

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
Mong 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 -996</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

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 Elderly Persons Priority Scheme	Single elderly persons aged 60 or above	10 300	2 years
Elderly Persons Priority Scheme	Elderly persons aged 60 or above, applying in groups of two or three	4 000	2 years
Families with Elderly Persons Priority Scheme	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:

	<i>USD</i>	<i>RSD</i>
(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	85	87	59

applicants after filing of applications

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.	
	Ching Lai Court	Tug boat using generator	Warning given.	
	Riviera Gardens	Lighters using generator	Could not locate noise source	3

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 footsteps 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
New clause 29

Consequential Amendments Midwives
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 be amended, by adding —

"Consequential Amendments

**Midwives (Registration and Disciplinary
Procedure) Regulations**

29. Repeal

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 are repealed."

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

**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。

第 III 部

就傷殘付款

5. 由服役引致的傷殘

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

6. 傷殘程度的評定

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

7. 傷殘恩恤金

如任何合資格人士的傷殘程度不低於 20%，則除第 9 條另有規定外，須以恩恤金的方式而按附表 3 第 2 欄所列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

(ii) 並不造成該名合資格人士完全傷殘的傷病；及

(b) 以綜合評定的方式就(a)(i)及(ii)段所提述的兩項因由而評定所得的傷殘程度，並不高於單獨就(a)(ii)段所提述的因由而評定所得傷殘程度，

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

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

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

10. 經常照顧津貼

如 —

(a) 任何合資格人士根據本條例（不論是否憑藉第 7 或 9(ii)條的適用）有權獲支付任何根據第 7 條須以恩恤金方式而就任何程度不低於 80%的傷殘支付的撫恤金；及

(b) 已向評議局證明而使評議局信納該名合資格人士由於該項傷殘以致需要經常照顧，

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

11. 特別嚴重傷殘津貼

如 —

- (a) 任何合資格人士根據本條例有權獲支付根據第 10 條須以經常照顧津貼方式而就任何傷殘支付的撫恤金；及
- (b) 評議局認為該項傷殘相當可能是永久存在的，

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

12. 安撫津貼

如任何合資格人士根據本條例（不論是否憑藉第 7 或 9(ii) 條的適用）有權獲支付 —

- (a) 任何根據第 7 條須以恩恤金方式而就任何由多於一項傷病引致且程為 100% 的傷殘支付的撫恤金；及
- (b) 任何根據第 10 條須以經常照顧津貼方式支付的撫恤金，

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

13. 高齡津貼

如任何合資格人士 —

- (a) 根據本條例（不論是否憑藉第 7 或 9(ii) 條的適用）有權獲支付任何根據第 7 條須以恩恤金方式而就任何程度不低於 40% 的傷殘支付的撫恤金；及
- (b) 已年滿 65 歲，

則除根據本部須支付的任何其他撫恤金外，須以高齡津貼的方式而按附表 5 第 2 欄就該項津貼所列出並適合其傷殘程度的付款率支付撫恤金。

14. 醫療開支津貼

如任何合資格人士由於服役以致傷殘，且該名合資格人士已招致任何開支，而評議局裁定該等開支是就醫療、外科或康復治療或就輔助物品及適應物品並且是完全或主要由於該項傷殘所招致的，則除根據本部須支付的任何其他撫恤金外，須以醫療開支津貼的方式而按評議局在顧及如此招致的開支的款額後所決定的條件和款額上限以整筆款項的形式支付撫恤金。

第 IV 部

就去世付款

15. 由於服役以致去世

如任何合資格人士由於服役以致去世，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的尚存配偶。

16. 尚存配偶的恩恤金

如任何合資格人士由於服役以致去世 —

(a) 若該名合資格人士的尚存配偶 —

(i) 已年滿 40 歲；或

(ii) 被評議局認為缺乏謀生能力，

即須以恩恤金的方式而按附表 6 第 2 欄所列出

並適合該名合資格人士的軍階的付款率支付撫恤金；

- (b) 在任何其他情況下，則須以恩恤金的方式而按附表 6 第 3 欄所列出並適合該名合資格人士的軍階的付款率支付撫恤金。

17. 高齡尚存配偶的高齡津貼

如任何合資格人士的尚存配偶 —

- (a) 根據本條例有權獲支付任何根據第 16 條須以恩恤金方式支付的撫恤金；及
- (b) 已年滿 65 歲，

則除根據本部須支付的任何其他撫恤金外，須以高齡津貼的方式而按附表 7 第 2 欄列出並適合該名尚存配偶的年齡的付款率支付撫恤金。

18. 尚存配偶恩恤津貼

(1) 除第(2)款另有規定外，如任何合資格人士去世時，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，則除根據本部須支付的任何其他撫恤金外，須以恩恤津貼的方式支付撫恤金，該撫恤金包括以下各項付款 —

- (a) 一項付款，付款率相等於為計算如上所述須就截至該名合資格人士去世為止的期間支付的撫恤金所依據的付款率；
- (b) 如該名合資格人士去世時，他已根據本條例支付任何根據第 III 部並非以整筆款項的形式而須就截至他去世為止的任何期間支付的其他撫

恤金，或根據本條例另有權獲支付上述的其他撫恤金，則為就該等其他撫恤金而各別支付的付款，付款率相等於為計算如上所述須就截至該名合資格人士去世為止的期間支付的該等其他撫恤金各別所依據的付款率；及

- (c) 如該名合資格人士去世時，他根據本條例有權獲支付根據第 14 條須以醫療開支津貼方式支付的撫恤金，則為一項以整筆款項的形式支付並且與該撫恤金款額相等的付款。

(2) 凡任何合資格人士去世，不得就超越自該名合資格人士去世日期起計的 26 星期的任何期間而根據第(1)(a)或(b)款支付任何款項。

19. 婚姻及共同生活的影響

(1) 儘管本部任何其他條文另有規定，如任何人身為合資格人士的尚存配偶而與另一人結婚或與另一人儼如夫妻般共同生活，則任何若非因本條原須根據本部就自結婚日期或共同居住時開始的任何期間而向該名尚存配偶作為尚存配偶支付的撫恤金，不論該婚姻或共同居住存續的期間長短，均不再須予支付。

(2) 如任何撫恤金因第(1)款而不再須支付予任何人，則如評議局酌情決定，須以補助金的方式而按評議局在顧及有關個案的全部情況後所厘定的款額以整筆款項的形式支付撫恤金，該撫恤金的款額，不得超過假若撫恤金並非不再須予支付則在其不再須予支付的公曆月中原須支付的款額乘以 12 之後所得出的數目。

第 V 部

撫恤金的支付

20. 付款條件

- (1) 儘管第 III 或 IV 部任何條文另有規定 —

- (a) 任何人無權根據本條例獲支付任何撫恤金（不論以恩恤金、補助金或其他津貼的形式支付）；及
- (b) 任何撫恤金（不論以恩恤金、補助金或其他津貼的形式支付）無須根據本條例支付，

除非在符合本條例就該等撫恤金所列出的任何其他條件或規定外，一項關於該等撫恤金的申索已根據本條例獲接納。

(2) 為施行第(1)款，如果且僅如果任何申索已在下述情況下獲接納，該項申索方視為已根據本條例獲接納 —

- (a) 該項申索已獲評議局依據一項決定而接納，而該項決定 —
 - (i) 是根據第 21(4)條作出的；及
 - (ii) 並沒有在第 22 條所指的覆核中被更改或推翻，或就該項決定而言第 22 條所指的覆核並沒有因其他原因而仍未了結；
- (b) 該項申索已獲評議局依據一項決定而接納，而該項決定 —
 - (i) 是在第 22 條所指的覆核中作出的；及
 - (ii) 並沒有在第 23 條所指的上訴中被更改或推翻，或就該項決定而言第 23 條所指的上訴並沒有因其他原因而仍未了結；或
- (c) 該項申索已獲行政上訴委員會依據一項在第 23 條所指的上訴中作出的決定而接納。

21. 申索程序

- (1) (a) 除(b)段另有規定外，任何人如聲稱根據本條例有權獲支付任何撫恤金（不論以恩恤金、補助金或其他津貼的形式支付），可藉向評議局送達符合評議局所指明格式的通知，向評議局呈交其申索。
 - (b) 為施行(a)段，如就任何合資格人士由服役引致的傷殘或去世，已有任何申索按照該段呈交，則即使在該項申索中並沒有包括就任何根據本條例而須以津貼的方式就該合資格人士的傷殘或去世（視屬何況而定）支付的撫恤金呈交的申索，在如此呈交的申索中須當作包括就該等津貼而呈交的申索。
- (2) 評議局須在任何申索按照第(1)款呈交後，裁定該項申索。
- (3) (a) 評議局可藉向呈交申索的人送達的書面通知，規定該人向評議局提交評議局所指明的支持其申索的進一步的資料或證據，或另行在評議局席前或在評議局所指明的其他人或機構席前出席。
 - (b) 在不局限(a)段的一般性的原則下，凡已為或已就任何合資格人士呈交申索，評議局可規定為該名合資格人士提交一份或多於一份的醫學報告。
- (4) 評議局在裁定任何申索時，可 —
- (a) 接納整項申索；
 - (b) 拒絕整項申索；或
 - (c) 接納該項申索的某指明部分或某些指明部分而拒絕其餘的部分。

(5) 評議局須在根據第(4)款裁定任何申索後 1 個月內，藉向呈交申索的人送達的書面通知，將下述項目通知該人 —

- (a) 評議局裁定該項申索的決定；及
- (b) (i) 如評議局接納整項申索或該項申索的某部分或某些部分，則為憑藉獲如此接納的該項申索或該部分申索或該等部分申索（視屬何情況而定）而須支付的款額以及該款額的付款條款；
- (ii) 如評議局拒絕整項申索或該項申索的某部分或某些部分，則為拒絕理由。

22. 對裁定的覆核

- (1) (a) 任何人如在任何時間因評議局在根據第 21(4)條裁定任何申索時就其作出的決定而感到受屈，可藉向評議局送達符合評議局所指明的格式的通知，向評議局申請覆核該項決定。
- (b) 評議局在任何申請就評議局在根據第 21(4)條裁定任何申索時作出的決定而根據(a)段向評議局提出後，須覆核該項決定。

(2) 評議局如信納其在根據第 21(4)條裁定任何申索時作出的決定有下述情況，可主動覆核任何該等決定 —

- (a) (i) 該項決定是在不知曉任何具關鍵性事實的情況下作出的，或是由於關於任何具關鍵性事實的錯誤而作出的，或是由於關於法律的錯誤而作出的；或
- (ii) 該項決定是基於任何就該項申索所給予或作出的任何虛假或具誤導性資料、陳述、報告或紀錄而作出的；或

(b) 自作出該項決定以來，情況已有任何有關改變，以致需作該項覆核。

(3) 評議局在根據(1)或(2)款覆核任何決定時，可確認、更改或推翻該項決定。

(4) 評議局須在根據第(3)款作出覆核後 1 個月內，藉向呈交與該項覆核有關的申索的人給予書面通知，將下述項目通知該人 —

(a) 如作為該項覆核標的之決定獲確認，即為該項確認；

(b) 如作為該項覆核標的之決定被更改或推翻 —

(i) 評議局在該項覆核中的決定，以及作出該項決定的理由；及

(ii) 繼覆核後憑藉該申索而須支付的款額(如有的話)以及該款額的付款條款。

23. 上訴

任何人如因評議局在第 22(3)條所指的覆核中就其作出的決定而感到受屈，可在接獲關於該項決定的通知後 28 天內，向行政上訴委員會上訴。

24. 由政府一般收入中支付撫恤金

所有不時根據本條例須作為撫恤金(不論以恩恤金、補助金或其他津貼的形式支付)支付的款項，須由政府一般收入中撥款支付。

25. 撫恤金須就甚麼期間支付

如任何人就任何根據本例而須並非以整筆款項形式支付的任何撫恤金（不論以恩恤金、補助金或其他津貼的形式支付）的支付而呈交申索，且該項申索如第 20 條所指已根據本條例獲接納，則為施行本條例，除作出接納該項申索所依據的決定的評議局或行政上訴委員會另有任何相反決定外，該人有權且僅有權獲支付的付款，為該人在獲如此接納的該項申索假若是就下述期間所呈交時則須獲支付的付款 —

(a) 如獲如此接納的申索 —

(i) 是就任何根據第 16、17 或 18 條而須就任何合資格人士的去世支付的撫恤金的支付而呈交的；及

(ii) 已在自該名合資格人士去世的日期開始的 3 個月內呈交，

則為該名合資格人士去世的日期翌日開始的期間；

(b) 在任何其他情況下，則為自呈交該項申索的日期開始的期間。

26. 付款方式

根據本條例須支付的任何撫恤金（不論以恩恤金、補助金或其他津貼的形式支付），可按庫務署署長決定的方式支付。

第 VI 部

雜項規定

27. 醫學報告

- (1) (a) 除(c)段及第(2)款另有規定外，如為本條例任何條文的施行而須備有關於任何合資格人士的醫學報告，該醫學報告須為一份符合評議局所指明格式的關於(b)(i)或(ii)段（視屬何情況而定）所述的醫學檢驗的報告。
- (b) (i) 如(a)段所提述的合資格人士通常居住於香港，該段所提述的醫學報告，須為一份關於按衛生署署長安排而由一名醫生就該名合資格人士進行的醫學檢驗的報告。
- (ii) 如(a)段所提述的合資格人士並非通常居住於香港，則該段所提述的醫學報告須為一份關於下述醫學檢驗的報告 —
- (A) 按獲評議局接受的任何當地機構安排而由一名當地醫生就該名合資格人士進行的醫學檢驗；或
- (B) 如評議局信納按照(A)分節安排一項醫學檢驗並非合理地切實可行，則為由一名當地醫生就該名合資格人士進行的醫學檢驗。
- (c) 除非評議局另有指明，否則如 —
- (i) 評議局根據第 21(3)(b)條規定須就任何合資格人士提交醫學報告；及
- (ii) 為本條例的施行，先前已有一份或多於一

份醫學報告就該名合資格人士向評議局向提交，

則該醫學報告除須符合(b)段所劃出的規定外，該醫報告所報告的醫學檢驗，須由一名並非進行與第(ii)節所述的一份或多於一份先前的醫學報告所關乎的任何醫學檢驗的醫生或當地醫生（視屬何情況而定）進行。

(2) 為施行本條例，除非有關的醫學報告符合下述規定，否則第(1)款的規定不得視為已經符合 —

- (a) 如屬第(1)(b)(i)或(ii)(A)款所指的醫學報告，該醫學報告是由安排有關的醫學檢驗的機構直接送評議局交的；
- (b) 如屬第(1)(b)(ii)(B)款所指的醫學報告，該醫學報告是按評議局規定（如有此規定）由進行有關的醫學檢驗的人直接送交評議局的。

(3) 如任何醫學報告是按照第(1)及(2)款的規定提交的，且評議局認為任何人由於該等規定而合理招致任何費用及開支，則該等費用及開支須由政府一般收入中撥款支付該人。

(4) 在本條中，“當地醫生” (local practitioner)就任何醫學檢驗的進行而言，指任何有資格在進行該醫學檢驗所在的地方行醫的人。

28. 持續的條件或規定

儘管本條例任何其他條文另有規定，如任何人根據本條例不時有權獲支付任何撫恤金（不論以恩恤金、補助金或其他津貼的形式支付），則 —

- (a) 在本條例中就該撫恤金的支付而列出的任何條

件或規定，除文意另有所指外，須解釋為一持續的條件或規定；及

- (b) 如任何被如此解釋為持續的條件或規定的條件或規定，在任何方面不再獲得符合，該人即不再有權就自該條件或規定不再獲得符合的日期開始的任何期間獲支付該撫恤金。

29. 行政費用

(1) 評議局在履行其職能和行使其權力方面所招致的全部費用及開支，須由政府承擔。

(2) 政府為本條例的執行或在與本條例的執行相關的情況下所招致的全部費用及開支，須由政府一般收入中撥款支付。

30. 在有錯誤等的情況下對撫恤金的追討

(1) 如任何人藉本條例任何條文的適用或看來是藉本條例任何條文的適用而獲支付任何作為撫恤金或某部分或某些部分撫恤金所支付的款項（不論以恩恤金、補助金或其他津貼的形式支付），而 —

(a) 該項付款 —

- (i) 是在不知曉任何具關鍵性事實的情況下作出的，或是由於關於任何具關鍵性事實的錯誤而作出的，或是由於關於法律的錯誤而作出的；或

- (ii) 是基於任何就該項付款所給予或作出的任何虛假或具誤導性的資料、陳述、報告或紀錄而作出的；

(b) 該項付款是依據符合以下說明的決定而作出的

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- (i) 如該項決定是根據第 21(4)條作出的，該項決定已在第 22 條所指的覆核中被更改或推翻，以致按照在該項覆核中所作的決定該項付款原是不應支付予該人的；
 - (ii) 如該項決定是根據第 22 條在覆核中作出的，該項決定是在第 23 條所指的上訴中已被更改或推翻，以致按照在該項上訴中所作的決定該項付款原是不應支付予該人的；或
- (c) 該人已為該項付款或就該項付款而被裁定犯了第 32 條所訂的任何罪行，

則一筆款額相等於該項付款款額的款項，可作為欠政府的民事債項，向該人追討。

(2) 根據第(1)款追討所得的任何款項，須撥入政府一般收入。

31. 撫恤金享有權不得移轉等

- (1) (a) 任何人根據本條例就任何撫恤金（不論以恩恤金、補助金或其他津貼的形式支付）的支付所具有的享有權，除可全部或部分用於清償或部分清償該人欠政府的債項外，不得轉讓或移轉。
- (b) 在違反(a)段的情況下作出的任何轉讓或移轉，均屬無效。

(2) 任何人有權根據本條例獲支付任何撫恤金（不論以恩恤金、補助金或其他津貼的形式支付）的權利 —

- (a) 在其去世時不得為了其遺產的利益而留存；

(b) 不得藉法律的實施而轉移予任何其他人。

(3) 根據本條例須作為撫恤金（不論以恩恤金、補助金或其他津貼的形式支付）而支付予任何人的款項，不得因或為任何債項或申索（該人欠政府的債項除外）而被扣押、扣記、暫押或查押。

(4) 如根據本條例須向任何人支付任何撫恤金（不論以恩恤金、補助金或其他津貼的形式支付），而該人欠政府債項，則庫務署署長可將該等款項全部或部分用於清償或部分清償該債項。

32. 罪行

(1) 任何人就任何申索而 —

(a) 提交任何資料，而他知道該等資料在某要項上是虛假的或是具誤導性的或他不相信該等資料在某要項上是真實的；或

(b) 出示任何陳述、報告或紀錄，而他知道該等陳述、報告或紀錄在某要項上是虛假的或是具誤導性的或他不相信該等陳述、報告或紀錄在某要項上是真實的，

即屬犯罪，一經定罪，可處第 5 級罰款及監禁 3 個月。

(2) 儘管《裁判官條例》（第 227 章）第 26 條另有規定，就第(1)款所訂罪行提出的法律程序，可在該罪行發生後 6 個月期間內或在評議局發現該罪行後 6 個月期間內任何時間提出，而該兩段期間以較遲屆滿者為準。

33. 通知

(1) 評議局根據本條例送達任何人的通知，可以下述方式送達 —

- (a) 將該通知以面交方式交付該人；
- (b) 將該通知留在該人最後為人所知的地址；或
- (c) 以郵遞方式並註明由該人收件，將該通知寄交該人最後為人所知的地址。

(2) 任何看來是由主席簽署的證明書，在相反證明成立之前，須為其內所述與根據本條例須由評議局送達的任何通知的送達有關的事實的證據。

34. 職能及權力的轉授

(1) (a) 除第(2)款另有規定外，評議局可以書面方式將其認為合適的在本條例下的評議局的職能或權力(第(3)款所指明者除外)一般地或為任何特定目的轉授予 —

- (i) 任何評議局成員；
- (ii) 根據第 4(2)(a)條設立任何委員會；
- (iii) 第(ii)節所提述的任何委員會的任何委員；或
- (iv) 任何公職人員或其他人。

(b) 除第(2)款另有規定外，庫務署署長可以書面方式將其認為合適的在本條例下的庫務署署長職能或權力(第(3)款所指明者除外)一般地或為任何特定目的轉授予任何公職人員或其他人。

(2) 根據第(1)款作出的轉授，並不阻止評議局或庫務署署長(視屬何情況而定)隨時履行或行使如此轉授的任何職能或

權力。

- (3) 不可根據第(1)款轉授的職能或權力如下 —
 - (a) 根據第(1)款作出轉授的權力；
 - (b) 如屬評議局根據第(1)(a)款作出的轉授 —
 - (i) 評議局根據第 21(4)條裁定任何申索的職能；
 - (ii) 評議局根據第 22 條對其在根據第 21(4)條裁定任何申索時作出的決定作覆核的職能或權力；及
 - (iii) 第 4(2)(a)及(b)條所指明的評議局權力。

35. 附表的修訂

衛生福利司可藉命令修訂任何附表。

36. 過渡性及保留條文

- (1) (a) 如 —
 - (i) 任何人在緊接修訂條例的生效日期前，已依據修訂前的條例獲支付任何根據附表 8 第 1 欄所列出的任何命令條文須以恩恤金、補助金或撫恤金形式而就截至該生效日期為止的任何期間支付的款項，或依據修訂前的條例另有權獲支付上述款項，而該人是憑藉任何就上述款項所呈交的申索已依據修訂前的條例獲接受而如此獲支付或有權獲支付上述款項的；及
 - (ii) 若非因修訂條例對本條例所作的修訂，該人憑藉上述申索已如上所述獲接受，原有

權依據修訂前的條例獲支付根據任何該等命令條文須以恩恤金、補金或其他撫恤金形式而就自該生效日期開始任何期間支付的進一步付款，

則在符合(b)及(c)段的規定下，該人原有權獲支付的第(ii)節所指的進一步付款，須支付予該人，猶如該付款是下述撫恤金一樣：該撫恤金是根據本條例第 III 或 IV 部須支付的，並且在修訂條例生效時，已有一項申索就該撫恤金而按照第 21(1)條呈交並依據第 21(4)條所指的評議局的決定獲接納。

(b) 凡憑藉(a)段而須支付任何付款，且其支付若非因本段原須根據附表 8 第 1 欄內所列出的一項命令條文作出，則如評議局酌情決定，該項付款須調整為按附表 8 第 2 欄內所列出的付款率中，在與附表 8 第 1 欄內所列出的該命令條文相對之處所列出的付款率支付。

(c) 為免生疑問，現宣布 —

(i) 除第(ii)節另有規定外，本條例的條文在作出必要的變通後，適用於憑藉(a)或(b)段須支付的任何付款的支付，一如該等條文適用於下述撫恤金的支付一樣：該撫恤金是根據本條例第 III 或 IV 部所須支付的，並且在修訂條例生效時，已有一項申索就該撫恤金而按照第 21(1)條呈交並依據第 21(4)條所指的評議局的決定獲接納；

(ii) 第 18(1)(b)及 21(5)條不適用於憑藉(a)或(b)段而須支付的任何付款的支付。

(2) (a) 如 —

- (i) 任何人在緊接修訂條例的生效日期前，已依據修訂前的條例獲支付任何並非根據附表 8 第 1 欄所列出的任何命令條文而須以恩恤金、補助金或其他撫恤金形式就截至該生效日期為止的任何期間支付的款項，或依據修訂前的條例另有權獲支付上述款項，而該人是憑藉任何就上款項所呈交的申索已依據修訂前的條例獲接受而如此獲支付或有權獲支付上述款項的；及
- (ii) 根據本條例第 III 或 IV 部須支付的任何撫恤金（不論以恩恤金、補助金或其他津貼的形式支付），由評議局認為在性質上與第(i)節所提述的款項相對應，

則在符合(b)段的規定下，第(ii)節所提述的撫恤金須支付予該人，猶如在修訂條例生效時，已有一項申索就該撫恤金而按照第 21(1)條呈交並依據第 21(4)條所指的評議局的決定獲接納一樣。

(b) 為免生疑問，現宣布 —

- (i) 除第(ii)節另有規定外，本條例的條文在作出必要的變通後，適用於憑藉(a)段須支付的任何撫恤金的支付，一如該等條文適用於下述撫恤金的支付一樣：在修訂條例生效時，已有一項申索就該撫恤金而按照第 21(1)條呈交並依據第 21(4)條所指的評議局的決定獲接納；
- (ii) 第 21(5)條不適用於憑藉(a)段而須支付的任何撫恤金的支付。

(3) 儘管本條例任何其他條文另有規定，凡已依據修訂前的條例就任何事宜作出付款，修訂條例對本條例所作的任何修訂，均不授權就該事宜而根據本條例支付評議局認為在性質上與該付款相對應的撫恤金（不論以恩恤金、補助金或其他津貼的形式支付）。

(4) 在本條中 —

“命令” (Order)指《1983年海軍、陸軍及空軍等（傷殘及去世）恩恤金令》(S.I. 1983/883 U.K.)；

“修訂前的條例” (pre-amended Ordinance)指在修訂條例生效日期前的本條例；

“修訂條例” (amending Ordinance)指《1997年陸軍義勇軍及海軍義勇軍恩恤金（修訂）條例》（1997年第 號）。

附表 1 [第 2(5)(b)及
35 條]

軍階類別

第 1 欄

第 2 欄

第 3 欄

軍階級別

香港陸軍義勇軍
軍官或隊員

香港海軍義勇軍成員

軍官軍階

上校
中校
少校
上尉
中尉（軍需官、
助理薪餉出納官）
少尉
初級軍官

副指揮
上校
中校
少校
上尉
中尉
署理中尉
高級官委軍官（分科）
官委軍官（由准尉調升）
少尉
准少尉
准尉
軍官生

第 1 欄	第 2 欄	第 3 欄
軍階級別	香港陸軍義勇軍 軍官或隊員	香港海軍義勇軍成員
	一級准尉	軍團准尉長
	二級准尉	特級上士
	一級非官委士官	上士
	參謀上士	全能海員
	二級非官委士官	普通海員
	上士	
	中士	
	士兵、炮兵、電信兵等	
	第五級兵	

附表 2

[第 6 及 35 條]

第 I 部

傷殘程的評定原則

1. 除本部條文另有規定外 -

- (a) 任何合資格人士由服役引致的傷殘程度，須以下述方式評定：將如此引致傷殘的該名合資格人士的情況與一名年齡和性別相同而健康正常的人的情況作比較，而不考慮該名合資格人士在其傷殘情況下在其自己的或任何其他特定行業職業中的謀生能力，亦不考慮任何個人因素或外在情況；
- (b) 為評定任何合資格人士由服役引致的傷殘程度，如該項傷殘是由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所引致，則 —

- (i) 在評定該名合資格人士在服役終止日期所存在的傷殘程度時，須考慮由該項傷病引致並在該日期存在的一切傷殘情況；及
 - (ii) 在評定其服役終止日期之後任何日期所存在的傷殘程度時，自該終止日期以來所發生的在傷殘程度方面的增幅，僅可在增幅是由於該項傷病因服役而加重的範圍內，方予考慮；
- (c) 如任何合資格人士由服役引致的傷殘，是由多於一項的傷病引致的，則須參照所有該傷病的綜合影響而對傷殘程度作出綜合評定；為施行本條例，該綜合評定須視為相當於該名合資格人士的傷殘程度。
2. 任何合資格人士由服役引致的傷殘程度的評定，須在臨時性的基準上作出，除非該名合資格人士的情況允許對該項傷殘的幅度（如有的話）作最終評定。
3. 根據本部評定的傷殘程度，須以百分率表達，完全傷殘以100%表示（即為最高評定值），較低程度則以與完全傷殘的百分率相比的方式表示，但20%或以上的傷殘程度須以10的倍數的百分率表達，而低於20%的傷殘程度除在第II部適用的情況外須以適合附表4第II部的施行的式表達。
4. 如任何合資格人士由服役引致的傷殘是由第III部所指明的任何傷病引致的，或是一項如此指明的傷殘，且在上述任何一種情況下，該項傷殘已到達一穩定情況，則為施行本部，該傷殘程度在沒有任何特殊徵狀的情況下，須以第III部所指明並適合該項傷病或該項傷殘的百分率表達。

第 II 部

由輕度傷病所導致的傷殘程度

第 1 欄	第 2 欄
傷病類別	傷殘程度 %
喪失：	
A. 手指 —	
食指 —	
多於 2 節，包括喪失整隻手指	14
多於 1 節，但不多於 2 節	11
1 節或其中部分	9
指尖截斷但沒有喪失骨	5
中指 —	
多於 2 節，包括喪失整隻手指	12
多於 1 節，但不多於 2 節	9
1 節或其中部分	7
指尖截斷但沒有喪失骨	4

無名指或小指 —

多於 2 節，包括喪失整隻手指	7
多於 1 節，但不多於 2 節	6
1 節或其中部分	5
指尖截斷但沒有喪失骨骼	2

B. 腳趾

大腳趾 —

經跖趾關節	14
部分，喪失一些骨骼	3

1 隻其他的腳趾 —

經跖趾關節	3
部分，喪失一些骨骼	1

2 隻腳趾，不包括大腳趾 —

經跖趾關節	5
部分，喪失一些骨骼	2

3 隻腳趾，不包括大腳趾 —

經跖趾關節	6
部分，喪失一些骨骼	3

4 隻腳趾，不包括大腳趾 —

經跖趾關節	9
部分，喪失一些骨骼	3

第 III 部

由指明傷病所導致的傷殘程度及某些
其他傷殘的傷殘程度

第 1 欄	第 2 欄
傷病類別	傷殘程度 %
裁斷類別 — 上肢	
喪失雙手或在較高部位截斷	100
上肢完全截斷	100
經肩關節截斷	90
肩下截斷，自肩峰頂端起計殘肢少於 20.5 厘米	80
自肩峰頂端起計 20.5 厘米至自肘突頂端下少於 11.5 厘米處截斷	70
在肘突頂端下 11.5 厘米處截斷	60
喪失姆指	30
喪失姆指及其掌骨	40
喪失 4 隻手指	50
喪失 3 隻手指	30
喪失 2 隻手指	20
喪失姆指末節指骨	20

裁斷類別 — 下肢

經大腿作雙截斷，或經一側大腿截斷和喪失另一隻腳，或大腿下至膝下 13 厘米處作雙截斷	100
在低於膝下 13 厘米處經腿作雙截斷	100
在低於膝下 13 厘米處截斷一條腿和喪失另一隻腳	100
截斷雙腳造成末端承受體重的殘肢	90
經跖趾關節近側截斷雙腳	80
經跖趾關節喪失雙腳全部腳趾	40
在近掌的趾骨關節近側喪失雙腳全部腳趾	30
在近掌的趾骨關節遠側喪失雙腳全部腳趾	20
下肢在髌腹間截斷	100
經臀骨關節截斷	90
臀下截斷，而自大轉子頂端起量度殘肢長度不超過 13 厘米	80
臀下與膝上之間截斷，而自大轉子頂端起量度殘肢長度超過 13 厘米，或在膝部截斷但不造成末端承受體重的殘肢	70
在膝部截斷造成末端承受體重的殘肢，或在膝下截斷而殘肢不超過 9 厘米	60
膝下截斷，而殘肢超過 9 厘米但不超過 13 厘米	50
膝下截斷，而殘肢超過 13 厘米	40

裁斷類別 — 下肢

截斷一隻腳造成末端承受體重的殘肢	30
經跖趾關節近側截斷一隻腳	30
在近掌的趾骨關節近側喪失一隻腳全部腳趾，包括 經跖趾關節作截斷	20

其他特定傷病

喪失一隻手和一隻腳	100
喪失一目，無併發症，另一目正常	40
一目失明，無併發症或眼球損形，另一目正常	30
失明	100

其他傷殘

極嚴重面部毀容	100
完全失聰	100

註 — 如為任何涉及多項喪失情況的指明傷病所指明的傷殘程度，不同於為各獨立的傷病而指明的傷殘程度的總和，則就本附表而言，前者須視為適當的傷殘程度。

附表 3

[第 7 及 35 條]

傷殘恩恤金的付款率

第 1 欄 傷殘程度 %	第 2 欄 每月付款率 (港幣\$)	
	軍官軍階	隊員軍階
100	5,668	5,664
90	5,102	5,098
80	4,535	4,531
70	3,968	3,965
60	3,401	3,399
50	2,835	2,832
40	2,268	2,266
30	1,701	1,699
20	1,134	1,133

附表 4 [第 8、9 及 35 條
及附表 2]

輕度傷殘補助金付款率

第 I 部

指明傷病的付款率

第 1 欄	第 2 欄	第 3 欄	
傷病類別	傷殘程度	款額 (港幣\$)	
		軍官軍階	隊員軍階
喪失：			
A. 手指 —			
食指 —			
多於 2 節包括喪失整隻手指	14	62,013	61,640
多於 1 節，但不多於 2 節	11	49,635	49,325
1 節或其中部分	9	41,342	41,094
指尖截斷但沒有喪失骨骼	5	24,756	24,631
中指 —			
多於 2 節，包括喪失整隻手指	12	53,720	53,409

第 1 欄	第 2 欄	第 3 欄	
傷病類別	傷殘程度	款額 (港幣\$)	
		軍官軍階	隊員軍階
中指 —			
多於 1 節，但不多 於 2 節	9	41,342	41,094
1 節或其中部分	7	33,049	32,863
指尖截斷但沒有 喪失骨骼	4	20,671	20,547
無名指或小指 —			
多於 2 節，包括喪 失整隻手指	7	33,049	32,863
多於 1 節，但不多 於 2 節	6	28,964	28,778
1 節或其中部分	5	24,756	24,631
指尖截斷但沒有 喪失骨骼	2	12,378	12,316
B. 腳趾			
大腳趾 —			
經跖趾關節	14	62,013	61,640
部分，喪失一些骨 骼	3	16,462	16,400

第 1 欄 傷病類別	第 2 欄 傷殘程度	第 3 欄 款額 (港幣\$)	
		軍官軍階	隊員軍階
1 隻其他的腳趾 —			
經跖趾關節	3	16,462	16,400
部分,喪失一些骨骼	1	8,293	8,231
2 隻腳趾, 不包括大腳趾 —			
經跖趾關節	5	24,756	24,631
部分,喪失一些骨骼	2	12,378	12,316
3 隻腳趾, 不包括大腳趾 —			
經跖趾關節	6	28,964	28,778
部分,喪失一些骨骼	3	16,462	16,400
4 隻腳趾, 不包括大腳趾 —			
經跖趾關節	9	41,342	41,094
部分,喪失一些骨骼	3	16,462	16,400

第 II 部

第 I 部不適用時的付款率

第 1 欄	第 2 欄	第 3 欄	
傷殘估計持續 的時間	傷殘程度 %	款額 (港幣\$)	
		軍官軍階	隊員軍階
暫時而少於 1 年	1- 5	3, 489	3, 414
	6-14	7, 772	7, 598
	15-19	13, 594	13, 284
暫時而多於 1 年	1- 5	6, 977	6, 841
	6-14	15, 494	15, 159
	15-19	27, 127	26, 531
不能確定	1- 5	20, 944	20, 435
	6-14	46, 531	45, 389
	15-19	81, 430	79, 369

附表 5

[第 10、11、12、
13 及 35 條]

其他津貼的付款率

第 1 欄	第 2 欄
津貼類別	每月付款率 (港幣\$)
經常照顧津貼	4, 286 (最高額)
特別嚴重傷殘津貼	2, 144 (最高額)
安撫津貼	918 (最高額)

第 1 欄	第 2 欄
津貼類別	每月付款率 (港幣\$)
高齡津貼，傷殘程度為 —	
(a) 40 至 50%	378
(b) 高於 50%，但不超過 70%	584
(c) 高於 70%，但不超過 90%	834
(d) 高於 90%	1,166

附表 6

[第 16 及 35 條]

尚存配偶的恩恤金的付款率

第 1 欄	第 2 欄	第 3 欄
合資格人士的軍階	每月付款率 (港幣\$)	每月付款率 (港幣\$)
軍官軍階	4,439	4,439
隊員軍階	4,294	1,005

附表 7

[第 17 及 35 條]

高齡尚存配偶的高齡津貼的付款率

第 1 欄	第 2 欄
高齡尚存配偶的年齡	每月付款率 (港幣\$)
年滿 65 歲但未滿 70 歲	488
年滿 70 歲但未滿 80 歲	939
滿 80 歲或以上	1,397

附表 8

[第 35 及 36(1)
及(2)條]

經調整的付款率

第 1 欄	第 2 欄
命令條文	每月付款率 (港幣\$)
18	3,501
21	2,136
26A	2,036” 。 ” .

Clause 6

That clause 6 be amended, by adding the following as the Chinese text of the clause —

"6. 廢除

《陸軍義勇軍及海軍義勇軍(恩恤金評議局)任命》(第 202 章, 附屬法例)現予廢除。".

Clause 7

That clause 7 be amended, by adding the following as the Chinese text of the clause —

“相應修訂
《行政上訴委員會條例》

7. 修訂附表

《行政上訴委員會條例》(第 442 章)的附表現予修訂,加入 —

“39 《陸軍義勇軍及海軍義勇軍恩恤金條例》(第 202 章) 在第 22 條所指的覆核中作出的決定。” .

Question on the amendments put and agreed to.

Question on clauses 1 to 7, as amended, put and agreed to.

Long title

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

Proposed amendment

Long title and enactment

That the long title and enactment formula be amended, by adding the following as the Chinese text of the long title and enactment formula —

"本條例草案

旨在

修訂《陸軍義勇軍及海軍義勇軍恩恤金條例》

由香港總督參照立法局意見並得該局同意而制定。"

Question on the amendment put and agreed to.

AUXILIARY MEDICAL SERVICE BILL

Clauses 1 to 27, 29, 31 and 34 were agreed to.

Clauses 28, 30, 32 and 33

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

These amendments are technical and clarificatory in nature and have received the House Committee's endorsement.

Mr Chairman, I beg to move.

Proposed amendments

Clause 28

That clause 28(1) be amended, in paragraph (a) —

- (a) by adding "without lawful authority or reasonable excuse," at the beginning;
- (b) by deleting "and is not able satisfactorily to account for his possession of that document or article".

Clause 30

That clause 30(2) be amended, by deleting paragraph (k).

Clause 32

That clause 32(1) be amended, in the Chinese text, by deleting "《Essential Services (Auxiliary Medical Services) Corps Regulations》" and substituting "

That clause 32(3) be amended, by deleting "“醫療輔助隊”及”.

That clause 32(4) be amended, in the Chinese text, by deleting "《Essential Services Corps (General) Regulations》" and substituting "基要服務團（一般）規例》".

That clause 32(5) be amended, in the Chinese text, by deleting "《Essential Services Corps (General) Regulations》" and substituting "基要服務團（一般）規例》".

Clause 33

That clause 33 be amended, by deleting subclause (1) and substituting —

"(1) Nothing in this Ordinance shall affect the right of any person under -

- (a) regulation 17 of the Essential Services Corps (General) Regulations (Cap. 197 sub. leg.), including that regulation as applied by section 23(1) of the Auxiliary Forces Pensions (Miscellaneous Amendments) Ordinance (20 of 1997); or
- (b) the Auxiliary Forces Pay and Allowances Ordinance (Cap. 254),

to apply for or receive any pension, gratuity, allowance or other payment in respect of an injury sustained, or death resulting from an injury sustained by a former member of the AMS Unit before the commencement of this Ordinance, and those provisions shall continue to apply in respect of such pension, gratuity, allowance or other payment as if this Ordinance had not been enacted."

That clause 33(2) be amended, by deleting "輔助隊任何單位" and substituting "單位的任何".

Question on the amendments put and agreed to.

Question on clauses 28, 30, 32 and 33, as amended, put and agreed to.

Schedules 1 and 2 were agreed to.

Schedule 3

SECRETARY FOR SECURITY: Mr Chairman, I move that Schedule 3 be amended as set out in the paper circularized to Members.

These amendments have been discussed in detail by the House Committee and have received the Committee's endorsement.

Mr Chairman, I beg to move.

Proposed amendment

Schedule 3

That Schedule 3 be amended —

(a) in section 3 -

(i) in the heading before the section, by deleting "及有關";

(ii) in the Chinese text, by deleting the heading and substituting -

"就執行非常規職責的服務批予退休金利益";

(iii) by deleting "及有關";

(iv) in the Chinese text, in paragraphs (a) and (b), by deleting "or" wherever it appears and substituting "或";

(v) in the Chinese text, by deleting paragraphs (a)(iii) and (b)(iii) and substituting in both cases -

"(iii) 加入 -

“(e) 《醫療輔助隊條例》（1997
年第 號）所指的醫療輔
助隊隊員，”；”；

(vi) in the Chinese text, by deleting paragraph (c) and substituting -

"(c) 在第(3)款中 -

(i) 廢除“或基要服務團”而代
以“、基要服務團或醫療輔
助隊”；

(ii) 廢除“或服務團”而代以
“、服務團或醫療輔助
隊”。”。

(b) in section 4 -

(i) in the Chinese text, by deleting the heading before the section and substituting "退休金利益條例（設定職位）令”；

(ii) in the Chinese text, by deleting "《Pensions Benefits Ordinance (Established Offices) Order》" and substituting "《退休金利益條例（設定職位）令》”。

(c) in section 6 -

(i) in the Chinese text, by deleting the heading before the section and substituting "《基要服務團（一般）規例》”；

(ii) in the Chinese text, by deleting the heading and substituting -

"服務團團員的體格檢驗”；

(iii) in the Chinese text, by deleting "《Essential Services

Corps (General) Regulations》" and substituting "《基
要服務團（一般）規例》".

(d) in section 15 -

- (i) in heading before the section, by deleting "及有關";
- (ii) in the Chinese text, by deleting the heading and substituting -

"就執行非常規職責的服務批予退休金利益";

- (iii) in the Chinese text, by deleting "及有關";
- (iv) in the Chinese text, in paragraphs (a) and (b), by deleting "or" wherever it appears and substituting "或";
- (v) in the Chinese text, by deleting paragraphs (a)(iii) and (b)(iii) and substituting in both cases -

"(iii) 加入 -

“(e) 《醫療輔助隊條例》（1997
年 第 號）所指的醫療輔
助隊隊員，” ;”;

- (vi) in the Chinese text, by deleting paragraph (c) and substituting -

"(c) 在第(3)款中 -

- (i) 廢除“或基要服務團”而代
以“、基要服務團或醫療輔
助隊” ;

- (ii) 廢除“或服務團”而代以“、服務團或醫療輔助隊”。

Question on the amendment put and agreed to.

Question on Schedule 3, as amended, put and agreed to.

CIVIL AID SERVICE BILL

Clauses 1 to 27, 29, 31 and 34 were agreed to.

Clauses 28, 30, 32 and 33

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

The amendment to clause 32(3) is technical in nature to better the presentation.

The other amendments to the clauses specified have already been referred to in the Second Reading debate. They have been discussed in detail by the House Committee and have received the Committee's endorsement.

Mr Chairman, I beg to move

Proposed amendments

Clause 28

That clause 28(1) be amended, in paragraph (a) —

- (a) by adding "without lawful authority or reasonable excuse," at the beginning;
- (b) by deleting "and is not able satisfactorily to account for his possession of that document or article".

Clause 30

That clause 30(2) be amended, by deleting paragraph (k).

Clause 32

That clause 32(1)(a) be amended, in the Chinese text, by deleting "《Essential Services (Civil Aid Services) Corps Regulations》" and substituting "《基要服務團（民眾安全服務隊）規例》".

That clause 32(1)(b) be amended, in the Chinese text, by deleting "《Civil Aid Services Direction》" and substituting "《民眾安全服務隊指令》".

That clause 32(3) be amended, by deleting "“民眾安全服務隊”及".

That clause 32(4) be amended, in the Chinese text, by deleting "《Essential Services Corps (General) Regulations》" and substituting "基要服務團（一般）規例》".

That clause 32(5) be amended, in the Chinese text, by deleting "《Essential Services Corps (General) Regulations》" and substituting "基要服務團（一般）規例》".

Clause 33

That clause 33 be amended, by deleting subclause (1) and substituting —

"(1) Nothing in this Ordinance shall affect the right of any person under -

(a) regulation 17 of the Essential Services Corps (General) Regulations (Cap. 197 sub. leg.), including that regulation as applied by section 23(1) of the Auxiliary Forces Pensions (Miscellaneous Amendments) Ordinance (20 of 1997); or

(b) the Auxiliary Forces Pay and Allowances Ordinance (Cap. 254),

to apply for or receive any pension, gratuity, allowance or other payment in respect of an injury sustained, or death resulting from an injury sustained by a former member of the CAS Unit before the commencement of this Ordinance, and those provisions shall continue to apply in respect of such pension, gratuity, allowance or other payment as if this Ordinance had not been enacted."

Question on the amendments put and agreed to.

Question on clauses 28, 30, 32 and 33, as amended, put and agreed to.

Schedule 1 was agreed to.

Schedule 2

SECRETARY FOR SECURITY: Mr Chairman, I move that Schedule 2 be amended as set out in the paper circularized to Members.

These amendments have also been discussed by the House Committee and have received the House Committee's endorsement.

Mr Chairman, I beg to move.

Proposed amendment

Schedule 2

That Schedule 2 be amended —

(a) in section 3 -

- (i) in the heading before the section, by deleting "及有關";
- (ii) in the Chinese text, by deleting the heading and substituting -

"就執行非常規職責的服務批予退休金利益";

- (iii) by deleting "及有關";
- (iv) in the Chinese text, in paragraphs (a) and (b), by deleting "or" wherever it appears and substituting "或";
- (v) in the Chinese text, by deleting paragraphs (a)(iii) and (b)(iii) and substituting in both cases -

"(iii) 加入 -

“(e) 《民眾安全服務隊條例》
(1997年第 號)所指的
民眾安全服務隊隊員，” ;”;

- (vi) in the Chinese text, by deleting paragraph (c) and substituting -

"(c) 在第(3)款中 -

- (i) 廢除“或基要服務團”而代以“、基要服務團或民眾安全服務隊”;
- (ii) 廢除“或服務團”而代以“、服務團或民眾安全服務隊”。”。

- (b) in section 4 -
- (i) in the Chinese text, by deleting the heading before the section and substituting "退休金利益條例(設定職位)令";
 - (ii) in the Chinese text, by deleting "《Pensions Benefits Ordinance (Established Offices) Order》" and substituting "《退休金利益條例(設定職位)令》".
- (c) in section 10 -
- (i) in the Chinese text, by deleting the heading before the section and substituting "《基要服務團(一般)規例》";
 - (ii) in the Chinese text, by deleting the heading and substituting -

"服務團團員的體格檢驗";
 - (iii) in the Chinese text, by deleting "《Essential Services Corps (General) Regulations》" and substituting "《基要服務團(一般)規例》".
- (d) in section 15, by deleting paragraph (b)(i) and substituting -
- "(i) in paragraph (d), by repealing ", the Auxiliary Medical Services Unit and the Civil Aid Services Unit" and substituting "and the Auxiliary Medical Services Unit";".
- (e) in section 20 -
- (i) in the Chinese text, in the heading before the section, by deleting "及有關";
 - (ii) in the Chinese text, by deleting the heading and

substituting -

"就執行非常規職責的服務批予退休金利益";

(iii) by deleting "及有關";

(iv) in the Chinese text, in paragraphs (a) and (b), by deleting "or" wherever it appears and substituting "或";

(v) in the Chinese text, by deleting paragraphs (a)(iii) and (b)(iii) and substituting in both cases -

"(iii) 加入 -

“(e) 《民眾安全服務隊條例》
(1997年第 號)所指的
民眾安全服務隊隊員，” ;”;

(vi) in the Chinese text, by deleting paragraph (c) and substituting -

"(c) 在第(3)款中 -

(i) 廢除“或基要服務團”而代以“、基要服務團或民眾安全服務隊”;

(ii) 廢除“或服務團”而代以“、服務團或民眾安全服務隊”。”。

Question on the amendment put and agreed to.

Question on Schedule 2, as amended, put and agreed to.

OFFICIAL SECRETS BILL

Clauses 1, 4, 7, 10, 17, 19, 21 and 23 to 28 were agreed to.

Part II Heading before clause 2, clauses 2, 3, 5, 6, 8, 9 and 11

MISS CHRISTINE LOH: Mr Chairman, I move that Part II Heading before clause 2, clauses 2, 3, 5, 6, 8, 9 and 11 be amended as set out under my name in the paper circularized to Members.

All the amendments are proposed by the Bills Committee to improve and modernize the Bill, and also in order to prevent possible abuse. I have covered the major amendments to clauses 3, 8 and 11 in respect of the offence of espionage in my earlier speech at the resumption of Second Reading debate, and I will not repeat them here. The proposed amendment to clause 3 is most important because it incorporates the requirement of a specific intent for the offence. Clause 3, as it now stands in the Bill, is too broad, vague and loose.

Let me now turn to the other proposed amendments. The Bills Committee considers that an amendment to the Part II Heading before clause 2 is necessary because some clauses in Part II, such as clause 6(1)(b), are not related to espionage. Whilst a heading has no legal effect, we think it would be better to amend it appropriately to "ESPIONAGE AND OTHER MATTERS".

In clause 2, a definition of "defence" is added along the same lines as that in clause 12 under Part III on Unlawful Disclosure.

The other amendments are mainly for the purpose of consistency and modification for clarity.

Mr Chairman, maybe I can just spend one minute responding to a question raised by the Honourable Ronald ARCULLI in the Second Reading debate. He said that as Chair of the Bills Committee, I might not have properly highlighted the reservations of the Liberal Party. The reason that I did not do that was that every time we took the vote, the Liberal Party members were never there. So when I took a look at the support, each one of them was unanimous at the time the decision was taken. Thank you.

*Proposed amendments***Part II Heading before clause 2**

That Part II Heading be amended, by deleting "ESPIONAGE" and substituting "ESPIONAGE AND OTHER MATTERS".

Clause 2

That clause 2 be amended, by adding before the definition of "document" —
"defence" (防務) means -

- (a) the size, shape, organization, logistics, order of battle, deployment, operations, state of readiness and training of the armed forces;
- (b) the weapons, stores or other equipment of the armed forces and the invention, development, production and operation of such equipment and research relating to it;
- (c) defence policy and strategy and military planning and intelligence;
- (d) plans and measures for the maintenance of essential supplies and services that are or would be needed in time of war;".

Clause 3

That clause 3 be amended —

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

" A person commits an offence if he, with intent to harm the defence of the United Kingdom or Hong Kong -

- (a) approaches, inspects, passes over or

enters a prohibited place;

(b) makes a sketch, plan, model or note that is calculated to be or is intended to be directly or indirectly useful to an enemy; or

(c) obtains, collects, records or publishes, or communicates to any other person, any secret official code word or password, or any sketch, plan, model or note, or other document or information, that is calculated to be or is intended to be directly or indirectly useful to an enemy."

(b) by deleting subclauses (2), (3), (4) and (5).

Clause 5

That clause 5 be amended —

(a) in subclause (1) by deleting "for any other purpose prejudicial to the safety or interests of the United Kingdom or Hong Kong -" and substituting "with intent to harm the defence of the United Kingdom or Hong Kong -".

(b) by deleting subclause (2).

Clause 6

That clause 6 be amended —

(a) in subclause (1)(a) by deleting "for any purpose prejudicial to the safety or interests of the United Kingdom or Hong Kong" and substituting "with intent to harm the defence of the United Kingdom or Hong Kong".

(b) in subclause (1)(b) by adding "without lawful authority or excuse," before "allows any other person".

- (c) by deleting subclause (2).

Clause 8

That clause 8 be amended —

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

" (1) (a) A superintendent of police may, for the purpose of an investigation into an offence under section 3, make an ex parte application to a magistrate for an order under paragraph (b) in relation to a person whom he reasonably believes to be able to furnish information as to the offence.

(b) A magistrate may, if on such an application he is satisfied that there is -

(i) reasonable ground for suspecting that an offence under section 3 has been committed; and

(ii) reasonable ground for believing that the person is able to furnish information as to the offence or suspected offence,

make an order complying with subsection (2) in respect of the person to whom the application relates."

- (b) in subclause (2) by deleting "If the Governor grants the permission mentioned in subsection (1), the Commissioner of Police may authorize" and substitute "The order under subsection (1)(b) shall authorize".

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

" (3) (a) Where the Commissioner of Police has reasonable ground to believe that the case is one of great emergency and in the interest of the United Kingdom or Hong Kong immediate action is necessary, he may authorize in writing a superintendent of police, or any police officer not below the rank of inspector to exercise the powers mentioned in subsection (2) without applying for an order of a magistrate.

(b) Where the Commissioner of Police has so authorized a superintendent of police or other police officer under paragraph (a), he shall within 48 hours of granting such authorization, apply to a magistrate for an order to be made under subsection (1)(b).

(c) If an application under paragraph (b) is refused, the Commissioner of Police shall as soon as practicable stop any action being or to be taken pursuant to his authorization under paragraph (a) and destroy any information obtained."

(d) in subclause (4), by deleting "authorization under subsection (2)" and substituting "order under subsection (2) or authorization under subsection (3)(a)".

(e) in subclause (5), by deleting "authorization under subsection (2)" and substituting "order under subsection (2) or authorization under subsection (3)(a)".

- (f) in subclause (6), by deleting "authorization under subsection (2)" and substituting "order under subsection (2) or authorization under subsection (3)(a)".

Clause 9

That clause 9(3) be amended, by deleting "prejudicial to the safety of the United Kingdom or Hong Kong" and substituting "harmful to the defence of the United Kingdom or Hong Kong".

Clause 11

That clause 11 be amended —

- (a) in subclause (2), by deleting "Where it appears to a superintendent of police" and substituting "Where a superintendent of police has reasonable ground to believe".

- (b) by adding -

" (3) Where a superintendent of police has exercised his power under subsection (2), he shall, within 48 hours of exercising such power, apply to a magistrate for a search warrant to be granted under subsection (1).

(4) If an application under subsection (3) is refused, the superintendent of police concerned shall as soon as practicable stop any action being or to be taken pursuant to his order under subsection (2) and cause anything seized pursuant to the order to be surrendered to a magistrate who shall have the power to make an order for its disposal."

MR RONALD ARCULLI: Mr Chairman, I beg to disagree with the

Honourable Miss Christine LOH but I do not think we should really waste any time arguing the point. I remember at one meeting when we discussed the breadth of the clause 3 amendment and I said that we were basically on different planets and there was no purpose for my staying behind. Maybe she did not recall my rather emotive language.

MISS MARGARET NG: Mr Chairman, I cannot stay silent about what the Honourable Ronald ARCULLI said on behalf of the Liberal Party opposing the amendments. He did that in the Second Reading debate. With respect, his points are based on some grave misapprehensions about a number of things.

First, spying. He said that if the elements were just the purpose and the act of approaching a prohibited place he would be concerned, but he believes that there are "other elements". Mr Chairman, there are no other elements. All my honourable friend has to do is to read clause 3(1)(a) again. Therefore, Mr ARCULLI and his Liberal Party ought to be concerned as we are.

Second, my honourable friend refers to the Mutual Legal Assistance Bill which is currently being scrutinized in the Bills Committee. May I say there again the Administration proposes wide powers. The Bills Committee seeks to narrow them down and place safeguards, especially where such rights as the right of silence and again self-incrimination are concerned. Our approach is consistent. Indeed, in that Bills Committee my honourable friend's position is with us. It is he who is being inconsistent.

Third, on the public interest defence my honourable friend expresses

MR RONALD ARCULLI: May I ask the Honourable Member through you, Mr Chairman, when she referred to "he is with us", who is "us"? Is that the Government or is that the honourable Member herself and the Royal Prerogative?

MISS MARGARET NG: Mr Chairman, I refer to the Bills Committee of the Mutual Legal Assistance Bill. I apologise if I have been unclear. I am not yet in the habit of using the Royal plural!

Third, on the public interest defence, my honourable friend expresses alarm on the basis of how he saw the public interest immunity as used by the Chief Secretary in the Select Committee. He says it shows that the use of a public interest immunity would "drive a horse and coach through it". This is very bewildering. Mr ARCULLI is a Member of this Select Committee. He is aware of its stance and decision, as indeed are Members of this Council and the public, and that is the Chairman of the Select Committee does not accept the very wide way in which the Chief Secretary proposed to claim public interest immunity. He ruled against her claim. She accepted it and produced the document in question. This illustrates precisely the balance of interest. This example supports the appropriateness of a public interest defence, not cast doubt on it as my honourable friend argues.

In sum, none of the reasons set out by Mr Ronald ARCULLI on behalf of the Liberal Party can stand. They have no valid grounds for opposing the amendments. I urge them to change their minds.

Mr Chairman, with the amendments, the Bill is one we can live with now and seek to improve later. Without the amendments, the enactment of this Bill will be an unmitigated disaster for the people of Hong Kong. Thank you, Mr Chairman.

MR JAMES TO (in Cantonese): Mr Chairman, it seems that this amendment will be beaten, but it is beaten by the June 4 Gathering, as many Members have already left. Anyway, I hope that those Members who remain can support this amendment. Today is June 4, a very sad day. We commemorate those Beijing students killed in the June 4 massacre. Dr The Honourable Samuel WONG, my good friend who used to sit next to me here, passed away today. It is also a day when we are thrown back in our laws and system to the dark old days of the 1980s when the former Special Branch operated with arbitrary power. If there could be hope, then the hope, some might say, would be that Mr TUNG, the Chief Executive and his government would not, or when Mrs Anson CHAN was locked in disagreement with him or begged him for mercy, he would not exercise those powers ruthlessly.

Mr Chairman, if these amendments were not passed today, but the whole Bill was passed, I feel that Mr Chris PATTEN would find himself in great

shame. The British Government's exit from Hong Kong would be marred by great shame. What he would leave behind for the colonial government, and the SAR Government are the dictatorial power of the former colony. I hope that those Members who oppose the amendments but allow the original provision to pass can do something in future for this society so as not to allow the Government abuse this power, otherwise we shall be in a dark age. That is what I want to say.

MR IP KWOK-HIM (in Cantonese): Mr Chairman, the Democratic Alliance for the Betterment of Hong Kong (DAB) has not taken part in the work of the Bills Committee studying this Bill because the DAB is of the view that the introduction of this Bill is to localise the 1989 Official Secrets Act to be in time for the handover on 1 July 1997 and the official implementation of the Basic Law.

We are very clear that since 1992 when the Privy Council ordered that the 1989 Official Secrets Act be applicable to Hong Kong, there are problems here in Hong Kong. However, we also see that up to now, there is nothing in the intervening period that shows that this Act is doing Hong Kong any harm. We must also see, and admit, that this Ordinance is enacted under the historical context of 1920 and 1939. It is therefore understandable, and there is also an actual need, that appropriate amendment has to be made to this Ordinance. But the DAB considers that such complex and important amendments must be made with reference to the Basic Law, and the more appropriate and practical way to go about with such amendment is to leave it to the first Legislative Council in 1998 after it has conducted extensive consultation and has considered the actual condition at that time. Only then will there be an Official Secrets Ordinance that is appropriate for the condition then.

These are my remarks and I support the original Bill of the Administration and oppose any amendment.

MR LEUNG YIU-CHUNG (in Cantonese): Mr Chairman, I originally did not intend to speak, but after listening to the Honourable IP Kwok-him's speech, I find it hard to accept his view. They did not join the Bills Committee of this Bill, but they say that any amendment would only be appropriate after extensive consultation is conducted in 1998.

In fact, why do they still sit on the Legislative Council? They act like

this on a number of ordinances. If consultation is to be conducted in 1998, then they can now give up their job as Councillors. If they want to be Councillors, there are a lot of jobs to do. Carrying out consultation is your duty. You do not tell us now that it is very complex, and leave it to be done in 1998. Are you not a Legislative Councillor? I feel that they are very pathetic. While occupying a position here, they say that they should not do this. How can you be accountable to the public? Now, people pay us to take up this position, and to do this job. How can we be accountable to them? Mr James TO and I have the same feeling: Today, June 4, is an unhappy day. If this amendment cannot be passed, it is very pitiable.

I was to host a talk at the Victoria Park, but I did not go. I want to stay here because it is my responsibility to support the amendment of the Honourable Miss Christine LOH. It is my responsibility, and I have joined the Bills Committee and consulted many of my friends. They all think that it is an important issue. I shall therefore perform my duty and act like a Councillor and do what I should do.

Mr Chairman, these are my remarks.

SECRETARY FOR SECURITY: Mr Chairman, the Administration is opposed to the Committee stage amendments proposed or will be proposed by the Honourable Miss Christine LOH for the reasons that I have explained in my Second Reading debate speech. I have nothing further to add, Mr Chairman.

MISS CHRISTINE LOH: Mr Chairman, it is with great regret that many people who supported the Bill will not be here to vote for the Bill tonight.

Question on the amendments put.

Voice vote taken.

CHAIRMAN (in Cantonese): This Committee will now proceed to a division.

CHAIRMAN (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that the amendment moved by the Honourable Miss Christine LOH in respect of the Heading of Part II, clauses 2, 3, 5, 6, 8, 9 and 11 be approved.

Will Members please register their presence by pressing the top button and proceed to vote by choosing one of the three buttons below?

CHAIRMAN (in Cantonese): Before I declare the result, Members may wish to check their votes. Are there any queries? The result will now be displayed.

Mr Martin LEE, Dr LEONG Che-hung, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Mr WONG Wai-Yin, Miss Christine LOH, Mr Andrew CHENG, Dr Anthony CHEUNG, Dr LAW Cheung-kwok, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr SIN Chung-kai, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted for the amendments.

Mr Allen LEE, Mrs Selina CHOW, Dr David LI, Mr NGAI Shiu-kit, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr Eric LI, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr IP Kwok-him, Mr Ambrose LAU, Mr LEE Kai-ming, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the amendments.

THE CHAIRMAN announced that there were 21 votes in favour of the amendments and 24 votes against them. He therefore declared that the amendments were negatived.

The original Part II heading before clause 2, clauses 2, 5, 6, 8, 9 and 11 were agreed to.

Clauses 12 to 16, 18, 20 and 22

MISS CHRISTINE LOH: Mr Chairman, I move that clauses 12 to 16, 18, 20 and 22 be amended as set out under my name in the paper circularized to Members. All the proposed amendments in these clauses are in relation to the offence of unlawful disclosure, so you can all redeem yourselves in this section even if you did not vote for our amendment last time.

As I have explained in my earlier speech at the resumption of Second Reading debate, the proposed amendment to clause 13 is to incorporate a harms test. The amendment to clause 22 is to incorporate a public interest defence. The proposed amendments in other clauses are mainly for the purpose of consistency and modification for clarity.

Proposed amendments

Clause 12

That clause 12(1) be amended, by deleting the definition of "defence" and substituting —

"defence" (防務) has the meaning assigned to that term by section 2(1);".

Clause 13

That clause 13 be amended —

(a) in subclause (1) by deleting "discloses" and substituting "makes a seriously damaging disclosure of".

(b) by adding -

" (1A) For the purposes of subsection (1), a disclosure is seriously damaging if -

(a) the disclosure causes serious damage to the work of, or any part of, the security

or intelligence services;

- (b) the information, document or article in question is of such a nature that its unauthorized disclosure would be likely to cause such serious damage; or
 - (c) the information, document or article in question falls within a class or description of information, documents or articles the unauthorized disclosure of which would be likely to have that effect."
- (c) in subclause (3), by deleting "that the information, document or article in question related to security or intelligence." and substituting -

"that -

- (a) the information, document or article in question related to security or intelligence; or
- (b) the disclosure would be seriously damaging within the meaning of subsection (1A)."

Clause 14

That clause 14 be amended —

- (a) in subclause (1), by adding "seriously" before "damaging disclosure".

- (b) in subclause (2) -
 - (i) by adding "seriously" before "damaging";
 - (ii) in paragraph (a), by adding "serious" before "damage";
 - (iii) in paragraph (b), by adding "serious" before "damage".
- (c) in subclause (3)(b), by adding "seriously" before "damaging".

Clause 15

That clause 15 be amended —

- (a) in subclause (1), by adding "seriously" before "damaging disclosure".
- (b) in subclause (2) -
 - (i) by adding "seriously" before "damaging";
 - (ii) in paragraph (a), by adding "seriously" before "damages";
 - (iii) in paragraph (c), by adding "seriously" before "endangers" where it twice appears.
- (c) in subclause (3)(b), by adding "seriously" before "damaging".

Clause 16

That clause 16 be amended —

- (a) in subclause (1), by adding "seriously" before "damaging disclosure".
- (b) in subclause (2) -

- (i) by adding "seriously" before "damaging";
- (ii) in paragraph (a) -
 - (A) by adding "seriously" before "endangers" wherever it appears;
 - (B) by deleting ", seriously obstructs the promotion or protection by the United Kingdom or Hong Kong of those interests".
- (c) in subclause (4)(b), by adding "seriously" before "damaging".

Clause 18

That clause 18 be amended —

- (a) in subclause (3), by adding "seriously" before "damaging" wherever it appears.
- (b) in subclause (4) -
 - (i) by adding "seriously" before "damaging";
 - (ii) by adding "person or" before "public servant";
 - (iii) by adding "13," before "14".

Clause 20

That clause 20 be amended —

- (a) in subclause (1), by adding "seriously" before "damaging"

wherever it appears.

- (b) in subclause (4) -
 - (i) by adding "seriously" before "damaging";
 - (ii) by adding "person or" before "public servant";
 - (iii) by adding "13," before "14".

Clause 22

That clause 22 be amended, by adding —

" (10) It is a defence for a person charged with an offence under subsection (1), (4), (5) or (6) to prove that it was in the public interest for him to do or fail to do the act which is the subject matter of the charge.".

Question on the amendments put.

Voice vote taken.

THE CHAIRMAN said he thought the "Noes" had it.

CHAIRMAN (in Cantonese): Committee will now proceed to a division.

CHAIRMAN (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that the amendment moved by the Honourable Miss Christine LOH in respect of the Heading of Part II, clauses 2, 3, 5, 6, 8, 9 and 11 be approved.

Will Members please register their presence by pressing the top button and then proceed to vote by choosing one of the three buttons below?

I move now that new clauses 21A and 21B as set out under my name in the paper circularized to Members be read the Second time. The new clauses 21A and 21B are proposed by the Bills Committee to build in a public interest defence and a prior disclosure defence. I have given the Bills Committee's view on these new clauses in my speech at the resumption of Second Reading debate, and I will not go into in any further details.

I only wish to reiterate that these clauses are of vital importance for the protection of freedom of expression. I ask Members again in this Council to reconsider as a last go to support these two amendments which will still offer some improvement to the Bill as a whole.

MR JAMES TO (in Cantonese): Mr Chairman, we have a public interest defence. Our belief is that, as the Honourable Ronald ARCULLI said, we cannot allow a law enforcement agency to have the final power to decide what public interest is. The reason can be found in many examples. Even those law enforcement agencies, such as some intelligence and security agencies, that in law are said to have served the public well and are protective of public safety, can betray the interest of the people and give no regard to such interest. For example, President CLINTON of the United States of America has to apologize to the blacks because the American government had carried out experiments, in which the blacks, after receiving a few hundred dollars, voluntarily (including those who had knowledge or did not have knowledge of what they were doing) allowing themselves to be "guinea pigs" for testing chemical and biochemical weapons.

Decades ago, the United States Administration at that time, including the President, National Security Advisor and the Director of the CIA, might consider that such acts were for the good of state security. Finally, when we reflect on the facts and the judgment of history and the people, even the present President has to give an apology for this. So are we asking too much if we let a judge or a third party to determine what public interest is? Can we feel at ease if we leave the determination of public interest in the hands of the executive? If it is so, then our Select Committee, including those of you who are about to vote, would challenge the decision of the Chief Secretary to disclose the reports of the ICAC and supervisory committee as revealed in the hearing of Mr LEUNG Ming-yin. I think that it is very important that we give the final adjudicating power to the court to balance what the public

interest is.

I hope that all Members can clearly consider this issue. What we are discussing now is whether we should give our power of determination, even the power of disclosure, to the executive. Just like the Watergate example I cited, it was inconceivable to us that a President could be brought down by a journalist disclosing a piece of scandal of the President, or when an intelligence agency has done something wrong against the people, and without the defence of public interest, it would finally be sentenced by court to prison. Do you think this balance is appropriate and sufficient? The Honourable IP Kwok-him said there might be amendment in future. I sincerely hope that they will consider this view.

MR IP KWOK-HIM (in Cantonese): Thank you, Mr Chairman. I have listened carefully to the speech of the Honourable Mr James TO. However, I would like to reiterate here that the DAB is of the view that at the present stage, the Bill is for localization purpose. It is therefore our view that this Ordinance be given force after 1 July so that Hong Kong can have as soon as possible an Ordinance like this to implement the Basic Law.

As to the question on public interest, I have already said that it would be opportune to leave the review of this Ordinance to the first legislature of 1998.

Thank you, Mr Chairman.

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

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

Clauses 1 and 3 to 8 were agreed to.

Clause 2

SECRETARY FOR THE TREASURY (in Cantonese): Mr Chairman, I move that clause 2 be amended as set out in the paper circularized to Members.

The 1997-98 Budget proposes to provide certainty in law in respect of

the deduction in the assessment of profits of foreign withholding tax paid by a company on income which is subject to profits tax in Hong Kong. This deduction is made available by virtue of the current main deduction provision under section 16(1) of the Inland Revenue Ordinance. However, section 16(1)(c), as it stands at the moment, stipulates that deduction of foreign tax charged on interest income or the like derived from Hong Kong is allowed only for a corporation which is managed and controlled in Hong Kong. The restriction in respect of residency status is in conflict with our intention and casts doubt on the application of the general deduction provision in section 16(1) in respect of foreign withholding tax. We therefore proposed in the Amendment Bill to delete section 16(1)(c).

The Hong Kong Society of Accountants (HKSA) has pointed out to us that the deletion of section 16(1)(c) in its entirety may have the inadvertent effect of removing a deduction currently available in the law. We are grateful to its view and appreciate its concern. Instead of deleting the whole of section 16(1)(c), we consider that it should be adequate, for the purpose of providing certainty in law in the manner we intended, to just remove the reference "which is managed and controlled in Hong Kong" in that section. This arrangement has the support of the HKSA and Members who have shown their concern on the Amendment Bill.

To further allay the concern of the tax profession, the Commissioner of Inland Revenue will issue Practice Notes to re-affirm our policy in respect of deduction of foreign withholding tax charged on income in profits tax assessment.

Mr Chairman, I beg to move.

Proposed amendment

Clause 2

That clause 2 be amended, by deleting paragraph (a) and substituting —

"(a) in subsection (1)(c), by repealing "which is managed and controlled in Hong Kong";".

MR ERIC LI (in Cantonese): Mr Chairman, this amendment was originally proposed to the Government by the accountancy constituency. I am very glad that the Administration has implemented it in the budget and introduce this Bill.

After the introduction of the Bill, the accountancy constituency, as the Secretary for the Treasury has said, made a number of technical proposals. In fact, the original proposal has three options. At first I intend to talk, for record purpose, briefly on these technical proposals. Given that we have a long day today, and a consensus has already been reached, and that the House Committee has already had sufficient record on this, I therefore do not want to talk further.

I just want to thank specially the Administration for the patience it showed when I talked at length at the House Committee, and we spent much time on studying this Bill. I am also very appreciative of the professionalism, openness and objectiveness displayed by the Administration when it studied this Bill with me, so that we could come to a consensus in a short time. On behalf of the accountancy constituency, I hope that Members will support this Bill.

Question on the amendment put and agreed to.

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

REGISTERED DESIGNS BILL

Clauses 1, 3 to 7, 9 to 12, 14 to 22, 24 to 27, 29, 33, 35, 36, 38, 39, 43, 44 to 47, 49, 50, 52 to 63, 65 to 69, 71 to 77, 79, 82, 84 to 90, 93, 95 and 96 were agreed to.

Clauses 2, 8, 13, 23, 28, 30, Part III Heading before clause 31, clauses 31, 32, 34, 37, 40, Part V Heading before clause 41, clauses 41, 42, 48, 51, 64, 70, 78, 80, 81, 83, 91, 92 and 94

SECRETARY FOR TRADE AND INDUSTRY: Mr Chairman, I move that

clauses 2, 8, 13, 23, 28, 30, Part III Heading before clause 31, clauses 31, 32, 34, 37, 40, Part IV Heading before clause 41, clauses 41, 42, 48, 51, 64, 70, 78, 80, 81, 83, 91, 92 and 94 be amended as set out in the paper circularized to Members.

These amendments have already been discussed by and endorsed by the Bills Committee. Mr Chairman, I beg to move.

Proposed amendments

Clause 2

That clause 2(2)(c) be amended, by deleting "在該項外觀設計中" and substituting "該項外觀設計".

Clause 8

That clause 8 be amended —

- (a) in the heading, by deleting "**and protected layout-designs (topographies) are not registrable**" and substituting "**protected layout-designs (topographies) and designs for articles of a primarily literary or artistic character**".
- (b) by renumbering the clause as clause 8(1).
- (c) by adding -

"(2) Provision may be made by rules for excluding from registration under this Ordinance designs for such articles of a primarily literary or artistic character as the rules may specify."

Clause 13

That 13(a) be amended, by deleting "class of designs" and substituting "class of articles".

Clause 23

That clause 23(1) be amended, by deleting "在該冊外觀設計中" and substituting "註冊外觀設計".

Clause 28

That clause 28(5)(a) be amended, by deleting "在該項外觀設計中或在其下" and substituting "該項外觀設計的任何權利或在該項外觀設計下".

Clause 30

That clause 30(2)(b) be amended, by deleting "在該項外觀設計中" and substituting "該項外觀設計".

Part III Heading before clause 31

That the Part III Heading before clause 31 be amended, in the heading, by deleting "在註冊外觀設計中" and substituting "註冊外觀設計".

Clause 31

That clause 31 be amended —

- (a) in subclause (2), by deleting "在該項註冊外觀設計中" and substituting "該項註冊外觀設計".
- (b) in subclause (4), by deleting "在該項註冊外觀設計中" and substituting "該項註冊外觀設計".

Clause 32

That clause 32 be amended —

- (a) in subclauses (1) and (2), by deleting "在其中或其下" and

substituting "任何註冊外觀設計的任何權利或在任何註冊外觀設計下".

- (b) in subclause (6)(a), by deleting "在該項註冊外觀設計中或在其下" and substituting "該項註冊外觀設計的任何權利的任何轉讓或按揭，或在該項註冊外觀設計下".
- (c) in subclause (6)(b), by deleting "在其中或其下" and substituting "任何註冊外觀設計的任何權利或在任何註冊外觀設計下".

Clause 34

That clause 34 be amended —

- (a) in the heading, by deleting "在註冊外觀設計中" and substituting "註冊外觀設計".
- (b) in subclauses (1) and (2), by deleting "在某項註冊外觀設計中或在其下" and substituting "某項註冊外觀設計的任何權利或在某項註冊外觀設計下".
- (c) in subclause (3)(a), by deleting "，或在其中或其下" and substituting "、註冊外觀設計的權利的轉讓或在註冊外觀設計下";
- (d) in subclause (3)(e), by deleting "或在其中或其下" and substituting "、某項註冊外觀設計的任何權利或在某項註冊外觀設計下".

Clause 37

That clause 37(7) be amended, by deleting "在該項註冊外觀設計中" and substituting "該項註冊外觀設計".

Clause 40

That clause 40(3) be amended, by deleting "during any further period specified under section 28(5), but before the payment of the renewal fee and any

additional fee prescribed for the purposes of that section" and substituting "at any time during the period referred to in section 28(5) but before the fees referred to in that section are paid".

Part V Heading before clause 41

That the Part V Heading before clause 41 be amended, in the subheading "裁定在註冊外觀設計中的權利的法律程序", by deleting "在註冊外觀設計中" and substituting "註冊外觀設計".

Clause 41

That clause 41 be amended —

- (a) in subclause (1), by deleting "在該項外觀設計中或其下" and substituting "該項外觀設計的所有權權益或在該項外觀設計下".
- (b) in subclause (1)(c), by deleting "在該項外觀設計中或其下" and substituting "該項外觀設計的任何權利或在該項外觀設計下".
- (c) in subclause (2)(b), by deleting "在該項外觀設計中或其下" and substituting "該項外觀設計的任何權利或取得在該項外觀設計下".
- (d) in subclause (2)(c), by deleting everything after "批予" and substituting "在該項外觀設計的任何特許或其他權利或批予在該項外觀設計下的任何特許或其他權利；或".
- (e) in subclause (4), by deleting "在該項外觀設計中或其下" and substituting "該項外觀設計的任何權利或在該項外觀設計下".
- (f) in subclause (5), by deleting "在該項註冊外觀設計中或其下" and substituting "該項註冊外觀設計的權利或在該項註冊外觀設計下".

Clause 42

That clause 42(2) be amended, by deleting "在該項外觀設計中或其下" and substituting "該項外觀設計的任何特許或其他權利或在該項外觀設計下".

Clause 48

That clause 48(1) be amended, by deleting "在註冊外觀設計中" and substituting "註冊外觀設計".

Clause 51

That clause 51(3) be amended, by deleting "during any further period specified under section 28(5), but before the payment of the renewal fee and any additional fee prescribed for the purposes of that subsection" and substituting "at any time during the period referred to in section 28(5) but before the fees referred to in that section are paid".

Clause 64

That clause 64(2)(c) be amended, by deleting everything after "影響" and substituting "註冊外觀設計及註冊申請的權利的交易、文書或事件的詳情，或關乎影響在註冊外觀設計及註冊申請下的權利的交易、文書或事件的詳情；及".

Clause 70

That clause 70(4) be amended, by adding ", notwithstanding that the design has not been registered," after "subsection (1)".

Clause 78

That clause 78 be amended, by deleting the heading and substituting "Forfeited articles".

Clause 80

That clause 80(2)(b) be amended, by deleting "14" and substituting "16".

Clause 81

That clause 81(1) be amended, by deleting everything after "註冊" and substituting "並規定影響註冊外觀設計和外觀設計的註冊申請的權利的交易、文書或事件，或影響在註冊外觀設計和外觀設計的註冊申請下的權利的交易、文書或事件須予註冊。".

Clause 83

That clause 83 be amended, by deleting paragraphs (a), (b) and (c).

Clause 91

That clause 91 be amended —

- (a) in subclause (1), by deleting "of the class".
- (b) in subclause (2) -
 - (i) by deleting "that date" and substituting "the date immediately preceding the date of commencement of this Ordinance";
 - (ii) by deleting "of the class".

That clause 91 be amended, in subclauses (3)(b)(i) and (ii) and (4)(b)(i) and (ii), by deleting "設計中" and substituting "設計".

Clause 92

That clause 92 be amended —

- (a) in subclause (1), by deleting "in accordance with this section".
- (b) by deleting subclause (2) and substituting -
 - "(2) If the registered proprietor of the design desires to renew the period of registration for a further period of 5 years after the initial period of registration referred to in section 91(3) or (4) expires, he shall submit an application to the Registrar in accordance with subsection (3)."
- (c) in subclause (3), by deleting "for the first extension of the period of registration" and substituting "referred to in subsection (2)".
- (d) in subclause (3)(b) -
 - (i) in subparagraph (ii), by deleting "and";
 - (ii) by adding -
 - "(iv) such other information, documents or matter as may be required by the rules; and"
- (e) by deleting subclause (4) to (6) and substituting -
 - "(4) Section 28(3), (4) and (5) applies to any further renewal of the period of registration of a design deemed by section 91 to be registered under this Ordinance."

Clause 94

That clause 94 be amended —

- (a) by deleting the heading "《官方訴訟條例》" before the clause and substituting "《官方法律程序條例》".
- (b) in the Chinese text, by deleting the clause and substituting -

"94. 關於工業財產的條文

《官方法律程序條例》（第 300 章）第 5 條現予修訂

- (a) 在第(1)款中，廢除“包括根據《1949 至 1961 年註冊設計法令》（藉《聯合王國設計（保障）條例》（第 44 章）而適用於香港）而存續的任何設計版權”而代以“，或侵犯任何註冊外觀設計”；
- (b) 在第(2)款中 -
- (i) 刪去“《1949 年註冊設計法令》（1949 c. 88 U.K.）第 12 條及附表 1”而代以“註冊外觀設計條例》（1997 年第 號）第 36 至 40 條”；
- (ii) 刪去“，而上述法令”；
- (iii) 刪去“藉”；
- (iv) 刪去“《聯合王國設計（保障）條例》（第 44 章）而適用於香港”；
- (c) 在第(3)款中，在“版權”之後加入“或註冊外觀設計”。

Question on the amendments put and agreed to.

Question on clauses 2, 8, 13, 23, 28, 30, Part III Heading before clause 31, clauses 31, 32, 34, 37, 40, Part V Heading before clause 41, clauses 41, 42, 48, 51, 64, 70, 78, 80, 81, 83, 91, 92 and 94, as amended, put and agreed to.

Schedule

SECRETARY FOR TRADE AND INDUSTRY: Mr Chairman, I move that

the Schedule be amended as set out in the paper circularized to Members. The changes are technical.

Mr Chairman, I beg to move.

Proposed amendment

Schedule

That Schedule be amended —

- (a) by adding under the heading "**Countries which have acceded to the Paris Convention**" -

"Equatorial Guinea
Sierra Leone".

- (b) under the heading "**Countries, territories and areas which have acceded to the World Trade Organization Agreement (not including countries which have acceded to the Paris Convention)**" -

- (i) by deleting -

"Sierra Leone
Tanzania";

- (ii) by adding -

"Angola
Papua New Guinea
Soloman Islands".

That Schedule be amended, in the subheading "已加入《巴黎公約》的國家" —

- (a) by deleting -

"中華人民共和國
立陶宛
馬其頓

梵蒂岡
摩爾達維亞”;

(b) by adding -

“中國
立陶宛
馬其頓，前南斯拉夫共和國
羅馬教廷
摩爾多瓦共和國”。

Question on the amendment put and agreed to.

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

OUTER SPACE BILL

Clauses 1 to 15

MR JAMES TO (in Cantonese): Mr Chairman, I shall make my speech brief. We oppose to using "national security" as a ground to be introduced into the provisions on marches and assemblies. I am afraid that in future there might be people, or even the Chief Executive's Office, who would say that we gave our consent to the Outer Space Bill in which the Administration could revoke the licence for launching a satellite on the grounds of national security. I therefore must give the reason for record purpose; otherwise we would be criticized for being inconsistent.

In fact, we have actually considered carefully whether "national security" can be a ground, with respect to the Outer Space Bill, for launching or salvaging satellite and the relevant responsibility. Our conclusion is affirmative. We have studied carefully the relevant laws of other countries and to what extent the launching of satellites and these satellites would affect military, intelligence and national security. I find that this is straightforward and obvious. We therefore think that using "national security" as a ground for revoking a licence is totally different from revoking a licence for a purely peaceful assembly.

After careful consideration, we agree that the Bill, as presently drafted, can enable a revocation decision be made, and provide for the details of the

relevant procedure. We support the passage of this Bill.

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr Chairman, I would like to thank Mr James TO for his support for the Outer Space Bill. We need to enact this Bill so that through a licensing mechanism we can monitor and control the satellites of Hong Kong. This Bill will also help Hong Kong achieve the goal that its status as the telecommunication and broadcasting centre of the region can be maintained.

Clauses 1 to 15 were agreed to.

Clause 16

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr Chairman, I move that clause 16 of the Bill be amended as set out in the paper circularized to Members.

After this Bill was introduced to this Council, the Chinese text of the Telecommunication Ordinance was declared authentic on 16 May 1997. The above amendment is technical amendment made consequential upon the above situation, and will bring this Bill in line with the Chinese authentic text of the Telecommunication Ordinance.

Mr Chairman, I beg to move.

Proposed amendment

Clause 16

That clause 16 be amended, in the Chinese text, by deleting the clause and substituting —

《電訊條例》（第 106 章）第 2 條現予修訂，在“空間物體”的定義中，廢除“經《1990 年宇宙空間（香港）令》引伸而成為香港法律的一部分的《1986 年宇宙空間法令》（1986 c. 38 U.K.）第 13(1) 條”而代以“《外層空間條例》（1997 年第 號）”。

Question on the amendment put and agreed to.

Question on clause 16, as amended, put and agreed to.

CIVIL AVIATION (AMENDMENT) BILL 1997

Clauses 1, 3 and 18

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr Chairman, I move that the clauses specified be amended as set out under my name in the paper circularized to Members.

Clause 1 is amended to obviate the need for a commencement notice in order to ensure that the Civil Aviation (Amendment) Bill 1997 will come into operation before 1 July 1997.

Clause 3 is amended to improve the Chinese translation of the Bill.

Clause 18 is amended to incorporate the Chinese text of the consequential amendment to the Telecommunication Regulations into the Chinese text of the Civil Aviation (Amendment) Bill 1997 as a result of the recent authentication of the Chinese text of the Regulations.

Mr Chairman, I beg to move.

Proposed amendments

Clause 1

That clause 1 be amended —

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

Clause 3

That clause 3 be amended, in the proposed section 2A —

- (a) in subsection (2)(g), by deleting "就該等用途" and substituting "與該等用途有關";
- (b) in subsection (2)(m), by deleting "航空方面" and substituting "與航空有關";
- (c) in subsection (2)(n)(i), by deleting "航空方面" and substituting "與航空有關".

Clause 18

That clause 18 be amended, in the Chinese text, by deleting the heading before the clause and the clause and substituting —

"《電訊規例》

18. 修訂附表 3

《電訊規例》(第 106 章, 附屬法例) 附表 3 中航空器電台牌照的第 7 項條件現予廢除, 代以 —

- “7. 本牌照不得當作就《民航條例》(第 448 章) 或根據該條例所訂立的任何規例或命令施加於任何人士的規定, 作出任何豁免。”。

Question on the amendments put and agreed to.

Question on clauses 1, 3 and 18, as amended, put and agreed to.

Clauses 2 and 4 to 17 were agreed to.

Council then resumed.

Third Reading of Bills

THE SECRETARY FOR TRANSPORT reported that the

RAILWAYS BILL and

DISCOVERY BAY TUNNEL LINK BILL

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

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

Bills read the Third time and passed.

THE SECRETARY FOR HEALTH AND WELFARE reported that the

MIDWIVES REGISTRATION (AMENDMENT) BILL 1997 and

VOLUNTEER AND NAVAL VOLUNTEER PENSIONS (AMENDMENT) BILL 1997

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

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

Bills read the Third time and passed.

THE SECRETARY FOR SECURITY reported that the

AUXILIARY MEDICAL SERVICE BILL and**CIVIL AID SERVICE BILL**

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

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

Bills read the Third time and passed.

THE SECRETARY FOR SECURITY reported that the

OFFICIAL SECRETS BILL

had passed through Committee without amendment. He moved the Third Reading of the Bill.

Mr James TO drew the President's attention to the lack of a quorum.

PRESIDENT (in Cantonese): Will the clerk please do a head count?

7.48 pm

PRESIDENT (in Cantonese): Because there is a lack of a quorum, I order that all Members be summoned back.

7.50 pm

A quorum was then formed.

PRESIDENT (in Cantonese): As a quorum has been formed, this Council shall resume dealing with the motion for a Third Reading moved by the Secretary for Security just now.

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

Bill read the Third time and passed.

THE SECRETARY FOR THE TREASURY reported that the

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

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

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

Bill read the Third time and passed.

THE SECRETARY FOR TRADE AND INDUSTRY reported that the

REGISTERED DESIGNS BILL

had passed through Committee with amendments. She moved the Third Reading of the Bill.

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

Bill read the Third time and passed.

THE SECRETARY FOR ECONOMIC SERVICES reported that the

OUTER SPACE BILL and**CIVIL AVIATION (AMENDMENT) BILL 1997**

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

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

Bills read the Third time and passed.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Two motions with no legal effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates and Members were informed by circular on 2 June. The movers of the motions will each have 15 minutes for their speeches including their replies, other Members will each have seven minutes for their speeches. Under Standing Order 27A, I am obliged to direct any Member speaking in excess of the specified time to discontinue his speech.

MEASURES AGAINST INFECTIOUS DISEASES

MR CHAN KAM-LAM to move the following motion:

"That this Council expresses concern about the recent outbreak of infectious diseases, and urges the Government to expeditiously review the existing preventive measures against diseases and plug loopholes in the relevant legislation, and to strengthen the co-operation between the Department of Health and the two municipal services departments to enhance the territory's responsiveness in monitoring and containing infectious diseases as well as in preparing for contingencies; furthermore, with regard to the sources of the recent cholera cases, this Council also urges the Government to step up the inspection of food processing factories and restaurants, provide in-service training to restaurant workers, improve the existing licensing system and demerit points system and carry out wide-ranging publicity and educational campaigns, so as to safeguard public health."

MR CHAN KAM-LAM (in Cantonese): I move the motion as set out on the Order Paper.

Hong Kong people all along have confidence in the Hong Kong Government. However, the performance of the Department of Health in the areas of public medical care and health has been disappointing. On several occasions in the past, when foreign countries found something wrong with certain foodstuffs or drugs, or when they noticed the spread of certain infectious diseases, the Department of Health, instead of warning the people to be alert, usually adopted the tactic of burying its head in the sand, behaving as if there was nothing wrong. Though not every incident or disease did come to Hong Kong, the Department of Health, taking no precaution beforehand on the beautiful pretext of not wishing to stir up panic, was in fact in total disregard of the people's health.

Over the past few months, Hong Kong has had the frightening experience of successive outbreaks of infectious diseases. First, in early April there was an outbreak of tuberculosis in several schools. Then there have been 13 confirmed cholera cases since May. In the first five months of this year, German measles attacked over 2 000 people, one of whom died from complications. An Indian man has recently been down with malaria and is still being hospitalized. All these make the public very nervous. However, the government officials, in face of the fact that the various infectious diseases are showing signs of spreading, tend to adopt the attitude of "ducking out whenever possible", and will not tell the truth unless it is absolutely necessary.

In fact, since 1978 the Government has been taking the measure of giving schoolgirls in primary and middle schools inoculation injections against German measles. As a result of this, over 90% of the females aged under 30 are inoculated. Therefore, persons recently down with German measles are mainly males who have not been given inoculation injections. We can note from this that German measles is not merely an infectious disease for females. Many members of the medical profession are lashing out at the Hong Kong Government for following the British policy before 1990 in not giving males inoculation injections.

Mr President, members of the medical profession have pointed out that

as the Department of Health in 1994 classified German measles as an infectious disease required to be reported, and thus forecasting a peak outbreak in Hong Kong within a few years, it is, therefore, necessary to take sufficient precaution measures, and, in particular, call upon "high-risk" persons, those not yet inoculated and prone to the disease, to get the inoculation injections as soon as possible so as to safeguard themselves. The Department of Health had not done so but kept on covering up the seriousness of complications arising from German measles before the occurrence of mortality, thus putting the people off guard, and resulting in some 800 cases just in the month of April. Even members of the public, people with no medical knowledge, can sense that there is something abnormal in the matter. We really did not know that the Department of Health could be so tolerant!

Some time ago, the Director of Health even said that whether or not to change the inoculation policy to give all people, including males, inoculation injections against German measles was not for her to decide alone but had to be considered by a departmental committee of disease prevention experts. It was immediately pointed out by members of the expert committee that the Director of Health was misleading the public as the committee had met only four times since 1989. Information presented to the committee by the department was not forward looking, the focus being on "putting out the fire". At the same time, the committee only plays an advisory role, and decisions on specific disease prevention policies ultimately rest with officials of the Department of Health.

Mr President, in 1994 the Department of Health forecast a high outbreak of German measles. Why did it not convene a meeting on disease prevention right away to launch massive disease prevention projects?

Last week, the Director of Health released the news on the peak period of measles. The Department of Health plans to arrange inoculation injections for people aged under 20, justifying the measure on the ground that most adults have immunity from past affliction. I think that is not enough as complications and mortality rate arising from measles are far worse than those from German measles. In fact many members of the medical profession have pointed out that it is necessary to arrange booster injections for people as immunity derived from one single injection will fade away as time goes by and in the case of some people, no antibodies may be produced even after the inoculation injection.

Mr President, yesterday I received a complaint from a member of the public. According to that person, all these years she has been fortunate enough not to have been affected even though she had had no inoculation injection while in primary school. However, on hearing the announcement of the Director of Health, she wanted to get the inoculation injection well in advance as she had the worry that she might be inflicted during the peak period of next year. When she contacted a private doctor, she was told to go to a clinic of the Department of Health for injection. But when she went to a clinic, officers there advised her to go to a maternal and child health centre as she is an adult. However, according to the person in charge of the maternal and child health centre, only Rubella vaccine, but not combined vaccine, was available. So she could not get the injection. After several rounds of going back and forth, she said she still did not know where to get the injection!

Mr President, though the Hong Kong Government so far has no plan to provide vaccination services to everybody, I think the Department of Health should at least provide the people with more information so that those wishing to get inoculation injections know where to go.

In fact, we are now only about half a year away from the peak outbreak of German measles. To give booster injections to 1.2 million people aged under 20, it is necessary to vaccinate, on the average, 10 000 people a day. Having regard to both the supply of vaccine and the manpower of the Department of Health, I think this is a mission hard to accomplish. In my opinion, the present situation is one of "burning no joss sticks on normal days and only praying to the Buddha at time of peril".

Mr President, infectious diseases that are recently of concern to the people are not just measles and German measles; they are also familiar with tuberculosis, malaria, chicken pox and scarlet fever. This year the World Health Organization (WHO) has already issued warning that cases of tuberculosis and malaria will increase this year. In Hong Kong, it has, unfortunately, been correct in the case of tuberculosis. Though Hong Kong is not a place rife with malaria, every year many people get malaria from outside in summer. Last year, a foreign teacher even died of that disease. So it is necessary for the Department of Health to step up prevention in this respect.

Though infectious diseases have different ways of spreading, the common point is that they are closely related with density of living, standard of living, and hygiene conditions. Judging from Hong Kong's special living environment of high density, and the fact that past statistical figures indicate that hospitalization rates are in reverse proportion to family incomes, people belonging to the low-income bracket are more prone to the affliction of infectious diseases. Educational publicity of the Department of Health should, accordingly, be concentrated on densely-populated low-income districts to provide the people with comprehensive education on pathology and health knowledge so as to lower the morbidity among the grassroots.

Furthermore, only the Department of Health is in possession of important data on the morbidity of infectious diseases in the territory and changes in population. Disease prevention policies can only be formulated accordingly on the basis of such information. The committee on disease prevention under the Department of Health, instead of following the present way of doing things in doing hasty "patching up" work only at the outbreak of infectious disease, should meet regularly to review the outbreaks of the various infectious diseases and make relevant information known to the public periodically so as to step up the public's guard against infectious diseases.

On the other hand, with regard to cholera, which once ran rampant, even though the Department of Health and the two municipal services department under much public pressure were able to trace the sources of the disease quickly, exposed under the eyes of the public are very unhygienic food-processing factories and restaurants. Clearly, the Administration's supervision on, and visits to, these food-processing factories and restaurants are gravely inadequate. The Democratic Alliance for the Betterment of Hong Kong (DAB) is of the view that the people's confidence in food hygiene will collapse totally unless the Administration immediately reviews and tightens the relevant supervision and punishments.

Mr President, recent discussions at the Legislative Council Select Committee and among members of the public have in fact highlighted the focal point of the problem, that is the Administration's supervisory visits are too few, there is not enough co-ordination between the Department of Health and the two municipal services departments, and the systems of supervisory visits and demerit points are too lax. The DAB earlier on put forward to the Government's inter-departmental panel a series of suggestions. It is hoped the Government can effect them as soon as possible.

In our opinion, the more significant one among them is the point that the two municipal services department all along do not have the legal authority to summarily revoke the licences of operators seriously violating regulations, as a result of which for a long time summary prosecutions cannot be initiated against restaurants or food-processing factories and, consequently, public health is still at risk. It is our hope that the Hong Kong Government will seriously consider the recommendations from the Urban Council, the Regional Council and the two municipal services departments and revise the legislation as soon as possible to authorize directors of the two municipal services departments to summarily terminate the business licences of restaurants and food-processing factories not meeting the basic hygiene requirements.

In addition, the DAB is of the view that it is necessary for the Hong Kong Government to set up a Food Management Bureau with members coming from the Urban Council, Regional Council, Department of Health, and the two municipal services departments to put together supervisory powers that are at present scattered here and there so as to strengthen legislation and law enforcement in respect of food safety. At the same time, legislation should be made as soon as possible to set up a system of food origin permits to regulate all processed food.

Mr President, with these remarks, I so move.

Question on the motion proposed.

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

MR HOWARD YOUNG (in Cantonese): Mr Deputy, today's motion debate reflects recent successive cases of infectious diseases which have been causing much concern to this Council as well as to the people. In less than one year, Hong Kong has successively experienced tuberculosis, cholera and, more recently, German measles, which indeed has aroused much concern among the public. If news of this type spreads abroad through the mass media, foreigners may think that Hong Kong is a backward Third World nation rife with infectious diseases. But Hong Kong is a progressive city, ranking among the top ones in terms of economic strength and per capita income. Yet there

come diseases that are extinct at places far lagging behind Hong Kong in economy and health conditions. I think the Government should, as mentioned in the motion, see if there are legal loopholes requiring plugging.

However, Mr Deputy, I am of the view that besides looking for legal loopholes, we ought to see if there are administrative loopholes as well. On the one hand, the Department of Health monitors and manages health matters, but on the other hand, many diseases, including the infectious diseases mentioned just now, start from the mouth. This being the case, it means that it has something to do with food establishments, including those that are up to standard, those that are lawful, and even many that are unlawful. Hong Kong people quite frequently dine out. I remember that several years ago, when there were cases of infectious diseases, a Government spokesman said that thanks to Chinese people's habit of eating cooked food, the diseases had not spread. In my opinion, a government should not say that the non-spread of diseases totally relies on the eating habit of its people.

Mr Deputy, I think the recent cases of cholera have given us much food for thought. An example is the case to trace the sources of food back to the food-processing factories. There has been criticism from many people. At a Panel meeting, you, Mr Deputy, also put to the Government the question why it could not quickly trace the sources of the disease this time whilst it was able to do so at the previous outbreak of cholera. However, the Government ultimately managed to trace the sources. Being a layman, I do not have the professional knowledge in this field. Anyway, in the end the sources of the diseases were traced, which proves that Government's work is effective. I believe that for most cases in the world, it might not be possible to trace the sources. It is indeed a great shock to see on television the deplorable conditions of the food-processing factories. They ventured to process food with polluted well water and that processing factory was one that was licensed and lawful. I, therefore, think that it probably has something to do with loopholes or imperfection in law, or provisions becoming out of date. We, therefore, urge the Government to consider the question as to whether or not it is necessary to review current regulations governing food-processing factories and restaurants. If revision or upgrading is needed, it should be submitted to the Legislative Council as it has to go through legal procedures. As modern society is advancing, in deciding whether or not to issue licences, we cannot follow the standards used decades ago or even in the last century.

Earlier on, some Members also raised the point as to whether or not there should be a demerit points system for food establishments, or a review to improve the existing licensing system. Mr Deputy, I am of the view that if there is a demerit point system under a licensing system, the transparency of the system ought to be improved to a certain extent. For example, people were unaware of the point that the relevant processing factory in the present case was graded as Class C. Only after the incident did we come to know such a grading system. Foods produced by food-processing factories get into the market easily; they can be bought in supermarkets. In my opinion, as some processing factories are found to be below hygiene standards but not so bad as to get their licences cancelled, it is perhaps advisable to introduce a certain degree of transparency so as to let the public know the grading after they have been graded. Even if that is not to be made known to the public, is it at least necessary to let retailers or purchasing bodies know? If the Government fears that displaying processing factories' grading on food wrappings might cause panic, restaurants should at least be allowed to know as it is up to restaurants to decide whether or not to order goods from these processing factories.

Mr Deputy, I think there is something wrong with the mechanism. Earlier today, when the Government responded to a query about the Urban Council raised by Honourable Members, the Secretary from the policy branch concerned merely stood up and said that all he could do was to convey to the Urban Council viewpoints of the Members, and that he had no power to exercise control. This indicates that there is probably loophole in the mechanism. Strictly speaking, the Urban Council and the Regional Council are the licensing authorities of restaurants. Some might question if the Legislative Council has the power to interfere. Fortunately, the Legislative Council at present has a Member representing the food industry, who provides a channel for us to understand problems in that area or put in efforts to improve the laws in that aspect. However, the 1998 political system currently under discussion might do away with this functional constituency. I just hope that such situation will not reoccur.

Finally, the Government today announced that it might be necessary to spend some \$10 million to buy vaccine in order to cope with the infectious disease of German measles. If resources are needed, it is my hope that the Government can present the matter to the Finance Committee of the Legislative

Council for consideration as soon as possible. Even if it cannot make it in time, the Provisional Legislative Council, I believe, will fully support the move.

THE PRESIDENT resumed the Chair.

MR CHAN WING-CHAN (in Cantonese): Mr President, these days people turn pale on the mention of diseases, with infectious diseases like cholera, E Coli O-157, tuberculosis, and German measles running rampant. Taken ill just in the first five months of the current year were over 2 000 people, some of whom even died from complications. Still more people are likely to be taken ill in the next few months. It is the duty of the Department of Health to prevent diseases so as to safeguard people's health. What measures has the Department of Health adopted to curb the spread of diseases? Are current measures sufficient? Is there a need for review?

Today I learned from reports that as there is going to be an outbreak of measles next year and there have been mounting cases of measles this year, the Government is going to have the Department of Health arrange to give some 1.2 million people aged between one and 19 booster doses against measles from late July to mid-November this year so as to improve their resistance to measles and nip next year's outbreak of measles in the bud. This is an appropriate move as "prevention is better than cure". But can consideration be given to the idea of scheduling the work earlier before the end of July?

With regard to food hygiene, the Department of Health at present has the responsibility to exercise surveillance over imported or locally produced food to ensure that food bought by consumers is not contaminated. The Administration also periodically takes food samples for chemical analysis, bacilli check, and toxicity test to ensure that the food is harmless to human body. All these measures ought to be stepped up.

Cases involving food not meeting hygiene standards, the incident of individual workers of a Tuen Mun restaurant becoming cholera carriers, and, most alarming of all, the deplorable hygiene conditions mentioned by Mr Howard YOUNG in respect of some food-processing factories reveal that the Urban Services Department and Regional Services Department have yet to further review and improve supervision on food and avoid having again the

type of food-processing factories mentioned above, which are not up to hygiene standards. I surely support stepping up surveillance and control, but it is my worry that the food industry will have to bear the brunt. Now "wind is strong and flame is high"; the government departments concerned will "push on with the inspections to drive you dizzy"! There might be the phenomenon of over-inspections. In fact, all along most restaurants are very self-disciplined. Workers also have certain knowledge about the code of practice on food hygiene.

At present, the two municipal services departments adopt a set of stricter regulations in exercising surveillance and inspection on the hygiene of restaurants. A grading system has been applied to licensed food shops since 1992, with frequencies of inspection divided into classes A, B and C. In denoting food hygiene conditions of licensed food shops, Class A and Class B refer to very good standard and satisfactory standard respectively. Class C means that the hygiene conditions of the licensed food shop are not acceptable, and that the licence-holder must immediately take active steps to bring the hygiene conditions of the shop up to standard. For food shops graded as Class C, officers from the two municipal services departments will make visits fortnightly. There are also strict systems of demerit points and cancellation of licences. All these are designed to ensure that food shops do meet hygiene standards. It can be said that these measures have been quite effective in keeping a watch on food shops as well as in improving hygiene.

I, of course, do not want to see restaurants have their "licences terminated" as that will jeopardize business operations and employees' livelihood. However, I must stress that members of the food industry have to attach weight to food hygiene, personal hygiene, and the cleanliness of shop premises. If we get our work on hygiene well done, the health of the over 2 million customers who daily patronize restaurants can then be safeguarded. All of us can then "eat at ease and eat with glee". Merit thus gained is not measurable. Everybody will benefit from it.

It is my hope that the Department of Health can make preparation beforehand. Do not "pray to the Buddha only at time of peril". Hasty actions tend to upset field plans, and, consequently, kick up a lot of dust. In the area of proper food hygiene and the task of preventing imminent spread of infectious diseases, the Department of Health should have every piece of work done well in advance so as to maintain Hong Kong's reputation as the world's

"capital of good food", and not to let hygiene problems ruin Hong Kong's fame and image.

DR LEONG CHE-HUNG: Mr President, I rise to speak in support of the motion and to thank the Honourable CHAN Kam-lam in bringing this motion to light. This motion, as we see it, consists basically of two angles, all on infectious diseases. Perhaps more to the interest of the public is the issue of food hygiene, food surveillance, co-ordination of relevant government departments and branches to ensure that we are ingesting safe food. Now, all these have been discussed in the last few weeks to ad nauseam and it has been very much highlighted by both Mr CHAN Kam-lam and Mr Howard YOUNG, and I do not intend to duplicate.

More important to Hong Kong in general, and perhaps to the health care professionals in particular, is the issue of infectious disease in general, and the policy involved in the education, surveillance, prevention and treatment of these

diseases which could lead to varying degrees of mortality and morbidity. I would like, therefore, to make use of the two current Hong Kong infection fears, namely, tuberculosis, or TB for short, and measles as examples to raise my concern and hope that the Administration can categorically respond.

But perhaps before I start I would like to make it very, very clear to honourable Members in this Council that diseases, in particular infectious diseases, are always there. It is impossible to eradicate them completely. It is a matter of degree that we have to control and it is for the Government, and also it is the Government's responsibility, to try its best to contain it, but the public at large too must play its part.

Mr President, some 150 years ago when the British set foot in Hong Kong, this piece of rock was a basin of many infectious diseases. It is due to the untiring efforts of the successive health authorities and the health care personnel in Hong Kong that Hong Kong is now free of epidemic. We owe it, therefore, to them our gratitude but we also owe it to them our sustained effort to determine new policies and directions to keep Hong Kong a permanent non-epidemic port, not only when the British are about to leave but also in the future and beyond.

Mr President, TB could well be considered as an infectious disease of civilization, for whilst the disease has been found even in the era before Christ, in Europe and the American continent, this disease reached its peak during the Industrial Revolution. The reason is simple. It is spread by droplets. Civilization has brought people together, especially as people smoke together in a close proximity favouring the spread of the disease.

In Hong Kong, the peak was in the early fifties, but thanks to the improvement of sanitation, improvement of people's resistance, through improvement in nutrition and the introduction of compulsory BCG inoculation, the incidence of TB has dropped some seven to eight-fold and it now remains only around 100 people per 100 000 population. Of course, the recent repeated discovery revealed by the media has brought on new impetus. The public is thus concerned and it begs the following questions.

Firstly, why is there no way to bring down further the incidence, given that Hong Kong is such an affluent society? Secondly, how infectious are these people? Should they be isolated and identified? Thirdly, how effective is the preventive measures like the BCG inoculation? And finally, how much of this is the result of new immigrants?

Mr President, the medical profession supports the Department of Health and are of the view that these patients do not need isolation as most of them are not open cases and do not carry the bacilli in the sputum. Furthermore, modern-day medications are so effective as to render even open cases bacillus-free after about 10 days or two weeks of medication. In relation to immigrants, data shows that only 2% to 3% of the positive cases of TB identified are new immigrants.

But be that as it may, there is a dire need for adequate publicity, not only on health knowledge but also on the availability of public health provisions at the access of these few immigrants, for these newcomers must be properly assimilated into our culture and lifestyle. They should not be used as a scapegoat whenever there is an outbreak of an infectious disease.

Mr President, the recent panic over the possible waves of measles makes me bring on another issue that the Government must be responsible for. I am not saying the Government is responsible for the measles, but the Government is responsible for the panic. I am sure every honourable Member in this Chamber must have thought that since the Government provides a

comprehensive vaccination programme for measles at birth most of us would have immunity. It therefore comes as a surprise if not a shock to realize that some might not fall within the immunity net unless they have received a second or a booster dose. To recover lost ground, the Administration yesterday, rightly so, announced a plan to launch a massive re-vaccination programme in the next five months for 1.2 million people between the age of one to 19. This is a welcomed move and a necessary step.

But why did it take a crisis or an imminent crisis to start these necessary wheels in action when obviously the health authorities must have known the need or the value of a re-vaccination? A revised health policy of introducing a re-vaccination programme should have been introduced some time ago. The public rightly so is panicked. A rush to doctors' offices to receive re-vaccination has produced a stampede in the last few days. Many private doctors have a shortage of available measles vaccines in this territory, and yet the panic should never have happened if properly planned, preventive and communicative measures had been taken with good time.

Let me also warn the Administration that in extending a massive re-vaccination programme there are yet two further areas that have to be considered for data has shown that morbidity and mortality could also arise from the vaccine itself. Therefore the Government must make known to the public that such complications are possible.

Secondly, with summer holidays just round the corner, it would be a hard job for the health authorities to perform, having to cope with the number of school children that need a jab before the winter.

Mr President, much of this depends on getting new policies that are very much technically and professionally dependent, to which with respect the relevant policy branches in the Government do not possess. It may well, therefore, be timely for the next Administration if not this to consider the introduction of professional people into their senior staffing levels in these policy branches where technical and professional know-how are in dire need.

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

MR MOK YING-FAN (in Cantonese): Mr President, if a tourist, after

enjoying Hong Kong's beautiful scenery and good food to his heart's content, watches on the television the way in which Hong Kong handles chicken legs, he, I believe, will never revisit Hong Kong for sight-seeing or the taste of good food for the rest of his life. However, it is still at least gratifying that the trunks and heads of those slaughtered chickens are no longer separated. Chicken legs go with chicken legs; chicken trunks go with chicken trunks. Even though the Tourist Association spends hundreds of million dollars to promote the message that Hong Kong is the Pearl of the Orient or the Paradise of Good Food, the impact is far weaker than the short documentary on "The Food-processing Factory next to Funeral Urns".

Not just foreign tourists, even many locals also find it hard to visualize that behind all the prosperity of Hong Kong there still exist such filthy and backward food-processing factories. Such mode of producing food is different from forging paper money or producing pirated C-D ROMs; the authorities concerned should be able to find out quickly in the course of inspections where the problems are. Rusty cement mixers are used to prepare chicken legs; cooking utensils lie all over on the ground covered with dirty water; freezers are wide open; the factory is located outside an abandoned chicken farm, and flanked by funeral urns and garbage. All these can be seen on television. The factory has been in operation since 1986 despite the many inspections, preparing for members of the public day after day food unfit for eating but already consumed!

According to the information from the Regional Services Department, the factory mentioned above is of Class C, that is the category with the poorest hygiene conditions and required to be visited fortnightly. Throughout its period of operation, the factory has only been prosecuted four times, with fines ranging from \$350 to \$1,000 only. Now in the New Territories there are 499 food-processing factories, of which some 180 are of Class C, that is to say, in poor environmental hygiene conditions.

A fine of a thousand dollars or so is no solution. Though the department repeatedly stressed that this was an individual case, yet food goes in through our mouths and thus directly affects our health. Cholera and E Coli O-157 are life-threatening bacteria. It goes without saying that there should be no tolerance for individual cases. Even for restaurants and food-processing factories graded as Class C, I doubt very much if they ought to be allowed to continue operation at all.

All these involve loopholes in laws as well as negligence of duty in enforcement. Under current laws, for food-processing factories suspected of producing bacteria- or bacilli-contaminated food, not until they are convicted by courts, the Regional Services Department can only advise them to stop operation. To schedule such cases for court hearings takes about three to four months. During that period, the department cannot "make arrest and close the premises". The fine does not have any deterrent effect as it only amounts to a thousand dollars or so. Had there been no publicity on the alarming conditions of such food-processing factories by the mass media following a serious outbreak of over 10 cholera cases, the authorities concerned will, I believe, keep on making visits as usual and give routine warnings and advice as usual. As for those food-processing factories, they will go on with their business as usual to serve the public, thus leaving people's health in danger as usual.

I, therefore, support the suggestion that once there is evidence showing that a food-processing factory is infected with cholera or E Coli, an order can be issued immediately to suspend its licence for three to six months. The reason is that hygiene conditions can be judged from specific environment of a food-processing factory. Furthermore, I am of the view that punishments should be made heavier and the demerit points system tightened so as to produce real deterrent effect.

Hong Kong all along has lopsidedly stressed economic development, thus contributing to the worsening pollution problem. Moreover, there are increasingly more new immigrants from China. So it is again time to conduct extensive publicity education accordingly. The Hong Kong Government has the duty to make all walks of people, especially those operating restaurants and food-processing factories, know how to prevent diseases, and understand the importance of environmental hygiene so that Hong Kong today in the 21st century would not repeat scenes from "old Cantonese films", where tuberculosis, cholera, smallpox and measles ran rampant. Thank you, Mr President.

MR NGAN KAM-CHUEN (in Cantonese): Mr President, under the Quarantine and Prevention of Disease Ordinance, Hong Kong has some 20 diseases that are classified as infectious and required to be reported. In the

brief period of the first half of 1997, these infectious diseases have been like phantoms resurrected, with tuberculosis, E Coli O-157, German measles, and cholera attacking Hong Kong in succession. Next year there will be a peak outbreak of measles. Over the last two days or so, we have learned of the occurrence of malaria. It seems that crises are coming in successively whilst the Government is unable to make preparation beforehand. As a result, there is a general panic. The people's living and work are being adversely affected. It is the hope of the Democratic Alliance for the Betterment of Hong Kong (DAB) that through today's motion debate the Government can be urged to review as soon as possible existing disease prevention measures, step up surveillance and control on infectious diseases, and improve contingency efficiency so as to safeguard people's lives and health.

I am going to speak on regulating and managing food hygiene.

Cholera is rampant recently. The Government has confirmed 13 cases so far, and three other cases under suspicion. The rapid speed at which the epidemic spreads and the extent of its affliction are really worrying. With the Department of Health and the two municipal services departments tracing the sources of the disease under public pressure, all of a sudden several food-processing factories with deplorable hygiene conditions were exposed right under people's eyes. The lack of strict regulation and management on the food hygiene of food-processing factories has sounded the alarm for public health.

The DAB is of the view that the state of affair has reached a very serious stage. Unless the Government expeditiously reviews and tightens the regulation and management on food-processing factories, the people's confidence in food hygiene will collapse entirely.

So the pressing task of the moment is to pay immediate visits to food-processing factories with poor hygiene conditions and Class C restaurants as well. Furthermore, food-processing factories and restaurants not meeting the basic hygiene standards should be punished right away with their licences suspended. At the same time, there should be a crackdown on illegal restaurants and unlawful food-processing factories. Besides these measures, the Government should comprehensively review as soon as possible regulatory measures on food-processing factories so as to plug the current loopholes of poor regulation and lenient punishments.

These measures include: improving the existing three-tier system of inspecting restaurants by doing away with the third class and replacing it with a two-tier system; strictly instructing food-processing factories and restaurants not satisfying the hygiene standards to make improvement immediately; dealing with food-processing factories and restaurants not meeting the basic hygiene standards by revising the laws to give the directors of the two municipal services departments the power to terminate their food business licences immediately.

The reappearance of E Coli O-157 further reminds us of the need to step up health education for members of the food industry. Given the Government's existing equipment and technique, it takes a week to find out whether or not there is E Coli O-157 in beef. During that period, meat with such problem can have the chance to get into the market. The safeguard for the public is far from being adequate. The Government, therefore, should mandate that licence-holders or managerial personnel of restaurants, meat stalls and food-processing factories must receive training in hygiene knowledge and step up publicity on hygiene knowledge for employees.

Mr President, ever since some confirmed cases of cholera were first brought into light, the Regional Council has been actively urging the department to take measures to stop the further spread of the disease. The Regional Council asked the department to inspect premises of all restaurants within a short period of time, prosecute restaurants not satisfying hygiene standards, and ban the use of well water by food-processing factories for the preparation of food. So far the department has made 112 prosecutions.

With regard to corresponding moves in law, late last month the Regional Council passed a motion proposed by the Honourable CHEUNG Hon-chung to urge the Administration to draw up legislation to regulate hygiene requirements in respect of food in transit. This month the Council will also get the Government to review the by-laws on food hygiene so as to tighten the existing demerit points system and, as a warning for others and a move to promote self-discipline and zeal for improvement among members of the industry, to announce the names and locations of some 2 000 New Territories restaurants and food-processing factories with the worst hygiene conditions.

There is a common saying that "Food is of utmost importance to the common people." Food hygiene is, therefore, closely related with people's

health. In the face of the recent threat of rampant infectious diseases, the Government should expeditiously review existing disease prevention measures and the general mechanism, and improve the co-ordination between the Department of Health and the two municipal services departments so as to improve Hong Kong's hygiene standards and prevent the outbreak of infectious diseases.

Mr President, with these remarks, I support Mr CHAN Kam-lam's motion.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, I very much thank the Honourable Members for views expressed in response to today's motion.

Introduction

Recent successive cases of infectious diseases have aroused among the people a concern about Hong Kong's disease prevention measures and public health. I want to take this opportunity to explain to Honourable Members existing situation of infectious diseases in Hong Kong and the Government's measures and future plans for curbing and preventing infectious diseases.

Existing situation of infectious diseases in Hong Kong

First of all, there are many kinds of infectious diseases. In Hong Kong 26 kinds of infectious diseases are being classified as ones that have got to be reported to the Department of Health. These include tuberculosis, hepatitis, whooping cough, measles, German measles, and cholera and so on. With high population density and mobility, there is a high inherent risk for the spread of diseases in Hong Kong. However, as a result of efforts from different quarters, our overall figures in respect of the incidence of infectious diseases have been dropping over the past decades. In the fifties, our morbidity rate of infectious diseases was 630 out of 100 000, by the sixties it dropped to 470 out of 100 000, and in the seventies it further went down to below 300 out of 100 000. In 1996, our morbidity rate of infectious diseases was 140 out of 100 000. Our ability to hold the spread of infectious diseases is due to factors in many areas, for examples, environmental hygiene, water quality, people's health, educational level and continuous improvement in

medical care. The fight against and prevention of infectious diseases have thus been rendered much easier.

However, we definitely should not take infectious diseases lightly as some infectious diseases, for examples, tuberculosis and hepatitis, still pose a threat to the health of the public.

Though the morbidity rate of tuberculosis went down from over 460 out of 100 000 in 1956 to 100 out of 100 000 in 1996 as a result of years of hard efforts, tuberculosis is still the infectious disease with the highest incidence in Hong Kong. Of the some 8 600 cases of infectious diseases of last year, tuberculosis claimed 6 500 cases, topping the list of infectious diseases. The second and third places went to German measles and hepatitis respectively. In 1996, there were over 600 cases of German measles and over 470 cases of hepatitis.

Existing measure

The Honourable Members urge the Government to review existing measures for the prevention of infectious diseases and to plug legal loopholes. In fact we have never stopped doing this; nor are we doing a review only as an after-shock measure following the recent outbreak. We understand that though figures are improving, it does not mean that we may go easy as the world trend tells us that infectious diseases might make a comeback anytime.

The Government all along controls infectious diseases through different channels, including mandatory reporting mechanism, implementation of inoculation programs, stepping up education for the public, enhancement of technical support, improvement to public hygiene, and establishing international links. These measures have been very effective over the past decades.

Legislation

Hong Kong drew up legislation on prevention of diseases as early as the thirties. The Quarantine and Prevention of Disease Ordinance (Cap. 141) prescribes the duties and power of the Director of Health in the area of preventing and investigating diseases. At the same time, the Prevention of the

Spread of Infectious Diseases Regulations under the Ordinance also make it mandatory for all people, including physicians, to inform the Director of Health on discovering cases of infectious diseases for immediate follow-up actions by the departments concerned. The Department of Health is to launch investigation immediately on so notified so as to be sure of learning patients' case histories and conditions as soon as possible and take follow-up actions to prevent the spread of diseases.

There is also the Public Health and Municipal Services Ordinance (Cap. 132), which regulates food ingredients and packing. The Director of Health may collect food samples from food shops, ban the import of food under suspicion of contamination, and go into food shops for investigation.

Control/Prevention measures

The Government implements different plans in accordance with the types of diseases.

If classified on the basis of control measures, infectious diseases can be divided into three broad categories. Those in the first category are diseases spread by mosquitoes, such as plague and malaria. The focal point in prevention is on improving environmental hygiene for the purpose of curbing the growth of mosquitoes and rats.

Those in the second category are infectious diseases against which vaccines have been developed, for instance, measles and whooping cough. Starting from as early as the fifties, Hong Kong has been having an inoculation program for infants and students. At present inoculation programs for children and youngsters already cover nine infectious diseases, including tuberculosis, polio, diphtheria, tetanus, whooping cough, hepatitis B, measles, mumps, and German measles. Though inoculation is not a 100% proof against future affliction, it plays a positive role in containing infectious diseases. Hong Kong has had no diphtheria cases since 1982; nor has polio cases been found since 1985.

With regard to the prevention of tuberculosis, we, besides giving children BCG inoculation, place emphasis on encouraging people showing symptoms of the disease to have check-ups and treatment as soon as possible as

well as on working through the supervision of medical care staff to ensure that patients do complete the course of treatment. The reason is that this is the most effective way to prevent patients from having relapse and stop the spread of the disease.

Turning now to measles and German measles, which have recently aroused concern. The Department of Health all along has arranged for females aged between 11 and 14 and women of child-bearing age to be inoculated against German measles. As a measure put into effect since 1990, the Department of Health gives 1-year-olds combined vaccine against measles, mumps and German measles. With effect from 1996, the Department of Health give Primary 6 students of both sexes second doses of combined vaccine against measles, mumps and German measles.

Furthermore, the Department of Health forecast that measles is going to have a peak outbreak in the spring or early summer of 1998. The Vaccination Advisory Committee yesterday held a meeting to discuss the issue, all specialists unanimously agreeing that the Department of Health should launch a massive vaccination program to inoculate 1.2 million persons aged between one and 19 against measles. The Department of Health is planning to give those children and youngsters injections from late July to November.

As for measures to prevent hepatitis B, we have special inoculation program for high-risk persons, such as babies and medical care personnel. We also have mechanism to prevent contamination to blood or blood products. Apart from this, mothers visiting maternal and child health centres are tested for hepatitis B. As from 1988, babies born in public hospitals have to be inoculated against hepatitis B.

Infectious diseases in the third category are primarily those spread by contaminated food and water. There is a common saying that "disease starts from the mouth". Ensuring food hygiene is very important to the elimination of these infectious diseases. With regard to the much concerned cholera cases of recent days, it is possible to reduce chances of affliction by improving the environment and food hygiene.

Monitoring mechanism

We have a set of effective monitoring mechanism to detect and report on the outbreak of infectious diseases. On being notified of the outbreak of

infectious disease, the Department of Health will conduct investigation and carry out contingency plans in conjunction with relevant government departments and other medical care organizations.

In preventing and controlling gastroenteritic diseases, such as cholera and food poisoning, assistance from the two municipal services departments is very important as they issue licences, and regulate food shops and food-processing factories. At the same time, whether or not water from the Water Supplies Department is safe and clean is also a key factor to the prevention and control of infectious diseases.

In this area, there has been close co-operation between the Department of Health and the two municipal services departments. The Health Committee is chaired by the Director of Health, with members representing the Urban Council, the Regional Council, the two municipal services departments, the Agriculture and Fisheries Department and the Health and Welfare Branch. The Committee, meeting periodically, mainly formulates policies on food hygiene and co-ordinates the work among departments. For the purpose of preventing and controlling the spread of cholera, the Department of Health, since 1986, has formed a task force to keep a close watch on the situation and draw up contingency plans. Members of the task force include representatives from the two municipal services department.

Now on daily operation. The Department of Health is responsible for territory-wide surveillance, obtaining samples at wholesale and retail outlets for bacteria and chemical analysis to ensure no contamination to food. In the event that there are problematic food samples, the Department of Health will take follow-up actions and inform the two municipal services departments of the cases for actions to be taken against shop-operators or hawkers originating the food samples. If the place where the samples are collected has environmental hygiene problems, the Department of Health still will inform the two municipal services department of the situation for follow-up actions to be taken even though the food samples are totally up to standard.

System for the management of food shops and the issue of environmental hygiene are within areas of policies of the Urban Council and Regional Council. Policies drawn up by the two Councils are carried out by the two municipal services departments, whose duties include licensing and routinely inspecting food shops, environmental hygiene, market and hawker control and ensuring

that food and goods sold by these shops or premises do satisfy hygiene requirements. In reaction to recent cholera cases, Mr CHAN and other Honourable Members suggested that the two municipal services department step up inspections to food shops, provide in-service training to food-shop workers, and make improvement to the existing licensing system and demerit points system. I very much agree with all these, and have urged the Urban Council and Regional Council to expeditiously review the relevant ordinances and the monitoring systems so as to safeguard the health of the public.

Prevention measures, inspections and system of prosecution are, of course, important; so is awareness and alertness on the part of the public and members of the trade in respect of personal hygiene, environmental hygiene and food hygiene. Public education is, therefore, essential.

Public education

Having learned from years of experience in this aspect, the Department of Health has been continuously making improvement to strategies for public education in a determined bid to make more people pay attention to personal health and food hygiene. The current method places stress on promoting a healthy lifestyle, paying attention to food hygiene and personal hygiene, and correct participation in inoculation programs.

Summer is a time when bacilli are active, and infectious diseases of any type, therefore, can easily appear. The Department of Health is going to organize several educational activities so as to remind people to pay attention to what they eat and drink and be aware of food hygiene by working through different departments, such as the Education Department, Home Affairs Department, Urban Services Department and Housing Department. Displays and talks on food hygiene will also be held in various districts to explain to restaurant operators and members of the public the importance of food hygiene.

International links

In addition to taking measures in Hong Kong, the Department of Health also maintains close links with neighbouring places and the World Health Organization (WHO). Information on the situation of infectious diseases in Hong Kong is being supplied to WHO periodically. An understanding of

global trends of infectious diseases is also obtained through the Organization. To strengthen links and to work out matching measures and contingency plans of each place in the event of an outbreak of infectious disease at any one place, we also take part in the WHO-sponsored conference on infectious diseases in China, Hong Kong and Macau. We periodically hold meetings with Chinese departments in charge of food exports to have discussions on surveillance on food hygiene. All these arrangements do help to combat and prevent infectious diseases.

Enhancement of technical support and stepping up training

The Government also plans to enhance technical support and step up training to improve efficiency so as to face new challenges.

To strengthen our surveillance system for infectious diseases and enhance the efficiency of laboratory examinations, we plan to build a new public health laboratory, acquire advanced laboratory equipment and bring in technique of international standard. Upon the completion of that laboratory, the number of samples to be examined daily can be increased from the present figure of about 3 500 to over 4 800. A total of over 1.2 million samples can be examined in one year. With the efficiency of laboratory examination enhanced, we can quickly trace the sources of diseases, speed up law-enforcement procedures, and help the departments draw up suitable contingency plans. In addition, the Department of Health also plans to install more computer systems to link up all the clinics with the databank in the head office so as to improve the receipt and dispatch of information and data on viruses.

Conclusion

Mr President, to sum up, the Government, like the Honourable Members, is very much concerned about the recent problem of infectious diseases. At present, the Government has a set of comprehensive measures to combat infectious diseases. We have made thorough consideration and planning for inoculation, prevention and public education. In the face of the ever-changing problem of infectious diseases, we will continuously review existing systems to plug loopholes and closely monitor development of matters so as to draw up contingency measures at the first moment. I will also convey to the Urban Council and Regional Council views expressed by Honourable Members with

regard to the systems for the supervision and management of food shops and urge them to strengthen their supervision and management so as to safeguard the health of the public.

Thank you, Mr President.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, you are now entitled to reply and you have one minute and 38 seconds out of your original 15 minutes.

MR CHAN KAM-LAM (in Cantonese): Mr President, it is very important for Hong Kong, an international financial centre, to keep the city clean and hygienic. We cannot afford to take this lightly, can we? In the past, we put in efforts to keep the city environment hygienic so as to prevent infectious diseases. The results are praiseworthy. However, we definitely ought not to feel conceited, become insensitive and self-satisfied because of the results gained. Though diseases that successively broke out this year have not spread out widely, they do indicate that the work of the departments concerned still leaves room for improvement, thus sounding the alarm for us.

Summer is just round the corner. We are of the view that before the arrival of a season favourable to the outbreak of infectious diseases and the multiplication of bacteria, the Administration should go into action to take effective measures to prevent epidemics. We also call upon every person in Hong Kong to take the initiative to be a citizen "both healthy and civilized" and uphold Hong Kong's reputation as a clean city. It is my sincere hope that today's motion debate can draw the entire society's attention to the issue of health so as to ensure that every citizen and visiting tourist can enjoy healthy living in Hong Kong.

With these remarks, I thank Honourable Members for their support.

Question on the motion proposed, put and agreed to.

LONG TERM POLICY TO MEET THE NEEDS ARISING FROM POPULATION GROWTH

MR CHEUNG HON-CHUNG to move the following motion:

"That, as the latest population projection released by the Government shows that the population of Hong Kong will grow rapidly at a rate of almost 30% to over 8 million in the next 10-odd years, this Council urges the Government to expeditiously make corresponding adjustments to the policies on housing, education, medical care, transport, human resources and so on, and better utilize the fiscal reserve so as to satisfy the needs of the people in their daily lives and to make preparations for the social pressures brought about by the population growth."

MR CHEUNG HON-CHUNG (in Cantonese): I move the motion as set out on the Order Paper.

Mr President, according to the latest release by the Government, it is forecast that the population of Hong Kong will see an increase of nearly 30%, rising from less than 6.3 million in 1996 to about 8.2 million in 2016. Developments in areas such as housing, education, medical care, transport and human resources are based on population growth. All along, however, the Hong Kong Government has failed to formulate any population policy in line with the growth in population, the ageing of population, and the accommodating capacity of the society. Government officials once openly admitted that major slip in population forecast would adversely affect the life quality of the public and all the plans in connection with people's livelihood might go astray. So the Government has the duty to expeditiously make corresponding adjustments to policies on housing, education, medical care, transport, and human resources in accordance with the results of the population forecast. It should also have a comprehensive picture of future population trends and flexibly and effectively review the formulation of all areas of the policies, satisfy the needs of Hong Kong people in their daily life, and get prepared for the pressures on our society arising from population growth. If such needs arise, the Government should make use of the fiscal reserve to appropriately allocate additional resources for social needs foreseen to ensure that there is no dislocation between the supplies of services and the needs of the society and corresponding demands.

Mr President, to brief Honourable Members on trends of future population changes, I am going to give some figures published by the Census

and Statistics Department.

It is estimated that the population of Hong Kong will climb from 6.29 million in mid-1996 to 7.38 million in mid-2006 and then go up to 8.21 million by mid-2016, making an average annual growth of 1.3%, and pushing up the overall population by 30% during the same period.

The population will be ageing continuously in coming years. In 1996 those aged below 15 made up 19% of the total population. The proportion will still be declining in 2006 and will drop to 15% by 2016. The percentage of those aged 65 or above will increase from 10% to 11% between 1996 and 2016. Correspondingly, the median age of Hong Kong population is going to drop from 34 to 29 between 1996 and 2006 and then go up to 41 in 2016.

As population changes, there is also going to be obvious change in the dependence ratio, which indicates the number of people in the population requiring social support and belonging to the same age groups. For the age groups of those aged under 15 and those aged over 65, the dependence ratio will drop from 407 out of 1 000 to 251 out of 1 000 between 1996 to 2011 and then by 2016 will go up to 384 out of 1 000. Dependence ratio goes down as those once aged under 15 grow up and become productive. However, the dependence ratio exclusively for those aged over 65 will be on the increase continuously.

At the same time, another factor is those people who come from Mainland China for settlement here. They are going to be a main source of population growth. In 20 years, the accumulation from that source will go up to 1.1 million (on the assumption that the policy on the daily quota of 150 one-way entry permits for mainland Chinese is to remain unchanged). In the next 20 years, those from mainland China are going to take up 57% of the population growth. As a comparison, 25% will be taken up by natural growth whilst local people, and those holding foreign passports (foreigners, foreign domestic helpers, and returning emigrants included) are to claim 18%. If comparison is made between the population forecasts of 1992 and 1997, the population forecast indeed erred seriously.

The population figure published by the Census and Statistics Department last year (mid-1996) is 6.31 million, exceeding the 5.88 million forecast in 1992 by 0.42 million, and representing a discrepancy of 7.2%. Clearly, the

1992 population forecast by the Government, which was based on the data from the 1991 census, under-estimated the population growth. At that time, the Hong Kong Government estimated that the average annual growth rate for the few years following was 0.69%, but in fact during the period between 1992 and 1996, the population growth ranged from 0.8% to 2.5%. According to the forecast of the Hong Kong Government, the population of Hong Kong will not exceed 6.3 million until sometime between 2006 and 2007.

The Administration tried to give explanation for the inaccurate population forecast, mainly attributing it to deviations from assumptions made at the time of forecast in respect of the number of new immigrants and the mobility of locals. The principal reason is that the net figure of locals' departures is lower than expected (with the returning emigrants increasing sharply). A factor second in importance is the point that the number of foreign domestic helpers has been growing faster than expected. More immigrants coming from China, foreign workers increasing in number, and birth rates going up again as opposite to expectation are also the reasons. In brief, the unstable factor of population mobility is believed to be the main reason for the constant inaccuracy in population forecasts.

Mr President, from the viewpoint of long-term development for Hong Kong, the Government must draw up a set of comprehensive population policies to formulate suitable measures in accordance with the population structure of Hong Kong and the accommodating capacity of the society, covering mainly housing, medical care, transport, education, employment and social welfare and so on, and making adjustments in line with population trends. At present, the population of Hong Kong is clearly gradually ageing. As the population is ageing, it is the pressing task of the moment to address the issue regarding the livelihood of old people after retirement. According to earlier information on the analysis of age-dependence ratios, each productive person will be required to support more retired people. The figure indicates that there might be a need for Hong Kong to increase income tax in the future. To avoid having to follow the foot-steps of Western nations in the future in making some people pay heavy taxes to support retired persons' living and medical care, it is congruent with the general well-being of Hong Kong to formulate now comprehensive and long-term retirement programs for old people. Now let us take an overall view. In Hong Kong over the years in the past, a period of 10 years has been used as a cycle for census. However, the factors stated above have complicated the changes in Hong Kong

population. It is necessary to have more frequent censuses. With more frequent censuses, population data can be more accurately grasped, and there can be less discrepancy, and, consequently, fewer errors in the formulation of policies.

Mr President, with regard to the requirements in respect of various social policies, I now briefly state the standpoints of the Democratic Alliance for the Betterment of Hong Kong (DAB). First, on housing, the DAB is of the view that the Housing Branch should clearly fix the middle-range and long-range targets of housing policies. Long-range targets should focus on making plans to open up land, increasing land supply, and getting complimentary facilities ready for transport and infrastructure. They should also keep in line with city planning developments and be geared for a duration of 20 years so as to be in line with the Territorial Development Strategy. With regard to middle-range targets, it is necessary to have more accurate population forecast. As to land supply, it includes newly-opened land, redeveloped or converted sites, land formation projects, and materialization of transport infrastructure. The number of additional units to be built annually should also be reviewed. According to the estimate of the DAB, if the waiting time for public housing is to be shortened from six years to two years by 2006, it is necessary to provide 31 000 rental units annually.

Mr President, with regard to education, it is very important for the society to have sound and high-quality education, especially because we have noticed that a sizeable ratio in our growing population are school-age children from China, who, unless given sound education, might one day become problematic persons, and give rise to social problems. To provide them with sound education, therefore, seems to be particularly important. Young immigrants are going to become part of the main frame of the Hong Kong society. At present, Hong Kong's educational services still leave much room for improvement. There are still floating classes in secondary schools and it will take a long time to implement whole-day primary schooling. With continuous population growth and the upsurge in the number of school-age children, improvements to educational services have to keep abreast with the changes.

Mr President, I now turn to employment problems. For the present and future population increases, adult immigrants from mainland China constitute a significant portions. They, invariably coming here for family reunion, are already members of the work force in the Mainland. They are bound to burden the society unless they are converted into energy for labour production. Furthermore, Hong Kong's industries are undergoing a transformation, heading for a capital intensive pattern from a labour intensive pattern. It is undeniable that the economic accomplishments of Hong Kong over the past decades are achievements that all people in Hong Kong ought to be proud of. The per capita GDP of Hong Kong is ahead of many Western nations. Geographically, Hong Kong lacks land and natural resources. Yet economically Hong Kong managed to rise so rapidly. The "human" factor must not be ignored. To Hong Kong, manpower resources are wealth. Innovative and sharp entrepreneurs have promoted Hong Kong's prosperous economic development. Today the elite in possession of professional knowledge and skills can further enhance Hong Kong's economic production. Proper utilization of manpower resources and training talents at different levels are keys to the continual economic growth of Hong Kong. To keep abreast with social development, the Government has to draw up a set of policies on manpower resources that are comprehensive and forward looking, placing emphasis on developing and conserving manpower resources to replace the present fragmentary labour policies. To develop manpower resources, it is necessary to strengthen education of various types, including that of technical institutes and education in other professional subjects. Conservation of manpower resources ought to be done through training and re-training. The targets of the SAR Government's long-term policies on manpower resources should be the promotion of resource-matching and a balanced supply and demand in various professions, and the bestow of quality and skills on the labour force to make hi-tech personnel more congruent with economic and industrial technical developments and render it possible for low-tech workers to catch up with the pace of the society and be divorced from poverty.

Mr President, to improve new immigrants' productivity and have them trained can reduce the burden of the entire society. So proper employment policies should be formulated on the basis of changes in the population to cater for the long-term well-being of Hong Kong. There is genuine need in this respect.

Mr President, my final point is on transport. Comprehensive and

balanced infrastructural developments are important to the society and economy. The Government should ensure that the existing infrastructure matches the growth of every profession in the society so that in the 21st century Hong Kong can retain its existing status as a centre of international trade, tourism and cargo shipment. Furthermore, the Government should keep on making improvements to the transport at sea, on land and in the air. Supervision and management of the information industry should also be enhanced.

Basically, Hong Kong's harbour and infrastructural developments of today are in step with the developments in both China and Hong Kong. However, it is still our hope that the harbour and infrastructural facilities can further develop complimentary services so as to improve the efficiency of passenger transport and cargo shipment. With regard to sea transport, container terminals meeting international standards and well-equipped can help strengthen the development of cargo shipment and upgrade Hong Kong competitiveness. The Government should keep on improving harbour facilities, give support to mid-stream transport operation, and promote the growth of Guangdong-Hong Kong river trade. Concerning air traffic, to cope with the ever-growing volume, the Government must step up liaison and co-operation with nearby airports to ensure aviation safety so that Hong Kong can become the hub of aviation in Asia and southern China.

Mr President, the DAB is of the view that Hong Kong's transport planning development should be directed forward for at least 20 years in catering for needs to ensure that the three Category A railway items mentioned in the Report on Railway Study can be launched as scheduled. These items include the North-Western Railway, the Cheung Kwan O MTR Extension, and the East Kowloon Railway projects. We think it is also necessary to schedule earlier the construction of the Tsim Sha Tsui extension, the Diamond Hill line, and the Northern Hong Kong Island line. To ease road congestion, the Government should, as far as possible, broaden the roads and build more highway networks. The Government should review the border-crossing arrangements between China and Hong Kong, with particular reference to those between Hong Kong and Guangdong, to simplify arrival and departure formalities, and take specific measures to ease traffic jams between the two places.

Mr President, judging from the analysis of population growth, new

immigrants from mainland China constitute the bulk of the increase, while local natural growth takes up a small portion only. Therefore, the social policies for the new immigrants should be revised. Such policies should include ways to train up the new immigrants' children to join the backbone of our society, and the task of giving job training to adult immigrants to meet the local job requirements. It is necessary to put in a lot of resources for policy adjustments. However, under the existing concept of fiscal management in Hong Kong, that is, expenditure should not exceed economic growth, present expenditure can only cater for social developments of the existing social foundation. It is, therefore, most likely that we will have to use the fiscal reserve to meet the expenses arising from adjustments to social policies to cater for the needs of the population growth. This is in line with Hong Kong's principle for fiscal management, that is to use the reserve to meet sudden needs. We ought not to take on conservative views and become a miser as in the long run this is in line with Hong Kong's overall well-being.

Mr President, it is indeed a pressing task for the Government to make corresponding adjustments to policies because of population growth. I call upon colleagues to support the motion so that we can send to the Government a powerful and effective message urging the Government to conduct a study as soon as possible for the formulation of corresponding policies.

I so submit.

Question on the motion proposed.

MISS CHAN YUEN-HAN (in Cantonese): Mr President, as the population grows, the demands for various social services will inevitably go up. In the past, the increases in the population of Hong Kong could be regarded as natural growth. Compared with the growth rate of other nations or places, our growth rate was not high. I think that had much to do with the "one is enough" concept promoted by the Family Planning Association, whilst the exodus of migrants over the last dozen years or so also had a part to play. That being the case, the Government has not made much improvement to social policies as there has not been significant growth in population. However,

according to the population forecast of "The Hong Kong Population Projection from 1997 to 2016" recently published by the Government, the population in the next 20 years will rise sharply. This can be taken as a warning to government departments! They must consider carefully the need to match future developments with population growth.

I say so because policies launched by the Government often tend to under-estimate the situation. For instance, in the area of housing and employment, there are the two typical examples that I am going to speak on today, that is, housing and employment.

Let us look at housing first. As repeatedly pointed out by me over the past year or so since I joined the Legislative Council, because of the mistake made by the Government in 1990 regarding the supply of land for housing, our supply of public housing has been grossly inadequate in recent years.

The other issue is employment, a topic I am most familiar with. In the 1970s, Hong Kong's economy already underwent restructuring and gradually moved away from the labour-intensive pattern. I remember that Mr BREMRIDGE, the then Financial Secretary, headed a working group to study Hong Kong's industrial policies. Regrettably, it so happened that China was then launching reforms and opening its door; so the Government shelved the plan without studying how to support industries or how to help the manpower resources of Hong Kong adapt to the social growth. The erroneous projections have caused the difficult employment situation that the "working class" of Hong Kong are facing. But it seems that the Government has not noticed such a situation. On many occasions we took to the street to stage rallies and protest. Eventually some unemployed workers even resorted to committing suicide. Only that managed to get the Governor to hold three successive summit meetings the year before last to address the problem of unemployment. All these are due to erroneous estimates made by the Government in the past. However, the Government is oblivious to the reflections from community bodies. These two issues have in fact taught us a profound lesson.

Mr President, I will specifically expound our views so as to bring these two issues to light. On the errors regarding housing, because of the mistakes made in 1990 in respect of land for public housing, which I have just mentioned, the Housing Panel of this Council has had frequent discussions in

recent years on how to increase the production to solve the housing problems of the public. Apart from this current problem, the population of Hong Kong is going to have a sharp growth, with an increase of 2 million in 20 years, 60% of whom are new immigrants made up mainly of the grassroots with housing needs. With regard to our own problems, the Government originally said that by 1996, the housing problems of the people on the Waiting List could be solved. But at present 148 000 persons are still waiting for public housing. The problem comprising new immigrants and the people on the Waiting List for public housing is for the Government to solve.

I want to be optimistic about this problem but it does not appear to be optimistic. According to the Government, 141 000 public housing units will be built by 2001. But the Government added that this could be done "if nothing unexpected happens". However, both the chairman and vice-chairman of the Housing Authority recently said explicitly or otherwise that it might not be possible to accomplish the task although every effort would be made. They explicitly and implicitly indicated that it was due to the problem with land. Yet, for reasons unknown, the Government said two days ago that there will be 75 hectares of land for building low-density houses. I am not saying that no luxurious properties should be built in Hong Kong. The point is that in spite of all the open and hidden signs indicating inadequacy of land and the need to build some 140 000 public housing units by 2001, the Government still decides to build some low-density houses. I, therefore, really have to ask the Government whether it has given due consideration to the hardship facing the people in respect of housing. Whilst existing problems remain unsolved, new problems are cropping up. How are we to face the housing problem?

A short while ago, in preparing this speech, I read again a government document on Long-Term Housing Strategy. It has come to my awareness that the Government has solved neither the problems I have just mentioned nor those in the future. On page 20 of the document, the Government says, "On the other hand, many public housing tenants in fact no longer need the huge housing benefits that they are enjoying. The proportions of family incomes they spent on rental payments are smaller than those of families living in private buildings." This is the Government's analysis, an analysis of public housing tenants under the current housing situation. This analysis again erred. Why do I say so? To address the current housing problem, one that "sets the people seething", the Federation of Trade Unions (FTU) conducted a

questionnaire survey last January. Results show that conditions of public housing tenants are not as rosy as the Government's description. It is in fact just the opposite. However, someone might dispute figures obtained by us and label them as biased. For this reason, the FTU recently commissioned a consultant firm to prepare a consultant report, which is almost 100 pages long. According to the report, one-third of public housing tenants have difficulty in making rental payments. I have informed the Secretary for Housing of the findings. Attaching much attention to this issue, he said he is going to look into the causes. In fact the issue has to be studied by the Government as a whole. So it is advisable not to raise rents sharply as suggested by the document on Long-Term Housing Strategy so as not to drive people to desperation. Determined efforts should be made to solve residents' current problems as well as problems arising from future population growth.

The second issue is employment, which is a very big problem. We can notice that at present hundreds of thousands of people in Hong Kong cannot catch up with the overall developments of manpower resources in the society. In the future, 60% of the new immigrants are the grassroots. What are we going to do about it? The Government has to have determination to draw up a complete set of plans for the training of manpower resources. I, therefore, again urge the Secretary for Education and Manpower to set up a body for employment co-ordination to co-ordinate economic development and employment situation, and pool together existing training resources. It is my hope that the three consultant reports of last year can be implemented. Coming to this point, we cannot but bring back to our memory the late Dr Samuel WONG of this Council, who was the person in charge of the respective bodies. Though he is dead, it is still hoped that the Government can press on with the tasks of the Vocational Training Council and Employees' Re-training Board to solve for the unemployed the problem of employment.

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

MR HOWARD YOUNG: Mr President, on behalf of the Liberal Party I rise to support today's motion. Today's motion is a very wide-embracing one. The basis of moving today's motion by the proposer is that, as stated, that Hong Kong's population will grow rapidly at a rate of almost 30% to reach eight million in about the next 10 years.

Mr President, this is not an alarmist figure. 30% growth in 10 years is but a roughly 2.5% compound growth. If you look at the immigration figures from China, even at the current rate of 100 per day, that provides for 55 000 more or less per annum or almost 1% of our population. Then also this still does not take into account how to deal with many children born of Hong Kong residents in China who, as from 1 July, will have the right to live in Hong Kong. So, therefore, Mr President, the population base and projection is, we believe, a sound one and we must take measures to not just deal with how to help solve these people's livelihood but also how to create employment and let Hong Kong remain competitive at the same time.

In response to the various areas in the motion, that is housing, education, medical care and transport, one needs to look no further than our own Liberal Party's manifesto, which although was drafted and finalized as far back as May 1993, for the policies as expounded by us then, are still valid as of today. We had two chapters in our manifesto. One was to invest in the people, and second was to invest in Hong Kong, specifically the infrastructure.

Firstly, take the people and education. This is the key to the matter and the Liberal Party believes that Hong Kong's stability and development needs to be supported by a suitable education policy, no matter whether considered from the viewpoint of an individual or society or analyzed from an economic or political perspective. We believe that the Government should invest more, having done so a lot in primary and secondary and even tertiary education over the last few decades. In the long term, we believe that pre-school education should also become fully subsidized.

Although education in Hong Kong is universal, we must continue our efforts to improve the quality of education, and that means investment in teaching staff, in teaching institutions and also teaching facilities.

In order to strengthen our competitive ability and maintain Hong Kong's pre-eminent position as a centre for trade, finance and tourism, there is a need to improve the proficiency of Chinese and English language skills, and that also needs investment. And at a recent debate sponsored by the Honourable Mrs Selina CHOW, we did highlight the point that we did need to, on the one

hand advocate teaching in the mother tongue, but at the same time not let go on improving the level of our English teachers, including the employment of native-speaking English teachers.

Another aspect of software investment is in health services. We believe that health insurance should play a greater role in health care financing, and the Hospital Authority should ultimately be encouraged to run its own insurance scheme in competition with the private sector.

Whilst we applaud the great improvements as a result of investment in the services by the Hospital Authority, we believe that those who are willing and able to pay more for hospital services should do so, either through health insurance or direct payments in return for more comfortable services and facilities, and therefore saving more government financial resources for investment in services that are needed by those who cannot pay.

Specifically, we would also like to see increase in funding for developing and introducing advance health care facilities at a rate commensurate with our economic growth.

Now, apart from investing in people, we also have a strong belief in investing in the infrastructure, and specifically today's motion mentions transport. To keep Hong Kong moving, we must also improve our internal transport network and, especially with the resumption of sovereignty over Hong Kong by China next month, we should look even more to expanding our cross-border facility to ease congestion of cross-border traffic.

Our transport service must be comprehensive, reaching out to our new urban towns, providing us with the choice of a range of services and fares. Specifically we would like to see more links, not just by road but by rail, and also sea links with the main part of China in order to strengthen our infrastructural links, including some well-talked of but yet-to-materialize bridges linking the Mainland with Hong Kong.

We also wish to see more encouragement of constructive competition between local, public transport services, and perhaps the need for more co-ordination in order to better utilize the competition between different transportation services and also the investment that has been provided in them. For instance, Mr President, is there a better way to co-ordinate for the benefit

of the public the situation where we have three tunnels crossing the harbour now, one with a tax on it, one without a tax on it and one with prices being charged so high that business does not seem to be where it is supposed to be? Perhaps we should have a unified body and a unified charge for all three tunnels.

On land, Mr President, we notice that yesterday the Government and also the Chief Executive (Designate) said that we need to provide more land and he earmarked the luxury market. We in the Liberal Party believe that the way out is to encourage more members of the community to own their own homes, and to streamline government procedures to encourage development of under-developed properties and to pursue the formulation in implementation of a land policy that will meet the housing needs of our community well into the next century.

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

MR MOK YING-FAN (in Cantonese): Mr President, it is said that the population of Hong Kong has already gone beyond its sustainable capacity. It is also said that Hong Kong, with its 1 115 sq km of land, can accommodate a population of 11 million. Perhaps no one can tell how many people Hong Kong can accommodate, but we know that in the recent decade, the number of applicants on the Waiting List is getting longer and longer, queues of cars are jamming the Tuen Mun Highway and the Lion Rock Road, and KCR and MTR stations are crowded with commuters early in the morning and late in the evening. I could not help but ask what causes all this?

I believe the most important reason is that we do not have a long-term population development strategy that sets long-term goals, and that is why discrepancies are found in areas such as housing, education and traffic. It is alarming to learn that Hong Kong will face a dramatic population increase in the short-term. This will certainly aggravate the existing problems.

According to the forecast of Statistics and Census Department in May 1997, the population of Hong Kong will increase from the present 6.29 million to 8.1 million in the year 2016, which is an annual growth of 1.3%. 55% of

this growth will be new arrivals from China. Facing such an increase, we must plan together to allocate more resources for housing, education, traffic and human resources, and plan early so as to meet the increasing demands as a result of population growth and improve the living standard of the people now living here.

With regard to housing policy, as the Administration tends to be conservative in its population forecast in the past, housing supply for the years 2001 to 2006 will be falling short by 50 000 flats. Furthermore, the supply of public housing is also inadequate, resulting in a queue of 150 000 applicants for public housing. According to government statistics, about 1 million people will immigrate to Hong Kong from China between now and 2016. This will definitely exert enormous pressure on the demand for public housing.

There are all sorts of problems in our current housing policy. For example, having to go through four branches and nine departments, the land approval procedure is just too long and will slow down land supply. In the private residential market, serious monopoly exists with the major developers hoarding up lands and flats. Hence the prices of private housing remain at a high level and beyond the affordability of ordinary people.

To resolve Hong Kong's housing problem to meet the imminent dramatic increase in population, the Association for Democracy and People's Livelihood (ADPL) thinks that we should revise our long-term housing strategy by providing chiefly rental and public housing. At the same time, instead of setting an average per annum figure for completed flats, the number of completed flats for the coming five years should be increased to satisfy the short-term hike in demand. One of the methods is to entrust the whole process of site formation for housing development to one single developer. For example, the construction of Regency Gardens only took 36 to 40 months to complete, which is 20 months shorter than the tendering process for individual works that is being used by the Housing Authority.

To build more flats, the Government should increase land supply by measures such as increasing plot ratios, rezoning industrial land for residential use, redeveloping existing single-block government facilities into multi-storey and multi-purpose complexes, reducing the provision of low density residential lands and altering the use of farm land. In the long-term, only by increasing the supply of land and accelerating the relevant approval procedures can the

supply of housing be increased and a supply-and-demand equilibrium be achieved. Only by then will the housing problem be solved. At the same time, the Administration should accelerate the development of north-west New Territories and Northern District and other suburban areas to provide more land.

We believe that corresponding transport and infrastructure are very important for the development of the central, western and northern New Territories and suburban areas. We therefore propose to the Administration that it should complete as quickly as possible the Ma On Shan Railway, MTR Tseung Kwan O Extension, Kowloon Extension and the extension of the western terminus of the existing Northwest Railway terminal to Tuen Mun south, so that a larger population in western New Territories will be served. The Administration has been planning its social policy and infrastructure according to the magnitude of population growth. However, as the Administration's population forecast is erroneous and too conservative, the policies that affect the livelihood of the people and infrastructures fail to keep in line with the growth of population, let alone improvements in the living conditions of the people.

The ADPL thinks that while adjusting its policies and allocating more resources to match the dramatic increase in population, the Administration should not neglect its duty to improve the qualities of living of the people. Services in public health, education and employment should also be taken into account.

Regarding the Government's financial management, the ADPL is especially dissatisfied with the Administration taking a balanced budget as a pretext to restrict expenditure. We all know that today's investment will become tomorrow's assets. The ADPL therefore considers that the Administration should aim at a balanced budget for each 5-year period so that the Administration can have greater flexibility in allocating resources and solving the existing problems and meeting the needs and challenges of the future.

In the long term, Hong Kong should, as far as possible, draw up an immigration policy so as to exercise strategic control on population growth and to provide the social facilities that meet the demand of population growth. To live and work in peace and contentment has been the dream of Hong Kong people, and it is also a fundamental demand of the people that Hong Kong,

having achieved remarkable result economically, should satisfy. The ADPL therefore hopes that the Administration can really improve people's livelihood and formulate a long-term development strategy for Hong Kong so that it can handle the dramatic increase in population and improve the living quality of the people.

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

MR AMBROSE LAU (in Cantonese): Mr President, according to the latest projection of the Statistics and Census Department, the population of Hong Kong will reach 7.38 million by the year 2006. Basing on this figure, the Administration thinks that there is no need to make massive upward adjustment in its estimation of housing demand. Before 2006, the supply of public and private housing will remain at 73 000 flats each year.

As population growth is affected by many factors, the latest statistics may not represent the actual population growth over the coming 10 years. In drawing up its long-term policy to meet the population growth, the Administration should still stick to the original presumed high growth population of 8 million.

Mr President, as Hong Kong is enjoying richer material life and continued improvement in medical and health services, the life expectancy of the general population is getting longer. The ageing population will pose a significant social problem. Any future policies on housing, medical and health and welfare services should take into account the ageing trend of the population. According to government statistics, by the year 2016 the population aged 65 or above will be over 1 million. What should be noted is that the demand of the elderly for medical and health services, housing and homes for the aged will not be affected much by other social factors. The Administration, therefore, should prepare for the rainy days by making preparation to meet the needs of the elderly.

Mr President, though the proportion of children in the overall population is declining, the Statistics and Census Department estimated that in 10 years the declining birth rate will start to rise again. Furthermore, children born in China of parents who are permanent residents of Hong Kong will also increase the proportion of children in the overall population. Based on this trend, the

Administration must revise the education policy which in the past neglected the basic education but overly increased the number of tertiary places. The Administration should properly use its financial reserves by investing more in basic education and by training and providing more quality primary and secondary school teachers. The dire consequence of the Administration's policy of neglecting basic education but over-expanding tertiary education has surfaced now. The poor quality of locally produced university graduates will affect Hong Kong's competitiveness. A long-term policy on human resources should be based on basic education. A weak foundation will fundamentally affect the source of local talents.

Mr President, to counter the effect of the growing population on the demand for housing, transport and other basic facilities, there must be feasible long-term planning. The Administration now proposes that between 2006 and 2011, it will find housing sites in a number of new strategic development districts, such as Southeast Kowloon, Tseung Kwan O, Tung Chung and Tai Ho, to build 385 000 flats. The problem is that the development potential of Southeast Kowloon and Tseung Kwan O is very limited. Though the development of Tung Chung may be driven by the new airport, its lack of infrastructure and the high transport cost for people commuting between Tung Chung and the urban areas will restrict its scope of development. To go with the Northwest Rail Link project, the Administration can accelerate the development of Yuen Long plain. As Hong Kong will be returned to China soon, the Administration should link the strategic development of Hong Kong with that of the Pearl River Delta when it draws up its long-term policy to cope with the increase in the population of Hong Kong. So doing will augment the complementary advantage of both places in terms of transport, employment and industrial development.

Mr President, in the face of population growth, the Government must make long-term planning in respect of housing, education, medical and health services and transport. Furthermore, means to control the quality and quantity of immigrants is also an issue the Administration should not overlook.

Mr President, the Hong Kong Progressive Alliance thinks that any long-term policy to handle the population growth should be set with a long-term vision. In the past, because of the short-sightedness of the Administration, there were a lot of errors in its planning. For example, the long-term planning strategy formulated in 1980 set the year 2011 as the

development target, but the two amendments made in 1993 and 1996 still kept the year 2011 as the development target. The lack of foresight makes it impossible for the Administration to formulate a long-term policy to deal with population growth, thus seriously affecting the choice and development of strategic development districts. I therefore urge the Administration to carry out an in-depth study for a long-term development strategy, and to extend the target development year to 2020, and incorporate the trend of town planning development of the Pearl River delta in its plan so that both places can benefit from each other's development.

Mr President, these are my remarks.

MR CHAN WING-CHAN (in Cantonese): Mr President, let me talk about the problem with the ageing population. According to a population projection, the population of people aged 65 or above will increase from 0.63 million in 1996 to 1.09 million in 2016, and the percentage of the aged population in the overall population will increase from 10% in 1996 to 13% in 2016. The current level of medical service for the elderly is unable to catch up with the structural change in the ageing population. The resources made available by the medical department to treat the diseases commonly found among the elderly are very limited, and there is no specialist geriatric treatment. The Administration seems to be lagging behind the ageing process of the population. The medical services in Hong Kong for the elderly have been under constant castigation. It can neither meet the needs nor solve the immediate problems faced by the elderly. The hospital does not regard the long-term care of elderly patients as important. If the proportion of old people in the overall population continues to increase, the Administration must review the matter expeditiously.

The elderly have a great demand for preventive, therapeutic and rehabilitative medical services. However, the Government does not provide regular medical check-ups for the elderly. As most elderly people do not have much medical knowledge, at the early stage of their illness they usually try to treat themselves by taking Chinese herbal medicine and pharmaceuticals, dieting and resting, and they would only seek medical help from hospital when their condition deteriorates and their ill health persists.

As the family pattern becomes nucleated, fewer elderly people are living with their families. Many old people with illness do not have the care of their families. Some elderly people may suffer from a number of illnesses, and some even suffer from chronic illnesses that require regular treatment and medication. The medical expense alone is already a heavy burden for them.

Actually, the demand of the elderly for medical services is much higher than other age groups. More than 30% of the people using the Government's outpatient medical service are aged 60 or above. Currently, only 10% of the priority chips for outpatient service is given to the elderly, who, for each visit, often have to spend hours waiting before they can be treated. There are only two Elderly Health Centres in Hong Kong. As these centres have not been sufficiently promoted, their actual utilization rate is low and they do not contribute much to the health services for the elderly.

The Government does not attach much importance to geriatrics. Only a few hospitals have designated beds for the elderly, thus forcing them to take up specialist beds. Given this discrepancy in supply and demand, the elderly have to wait for a long time before they can get specialist treatment. The elderly are thus made to suffer for their illness and the long wait may worsen their condition.

The Elderly Society has made a number of demands in respect of the medical and health services for the elderly, as detailed in the Green Paper on Rehabilitation. Examples of these demands are the setting up of geriatric specialist treatment and elderly community rehabilitation team. With full support to this demand, I also suggest that the Administration should promote health education for the elderly and develop comprehensive community medical care. Besides geriatrics, the Administration should also set up elderly mental health units and caring homes that serve only those with dementia, provide outward bound medical and escort service, expand outpatient and hospital service for the elderly, set up health clinic for the elderly in every district, provide health check and concessionary medical service to old people, conduct promotion of free medical service or exempt some of the fees and streamline the application procedures, so that those families with financial difficulty can get the assistance.

In conclusion, the Administration must prepare for the rainy days and assess the situation as early as possible, especially when the demand of the elderly for medical and health services is great and that planning and matching policy has to be made to provide sufficient resources to meet the growth trend in the population of old people.

Mr President, with these remarks, I support the Honourable CHEUNG Hon-chung's motion.

Thank you, Mr President.

MR NGAN KAM-CHUEN (in Cantonese): Mr President, the statistical projection of Hong Kong population as released earlier by the Government shows that the population of Hong Kong will increase from the current 6 million to 8.21 million in 2016, of which 60% are new arrivals from mainland China. Though the population growth may slow down the trend of ageing in Hong Kong, the increased population will also put our infrastructure and ecological environment under an enormous pressure.

In the past the Administration lacked a comprehensive forward-looking population policy, and also failed to make full use of such population statistics to draw up matching policies. What it devised was just some stopgap measures by devising a policy to meet the needs of a particular area. There was no long-term vision in policy-making. Any error in population projection would lead to a lot of problems, like housing, medical, social welfare, education, employment and transport. Now I would like to talk mainly on transport.

In terms of regional population distribution, Hong Kong Island has a population of around 1.3 million, 2 million in Kowloon and 2.9 million in the New Territories. Over the past five years, there was an increase of 0.53 million in population, and the New Territories had the biggest jump, an increase of more than 20%, while Kowloon saw a 2.5% drop. This shows that an increasing number of people choose to live in the New Territories, so there is a need to accelerate the improvement of transport infrastructure of the New Territories.

To meet the rapid increase in population, the Administration has developed new lands and new towns to encourage people to live there. However, though the housing problem has been solved, the external transport

of these new towns becomes another deadlock.

The DAB proposes that the Administration should formulate a contingency strategy for land use and town planning to cope with the long-term population growth. The Administration should revise its land, housing and territory-wide strategic planning cycle from 15 years to 30 years, and the strategic planning cycle for transport should be at least 20 years.

It should not be overlooked that in developing new towns and building more houses, there must be matching transport networks. The anticipated traffic capacity of road networks must meet the needs of long-term development so as to avoid a re-occurrence of the congested condition in north-west New Territories. The Administration should learn from its mistakes made in new town developments and seriously address the traffic problems of new towns by developing high volume mass transit networks that link new towns with the urban areas. The three Category A railway projects listed in the Railway Study Report, including the Northwest Rail Link, Tseung Kwan O MTR Extension, and Eastern Kowloon Railway project, should commence and be completed as soon as possible.

To relieve the gridlock situation on our roads, the DAB proposes that the Administration should widen the roads and extend the road network. Indicators must be set down for reviewing the maximum capacity of each transport system so as to ensure that the speed of road traffic during peak hours will not be lower than 20 km/hr. The capacity of each mass transit system should also be reassessed and reviewed.

The Government is now conducting the Third Comprehensive Transport Study. The DAB hopes that the Administration can give a comprehensive review of the proposals given in the Hong Kong Railway Development Strategy so as to draw up more specific objectives, work plans and schedules for the development of Hong Kong's railway transport. The Administration should strengthen its leading and supervisory role to ensure that the Hong Kong Railways Development Strategy can complement the Territory-wide Development Strategy.

Mr President, with these remarks, I support the Honourable CHEUNG Hon-chung's motion.

MR IP KWOK-HIM (in Cantonese): Mr President, according to the Government's latest study, the population of Hong Kong is estimated to increase from 6.3 million in 1996 to 8.2 million in 2016, a growth of almost 30%. To ensure social harmony and balanced development, the Administration must revise its policies in all areas of people's livelihood to bring them in line with the population growth. Failure in the task will lead to social problems that will affect the future development of Hong Kong.

Hong Kong lacks natural resources, and human resources are its most important asset. If Hong Kong is to maintain its competitiveness in the global market and promote its social development, it is important that we put our human resources to effective use. Education planning plays a very crucial role in increasing our human resources. Being the future pillars of our society, the youth are like pieces of jade that "could not become jadeware without being polished". The Administration must provide quality education so that the youth of Hong Kong can become useful young man who will contribute to our society. According to the population projection, people aged between 15 and 64 will take up 72% of the population in 2016. How to put these human resources to effective use is an urgent problem that a forward-looking and responsible government must address. Regrettably, in recent years we have witnessed how basic education in Hong Kong is mired in serious problems. Not only is the literacy standard falling, the youngsters feel confused in the direction and values to take. These reflect the ills in our present education system and require urgent reform. The DAB proposes that the Administration should, in the coming five years, increase the investment in local education to 4% of our GDP so as to raise the overall standard of education in Hong Kong.

Mr President, since enhancing its human resources is the way forward for Hong Kong, and education planning is closely related to human resources, it is doubtful whether the Administration can accurately estimate the needs of the human resources if it still bases its planning on the 1991 Human Resources Report. Long-term comprehensive education planning is the key to the future development of Hong Kong. The Administration must seriously re-assess the future demand for human resources so as to avoid any disruption that may occur between our long-term education planning and economic development and the disjointment in the supply and demand of human resources and wastes of resources. With its economy undergoing structural change, Hong Kong is developing its service industry and high-value-added industry. The education, particularly tertiary education, must design and plan to match the curricula.

Universities should not blindly go for expansion just for having a more respectable percentage and do not care if the courses will actually support our future economic development.

Mr President, planning for our future education is a very important issue. With children born of parents who are permanent residents of Hong Kong about to arrive in Hong Kong after 1 July 1997, it is urgent for the Administration to make reasonable design in the supply and demand and allocation of places for this group of children. Though figures show that Hong Kong still has a surplus of school places, for example, there are 30 000 in primary schools and 10 000 in secondary schools, new arrivals will not concentrate in any particular district. Allocation of our education facilities should be meticulously and systematically planned so that there would not be insufficient places in any particular district. Matching planning therefore must be put in place.

Mr President, the current birth rate in Hong Kong is very low, which is a trend prevalent in every developed country and region. Over the past, and up to the present, Hong Kong has been a society of immigrants. My father is also an immigrant. The achievements and contributions of immigrants to Hong Kong are there for all to see. What Hong Kong is today is the result of the diligence and entrepreneurial spirit and the contribution of the immigrants. We therefore should be friendly, loving and positive in helping these new arrivals, so that they can quickly merge with the rest of the society and build a bright Hong Kong for our Hong Kong Special Administrative Region Government.

Mr President, with these remarks, I support the Honourable CHEUNG Hon-chung's motion.

SECRETARY FOR HOUSING (in Cantonese): Mr President, in the past 40 years, the population of Hong Kong has grown from some 2 million to more than 6 million. In the face of this continued growth, we have, with the persistence of the Foolish Old Man and pioneering spirit, achieved results that have won the praise of the world. A number of Members have already spoken on problems that future population growth may give rise to. May I thank those Members who have spoken on the housing problem and provide information for us to consider in formulating housing policies.

First of all, I want to talk about the relationship between population projection and housing needs. The Commissioner for Census and Statistics published recently the population projection for 1997 to 2016, which shows that the projection is different from that done in 1992. This is mainly due to the growth in the number of new arrivals from China, natural population growth and an increase in the number of returnees.

This latest projection does not bring us any surprise in respect of land and housing development because, when the Hong Kong-wide development strategy was drawn up in 1993-94, the Administration had already taken those factors into consideration. Early this year, I published the Consultative Document on Long Term Housing Strategy, in which we used the "high-growth plan" for the population projection, that means, we expect that by 2001 the population will be about 8.1 million. This projection is higher than the figure published by the Commissioner for Census and Statistics by 300 000. The Housing Branch will continue to use this "high-growth plan" as the basis for future land development and formulation of long-term housing strategy. So doing will provide an additional allowance for difference to ensure that there will be sufficient housing units to meet the long-term demand.

In fact, the quantity of flat production we mentioned in the past few months has also taken this variable of population growth into account. For example, for the two planning periods spanning from 1995 to 2006, we estimated that on average the annual demand for flats is 80 000; and within the first six years of the planning period, the annual demand is 85 000, and within the following five years, it is 78 000. These figures have actually included the 7% allowance for difference.

For the first planning period, that is from 1995 to 2001, we have reserved enough land for housing purpose. For the second planning period, that is from 2001 to 2006, the various plans are already under active preparation. We expect that 390 000 flats will be built, which include 180 000 redeveloped flats and flats built on land reserved for housing, 165 000 flats of the first batch built on strategically developed sites, and 45 000 flats that will be built on land the use of which has been modified and land the building density of which has been increased.

The Housing Branch will continue to work closely with other

government departments to provide sufficient land and infrastructure, and to accelerate the approval process for housing development. Moreover, we shall constantly update our projection on housing demand and monitor the progress of construction works to meet such demand.

As to the problem of land supply in the long term, that is after 2007, we have already begun working with our colleagues in the Lands Department and Planning Department so that sufficient land can be made available timely to meet the long-term housing demand.

Now I would like to respond to specific concerns expressed by Members. Some Members have referred to the situation of the elderly. Aging population is a global problem, and Hong Kong is no exception. Compared with the current figure, the population over 60 will be 100 000 more by 2001. Most of them will be single, requiring us to provide appropriate housing. On this question, we have actually made many specific proposals in the recent Consultative Document on Long Term Housing Strategy, which include providing public rental housing flats to more than 20 000 seniors. Moreover, small urban sites will be used for building small flats, which will be rented or sold to the elderly; private developers would be encouraged to provide affordable housing to the elderly. We would continue to use other means to increase the supply of flats suitable for the elderly.

In planning future housing development, attention will be paid to the demand for different sizes of flat as a result of changes in family composition. For example, an increase in the number of nucleated families and single person households will increase the demand for small and medium-sized flats. However, the sons and daughters of new arrivals joining their parents here will increase the demand for larger flats. Such situations will always be kept under review.

We shall continue to complete more public rental housing and increase the circulation so that those with genuine needs would be allocated public housing. For example, in the planning period from now to 2001, we shall provide 170 000 public housing flats, which will be allocated to those on the waiting register and other categories of people. By 2001, we can shorten the average waiting time for public housing to less than five years. We also hope that sufficient public housing flats will be provided so that the waiting can further be shortened.

Mr President, the rapid growth in population certainly will increase the demand for housing, but we basically have the right sort of policy and plan to deal with these problems. We shall continue to work aggressively to provide a good living environment to the people. "Where there is a will, there is a way." As long as we can all work together, I believe that any problem associated with population growth can be overcome.

Thank you, Mr President.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, it is Hong Kong Government's school education policy to provide nine years compulsory and free education to children aged between six and 15, and, with substantial subsidy, senior high school or industrial education to about 95% of children aged above 15. The Administration is making continuous improvement in the quality of education of various educational stages. Substantial increase in funding is allocated in recent years to assist children of new arrivals from China in their education so as to enable them to adapt as soon as possible to Hong Kong's education environment and curriculum.

The Administration has released the latest figure on population projection. The Education Department (ED) will, with reference to the number of school places required and the principal measures to be adopted to improve basic education, carefully analyse the effect of population increase on education.

In line with the result of the analysis, the ED will incorporate the additional requirement in the school building programme so that sufficient places will be provided to meet the expected population increase. In fact, the school building programme of the ED is reviewed every year with reference to the latest figures so as to adjust the number of new schools to be built. When the budget is prepared every year, the ED will also calculate and apply for the necessary resources to implement the various supportive measures.

In respect of tertiary education, the Administration, on consulting the University Grants Committee (UGC), has scheduled every three school years as one planning period for reviewing and determining the number of places and

the amount of subsidy tertiary education requires. The Administration will be able to take into account of all relevant factors, including the latest estimation on population and manpower requirements when the Administration plans every three years.

Besides the government subsidy made to tertiary education through UGC, the Open University of Hong Kong also provides many further education opportunities to people on employment to have a tertiary education by offering degree level and other courses.

In summary, the education policy of the Administration for recent years and the future is to raise the quality of basic education. I hope at the right time a series of specific improvement measures will be introduced. The manpower policy of the Administration is, by providing industrial education and vocation training, to provide a well-trained working population for Hong Kong to meet the need of the ever-changing labour market and to help Hong Kong maintain its overall economic competitiveness. In recent years, we have been working hard to ensure that, in terms of content, direction and emphasis, the industrial education and vocational training of Hong Kong can meet the need of the ever-changing economy.

The projected population growth, especially in the 15-24 age group, means that the need for vocational training will increase. We must meet this need, especially the need of new arrivals for vocational training. In fact, since late last year, the Employees' Retraining Board has begun a retraining scheme that addresses the needs of the new arrivals. The Labour Department has also received funding to strengthen the vocational counselling service for the new arrivals.

On the other hand, because the population aged 15 decreases, we have to strengthen our recruitment exercise to ensure that there will be sufficient 15-year-olds on the vocational training courses and that the number of graduates can be maintained at the current level.

Aging population means that there will be fewer people to support the continued development of Hong Kong's economy. We therefore have to raise the productivity of the working population. One of the ways is through upgrading skills and retraining. We shall continue to provide such training. This is also why the Administration began reviewing the Vocational Training

Council and the Employees' Retraining Board last year. When the review is completed, we shall announce and carry out the relevant proposals. We shall carry out careful analysis with reference to the latest population projection to ensure that our education and manpower policies work together, so that the society and economy of Hong Kong can continue to benefit from a well-trained workforce.

Thank you, Mr President.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, according to the 1996 by-census, the Hong Kong population will grow from 6.3 million in 1996 to 8.2 million in 2016, and the population will be aging, with the population aged 65 or above increasing from 10% to 13% for the period. Population growth, structure and distribution impact directly on the demand for and development of medical services. For example, with the population aging, the number of chronically ill people will increase accordingly, thereby the pressure for more rehabilitation and infirmary beds will increase.

First of all, I want to point out that the planning of medical service is a complicated process with constant changes. In determining the requirement for various medical services, besides the consideration to be given to population growth, structure and distribution, we have to take into account other important factors, which include development in medical technology, the rate of use of current services, trends of diseases and the modes of services.

These factors will change as the society develops with the lapse of time, and they will also interact with each other. Over the past years, we have put in place a mechanism to carry out regular study of the relevant factors so as to review the direction of development of the current medical service and whether economical application has been made of the resources and whether the long-term need of the citizens can be met. This regular review will continue.

Taking hospital beds as an example, the Hospital Authority (HA) carried out a Hong Kong-wide review on hospital bed requirement in 1992 and 1995. This year the HA will, with reference to the latest information, including the latest population projection, plan the number of hospitals and beds and other service facilities.

With respect to the population growth and regional movement of population in recent years, we have planned and carried out a number of large-scale hospital improvement and redevelopment projects. The number of hospital beds in Hong Kong has increased from 21 000 in 1991 to about 26 000 in 1997, an increase of more than 20%. For the same period, the hospital bed-to-population ratio has increased from 3.8 beds per 1 000 population to 4.1. It is estimated that in 2001, the number of hospital beds will increase to 30 000 and the hospital bed-to-population ratio will increase to 4.4.

With respect to basic health service, the Health Department will, in the coming few years, open up a number of clinics. The HA will also carry out a number of redevelopment and removal projects for specialist outpatient buildings. On the whole, with the increase in population and more services added, the recurrent expenditure on public medical services has increased from \$9.8 billion to \$25.8 billion in the past six years, which represents an increase of more than two times.

Besides the various medical services and corresponding facilities, we understand that a healthy life style and public health can reduce the incidence of diseases. Over the years, the HA and Health Department have been promoting health education, and in future, we shall put in more resources to develop basic health education.

In view of the aging of the population, we are prepared by expanding the medical and other services for the elderly. The new Tai Po Hospital that will open this year will provide more than 200 rehabilitation and infirmary beds. We shall also establish more community elderly assessment groups. In the coming two years, six infirmaries will be completed, providing 1 400 beds. We shall provide more resources to train workers and family members who will care for the elderly. We hope that such services will enable the elderly live their old age in good health and with dignity.

I think you will concur that for more than a decade and with the continuous effort of the medical and caring staff in Hong Kong, our medical and nursing level has been rising. With this sound foundation, we can certainly meet the pressure on medical service arising from population growth.

Thank you, Mr President.

SECRETARY FOR TRANSPORT (in Cantonese): Mr President, I would like first of all to thank the Honourable CHEUNG Hon-chung and those Members who have spoken on what the Administration should look at in respect of transport development in the coming 20 years. In fact, it is most opportune that we have this motion and the views of Members now as the Administration is about to carry out a series of studies. A Green Paper on Hong Kong's transport policy for the coming 10 to 20 years will be published shortly for public consultation.

Having heard the views expressed by Members this evening, I have great confidence because I am sure I will have the necessary support when I go to the Finance Committee for appropriation of funds; at least I know I should approach which Members then.

With respect to transport infrastructural development, there are some basic data which are used internationally. For example, with road construction, many international comparisons will use the number of kilometres of highway built by a territory, state or city within a certain period of time as a basis for comparison. Some cities would use car speed on the roads to gauge if the growth of traffic network is a success or failure, and there are cities which use a country or city's growth in its railway network, that is the total railway length and passenger carried, as a basis for comparison, to determine if the transport network of the city can meet the growth in population or economy.

Because of the limited time we have this evening, I am not prepared to give a comparison or analysis on all the topics. With reference to the Administration's existing development plan, I want to make a prediction with respect to railway and highway. As in-depth consultation and detailed analysis will be forthcoming, I welcome your views at that time on which of the topic should be given priority. I have not set any priority on the topics about which I am about to talk. No decision has been made on many of the routes, but my referring to them is to let you know what our thinking is.

First of all, with railway development, the Railway Plan published by the Administration in 1994 has been implemented in three stages. The three

railways referred to by Members, including the North-West Railway (reaching Yuen Long, Tuen Mun and the border), Ma On Shan Railway (the new trunk route running from Tai Wai to Ma On Shan) and the Mass Transit Railway (an extension from Lam Tin to Tseung Kwan O), are all within the first stage of the 1994 Railway Development Plan; that is, they are projects of the highest priority. If you re-read the report of that year, projects of the second and third stages were also listed. I want to mention again some of the projects here so that you know in the coming 20 years, there are much room for us to continue the development of our railway network.

Besides the three new railway lines I mentioned just now, the Railway Plan definitely has mentioned that the Mass Transit Railway be extended westward to Green Island or Kennedy Town. It may in the future be extended to connect with North-eastern part of Lantau, passing through the container port on North-eastern Lantau and linking the existing Airport Line and Tung Chung line. This route not only can relieve the pressure on the Airport Line during peak hours, but also provide a new direction for developing a new railway line.

Future studies definitely will look into the need for a fourth cross-harbour railway line. If this plan is carried out, the railway service between Hong Kong and Kowloon will increase, and with the development of a new railway line, consideration might be given to an extension of the railway network to the former airport site at Kai Tak or from Kai Tak northward to Tai Wai of the Ma On Shan Railway.

I have just touched on a number of possibilities. If the length and carrying capacity of the new railway network are to be compared with the existing network, and if the above railway lines were built in the coming 20 years, the carrying capacity will be 100% over the present figure. In other words, if the population only grows by 30%, and we can reach the goal with respect to the railway network, the railway development will far exceed the need of population. Building new network not only can solve the transport problem between two points — the North-West Railway is a very good example, which serves people living in Tuen Mun and Yuen Long, it can help develop new land that previously did not have any development potential, for example land in Kam Tin Valley or Yuen Long, Tuen Mun and the north-eastern district where the land use is yet to be fixed.

The last example is the development of the highway network. With the completion of the 10 core projects of the new airport, and the opening of the Route 3 and Ting Kau Bridge in 1998, Hong Kong sees dramatic changes in its network of roads. Not only is there an increase in length, there is also new environment opened, resulting in unprecedented improvement in the transport link between north-western district and Lantau, and the urban district. In the coming 20 years, consideration must be given to building as many as three to four trunk routes.

If it is determined that north-western New Territories and Shekou or any of the cities on the Pearl River Delta is to play the role of a bridge or otherwise be a connection point, then besides the current plan for north-western New Territories, that is Route 3, a new network of highway is needed to link the north-eastern Lantau with the railways I just mentioned. Alongside it may be built highways to run directly to Western District on Hong Kong Island and, along Route 7, onwards to the southernmost of Hong Kong. In our conception, this north-western corridor can run directly from the southernmost point of Hong Kong to the northernmost part in north-western New Territories, and there will not be any traffic light along the way.

With the development of eastern New Territories, the Administration already has in mind that there will be a new trunk route running from Sha Tau Kok to the urban area via eastern New Territories, though the actual routing and the time are yet to be fixed. As to how the urban area can be linked up with other road networks, it is yet to be studied. If there are new trunk routes in the east and west, they at least have to be linked up somewhere, and that could begin at Yuen Long and end at Tai Po or Fanling.

Moreover, traffic along the major roads in Kowloon, like Prince Edward Road, Boundary Street and Waterloo Road, have all reached saturation level. The Administration is looking for new roads to link up the new road network in Western Kowloon with Eastern Kowloon, especially the former Kai Tak site. At that time, the east-west running traffic in Kowloon will not have to run through any of the presently congested roads.

Mr President, I have cited only a number of examples today. If these roads can be built in the coming 20 years, the growth in the length of our roads

and effect that may have on transport will far exceed the growth in population.

We shall consult Members on the direction of a number of plans, and hope that we can have your views and your support as well when we come to you for funds appropriation. Thank you, Mr President.

PRESIDENT (in Cantonese): Mr CHEUNG Hon-chung, you have two minutes 30 seconds out of 15 minutes for your reply.

MR CHEUNG HON-CHUNG (in Cantonese): Mr President, there are seven Members in all who have spoken in support of the motion. We all think that any development in housing, education, medical services, transport and human resources in Hong Kong should be based on the growth in population. The social problems that we have to face today, including those in housing, transport and the retiring elderly, are all the results of a lack of vision and long-term policies on the part of the Administration. Some twenty or so days from now, Hong Kong will enter a new era, becoming a special administrative region of China. Instead of continuing with the "quick fix" way in formulating social policies, we should have a vision when we set any social policies that affect the livelihood of the people.

I am very thankful of the seven Members, but I regret that Members of the Democratic Party and the Frontier have not taken part in the debate and spoken on the motion. There are views among the public that they talk more of politics than work for the good of the people. Today this has been proven to me and I must show my regret.

Thank you, Mr President.

Question on the motion proposed, put and agreed to.

ADJOURNMENT AND NEXT SITTING

PRESIDENT (in Cantonese): In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday, 11 June 1997.

Adjourned accordingly at twenty-eight minutes past Ten o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Coroners Ordinance, Supplementary Appropriation (1996-97) Bill 1997, Discovery Bay Tunnel Link Bill, Midwives Registration (Amendment) Bill 1997, Auxiliary Medical Service Bill, Civil Aid Service Bill, Official Secrets Bill, Inland Revenue (Amendment) (No. 2) Bill 1997, Registered Designs Bill, Outer Space Bill, Civil Aviation (Amendment) Bill 1997 and Railways Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.