However, what we must look for is whether the passengers will truly be benefited in the long run.

Now I would like to quote some facts again from the report. According to section 2.91 of the Study Group Report, Paris experienced high rates of inflation in the 1960s and 1970s, but the political views at that time advocated that the fare should be kept low and the democratically elected ministers could only permit minimal increases, thus making the recent increases very substantial.

Mr Alan Kiepper, former President of New York City Transit, told the Legislative Council Panel on Transport, "In New York, elected officials tend to yield to the demands of the New Yorkers and suppress the fares, and thus fail to make any fair and independent decision."

His argument is: If the service of public transport is to be monitored, the Legislative Council needs not resort to controlling the fare; what it needs may be some other more effective mechanism and means.

He further asked whether it was possible to lay down a set of service criteria that cover maintenance, customer satisfaction and financial condition. The two corporations would then be required to submit reports to the Legislative Council, guaranteeing that the needs of the public would be met. Based on how far these criteria had been met, the Legislative Council could effectively play its monitoring role.

Hence it can be seen that as long as there are legislative or administrative arrangements for a mechanism that enables the Legislative Council Members to monitor the two corporations, the democratically elected Members can already perform their monitoring function. Another argument is that there is no need for them to control matters relating to the approval of fares, nor is it appropriate for them to do so.

There are Members who have expressed their views in respect of the points raised by the Hong Kong Association for Democracy and People's Livelihood (ADPL), and I would like to respond to such views.

The ADPL has made two suggestions in respect of government control over railway fares:

- (1) The fare increase of the two railways should not, in principle, exceed the inflation rate. Should the proposed increase be in excess of the inflation rate and the Government considers the increase reasonable, any increase in excess of the inflation rate should be borne by the Government, and not by the passengers.
- (2) The Government should set up a Public Transport Management Committee to co-ordinate all matters relating to the fares and services of all modes of public transport. Membership of the Committee should comprise members from the three tiers of councils, representatives of the public transport sector and other professionals.

In respect of the two suggestions made by the ADPL, the Administration would like to respond as follows:

- (1) The request of the ADPL for railway fares to be below inflation rate is understandable. In fact, in the past decade or so, the average fare increase of the MTR and KCR has been below the average inflation rate. The Boards of Directors of the two corporations have been very careful in considering each fare adjustment, and it has been the objective of the two corporations to keep the increase below the inflation rate.

The Honourable WONG Wai-yin has pointed out that although the average increase is below the inflation rate, the increase for certain sections is higher than the figure. This has in fact something to do with the procedure of the past in determining the fare base for that section and the base on which the increase was made then. Given that the railways are operated under commercial principles, the increase for sections with a relatively low base may be a bit higher in a certain year, and an increase higher than the inflation rate may result. Yet on average, all increases over the past decade or so have been kept below the inflation rate.

I would also like to take this opportunity to respond to the issue of competition. For some time, the Government was very protective in enabling the MTR to develop; sections of roads might be so planned that no other means of public transport were allowed to compete directly with the MTR. However, this policy has been changed for some time. Since a few years ago, the Administration has already encouraged and introduced other modes of transport to compete directly with the MTR. On the one hand, under the pressure of competition, the MTRC has to improve their service, and on the other hand, the public is given a choice. I shall respond later to the Honourable Miss Emily LAU's comment regarding whether allowing buses to compete with the MTR can achieve the expected result.

When it comes to approving fares, the Administration is also very careful. Since the two corporations have to submit their five-year budget to the Government every year, the Administration will take appropriate measures to ensure that the fare increases will not exceed the inflation rate. There are a number of ways open to the Government, and I shall mention the following three possibilities:

- (a) Injecting funds to the MTRC for any large-scale railway development project;

- (b) Granting land to the MTRC for property development along the railway line; and
 - (c) Allowing the MTRC to delay dividend payment.
- (2) As to the ADPL's second suggestion, the Administration is considering setting up an independent Public Transport Management Committee, which shall have credibility and a high degree of transparency. People having the respect and trust of the society will be appointed to this Committee to examine all applications for fare increase in the public transport system. The Administration will consider approaches of other countries. Public consultation on the membership composition, terms of reference and mode of operation of this Committee will be conducted at an appropriate time. Proposals will be made to the Legislative Council upon the formulation of the initial concepts.

One of the modes that we would consider is the one suggested by Members from the Democratic Alliance for the Betterment of Hong Kong (DAB). According to their suggestion, appropriate changes could be made to the existing Transport Advisory Committee to achieve the desired objectives.

Mr President, to sum up, I would like to repeat here what an expert from the HSBC Investment Bank (Asia) Limited told the Bills Committee on 5 March this year, "Many countries consider that Hong Kong is leading the world in the provision of public transport. This can be attributed to three factors. Firstly, the operators can make steady fare forecasts. Secondly, the operators can provide high quality services. Thirdly, with various modes of transport competing among each other, the fares can be maintained at a level which the public can afford."

He also pointed out, "Many Asian, American and European governments now tend to follow the approach in which Hong Kong runs its public transport service."

Both the MTRC and the KCRC are operating according to prudent commercial principles and at the same time, are very mindful of public opinions. Over the past five years, the two corporations have invested billions of dollars in a number of improvement projects, such as installing new signal systems to increase the frequency of train service, renovating and improving carriages, extending stations and opening up more exits to ease passenger flow.

Besides operating their respective services, the two corporations are also charged with the mission to construct new railway lines. For instance, besides building the Kwun Tong and Tsuen Wan lines, the MTRC will also extend the Island line, the East Kowloon Cross-harbour Tunnel line and the New Airport line. The KCR has also started the light rail service in the north-west part of the New Territories. All these are accomplished because the two corporations have a sound financial basis and can raise the necessary funds themselves to invest in these extensions.

As to the issue of competition, we think that we can, to a certain extent, introduce more competitors. Miss Emily LAU has mentioned Western Railway just now. In fact, the Government has already decided that the Western Railway will be planned and built by the KCRC. This railway will not be the only railroad development in the coming 10 years; more railroads are to be built, and if allowed by the situation, the Government will introduce more competitors. However, what Miss LAU refers to is the competition between the two railway corporations. Given that Hong Kong is such a small place, such a mode of operation may not be feasible in certain places. At present, we can travel by KCR from Shatin to Kowloon. If it is practicable, we may consider another south bound line from Tai Wai or some other locations to Kowloon. In that case, there might be two lines serving the same south bound trip to Kowloon. These two lines would, to a certain degree, be in competition with each other. The feasibility of this new south bound line will be studied by the Government.

Mr President, since Hong Kong already has a successful mechanism, which is also the envy of other countries and cities, the Government would like to ask why we do not treasure this mechanism. Would changing this mechanism bring any benefit to the public in general?

Though, to a certain extent, there is short-term attraction in Mr SIN's proposal. But what about the long term effect? Would there be the possibility that the next generation would suffer great loss? This is still unknown.

I am worried that if Members do not join forces to safeguard and retain a mechanism that has been proved effective in Hong Kong, the success we have accomplished over the years will, from tonight on, begin to erode gradually. The bitter consequence would take some ten to twenty years to surface, but by then, it would be too late to regret.

I therefore ask Members to vote against the Second Reading of the two Bills.

MR SIN CHUNG-KAI (in Cantonese): Mr President, first of all, I would like to thank Dr the Honourable LAW Cheung-kwok for his admiration of me. But what I need is his support, not admiration. The Honourable Edward HO said to me that this was a sloppy Bill. What I put forth is a promise the Democratic Party made in the 1995 election that it would monitor the fare increases of public utilities. I have been naive enough to go over the platforms of the Hong Kong Association for Democracy and People's Livelihood (ADPL), the Hong Kong Federation of Trade Unions (FTU) and the Democratic Alliance for the Betterment of Hong Kong (DAB) and have found that they are not much different from that of the Democratic Party. I therefore concluded that our thinking was very close to each other. However, tonight I have learned a very stern lesson, and that is monitoring MTR fare increases is the work of politicians. I would like to ask her whether it is also politicians' work when the Honourable Mrs Miriam LAU proposes a freeze on fuel tax two weeks later. The Secretary for Transport referred to a report just now. I want to stress that this is not a consensus but the observation of a number of us. At the Committee, we asked to include the views of some members, but my colleagues said the report concerned observations only. They were hence referred to as "observations" and not Members' views. Water charge and sewerage charge are both government charges and can be monitored by the Legislative Council, but when the Mass Transit Railway Corporation is put in its own bag, it is no longer a publicly operated institution, though it is still fully owned by the Government. If the Legislative Council can monitor the water charge and sewerage charge, why can it not monitor the fares of the two railways which are owned and operated by the Government? I know that this Bill will not be passed tonight, but I do not

know if it would be the next move of the MTRC, after having listened to the debate tonight, to oppose to any monitoring by the Public Transport Management Committee.

The Mass Transit Railway Corporation (Amendment) Bill 1996 I propose seeks to improve the current mechanism for setting MTR fares, so that a new mechanism can be established, whereby balances can be struck between the autonomy and accountability of the MTRC, and between the interests of the public and the MTRC.

The MTRC was established under the Mass Transit Railway Corporation Ordinance 1975 as a public organization. The Ordinance requires the Corporation to conduct its business according to prudent commercial principles and the Board of Directors shall be responsible for monitoring the Corporation and shall have the power to determine fare prices. The MTRC has been in operation for 17 years and its financial condition is getting more robust. The MTRC made its first surplus in 1997, and will pay \$647 million as dividend to the Government. On the other hand, at a time when the MTRC is beginning to make a profit, the public have the feeling the fare is getting more expensive, and the burden is getting heavier. It is no wonder that in recent years whenever the MTRC applied for an increase, it would meet with strong opposition from the public, social groups and Members. However, because of the autonomy of the MTRC in respect of fare increases, it is exempted from any Government or Legislative Council control. The Corporation can turn a deaf ear to the din of opposition, regardless of its magnitude. This clearly shows that the current mechanism in monitoring the fare stipulated by the MTRC is only one-sidedly protecting the interests of the operator, leaving the interest of the public in the cold. As a Government-owned organization, the MTRC, as well as its assets, should belong to the public. That is to say, the public, as shareholders of the two railways, should have the power to decide the fares. However, the lack of accountability and transparency on the part of the operators has been grossly unfair to the taxpayers and passengers.

In 1996, the passenger volume of the MTR accounted for 20.9% of the overall passenger volume of the entire public transport network. In respect of cross-harbour service, the MTR even cornered almost 70% of the market. Over the past 15 years, the MTR has seen an average annual increase of 9% in passenger growth. The MTR has obviously become an indispensable mode of transport for

the general public. With transport expenses taking up about 7% of an ordinary citizen's expenses, the effect of every fare increase of the MTR should not be treated lightly. In order to protect the interests of the consumers, and to ensure that the service quality and fare are set at a reasonable level and acceptable to the people, the MTR should fully consult and consider the views of the elected Legislative Council in every fare adjustment. This is not only a right rightly belongs to the public, but also a duty that the MTRC, as a public organization, owes the society.

To ensure that in future, when the MTRC asks to increase its fares, the Legislative Council will have the power to examine and decide on the increase, I therefore propose the Mass Transit Railway Corporation (Amendment) Bill 1996. Under my amendment Bill, whenever MTR proposes a fare increase, it must be passed by the Legislative Council in the form of a subsidiary legislation. This Bill, however, has been subject to severe attack from the Transport Branch and the MTRC. I want to take this opportunity to make a brief response to the arguments they have made:

Firstly, both the Government and the MTRC have simplistically attributed the success of the MTRC to the autonomy it has in determining fares, thinking that this success will be gone once such autonomy is taken away. I think that it is resorting to scaring tactics. What is more, it has also obliterated other factors that may also have contributed to the success of the MTRC. I would like to use an argument from the London University report commissioned by the MTRC. It is said in the report that the performance of a railway system depends on a combination of conditions, including the environment and population structure (such as the rate of private car ownership) of a place, the technology and investment adopted, management pattern and culture and the monitor regime. Monitor is one of the factors for success. In respect of monitoring, there are different levels. The London University study points out that the monitoring to which the MTRC is subject is the lowest in the world. When the MTRC is considered by experts as a railway corporation with the lowest level of monitor, I wonder if the Government would consider such a monitor mechanism the most appropriate. However, on the same argument, if we make a comparison of the successful railway systems in the world on the basis of population density or the volume of passenger per unit length, Hong Kong is the highest. So what is the cause of the success, the high volume of passengers or the monitor regime? It is hard to tell. If we just simply

put similarly factors together and give a causal relationship to them, that would be too simplistic!

Secondly, in order to convince other Members not to support this Bill, the MTRC invited Mr Alan Kiepper, former President of New York City Transit, to tell us the failure experience of the New York underground railways. Of course, such experience is worth our reference. But in fact, the Honourable Miriam LAU has also mentioned that during the 40 years from 1904 to 1948, the fare of the New York railway had been kept at five cents per trip. However, that period was a dark age in American politics when the spirit of democracy, and the feelings of the public were not taken seriously. When we asked them for the reason, the true reason was revealed in what Mr Kiepper said. So they have only taken half of the reply, but ignored the latter part.

Thirdly, both the MTRC and the Government think that my Bill is in contravention of the requirement of the Mass Transit Railway Corporation Ordinance that the MTRC shall conduct its business according to prudent commercial principles, and is also in contravention of the principle that public transport services should be operated without any Government subvention. I do not consider having to conduct its business according to prudent commercial principles means that it must have autonomy in setting its fares. In fact, many corporations of public transport in Hong Kong are conducting their business according to commercial principles. Some may be not very prudent while others may be more aggressive, but their fares, like those of taxis, have to be approved by the Legislative Council. Of course, the Government has exempted the fuel tax from the bus companies; I do not know if this can be seen as some form of subvention, but these companies do not have the same autonomy as the MTRC to set the scale of their fare increase. I propose this Bill to empower the Legislative Council to amend the proposed scale of increase. This Council, however, is not given the power to interfere with the management or internal operation of the MTRC. As to the arguments of the Government that if the Bill is passed, the MTRC may not be able to have sufficient revenue from its fares to meet the operating costs, and that its long-term investment in improving its service and extending its network may suffer, these are in fact pessimistic assumptions of the Government. They are too feeble to go against the Bill.

Finally, on the issue of finance, the MTRC thinks that, or the investment consultants and managers of the investment banks engaged by the MTRC and the KCRC think that, once the Legislative Council had the power to monitor the fares, the credit ratings of the MTRC would definitely be affected and its ability to raise loans would suffer. In those cases, the interest burden on the MTRC would increase. The credit ratings actually are dependent on a number of factors. Of course, monitoring is an important factor, but we should not neglect the population density of Hong Kong and its objective environment. In fact, when compared with other territories, Hong Kong has a greater profit-making potential. What ratings a company gets depends on its operating efficiency and profitability. The management quality and pattern of operation are important factors in the success of the MTRC. If these factors remain unchanged, together with growing passenger volume, the MTRC will be assured of a certain degree of ratings. The introduction of a mechanism to monitor its fares will not affect the edges that the MTRC has achieved, so this Bill will not cause great detriment to its credit ratings. After all, the MTRC is fully owned by the Hong Kong Government. Its credit rating is closely linked to that of the Hong Kong Government.

The MTRC often points out that if my Bill is passed, its interest burden will increase, which will in turn aggravate the burden of the passengers. I want to point out one thing which the Secretary for Transport has referred to just now. Let us take 1995 and 1996 (two years) as example. The total liability of the MTRC was \$15.376 billion and \$12.696 billion respectively. The interest it paid was about 7%. In 1995 and 1996, the return on the financial reserves of the Government was 5.78% and 5.72% respectively. The difference in interest rate means that if loans were made from the Government in 1995 and 1996, there would be some savings of \$400 million and \$230 million respectively in interest payment, and that would be savings of \$600 million to \$700 million in total. I think we were paying more interest to foreign institutes, and the travelling public of Hong Kong had to pay more in their fares, too. The Secretary for Transport could give a lot of other reasons to rebut my arguments, but if prudent commercial principles mean that the public have to foot an interest bill of hundreds of millions more, I hope that the Secretary for Transport can reconsider what prudent commercial principles are.

As to loans with Government guarantee, this in fact has been provided for in section 12 of the Mass Transit Railway Corporation Ordinance. As a shareholder

of the MTRC, when the need arises, the Government should have the responsibility to undertake such a risk. The final risk of the MTRC should be undertaken by the Government. Mr President, I understand that the Bill stands very slim chance of getting passed today, because, after meeting with Members of the other parties in the past few months, all sorts of emotion well up in me. In the 1995 election, they made a lot of statements, but now, they are doing things totally different.

Mr President, these are my remarks.

PRESIDENT (in Cantonese): Mr Bruce LIU, are you requesting a clarification from the Secretary for Transport, or do you want to speak? According to the general procedure on debates, after a reply, other Members are not permitted to speak. However, the Standing Orders state that Members are not permitted to speak only after votes are cast. I permit your request for clarification, and you may request an explanation from the Secretary for Transport.

MR BRUCE LIU (in Cantonese): Thank you, Mr President, I request a clarification. Just now Dr the Honourable LAW Cheung-kwok mentioned that if the fare increase of the MTRC exceeded the inflation rate, the part of the increase that is in excess of the inflation rate should be borne by the Government. However, when the Secretary for Transport spoke, he only made a passing remark on this point. I would like to have further clarification from the Secretary for Transport. If the increase really exceeded the inflation rate, would the Government be willing to bear that additional increase? And specifically how would the Government bear that increase? I hope that he can clarify. Thank you, Mr President.

SECRETARY FOR TRANSPORT (in Cantonese): Mr President, I have actually said that in my speech. Firstly, the MTRC has already aimed at an increase below the inflation rate when it adjusts the fare. Having said that, I would like to point out that the Administration is just as careful when examining the application. When the two corporations submit their financial budget to the Government, we shall know what appropriate measure to take to ensure that the increase will not exceed the inflation rate. I have cited some examples, but as some Members have

mentioned the problem of inflation, I have digressed a bit, thus making my speech not that coherent. In fact, in my speech made just now, I have already said that the Government would take whatever measure to achieve this objective. Thank you, Mr President.

PRESIDENT (in Cantonese): Mr Frederick FUNG, is it a point of order?

MR FREDERICK FUNG (in Cantonese): I request the meeting be adjourned for five minutes to 10 minutes, or five minutes.

Question on the Second Reading of the Bill put.

Voice vote taken.

Mr TSANG Kin-shing and Dr YEUNG Sum claimed a division.

PRESIDENT (in Cantonese): Council will now proceed to a division.

PRESIDENT (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that the Mass Transit Railway Corporation (Amendment) Bill 1996 be read a Second time.

Will Members please register their presence by pressing the top button and proceed to vote by choosing one of the three buttons below?

PRESIDENT (in Cantonese): Before I declare the result, Members may wish to check their votes. Are there any queries? The result will now be displayed.

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Fred LI, Dr YEUNG Sum, Mr WONG

Wai-yin, Mr LEE Cheuk-yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted for the motion.

Mr Allen LEE, Mrs Selina CHOW, Dr David LI, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr CHIM Pui-chung, Mr Frederick FUNG, Miss Emily LAU, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG, Miss Christine LOH, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LEE Kai-ming, Mr Bruce LIU, Mr LO Suk-ching, Mr MOK Ying-fan, Miss Margaret NG, Mr NGAN Kam-chuen and Mrs Elizabeth WONG voted against the motion.

THE PRESIDENT announced that there were 20 votes in favour of the motion and 35 votes against it. He therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): As a second reading of the Mass Transit Railway Corporation (Amendment) Bill 1996 has not been agreed to, Council will not proceed with other procedures in respect of the Bill.

KOWLOON-CANTON RAILWAY CORPORATION (AMENDMENT) BILL 1996

Resumption of debate on Second Reading which was moved on 10 July 1996

MR WONG WAI-YIN (in Cantonese): Mr President, as the Chairman of the Bills Committee on the Kowloon-Canton Railway Corporation (Amendment) Bill 1996, I have already made a report of the arguments on behalf of the Committee when we debated the Mass Transit Railway Corporation (Amendment) Bill 1996 just now, so I am not going to repeat them here again. I just want to briefly talk about

the views of the Democratic Party on the Kowloon-Canton Railway Corporation (Amendment) Bill 1996.

The situation with the Kowloon-Canton Railway Corporation (KCRC) is simpler than that with the Mass Transit Railway Corporation (MTRC) because the former is only responsible for operating the Eastern Railway, the Light Rail, and the freight service and shuttle bus service between Hong Kong and China, and has not raised large loans from the outside. As at the end of 1995, the KCRC had a debt of \$608 million only. The KCRC has been performing pretty well with its freight service and cross-border passenger service. Though the Light Rail has made a little loss, the KCRC is still maintaining a very robust financial situation, with a 12% to 15% return on its assets. However, the KCRC takes it as a routine to raise the fare every year. One thing worth our praise is that the KCRC froze its fare in 1994. It was proved later that, even without any fare increase, the KCRC could still make a net profit of \$901 million that year, which was a very satisfactory profit.

The Light Rail operated by the KCRC began operation in 1988. The Democratic Party thinks that we should not expect the Light Rail Transit (LRT) to make a profit within a few years of operation. Moreover, there are aspects in the service of the LRT that requires improvement. It is therefore unreasonable that the LRT imposes an increase higher than the inflation rate. Residents of Tuen Mun, Yuen Long and the New Territories West are complaining about the service every year. It seems that since the LRT began operation in 1988, the residents have not been satisfied with the service.

With more people moving into the New Territories, the Eastern Railway and the LTR are becoming more important to the public. To ensure that the Legislative Council can monitor the fare of the KCRC on behalf of the public, so that the fare can be set at a reasonable level and acceptable to the travelling public, I ask Members to support the Kowloon-Canton Railway Corporation (Amendment) Bill 1996 proposed by the Honourable SIN Chung-kai.

Mr President, finally, I would like to make a response. When the Secretary for Transport spoke on the Mass Transit Railway Corporation (Amendment) Bill 1996, he specially stressed that the average fare increase of the railway concerned has been kept below or about the same as the inflation rate. When I spoke in

respect of a Second reading of the Mass Transit Railway Corporation (Amendment) Bill 1996, I specially pointed out the fare increases of 1994, 1995 and 1996 as examples to prove that the MTRC was playing tricks in the increases. They used the average increase to compare with the inflation rate, but I used the information provided by the Transport Department to prove that most people had to shoulder an increase higher than the inflation rate for that year. All these are stated clearly in the information supplied by the Government. So when the Secretary for Transport stressed that the two railway corporations had been very restraint with the increases by keeping them lower than or about the same as the inflation rate, that actually is the result of the tricks they play on the calculation. I have used increases of three years to prove that it is in fact not the case.

Finally, Mr President, many political parties have spoken in respect of the two Bills, but some have not provided any arguments. I do not know if they are supporting the views of those Members who are against the Bills. If they are, it hope that they can say so. I hope that we can have more debate within this Council, so that we can make known our views, and let the public assess the views of each one of us.

Mr President, these are my remarks, and I support the Kowloon-Canton Railway Corporation (Amendment) Bill 1996 proposed by Mr SIN. Thank you, Mr President.

MRS MIRIAM LAU (in Cantonese): Mr President, when I spoke on the Mass Transit Railway Corporation (Amendment) Bill 1996, I had already given my arguments against the Bill, so I am not going to repeat them here. Having studied the major railway systems around the world, I would like to use one or two minutes to talk about the history of the Kowloon-Canton Railway.

The Kowloon-Canton Railway Corporation (KCRC) became independent from the Government in 1982 and, modelled after the Mass Transit Railway Corporation (MTRC), it was turned into a public corporation with an aim to become an institution with vigour and flexibility. To achieve this, the Legislative Council gave the KCRC appropriate powers, including the power to make fare adjustment,

so that the KCRC could, on the one hand, effectively perform its functions, and on the other, be held accountable for its quality of service. Things have proved that the KCRC proceeds in the right direction. With the electrification of the railway service, the passenger volume of the KCRC increased from 16 million in 1981 to 240 million in 1996, an increase of 15 times. While there is continuous improvement in the service of the KCRC, its average fare increase has been kept below the inflation rate. Now Mr SIN proposes to have that power taken back. So doing would not only force the KCRC to "back track", but also go against the trend of the world. This would certainly do no good to the public. I therefore strongly oppose the Kowloon-Canton Railway Corporation (Amendment) Bill 1996.

Mr President, I would also like to take this opportunity to respond to the criticisms made against me when the Mass Transit Railway Corporation (Amendment) 1996 was debated just now. I shall mainly talk on two points. Firstly, Members have criticised me for selectively quoting experience of other countries. I do not see anything wrong with this because not everything foreign is good. If something is good and successful, we certainly should consider adopting it; otherwise it should be a warning for us. Now the Bills proposed by the Honourable SIN Chung-kai belong to the latter. Experience from foreign countries tells us that we should not go down this path. If anything has been proved unsuccessful in other countries, we should never introduce it in Hong Kong.

I was also criticised by Members for my criticism against Mr SIN that he proposes the two Bills merely for getting votes. I have not criticised him as such. The words I used were: I think it was based on his belief that Mr SIN proposed the two Bills. I remember I have said: Mr SIN may say that he is not doing this for votes; he is only mindful of the livelihood of the people. I have also pointed out that the Democratic Party is working under the banner that it is for the livelihood of the people and for the interests of the grassroots. I have never doubted the sincerity of Mr SIN. He may be truly working for the livelihood of the people, and he may have started off with a good intention, but good consequence does not necessarily come as a result.

Mr President, these are my remarks.

SECRETARY FOR TRANSPORT (in Cantonese): Mr President, I want to simply raise two points. Firstly, the Government cannot support this Bill and the argument is just as what I said in my speech.

Secondly, I want to clarify briefly the point that the Honourable Zachary WONG mentioned just now. In fact, I have spoken on this point. The increase in fare for a certain section or certain people may be higher than the inflation rate in a certain year. This depends on where that section begins and ends and the base figure of the fare. If we take a longer perspective, in the past decade or so, the fare increases of the two railways have been lower than the inflation rate.

Moreover, in many districts, the travelling public have a number of choices and they need not take the Mass Transit Railway. They may take buses instead. Though the carrying capacity of buses is not as high as the railway, a good point about bus service is that it can take you directly to the street where the MTR trains do not reach.

Thank you, Mr President.

MR SIN CHUNG-KAI (in Cantonese): Mr President, many of the Members who were also with me in the delegation to Europe have already talked a lot about the European experience. On our trip, we also had much discussion about the European experience, and today I would like to share with you some of this.

This is a question of which comes first, the chicken or the egg. Was it because there was monitoring so they failed, or was it because they failed and therefore they need to be monitored? This is a very complex matter. Let us look at London, New York, which we did not go this time, but I had visited when I was on vacation, Hamburg and Paris. They all have their own traffic problems. Hong Kong is completely different. Let me take the passenger volume of Tai Koo Shing station or Shatin station as an example. I believe the passenger volume at one of these stations already equals to the entire population of a town in the vicinity of Paris. Since the passenger volume of one station already equals the entire population of a town or city, it is difficult to make comparison. The railway network of Hong Kong, about 38 km in length, is about one-tenth the length of any of the major cities mentioned above. It may be longer in the future, and the

Kowloon-Canton Railway may be longer. The operating cost of the railway systems of Hong Kong, if reckoned in unit length of the network, is certainly lower than that of these foreign cities. London has a much larger network than Hong Kong, but its passenger volume does not exceed that of Hong Kong by a very wide margin. Looking from this perspective, it is natural that they should make a loss in their operation, irrespective what mode of operation they adopt. At the time when their country was strong, their Government constructed many transport networks, but at that time, they had not paid special attention to the calculation of operating cost or their future economic efficiency. Hence it is important that caution must be taken in extending transport networks.

I can conclude from the experience we gained. Actually most countries have some sort of monitoring, for example, by a bureau or certain minister within the government which exercises direct monitoring, just as what the Hong Kong Association for Democracy and People's Livelihood (ADPL) proposed. I certainly agree with the Secretary for Transport that few elected councils, as mentioned in the report, exercised direct monitoring. But I would like to stress that the Hong Kong Government is not an elected government. We doubt if it can represent the wish or interest of the public.

We feel that, under the current system, the Legislative Council can reflect the views of different sectors of the society. In fact, of all the fare or charge increases on which we debated in the past, only those applications from the Government were the easiest to vote down. Those not coming from the Government seem the hardest to veto. Why is there such a situation? Is it because what the Government in charge of are the "public coffers"? I do not think so.

Every time we debate on any fare or charge increase, each Member would put forth different arguments, which are all very sensible. I feel that if we can discuss these problems in the Legislative Council, we are providing useful views to the senior management of the company concerned to think about. I believe that the office of the Honourable Miss Emily LAU or other legislators must have received all sorts of views all the time. I do not know through what channel you express to them these views. Of course when Mr SO, the Chairman of the KCRC,

invited you to lunch, lobbying you to go against the Bills, you must have reflected many of these views. However, when we discuss the applications for fare increase here, we can invite some organizations to express their dissatisfaction. The Legislative Council is the place to listen to all sorts of views, to let the public witness how we examine these applications for increases.

Mr President, despite my repetitions, I know that I would not be able change the voting result of today. But I still hope that, as a witness in history, we put what we say into practice and hold ourselves responsible for what we have said. Maybe we have different interpretation of the words. Many political parties have put forth views similar to what the Democratic Party is putting forth now, but our voting today will show that there is great difference between us.

Mr President, these are my remarks, and I support the Bill.

Question on the Second Reading of the Bill put.

Voice vote taken.

THE PRESIDENT said he thought the "Noes" had it.

Mr TSANG Kin-shing and Mr Fred LI claimed a division.

PRESIDENT (in Cantonese): Council will now proceed to a division.

PRESIDENT (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that the Kowloon-Canton Railway Corporation (Amendment) Bill 1996 be read the Second time.

Will Members please register their presence by pressing the top button and proceed to vote by choosing one of the three buttons below?

PRESIDENT (in Cantonese): Before I declare the result, Members may wish to check their votes. Are there any queries? The result will now be displayed.

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Fred LI, Dr YEUNG Sum, Mr WONG Wai-Yin, Mr LEE Cheuk-Yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted for the motion.

Mr Allen LEE, Mrs Selina CHOW, Dr David LI, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr CHIM Pui-chung, Mr Frederick FUNG, Miss Emily LAU, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG, Miss Christine LOH, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LEE Kai-ming, Mr Bruce LIU, Mr LO Suk-ching, Mr MOK Ying-fan, Miss Margaret NG and Mr NGAN Kam-chuen voted against the motion.

THE PRESIDENT announced that there were 20 votes in favour of the motion and 34 votes against it. He therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): As a Second reading of the Kowloon-Canton Railway Corporation (Amendment) Bill 1996 has not been agreed to, Council will not proceed with other procedures in respect of the Bill.

LANDSCAPE ARCHITECTS REGISTRATION BILL**Resumption of debate on Second Reading which was moved on 20 November 1996**

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

Bill read the Second time.

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

Committee Stage of Bills

Council went into Committee.

THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED (AMENDMENT) BILL 1997

Clauses 1 to 4 and 6 to 12 were agreed to.

Clause 5

MR PAUL CHENG: Mr Chairman, I move that clause 5 be amended as set out in the paper circularized to Members. The purpose of the amendment is to introduce a Schedule setting out the three specific matters relating to Hongkong Bank's ability to issue bank notes, maintaining its head office in Hong Kong and restricting a shareholding which cannot be changed without the prior approval of the Financial Secretary. These matters are currently mentioned in clause 5 of the Bill.

Although a reference copy of Hongkong Bank's Memorandum and Articles of Association has already been filed with the Hong Kong Monetary Authority

pursuant to clause 8 of the Bill, it is considered clearer to set out the three specific matters in a Schedule to the Bill for the purpose of identification. The amendment is merely technical and has no material implication.

Thank you, Mr Chairman.

Proposed amendment

Clause 5

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

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

"(1) Notwithstanding anything contained in the Companies Ordinance (Cap. 32) or the memorandum and articles of association of the bank (as the same may be altered or otherwise varied or amended at any time and from time to time in such manner as may be permitted under or in accordance with the provisions of the Companies Ordinance (Cap. 32)), none of those provisions of the bank's memorandum or articles of association (as adopted by enactment of The Hongkong and Shanghai Banking Corporation Limited (Amendment) Ordinance 1997 (of 1997)), which are specified in the Schedule shall be capable of being altered (although they may be renumbered) other than with the prior approval in writing of the Financial Secretary and a resolution of the members of the bank substituting, repealing or altering any of those provisions has no effect unless the resolution has previously been approved in writing by the Financial Secretary.";

- (b) in subsection (2) by deleting "subsection (1)" where it first appears and substituting "the Schedule".

Question on the amendment put and agreed to.

Question on clause 5, as amended, put and agreed to.

New clause 5A

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

MR PAUL CHENG: Mr Chairman, I move that the new clause 5(A) as set out in the paper circularized to Members be read the Second time.

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

Clause read the Second time.

MR PAUL CHENG: Mr Chairman, I move that new clause 5A be added to the Bill.

Proposed addition

New clause 5A

That the Bill be amended, by adding —

"5A. Schedule added

The following is added -

"SCHEDULE [s. 5]

PROVISIONS OF MEMORANDUM AND ARTICLES OF THE
BANK (IN THE RESPECTIVE FORMS ADOPTED BY
ENACTMENT OF THE HONGKONG AND SHANGHAI
BANKING CORPORATION LIMITED (AMENDMENT)
ORDINANCE 1997 (OF 1997)) WHICH ARE
SUBJECT TO THE PROVISIONS OF SECTION 5

Clause 3.1(a)(xv) of the memorandum of association -

"Subject to applicable Hong Kong Ordinances and Laws from time to time and for the time being in force (including the Legal Tender Notes Issue Ordinance (Chapter 65)), in Hong Kong, but not elsewhere, to issue, re-issue and circulate notes of the Company payable to bearer on demand."

Article 4 of the articles of association -

"The Company shall maintain its head office in Hong Kong. The head office shall be at No. 1 Queen's Road Central in Hong Kong or at such other place in Hong Kong as the Directors shall from time to time resolve."

Article 41 of the articles of association -

"No person shall without the sanction of the Board be entitled at any time to be registered as the holder of or be interested in more than one per cent of the share capital of the Company then in issue; and the Board may at any time require from any shareholder a statutory declaration or such other evidence as it may deem adequate to determine that this Article has been complied with."."

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

LANDSCAPE ARCHITECTS REGISTRATION BILL

Clauses 1 to 5, 7, 9, 10, 12 to 20, 22, 24, 25, 31 and 32 were agreed to.

Clauses 6, 8, 11, 21, 23 and 26 to 30

MR EDWARD HO: Mr Chairman, I move that the clauses specified be amended as set out in the paper circularized to Members.

As I know Members have had a very long day and a long evening and the morning is coming, I wish only to mention very briefly the proposed amendment to clause 29. The Hong Kong Institute of Landscape Architects (HKILA), since the gazettal of the Bill, has received comments on the restrictions on using the title "Landscape Architect". The HKILA agreed with the view that there was no provision in the gazetted Bill to allow practising landscape architects with overseas qualification to call themselves landscape architects if they do not register.

Although the HKILA has the duty to promote the best interests of the public and the profession as a whole, the Institute equally respects the different views of individual fellow professionals. The HKILA in this circumstance has proposed, and I am moving, an amendment to the Bill to allow a qualified person to describe himself as a landscape architect by reference to a membership of an overseas body or Institute of Landscape Architects.

The other amendments to the Bill are either technical in nature or to incorporate the amendments proposed by the Government under the Architects, Engineers, Surveyors and Planners (Registration) (Miscellaneous Amendments) Ordinance which has been gazetted on 2 May 1997.

Mr President, I beg to move.

Proposed amendments

Clause 6

That clause 6(6) be amended, by deleting "Director of Administration" and substituting "Secretary for Works".

Clause 8

That clause 8 be amended, by adding —

"(ca) from time to time engage such professional advisers as it may consider necessary or expedient;".

That clause 8(e) be amended, by deleting "承付" and substituting "招致".

Clause 11

That clause 11(4) be amended, by deleting "修訂" and substituting "修改".

Clause 21

That clause 21(6)(b) be amended, by deleting "紀錄在案" and substituting "記錄在案".

Clause 23

That clause 23 be amended —

- (a) by renumbering it as clause 23(1).
- (b) in subclause (1)(f), by deleting the full stop and substituting a semicolon.
- (c) in subclause (1), by adding -

"(g) order the registered landscape architect to pay all or part of the costs of any of the Registrar, the Board or the inquiry committee arising from the case if, but only if, the inquiry committee is satisfied that in all the circumstances of the case it would be unjust and inequitable not to do so."

- (d) by adding -

"(2) Costs payable by virtue of an order under subsection (1)(g) shall be recoverable as a civil debt.

(3) The inquiry committee may -

- (a) assess the amount of any costs to be payable by virtue of an order under subsection (1)(g); or
- (b) order that those costs be taxed on the basis of any one of the scale of costs specified in the First Schedule to the District Court Civil Procedure (Costs) Rules (Cap. 336 sub. leg.),

and the Schedules to Order 62 of the Rules of the Supreme Court (Cap. 4 sub. leg.) shall, with all necessary modifications, apply to the taxation and recovery of costs.

(4) For the purposes of this Ordinance (including sections 25 and 28), any assessment or order under subsection (3) shall be deemed to be part of the order under subsection (1)(g) to which it relates."

Clause 26

That clause 26(1) be amended, by deleting "section 23(a) to (e)" and substituting "section 23(1)".

Clause 27

That clause 27(1) be amended, by deleting "section 23(a) to (e)" and substituting "section 23(1)(a) to (e)".

Clause 28

That clause 28 be amended —

- (a) in subclause (1), by deleting "23" and substituting "23(1)".
- (b) by deleting subclause (7) and substituting —

"(7) The Court of Appeal shall not have power to hear any appeal against a decision or order made under section 14(1), 15(5) or 23(1) unless -

- (a) in the case of a decision made under section 14(1) or 15(5), notice of such appeal is given within 3 months after the applicant is notified in writing of the decision;
- (b) in the case of an order made under section 23(1), notice of such appeal is given within 3 months of the service of the order under section 26."

Clause 29

That clause 29 be amended —

- (a) in the Chinese text, by deleting "(landscape architect)" and "(registered landscape architect)" wherever they appear.
- (b) in subclause (2), by deleting "The Board" and substituting "Subject to subsection (3), the Board".

- (c) by adding -

"(2A) A person whose name is not on the register may describe himself as a landscape architect if he describes himself by reference to a membership of an overseas body or institute of landscape architects which description does not imply that he has the right to practise landscape architecture in Hong Kong under the description of landscape architect."

- (d) in subclause (3), by deleting "A person" and substituting "Subject to subsection (2A), a person".

Clause 30

That clause 30 be amended —

- (a) by renumbering it as clause 30(1).
- (b) in the Chinese text, in subclause (1)(h), by deleting "(landscape architect)" and "(registered landscape architect)".
- (c) by adding -

"(2) Subsection (1)(h) shall not apply in relation to the use by any member of an overseas body or institute of landscape architects who is not a registered landscape architect, of any description or initials which he is entitled to use under the constitution of that body or institute if by such use he does not represent that his name is entered on the register."

Question on the amendments put and agreed to.

Question on clauses 6, 8, 11, 21, 23 and 26 to 30, as amended, put and agreed to.

Council then resumed.

Third Reading of Bills

MR PAUL CHENG reported that the

THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED (AMENDMENT) BILL 1997

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

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

Bill read the Third time and passed.

MR EDWARD HO reported that the

LANDSCAPE ARCHITECTS REGISTRATION BILL

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

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

Bill read the Third time and passed.

ADJOURNMENT AND NEXT SITTING

PRESIDENT (in Cantonese): In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday, 4 June 1997.

Adjourned accordingly at five minutes to midnight.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Companies Ordinance, Judicial Service Commission (Special Provisions) Bill 1997, Civil Aviation (Amendment) Bill 1997, Government Rent (Assessment and Collection) Bill, Patents Bill, The Hong Kong and Shanghai Banking Corporation Limited (Amendment) Bill 1997 and Landscape Architects Registration Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

WRITTEN ANSWER**Annex****Written answer by the Secretary for Housing to Mr LEE Wing-tat's supplementary question to Question 4**

The Government's pledge to offer rehousing to all urban squatters residing on government land by March 1996 did not cover squatters residing on urban mixed lots. The squatters rehoused under the pledge were all living on urban government land.

However, as the Secretary for Housing also pointed out, if there is a specific public requirement for the land involved or if the land concerned is susceptible to geotechnical risk, squatters on urban mixed lots will be rehoused according to their eligibility criteria. In the past five years, some 2 700 squatters on urban private lots have been rehoused under these circumstances. A table summarizing clearance operations involving urban mixed lots over the past five years is annexed.

Clearance operations involving mixed lots since 1992

Area	Name of operations	Nature of clearance	Area cleared (sq m)	Date of completion	Persons rehoused*	Area of private land resumed in sq m (%)	Area of government land cleared in sq m (%)	Remarks
Hong Kong	Clearance of Wong	Development	20 400	26 July	155	285	20 115	
	Chuk Hang Path	Clearance		1994	(1)	(1.4%)	(98.6%)	
	Village for Private Treaty Grant, Wong Chuk Hang							
Hong Kong	Ma Hang Valley	Development	83 390	21 October	3 320	11 290	72 100	
	Redevelopment	Clearance		1994	(26)	(13.5%)	(86.5%)	
	Phase II, Stanley							
Kowloon	KN588 — Sale Site	Development	26 800	30 October	2 865	9 740	17 060	
	No. 1, Tai Hom,	Clearance		1992	(1 642)	(36%)	(64%)	
	Diamond Hill							
Kowloon	KN696 — Hammer	Development	47 800	13 June	2 847	9 150	38 650	
	Hill Road District	Clearance		1996	(996)	(19%)	(81%)	
	Park, Diamond Hill							
Kowloon	KN702 — Local	Development	14 300	18 June	124	4 400	9 900	Clearance
	Open Space at Fung	Clearance		1997	(56)	(31%)	(69%)	in progress
	Tak Road Extension, Wong Tai Sin							
	Total		192 690		9 311 (2 721)	34 865 (18%)	157 825 (82%)	

* Figures in brackets denote persons rehoused from private land.