

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 4 June 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.

THE HONOURABLE MARTIN LEE CHU-MING, Q.C., 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 LEE WING-TAT

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

THE HONOURABLE FRED LI WAH-MING

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

THE HONOURABLE JAMES TO KUN-SUN

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 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 EMILY LAU WAI-HING

THE HONOURABLE LAW CHI-KWONG

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 JOSEPH WONG WING-PING, J.P.
SECRETARY FOR EDUCATION AND MANPOWER

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

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

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

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

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

OBITUARY

PRESIDENT (in Cantonese): With great grief, ladies and gentlemen, I speak in memory of Dr the Honourable Samuel WONG who passed away this morning. In 1991, Sam was elected to this Council through the Functional Constituency of Engineering, Construction, Surveyance and Town Planning. In 1995 when this Council was elected, he was re-elected again by the Engineering Functional Constituency. During his term of office, Sam took an active part in the work of this Council. Besides being Chairman of the Public Affairs Group under the Financial Affairs Panel, he, as chairman or member of other committees, also actively takes part in examining various bills and monitoring the implementation of government policies. Members of this Council have benefited from Sam's participation, especially the views he expressed from his professional expertise, thus perfecting the work of this Council in enacting legislation.

From the time he joined this Council to his passing away, Sam took an active part in serving the public. He was Member of the Urban Council from 1983 to 1995, and had been member on the Town Planning Board, Board of Directors of the Land Development Corporation, Environmental Pollution Advisory Committee, Education Commission, and Chairman of Sports Education Fund Limited and Vice-Chancellor of Jockey Club Sports Secondary School, and Director of the Baptist University. Since 1995, Sam was Chairman of Vocational Training Council. He had also been Chairman of Occupational Retraining Council. In every organization he served, Sam always gave his best and made selfless contribution.

With engineering and technological development in China, Sam also played a part. He was consultant professor of Jiaotong University, Xi-an, Polytechnic University of Southern China and Tongji University of Shanghai. He played a catalytic role in promoting technological exchanges between Hong Kong and China.

Sam's passing away is a great loss to this Council and Hong Kong. We miss him as our colleague and the contribution he made.

I would like to extend our deepest sympathy and condolences to Sam's wife and children, and hope that they can restrain their grief.

After Members have given their obituaries, I shall ask you to observe a minute's silence for Sam.

DR LEONG CHE-HUNG: Mr President, there will be many farewells this

month in Hong Kong and in this Council, but none of them can be more sad than the farewell we are saying today, for we are gathering here to say a permanent farewell to a colleague, a friend, a prominent member of the engineering community and Hong Kong at large.

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

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

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

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

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

MR MARTIN LEE: Mr President, Sam WONG was always happy. Every time

I bumped into him in the Ante Chamber he always spoke to me in jokes and he has got a huge repertoire of it. Perhaps his great disappointment in life was his failure to be selected into the provisional legislature, but he joked about that too. He said that he was rejected by both sides, by both the 26 Democrats and the 33 provisional legislators. But, Mr President, he cannot be more wrong, because as we mourn his sudden passing away I am sure both the 26 Democrats and the 33 provisional legislators will miss him.

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

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

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

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

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

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

MR IP KWOK-HIM (in Cantonese): Mr President, Dr the Honourable Samuel

WONG has left us forever, and the news is very saddening. On behalf of the six Legislative Councillors from the Democratic Alliance for the Betterment of Hong Kong (DAB), I express great grief of Dr WONG's passing away and extend our deepest condolences to Dr WONG's family.

Though our working relationship with Dr WONG is only one short year, his easy-going character and hearty laughter left in us a deep impression. It has been six years since his joining the Legislative Council in 1991; he has served the public and taken up several public offices. With his passing away, we have lost an elite who is willing to contribute himself, his profession, time and energy for the good of the society. It is a great loss to Hong Kong and our colleagues here.

Another 28 days, Hong Kong will return to China. Dr WONG cannot witness this with us. However, the active participation of Dr WONG in organizing the establishment of the Special Administrative Region showed that he had great confidence in Hong Kong's future and a sense of responsibility. We are sorry that he will not be able to witness this historic moment of Hong Kong.

On behalf of the DAB, I express our greatest respect for the contribution Dr WONG has made to this Council, the society and the public over the years. We shall miss him very much.

MR FREDERICK FUNG (in Cantonese): Mr President, Dr WONG has been my colleague the longest in my 14 years within the establishment. I joined the Urban Council in 1983 after being elected and Dr WONG was appointed to the Urban Council. We joined the Legislative Council in 1991. He was elected by the functional constituency to which he belonged and I was elected through direct election.

In these 14 years, Dr WONG always gave me the impression that he was very experienced in the engineering field. Whether it was the Hong Kong Government or the Urban Council that he was serving, his views on engineering works often greatly impressed his colleagues and were highly regarded by civil servants. I feel that, over these years, he had played a very active role in the work of the legislative assembly, and he would not let go of any chance that he could contribute his professional expertise.

Dr WONG also gave me the impression that he was a very independent councillor. He rarely (except for a short while) joined any political association or party. In my impression, he was a man who would like to run his own show in politics. We never quarrelled despite that we held disparate political views, because that did not preclude any discussion between us. In fact, such discussion often made me feel more at ease and happy because every time we talked about any political issue, he would try to express his views in a soft and light-hearted way, hoping that I would be convinced.

The one incident that still leaves a deep impression in me is during the time when appropriation for the new airport was being discussed. At that time, Dr WONG would like us to vote in favour of appropriation. During the 5-minute break, he talked to me at length about our vote. Time was running short, and I knew that he was very anxious because he would like to see the appropriation passed, but he still had a smile on his face, saying why he felt that the airport should be built. Though it was four or five years ago, the impression that occasion leaves on me makes me feel that it just happened yesterday. I really admire the way he went about issues about which people of an assembly may hold different views.

What I admire him more is his taking that first step to take part in functional constituency election when he saw that the political system would develop along a democratic line and he would not insist and rely on the appointment system. Despite that we think that such a mode of election is still a kind of election within a small circle of people, I feel that Dr WONG, being an appointed councillor for many years, had shown the courage and bravery to take that first step.

He passed away suddenly today; I feel very sorry for him. I would like to express here my memory of him and hope that his family can restrain their grief. The four Members from the Association for Democracy and People's Livelihood are all saddened at Dr WONG's suddenly passing away. His words and demeanour will stay in our hearts.

MR AMBROSE LAU (in Cantonese): Mr President, our colleague of this Council Dr the Honourable Samuel WONG passed away this morning. My colleagues at the Hong Kong Progressive Alliance and I myself feel greatly saddened by his passing away and would like to extend our deepest condolences

to his family.

Dr WONG was a righteous person, treating others with sincerity and impartiality. He himself was an experienced and outstanding engineer, and was also very experienced and active in Council work. All his work has shown that he had sincerity in and made contribution to the future of Hong Kong.

Dr WONG was patriotic, and loved Hong Kong too. His passing away is a great loss to the people of Hong Kong. I firmly believe that his spirit in serving our society will remain in our hearts for ever. May he rest in peace!

MR LAU CHIN-SHEK (in Cantonese): Mr President, I have visited Dr the Honourable Samuel WONG three times in the past two days. Though I knew that his condition was serious, I still hoped that he would recover soon. Unfortunately, yesterday's visit was the last time I saw him.

I remember when I first joined the Legislative Council, the Christian Industrial Committee was experiencing financial hardship, requiring donations. Dr WONG advised me that I could appeal for donations from my colleagues by putting on a tie, so that the money collected could be donated to the Committee. Consequently, \$120,000 was collected, which helped tie the Committee over the hardship it experienced.

Recently Miss CHAI Ling came to Hong Kong. Dr WONG asked me if she needed any scholarship because his father had set up a fund, which could help her. Though he held different political views from hers, he had clear notion what education could do to youths.

Mr President, I especially appreciate the contribution Dr WONG made in recent years in the establishment of the Employees Retraining Board. It was a huge task. He was very concerned about industrial safety, and often provided advice from his professional expertise on the problem of hand-dug caisson. I greatly admire what he has done. Now Hong Kong is entering a critical moment, both the Legislative Council and the society need people like Dr Samuel WONG.

Finally, on behalf of the Frontier, I would like to extend our deepest condolences to Clarisse and her children. May God be with them and may Dr WONG rest in peace.

MR CHENG YIU-TONG (in Cantonese): Mr President, I first came to know of Dr the Honourable Samuel WONG when he appeared on TV screen. I was impressed by the clarity of his analysis and the impartial stand he took on various issues. After joining this Council, I could listen first-hand to the remarkable speeches he made and having worked with him for a number of years, I am impressed by his sanguine disposition.

What impresses me more is that when Hong Kong's economy underwent structural change, he took up the chairmanship of the Employees Retraining Board. It was a very difficult job at a very difficult time, but he did it wholeheartedly and completed the job. It was a respectable feat.

Two other Councillors from the Federation of Trade Unions and I are deeply grieved by Dr WONG's passing away, and we extend our deepest condolences to his family.

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

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

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

In more recent weeks, I remember when I first marched in the street in protest against the provisional legislature, he came into this room and he said, "Hey, Libby, you are more democratic than the Democrats!". And only last week he came up to sit beside me during the Establishment Subcommittee meeting and we chatted a little bit, and it was only that little bit that I remember.

He asked me how I felt, to try to compose a kind of feeling about leaving this Council at the end of this month. I said, "So, so. No big deal, when I do not join the provisional legislature." And he said good-humouredly, "You are like me. We are not hooked on politics." Whereupon he got up and left the room. I wished I had chatted with him some more, but it was in the middle of a meeting. We did not want to disturb the meeting.

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

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

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

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

I just want to tell this story to highlight the kind of very special relationship that we do have with each other in this Council, and whilst as I said we are good colleagues, although Sam and I are not good friends, he added much to my time here and to the flavour of this Council for me, and I also wish to add my voice to console his family for the loss of a good colleague.

MR YUM SIN-LING (in Cantonese): Mr President, I am deeply sorry at Dr the Honourable Samuel WONG's passing away. Dr WONG and I were both engineer, so very often we had between us a common language. On behalf of all engineers in Hong Kong, I would like to express our appreciation for all he has done for the engineers.

As the Honourable Martin LEE has put it, Dr WONG was a humorous person. He did an outstanding job when he was on the Public Works Subcommittee.

About the provisional legislature, we once came across the topic. Dr WONG said that besides the work of the Legislative Council, he had to spend much time on other public offices which he held, so he did not have time to lobby for votes. Of course, to him, it is regrettable. I hope that the people of Hong Kong will understand the service and effort which Dr WONG has made for Hong Kong; he really has given his best for the people of Hong Kong.

We are here to extend our condolences to his family, hoping that they can restrain their grief. On behalf of the people of Hong Kong, I would like to express our respect for what he has done for Hong Kong.

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

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

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

PRESIDENT (in Cantonese): Please all stand up, and observe a minute of silence for Dr the Honourable Samuel WONG.

PAPERS

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

Subject

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

Sessional Papers 1996-97

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

ADDRESSES

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

MR ERIC LI (in Cantonese): Mr President, as a member of the Advisory Committee On Corruption, I have the pleasure of introducing the 1996 Annual Report by the Commissioner of the Independent Commission Against Corruption (ICAC), which is tabled today in this Council.

In 1996, the Commission received 3 086 corruption reports. This was a continuation of the high level of reports which emerged in 1993. However, it is gratifying to note that there is no re-emergence of syndicated corruption in Hong Kong. The increase of reports to the ICAC may be seen in part as a reaffirmation of the community's support in the fight against corruption. A survey conducted in 1996 showed that 99% of respondents supported the work of the ICAC. Two-thirds of those making reports to the ICAC have shown their confidence in the Commission by identifying themselves.

In addition to dealing with its heavy caseload, the Commission has been adopting a more proactive approach in its investigative work. At the same time, liaison and co-operation with various law enforcement agencies have been enhanced so that areas of potential corruption may be identified at an early stage. The Commission is also restructuring its investigation groups in order to provide

more front-line staff for investigation.

Full implementation of the legislative amendments arising from the ICAC Review Committee's recommendations is expected before the end of the month with the adoption of new court procedures to give effect to some of these changes. The transparency and accountability of the ICAC in the exercise of its powers will be further improved through the increased involvement of the courts.

A closer linkage between the Advisory Committee On Corruption and the other three ICAC advisory committees — on operations, corruption prevention and community relations — was established in 1996. This has enhanced the overall effectiveness of these committees in monitoring the Commission's activities, at both the policy and operational levels.

The Business Ethics Campaign started by the Commission in 1994 has maintained its momentum. Many companies and traders organizations have adopted a Code of Conduct. The ICAC has also been encouraging more companies to promote work ethics among their staff, particularly among young people. This is part of a continuing effort to educate young people in ethical behaviour. On the corruption prevention front, the Commission completed 102 studies principally in government departments and public bodies.

In tabling this Report, I would like to join the Honourable Michael LEUNG who headed the Commission in 1996 in thanking the community for its support and members of various ICAC advisory committees for their valuable work during the year. I would also like to add a word of appreciation to the staff of the ICAC for their dedication and commitment.

The Independent Commission Against Corruption Complaints Committee 1996 Annual Report

MR HOWARD YOUNG (in Cantonese): Mr President, on behalf of the ICAC Complaints Committee, I present the 1996 Annual Report of the Committee to this Council.

This is the second annual report of the Committee. It gives details of the Committee's function, its mode of operation and the work it has carried out in the past year. By publishing this small booklet, the Committee aims to keep the community informed of its work.

Any comments on the report may be directed to the Secretary of the Committee, whose address is given in the report.

HOUSING ORDINANCE (AMENDMENT OF SCHEDULE) ORDER 1997

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

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

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

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

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

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

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

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

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

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

ORAL ANSWERS TO QUESTIONS

Delayed Delivery of Drugs to Public Hospitals and Clinics

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

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

Thank you.

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

arranged a temporary closure of its warehouse operations for the period from 16 October to 17 November 1996. To minimize any inconvenience, the GSD gave users advance notice of the arrangements, including special arrangements for the requisition of urgent requirements. The intention was to resume operations in phases thereafter with a view to achieving normal delivery service in January 1997. Regrettably, this has been delayed because of the longer time taken to fully commission the new computer system for warehouse operations, stock management and stores requisition in the new Chai Wan warehouse. The Director of Government Supplies has worked closely with the computer system vendor to rectify the situation and he now expects the supplies operations to reach normal delivery service levels by the end of this month.

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

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

- (a) For all items supplied from the GSD's stores, the performance target is to deliver them to users within 14 working days from the receipt of the stores requisition order in 85% of the cases. There is no separate specified delivery time for drugs agreed between the GSD and the public hospitals and clinics. However, priority is always given to the supply of drugs, especially those required urgently by the users.
- (b) Upon relocation to the Chai Wan warehouse, there were some delays in the GSD's delivery service for the reasons I have just explained. In the period January to April 1997, the delivery time for 36% of the total drug items ordered was more than 14 working days. The delays were attributable to the picking of drugs according to the requisition order in the new warehouse, rather than in the actual delivery from the stores to public hospitals and clinics. Specifically, this is because the bulk picking features in the new

computer system were not operational in time.

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

had to make a second visit to collect the full supply.

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

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

DR HUANG CHEN-YA (in Cantonese): *Mr President, concerning the GSD providing common-user items to the Hospital Authority, I believe that the Administration also knows of the experience of some foreign countries that if a supplier regularly provides supplies to a client, and makes regular delivery to client according to the orders, the supplier needs not wait for an order from the client to deliver the supplies. The supplier may even help the client undertake inventory control. This not only saves delivery time, but also reduces administrative costs. I would like to know if the GSD would consider such a practice to improve its services to the Hospital Authority.*

SECRETARY FOR TREASURY (in Cantonese): Mr President, we are very grateful for Dr the Honourable HUANG's advice, which we would consider.

Civic Education in Educational Institutions

PRESIDENT (in Cantonese): Miss Emily LAU is sick today so she is unable to attend this meeting. She has agreed that the question be made by Mr LEE Cheuk-yan.

2. **MR LEE CHEUK-YAN** asked (in Cantonese): *It is learnt that the subject officer in civic education in a technical institute recently received an administrative instruction issued by the institute concerned, which stipulated among other things that (i) civic education lecturers are prohibited from conducting activities which will "upset those in authority"; (ii) activities in which students may discuss political issues are not encouraged; (iii) teaching staff are prohibited from encouraging students to participate in politically-oriented activities, such as voting and expressing views to the Government; and (iv) teaching staff are prohibited from posting at the campus materials which publicize activities of any political group. The institute concerned has also suddenly changed its usual practice and imposed a requirement that all notices and posters are to be vetted and approved by its top management before they can be put up on notice boards at the campus. In this connection, will the Government inform this Council:*

- (a) whether it knows of the above event;*
- (b) of the authority on which the institute concerned prohibits teaching staff and students from participating in such activities;*
- (c) how it ensures that education institutions will not, on political grounds, interfere with the promotion of civic education; and*
- (d) how it ensures that the administrative staff of educational institutions cannot stifle students' freedom of speech and freedom of participation in social and political activities?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, I am advised by the Vocational Training Council (VTC) that the principles governing the provision of civic education by its institutions are:

- (i) The contents of civic education programmes should be well balanced in terms of different kinds of issues, and in terms of different viewpoints; and

- (ii) When an issue is raised in a programme, all relevant perspectives should be presented so as to cultivate the independent thinking of students as well as their ability to look at things in an objective and balanced manner.

I am also advised that in all the seven technical institutes under the VTC, there is no administrative instruction which discourages the organization of forums where students discuss political issues. Nor do the institutes forbid their staff in encouraging students to take part in activities such as voting and expressing views to the Government. It is also not a general practice for the institutes to vet all the materials before they could be posted up, although the institutes do require that the contents of posters or the like meet certain basic standards, including the standard of decency and the requirement that no commercial promotion or libellous elements are involved.

Against this background, my replies to the four parts of the Honourable Miss Emily LAU's question are as follows:

- (a) and (b)

Following press reports on the incident quoted in Miss Emily LAU's question, the Administration has been in touch with the VTC to establish the facts of the case. We understand that the VTC is looking into the allegation by meeting the Civic Education Co-ordinators concerned as well as the management of that particular technical institute. At this stage, the VTC believes that this was an isolated incident and might have been caused by misunderstanding between the parties concerned. Nevertheless, in the light of this incident, the VTC has decided to issue shortly more detailed guidelines to provide clearer guidance to its staff on the promotion of civic education as well as the organization of relevant activities, especially when political issues are involved.

- (c) The Education Department (ED), which is responsible for monitoring all government schools and those schools registered

under the Education Ordinance, has issued "Guidelines on Civic Education in Schools" stating that one of the aims of civic education is "to develop in students critical thinking dispositions and problem solving skills that would allow them to analyse social and political issues objectively and to arrive at a rational appraisal of these issues." Therefore, when presenting to students any issues, including political ideas, systems and processes, teachers should be objective and balanced.

The ED is responsible for ensuring that schools take account of such guidelines in promoting civic education. Should there be any unreasonable measures taken by schools, a complaint could be lodged with the ED. Where such cases take place in institutions under the VTC, the matter could be drawn to the attention of the VTC. As regards tertiary institutions, it would be for the respective governing bodies to look into the matter, given institutional autonomy.

- (d) Given (c) above, students should be able to enjoy freedom of expression and the freedom to participate in social and political activities.

MR LEE CHEUK-YAN (in Cantonese): *Mr President, the recent incident of political vetting at the technical institute confirmed the Chief Secretary's comment that in Hong Kong one has to "beware of tattletales". Yet the Secretary of Education and Manpower in his main reply tried to evade this problem and wanted to sweep it under the carpet. In the main reply of (a) - (b), the Secretary for Education and Manpower mentioned that the VTC has decided to issue shortly more detailed guidelines. I have just received the more detailed guidelines, which states that assistant principal's approval is required if any speaker is invited to give talks at the technical institutes or if poster is to be displayed. From the Department's point of view, does this comply with the guidelines? If administrative staff have the authority to examine who could be invited to speak at the forum and which poster could be displayed, they do not follow what the Secretary for Education and Manpower has said.*

PRESIDENT (in Cantonese): Please proceed with your question, Mr LEE.

MR LEE CHEUK-YAN (in Cantonese): *I am stating my question.*

In his main reply, the Secretary for Education and Manpower advised that the institutes generally do not vet what is displayed. The main reply said that there will be no examination. However, the updated version of the guidelines state that examination would be made in respect of who would come to speak and what poster could be put up. Do they comply with the guidelines of the Education Department?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, I would like to clarify that, as I have said in my reply, the VTC has taken up follow-up measures after the incident. Firstly, the VTC will investigate the incident; secondly, the VTC decides to issue more detailed guidelines in the near future. These guidelines are mainly about civic education and the staging of related activities.

Mr LEE said that he has received detailed guidelines issued by the VTC. I do not have this document on hand and neither do I receive any notice from the VTC. If Mr LEE can give me this document after the meeting, I promise I will read it and then follow up on the matter.

MR LEE CHEUK-YAN (in Cantonese): *Mr President, the Secretary for Education and Manpower has not answered my question. My question is: Does it comply with the guidelines of the Education Department if the detailed guidelines stating expressly that approval of the assistant principal is required in respect of the invitation of speakers and display of posters, that is approval of the administrative staff of the institute is required?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, I cannot give my judgment simply with reference to a quote that Mr LEE lifted out of a certain document. If Mr LEE can give me the complete

document so that I can go through it and find out if it was issued by the VTC and under what condition it was issued, then I can make up my judgment. As I have said just now, I would very much like to follow up on the document that is in Mr LEE's hand.

PRESIDENT (in Cantonese): Mr LEE, this is not the time for discussion. Are you willing to pass the document to the Secretary for Education and Manpower?

MR LEE CHEUK-YAN (in Cantonese): *Mr President, I am willing to pass on this document. But up to now, he still has not provided me the answer to my question. Actually he does not need to go round in circles. What I am asking is whether the guidelines of the Education Department allow institutes to vet the speakers and the posters? He has not answered my question.*

Mr President, I would like you to make a ruling.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, firstly, the Education Department's "Guidelines on Civic Education in Schools" only apply to government schools and schools registered under the Education Ordinance. This is the first point.

Secondly, based on the information I have now, the Education Department's "Guidelines on Civic Education in Schools" do not spell out in detail about the invitation of speakers. The most important principle of the guidelines is that with respect to civic education any promotion and learning must in general be objective, and include views from different perspectives. As I have already said in my main reply, what I can do now is follow up on Mr LEE's document.

DR ANTHONY CHEUNG (in Cantonese): *Mr President, when the Secretary for Education and Manpower gave his reply to the first part of the Honourable Miss Emily LAU's question, he mentioned that civic education activities should take care of all aspects, encompassing a wide range of topics, views and positions. Miss Emily LAU's original question mentioned that the administrative instructions of a certain institute forbade civic education lecturers*

from conducting activities that will "upset those in authority", so do such activities that "upset those in authority" still fall in line with the "Guidelines on Civic Education in Schools"?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, I have stated my point very clearly in my reply. The VTC and institutes under it have not issued any administrative instructions in relation to matters referred to by Miss Emily LAU in her question. Having learned of this, the VTC will look into it and issue detailed guidelines and clarify some points.

DR ANTHONY CHEUNG (in Cantonese): *Mr President, the key point of my question is whether activities that "upset those in authority" still fall in line with the "Guidelines on Civic Education in Schools".*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Firstly, as I have just said, the VTC has not issued any administrative instructions forbidding civic education lecturers from conducting activities that will "upset those in authority".

Secondly, according to our principle of promoting civic education, citizens and students have the right to express their views fully, including views about the Government or other organizations. Whether such views would affect such other organizations or the Government, or make them happy or unhappy, is in fact not the question.

MR ANDREW CHENG (in Cantonese): *Mr President, as the handover draws closer, it would definitely get more serious with people exercising self-restraint and examination on political issues, and this is, I believe, not what the Administration would like to see. The core of the problem is, for example the few points raised by Miss Emily LAU, under such a political atmosphere, how the Administration can ensure that politics would not interfere with civic education. Mr President, I would like to know if the Administration would, in view of the current political climate, consider rewriting the "Guidelines on Civic Education in Schools" in greater detail, and whether schools violating the Guidelines would be punished or warned.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, the Administration is of the view that the "Guidelines on Civic Education in Schools" issued by the Education Department have stated the principles clearly. If Members have any constructive views about this document, we certainly are pleased to consider them.

MR ANDREW CHENG (in Cantonese): *He has not answered my second question, that is, whether school violating the guidelines would be punished or warned.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, according to the Education Ordinance, if any school violates the Education Department's guidelines, including "Guidelines on Civic Education in Schools", the Education Department may issue a written notice or any other instruction to the school. Government schools are part of the government structure, and therefore, the Education Department certainly has the right to apply sanctions. Regarding subsidised schools, the Education Department can also refer to the Education Ordinance to exercise its power of taking appropriate sanctioning action where there is the need.

MR ALBERT CHAN (in Cantonese): *Mr President, I have a question to raise. If the Secretary for Education and Manpower cannot answer, I hope that the Attorney General can answer.*

With respect to the activities held on the campus of the technical institutes, including activities of the staff and students, are they protected by the Bill of Rights? If the answer is affirmative, will the Administration investigate if any staff members involved in the incident, including the senior personnel, have violated the Bill of Rights? If the investigation proves that there is such a case, what legal action will the Administration take?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, firstly, the incident which Miss Emily LAU mentioned in her original question is, as I said in my main reply, being investigated by the VTC. As to whether student activities on school campus are protected by the "Bill of Rights", my understanding is that they are. Since this is a legal question, with your permission, Mr President, I think it should be answered by the Attorney General.

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

PRESIDENT (in Cantonese): Mr Albert CHAN, if you would like to raise this question, can you do it in the next meeting?

MR ALBERT CHAN (in Cantonese): *Mr President, I agree that the Attorney General may give a written reply to this question as it is about the area within which activities may be held.*

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

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

MR LEUNG YIU-CHUNG (in Cantonese): *Mr President, as mentioned in sections (a)-(b) of the main reply, the VTC believed that it was only an isolated incident, but afterwards it thought that it was necessary to issue more detailed guidelines. This makes one feel that this is not an isolated incident but part of*

an overall policy. Thus, I would like to ask the Secretary for Education and Manpower, in this incident, what role the Education and Manpower Branch play and how the problem will be handled.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, on this matter, the VTC considered that there might be mutual misunderstanding. To prevent similar incidents happening again, the VTC is considering issuing more detailed guidelines. I think that it is very responsible of them.

As to the involvement of the Education and Manpower Branch in the incident, I would like to make it clear that the VTC is an independent statutory body. The Administration, including the Education and Manpower Branch, will not involve in its daily operations. However, there are four official representatives, including personnel from the Education and Manpower Branch, who are on the VTC Board. If situation arises that the Administration thinks that the VTC should take note of, or that discussion is necessary, the official representatives are entitled to raise them in the VTC Board.

MR LEUNG YIU-CHUNG (in Cantonese): *Mr President, just now I asked how the Administration would handle this incident. The Secretary for Education and Manpower only replied that they had the duty and there were a number of people who were members of the VTC Board. He had not told us what action would be taken. How is he going to handle this incident?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, a decision on whether further action would be taken by the Administration will come after the VTC has completed its investigation and the Administration has gone over the report of the investigation. Moreover, the Administration is also interested in whether the more detailed guidelines issued by VTC is comprehensive enough. As I have said earlier, the Administration has representatives sitting on the VTC Board. I believe this is sufficient to explain the relationship between the Government and the VTC.

MR CHOY KAN-PUI (in Cantonese): *Mr President, up to now how many complaints has the Administration received regarding educational institutes*

obstructing or interfering with the promotion of civic education on whatever grounds?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, up to now the Education Department has not received any complaint regarding schools interfering with the promotion of civic education.

One-way Exit Permits

3. **MRS SELINA CHOW** asked (in Cantonese): *Regarding the granting of one-way exit permits by the Chinese side in excess of the agreed quota, will the Government inform this Council:*

- (a) *whether it has raised with the Chinese side the issue regarding the granting of 6 500 one-way exit permits in excess of the agreed quota by the Chinese authorities concerned in the past year;*
- (b) *whether the granting of one-way exit permits in excess of the agreed quota is in contravention of the agreement reached between the British and Chinese Governments in 1982; if so, whether the Hong Kong Government can refuse entry of those holding one-way permits issued by the Chinese authorities concerned in excess of the quota;*
- (c) *whether the agreement on the quota of one-way exit permits has any legal effect, or whether such an agreement is a gentlemen's agreement without any binding legal effect; and*
- (d) *whether the Security Branch has notified the Census and Statistics Department of the fact regarding the granting of one-way exit permits by the Chinese side in excess of the agreed quota; if not, whether there has been dereliction of duty, abuse of power or maladministration on the part of the Security Branch?*

SECRETARY FOR SECURITY: Mr President,

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

MRS SELINA CHOW (in Cantonese): *Mr President, though officials of the Immigration Department, in discussing the One-way Permit problem with the Security Panel the day before yesterday, expressed that the approval right rests with Beijing, the recently announced points system undoubtedly reflects the suggestions made by the Hong Kong Government to the Chinese Central Government. Has the Administration arranged regular meetings with Beijing as well as the agenda of such meetings so as to ensure that the number of arrivals from China comply with the number both sides have previously agreed upon, and that plans with respect to the age, sex and nature of coming to Hong Kong of the arrivals will be drawn up so that Hong Kong will not be caught off balance in the provision of various social services?*

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

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

MRS SELINA CHOW (in Cantonese): *Mr President, the information we get shows that Hong Kong can only obtain information of people arriving in Hong Kong on OWPs after their arrival. Hong Kong therefore does not have much influence in the approval of these people. In this regard, will the Administration strive as far as it can to liaise with Beijing to make it more even in the approving procedures and the number of arrivals, so that Hong Kong can plan in advance for the acceptance of these arrivals?*

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

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

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

Increasing Expenditures on Hawker Control

4. **MR ALBERT CHAN** asked (in Cantonese): *Mr President, the expenditure on hawker control by the Urban Council and the Regional Council respectively have been on the increase in recent years. Does the Administration know:*

- (a) *of the expenditures and staff establishment in connection with hawker control in the two Municipal Councils in 1994-95, 1995-96 and 1996-97 respectively; and the estimated expenditures and staff establishment in this regard in 1997-98;*
- (b) *of the numbers of licensed and unlicensed hawkers in each district in 1994-95, 1995-96 and 1996-97 respectively, and the numbers of prosecutions instituted against unlicensed hawkers in each of the years in the corresponding period; and*
- (c) *whether the two Municipal Councils have conducted value-for-money studies on the work relating to hawker control; and whether the two Municipal Councils will carry out an overall*

reviews of the relevant legislation, so as to ensure that the hawker control work is cost-effective?

SECRETARY FOR BROADCASTING, CULTURE AND SPORT (in Cantonese): Mr President, on the basis of information provided by the Urban Services Department (USD) and the Regional Services Department (RSD), the answers to the three questions raised by the Honourable Albert CHAN are as follows:

- (a) The actual expenditure for the USD on hawker management for the years 94-95 and 95-96 were \$492.1 million and \$589.3 million respectively. Its budgetary provision for the years 96-97 and 97-98 are \$706.2 million and \$749.5 million respectively. The establishments of the Hawker Control Teams (HCTs) in the Urban Council area for the four-year period from 94-95 to 97-98 are 1 640, 1 781, 1 943 and 1 958 respectively. In respect of RSD, the actual expenditure for the years 94-95 and 95-96 were \$261.4 million and \$309.7 million respectively. Its budgetary provisions for the years 96-97 and 97-98 are \$354.1 million and \$410 million respectively. The establishments of the HCTs in the Regional Council area for the four-year period from 94-95 to 97-98 are 982, 996, 1 052 and 1 122 respectively. For both Departments, staff cost represents about 80% of total expenditure on hawker management.
- (b) As regards information relating to the number of licensed and unlicensed hawkers and the prosecution figures for the years 94-95 to 96-97, Members may wish to refer to the statistical sheets which have been tabled.
- (c) The final part of the question asks whether value-for-money studies on hawker management have been conducted, and whether the Councils will review the relevant legislation to improve cost-effectiveness. From time to time the two Municipal Services Departments have examined the economy, efficiency and

effectiveness of hawker control operations, staffing requirements and staff deployment with reference to the policy objectives set by the respective Council. The Working Group on the Control of Illegal Hawking of the Urban Council and the Illegal Hawking and Illegal Shop Extension Sub-Committee of the Regional Council regularly monitor the effectiveness of policy and enforcement measures in the respective Urban Council and Regional Council area. The last review of the hawker control organization in urban areas involving staff deployment and staff requirements was completed in late 1996 and its recommendations were approved by the Urban Council for implementation in February 1997. On the question of an overall review of the existing legislation for hawker control, the two Municipal Services Departments advise that the Public Health and Municipal Services Ordinance, Cap. 132 and its subsidiary legislation already confer adequate legal powers for the control of hawkers. The level of fines for hawking offences under this Ordinance has also been appropriately revised in 1996. The two Municipal Services Departments do nevertheless review the legislation from time to time in the light of changing circumstances.

Number of Licensed and Unlicensed Hawkers and Prosecutions
by District

(I) Urban Council Area

Number of Fixed Pitch Hawker Licences (Urban Services Department)

<i>District</i>	<i>1 April 1994</i>	<i>1 April 1995</i>	<i>1 April 1996</i>	<i>1 April 1997</i>
Eastern	707	640	630	624
Wan Chai	721	695	680	662
Central	792	760	726	705
Western	623	515	353	338
Southern	118	114	112	110
Kwun Tong	367	357	355	332
Wong Tai Sin	97	94	94	92
Kowloon City	377	351	282	264
Yau Tsim	1 795	1 777	1 778	1 745

Mong Kok	1 927	1 904	1 882	1 841
Sham Shui Po	1 543	1 524	1 494	1 445
Total	9 067	8 731	8 386	8 158

Number of Itinerant Hawker Licences

	<i>1 April 1994</i>	<i>1 April 1995</i>	<i>1 April 1996</i>	<i>1 April 1997</i>
Total	2 563	2 016	1 189	991

Estimated Number of Unlicensed Hawkers (Urban Services Department)

<i>District</i>	<i>1 April 1994</i>	<i>1 April 1995</i>	<i>1 April 1996</i>	<i>1 April 1997</i>
Eastern	456	502	610	752
Wan Chai	411	402	504	276
Central	149	304	318	265
Western	373	296	237	89
Southern	250	184	135	74
Kwun Tong	572	664	365	283
Wong Tai Sin	411	420	349	258
Kowloon City	959	654	670	473
Yau Tsim	388	502	704	611
Mong Kok	727	594	493	457
Sham Shui Po	1 095	920	823	614
Total	5 791	5 442	5 208	4 152

Total Number of Prosecutions concerning Hawking Offences (Urban Services Department)

<i>District</i>	<i>1994 - 95</i>		<i>1995 - 96</i>		<i>1996 - 97</i>		<i>April 1997</i>	
	<i>Licensed Hawkers</i>	<i>Unlicensed Hawkers</i>	<i>Licensed Hawkers</i>	<i>Unlicensed Hawkers</i>	<i>Licensed Hawkers</i>	<i>Unlicensed Hawkers</i>	<i>Licensed Hawkers</i>	<i>Unlicensed Hawkers</i>
HK RTF	-	-	831	7 602	797	7 799	104	690

Eastern	896	14 960	632	11 178	480	6 791	38	436
Wan Chai	1 814	4 160	2 121	5 482	1 333	4 931	93	247
Central	2 473	3 539	2 390	3 293	2 498	2 888	239	269

<i>District</i>	<i>1994 - 95</i>		<i>1995 - 96</i>		<i>1996 - 97</i>		<i>April 1997</i>	
	<i>Licensed Hawkers</i>	<i>Unlicensed Hawkers</i>	<i>Licensed Hawkers</i>	<i>Unlicensed Hawkers</i>	<i>Licensed Hawkers</i>	<i>Unlicensed Hawkers</i>	<i>Licensed Hawkers</i>	<i>Unlicensed Hawkers</i>
Western	1 634	3 564	1 400	3 372	698	1 677	61	114
Southern	174	2 222	130	1 992	66	1 728	7	115
Kln RTF	31	3 913	507	5 847	1 124	6 229	37	789
Kwun Tong	2 829	9 177	3 903	6 538	5 133	5 972	298	357
Wong Tai Sin	279	4 397	269	4 410	112	4 213	5	294
Kowloon City	390	9 248	675	9 032	278	7 828	16	733
Yau Tsim Mong	1 562	4 632	2 071	4 551	2 230	4 244	141	338
Kok	835	11 530	726	9 956	824	10 684	50	861
Sham Shui Po	1 430	7 595	1 458	7 337	1 332	6 734	91	478
Total	14 347	78 937	17 113	80 590	16 905	71 718	1 180	5 721

(II) Regional Council Area

Number of Fixed Pitch Hawker Licences (Regional Services Department)

<i>District</i>	<i>1 April 1994</i>	<i>1 April 1995</i>	<i>1 April 1996</i>	<i>1 April 1997</i>
Kwai Tsing	111	98	97	92
Tsuen Wan	291	283	271	263
Tuen Mun	88	86	85	74
Yuen Long	81	79	68	67
Northern	221	91	91	88

Tai Po	69	69	67	49
Sha Tin	67	67	67	69
Sai Kung	6	5	4	3
Outlying Islands	5	5	5	5
Total	939	783	755	710
Number of Itinerant Hawker Licences				

	<i>1 April 1994</i>	<i>1 April 1995</i>	<i>1 April 1996</i>	<i>1 April 1997</i>
Total	830	791	757	737

Estimated Number of Unlicensed Hawkers (Regional Services Department)

<i>District</i>	<i>1 April 1994</i>	<i>1 April 1995</i>	<i>1 April 1996</i>	<i>1 April 1997</i>
Kwai Tsing	260	150	210	167
Tsuen Wan	49	64	63	57
Tuen Mun	272	207	170	174
Yuen Long	173	154	149	146
Northern	177	139	174	130
Tai Po	259	298	167	185
Sha Tin	219	229	240	238
Sai Kung	51	63	65	63
Outlying Islands	94	102	102	98
Total	1 554	1 406	1 340	1 258

Total Number of Prosecutions concerning Hawking Offences (Regional Services Department)

<i>District</i>	<i>1994 - 95</i>		<i>1995 - 96</i>		<i>1996 - 97</i>		<i>April 1997</i>	
	Licensed Hawkers	Unlicensed Hawkers	Licensed Hawkers	Unlicensed Hawkers	Licensed Hawkers	Unlicensed Hawkers	Licensed Hawkers	Unlicensed Hawkers
Kwai Tsing	944	2 044	1 185	2 144	1 388	1 969	103	116
Tsuen Wan	305	1 650	334	1 696	345	1 808	12	126
Tuen Mun	41	3 286	87	3 299	132	2 862	8	220
Yuen Long	132	4 772	145	4 847	92	3 929	7	315
Northern	311	3 585	260	2 836	223	2 425	14	192

Tai Po	555	3 390	874	3 941	690	3 204	2	139
Sha Tin	163	3 275	284	3 559	257	2 705	11	191
Sai Kung	2	469	5	620	-	818	-	51
Outlying Islands	-	48	-	85	-	98	-	7

Total	2 453	22 519	3 174	22 997	3 127	19 818	157	1 357
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MR ALBERT CHAN (in Cantonese): *Mr President, the figures provided by the Administration show that it has been extremely wasteful. Let me make a simple comparison of the figures. At the moment there are more than 6 000 unlicensed hawkers, but the Hawker Control Teams have a staff of more than 2 000, which is 1 staff member to 3 unlicensed hawkers. If a comparison is made of the expenditure, that is dividing the \$1.1 billion annual expenditure by 6 300 unlicensed hawkers, each hawker will require a management fee of \$180,000 each year. I asked in the third paragraph of my question if value-for-money assessment had been made. Though the Secretary for Recreation and Culture mentioned that the two Municipal Councils had conducted reviews, definitely no value-for-money assessment has been made. I would like to ask the Secretary for Recreation and Culture, or perhaps the Secretary for the Treasury, on seeing such alarming figures and such uneconomical practice, if the Administration would review the management of and expenditure made in respect of hawker control.*

SECRETARY FOR BROADCASTING, CULTURE AND SPORT (in Cantonese): Mr President, after listening to the criticisms of Mr CHAN, I will convey them to the two Municipal Councils and their respective Services Department. As Secretary for Recreation and Culture, I am only passing the replies of the two Municipal Councils to Members, and it is not for me to criticize them here. From the discussion I had this morning with two colleagues from the Urban Services Department, I understand that they did not find such comparison, that is using the figures to compare how much money spent and how many people employed to compare with the estimated number of unlicensed hawkers, very meaningful. It is because they think that the diminishing number of hawkers shows that their enforcement has been effective. If they had not used so much human resources in hawker control, the number would definitely be higher and the comparison would be easier then. As to the value-for-money assessment, I am aware that it has not been addressed directly. I will pass Mr CHAN's request to the two Municipal Councils for their consideration.

(Laughter)

MR ALBERT CHAN (in Cantonese): *Mr President, I am very grateful for the frankness of the Secretary for Recreation and Culture. It is because I have no confidence in the two Municipal Councils that I raise the question, otherwise I would have ask them through other channels. I would like to ask the Secretary for the Treasury if he can undertake to study the problem, especially on value-for-money because it is a matter of expenditure of public funds. On policy matters, I think I should leave them to the two Municipal Councils for their consideration. In the past two years, the annual expenditure was \$1.1 billion, which was a very huge bill.*

SECRETARY FOR THE TREASURY (in Cantonese): In my understanding, the Director of Audit's work on value-for-money also includes the two Municipal Councils.

MRS SELINA CHOW (in Cantonese): *Mr President, the situation as revealed by calculation made by the Honourable Albert CHAN just now is really alarming. This is the first time I have heard the Administration say that those figures cannot be pegged to the result. I feel very strange. If we use the figures from the past few years to do the calculation, the result would be even more alarming. As far as a thorough solution to the problem of illegal hawking is concerned, it can be seen that, from the hawkers we see everywhere, the two Municipal Councils are at the end of their wits. Building more markets with a view to attracting the unlicensed hawkers to move in has not been proved very successful. Nor has that cost been taken into consideration. I would like to know if the Administration would establish the Hawker Control Teams as one of the disciplinary forces. This is not any strange proposal, and in fact it should have been done so so that with legislation strengthened, it could eradicate the unfair competition illegal hawking poses to retailers of large and small scales.*

SECRETARY FOR BROADCASTING, CULTURE AND SPORT (in Cantonese): Mr President, first of all, I would like to point out that Mrs CHOW may have misunderstood my reply to part of Mr CHAN's question. I have not said that the cost as spent by the two Municipal Councils on controlling

unlicensed hawkers or stemming illegal hawking cannot be pegged to the result. I said that the peg was inversely proportional, that is the more successful they are, the fewer the number of unlicensed hawkers. If we were to use the number of law enforcement officers or the amount of money the Administration has to spend as a measure on how they are controlled, I feel that this is not a very meaningful comparison. I think that I can, on behalf of my two colleagues at the Urban Services Department, talk about the actual result of their work in this regard.

From the information they provided, it can be seen that the problem of hawker control has improved greatly in recent years. With the effort of the Hawker Control Teams of the two Municipal Councils, the number of unlicensed hawkers in the Urban Council area has been falling continuously from 14 000 in 1987 to the present figure of 4 200, which represents a 70% drop. I do not think this fall in percentage in one year is insignificant. The number of unlicensed hawkers in the Regional Council area has also dropped from 1 500 in 1994 to 1 300 in 1997, which is a 13% drop. Their work, therefore, cannot be said to be ineffective.

As to establishing the Hawker Control Team as a disciplinary force, this is a very interesting question. More than a decade ago, the Team was actually a disciplinary force. After coming under the control of the Urban Services Department, due to various reasons, it was thus disbanded and became civilian staff. For example, as its salary scale was far lower than that of the police, which was also a disciplinary force, its staffing quality deteriorated. There were also problems with its management and its reputation among the public. From what I knew in the past, the Urban Council had also sought management assistance from the police when it reviewed its policy on unlicensed hawkers. I was privy to all the discussion details then. This is therefore a rehashing of an old story. However, I will refer the views of Mrs CHOW to the Urban Services Department and the Regional Services Department for them to pass on to the two Municipal Councils.

MR ANDREW CHENG (in Cantonese): *Mr President, the information mentioned by Mr CHAN just now shows that the Administration spent \$1.063 billion public funds for the Urban Services Department and Regional Services Department to employ 2 995 Hawker Control Officers, and in 1996-97, 111 568 hawkers were arrested for illegal hawking. These figures indicate that each*

year an average member of the Hawker Control Team arrested 37 hawkers who were against the law. Though in his reply, the Secretary for Recreation and Culture expressed that this figure showed the effectiveness of their work, and therefore the number of hawkers found hawking illegally was not that many, why, after conducting a value-for-money assessment, the Administration feels that the \$1.1 billion expenditure is still acceptable? Mr President, we hope that the Secretary for Recreation and Culture can address the problem positively and make a more drastic cut in the expenditure of public funds.

PRESIDENT (in Cantonese): What is your question?

MR ANDREW CHENG (in Cantonese): *My question is: Why does he still find it acceptable? He said he could still accept it easily, not feeling alarmed. (Laughter)*

SECRETARY FOR BROADCASTING, CULTURE AND SPORT (in Cantonese): Mr President, although I may have to take up some of your precious time, I feel that I need to clarify here again the relation between the Government and the two Municipal Councils. Constitutionally, the two Municipal Councils are independent statutory bodies that are regulated by the relevant legislation. They are in charge of public health and any other duties imposed on them through other legislation, and they have absolute autonomy. As you all know, the two Municipal Councils are fully elected, that is to say, they are constituted by representatives of the electorates. As a channel of communication between the two Municipal Councils and the Government, the Recreation and Culture Branch plays a general liaising role, handles matters, like Hawker Control Team, that are not the responsibilities of other policy branches, acts as the point of liaison for consultation between the Administration and the two Municipal Councils, and, on behalf of the two Municipal Councils, table their annual reports and new legislation or amendment bills at the Legislative Council and answer questions that fall outside the ambit of any other policy branches, and, when necessary, co-ordinate the recreation and cultural policies of the two municipal councils, Arts Development Council and Sports Development Board. Thus, Mr CHENG's question of whether I find it acceptable is non-existent, that is whether I accept it and whether I as an ordinary citizen accept it have nothing to do with the issue under discussion, and it is also not up to me to accept it or not. I therefore will refer Mr CHENG's views to the two Municipal Councils

for their consideration.

DR JOHN TSE (in Cantonese): *Mr President, I want to take Urban Council 1996-97 expenditure on hawker control as an example. They arrested 88 623 hawkers by spending \$762 million. That means, after division, arresting a hawker needs \$85,982. Mr President, in 1996-97, the Regional Council arrested 22 945 hawkers by spending \$354.1 million, that means, after division, arresting a hawker needs \$154,325. I think it is easier not to let the hawkers do any business. Does the Administration consider using tens of thousands of dollars, or for a cheaper price of \$80,000, to arrest a hawker too wasteful with the public funds? Will it consider privatizing the operation? I think many people are willing to arrest hawkers at these prices. Thank you, Mr President.*

SECRETARY FOR BROADCASTING, CULTURE AND SPORT (in Cantonese): Mr President, I want to state again that the management of hawkers, be they licensed or unlicensed, is within the powers delegated to the two Municipal Councils. Under the regulation of their respective legislation, they have absolute autonomy, so I really cannot comment here on whether it is economically acceptable with respect to their operations. As to whether there is a need for the Director of Audit to conduct a value-for-money review or investigation, I believe that has to be decided by the two Municipal Councils themselves. If the Director of Audit becomes aware of the problem, he himself will decide whether to take the initiative to conduct such investigation and review.

DR JOHN TSE (in Cantonese): *Mr President, my question is whether the Administration would consider privatizing the work of hawker control.*

PRESIDENT (in Cantonese): The reply just now is whether to privatize and the manner of execution is decided by the two Municipal Councils. I believe Members may also want to raise questions on this, or amend the question a bit: Does the Administration plan to propose amending the relevant legislation so that the power of managing hawkers is reverted back to the central government? This may actually be the question of Dr TSE. Which Secretaries can respond to this?

SECRETARY FOR BROADCASTING, CULTURE AND SPORT (in Cantonese): Mr President, let me try to answer this question. Since the Administration has already given the power of managing hawkers to the two Municipal Councils, and at present no one policy branch is in charge of the policy or policy review in this area, my response to Mr CHENG now is that the Administration has no such plan internally.

Facilitating Overseas Travels of CI Holders

5. **MR HOWARD YOUNG** asked (in Cantonese): *Mr President, as many countries do not accept travel documents with a validity period of less than six months, will the Government inform this Council of:*

- (a) *the number of Certificates of Identity (CIs) which will expire in the second half of this year, and*
- (b) *the measures taken by the Government to facilitate holders of the above CIs, who need to travel overseas during the second half of this year, to obtain valid travel documents?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, on part (a) of the question, a Hong Kong Certificate of Identity is valid for 10 years from the date of issue. Based on the number of CIs issued in 1987, it is estimated that there will be 7 644 such documents expiring in the month of July 1997 and 54 642 expiring during the second half of 1997 (that is, from July to December 1997). As holders are allowed to renew their CIs in advance under existing policy, the actual number of CIs expiring in the month of July 1997 and in the second half of 1997 should be less than the number I quoted earlier. In addition, some CI holders may have successfully naturalized or registered as Hong Kong British Dependent Territories Citizens (BDTCs) and have acquired BDTC/British National (Overseas) passports.

On part (b) of the question, holders of CI which are due to expire in the second half of this year may either apply for renewal of their CIs before 1 July, or apply for a Hong Kong Special Administrative Region (SAR) passport on or after

that day. Application forms for the SAR passport will be available in June. Processing of applications will begin on 1 July. Priority will be given to persons whose CIs have expired or are due to expire in 12 months.

MR HOWARD YOUNG (in Cantonese): *Mr President, in the last part of his reply, the Secretary for Security mentions that those people whose certificates are due to expire within 12 months will have priority in processing. However, according to the figures provided in the first part, there are almost 55 000 people whose certificates will expire in the latter half of this year. That means people whose certificates are "due to expire within 12 months" will number more than 100 000. Besides using the 12-month expiry as a criteria for giving priority processing, has the Immigration Department considered using finer and more detailed criteria to set the priority so as to prevent every one swarming to hand in his application in week 1, which may stretch the human resources to a point that it cannot handle?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, I believe that the Immigration Department has set down a certain procedure for handling applications for SAR passports, and hopefully the application forms will be publicized shortly. As to the number of applications that it can handle, the Immigration Department has sufficient resources to handle 2 500 applications each day. Should the number of daily applications exceed this figure, more manpower will be called in with a sum of money that has already been set aside in this fiscal year's (1997-98) appropriation so that the number of applications handled daily can reach 4 000. Of course, for the sake of processing the applications, we ask the public not have to hand in their applications on 1 July because under normal circumstances, it takes about 15 days from the submission of application to the issue of passport. Should there be an urgent need for some people to travel within 15 days, the Immigration Department will fast-track their applications. Under genuinely urgent situation, we can process an application on the same day of its submission.

MRS SELINA CHOW (in Cantonese): *Mr President, as some countries do not accept a travel document that will expire within six months, those people whose certificates of identity will expire on 1 July or within six months are undoubtedly in a more urgent situation. With this group of people, their application will*

have priority in processing. Does it mean that they can get their travel document very quickly? And how quick is it?

SECRETARY FOR SECURITY (in Cantonese): Mr President, we still need a few more days before we can make public the detailed work procedure and the relevant document or application forms. However, on priority processing, in principle, if there is an urgent need for a valid document so that travel can be made shortly, we can process as fast as we possible can. I have already mentioned that if there is a genuinely urgent need for travel, processing can be done within a day. I would also like to remind the public that if their certificates of identity expire in July, August, September and October (that is, the latter half of the year), they do not have to wait for their certificates to expire to apply for an SAR passport. They can now apply for a new certificate of identity from the Immigration Department and this certificate shall be valid for 10 years. They can apply for it on or before 30 June and we will process them properly.

Public Rental Housing for Elderly Persons

6. **MR FREDERICK FUNG** asked (in Cantonese): *Regarding elderly persons applying for public rental housing (PRH) flats, does the Government know of:*

- (a) *the respective numbers of families whose members are all aged 60 years or above and families with at least one member who is aged 60 years or above, among the applications on the general Waiting List;*
- (b) *the average periods of time which single persons aged 60 or above and families of two persons aged 60 or above have to wait respectively before they are allocated PRH flats;*
- (c) *the average period of time which families with at least one member who is aged 60 years or above have to wait before they are allocated PRH flats; and*
- (d) *the respective numbers of PRH flats reserved for the Elderly Priority Scheme and the Single Elderly Persons Priority Scheme in*

the current year, the estimated numbers of single persons aged 60 or above and families of two persons aged 60 or above on the general Waiting List who will be allocated such flats, and the estimated time when these flats can be allocated to the families concerned?

SECRETARY FOR HOUSING (in Cantonese): Mr President, the Housing Authority does not keep statistics of applicants on the Waiting List for public rental housing according to age groups. For applicants aged 60 or above, separate statistics are kept under three priority schemes. Details are as follows:

<i>Scheme</i>		<i>Target Applicants</i>	<i>Number of Applications on Waiting List</i>	<i>Average Waiting Time before Allocation</i>
Single Persons Scheme	Elderly Priority	Single elderly persons aged 60 or above	10 300	2 years
Elderly Priority Scheme	Persons	Elderly persons aged 60 or above, applying in groups of two or three	4 000	2 years
Families Elderly Priority Scheme	with Persons	Families with at least one member aged 60 or above	5 200	4 years

The Housing Authority does not set a quota on the number of units to be allocated to elderly people or groups. Their applications are processed according to the order of registration and waiting time. We estimate that in 1997-98 about 2 900 and 900 public rental housing units will be allocated to elderly people or groups registered under the Single Elderly Persons Priority Scheme and the Elderly Persons Priority Scheme respectively.

MR FREDERICK FUNG (in Cantonese): *Mr President, I would like to make an analysis of the figures listed by the Secretary for Housing in his reply before*

asking any follow-up question. According to the table of figures, families with members aged 60 or over or all members aged 60 or over now number 14 000 on the Waiting List. On average, they have been waiting for two years. Families with at least one member aged 60 or above number 5 200, with an average waiting time of four years. In the second paragraph of his reply, the Secretary for Housing told us that there were 2 900 units for the first category of the elderly, and 900 units for the second category. Basing on these figures, there are only 5 800 units for all families with an elderly, if they are to wait for two years. However, now there are 14 000 families waiting. How can the Secretary for Housing tell us that they only have to wait for two years to be allocated a unit? There is a shortfall of some 8 000 units, and under the Elderly Persons Priority Scheme, there is a lack of 1 400 units — with 900 units each year, four years will be 3 600, hence the 1 400 units. The Secretary for Housing said that they only had to wait for four years, but in fact there is a lack of 1 400 units. With such a discrepancy, the Secretary for Housing, however, told us that they only had to wait for two years. These figures just do not tally. Could the Secretary for Housing please explain why they only have to wait for two years?

SECRETARY FOR HOUSING (in Cantonese): Mr President, the number on the Waiting List does not bear a very direct relationship with the units allocated each year. It is because the public housing units reserved for such allocation by the Housing Authority are allocated with reference to the eligibility of the elderly. So, in relation to the allocation for 1997-98 that Mr FUNG raised in his question, we cannot simply divide the total number with these figures and take the result as indicative of whether the targeted allocation time can be met. With these figures, therefore, we have to be very careful.

MR WONG WAI-YIN (in Cantonese): *Mr President, in his latest reply, the Secretary for Housing seems to think that among the three categories of families that are now waiting, many of them may not be qualified and so there is no need to allocate public housing to them. Could the Secretary for Housing provide information in this regard, that is, after investigation, what percentage of families is found to be not qualified? The Secretary for Housing now says that they need to wait for two years and four years respectively, but how many families have already waited for more than two years and four years? Could the Secretary for Housing provide such information?*

SECRETARY FOR HOUSING (in Cantonese): Mr President, as to the three categories of people that are not qualified, we have not kept specific statistical figures. However, in general, if we look at the applications on the Waiting List, just above half of the applicants, that is about 54%, are qualified. As to the figure on the elderly, we do not have any detailed information. Moreover, on the number of families waiting, we do not have such figures either.

MISS CHAN YUEN-HAN (in Cantonese): *Mr President, the reason for Mr FUNG to raise this question today may be the same as mine. We have received many complaints in this regard, saying that single elderly people, when applying for public housing, cannot be allocated a unit within the two-year waiting period as the Government says. Could the Administration, as they say that the average waiting time for the three categories of elderly people are respectively two years, two years and four years, make this their perform pledge? When an elderly hands an application to the Housing Department, you will take this as your performance target, so that the elderly will know how long they have to wait. Can the Administration do so?*

SECRETARY FOR HOUSING (in Cantonese): Mr President, with the three schemes, the Housing Authority has virtually made a performance pledge. However, the pledge is made on the basis of the average waiting time, and it does not mean that every case can be processed within this time. According to their past experience, as shown in the information provided by the Housing Authority, they could allocate public housing to the elderly within this published average waiting time. Sometimes, when the elderly themselves do not accept what has been allocated, or they are not satisfied with the district in which the unit is situated, or they find the unit not suitable for them, they refuse the allocation. Generally, the Housing Authority can meet the published waiting time.

MR LEE WING-TAT (in Cantonese): *Mr President, from what the Secretary for Housing has said, does it mean that those information reveal the fact that after an applicant has been made for two years, the Housing Authority will give a "housing offer". It is only because the offers do not suit them that they finally turn them down? I would like the Secretary for Housing to clarify if such*

information can be so interpreted, that is the so-called two-year period is not the average waiting period for moving into a public housing unit, but an average two-year waiting period for the Housing Authority to allocate a unit to the applicant and let him to decide to move in or not?

SECRETARY FOR HOUSING (in Cantonese): Mr President, the current calculation method is based on the time when the Housing Authority allocates a unit to an elderly person to the time when he accepts it. If we were to do the calculation with Mr LEE's criteria, that is what the Housing Authority has to do is to make an allocation suggestion, the Housing Authority can certainly work faster. However, the waiting time is calculated as the time taken for the applicant to finally accept the allocated unit.

MR FREDERICK FUNG (in Cantonese): *Mr President, in his 1994 policy address, the Governor said that five additional plots of land in the urban area would be made available for building elderly housing to cater for the elderly aged 60 or over who were waiting then, so as to alleviate the long queue on the Waiting List. Could the Secretary for Housing tell us whether, with 14 000 elderly people still waiting now, the Administration would grant additionally another five plots of land in the same way?*

SECRETARY FOR HOUSING (in Cantonese): Mr President, actually, according to our estimation, I believe that we have met the need of the elderly on the Waiting List with our current supply of public housing units and the 22 000 additional units for elderly that we promised a few years ago.

WRITTEN ANSWERS TO QUESTIONS

Corruption Problem

7. **MR TSANG KIN-SHING** asked (in Chinese): *According to the survey conducted by the Independent Commission Against Corruption (ICAC) in 1996, 70% of the general public were worried about the problem of corruption in the territory after 1997. In this connection, will the Government inform this Council:*

- (a) *of the number of complaints received by the ICAC in the past 10 years about corruption activities in the territory involving*

institutions in mainland China, the number of such complaints in which prosecutions were instituted and the number of successful prosecutions;

- (b) of the special arrangements or strategies adopted by the ICAC in the last three years of the transitional period to combat and prevent corruption activities in the territory's business sector involving party cadres, government officials and enterprises in mainland China; and*
- (c) whether the ICAC and the government departments have encountered any difficulties, in particular difficulties arising from the impending transfer of sovereignty, in handling corruption complaint cases involving institutions in mainland China?*

CHIEF SECRETARY (in Chinese): Mr President,

- (a) Although the ICAC has kept some statistics on corruption reports with a People's Republic of China (PRC) element, it does not compile separate statistics on reports concerning corruption involving institutions of the PRC. However, early this year, the Commission started maintaining statistics on reports on "cross-border corruption", which refers to corruption in the unlawful trafficking of persons or goods across the border or corrupt activity in cross-border trade. A breakdown of such reports is at Appendix 1. The number of PRC nationals prosecuted since 1989 and the outcome of these prosecuted are at Appendix 2.
- (b) The Commission investigates any person and any company alleged to have committed an offence under the anti-corruption laws of Hong Kong, irrespective of their nationality. It has established a good working relationship with the Guangdong Provincial People's Procuratorate (GDPP); both organizations assist each other in investigations and in arranging for the interview of witnesses, as well as by exchanging experience in professional training, anti-corruption education and corruption prevention methods. In conjunction with the GDPP, the ICAC has produced a guide for investors in Guangdong and Hong Kong. The Commission has

also set up a Mainland Liaison Office which conducts talks and presentations on Hong Kong's anti-corruption laws and on the work of the Commission for PRC officials visiting Hong Kong. It also organizes talks for staff of PRC-funded companies stationed in Hong Kong.

- (c) The impending change of sovereignty has not caused the ICAC any particular difficulty in dealing with cross-border corruption cases.

Appendix 1

Cross-Border Corruption Reports

	<i>Corruption Pursuable</i>	<i>Corruption Non-Pursuable</i>	<i>Total Corruption</i>	<i>Non-Corruption</i>
1997 (January - April)	22	12	34	9

Appendix 2

Number of PRC Nationals Prosecuted (Since 1 January 1989)

	<i>PRC Nationals</i>
1989	2
1990	0
1991	0
1992	12
1993	5
1994	4
1995	8
1996	0

1997(January - April)	0

	31

Outcome of above prosecutions

PRC Nationals

Pending Trial	1
Convicted	23
Acquitted	7

31

Chinese Medicine Services in Out-patient Departments

8. **MR MOK YING-FAN** asked (in Chinese): *Regarding the provision of Chinese medicine services in the out-patient departments of public hospitals, will the Government inform this Council whether:*

- (a) *it knows of the number of public hospitals which provide Chinese medicine services in their out-patient departments, as well as the number of attendances at these departments for such services in each of the past three years;*
- (b) *it has conducted any study on the use of traditional Chinese medicine (TCM) by the public; if so, of the number of persons who used TCM in each of the past three years, together with a breakdown of their age, education level and reasons for using TCM; and*
- (c) *the authorities concerned have any plans to formulate a policy to promote the provision of Chinese medicine services in the out-patient departments of public hospitals; if so, what the details are; if not, why not?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Mr President,

- (a) The public hospitals under the management of the Hospital Authority do not provide Chinese medicine service. The Tung Wah Hospital and Kwong Wah Hospital began to provide its own Chinese medicine clinic service in the 1940s. The Tung Wah Group of Hospitals is responsible for funding these two clinics, with partial subvention from the Department of Health.
- (b) The 1996 General Household Survey included survey on the medical services used by the interviewees, who were asked the number and type of medical consultations they used in the two weeks immediately before the survey. Preliminary findings show that about 10% of the medical consultations made by the population under survey were consultations with Chinese medicine practitioners. There is no detailed analysis on the age distribution, the education levels or the reasons for using Chinese medicine, for those who reported using medical service in the survey.
- (c) We do not have any plans to offer Chinese medicine out-patient service in our public healthcare sector. The Administration is considering the recommendations contained in the Report recently published by the Preparatory Committee on Chinese Medicine. Priority will be accorded to the consideration of establishing a regulatory framework and an acceptable standard for the practice of traditional Chinese medicine in Hong Kong.

Hong Kong Population Projections 1997-2016

9. **MISS CHAN YUEN-HAN** asked (in Chinese): *According to the recently published report entitled "Hong Kong Population Projections 1997-2016", as many as 1 095 000 immigrants from the Mainland will come to Hong Kong in the next 20 years. In this connection, will the Government inform this Council of:*

- (a) *the methods and assumptions used in the projection of the number, age and sex of the immigrants from the Mainland in the coming 20 years; and*
- (b) *a projection of the immigrants from the Mainland by age group and sex for the period from 1997 to 2016?*

SECRETARY FOR FINANCIAL SERVICES (in Chinese): Mr President,

- (a) The Hong Kong population projections 1997-2016 adopts the standard method of population projection, that is the "component method". Under this method, the population at a certain base year is brought forward by age and sex under separate projections of fertility, mortality and migration, year after year until the end of the projection period.

Immigrants from mainland China is one of the components in the migration projection. The assumption for this component is dependent on the mutual agreement between China and Hong Kong. Since 1 July 1995, the daily quota for new arrivals on PRC one-way permit has been 150 (or 54 750 per year). Assuming the existing policy remains unchanged, immigrants from mainland China in the period 1997-2016 would total about 1.1 million.

Because of the uncertainty in the future age-sex pattern of the immigrants from China, the past age-sex pattern is assumed to continue with due reference to the estimated number of children born to Hong Kong residents in China and of women in China married to Hong Kong men.

- (b) The projected number of immigrants from China by age group and sex over the next 20 years (mid 1997 - mid 2016) are given in the attached table.

Projected number of immigrants from China by age group by sex
over the next 20 years (that is 1997 to 2016)

<i>Age group</i>	<i>Sex</i>	<i>Number</i>	<i>Percentage</i>
0-19	Male	235 280	21%
	Female	222 200	20%
	Sub-total	457 480	42%
20-39	Male	215 030	20%
	Female	245 520	22%
	Sub-total	460 550	42%

40-59	Male	67 770	6%
	Female	54 870	5%
	Sub-total	122 640	11%
60 and over	Male	22 100	2%
	Female	32 230	3%
	Sub-total	54 330	5%
All ages	Male	540 180	49%
	Female	554 820	51%
	Total	1 095 000	100%

There may be a slight discrepancy between the sum of individual items and the total as shown in the tables owing to rounding.

Ma On Shan Rail Link

10. **DR JOHN TSE** asked (in Chinese): *In the Railway Development Strategy promulgated in 1994, the Government pledged that the Ma On Shan rail link would be completed by 2001 or earlier. In the 1996 policy address, the Government indicated that it would study the feasibility of extending this rail link to Kowloon. In this connection, will the Government inform this Council:*

- (a) *whether the above feasibility study has been completed; if so, what the outcome is and when it will be published;*
- (b) *of the procedures involved and the length of time required for the various government departments and the Executive Council to vet and approve the above rail link project, and the date on which the construction work on the project is expected to commence; and*
- (c) *given that currently the mass transit system in Northeast New Territories is rather congested during peak hours, whether the Government will expedite the various aspects of the work involved, so that the Ma On Shan rail link can become operational on or before 2001?*

SECRETARY FOR TRANSPORT (in Chinese): Mr President,

- (a) The Ma On Shan to Tai Wai rail link (MOS rail) together with the extension of the Kowloon-Canton Railway (KCR) from Hung Hom to Tsim Sha Tsui (TST Extension) is among the high priority projects recommended under the 1994 Railway Development Strategy (RDS). The engineering feasibility study on the MOS rail and the TST Extension has been completed. The Administration is now considering the recommendations of the engineering consultants. We are also examining the relevant financial and institutional arrangements for implementing the projects. We would consult the Legislative Council and the affected parties on the way forward once we have formulated initial proposals.

As regards the provision of a second direct link from Tai Wai to the urban areas, our consultants assess that there would be a need for such an extension in the longer term. The civil works of the MOS rail have been designed to cater for a future extension into the urban areas. We would consider the alignment and the timing for the provision of the extension in the context of an overall review of the RDS to be carried out this year.

- (b) The planning procedures for the MOS rail and the TST Extension are no different from those applicable to other major infrastructural projects. The Administration would carefully consider the technical, financial and institutional arrangements for implementing the projects before recommending a proposal to the Executive Council and to the public. We are in the process of finalizing the proposals in respect of the MOS rail and the TST Extension. The actual construction programme of the projects will be determined after the financial and institutional arrangements have been finalized.
- (c) We are committed to expediting the necessary planning work for the MOS rail project to facilitate its early implementation.

Temporary Staff of Urban and Regional Services Departments

11. **MR LEUNG YIU-CHUNG** asked (in Chinese): *In a written reply to a question on the employment of temporary staff by the Urban Services Department (USD) and the Regional Services Department (RSD) at the Legislative Council sitting held on 19 March this year, the Secretary for the Civil Service stated that 108 temporary staff members had sustained injuries while at work over the past three years. In this connection, will the Government inform this Council:*

- (a) *of the number of such temporary staff whose contracts were renewed, and the number of such staff whose contracts were not renewed, in the past three years; and*
- (b) *of the criteria adopted by the USD and the RSD in determining whether or not to renew the contracts of the temporary staff who have sustained injuries while at work.*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): Mr President, of the 108 temporary contract staff in USD and RSD who sustained injuries while at work in the past three years, 67 of them (four in USD and 63 in RSD) were offered renewal of their contracts. The other 41 (10 in USD and 31 in RSD) were not offered renewal of their contracts because:

	USD	RSD
(i) staff resigned/did not apply for further employment	6	5
(ii) service need no longer exists	3	24
(iii) staff could not perform the duties required due to health condition	1*	-
(iv) staff appointed to permanent terms	-	2
	---	---
Total	10	31

(* In my written reply to Question No. 19 at the Legislative Council session on

19 March 1997, this single case of non-renewal of contract due to health condition was omitted inadvertently, due to an error in the statistics submitted to the Branch.)

All contract renewal applications from staff in USD or RSD are considered on the basis of service need, the past performance of the applicant, and his/her ability to perform the required duties. The departments will also assess whether the job requirements are such that permanent staff should be employed instead.

Kai Tak VIP Lounge Extension

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

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

SECRETARY FOR ECONOMIC SERVICES: Mr President,

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

viewpoint, it is important for VIPs to be properly received at the airport, as in other major cities and financial centres.

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

- (b) The extension project was funded under the Capital Works Reserve Fund block allocation Head 703 Subhead 3101GX- Minor building works, which is a subhead for funding minor building works, fitting out works, minor alterations, additions and improvement works, subject to a ceiling of expenditure of not more than \$15 million per item. The Finance Committee of this Council has delegated to the Secretary for the Treasury the power to approve funding for individual projects under the block allocation. The VIP lounge extension project, which costs around \$9 million, was therefore not put to this Council for specific approval. It was approved, on the advice of the Minor Building Works Committee, by the Director of Architectural Services with the delegated authority from the Secretary for the Treasury.

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

13. **DR HUANG CHEN-YA** asked (in Chinese): *Does the Government know of:*

- (a) *the respective proportions of the expenditure on treating stroke, coronary heart disease and cancer to the total expenditure of the Hospital Authority, and the percentage of the number of patients suffering from each of the three diseases to the total number of patients and beds in public hospitals respectively, in each of the past five years;*
- (b) *the measures in place to prevent and reduce the incidence of diseases mentioned in (a) above; and*

- (c) *the criteria adopted by the Hospital Authority and the Department of Health in determining whether the resources allocated for the diseases mentioned in (a) above are adequate?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Mr President,

- (a) According to the Hospital Authority (HA)'s records, in 1995, discharges of patients suffering from stroke, coronary heart disease and cancer amounted to 2.2%, 1.7% and 8.0% of the total number of discharges in that year respectively. Since HA's computerized Medical Record Abstract System was established in 1995, such information for the periods before 1995 is not readily available. Similar data for 1996 are being collated.
- (b) HA does not have any information on the percentage of HA expenditure and hospital beds for treating stroke, coronary heart disease and cancer patients. This is because part of the HA's planning process and record keeping are conducted on specialty, not disease, basis.
- (c) Stroke, coronary heart disease and cancer are linked to certain lifestyles. HA and the Department of Health (DH) have focused on the promotion of a healthy lifestyle, including regular medical checks and assessments, as a means to prevent and reduce the incidence of these and other similar diseases. The promotion takes the forms of health talks, exhibitions, anti-smoking programmes, hot-line service, and other educational activities.
- (d) To assess the resource requirements for managing and preventing various types of diseases, HA and DH take into account a combination of factors, including demographic changes, services utilization rates, disease pattern, waiting time for treatment and technological advances. These factors inter-relate and have impact on each other. The assessment and planning is a continuous and dynamic process.

Duration of Waiting for Hearing by Lands Tribunal

14. **MR WONG WAI-YIN** asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the total number of complaints received by the Lands Tribunal over the past three years concerning problems in building management;*
- (b) *of the average and the longest waiting times for the above complaint cases to receive a hearing;*
- (c) *of the measures in place to shorten the waiting times given in the answer to (b) above; and*
- (d) *whether it will consider setting up a building management tribunal separately in the long run; if so, when such a tribunal will be set up; if not, why not?*

CHIEF SECRETARY (in Chinese): Mr President,

- (a) According to the Judiciary's records, the total number of building management cases handled by the Lands Tribunal over the past three years is as follows:

<i>Year</i>	<i>Number</i>
1995	188
1996	160
1997 (up to 20 May)	75

A table showing how these cases have been disposed of is at the Appendix.

- (b) The average waiting time (from filing of an application to the first hearing) is about 60 days. Urgent cases, such as an application for an injunction order to the Tribunal, can normally be dealt within a matter of days.

- (c) The Judiciary considers that the average waiting time for these cases is acceptable. The main difficulty is that, while it does not take too long for a case to be heard for the first time, the time required to conclude a case is often exceedingly long. The reason for this is that in the majority of cases, both the applicants and respondents are not represented by lawyers. Most of them are not ready for trial at the first hearing, due to insufficient preparation. For example, witnesses have not been summonsed, documents are not available and the auditing of accounts by certified accountants may take many months. In these circumstances, the hearing has to be adjourned, and it may take a considerable time to conclude such cases.

According to the Judiciary, the Lands Tribunal is now considering holding a short call-over hearing within one month after a respondent has filed grounds of opposition, in order to enable the smooth and efficient conduct of proceedings. The call-over hearing will enable the Tribunal to give general advice on building management legislation and the rules of evidence, to make orders on preparation for the trial, and if possible, to reconcile the parties.

- (d) As the Lands Tribunal is functioning effectively, we do not consider it necessary to set up a Building Management Tribunal.

Appendix

Building Management Cases handled by the Lands Tribunal

<i>Cases</i>	<i>1995</i>	<i>1996</i>	<i>1997</i> <i>(up to 20 May)</i>
1. Instituted	188	160	75
2. Cases tried	55	43	14
(a) settled or resolved at the first hearing	21	28	10
(b) tried	34	15	4
3. Discontinued/Withdrawn	48	30	2
4. No further action by applicants after filing of applications	85	87	59

Excessive Noise Emission by Marine Vessels

15. **MR ALBERT CHAN** asked (in Chinese): *The residents in the vicinity of the bay areas in Tsuen Wan have, for a number of years, suffered from the noise emitted from vessels during the night and in the early morning, in particular the noise from the vessels' loud hailers. Representatives of the residents have raised this issue with the Marine Police and the Marine Department on a number of occasions, and the relevant Legislative Council Panel has also discussed the issue. However, not only has there been no improvement in the situation, but there are also signs indicating that the situation is worsening. In this connection, will the Government inform this Council of:*

- (a) the number of vessels which were warned or prosecuted for excessive noise emission in the past three years, together with a breakdown of the locations involved and the outcome of the prosecutions; and*
- (b) the noise mitigation measures put in place by the Marine Police and the Marine Department to redress the above situation which has not seen any improvement for a number of years, so that the daily life of the residents in the areas concerned will not be unduly disturbed?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Chinese): Mr President,

- (a) A total of eight complaints against noise nuisance from vessels in Tsuen Wan area were received since 1995. Verbal warning was given in three cases where the source of noise was identified. Details of the cases investigated are shown at the Annex.
- (b) We have taken the following measures to reduce noise nuisance from vessels:
 - (i) the Police has stepped up patrols in Tsuen Wan and Tsing Yi areas and special attention is focused on noise emissions from vessels;
 - (ii) the Marine Department and the Marine Police hold regular

liaison meetings with the operators of Hong Kong registered vessels and the Chinese River Traders. They have been advised to refrain from using loudhailers except in emergencies; and

- (iii) a "Guide on the Use of Loudhailers and Public Address Systems on Board of Vessels" has been distributed to the local shipping community. This Guide contains recommended precautions in using loudhailers and warns against noise nuisance to the neighbourhood.

To strengthen enforcement against non-compliant vessels, we are considering legislative amendment to simplify the procedures of identifying offenders by placing the onus of preventing noise nuisance on the coxswain or the person in charge of a vessel.

Annex

Enforcement Against Noise Nuisance from Vessels (1995-1997) Location and Enforcement Action

<i>Year</i>	<i>Location</i>	<i>Type of noise</i>	<i>Enforcement Action</i>	<i>Total</i>
1995	Gin Drunker Bay	Vessel making noise	Could not locate noise source.	3
	Ching Lai Court	Tug boat using generator	Warning given.	
	Riviera Gardens	Lighters using generator	Could not locate noise source	
1996	nil	n/a	n/a	0
1997	Tsuen Wan Hoi	Vessel using loudhailer	Could not locate noise source.	

Tsing Lung Tau	Lighter using loudhailer	Warning given.	
Riviera Gardens	Lighter using loudhailer	Could not locate noise source.	
Riviera Gardens	Tug boat using generator	Warning given.	
Bayview Garden	Vessel making noise	Could not locate noise source.	5

"Travel Pass" System

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

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

SECRETARY FOR SECURITY: Mr President,

- (a) It is proposed that a visitor who is not a resident of China or Taiwan will be eligible for a travel pass if:
 - (i) he holds a valid national passport or a Macau Visit Permit, and fulfils the normal immigration requirements for entry; and

- (ii) he has come for visits trouble free on more than five occasions in a 12-month period immediately preceding the application; or
- (iii) he can satisfy the Director of Immigration that his visits will bring economic benefits to Hong Kong.

An application fee will be levied to recover the cost of the scheme. The costing exercise is still in progress. We will make further announcements in due course.

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

Referrals to the Coroner

17. **DR HUANG CHEN-YA** asked (in Chinese): *It is learnt that recently a hospital referred a case to the Coroner for investigation because of a dispute with the family of a deceased patient over the cause of the patient's death. In this connection, does the Government know:*

- (a) *of the number of cases referred to the Coroner for investigation by public hospitals in the past year, the reasons for referral in each of these cases, the number of these cases in which the referral was made at the request of the deceased's family, and the number of those in which the referral was opposed by the deceased's family;*
- (b) *of the number of cases mentioned in the first part in (a) above in which the coroner was of the opinion that a post-mortem*

examination was not required; and

- (c) *whether the Hospital Authority has formulated any guidelines on matters concerning the referral of cases to the Coroner in order to avoid unnecessary referrals?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Mr President,

- (a) In 1996, a total of 2 069 cases were referred by the public hospitals to the Coroner for investigation. We do not have readily available information on the reasons for referral in each case, the number of referrals requested by the deceased's family and the number of referrals opposed by the deceased's family. Collating these information will require the professional staff to peruse the relevant case files individually.
- (b) Among the 2 069 cases referred, the Coroner decided in 480 cases that they did not require post-mortem examinations.
- (c) To avoid unnecessary referrals, the Hospital Authority has issued guidelines to all public hospitals, setting out the circumstances under which the concerned doctors are required to report the deaths to the Coroner. These circumstances include, *inter alia*, deaths whilst in official custody, cases suspected to be connected with suicides, accidents, crimes, drugs, poisons, ill treatment, starvation, neglect, operations and anaesthetics, and cases where a medical practitioner is unable to determine the medical cause of the death. The new Coroners Ordinance enacted in April and scheduled to come into effect in the near future, has provided a similar list of reportable deaths.

University Academic Staff Contracts

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

- (a) *the number of academic staff who were dismissed or whose*

contracts were not renewed over the past three years, and the number of such staff who were regarded as "failing to meet the requirements of the University", in each of the local universities; and how the universities concerned determine what constitutes "failing to meet the requirements of the University"; and

- (b) *the ranks and years of teaching experience of those academic staff who were regarded as "failing to meet the requirements of the University"?*

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

- (a) As statutorily autonomous bodies, institutions funded by the University Grants Committee (UGC) have full discretion in dealing with internal staff and academic matters as they deem appropriate. These institutions' decisions regarding staff employment and dismissal as well as non-renewal of contracts are governed by the institutions' own internal rules and relevant employment contracts. The term "failing to meet the requirements of the University" does not, incidentally, appear in the institutions' contracts or ordinances as grounds for dismissal or non-renewal of contracts.

As advised by the UGC-funded institutions, in the past three academic years (1993-94 to 1995-96), three of these institutions had dismissed academic staff. The Hong Kong Polytechnic University dismissed three academic staff, and the Hong Kong University of Science and Technology one, on grounds of misconduct. City University of Hong Kong dismissed one academic staff on disciplinary ground.

As further advised by UGC-funded institutions, the contracts of 163 staff were not renewed in the past three years. This figure does not include non-renewals where the staff concerned did not seek renewal, except in the case of the Chinese University of Hong Kong and the University of Hong Kong where no such separate statistics are kept. It also excludes no-renewal of contracts for visiting

scholars. Details are set out below:

<i>UGC-funded Institutions</i>	<i>Non-renewal of contracts for academic staff</i>
City University of Hong Kong	30
Hong Kong Baptist University	5
Lingnan College	1
The Chinese University of Hong Kong	37
The Hong Kong Polytechnic University	38
The Hong Kong University of Science and Technology	12
The University of Hong Kong	40
The Hong Kong Institute of Education	-
Total	163

- (b) The ranks of those academic staff who were dismissed or whose contracts were not renewed ranged from Assistant Lecturer to Professor. Most of them had less than 10 years' teaching experience.

Pilot Scheme for Display of Publicity Materials in Designated Public Places

19. **MR IP KWOK-HIM** asked (in Chinese): *A six-month pilot scheme for the display of publicity materials in designated public places was introduced by the Government in Wan Chai District in November last year. In this connection, will the Government inform this Council whether:*

- (a) *it has carried out a review of the pilot scheme; if so, what the results are; and*
- (b) *there are any plans to extend the above scheme to all other districts in the territory; if not, why not?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Chinese): Mr President, the pilot scheme in Wan Chai District to test the viability of a control scheme on the display of non-commercial posters (including placards, signboards and banners) has just been completed. Under the pilot scheme, certain designated spots were assigned for the display of posters. We are now conducting the review and aim to complete it very soon. Initial indications are that the environment in Wan Chai has improved significantly as a result of the pilot scheme, and the scheme has the support of the Wan Chai District Board and Wan Chai community. As part of the review, we shall examine whether and how to extend the scheme to all districts in the territory.

Merger of Land Fund and Exchange Fund

20. **MR SIN CHUNG-KAI** asked (in Chinese): *In view of the forthcoming merger of the Land Fund and the Exchange Fund and the take-over work currently being undertaken by the Government, does the Government know of:*

- (a) *the amount of assets managed by the Direct Investment Division of the Hong Kong Monetary Authority (HKMA), the number of staff in that Division and the expenditure on staff salaries, in each of the past three years; as well as the amount of assets managed internally by the Land Fund Secretariat, the number of staff involved and the expenditure on staff salaries during the corresponding period;*
- (b) *the respective numbers of external managers employed by the HKMA and the Land Fund Secretariat, and the amounts of assets under the management of such external managers in the HKMA and the Land Fund Secretariat respectively, in each of the past three years; and*
- (c) *the similarities and differences between the Exchange Fund and the Land Fund in respect of their investment portfolios in the past three years?*

SECRETARY FOR THE TREASURY (in Chinese): Mr President,

- (a) The number of staff engaged in the Direct Investment Division of

the Hong Kong Monetary Authority for the management of the investment of the Exchange Fund, their total annual salaries and the amount of assets managed by the Division in the past three years are as follows:

	<i>Number of staff</i>	<i>Total annual salaries</i>	<i>Amount of assets managed</i>
1994	4	\$3.6 million	\$320 billion
1995	7	\$8.5 million	\$353 billion
1996	6	\$7.4 million	\$416 billion

As regards the Hong Kong Special Administrative Region Government Land Fund, as explained in my reply to a question raised by the Honourable Andrew CHENG on 19 March 1997, the management of the Land Fund and the disclosure of information about the Fund are matters for the trustees of the Fund.

- (b) The number of external managers employed by the Hong Kong Monetary Authority and the assets under their management in the past three years are:

	<i>Number of external fund managers</i>	<i>Amount of assets</i>
1994	21	\$85 billion
1995	22	\$107 billion
1996	23	\$118 billion

As regards the Land Fund, the disclosure of such information is a matter for the trustees of the Fund.

- (c) Investments in respect of the Exchange Fund fall in three different portfolios:

- (i) the liability hedging portfolio, including those assets used for hedging interest bearing liabilities;
- (ii) the high liquidity portfolio which can provide liquidity for market operations; and
- (iii) the long term investment portfolio with the aim of preserving capital.

This position remained the same in the past three years.

As regards the Land Fund, the disclosure of information about its investment portfolio are matters for the trustees of the Fund.

GOVERNMENT MOTIONS

CORONERS ORDINANCE

THE CHIEF SECRETARY to move the following motion:

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

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

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

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

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

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

GOVERNMENT BILLS

First Reading of Bill

SUPPLEMENTARY APPROPRIATION (1996-97) BILL 1997

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

Second Reading of Bill

SUPPLEMENTARY APPROPRIATION (1996-97) BILL 1997

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

SECRETARY FOR THE TREASURY (in Cantonese): Mr President, I move that the Supplementary Appropriation (1996-97) Bill 1997 be the read Second time.

Section 9 of the Public Finance Ordinance states that "If at the close of account for any financial year it is found that expenditure charged to any head is in excess of the sum appropriated for that head by an Appropriation Ordinance, the excess shall be included in a Supplementary Appropriation Bill which shall be introduced into the Legislative Council as soon as practicable after the close of the financial year to which the excess expenditure relates".

The expenditure accounts for the financial year 1996-97 have been finalized by the Director of Accounting Services. The expenditure charged to 52 heads out of a total of 90 heads is in excess of the sum originally appropriated for those heads in the Appropriation Ordinance 1996. In each head, this excess expenditure reflects supplementary provision approved by the Finance Committee or under powers delegated by it. These supplementary provisions were off-set by savings within the same head or under other heads or the provisions for "Additional Commitments" under Head 106 — Miscellaneous Services. The Supplementary Appropriation (1996-97) Bill 1997 seeks final legislative authority for the amount of supplementary provision approved in respect of particular heads of expenditure by the Finance Committee or under powers delegated by it.

The total supplementary appropriation required in respect of the 52 heads of expenditure is \$7,344.4 million. As in previous years, this excess is largely attributable to the implementation of the annual pay adjustment for the Civil Service and government subvented organizations (\$4,507.8 million). Other major contributing factors include the increased expenditure under the Comprehensive Social Security Assistance and Social Security Allowance schemes (\$1,513.2 million), grants to the Employees Retraining Board (\$800.0 million) and provision for establishing an Arts and Sport Development Fund (\$300.0 million). In preparing the original estimates for the year we had made provision to cover the costs of the 1996 pay adjustment and the inflation related

adjustment to payments under the Comprehensive Social Security Assistance and Social Security Allowance schemes under the "Additional Commitments" subhead.

As a result of the savings made in various heads of expenditure and the provision made in the original estimates for additional commitments, total expenditure for the financial year 1996-97 was within the sum originally appropriated in the Appropriation Ordinance 1996 even after the supplementary appropriation sought in this Bill.

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 Bill

RAILWAYS BILL

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

MR CHAN KAM-LAM (in Cantonese): Mr President, I rise to speak on behalf of the Bills Committee on the Railways Bill, of which I have been elected Chairman. The Bill seeks to provide a legal framework as the basis for new railway projects and the system to be established for the resumption of land for the construction of railways. The Bills Committee has had eight meetings with the Administration and has met with the Kowloon-Canton Railway Corporation (KCRC), the Mass Transit Railway Corporation (MTRC) and the New Territories Heung Yee Kuk (HYK).

Both the KCRC and the MTRC welcome the introduction of the Bill by the Administration. The KCRC urged that this Bill be passed into law as soon as possible so that it could base its planning for new railway projects, like the West Rail, on the Bill. Despite their support for the Bill, the two corporations are concerned with the fact that the Bill does not provide for a statutory period during which objections to proposed railway projects can be handled. Members were appreciative of the two corporations' views and shared their concern about

the length of time required to resolve objections to road projects in the past. The Bills Committee is glad that the Administration understands the need to avoid slippage in the completion of new railway works, and that the Administration also accepts Members' proposal for a statutory period to deal with objections. The Administration promises that any objection raised within nine months after the expiry of a 60-day period, during which objections may be raised, will be resolved. As to the objections not withdrawn, the Administration will submit them to Governor in Council for consideration. Should amendments to a gazetted railway proposal be required, another three months will be made available for handling objections made in respect of the amendments. Members believe that the amendment made to the Bill is a great improvement on the mechanism for handling objections.

I have to point out that when the Bills Committee studied ways to improve the mechanism for handling objections, it had had extensive discussion on whether a statutory independent committee should be set up. The proposal was made by the Honourable Albert HO. According to Mr HO's proposal, the statutory committee should hold public hearings on more important or representative cases. Though other members held divided opinions on the merits and feasibility of the proposal, the Bills Committee were unanimous on the need for an open, fair and transparent mechanism to deal with objections. Though the Administration stressed that the mechanism proposed in the Bill had been in operation for a number of years and had been proved effective, the Administration adopted an open attitude on this, at which the Bills Committee greatly appreciated. After a series of discussion, the Administration has agreed to put in place administrative measures to conduct public hearings in respect of objections. As the Secretary for Transport will explain further the administrative arrangement in his speech, I shall leave it to him.

Members are reminded that besides the mechanism for handling objections, the Bills Committee was also concerned about the problem of compensation. Members had compared the provisions on compensation as appeared in the Railways Bill, with similar provisions in the Crown Lands Resumption Ordinance, Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (MTR Ordinance) and Roads (Works, Use and Compensation) Ordinance, and were satisfied that they were broadly in line with one another. With regard to the amount of compensation payable under different situations, Members were particularly concerned about the compensation paid for disturbance caused. The Bill stipulates that a person can make a compensation

claim in relation to disturbances caused by different actions, as well as specifying the right for the creation, termination or limitation of easement or the right to land, roads, foreshore or seabed. The Administration shall have to pay compensation for disturbances arising from damages caused to any land or structures of buildings by railway works. Members of the Bills Committee noted that any trade or business that had been subject to interference for 14 consecutive days would also be compensated. The Administration explained to the members how the losses a business had suffered would be calculated, and under what situations compensation might be claimed under different heads. The Administration assured the members that in order to minimize the losses the business operators might suffer while the Administration was processing the claims, it would, where such need arises, advance *ex-gratia* payment to those affected.

Members would like to note the powers that the Bill proposes to confer on the Building Authority. These powers include the power to reject construction plans that are deemed to be incompatible with a railway proposal, and the power to impose conditions on the plan. As land owner may suffer losses as a result of the Building Authority exercising the powers under this Bill, persons affected are entitled to compensation. Members are satisfied with such arrangements.

The Administration also clarifies that though the Bill authorizes that the Governor in Council may by order exempt certain works from the purview of this Bill, the Administration intends to exempt works not regulated by the Bill, which cover the improvement works now carried out on the various extensions of the MTR. The Administration assures Members that there will not be the situation where exempted MTR works do not fall within the regulation of any other legal framework. To avoid any doubt, the Administration proposes an amendment to the Bill, specifying that exemption of certain works would only be granted before the MTR Ordinance is repealed and the exemption order would cease to have effect on the repeal of that Ordinance.

The Bills Committee hopes that upon the enactment of this Bill, a firm plan can be drawn up for the Western Corridor Railway and any plan for future railways can be planned more efficiently and effectively. Subject to the amendments moved by the Administration, I recommend this Bill to Members.

Mr President, these are my remarks.

MRS MIRIAM LAU (in Cantonese): Mr President, over the past 20 years or so, the Mass Transit Railway Corporation (MTRC) has been able to complete every MTR Extension Projects on time within its budget. It is a well-known piece of achievement. At the turn of the 21st century, several major railway development projects will be launched in Hong Kong, including the Airport Railway, which is about to finish. Therefore, in the days to come, we have to monitor closely whether Hong Kong can maintain its efficiency it has achieved in its railway development in the past.

The Railway Development Strategy has sets the direction for the development of future mass transit transport. There is of course urgency in the three priority railway projects proposed in the Strategy. However, these three projects may not be able to provide service by the estimated completion deadline of 2001. The domestic passenger section of the Western Corridor Railway will not be completed until September 2003 while the MTR Tseung Kwan O Extension will not be open until 2002. The public hope that these three railway lines can start operation on time and within the budget, in the same way as the existing MTR.

In fact, the success of the MTR should not be taken for granted. Much has been attributed to The Mass Transit Railway (Land Resumption and Related Provisions) Ordinance, which confers appropriate power to the MTRC to facilitate the resumption of land for its construction works. Things could go so smoothly because the MTRC Ordinance has provided for a mechanism whereby compensation is paid in lieu of the right of objection. In other words, people who are affected do not have the right to object, but the law protects their right to claim compensation.

It is just natural that railway projects involve resumption of land. Besides compensation, there may be a lot of objections. If undue emphasis is given to accommodating the objections, the projects would be delayed or even stunted. Many major infrastructure projects in foreign countries have been delayed for decades because of disputes and there is no fixed time for work to begin, and some projects just become a stillbirth, and some are abandoned midway. Hong Kong should learn from all this.

Time has changed. Today we cannot resume land and disallow objection in the same way as the MTRC did. The Administration should open up channels for people to fully voice their objections. However, while caring

for individual right, the Administration should also give due regard to the interest of the community as a whole and strike a balance between the two. I am concerned that as the Railways Bill has not set time limit for handling objections, progress of railway projects and the interests of the public may suffer as a result.

Clause 10 (1) of the Bill sets down a 60-day period for affected persons to lodge written objections to the Secretary for Transport, but clause 11 has not specify any time-frame during which the Administration has to complete studying the objections for submission to the Executive Council for consideration. The Administration is therefore under no pressure to speed up the process of studying and disposing of the objections. It may take one year, two years or even longer, and the public has no way to force the Administration to accelerate the process. As a result, the railway projects may be delayed indefinitely, and construction will not be able to commence as scheduled, resulting in drastic soar in costs. I therefore think that a time limit must be set for the Administration to study these objections, and I am pleased that the Administration concurs with me that there is such a need.

I think a period of six months should be set, because under clause 34(6), the time for the Secretary for Transport to decide on claims is six months. I think that the examination period in respect of claims are similar in nature to that for objections, and therefore, after the deadline for objections, six months should be enough for the Administration to examine them. However, as the Administration intends to make administrative arrangement so that public hearings can be held for objections, a bit more time may be necessary. Now the Administration proposes to allow nine months for objecting the proposals and three months for objecting the amendments.

Though my personally view is that there is not any merit in holding public hearings for the objections, I would not object to such an arrangement if it can make those people who raise objections feel that the mechanism is fairer and more open to them. I therefore still find it acceptable when the Administration revises my proposal and changes it from six months to nine months. The Liberal Party will support the amendment proposed by the Administration at the Committee stage.

As to the clause the Administration adds in the amendment, which stipulates that the Governor may allow more time, it actually reserves a final resort for the Administration. I think that the Administration should only

exercise such power when it is absolutely necessary, so as not to breach the legislative intent of having a time clause.

Mr President, with these remarks, I support the Railways Bill.

MR LAU WONG-FAT (in Cantonese): Mr President, as early as 1994, the Administration already consulted the public on Hong Kong's railway development, but it only becomes aware of the need for enacting legislation for the development concerned when the construction of the Northwest Rail Link is about to proceed, so that there will not be any delay in the construction of new railways. That is why the Railways Bill is hastily introduced. Because there is not sufficient time for consultation and discussion, some unfair provisions concerning the original policy, especially those provisions that are injurious to the interests of title holders, will not be properly dealt with. I am greatly disappointed at such a situation.

Compensation given for land resumed, as provided by the Bill, is calculated on the compensation basis given in Crown Lands Resumption Ordinance, and this is where the unfairness lies. At present, when it resumes land in the New Territories, the Administration compensates with an *ex-gratia* compensation. However, under the influence of section 12(c) of the Crown Lands Resumption Ordinance, the "*ex-gratia* compensation" calculated on a fixed rate has not taken into account the "potential interest" of land. Hence the title-holder of a plot of land cannot be compensated fairly and reasonably. Heung Yee Kuk has been proposing to the Administration that section 12(c) of the Crown Lands Resumption Ordinance should be repealed.

Besides its market value, a plot of land also has a potential development value. If the plot is not resumed by the Administration, the title-holder can wait for a rise in land value before he sells it, or he can develop it himself. The value he thus obtains will be far greater than the compensation he gets from the Administration. However, once his land is resumed, no matter how high the value of the land may rise, or if there's a change in land use, all benefits will go to the Administration and the original title holder has nothing to do with it. In the past when the policy of land exchange was in force, those title holders of land affected may still use the Letter he has to apply to the Administration to exchange land for development. However, when this system was abolished, the hope for exchange of land for development was gone. The title holders can

only receive an *ex-gratia* compensation in one lump sum to compensate for the loss he suffers because of land acquisition. Regrettably, unfair conditions exists in the *ex-gratia* compensation system. The compensatory zoning is one such instance, but the Administration has not carried out any follow-up review and make the necessary adjustment in accordance with the actual situation. The fixed rate compensation cannot reflect the market value, and in fact, the compensation given tends to be lower than the market rate, seriously affecting the interests of the title holders of land.

Concerning the benefits of compensation, Heung Yee Kuk always thinks that when the Administration resumes land and the payment of compensation needs to be delayed, interest must be paid to the title holders. Many of the title holders of land in the New Territories rely on the rent they get from their land or agricultural crops for their living. When their land is resumed, the land will become Crown land once it is gazetted and they have no right to enter upon the land and use it. In other words, the land income on which the title holder depends for his living will stop immediately. It would therefore be reasonable for the Administration to pay compensation immediately to the title holders of land that has been resumed. However, incoordination among government departments makes the transaction very complicated. According to government statistics, a title holder often has to wait for three months or longer before he receives his compensation. Although the compensation payment is under the name of the title holder during the period between the gazettal date to the time when the payment is actually made, the principal is still residing inside the Government Treasury and the Administration will not pay any interest for this period. The title holders always feel that they are made to lose on their interest. We all know what exchange of consideration is in any transaction, but the Administration is quick in laying its hand on the land, but slow in making payment. This is against the principle of fairness.

Now, when the Administration resumes land, compensation is paid with reference to the zone to which the land belongs. Such a method may be workable with zonal development, but problems arise when this method is used in railway development. Railway is one big development by itself, and each section of the line is just as important as any other. There should not be any difference between stations as they all make the same contribution. Thus instead of paying compensation with reference to the zone to which the land

belongs, thus causing unfairness to title holders, the compensation given should be the same for all land resumed, without regard to the zone to which a particular plot of land belongs. Moreover, development of land adjacent to a railway line is frozen by the Administration, so the Administration should also resume these land or pay the same amount of compensation for them.

Mr President, Hong Kong traffic will benefit greatly from the early construction of rail roads. For the general interest of Hong Kong, I, with reservation, support the passage of the Railways Bill. However, I think that the Administration should resolve the compensation problem in relation to the land it resumes, and that it should carry out a comprehensive review. Before the review is completed, the Administration should provide the necessary remedy through effective administrative measures.

MR ALBERT HO (in Cantonese): Mr President, the aim of the Railways Bill is to provide an appropriate and necessary legal framework for new railway projects, and it is a definite necessity and of great importance if a railway, especially the Northwest Rail Link, has to be built as soon as possible. The Democratic Party fully supports the passage of this Bill and also hopes that work on the Northwest Rail Link can begin as soon as possible.

Though there is an urgent need for the Northwest Rail Link, the enactment of this Bill is also for the construction of future railways. We therefore must take a long-term perspective when considering the operation of the whole Bill and whether the interests of all parties have been taken into account. We must not hastily rush through a Bill like this that has a long-lasting effect just because there is an urgent need for the Northwest Rail Link.

The land resumption plan as detailed in the Railways Bill is basically based on the Roads Ordinance, which, being enacted in the 1970s, may be too outdated to be adequate in dealing with the current social situation of Hong Kong. What we find most unsatisfactory with the Railways Bill is the mechanism for dealing with objections to a railway proposal. The Administration has dropped the system and procedure for hearings to be conducted in respect of objections raised; such a system is adopted in the Town Planning Ordinance. Nor will it

consider the better mechanism proposed in the Town Planning White Bill. Instead, it adopts the outdated mechanism of the Roads Ordinance, which not only lacks transparency, but is also biased towards the Administration in dealing with objections. I think that this is a backward and regressive mechanism that goes against the trend seen in more advanced countries where systems are getting fairer and more open and transparent.

Mr President, for the establishment of an independent, fair and open mechanism to deal with objections concerning land resumption, I have, during the time the Bill was being studied and on behalf of the Democratic Party, proposed the setting up of a statutory independent committee to be made up of government-appointed unofficial members. This body would be charged with the responsibility of handling all objections against a railway proposal, and it has the power to conduct public hearings in respect of individual cases and reports to the Governor in Council. Regrettably, when the Bill was being studied, I learned that many Members had raised doubts about my proposal and said that they would not support it. Some Members even criticized this proposed mechanism as being too complicated and would delay the railway works and affect the overall efficiency of the project. I find such criticisms hard to understand, especially when they are made by elected Members, who should stand on the side of the general Hong Kong people and protect their interests and establish a fair, open and transparent system. I find those objections that are against the setting up of a mechanism for hearing objections repugnant. On the whole matter and from what the Administration gives us, we find that trying to resolve objections through consultation is just as troublesome.

Mr President, in view of the fact that our suggestion for a non-government committee to be set up to hear objections cannot have the support of most of our colleagues, I therefore do not propose any amendment. However, the Administration has finally promised to establish a hearing mechanism. The Administration said that it was willing to give it a try, and then review the mechanism later. I feel that this arrangement is acceptable. It also shows that the Administration has accepted our proposal as sufficient and irrefutable. To ensure a swift and smooth passage of the Bill, the Democratic Party is prepared to accept the Administration's promise for such administrative measures. In our understanding, the Administration's promise is for the Secretary for Transport to appoint a committee of independent individuals to hear collective or individual objections that have not been withdrawn. The committee would compile reports of its studies or hearings for the reference of the Secretary for Transport.

Though we, the Democratic Party, have compromised on this, we still want to stress that a review must be conducted in respect of our proposal for an administrative measure to handle objections after the completion of the West Railway or Northwest Rail Link. Moreover, when, after being reviewed by the Administration, a blue bill is proposed for the Town Planning White Bill, it shall also conduct a similar review with respect to the mechanism for handling objections of the existing railways and make corresponding amendment.

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

MR NGAN KAM-CHUEN (in Cantonese): Mr President, the Northwest Rail Link has to be completed expeditiously if an early solution is to be brought to the traffic problem in the Northwest New Territories. Though the Railways Bill is the legal basis for future new railway projects, an early passage of the Bill can immediately facilitate the commencement of work on the Northwest Rail Link. I therefore sincerely hope that this Bill can be passed as early as possible so that land resumption can go ahead more smoothly for the construction of the rail link. I would also like to take this opportunity to urge the Administration again to hasten its work on the construction of the Northwest Rail Link so that the timetable which has been put back time and again can be adhered to for the proposal of the Northwest Rail Link to be published in the middle of this year. This will ensure that the Yuen Long and Tuen Mun sections can be completed by 2002 and September 2003 respectively.

With respect to this Bill, I think the issue that has our greatest concern is the right to compensation of those people whose land is affected by resumption. The Administration has clarified at the Committee stage the specific compensation details to be arranged under different situation, and has proposed a committee stage amendment that sets down a statutory period for handling objections from residents against the railway projects concerned. These measures can help protect the interests of the affected residents. I am also very pleased that the Administration is putting in place administrative measures to allow public hearings to be conducted in respect of objections made against the proposal, which will definitely enhance the fairness and transparency of the whole mechanism.

However, I urge the Administration to take note of the interests of the

affected residents in the following four aspects and give specific response to the issues.

First, some parts of the compensatory system for resumption of private land, which has been implemented for many years, have failed to keep in line with the actual situation. According to the *ex-gratia* compensation system for land zoning in the New Territories, a plot of agricultural land in B zone, when resumed for commercial and residential development, will command a compensation amount of \$310 per sq ft, which is extremely low. Moreover, the residents will not be able to enjoy any benefit from the land development. This is extremely unfair to them.

Second, the Northwest Rail Link will involve different compensation zones. Under the current system, the Administration usually apply the same compensation rate to all lands. However, on the resumption and compensation arrangement for the Northwest Rail Link, the Administration is yet to give any commitment on the grounds that the route of the railway is yet to be fixed. I hope that the Administration can come up with a fairer and more reasonable arrangement as soon as possible.

Third, past statistics show that three months after the land was resumed, almost 70% of the people affected were yet to receive their compensation, which seriously affected the livelihood of them, who rely on the land for their living.

Fourth, with the right of the indigenous villagers, they should be compensated if their application for building small house is rejected or refused because land is resumed for the railway scheme, and they should have priority in their application for building their own house.

Mr President, I hope that the Administration can give a satisfactory response to the four problems above. These are my remarks.

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

SECRETARY FOR TRANSPORT (in Cantonese): Mr Deputy, I would like to thank members of the Bills Committee, especially its Chairman, the Honourable CHAN Kam-lam, for their efforts in examining this important piece of legislation in respect of infrastructure development for Hong Kong. Their advice and

suggestions have been most valuable.

The Committee stage amendments which I will move later are all based on these suggestions.

The purpose of this legislation is to facilitate the development of railway projects, and has been modelled on the Roads (Works, Use and Compensation) Ordinance. The Ordinance and its structure, though in the eyes of Members may still have imperfections, have been in use for a long time and have by and large proved to work well.

There are two points that I would like to respond in particular. The first point is about the statutory time limit. As Members pointed out, under the Railways Bill, any person may object to a railway scheme within 60 days after the scheme is first published. However, the Bill does not stipulate a time limit within which the Government must handle objections. Just as some Members have pointed out just now, the Bills Committee has expressed concern over this as this may cause delay to the implementation of our railway projects.

Mr CHAN Kam-lam pointed out that when the Bill was being studied by the Committee, the Honourable Mrs Miriam LAU has proposed that a statutory time limit be specified in the Railways Bill and that the Secretary for Transport must submit the relevant railway scheme together with all unwithdrawn objections to the Governor in Council for consideration within that time limit. The proposal has received support both among Bills Committee members and bodies making representations to the Committee, including the two railway corporations.

We believe that a statutory time limit would give greater certainty to the relevant project programme and accordingly we support the proposal. Taking into account the average time required to handle objections based on our experience with major road projects in the past, and the need to give objectors a fair hearing, we propose that a time limit of nine months for handling objections should be stipulated in the Bill. I will move a Committee stage amendment later to this effect. As regards what we can do to shorten as far as possible the time required for handling problems brought about by land, I would also like to assure Members that in respect of alignment, the principle of minimizing the effect on residents had in the past few months been and will in the coming few months be adopted by the Government and the railway corporation. This should help

shorten the time required for handling problems brought about by land.

Concerning the question of public hearings, members were generally in favour of seeing a more open, fair and transparent mechanism for handling objections. Just as the Honourable Albert HO said, he had expressed that objectors should be given a right to a public hearing. Although the Government is of the opinion that the procedures for handling objections stemming from land resumption for road construction have been in force for a long time and have to a certain extent stood the test of time, the addition of public hearings would improve the perception of their fairness and transparency. We have, therefore, agreed that the following administrative arrangements should be made to conduct public hearings for objections to railway schemes:

- (a) a panel of independent persons is to be appointed by the Government to conduct these hearings some time after all objections have been received;
- (b) the role of the panel will be to listen to the views of both the objectors and the Administration, classify the objections and compile a report on its findings;
- (c) the report is to be submitted to the Secretary for Transport for consideration; and
- (d) unless objections have been raised by the parties attending the hearing, the report of the panel will be attached as an additional annexure to be submitted together with the objections mentioned above to the Governor in Council.

It is our aim to implement our railway projects in an open, effective and efficient manner. We believe that the above proposals made by members of the Bills Committee will go a long way in ensuring that the Railways Bill achieves its intended purposes.

As for the views expressed by the Honourable LAU Wong-fat and the Honourable NGAN Kam-chuen with regard to the issue of compensation for owners and the interests of indigenous villagers, I can fully understand their concern. However, as changes to the principle and amount of compensation will not only affect this Bill but also a few other ordinances of the Government, I will therefore note down Members' opinions, including that of Mr LAU

expressing that an element of injustice exists, and pass them on to the department concerned for carefully examination before coming to a decision.

The Administration has also taken on board most of the suggestions made by members of the Bills Committee and the Legal Adviser of the Legislative Council to improve the drafting of the Bill and to clarify the meaning of certain clauses. I hereby would like to express my thanks to them. I will be moving relevant Committee stage amendments later this afternoon.

Mr Deputy, with these remarks, and subject to the Committee stage amendments proposed by the Administration, I commend the Railways Bill to Honourable Members.

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).

DISCOVERY BAY TUNNEL LINK BILL

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

MR LEE WING-TAT (in Cantonese): Mr Deputy, as Chairman of the Bills Committee on Discovery Bay Tunnel Link Bill, I would like to report to Honourable Members the deliberations of the Bills Committee and take this opportunity to thank the Hong Kong Resort Company Limited and Discovery Bay City Owners Committee for their valuable comments on the Bill.

The main purpose of the Bill is to enable the Discovery Bay Road Tunnel Company Limited (the Tunnel Company), a wholly owned subsidiary of Hong Kong Resort Company Limited, to construct a tunnel and approach roads (the Tunnel Link) to connect Discovery Bay with Siu Ho Wan in North Lantau. The Bill imposes duties and confers powers on the Tunnel Company for the proper operation and maintenance of the Tunnel Link. It also permits the use of the

Tunnel Link for the passage of such vehicular traffic as determined by the Commissioner for Transport.

The Bills Committee recognizes the benefit which construction of the Tunnel Link will bring to residents of Discovery Bay and the community as a whole. Members' major concern relates to the level of royalty payable by the Tunnel Company to the Government. Although the company does not expect to recover the capital costs of the project, it will seek to recover the operation and maintenance costs through tolls. In addition, the Bill provides for a royalty arrangement whereby the company will pay a royalty of 2.5% of the operating receipts commencing from the operating date. An even greater amount of royalty will be payable if the proposed restriction on the use of the tunnel to residential coaches and service vehicles is relaxed in future.

After comparing the royalty rates and revenues, and maintenance costs of similar tunnels in Hong Kong with those projected for the Tunnel Link, Members generally consider the royalty requirement on the Tunnel Company too harsh. As the Tunnel Link is only open to certain vehicular traffic, Members are concerned that the royalty payable by the company may create pressure on the toll level even though the Tunnel Company does not intend to make a profit. Members are worried that the Tunnel Link may follow the footstep of Tate's Cairn Tunnel and resort to frequent toll increases in order to maintain the viability of its operation. After negotiations with the Administration for a more reasonable level of royalty, the Bills Committee has decided to move Committee stage amendments to reduce the royalty rate. Details of the amendments will be further explained at the Committee stage.

The Administration will also move Committee stage amendments to address the concern of the Bills Committee with regard to the powers tunnel officers. The Bill provides that tunnel officers, in performing their duties to regulate traffic and prevent traffic offences, may require a driver to furnish the name and address of the registered owner of the vehicle being driven. In view of the practical difficulties for driver to produce the information on the spot, the Bills Committee has requested the Administration to amend the provision to require the driver to produce the details if that information is within his knowledge. Furthermore, at the suggestion of the Bills Committee, the Administration undertakes to move a Committee stage amendment to delete the disclaimer clause 9(6), which is considered overprotective for the Government and unfair to the Tunnel Company. The clause stipulates that no compensation

should be payable to the Tunnel Company in relation to the exercise of any power of the Government under the provision that the Government may connect any other roads to the approach roads in the Tunnel Link.

Mr Deputy, I seek the Council's support of the Bill and the Committee stage amendments to be moved by myself on behalf of the Bills Committee and the Administration.

Thank you, Mr Deputy.

MRS MIRIAM LAU (in Cantonese): Mr Deputy, I always hold the view that if the Administration has limited resources with respect to transport infrastructure, it can encourage private investment. On this basis, therefore, I am very supportive of the Discovery Bay Tunnel Link Bill. However, while encouraging private investment, the Administration seems to have forgotten the responsibility it has.

By allowing private companies to invest in and operate transport infrastructure, the Administration not only needs to pay nothing, but also makes an income out of it. The Tate's Cairn Tunnel is one such example. Although the company is still making a loss, it has to pay a royalty to the Administration. It is not unreasonable for the Administration to do so as the Tate's Cairn tunnel and other privately-operated tunnels are meant to make a profit. The Discovery Bay Tunnel Link, however, is more for the convenience of the residents than making a profit, and the toll collected is only for covering the operating cost, and not even for recouping the construction cost.

Now, the Administration does not build the tunnel itself. Instead, it wants to use it for sewerage purpose as well and to levy a royalty as high as that levied on the Tate's Cairn tunnel. This is a bit too much. The Administration certainly can say that a royalty should be levied as the developer is given the right to develop a tunnel. The Administration, however, should not forget that the royalty would be transferred to the users, that is the general public. I think that no royalty should be levied on facilities like the Discovery Bay Tunnel, which are mainly for the convenience of the residents. Even if a royalty has to be levied, the amount should be nominal. The Liberal Party therefore supports the amendment for a reduction of royalty that is to be proposed by the Honourable LEE Wing-tat later at the Committee stage.

The Administration should review this whole matter. While encouraging private investment, the Administration should not forget that it has the basic responsibility of providing the necessary roads the residents need, instead of going after financial gain.

Mr Deputy, these are my remarks, and I support the Bill.

SECRETARY FOR TRANSPORT (in Cantonese): Mr Deputy, first of all, I would like to thank the Chairman and the members of the Bills Committee that studied the Discovery Bay Tunnel Link Bill. Over the past few months, they have been working hard on it, and have carefully and efficiently studied the Bill. The Administration find that their valuable views and suggestions are very useful and have responded positively to them. The Committee stage amendments that I am going to move later have already included all their views and suggestions.

The Discovery Bay Tunnel Link Bill is to give authority to the Discovery Bay Tunnel Link Company Limited to construct, operate and maintain a private tunnel and road linking Discovery Bay and Siu Ho Wan of north Lantau. This Bill enables the Administration to exercise appropriate control over the construction, operation, maintenance and management of the tunnel, and to levy a royalty from the company operating this tunnel and the road link.

To residents of Discovery Bay, the proposed road would provide a more direct, convenient access to the new airport, Tung Chung and the future port development area on Lantau.

The general public would also benefit from the construction of this tunnel as a sewer would be built in the tunnel to transfer sewage from Peng Chau and Discovery Bay to Siu Ho Wan Sewage Treatment Works. On the completion of this tunnel, the completion date of the sewer that is part of the sewage export scheme will be brought forward by a number of years.

The Bills Committee, while studying this Bill, showed concerns about clause 23, which restricts vehicles that can use the tunnel to those of the categories determined and specified by the Commissioner for Transport. The purpose of having this restriction is to ensure that vehicles travelling to Discovery Bay would not cause excessive traffic flow to the road network of

north Lantau, especially Lantau Link.

Some Members suggested that taxis be allowed to use the tunnel. The Administration will consider this suggestion when the tunnel is about to open to traffic, that is, about the year 2000. At that time, studies will be conducted on the effect on the traffic along Lantau Link and the related road network if the restriction on the use of the tunnel is relaxed. At the moment, we shall allow community bus service of Discovery Bay, school bus, service vehicles and emergency vehicles to use this tunnel, as has been agreed with the Tunnel Company.

The Bills Committee also made a number of suggestions in respect of the royalty arrangement, to which Mrs LAU and Mr LEE have referred just now. The Administration supports the Committee stage amendment proposed by Mr LEE Wing-tat in respect of clause 7, as the construction of the tunnel will be solely funded by the Tunnel Company but in the future it can only recoup the operating and maintenance costs.

The Administration has also considered the views of Members that in the first few years of its operation, the tunnel may not have a lighter traffic flow. It is therefore not unreasonable to allow the Tunnel Company to retain a greater proportion of the proceeds from the toll in the early years of operation so as to reduce the pressure for a toll increase.

Mr Deputy, I shall move a number of Committee stage amendments, which all have been endorsed by the Bills Committee. One of the amendments is related to clause 29, which provides for the powers that authorised tunnel officers may exercise. The purpose of proposing this amendment is to enable authorized tunnel officers to ask a driver to provide, as far as he knows, the name and address of the registered owner of the vehicle that is being driven. The purpose of the amendment is to make clause 29 consistent with similar provisions in Tsing Ma Control Area Ordinance and Road Tunnels (Government) Ordinance.

Another amendment is related to clause 9. Under the present text of the Bill, when the Government exercises power to connect other roads to the Tunnel Link, it does not have to pay any compensation to the Tunnel Company. Members think that this is unfair to the Tunnel Company, and the Administration understands the concerns of Members. I can assure Members that the

Administration has never intended to use the said power in any unreasonable or unfair way. To remove the doubts of Members, and after consulting with the Legal Department, the Administration agrees to delete clause 9(6).

The Bills Committee also made other amendments, which are mainly to improve the way the clauses are drafted and of a technical nature so as to make the clauses clearer in meaning.

Mr Deputy, these are my remarks and I recommend this Bill.

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).

MIDWIVES REGISTRATION (AMENDMENT) BILL 1997

Resumption of debate on Second Reading which was moved on 19 February 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).

VOLUNTEER AND NAVAL VOLUNTEER PENSIONS (AMENDMENT) BILL 1997

Resumption of debate on Second Reading which was moved on 5 March 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).

AUXILIARY MEDICAL SERVICE BILL

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).

CIVIL AID SERVICE BILL

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).

OFFICIAL SECRETS BILL

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

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

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

In general, the Bills Committee, supported by deputations, considers that the Bill should not strictly be a localization bill. The British Acts, passed in the first quarter of the century, are unnecessary and undesirable for adoption by Hong Kong at the end of the century. Some provisions of the Bill have no place in present-day Hong Kong. Some are too vague and broad, even draconian. The Bills Committee has therefore proposed a number of amendments to improve and modernize the Bill, and also in order to prevent possible abuse. In drawing up these amendments, the Bills Committee took into consideration the views of deputations, relevant precedents from Britain, relevant reports and recommendations of the Australian Criminal Law Review Committee and jurisprudence of the United States in the area of freedom of expression and protection of official secrets.

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

therefore necessary.

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

Spying (clause 3)

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

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

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

After much deliberation, the Bills Committee proposes to amend clause 3(1) by incorporating the requirement of a specific intent, as in the relevant United States legislation and deleting the phrase "in the neighbourhood of". As

suggested by the deputations, subclauses (2) to (5) are also to be deleted.

Duty to give information (clause 8)

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

Search warrants (clause 11)

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

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

Relevance of the Bill to the Basic Law Article 23

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

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

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

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

Public interest defence

Mr Deputy, firstly, the Bills Committee and deputations are unanimously concerned about the absence of a public interest defence in the Bill. This is an issue of vital importance for the protection of freedom of expression. Consideration is given to a wide-ranging public interest defence, and also a specific one along the lines of that in section 30 of the Prevention of Bribery Ordinance which is confined to the areas of serious misconduct, illegality, and abuse of power. After thorough discussion, the Bills Committee decided on the broader version.

Prior disclosure defence

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

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

merely one of localization.

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

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

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

THE PRESIDENT resumed the Chair.

MISS MARGARET NG: Mr President, the only reason I support the Second Reading of the Official Secrets Bill is that I have to accept, in principle, that it is legitimate for Hong Kong to have laws to protect information the disclosure of

which would endanger the community. However, I do not accept that the right way to do so is to re-enact the Official Secrets Acts of the United Kingdom. Neither do I accept that there is any compelling need to do so arising from Article 23 of the Basic Law, under which the Hong Kong Special Administrative Region is to enact laws prohibiting the "theft of state secrets", among other things.

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

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

Clause 3(1)(a) provides, for example, that a person commits an offence if he approaches a "prohibited place" for "a purpose prejudicial to the safety or interests of the United Kingdom or Hong Kong".

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

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

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

This is very worrying indeed, because one reading of these words is that a

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

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

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

It is no argument to say that the Bill is simply a local re-enactment of nearly identical United Kingdom Acts applicable to Hong Kong. These Acts, particularly the provisions referred to just now, have attracted the strongest criticism even in the United Kingdom. Clause 3 of the present Bill is lifted from the Official Secrets Act 1911, passed in the United Kingdom in a great hurry under the imminent threat of war. In the debate of the 1988 Act, this part was just not discussed at all. As the Bill is now put before us, we are entitled to consider the matter afresh, in the light of Hong Kong's own needs and circumstances. We must take into consideration the importance of the protection of human rights to the maintenance of confidence in Hong Kong. The fact must also be taken into consideration that, in the United Kingdom, there is at least the safeguard that an elected government will be more wary of invoking such laws.

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

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

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

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

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

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

Thank you, Mr President.

MR JAMES TO (in Cantonese): Mr President, I am glad to be able to listen to Miss Margaret NG's speech. I am totally in agreement with her views. I just want to share with you a few particular points. I believe that this is still an assembly that talks sense, a place where better and stronger points are used to convince each other.

Firstly, just now Miss NG mentioned that the enactment of the United Kingdom Act, especially clause 3, was effected in a totally different social context when the great war was imminent. Apparently consideration was given to the condition at that time or the threat England was subject to and the appropriate corresponding measure to be taken. Similarly, for example, in view of the rampant corruption in Hong Kong 20 years ago, draconian laws which give extensive power to the ICAC were appropriate. However, now, 20 years later, we have already conducted a review, and in 1995 we put many of our laws back onto the right track to meet the needs of the era. Amongst such laws is the enactment of the Bill of Rights and other enactment that meet the needs of an open society.

I feel that it is very irresponsible of the PATTEN Administration if it allows Hong Kong to be subject to such draconian laws, and what is more, allows such laws to remain for use by the Special Administrative Region (SAR), only for the one single reason that we can only localize our laws but not carry out comprehensive review. This will be one of the two shameful acts of PATTEN's office here. The first one is that this law is against many parts of the Bill of Rights, and imposes great restriction on freedom of press and information, and there are too many contradictions. The other one is that, as far as I know, he is adamant in rejecting the introduction of a system whereby interception of communication is subject to the control of the court.

If the originally drafted Bill were to be passed, we would be thrown back to the era of the 1950s and 1960s when the Special Branch would resort to brutal means and long-term imprisonment to counter people with a dissenting voice. There is a definite possibility that such a scenario will be repeated. Why do I say so? Let us look closely at clause 8. This seems to be a very simple clause which says that the police may apply to the Governor for a warrant, requiring a person to provide information. However, you may not have seen the trick behind. It is actually the sort of provision under which, decades ago, the police might invite you for questioning, and then you were told that you were suspected of being a spy or something. Whether it was at Mount Davis or any other places, if you were required to lay bare or provide any information, but you did not comply, you would be kept in detention. That might be a permanent or long-term imprisonment or even disappearance. In that case, no one could have any inkling whether you were alive or dead. If you refused to give a response, they would say that you might be involved in an offence under clause 8(4), and they could further exercise the power of arrest. They would then keep you under arrest until you provide the information.

In our present society, we do not have the defence of public interest, and this leads to an anomaly. Think of the American situation: the reporter who unveiled the Watergate scandal could be put in prison under this law of Hong Kong. We may not have the democratic mechanism to deter the President or the prosecutor from instituting any prosecution. In fact, this poses great restriction and threat to the media. It is inconceivable to me that today the Administration can still agree to the Governor issuing orders that will take away a person's right to remain silent. I am astonished that, given our social environment, the Administration can agree to such a provision. Even in the Organized and Serious Crime Ordinance, we spent more than two years arguing that if we were

to take away a person's right to remain silent, and that evidence was not given by he himself but by others, there must be put in place all procedural and legal safeguards. Now I am really astonished that clause 8 is so drafted to give the Governor such a power.

In fact, the provision about search warrants in clause 11 is greatly different from the provision of clause 8. If a search is to be conducted, application must be made to a magistrate for a search warrant, whereas with clause 8, a person can be stripped of his right to remain silent by the Governor. How inconceivable this is! If you said this was out of the interest of national security, I can cite you more examples of countries, including the CIA of America, where they have legislation that give the necessary authority for the exercise of such power. In Canada, an application to the court is required for the authority to exercise such power as tapping, detention for questioning and the stripping of the right to remain silent. It is unthinkable to me that Hong Kong can be so different. There can only be one answer: in the past it was colonial law and as such it could remain so. However, at this point in time, it is unthinkable that such law can still be allowed.

On the other hand, some parts, as Miss Margaret NG has referred to, are drafted too wide. The presumption provisions are examples. It is common knowledge that if you get in contact with consular officials, or even discuss such matter at consular residence or at a cocktail party, be it in Hong Kong or anywhere in the world, we believe such thing must have happened in Hong Kong, you are netted for information collection. We should not think that all spies are special people like "007"; they are just people quietly doing information collection. In fact, they may be involved in any intelligence work. If we make presumption of any contact, we are presuming that there is an exchange of information, and an exchange of information could mean that we are engaged in acts that may do harm to national security and could be convicted. Where is the reason in such laws? How can such laws go into our statute book?

Miss NG also said that presumptions could be made of her past acts, ways, character or past conduct. I feel that this is very dangerous. The coverage of the clause includes investigation made in respect of crimes. If a person is to divulge any information, we already have the law that targets at any act that may obstruct the course of justice or collude to obstruct the course of justice, and imprisonment may be imposed on those people who provide information to enable anyone to escape. There is also the power of arrest. In the law, there

are already many such common law offences and offences provided by the Police Ordinance that can sanction such divulgence. However, if we say that we have no other means to prove each of the harm items, and that we have to rely solely on unlawful disclosure, it will be very dangerous.

Finally, I want to ask who will enforce the legislation. Are we saying that since both the British and Chinese governments have agreed on this offence and the word "superintendent" has been put there, the enforcement of Article 23 or all offences shall be effected by the Royal Police or the future Police Department of the SAR? As far as I know, the Chinese side is studying a certain proposal and some members of the Preparatory Committee have said the Special Branch be re-established again. This agency has given us too horrible a memory. We believe that national security should only be enforced by people, but at the moment when nothing is made clear, if we are to give the authorities such great power, and the law is so harsh and the coverage is so wide, and such law is to apply to our modern society, I feel that that would pose too great a danger and threat to human rights and liberty. I hope that we are all talking sense. I therefore have to take a few minutes to share with you my worries, hoping that you can vote rationally.

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

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

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

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

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

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

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

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

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

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

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

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

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

The Bill I introduced into this Council in December last year is one that will provide continuity through 1 July 1997 and beyond. It is based largely on

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

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

The key elements of these amendments concern clause 3 of the Bill dealing with espionage; the threshold criteria for a harm test; and proposals to introduce the defences of public interest and prior disclosure.

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

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

Let me make it clear again that the Bill is a piece of localizing legislation. While we have amended, as necessary, various provisions of the Official Secret Acts to take account of local circumstances, it is not the occasion to undertake a comprehensive review of the official secrets legislation. We do not consider that such a comprehensive review is either necessary or appropriate for a localization of laws exercise. The Administration therefore do not support any of the proposals now before us which seek to amend the Bill substantially. If the key Committee stage amendments are adopted, it will throw open the future of the whole Bill, and there is no guarantee that such a Bill will survive the change of sovereignty. The law in this sensitive area will then be left in a state of uncertainty, and the future SAR legislature may then be left with no option but to re-open the whole issue soon after 1 July 1997. We strongly believe that this would not be in the best interest of Hong Kong. Therefore, the Administration can only support the Bill essentially as it was first introduced into this Council on 18 December 1996.

Thank you, Mr President.

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

Bill read the Second time.

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

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1997**Resumption of debate on Second Reading which was moved on 30 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).

REGISTERED DESIGNS BILL**Resumption of debate on Second Reading which was moved on 19 March 1997**

MR CHAN KAM-LAM (in Cantonese): Mr President, as Chairman of the Bills Committee on Registered Designs Bill, I wish to report to the Honourable Members the deliberations of the Bills Committee.

The Registered Designs Bill seeks to localize the existing legislation so that Hong Kong will have an independent designs registration system prior to 1 July 1997. The Bill is chiefly based on recommendations of the Law Reform Commission. To keep in line with the international trend, the Administration adopted a formality examination approach and a worldwide novelty requirement.

The Bills Committee has considered views of the design industry and users, and Committee members are generally supportive of the Bill. Discussion has taken place on the following concerns.

Members note that the Bill covers a wide range of goods such as domestic appliances, toys, furniture, textiles, fashion and jewelry where design is the decisive factor in the commercial success of the product. In view of the implications on the trade and industry, in particular on small and medium

enterprises, members are concerned that the design industry and users should be made aware of the provisions, particularly the new features, in the Bill. The Administration has accepted Committee members' views and organized two seminars on 23 April and 3 May 1997 respectively to explain the Bill to designer associations and design users. The Committee notes that designers generally support the proposed designs registration system. In addition, the Administration has undertaken to publish information pamphlets and organize talks to help the industry comply with the statutory requirements after the enactment of the Bill.

The Administration has proposed to follow the international trend of a non-examination or formality examination approach for design registration, and argues that any form of substantive examination is bound to be subjective. It also holds the view that it is not worthwhile to invest substantially on searches and substantive examinations to determine the novelty and registrability of designs. As regards the means for applicants to check the novelty of a design before registration, the registered designs registry will maintain records of all registered designs including their particulars and images in the form of drawings or photographs. These records will be available for search by the public. Members note that the proposed non-examination approach is in line with the short-term patent system in Hong Kong.

On the novelty standard for registration of designs, the Administration has also proposed to follow the international trend of worldwide novelty rather than local novelty. The Administration advises that the proposal, whereby the applicant will have to make a statement of novelty in respect of the design under registration, has received support during the public consultation stage.

The Committee has expressed concern about the ambiguity between a registrable and an unregistrable design under the Bill. The Administration has clarified that, for a new design to be registrable, its features such as shape, configuration, pattern or ornament must be applied to an article by means of an industrial process and appeal to the eye. On the other hand, a design is not registrable if it does not satisfy the registration criteria such as aesthetic appearance, or if it is contrary to public order or morality. Members also note that the Bill excludes computer programs and layout-designs (topographies) of integrated circuits which are covered by the Copyright law and the Layout-design

(Topography) of Integrated Circuits Ordinance respectively.

Some members have asked if it is possible to redefine the definitions of "registrable designs" and "unregistrable designs". The Administration has responded that given the complexity of the subject and absence of a definitive ruling, any attempt to elaborate on the two categories would unduly add to the volume and contents of the Bill. In case of disputes, it will be a matter for the court.

With regard to the provisions on artistic works, the Committee notes that the two-dimensional drawings or of a primarily artistic character not intended for industrial use are not registrable under the Bill. The Administration has accepted the Committee's suggestion to introduce a Committee stage amendment to clause 8 to remove ambiguity in this respect about the scope of the Bill.

Members have expressed concern about possible grey areas with regard to protection conferred by the Registered Designs Bill and the Copyright Bill. The Administration has clarified that owners of artistic works automatically enjoy copyright during his lifetime plus a period of 50 years thereafter. However, if an artistic work is to be applied industrially as a design on articles for commercial purposes, the copyright owner will need to register the design under the Registered Designs Bill for monopoly rights up to a period of 25 years. Otherwise, unregistered designs registrable under the Registered Designs Bill will only have copyright protection up to 15 years.

Reservations have been expressed by members as to whether the copyright of an artistic work would be eroded by the proposed registered designs law. The Administration has responded that the legislative intent is not to reduce copyright protection of artistic works, but to preserve the existing position for the duration of copyright protection of a design to be cut down once it is registered for protection under the registered designs law. After deliberations, the Administration has agreed to propose amendments to the Copyright Bill to remove ambiguity. As the concern is primarily that of copyright, no amendment is required in the Registered Designs Bill.

As a primary consideration for registering a design is the intent of creating the design, that is whether it is to be applied industrially, the Committee has

suggested that a definition on "industrial process" should be provided in the Bill. The Administration has advised that the definition will be provided in the subsidiary legislation. According to the existing United Kingdom standard, a design which has been reproduced on more than 50 articles is considered an industrial design, and the same standard will be applied to Hong Kong.

Concerning other infringement of a registered design under clauses 48 to 57 of the Bill, the Bills Committee notes that only civil remedies will be available. The Administration has clarified that as unregistered but registrable designs will have copyright protection for 15 years, the owner of an unregistered but registrable design can claim remedies for imitations of his design.

Lastly, members have also expressed concern about the publicity of transitional arrangements for existing registered designs in the United Kingdom to have continued protection in Hong Kong. To avoid misunderstanding and disputes, the Administration has accepted the Committee's view and will launch publicity programmes in both Hong Kong and the United Kingdom on the transitional arrangements, in addition to advertisements on the United Kingdom Patent and Design Journal. Local design industry and concerned organizations will also be notified of the transitional arrangements by means of information booklets and seminars organized by the Administration.

This sums up the main issues discussed by the Bills Committee. Mr President, on behalf of the Bills Committee, I ask for support of the Bill and the various amendments to be moved by the Secretary for Trade and Industry at the Committee stage.

These are my remarks.

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

As I had explained when introducing the Bill into this Council in March, we do not have a separate designs registry in Hong Kong at the moment.

Designs are protected here only by virtue of their having been registered in the United Kingdom.

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

In our new system, any design which has not been published anywhere in the world, which is applied to an article by means of an industrial process, and which appeals to the eye, will be eligible for registration. The Registrar of Designs, once satisfied with the formality examination, will register and publish the design. The protection will be for an initial period of five years, extendible for four periods of five years each, totalling therefore a maximum of 25 years.

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

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

Mr President, as we will be introducing a new system, it is important, as Mr CHAN Kam-lam has just said, to provide for an adequate transitional arrangement. Accordingly, we propose that designs already registered in the

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

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

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

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

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

With regard to publicizing transitional arrangements, we have explained to the Bills Committee that, prior to and immediately after the enactment of the Bill, we will launch a publicity programme in both the United Kingdom and Hong Kong. To inform interested parties of the transitional arrangements, we will

advertise the main contents of the Bill, including the transitional arrangements, in the United Kingdom Patent and Design Weekly Journal periodically. Locally, we will publish a user-friendly information brochure on the registered designs system and organize a series of talks and seminars for the design industry and other related organizations.

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

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

Mr President, basically, all types of intellectual property protection are designed to protect creative work. Since the rights they confer on the proprietor or owner of the copyright product are exclusive monopoly rights, there are risks and need to limit the application of these laws to avoid duplication or over-protection. Therefore, any copyright owner who wants to have copyright protection for his product during his lifetime plus 50 years thereafter can do so by refraining his application from an industrial process. If he chooses to put his artistic work to industrial use, it should be subject to the protection of a different

law, that is, the Registered Designs Ordinance because the nature of the subject matter has changed. If he so registers under the latter system, he can have 25 years of protection under the law. If he does not register under the Registered Designs Ordinance, he can only have a "limited" term of protection, that is, 15 years under the copyright law.

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

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

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

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

Bill read the Second time.

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

OUTER SPACE BILL

Resumption of debate on Second Reading which was moved on 14 May 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).

CIVIL AVIATION (AMENDMENT) BILL 1997**Resumption of debate on Second Reading which was moved on 28 May 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).

Committee stage of Bills

Council went into Committee.

RAILWAYS BILL

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

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

SECRETARY FOR TRANSPORT (in Cantonese): Mr Chairman, I move that the clauses specified be amended as set out in the paper circularized to Members. I will take this opportunity to elaborate on the more significant issues.

Definition of "railway"

It is proposed that the definition of "railway" in clause 2 be amended so that it is clear that above station developments are excluded from the definition and are not part of a "railway". Any such developments will be subject to all the normal requirements for approval under the Town Planning Ordinance.

Statutory time limit

To take forward the proposal of the Bills Committee to impose a statutory time limit for handling objections to a railway scheme, it is proposed that a new clause 11(1A) be added to the Bill. Clause 11(1A) stipulates that the Secretary for Transport shall submit to the Governor in Council for consideration a railway scheme and any unwithdrawn objections within nine months after the expiry of the 60-day period for lodging objections. Under this clause, if a railway scheme is amended, a further 60-day period will be triggered for the lodging of objections to the amended part of the scheme. Under such circumstances, the Administration will have another three months after the expiry of the objection period to handle these objections.

The new clause will empower the Governor to grant extensions of time after considering the circumstances of any particular case. The flexibility is deemed necessary in view of the varying degree of complexity and scale of our future railway projects.

Exemption, repeal and transitional provisions

At present, the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) allows the Government to resume land exercise other rights for the construction of MTR lines. The intention behind the clause 45 is to repeal Cap.276 so that all new railway projects would be implemented under the Railways Bill. However, we need to exempt MTR projects which are implemented under Cap.276 from the operation of the Railways Bill and to retain certain provisions of Cap.276 relating to claims, operational safety and maintenance of railways constructed under that Ordinance.

In the light of comments from the Bills Committee, we have amended clause 45 to clarify our policy intentions. The proposed new clause 45(3)(a) stipulates that Cap.276 shall be repealed from the "appointed date" which is defined as a date to be appointed by the Secretary for Transport in a notice published in the gazette.

Proposed new clause 45(2)(a) empowers the Governor in Council to exempt railway projects from the operation of the Railways Bill only prior to the appointed date. New clause 45(2)(b) stipulates that such exemption orders shall cease to have effect on the appointed date, unless the construction of those

exempted railways have been completed before the appointed date.

Notwithstanding the repeal of Cap.276 on the appointed date, the proposed new clause 45(3)(b) specifies the provisions of Cap.276 which shall continue to apply to railways for which an effective exemption order applies. These provisions are necessary as they relate to claims, operational safety and maintenance of railways constructed under Cap.276.

Mr Chairman, I beg to move.

Proposed amendments

Clause 2

That clause 2 be amended —

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

under section 8, or amended under section 7 and corrected under section 8, the scheme so amended or corrected or amended and corrected, as the case may be;

(c) subject to paragraph (d), where a scheme has been authorized under section 11 or 12(1), the scheme so authorized;

(d) where a scheme has been amended under section 12(2), the scheme so amended,

and includes the plan attached to the scheme;".

Clause 5

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

Clause 7

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

Clause 9

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

Clause 10

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

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

Clause 11

That clause 11 be amended —

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

- (b) by adding -

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

- (a) subject to paragraphs (b) and (c), 9 months after the expiration of the period for lodging objections under section 10(1) in respect of the scheme;
- (b) subject to paragraph (c), where there is any amendment to the scheme under section 7, 3 months after the expiration of the period for lodging objections under section 10(1) in respect of any such amendment or, where there is more than one amendment, the last of any such amendment;
- (c) such further period or periods as the Governor may, having had regard to the circumstances of the case, allow,

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

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

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

time."

Clause 15

That clause 15 be amended —

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

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

(b) by adding -

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

(c) by adding -

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

Clause 16

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

Clause 23

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

Clause 24

That clause 24(1) be amended —

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

Clause 25

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

Clause 26

That clause 26(3) be amended —

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

Clause 27

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

年或".

Clause 31

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

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

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

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

Clause 32

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

Clause 33

That clause 33(2) be amended —

- (a) in paragraph (b) -
 - (i) by deleting "column 1" and substituting "column 4";
 - (ii) by adding "or" at the end.
- (b) by deleting everything after "cause" and substituting a full stop.

Clause 41

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

"41. Certain statements to be evidence

A statement which is -

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

- (i) the resumption of any land;
- (ii) the reversion to the Government or the vesting in the Financial Secretary Incorporated of any land;
- (iii) the creation of an easement or right; or
- (iv) an authorization or a declaration under section 22(1)(a), (b) or (c),

is for the purposes of or incidental to the scheme;

- (b) a statement in a notice given under this Ordinance to the effect that -
 - (i) any power is exercised under section 5 in order to prepare, correct or amend a plan or scheme;
 - (ii) any power is exercised under section 24 for the scheme, an assessment of the value of any land, building or other property or to ascertain the condition of the land or building; or

- (iii) the exercise of any power under any of the provisions of this Ordinance is necessary or required for the scheme;
- (c) a statement made in writing by the Secretary for the purposes of section 15 to the effect that -
 - (i) any works are minor in respect of any physical or structural operations involved; or
 - (ii) a road serves no useful purpose,

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

Clause 44

That clause 44 be amended —

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

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

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

- (i) delivering it to the person personally;
 - (ii) leaving it at the last known address of the person; or
 - (iii) sending it by post addressed to the person at his last known

address;

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

Clause 45

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

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

- (2) (a) Subject to paragraph (b), the Governor in Council may at any time before the appointed date by order published in the Gazette exempt from the operation of this Ordinance any railway or any part of a railway specified in the order.
- (b) An exemption under paragraph (a) shall as from the appointed date cease to have effect in respect of a railway or any part of a railway, unless the railway or the part of the railway, as the case may be, is immediately before the appointed date an existing railway.

- (3) (a) Subject to paragraph (b), the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) shall as from the appointed date be repealed.
- (b) For so long as an exemption under subsection (2) has effect in respect of any existing railway at any time on or after the appointed date, the provisions of the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) shall, notwithstanding paragraph (a), continue to have effect subject however that -
- (i) (A) any reference therein to railway shall be regarded as a reference to any such existing railway;
 - (B) any reference therein to railway area shall be regarded as a reference to the land delineated as railway area in respect of any such existing railway under that Ordinance immediately before the appointed date;
 - (ii) (A) subject to sub-subparagraphs (B) and (C), sections 3 to 7 and 9, and section 15(3) to (5), of that Ordinance shall be regarded as having been repealed;
 - (B) sections 8 and 20 of that Ordinance shall be regarded as having effect as if sections 3 to 7 and 9 of that Ordinance had not been repealed;

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

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

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

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

(4) In this section -

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

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

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

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

Clause 46

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

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

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

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

Question on the amendments put and agreed to.

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

Heading before New clause 46A
New clause 46A

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

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

SECRETARY FOR TRANSPORT (in Cantonese): Mr Chairman, I move that the new clause 46A be read the Second time, the content of which has been set out in the paper circularized to Members.

The purpose of the new clause 46A is to amend the Schedule to Lands Tribunal Ordinance by adding Railways Ordinance into the Schedule, so that matter under the Railways Ordinance can be submitted to the Tribunal for

adjudication.

Mr Chairman, I beg to move.

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

Clause read the Second time.

SECRETARY FOR TRANSPORT (in Cantonese): Mr Chairman, I move that the new clause 46(A) be added to the Bill.

Proposed addition

Heading before new clause 46 and new clause 46A

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

"Lands Tribunal Ordinance

**46A. Ordinances under which matters
may be submitted to the
Tribunal for determination**

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

" of 1997. Railways Ordinance."."

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

Schedule

SECRETARY FOR TRANSPORT (in Cantonese): I move that the above Schedule be amended as set out in the paper circularized to Members. The amendment is mainly of a technical and linguistic nature, and the amendment in the Chinese text reflects improvement in the drafting of the clause. I

recommend these amendments to Members.

Proposed amendment

Schedule

That the Schedule be amended —

- (a) in section 6 of Part I, by deleting "工程" and substituting "方案".
- (b) in Part II -
 - (i) in item 1, in column 1, by deleting "section 16 of";
 - (ii) in item 3(a), in column 1, by deleting "section 28(2)" and substituting "section 18(2)";
 - (iii) in item 4 -
 - (A) in column 1 -
 - (I) by renumbering it as item 4(a);
 - (II) by adding -
 - "(b) Disturbance resulting from that closure, extinction, modification or restriction.";
 - (B) in column 3 -
 - (I) by renumbering it as paragraph (a);
 - (II) by adding -
 - "(b) Same as in paragraph

(a).";

(C) in column 4 -

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

(II) by adding -

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

(iv) in item 7, in columns 1 and 4, by adding "5 or" before
"24";

(v) in item 9, in column 4, by deleting "building" and
substituting "building works".

Question on the amendment put and agreed to.

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

DISCOVERY BAY TUNNEL LINK BILL

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

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

SECRETARY FOR TRANSPORT (in Cantonese): I move that the clauses specified be amended as set out in the paper circularized to Members.

With respect to the amendment of clause 9, as I explained when the Bill was read the Second time, the Administration agrees to delete clause 9(6) after considering the concern shown by Members on the matter and accepting the relevant legal opinion. The other amendments proposed by the Administration are technical and clarificatory in nature.

Mr Chairman, I recommend these amendments to Members.

Proposed amendments

Clause 2

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

Clause 8

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

Clause 9

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

Clause 13

That clause 13 be amended —

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

Clause 15

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

Clause 16

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

That clause 16(7) be amended —

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

Clause 17

That clause 17(3) be amended —

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

Clause 19

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

Clause 21

That clause 21 be amended —

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

Clause 24

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

Clause 25

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

Clause 26

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

Clause 27

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

Clause 28

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

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

Clause 29

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

Clause 30

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

Clause 35

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

Clause 36

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

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

Clause 37

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

Question on the amendments put and agreed to.

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

Clause 7

MR LEE WING-TAT (in Cantonese): Mr Chairman, I move that clause 7 be amended as set out under my name in the paper circularized to Members.

As explained in my speech earlier, the level of royalty payable by the Tunnel Company should be reduced. Instead of charging the company a royalty of 2.5% of the operating receipts commencing from the operating date, the Bills Committee recommends that royalty be charged at the rate of 1% of the operating receipts for a period of five years commencing from the operating date and 2.5% of the operating receipts thereafter. If the restriction on the use of the Tunnel Link is relaxed in future, the original royalty applicable from the relaxation date will be maintained such that the company will be charged at the rate of 5% of the operating receipts plus 15% of the net operating receipts in excess of the projected net operating receipts for a period of five years commencing from the date of relaxation, and 5% of the operating receipts plus 30% of the net operating receipts in excess of the projected net operating receipts thereafter.

Mr Chairman, I beg to move.

Proposed amendment

Clause 7

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

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

- (a) 1% of the operating receipts for a period of 5 years commencing from the operating date; and
- (b) thereafter, 2.5% of the operating receipts, instead of at the rate specified in paragraph (a).

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

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

Question on the amendment put and agreed to.

SECRETARY FOR TRANSPORT (in Cantonese): I move that clause 7 be further amended as set out in the paper circularized to Members. The amendment is technical and clarificatory in nature.

Mr Chairman, I recommend these amendments to Members.

Proposed amendment

Clause 7

That clause 7 be further amended —

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

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

(a) 6 months or part thereof, in the case of royalty payable under subsections (1) and (2)(a);

(b) 12 months or part thereof, in the case of any royalty payable under subsection (2)(b)(i) and (ii),

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

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

"(7) In this section -

"date of relaxation" (放寬日期) means the date on which a

determination under section 23(1), in respect of which the Commissioner (with the agreement of the Director of Lands) has made a determination described in subsection (6)(b), comes into effect;

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

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

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

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

Question on the further amendment put and agreed to.

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

MIDWIVES REGISTRATION (AMENDMENT) BILL 1997

Clauses 1 to 28 were agreed to.

Heading before new clause 29

Consequential Amendments Midwives

New clause 29

Procedure) Regulations
Repeal

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

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr Chairman, I move that the heading that is before the new clause 29 and the new clause 29 be read the Second time, the content of which has been set out in the paper circularized to Members. The proposed addition of a clause 29 specifies that the original subsidiary legislation be repealed. That clause will only come into force after the new subsidiary legislation has been enacted and passed, and when the new subsidiary legislation comes into force.

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

Clause read the Second time.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr Chairman, I move that the Midwives Registration (Amendment) Bill 1997 be amended by adding the heading before the new clause 29 and the new clause 29.

Proposed addition

Heading before new clause 29 and new clause 29

That the Bill the amended, by adding —

"Consequential Amendments

Midwives (Registration and Disciplinary Procedure) Regulations

29. Repeal

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

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

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

Clauses 1 to 7

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

Proposed amendments

Clause 1

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

"1. 簡稱及生效日期

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

(2) 本條例自衛生福利司以憲報公告指定的日期起實施。"

Clause 2

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

"2. 修訂詳題

《陸軍義勇軍及海軍義勇軍恩恤金條例》（第 202 章）的詳題現予修訂 -

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

Clause 3

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

"3. 加入第 I 部標題

在第 1 條之前加入 -

“第 I 部

導言”。

Clause 4

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

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

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

"4. 釋義

第 2 條現予修訂 —

(a) 將該條重編為第 2(1)條；

(b) 在第(1)款中 —

(i) 廢除“命令”的定義；

(ii) 加入 —

““主席”(Chairman)指評議局的主席；

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

“合資格人士”(qualified person)指 —

(a) 曾服第(2)(a)(i)款所提述的兵役的軍官或隊員；

(b) 曾服第(2)(a)(ii)款所提述的兵役的成員；

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

“配偶”(spouse)就一名合資格人士而言 —

(a) 指藉基督教婚姻或其相等的世俗婚姻而與該名合資格人士結婚的該名合資格人士的合法配偶；

(b) 如該名合資格人士沒有一名(a)段所指的配偶 —

(i) 在該名合資格人士已

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

(ii) 在任何其他情況下 —

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

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

“評議局” (Board) 指由第 3 條設立的恩恤金評議局；

“傷病” (injury) 包括損傷和疾病，以及並存的多於一項傷病；

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

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

(c) 加入 -

“(2) 為施行本條例 —

(a) 除第(3)及(4)款另有規定外，凡提述“服役” —

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

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

(b) 凡提述“由於服役以致”或“由服役引致”，須據此解釋。

(3) (a) 為施行本條例，如在一名合資格人士服役終止後，任何人就於該名合資格人士在服役終止後發生的由服役引致的傷殘或去世的情況呈交申索，則在該人向評議局證明而使評議局信納下述項目後，該名合資格人士的傷殘或去世（視屬何情況而定）須視為是由服役引致的 —

(i) 如屬傷殘的情況，該名合資格人士的傷殘是由下述傷病

引致的 —

(A) 可歸因於服役的傷病；或

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

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

(A) 可歸因於服役的傷病；或

(B) 在服役前已存在或在服役期間產生的傷病因役而加重。

(b) 就本條例所指的任何申索而言 —

(i) 除非在該申索呈交時，有關的傷病如(a)(i)(B)段所指仍然是經加重的，否則該段所列出的條件不得視為已經符合；

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

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

予接受。

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

(5) 為施行本條例 —

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

(b) 凡提述軍官軍階或隊員軍階 -

(i) 就香港陸軍義勇軍而言，即提述附表 1 第 2 欄內的任何軍階中，在與該附表第 1 欄內所列出一項適用的級別相對之處所列出的軍階；

(ii) 就香港陸軍義勇軍而言，即提述附表 1 第 3 欄內的任何軍階中，在與該附表第 1 欄內所列出一項適用的級別相對之處所列出的軍階。”。

Clause 5

That clause 5 be amended —

- (a) in the proposed section 14, by deleting "and of aids" and substituting "or of aids".

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

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

"5. 取代條文

第 3 至 6 條現予廢除，代以 —
“第 II 部

恩恤金評議局

3. 恩恤金評議局

- (1) 現設立一個評議局，名為恩恤金評議局。
- (2) 評議局由以下人士組成 —
- (a) 庫務署署長；庫務署署長須出任主席；
 - (b) 衛生署署長，或一名由其指定為其代表且屬首席醫生或以上職級的公職人員；及
 - (c) 不多於 3 名由總督委任的成員。
- (3) 根據第(2)(c)款作出的委任須在憲報公布。
- (4) 根據第(2)(c)款委任的評議局成員 —
- (a) 須在總督決定的期間並按總督決定的條款任職；
 - (b) 可隨時藉向總督發出書面通知而辭職；
 - (c) 在總督信納其因身體或精神上的疾病以致喪失履行職務能力，或因其他理由而不能夠或不適宜履行評議局成員的職能的情況下，可被總督

免任。

(5) 評議局須按主席決定為評議局根據本條例履行任何職能和行使任何權力所需的頻密程度舉行會議。

(6) 除非在評議局會議上，有 3 名評議局成員出席而符合法定人數，否則評議局在該會議上除押後會議外不得處理其他事務。

(7) 出席的評議局成員的過半數決定即為評議局的決定，如無過半數決定，則主席的決定即為評議局的決定。

(8) 在符合本條的規定下，評議局可決定其本身的程序。

4. 評議局的職能及權力

(1) 評議局須履行根據本條例委予或授予評議局的職能。

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

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

就傷殘付款

5. 由服役引致的傷殘

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

6. 傷殘程度的評定

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

7. 傷殘恩恤金

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

8. 輕度傷殘補助金

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

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

9. 在特殊情況下的綜合付款

如任何合資格人士由服役引致傷殘，而 —

- (a) 該項傷殘是由下述因由引致的 —
 - (i) 屬附表 4 第 I 部第 1 欄所列出的傷病類別的傷病；及