

OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 19 July 1989

The Council met at half-past Two o'clock

PRESENT

HIS EXCELLENCY THE GOVERNOR (PRESIDENT)

SIR DAVID CLIVE WILSON, K.C.M.G.

THE CHIEF SECRETARY

THE HONOURABLE SIR DAVID ROBERT FORD, K.B.E., L.V.O., J.P.

THE FINANCIAL SECRETARY

THE HONOURABLE DAVID ALAN CHALLONER NENDICK, J.P.

THE ATTORNEY GENERAL

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

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

THE HONOURABLE DONALD LIAO POON-HUAI, C.B.E., J.P.

SECRETARY FOR DISTRICT ADMINISTRATION

THE HONOURABLE STEPHEN CHEONG KAM-CHUEN, C.B.E., J.P.

THE HONOURABLE CHEUNG YAN-LUNG, O.B.E., J.P.

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

THE HONOURABLE MARIA TAM WAI-CHU, C.B.E., J.P.

THE HONOURABLE CHAN YING-LUN, O.B.E., J.P.

THE HONOURABLE MRS. RITA FAN HSU LAI-TAI, O.B.E., J.P.

THE HONOURABLE PETER POON WING-CHEUNG, O.B.E., J.P.

THE HONOURABLE CHUNG PUI-LAM, J.P.

THE HONOURABLE HO SAI-CHU, M.B.E., J.P.

THE HONOURABLE HUI YIN-FAT, O.B.E., J.P.

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

THE HONOURABLE DAVID LI KWOK-PO, J.P.

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

THE HONOURABLE PANG CHUN-HOI, M.B.E.

THE HONOURABLE POON CHI-FAI, J.P.

PROF. THE HONOURABLE POON CHUNG-KWONG, J.P.

THE HONOURABLE SZETO WAH

THE HONOURABLE TAI CHIN-WAH, J.P.

THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING, J.P.

THE HONOURABLE TAM YIU-CHUNG

DR. THE HONOURABLE DANIEL TSE, O.B.E., J.P.

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

THE HONOURABLE GRAHAM BARNES, C.B.E., J.P.  
SECRETARY FOR LANDS AND WORKS

THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.  
SECRETARY FOR TRANSPORT

THE HONOURABLE EDWARD HO SING-TIN, J.P.

THE HONOURABLE GEOFFREY THOMAS BARNES, C.B.E., J.P.  
SECRETARY FOR SECURITY

THE HONOURABLE PETER TSAO KWANG-YUNG, C.B.E., C.P.M., J.P.  
SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION

THE HONOURABLE MARTIN GILBERT BARROW, O.B.E.

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE MICHAEL CHENG TAK-KIN, J.P.

THE HONOURABLE DAVID CHEUNG CHI-KONG, J.P.

THE HONOURABLE RONALD CHOW MEI-TAK

THE HONOURABLE MRS. NELLIE FONG WONG KUT-MAN, J.P.

THE HONOURABLE MRS. PEGGY LAM, M.B.E., J.P.

THE HONOURABLE DANIEL LAM WAI-KEUNG, J.P.  
THE HONOURABLE MRS. MIRIAM LAU KIN-YEE

THE HONOURABLE LAU WAH-SUM, J.P.

DR. THE HONOURABLE LEONG CHE-HUNG

THE HONOURABLE LEUNG WAI-TUNG, J.P.

THE HONOURABLE KINGSLEY SIT HO-YIN

THE HONOURABLE MRS. SO CHAU YIM-PING, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, J.P.

THE HONOURABLE MRS. ELSIE TU, C.B.E.

THE HONOURABLE PETER WONG HONG-YUEN, J.P.

THE HONOURABLE YEUNG KAI-YIN, J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

THE HONOURABLE NIGEL CHRISTOPHER LESLIE SHIPMAN, J.P.  
SECRETARY FOR HEALTH AND WELFARE

ABSENT

DR. THE HONOURABLE HENRIETTA IP MAN-HING, O.B.E., J.P.

THE HONOURABLE CHENG HON-KWAN, J.P.

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

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

THE HONOURABLE JAMES DAVID McGREGOR, O.B.E., I.S.O., J.P.

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL  
MR. LAW KAM-SANG

Papers

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

Subject

Subsidiary Legislation

L.N. No.

Trade Marks Ordinance

Trade Marks (Amendment) Rules 1989..... 234/89

Immigration Ordinance

Immigration (Places of Detention)  
(Amendment) (No. 9) Order 1989.....

238/89

Telecommunication (Hong Kong Telephone Company)

(Exemption from Licensing) Order

Telecommunication (Hong Kong Telephone Company)

(Exemption from Licensing)(Fees) Order 1989..... 239/89

Immigration (Places of Detention)

(Amendment) (No. 8) Order 1989

Corrigendum.....

240/89

Hong Kong Royal Instructions 1917 to 1988

Standing Orders of the Legislative Council

of Hong Kong

Ending of 1988/89 Session.....

241/89

Sessional papers 1988-89

No. 81 -- Report of the Public Accounts Committee on Report No. 13 of the Director of Audit on the Results of Value for Money Audits.

June 1989

PAC Report No. 13

No. 82 -- J.E. Joseph Trust Fund Report for the Period 1st April 1988 to 31st March 1989.

No. 83 -- Kadoorie Agricultural Aid Loan Fund Report for the Period 1st April 1988 to 31st March 1989.

No. 84 -- Report on the Administration of the Immigration Service Welfare Fund prepared by the Director of Immigration from 1 April 1988 to 31 March 1989.

No. 85 -- Report by the Commissioner of Correctional Services on the Administration of the Prisoners' Welfare Fund for the Year ended 31st March 1988.

No. 86 -- Revisions of the 1988/89 Estimates approved by the Urban Council during the fourth quarter of the 1988/89 financial year.

No. 87 -- Customs and Excise Service Welfare Fund Income and Expenditure Account with Balance Sheet and Certificate of the Director of Audit for the year ended 31 March 1989.

No. 88 -- Sir Robert Black Trust Fund Annual Report for the year 1st April 1988 to 31 March 1989.

No. 89 -- Sir David Trench Fund for Recreation Trustee's Report 1988-89.

No. 90 -- The First Annual Report of the Commissioner for Administrative Complaints Hong Kong.

No. 91 -- Report by the Trustee of the  
Police Children's Education Trust  
Police Education and Welfare Trust

for the period 1st April 1987 - 31st March 1988.

Address by Member

Report of the Public Accounts Committee on Report No. 13 of the Director of Audit  
on the Results of Value for Money Audits

June 1989

PAC Report No. 13

MR. PETER POON: Sir, laid on the table today is the 13th Report of the Public Accounts Committee. This covers the conclusions reached by the committee in considering the Director of Audit's report on the results of value for money studies carried out between October 1988 and February 1989.

Sir, the committee has been greatly encouraged by the progress made over the years in improving the management of public funds. This is not to suggest complacency: there are still areas which can and should be improved, our report highlights some. But I think it fair to say that there is now a greater awareness within Government, at all levels, of the need for economy and cost-effectiveness. Given this spirit, we are confident that the recommendations we have made here will contribute towards further improvements, and that these will be implemented with alacrity and vigour.

Oral answers to questions

Review of future system of government

1. MR. CHOW asked (in Cantonese): In view of the desire manifested by the public at large for expediting democratic development in Hong Kong, will Government inform this Council whether, in reviewing the future system of government in Hong Kong for 1991 and after, consideration will be given to the views expressed by various organizations as regards the composition of the future Legislative Council; and whether there will be formal public consultation in the review?

CHIEF SECRETARY: Sir, in considering the pace of constitutional development towards greater democracy in 1991, the most careful consideration will be given to the full

spectrum of public views expressed. I stressed in this Council on 5 July how important it was to obtain the clear support of the community before any proposals for change should be put into effect. In this respect, I remain confident that Members of this Council will continue to take the lead in building on the consensus that has emerged and will provide the Government with a clear direction on which to base its decisions.

At this stage, it is too early to say whether there will be a formal public consultation similar in procedure to the review which preceded the publication of the 1988 White Paper. A clear consensus on the way forward would make such a time-consuming exercise unnecessary. So, I therefore urge that our community comes out strongly to express their views on this very important matter.

MR. CHOW: Sir, in last Thursday's House of Commons debate the British Government also stressed that the future Hong Kong political system would depend on the consensus of the Hong Kong people. Would the Administration tell this Council what the definition of "consensus" is and how such consensus could be arrived at? Would it mean just the views of the OMELCO, or of certain groups like the Basic Law drafters, or of all the people of Hong Kong?

CHIEF SECRETARY: Sir, I think the views of the Hong Kong people will be expressed in a number of ways, not only through Members of this Council but also through our other representative bodies: the Urban and Regional Councils, the district boards, and indeed, all the many interested community groups that are continuing to take an interest in political development in Hong Kong. And we would wish to take account of all those views, Sir.

MR. CHOW: Sir, in order to get the majority view of the Hong Kong people, would the Administration consider holding a referendum?

CHIEF SECRETARY: Sir, I think to undertake a referendum would involve very careful consideration. There are, of course, well-known difficulties inherent in the holding of a referendum. Firstly, it is very difficult to formulate precise and simple questions which form the basis of any referendum. This difficulty may become



insurmountable if the questions relate to complex constitutional matters. That said, Sir, I think we should add that we have not ruled out any particular method of sounding public opinion on this issue.

Tsing Yi hazard study and reassessment

2. MRS. LAU asked: In connection with the Tsing Yi Island Risk Reassessment Report published in April 1989 and the 1982 Tsing Yi Hazard Potential Study, will the Administration inform this Council:

- (1) whether the recommendations of the 1982 study have been implemented and if not, what measures will be taken to implement these recommendations;
- (2) the measures proposed to be taken to implement the recommendations made in the 1989 report and to ensure that the implementation will be effectual; and
- (3) the progress in regard to the plan to relocate oil depots on the island?

SECRETARY FOR LANDS AND WORKS: Sir, before replying to this question, I wish to apologize for the length of the reply. This is a subject of concern to the Tsing Yi residents and I cannot properly answer Mrs. LAU's questions without going into a certain amount of detail.

Regarding the 1982 report, the main recommendations of the 1982 Tsing Yi Hazard Potential Study were that the risks to the residential population nearest to Mobil's oil installation on east Tsing Yi should be reduced; the infrastructure of Tsing Yi should be improved; and the land use planning and development constraints on Tsing Yi should be re-considered.

A number of measures have been taken by Government to implement these recommendations. These include:

- (a) Development of phase three of Mayfair Gardens did not proceed;
- (b) The risk from Mobil was reduced by the following actions:

(i) Mobil adopted a package of design and operational measures to reduce the risk level;

(ii) improvements were made in the pumping system of the LPG spheres to provide better fire protection;

(iii) Mobil decommissioned one 300 tonnes sphere; and

(iv) workers at Mobil were given extensive training on the safe operation of the terminal.

(c) A number of measures were taken to improve the infrastructure of Tsing Yi:

(i) the ring road system was completed in 1984 with the construction of Tsing Yi Road West (Road TY1) for easy circulation of emergency vehicles. The road networks were further improved with the completion of Liu To Bridge, Road TY5 and Fung Shue Wo Road in 1987, and Road TY4 in 1988;

(ii) the construction of Tsing Yi North Bridge was completed in November 1987, with approach roads linking Tsing Yi to the mainland, thereby taking a larger part of the passenger load off Tsing Yi South Bridge, which is the bridge nearest to most of the petroleum installations; and

(iii) the construction of the Tsing Yi South fresh water service reservoir in Area 19 was completed in 1985; this serves to reinforce the piped water supply to industrial installations beyond the power station and improve the pressure in the mains in the area to a more satisfactory level.

(d) On land use planning, consultation zones have been defined for each hazardous installation within which other new developments are constrained. Government has also decided that in future commercial/residential development in Tsing Yi will be confined to the north and eastern part of the island, which is protected from the potentially hazardous installations (PHIs) on the south and the west shores of the island by the mountain ridge. Plans are also in hand to relocate two oil depots, that is, Mobil and China Resources Company (CRC) Nga Ying Chau away from the north and east shores.

The 1982 report also contained certain recommendations which Government did not

accept. They were that PHIs should be dealt with in a specific statutory framework; that a statutory Hazardous Installations Committee should be established and that PHIs in Tsing Yi should be removed to north Lantau.

And now, regarding the 1989 report, the recommendations of the 1989 report concern mainly three subjects -- improvements in land use planning, adoption of technical measures to improve the safety of the installations on Tsing Yi and adoption of various technical and traffic management measures to reduce transport risks.

On land use planning, the consultants confirmed the Government's decision that there should be no PHI development east of the Tsing Yi main ridgeline and that the ridgeline should be vigorously maintained to preserve the natural barrier between PHIs and most other development. The Administration has accordingly taken steps to ensure that the ridgeline stays. There are also plans in hand to move the three oil depots, namely, Hong Kong Oil, Mobil and CRC Nga Ying Chau in north and east Tsing Yi away from their present locations and I will mention this later in reply to Mrs. LAU's third point. The Tsing Yi Outline Development Plan is being revised and the revision will be taken further in the light of the 1989 report, the Port and Airport Development Study, studies on Route 3, Container Terminal 8 and other relevant studies.

Fire Services Department together with the Gas Standards Office of the Engineering and Mechanical Services Department and the Environmental Protection Department are now discussing with the operators of installations to persuade them to adopt the technical safety measures, such as installation of gas leakage detection systems, and improvements to management systems, as recommended by the consultants. Where appropriate, these can be imposed upon the operators as licensing conditions under the Dangerous Goods Ordinance and Government is confident that all the recommended measures are in fact enforceable.

To reduce transport risks, Government is examining in detail the practicability of the consultants' recommendations. As a start, LPG vehicles will be given special approval to follow a shorter route off the island away from the local residents as far as possible.

To ensure that the recommendations of the 1989 report will be implemented effectively, an ad hoc inter-departmental steering group has been set up under the Lands and Works Branch to monitor progress of the follow up actions.

Finally, as for the relocation of depots, the Government intends to move the Mobil, Hong Kong Oil and Nga Ying Chau oil depots away from their present locations to better ones. Negotiations with Mobil to move to the southwest of Tsing Yi are going well, and I expect the conclusion will be announced very soon. Discussions with Hong Kong Oil on their future plans have also started, but I cannot now forecast the outcome. Discussions with CRC on their Nga Ying Chau depot will be resumed when the outcome of the study on Route 3 is available.

MRS. LAU: Sir, the 1989 report criticizes the Hong Kong Oil of having poor safety management and recommends in unequivocal terms that the Hong Kong Oil site should be closed since it is incompatible with nearby residential land use. Can the Secretary inform this Council why, despite such recommendation which carries with it a sense of urgency, the Administration still sees fit merely to discuss the matter with Hong Kong Oil instead of taking any concrete action?

SECRETARY FOR LANDS AND WORKS: Sir, it is because the consultants' recommendation, although strong, has no legal standing and the legal position is such that as preliminary to any removal exercise of Hong Kong Oil, adequate discussions must be held.

MR. TIEN: Sir, would Government inform this Council whether consideration has been given to actually purchasing back all blocks of Mayfair Gardens at market price from the residents, rather than paying the three oil companies an astronomical sum to have them relocated, the former being a less expensive option?

SECRETARY FOR LANDS AND WORKS: Sir, the overall economics of removing the oil depots to another site and regaining the very valuable land which they occupy may well be considerably better than the economics of trying to remove residents from Mayfair Gardens. Besides, it would involve an element of compulsion in the removal of residents, for which there are no obvious statutory powers.

MR. PETER WONG: Sir, can the Secretary inform this Council why Government has not accepted the 1982 recommendation to form the Statutory Hazardous Installation Committee, and also, what channel of communication the Government has established

to enable the residents of Tsing Yi to express their fears and concern for their safety? We really feel that there has been a break down of communication between the government departments and the residents who are simply not told of developments.

SECRETARY FOR LANDS AND WORKS: Sir, the proposals to establish a statutory committee were obviously going to be complicated ones to legislate for. The Administration recognized the seriousness of the situation and the need for action rather than for lengthy consideration of putting a legal framework in place. For that reason, it was decided that the most effective action was not to accept that recommendation but to go for administrative measures.

Regarding the second part of the question, the Administration would respectfully disagree with Mr. WONG that the Tsing Yi residents are not kept in the picture. There has been continuous information on the state of the consultancy, the substance of the consultancy, and the things done about the various consultancies, which have been passed through the district board and residents' organizations to the residents. I would think there is little reason for the strong allegation made.

MR. CHEONG: Sir, in relation to the possible economic gains to Government through the recovery of possession of the land now being occupied by the oil depots, has the Secretary considered the fact that a new gas and oil depot is likely to be installed along the southern tip of the island, although separated by a mountain ridge? In that case, the land thus recovered would be so near to a new depot that the economic value might dissipate.

SECRETARY FOR LANDS AND WORKS: Sir, those issues have been fully considered.

MRS. LAU: Sir, in view of the previous concern which I mentioned, can the Secretary inform this Council whether it is at all possible to let us know when the discussions with the various parties will be concluded, so that we can see some action on the part of Government?

SECRETARY FOR LANDS AND WORKS: Sir, I am not, at present, in a position to give a

difinite answer.

MR. ANDREW WONG: Sir, could the Secretary inform us of the amount of money expected to be paid to Mobil, CRC and Hong Kong Oil in compensation, and the amount he expects to raise from the reuse of the land so recovered?

SECRETARY FOR LANDS AND WORKS: Sir, in spite of there having been an article on the subject in this morning's paper, in which I noticed my name being mentioned, the matter is at present the subject of a confidential paper being put to the Finance Committee and Mr. WONG will have an adequate opportunity to ask his question in that forum.

Follow-up action on death from wrong gas

3. DR. LEONG asked: In the light of the verdict in a coroner's inquest that the death of a patient in a hospital on 14 January 1989 was due to wrong supply of gas to that hospital, and of the recommendations made by the jury of that inquest, will the Administration inform this Council what action it intends to take :

(a) specifically in relation to the supplier of the wrong gas; and

(b) generally to ensure that the recommendations by the jury are implemented to prevent similar fatalities in future?

SECRETARY FOR SECURITY: Sir, legal action is being taken against the gas supplier under sections 10(a) and 14 of the Dangerous Goods Ordinance. The hearing has been set for 24 August in the Magistrate's Court.

The recommendations by the inquest jury can be broadly categorized as follows :

(a) the establishment of an Academy of Medicine;

(b) the introduction of monitoring devices in hospitals;

(c) the establishment of a working party to conduct an overall review of the safety

systems and procedures of the gas supplier;

(d) the introduction of colour coding for containers; and

(e) other improvements relating to the organization, management and procedures of the gas supplier.

The Secretary for Health and Welfare has advised that careful consideration is being given to the establishment of an Academy of Medicine which would be responsible for the further training of doctors. The Administration's intentions will be announced in the near future.

As regards monitoring devices, shortly after the tragic incident, the then Director of Medical and Health Services, on 21 January 1989, issued a circular to all government, subvented and private hospitals, providing detailed guidelines on the supply and use of oxygen in hospitals and clinics. The Director of Hospital Services issued a further circular on 21 June 1989 to all hospital managements, drawing their attention to the recommendation of the inquest jury on the installation and use of monitoring devices for every operation involving general anaesthesia.

The Director of Fire Services is now liaising with relevant government departments and the gas supplier to set up a working party to conduct an overall review of the safety systems and procedures. The first meeting will be in early August. This working party will also be asked to examine other recommendations which should be implemented by the gas supplier and to consider appropriate monitoring arrangements by the Administration.

The recommendation to introduce legislation on colour coding for containers will be addressed by the separate working group which is already conducting a review of the Dangerous Goods Ordinance.

DR. LEONG: Sir, in his reply the Secretary indicated that the Director of Fire Services is now liaising with relevant government departments and the gas supplier to set up a working party. As the issue concerns safety measures in the use of medical gases, could the Secretary advise which departments will be involved in this working party and whether the membership will be made known to the public?

SECRETARY FOR SECURITY: Sir, the representative of the Director of Fire Services, who is the licensing authority for compressed gases under the Dangerous Goods Ordinance, will chair the working party. This is now being convened in liaison with the Attorney General's Chambers, the Lands and Works, Health and Welfare, and Economic Services Branches, the Environmental Protection Department, the Gas Standards Office of the Electrical and Mechanical Services Department, and the Pressure Equipment Division of the Labour Department, all of whom will nominate representatives. The Hong Kong Oxygen Company will also be represented and it is possible that their parent companies, L'Air Liquide and British Oxygen, will be involved in the internal review. The first meeting will take place, as I have said, Sir, in early August.

DR. LEONG: Sir, will the Administration inform this Council how they would go about implementing the recommendations of the inquest, especially in relation to the principles concerning the gas supplier? And in this regard, I would like to stress that the company concerned is the sole supplier of such gases in Hong Kong.

SECRETARY FOR SECURITY: Sir, the Administration will go about this by means of the working party which will examine each of the riders attached to the verdict of the jury. The Director of Fire Services is the relevant authority for these matters under the Dangerous Goods Ordinance, other than for the Academy of Medicine, which is one of the first parts of the jury's recommendations, and the establishment of the colour coding for containers. It will be for the Director of Fire Services to receive the report of the working party, and any other matters arising from the deliberations of the working party will be referred to the appropriate government department or policy branch concerned. Copies of the minutes and the conclusions and recommendations of the working party will, in any case, also be sent to the Secretary for Health and Welfare, the Attorney General and myself.

MR. PETER WONG: Sir, can the Secretary please confirm that all hospitals in Hong Kong, whether they be public, or subvented, or private, have these oxygen monitoring devices in operation in the operating theatres?

SECRETARY FOR SECURITY: Sir, I would like to ask my honourable friend, the Secretary for Health and Welfare, to answer that question.



SECRETARY FOR HEALTH AND WELFARE: Sir, my understanding from the Director of Hospital Services is that all hospitals which administer general anaesthesia are now equipped with oxygen monitoring devices, though not all are yet able to meet the recommended standards of provision in full. However, I understand that many hospitals are now placing orders for more machines.

Written answers to questions

Fiscal reserves

4. MRS. LAU asked: Will the Administration inform this Council of the total amount of the fiscal reserve maintained in Hong Kong as at the end of June 1989, how it is being invested and whether the Administration intends to periodically report to the general public on the state of the fiscal reserve or publish the accounts relating to the same?

FINANCIAL SECRETARY: Sir, because of the time necessary to close the monthly accounts, the latest figures available are as at 31 May 1989. The accumulated fiscal reserve at the end of May 1989 was \$63.9 billion. Some of this is placed on deposit with banks in Hong Kong to cater for the more immediate cash requirements of government expenditure, but the bulk, \$52.7 billion, has been transferred to the Exchange Fund in return for debt certificates. These debt certificates are interest bearing and the interest rate payable by the Exchange Fund to the General Revenue reflects the level of interest rates in the wholesale money market.

The Exchange Fund confines its investments to low risk marketable financial instruments and bank deposits denominated in the major international currencies. It also has a modest portfolio of Hong Kong dollar denominated debt including shareholdings in Hong Kong Telecommunications, the Cross Harbour Tunnel and HACTL. Any foreign exchange or interest rate risks involved are borne by the Exchange Fund and not the General Revenue. If the investments of the Exchange Fund attract a higher or lower rate of return than the interest rate paid to the General Revenue, the profit or loss is for the account of the Exchange Fund.

This arrangement, which has been in place for a number of years, ensures a stable

rate of return on the fiscal reserve for the benefit of the General Revenue and relieves it of any foreign exchange and other investment risks that might otherwise be incurred. In effect, the bulk of the fiscal reserve is placed "on deposit" with the Exchange Fund, earning a market rate of interest. At the same time, this puts additional resources at the disposal of the Exchange Fund to better enable it to carry out its function, as necessary, of maintaining the stability of the Hong Kong dollar.

The amount transferred to the Exchange Fund is published. The monthly accounts of the General Revenue Account and the major funds are published in the Government Gazette and the final accounts of Hong Kong are presented in the Director of Accounting Services report which is laid before this Council in the autumn of each year. This report shows details of the General Revenue Account and the various funds as well as a consolidated account. It also explains the accounting policies adopted in the accounts, significant items and the application of balances, including the fiscal reserve.

In this connection, since neither the General Revenue nor the Exchange Fund is a separate legal entity, it has been determined that the transfer of money from one to the other does not constitute a borrowing. The transfer, therefore, is not subject to the provisions in the Exchange Fund Ordinance restricting the powers of the Financial Secretary when he borrows for the account of the Exchange Fund, such as the borrowing limit of \$50 billion in section 3(4) of the Ordinance.

Members may recall that the borrowing limit was last raised by resolution in this Council on 11 March 1987 with the approval of the Secretary of State. It was agreed then that the limit had to be raised to accommodate further transfers from the General Revenue as the fiscal reserve grew. Subsequent extensive research on the legal position carried out in connection with the proposal to issue Exchange Fund Bills has indicated that such transfers fall outside this limit. This subject is addressed in greater detail in the Appendix.

#### Appendix

Section 3(3) of the Exchange Fund Ordinance specifies that the Financial Secretary "..... may borrow for the account of the Fund either in Hong Kong or elsewhere on the security of any asset held by the Fund or on the General Revenue". The policy behind this provision, read in conjunction with the borrowing limit in

section 3(4), is to limit the power of the Financial Secretary to charge the assets of the fund or of the General Revenue as security for borrowing for the account of the Exchange Fund. The word "on" towards the end of section 3(3) (underlined above), however, had caused confusion and led to the argument that the borrowing limit in section 3(4) applied when the Financial Secretary "borrowed" from the General Revenue for the account of the Exchange Fund.

This argument has now been refuted because it has been determined that when money is transferred from the General Revenue Account to the account of the Exchange Fund, Government is merely transferring its assets from one of its accounts to another on the basis that the Financial Secretary will arrange for those assets to be returned to the General Revenue when required, and will account to the General Revenue for the interest payable whilst the assets are credited to the Exchange Fund.

Government as one legal entity cannot lend to itself. Since neither the Exchange Fund nor General Revenue has separate legal persona, it is not correct legally to consider a transfer from the General Revenue Account to the account of the Exchange Fund in terms of a lending/borrowing transaction. This view was further confirmed when research revealed that the word "on" was likely to have been a typographical error that crept in when the Ordinance was revised in 1951, and that the correct word should be "of". Section 3(3), therefore, should have read "may borrow ..... on the security ..... of the general revenue". In any case, even with the use of the word "on", the legal advice we have received is that it should be interpreted as "of" in the context of section 3(3) of the Exchange Fund Ordinance.

Since a change to the borrowing limit can only be introduced with the approval of the Secretary of State, the matter has been brought to his attention. Formal acceptance of the correct interpretation surrounding the borrowing limit has already been obtained from the Secretary of State.

Lawyers' proficiency in both official languages

5. MR. PETER WONG asked: In view of the present requirement to enact all new legislation in bilingual form, will the Government inform this Council what steps are being taken to ensure Hong Kong lawyers' proficiency in both languages?

ATTORNEY GENERAL: Sir, from 7 April 1989 and in accordance with the requirements of the Official Languages Ordinance, all new principal Ordinances, that is to say, Ordinances which stand on their own and which are not amendments to existing legislation are to be drafted in both English and Chinese. Work is also well underway within my Chambers upon the translation of existing legislation into Chinese.

Of themselves neither of these developments will make it necessary for the vast majority of lawyers to be proficient in both languages. In accordance with section 10B of the Interpretation and General Clauses Ordinance the English language text and the Chinese language text of a bilingual Ordinance are declared to be equally authentic. Accordingly, provided a lawyer can understand either the Chinese or the English version of an Ordinance he will be able to treat that version as accurate and legally valid.

Nevertheless, while most lawyers will not require proficiency in both languages it will be necessary for a relatively small number of lawyers, being legislative draftsmen, to acquire proficiency in both languages for the necessary work of translation and for original drafting of Bills in Chinese.

In recognition of that need a bilingual law team was established in the Law Drafting Division of my Chambers in 1986. Presently this team consists of seven draftsmen and 19 law translators. To achieve the Government's objective of having all of Hong Kong's legislation available in both English and Chinese by 1997 it will be necessary to expand this team. My Chambers are seeking competent bilingual law draftsmen and translators and every effort is being made to recruit appropriately qualified, bilingual lawyers and translators to join the Law Drafting Division.

Fire prevention for restaurants

6. MR. TIEN asked: With reference to the Secretary for Security's reply to a question I raised in this Council on 24 May 1989 and in view of the recent fire at a restaurant on Ma Tau Wai Road, which is already the second of its kind in the last two months and which led to six dead and 14 injured, will Government inform this Council :

(a) whether steps will be taken to tighten up existing controls, legislative or otherwise, on closed type external wall decoration as well as the minimum fire installation requirements for restaurants and other public premises and, if so, when;

and

(b) whether it is aware of the fact that many restaurants are operating without going through proper licensing procedures and hence adequate fire prevention installations, and how it intends to ensure the safety of customers of these restaurants in case of a fire?

SECRETARY FOR SECURITY: Sir, this Council was informed on 24 May that window openings were not essential means of access and escape in the case of multi-storey buildings and that staircases provided the main means of escape for occupants of multi-storey buildings and the main means of access for firemen in the event of a fire. Windows which have been boarded over externally for wall decoration or sign purposes in restaurants should not be a problem if exit doors and means of escape are not obstructed and are maintained to serve their designed purpose.

This type of external boarding, however, can affect the movement of smoke and aggravate the spread of fire within the premises to make fire fighting more difficult. The Director of Fire Services has therefore been considering ways and means of abating this hazard and is now finalizing a series of measures which, among others, will require:

(a) the installation of an automatic sprinkler system for premises exceeding a specified area and where the average quantity of combustible substances exceeds a specified quantity; and

(b) the installation of a smoke extraction system or a stipulation that a certain percentage of the openable windows on the external wall of the buildings should not be obstructed by decoration.

When details are finalized, the industries will be consulted before the requirements are implemented. It is expected that the new requirements will take effect by the end of this year.

The operation of a restaurant without a licence is an offence under the Public Health and Municipal Services Ordinance and the operator is liable to prosecution. The licensing authorities are aware of the fact that some restaurants are operating without licences and will take legal action against them. Where the situation

constitutes a fire hazard, the Director of Fire Services will take action under section 9 of the Fire Services Ordinance. Following the amendment of the Public Health and Municipal Services Ordinance in October 1988, the licensing authorities are empowered to apply to court for closure orders to close the unlicensed premises. A phased programme has been drawn up by the enforcement departments to deal with the unlicensed premises. Until now, five closure orders have been executed.

#### Tsing Yi bridges

7. MR. LAM asked: In view of the present traffic congestion on Tsing Yi North Bridge as a result of the partial closure of Tsing Yi South Bridge for maintenance, will Government inform this Council whether consideration will be given to:

(i) opening fully the South Bridge between 7:00 a.m. to 9:00 a.m. to facilitate the speedy return of public vehicles to Tsing Yi; or

(ii) introducing effective measures to ease the congestion problem during the said period?

SECRETARY FOR TRANSPORT: Sir, to facilitate the bridge improvement works, the Tsing Yi bound lane of the Tsing Yi South Bridge is now closed 24 hours a day while the Kowloon bound lane remains open. The improvement work is in full swing. The surfacing of the South Bridge is being broken up, and about 3 000 holes are being drilled in the bridge deck for installing bolts to support the new anchorages for the prestressing cables. Access to the spine of the bridge is also frequently required for transporting steel platforms and other materials. The proposal to reopen the bridge during morning peak hours, that is, 7:00 - 9:00 a.m., is therefore not advisable on road safety grounds. Moreover, the improvement work can only be carried out during the single lane closure period. To reopen the lane will mean at least two extra months for carrying out the necessary works at an additional cost of \$0.5 million plus possible claims for compensation from the contractor.

The bridge improvement works are expected to be completed in early 1990. In the meantime, an extensive traffic diversion scheme to maintain traffic flow and reduce congestion during the bridge works is in effect.

In addition, the following measures to further improve traffic have been decided after a special meeting between Kwai Tsing District Board members and representatives from relevant departments on 11 July --

(a) examining the provision of a bus lane on Tsing Yi Heung Sze Wui Road to improve the speed and reliability of bus services which have been affected by the current traffic diversion scheme;

(b) adding a 7:00 a.m. - 7:00 p.m. stopping prohibition zone along Cheung Fai Road (Tsing Yi seafront) to prevent goods vehicles queuing back to Tsing Yi Heung Sze Wui Road;

(c) adjusting the traffic light on the Kwai Tsing Road/Kwai Fuk Road junction to allow more vehicles to leave the Kwai Tsing Road roundabout;

(d) opening the access road leading to Riviera Garden to reduce the use of the Texaco Road roundabout for access; and

(e) on the section of Tsuen Wan Road between Tsing Yi Bridge and Tsing Tsuen Bridge, adding continuous white lines to separate the Kwai Chung bound traffic and Kowloon bound traffic to give a smooth flow to the Kowloon bound vehicles.

Traffic conditions in the area are being closely monitored. Efforts will continue to be made to contain traffic congestion until the completion of the bridge improvement works.

Castle Peak Hospital

8. MRS. LAM asked: Will Government inform this Council whether the Castle Peak Hospital is experiencing an acute shortage of medical and nursing staff and in the supply of clothing, linens and toilet papers for patients, and what active measures are being taken to rectify the position?

SECRETARY FOR HEALTH AND WELFARE: Sir, there is no acute shortage of doctors or nurses in Castle Peak Hospital at present. On 1 July 1989 there were 27 doctors working in Castle Peak Hospital against an establishment of 28 and 578 nurses against an establishment of 453. The workload of staff is however heavy because the number of patients now accommodated in Castle Peak Hospital is higher than the designed

capacity and the establishment of both doctors and nurses is currently being revised in line with actual requirements.

The supply of toilet paper to Castle Peak Hospital is adequate. Additional supplies can be made available if required.

It is recognized that the supply of clothing and linen items is sometimes inadequate in Castle Peak Hospital and other government hospitals. In order to improve the availability of supplies, the Hospital Services Department set up a working party in February this year to review the linen services and to recommend improvement measures.

#### Oversized advertisement signboards

9. MR. MCGREGOR asked: In view of the potential threat to public safety caused by the proliferation of oversized advertisement signboards and the problems thus caused to district boards, will Government inform this Council whether it will consider introducing statutory control over the erection and maintenance of such signboards through a licensing system to be operated on a cost-recovery basis by district officers in conjunction with the district boards under guidelines drawn up by relevant government departments?

SECRETARY FOR LANDS AND WORKS: Sir, the Government's policy as regards advertisement signboards (whatever their size) is to ensure that those signboards which might pose a threat to public safety are removed either by the owners themselves or, where necessary, by the Buildings Ordinance Office. There are sufficient legal powers to enable the Government to do so. Indeed, during the two years from 1 April 1987, the Dangerous Signs Unit of the Buildings Ordinance Office has caused the removal of over 4 000 dangerous signs. An elaborate licensing system would involve more money and more staff, and would not necessarily produce any better results. It is therefore not the intention to introduce such a system.

#### Illegal fund-raising activities

10. MR. HUI asked: In view of the recent increase in the number of cases of illegal



solicitation of donations and fund-raising activities conducted by bogus organizations, will the Government inform this Council:

(a) what channels are available for people to lodge their complaints about these activities;

(b) what actions can be taken to control these illegal activities; and

(c) what concerted efforts can government departments make to protect the public from being deceived by these bogus organizations?

SECRETARY FOR SECURITY: Sir, the simplest and most effective channel of complaint is to the nearest policeman or police station, pointing out the offender or giving sufficient evidence to enable the police to make a prosecution. Under section 4(17) of the Summary Offences Ordinance, Cap. 228, any person who:

"organizes, provides equipment for, or participates in any collection of money or sale of badges in a public place save under and in accordance with a permit in writing issued by the Director of Social Welfare"

commits an offence and is liable to a fine of \$500 or three-month imprisonment. If the police come across such persons in the course of their duties, or if a complaint is laid by the public, then under this section they can and do make prosecutions.

Apart from mounting prosecutions the police also issue warnings to the public whenever cases of illegal solicitation are reported.

Motions

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

THE CHIEF SECRETARY moved the following motion:

"That with effect from 1 September 1989 --

(a) the functions exercisable by the Secretary for Administrative Services and Information by virtue of the enactments specified in the second column of Schedule

1 be transferred --

(i) in the cases specified in Part I of that Schedule, to the Secretary for Recreation and Culture; and

(ii) in the cases specified in Part II of that Schedule, to the Chief Secretary;

(b) the enactments specified in the second column of Schedule 1 be amended in the manner specified opposite thereto in the third column of that Schedule;

(c) the functions exercisable by the Secretary for Municipal Services by virtue of the enactments specified in the second column of Schedule 2 be transferred to the Secretary for Recreation and Culture;

(d) the enactments specified in the second column of Schedule 2 be amended in the manner specified opposite thereto in the third column of that Schedule;

(e) the functions stated to be exercisable by the former Secretary for Home Affairs by virtue of sections 3(1)(i) and 11(2) of the Miscellaneous Licences Ordinance (Cap. 114) be transferred to the new Secretary for Home Affairs;

(f) the functions stated to be exercisable by the former Secretary for Home Affairs by virtue of section 11(1) of the Miscellaneous Licences Ordinance (Cap. 114) be transferred to the Secretary for Recreation and Culture; and

(g) section 11(1) of the Miscellaneous Licences Ordinance (Cap. 114) be amended by repealing "Home Affairs" and substituting "Recreation and Culture".

## SCHEDULE 1

### FUNCTIONS OF THE SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION

#### PART I

#### ENACTMENTS IN RESPECT OF WHICH FUNCTIONS OF THE SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION ARE TRANSFERRED TO THE

SECRETARY FOR RECREATION AND CULTURE

Item	Enactment	Amendment
1.	Television Ordinance (Cap. 52)	In section 17E(6)(b)(ii), repeal "Administrative Services and Information" and substitute "Recreation and Culture".
2.	Places of Public Entertainment Ordinance (Cap. 172)	In section 7(1)(g), repeal "Administrative Services and Information" and substitute "Recreation and Culture".
3.	Film Censorship Ordinance 1988 of 1988)	In section 2(1), in the definition of "Secretary", repeal "Administrative Services and Information" and substitute "Recreation and Culture".

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PART II

ENACTMENTS IN RESPECT OF WHICH FUNCTIONS OF  
THE SECRETARY FOR ADMINISTRATIVE SERVICES  
AND INFORMATION ARE TRANSFERRED TO THE  
CHIEF SECRETARY

Item	Enactment	Amendment
1.	Companies Ordinance (Cap. 32)	In section 71A(3)(a), repeal "Secretary for Administrative Services and Information" and substitute "Chief Secretary".
2.	Transfer of Businesses (Protection of Creditors) Ordinance (Cap. 49)	In section 5(3)(ii), repeal "Secretary for Administrative Services and Information" and substitute " Chief Secretary".
3.	Multi-storey Buildings	In section 5(3), repeal "Secretary for

(Owners Incorporation) Administrative Services and  
 Ordinance (Cap. 344) Information" and substitute "Chief  
 Secretary".

SCHEDULE 2

ENACTMENTS IN RESPECT OF WHICH FUNCTIONS OF  
 THE SECRETARY FOR MUNICIPAL SERVICES ARE  
 TRANSFERRED TO THE SECRETARY FOR  
 RECREATION AND CULTURE

Item	Enactment	Amendment
1.	Antiquities and Monuments Ordinance (Cap. 53)	In section 2, in the definition of "Authority", repeal "Municipal Services" and substitute "Recreation and Culture".
2.	Books Registration Ordinance (Cap. 142)	In section 2, in the definition of "Secretary", repeal "Municipal Services" and substitute "Recreation and Culture".
3.	Dangerous Goods (General) Regulations (Cap. 295, sub. leg.)	(a) In regulation 184, repeal "Municipal Services" and substitute "Recreation and Culture"; and (b) in the Second Schedule, repeal "Municipal Services" where it occurs in relation to regulation 59 and substitute "Recreation and Culture".

CHIEF SECRETARY: Sir, I rise to move the motion standing in my name on the Order Paper. This motion arises from the proposal to create a Recreation and Culture Branch to improve co-ordination of the activities of the various organizations involved in the field of sports, recreation and culture. The new branch will take over some of

the existing responsibilities of the Municipal Services Branch, such as culture and recreation, sports, antiquities and country parks management, and some of the existing responsibilities of the Administrative Services and Information Branch, such as broadcasting, entertainment and censorship policy. The remainder of these two branches' responsibilities will be transferred to other branches and units. The Administrative Services and Information Branch will cease to exist on 1 September 1989.

To enable the new Secretary for Recreation and Culture to assume his role with effect from 1 September 1989, certain statutory functions need to be transferred to him. These statutory functions are set out in the motion and the attached schedules.

Sir, I beg to move.

Question on the motion proposed, put and agreed to.

#### TELEPHONE ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:

"That the Schedule to the Telephone Ordinance be amended --

(a) by adding after item 11 of Part VII --

"12. For an emergency alert telephone (inclusive of one radio trigger unit and one confirmation unit) --

(a) rental                                    \$1,692.00 per annum.

(b) each additional radio  
trigger unit                                    \$324.00 per annum.

(c) each additional  
confirmation unit                                \$204.00 per annum.

(d) connexion                                \$200.00. (see Notes 5 and 6.)

(e) connexion of extension

wiring from the main  
socket                      \$275.00.

(f) removal within the same  
building for which  
rewiring is required              \$275.00.

(g) removal within the same  
building for which no  
rewiring is required              \$140.00.

(h) removal to a different  
building                      \$200.00 (see Note 6.);

(b) by adding after Note 4 --

"5. In item 12 a fee of \$140 will be charged for the connexion of each additional radio trigger unit or confirmation unit.

6. In item 12 no connexion or removal fee will be charged for the system installed or removed at the same time as the related exchange line or related internal extension if no extension wiring for the main socket is required."."

FINANCIAL SECRETARY: Sir, I move the motion standing in my name on the Order Paper.

The Hong Kong Telephone Company proposes to supply a new item of equipment, known as an Emergency Alert Telephone, for elderly and handicapped customers. In the event of an emergency, the telephone has the facility to dial an alert message to up to four telephone numbers on receipt of an alarm signal from a portable radio trigger unit carried on the person of the subscriber. Once one of the telephone numbers has received the alert message, a confirmation unit sounds a reassurance tone. This new piece of equipment will be provided on a non-profit making basis.

Under section 26(2) of the Telephone Ordinance, all amendments to the schedule of charges of the Telephone Ordinance require a resolution of this Council. My motion before the Council seeks to add to the schedule charges for the Emergency Alert Telephone. The Administration has examined the proposed charges as set out in the

resolution accompanying this motion and can confirm that the instrument will be provided on a non-profit making basis.

Sir, I beg to move.

At this point Mr. David LI declared his interest as deputy chairman of the Hong Kong Telecommunications Ltd.

Question on the motion proposed, put and agreed to.

#### INTERPRETATION AND GENERAL CLAUSES ORDINANCE

THE SECRETARY FOR LANDS AND WORKS moved the following motion:

"That with effect from 1 September 1989 --

(a) the functions exercisable by the Secretary for Lands and Works by virtue of the enactments specified in column 2 of Schedule 1 be transferred to the Secretary for Planning, Environment and Lands;

(b) the enactments specified in column 2 of Schedule 1 be amended by repealing "Secretary for Lands and Works" wherever it occurs and substituting "Secretary for Planning, Environment and Lands";

(c) the functions exercisable by the Secretary for Lands and Works by virtue of the enactments specified in column 2 of Schedule 2 be transferred to the Secretary for Works;

(d) the enactments specified in column 2 of Schedule 2 be amended by repealing "Secretary for Lands and Works" wherever it occurs and substituting "Secretary for Works";

(e) the functions exercisable by the Secretary for Health and Welfare by virtue of the enactments specified in column 2 of Schedule 3 be transferred to the Secretary for Planning, Environment and Lands;

(f) the enactments specified in column 2 of Schedule 3 be amended by repealing "Secretary for Health and Welfare" wherever it occurs and substituting "Secretary for Planning, Environment and Lands";

(g) Form 5 of the Second Schedule and the Fifth Schedule to the Air Pollution Control (Specified Processes) Regulations (Cap. 311 sub. leg.) be amended by repealing " " in the Chinese version and substituting " ";

(h) the First Schedule to the Water Pollution Control (General) Regulations (Cap. 358 sub. leg.) be amended --

(i) by repealing "Pollution Control (Liquid and Solid Wastes) Division, 9 Floor, Yau Ma Tei Car Park Building, 250 Shanghai Street, Kowloon," and substituting "Liquid Waste Control Group, 25th Floor, Southorn Centre, 130 Hennessy Road, Wanchai,";

(ii) in the Chinese version, by repealing " ", " " and " " and substituting respectively " ", " " and " ".

## SCHEDULE 1

### ENACTMENTS IN RESPECT OF WHICH FUNCTIONS OF THE SECRETARY FOR LANDS AND WORKS ARE TRANSFERRED TO THE SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

Item

Enactment

1. Land Development Corporation Ordinance (Cap. 15), section 2.
2. Lifts and Escalators (Safety) Ordinance (Cap. 327), section 8A and 11F.
3. Electricity Networks (Statutory Easements) Ordinance (Cap. 357), section 2, 3, 7 and 9.
4. Electricity Networks (Statutory Easements) (Rectification of Approved Scheme) (Consolidation) Order (Cap. 357 sub. leg.), paragraph 2.

## SCHEDULE 2



ENACTMENTS IN RESPECT OF WHICH FUNCTIONS OF THE SECRETARY  
FOR LANDS AND WORKS ARE TRANSFERRED  
TO THE SECRETARY FOR WORKS

Item	Enactment
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1. Air Armament Practice Ordinance (Cap. 194) Second Schedule.
2. Defences (Firing Areas) Ordinance (Cap. 196), Second Schedule.

SCHEDULE 3

ENACTMENTS IN RESPECT OF WHICH FUNCTIONS OF THE  
SECRETARY FOR HEALTH AND WELFARE ARE  
TRANSFERRED TO THE SECRETARY FOR PLANNING,  
ENVIRONMENT AND LANDS

Item	Enactment
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1. Air Pollution Control Ordinance (Cap. 311), section 2.

Item	Enactment
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2. Air Pollution Control (Specified Processes) Regulations (Cap. 311 sub. leg.), Form 5 of the Second Schedule, Fourth Schedule and Fifth Schedule.
3. Waste Disposal Ordinance (Cap. 354), sections 2, 3, 4, 5, 6, 7 and 35.
4. Water Pollution Control Ordinance (Cap. 358), section 2.
5. Water Pollution Control (General) Regulations (Cap. 358 sub. leg.), First Schedule.
6. Noise Control Ordinance 1988 (75 of 1988), section 2.

SECRETARY FOR LANDS AND WORKS: Sir, I rise to move the motion standing in my name

on the Order Paper. This motion arises from the proposed reorganization of the Lands and Works Branch of the Government Secretariat into two branches -- the Planning, Environment and Lands Branch and the Works Branch -- as a result of which the Lands and Works Branch will cease to exist.

To enable the new Secretary for Planning, Environment and Lands and the new Secretary for Works each to assume his respective role with effect from 1 September 1989, certain statutory functions need to be transferred to each of them. These statutory functions include those presently exercisable by the Secretary for Health and Welfare in respect of pollution matters, responsibility for which has rested with the Secretary for Lands and Works since 1 November 1988. The functions are set out in the motion and the attached schedules.

The staff resources to establish the two new branches which have been recommended by the Establishment Sub-committee will be considered later today by the Finance Committee of this Council.

Sir, I beg to move.

Question on the motion proposed, put and agreed to.

First Reading of Bills

BANKING (AMENDMENT) (NO. 2) BILL 1989

ARCHITECTS REGISTRATION BILL 1989

ENGINEERS REGISTRATION BILL 1989

ROAD TRAFFIC (AMENDMENT) (NO. 3) BILL 1989

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

Second Reading of Bills

BANKING (AMENDMENT) (NO. 2) BILL 1989

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to amend the Banking Ordinance."

He said: Sir, I move that the Banking (Amendment) (No. 2) Bill 1989 be read the Second time.

Following a comprehensive review of the three-tier system of deposit-taking institutions, which included extensive consultation with the banking sector, the Government announced, in March this year, certain proposed changes to that system. The main purpose of this Bill is to amend the Banking Ordinance to give effect to those changes. The opportunity is also taken to incorporate other amendments to overcome problems and remove uncertainties identified in the working of the Ordinance.

Amendments to the three-tier system

Use of banking names

One of the principal features of our banking legislation is the tight control exercised over the use of banking names and descriptions. At present only those in the first tier, licensed banks, are allowed the privilege of describing themselves as banks. Those in the other two tiers, licensed and registered deposit-taking companies, cannot do so and this has inhibited those who wish to develop their business overseas. Such institutions, which may wish to operate internationally, find the term "deposit-taking company" either not understood or pejorative, and have experienced difficulty in getting recognized and treated as credit-worthy, well-supervised institutions.

To overcome these difficulties, the Bill replaces the existing categories of licensed deposit-taking company and registered deposit-taking company in the Ordinance with the categories of restricted licence bank and deposit-taking company. Clause 39 amends section 97 to provide that restricted licence banks may use the word "bank" or its derivatives in describing their business, provided that this is qualified by such adjectives as "restricted licence", "merchant", "investment", "wholesale", or a term specified by the Commissioner of Banking by notice in the Gazette. Overseas incorporated banks authorized as restricted licence banks, and operating in branch form, would be allowed to use their corporate names which include the word "bank", provided these are qualified in equal prominence by the words

"restricted licence bank" next to them.

#### Minimum capital requirements

To ensure that only well capitalized institutions are entrusted with public deposits, the minimum capital requirement for the registration of new deposit-taking companies has already been increased from \$10 million to \$25 million as from 10 March 1989. To reflect the additional status and privileges of the restricted licence banks, and taking account of inflation over the past few years, clause 12 requires these institutions to have a paid-up capital of \$100 million as against the present requirement of \$75 million for licensed deposit-taking companies. Existing licensed deposit-taking companies will have a grace period of two years from 10 March 1989 to comply with the new requirement. Consequent upon this increase, clause 7 amends section 18 to raise the minimum capital level for licensed banks from \$100 million to \$150 million to reflect the higher capital requirement appropriate to licensed banks.

#### Power to obtain information

Section 63 of the Banking Ordinance empowers the Commissioner of Banking to require information from authorized institutions if such information is "necessary for the proper understanding of the financial position of the institution". This is considered to be too restrictive. To enable the commissioner to discharge his statutory responsibilities effectively, he needs to have relatively unfettered power to obtain information from authorized institutions and their related companies. Clause 26(a) therefore amends section 63(2) to empower the commissioner to require any authorized institution or its subsidiaries to submit to him information that may reasonably be required for the exercise of his functions under the Ordinance.

#### Maximum exposure of an authorized institution

Section 81(1)(b)(i) of the Banking Ordinance provides that the financial exposure of an authorized institution to two or more companies which are subsidiaries of the same holding company shall not exceed an amount equivalent to 25% of the paid-up capital and reserves of the institution. Since the term "the same holding company" in the section includes authorized institutions, the limitation on financial exposure contained in the section therefore applies to exposure of authorized institutions to their own subsidiaries. It follows from this that a bank cannot lend more than

25% of its own capital to its own subsidiaries, even though these are subject to the commissioner's consolidated supervision. To remove this anomaly, clause 33 amends section 81 to provide that an authorized institution may be exempted from section 81 (1)(b)(i) where the institution is itself the controller of the subsidiaries concerned, but that such an exemption shall be subject to the prior approval of the commissioner and to such conditions as he may think proper to attach thereto. This discretion is intended to be used sparingly, and where the commissioner is satisfied that no credit risk on a group basis will exceed the 25% limit.

## Appeals

Following a breach of either the specified capital adequacy ratio or the specified liquidity ratio, the commissioner may, after discussing the matter with the institution, require it to take such remedial action as he considers necessary. Failure to comply with the commissioner's direction is a criminal offence. At present, the institution can appeal only to the Financial Secretary against the commissioner's direction. Elsewhere in the Ordinance, appeals against the commissioner's use of his powers, where non-compliance is a criminal offence, lie to the Governor in Council. For the sake of consistency, clauses 41 and 43 amend sections 100 and 104 respectively to replace the Financial Secretary with the Governor in Council as the appeal body.

## Official secrecy

The requirement to preserve and aid in preserving secrecy as provided under section 120(1)(a) applies only to those specified persons presently exercising functions under the Ordinance. It is considered important to ensure that all those who have exercised such functions in the past but do not presently do so are similarly restricted. This category includes retired public officers, professionals and others whose contracts have expired. Clause 46(b) therefore extends the secrecy obligation to all those who have at any time obtained relevant information in the course of exercising any function under the Ordinance.

## Other amendments

Sir, the Bill also proposes a miscellany of technical amendments to clarify meanings and ensure consistency between various sections of the Ordinance.

The principal proposals in the Bill have been discussed with and are supported by the Banking Advisory Committee and the Deposit-taking Companies Advisory Committee.

Sir, I move that the debate on this motion be adjourned.

Question on the adjournment proposed, put and agreed to.

## ARCHITECTS REGISTRATION BILL 1989

THE SECRETARY FOR LANDS AND WORKS moved the Second Reading of: "A Bill to provide for the registration of architects and disciplinary control of the professional activities of registered architects, and for related matters."

He said: Sir, I rise to move the Second Reading of the Architects Registration Bill 1989 and will at the same time speak to the Engineers Registration Bill 1989, the Second Reading of which I will be moving later.

The need for professional registration has been raised in this Council on several previous occasions. In supporting registration of professional architects and engineers, the administration has recognized, with the professions, a certain confusion in the public mind as to the difference between the various engineering disciplines, and the difference between qualified architects and those who call themselves architects but who may not necessarily be professionally qualified. The first objective of the Architects Registration Bill 1989 and the Engineers Registration Bill 1989 is therefore to assure the public that those who profess to be professionally qualified architects and engineers have indeed received the appropriate training and are competent to practise in Hong Kong. The Administration and the professions involved also believe that this legislation will serve to enhance and maintain professional standards.

Registration of those qualified will not be compulsory, but there will be obvious benefits accruing from the use of the title "registered architect" or "registered professional engineer". The Engineers Registration Bill requires that a registered professional engineer should specify the discipline in which he or she is qualified, so that there is no doubt as to the actual field of expertise of the individual concerned. Nevertheless, professionals who are not registered will still be

permitted to practise in Hong Kong providing that they do not imply that they are registered. The main requirements for registration are that the person is ordinarily resident and has at least one year's professional experience in Hong Kong, in addition to meeting the relevant academic and professional training standards. Registration initially will not be linked to the right to carry out statutory functions under the Buildings Ordinance, although the Administration can see potential benefits in this application and this will be something to be considered once the registration system has become well established.

The introduction of registration does not mean there will be a "closed shop" or that the professional institutes will be able to operate restrictive practices. The Bills provide for registration to be administered by Registration Boards which are appointed by the councils of the institutes but are independent of the professional institutes in our operation. The functions and powers of the boards are set out in clauses 8, 9 and 10 of the Architects Registration Bill and 7, 8 and 9 of the Engineers Registration Bill. Provision is made for a government appointee to each board. The Administration is confident that the composition of the boards will provide the right balance and the necessary degree of self regulation.

If a registered professional loses for whatever reason his qualification for registration, his name may be removed from the register. In the event that a registered professional commits a disciplinary offence the Bill provides for investigation by an enquiry committee which may result in removal of the professional's name from the register, either permanently or for a specified period. Alternatively the committee may order some form of reprimand. As a safeguard, provision is made for appeal to the Court of Appeal against disciplinary orders.

The Hong Kong Institution of Engineers has already been incorporated under the Hong Kong Institution of Engineers Ordinance 1975. It was intended that a private Bill to incorporate the Hong Kong Institute of Architects would be presented to the Council in this Session, but in the event this has not been possible. In presenting the Architects Registration Bill 1989 I should therefore emphasize that its enactment will depend on the enactment of the private Bill. I understand that the private Bill will be presented early in the next Session.

Sir, I move that the debate be now adjourned.

Question on the adjournment proposed, put and agreed to.

## ENGINEERS REGISTRATION BILL 1989

THE SECRETARY FOR LANDS AND WORKS moved the Second Reading of: "A Bill to provide for the registration of professional engineers, the recognition of disciplines within the profession and disciplinary control of the professional activities of registered professional engineers, and for related matters."

He said: Sir, I rise to move the Second Reading of the Engineers Registration Bill 1989. When speaking on the Architects Registration Bill a moment ago I also covered the main points in this Bill.

Sir, I move that the debate be now adjourned.

Question on the adjournment proposed, put and agreed to.

## ROAD TRAFFIC (AMENDMENT) (NO. 3) BILL 1989

THE SECRETARY FOR TRANSPORT moved the Second Reading of: "A Bill to amend the Road Traffic Ordinance."

He said: Sir, I move the Second Reading of the Road Traffic (Amendment) (No. 3) Bill 1989.

This Bill provides that regulations made under section 7 of the Road Traffic Ordinance may empower the Commissioner for Transport to specify the design, construction, size, colour, form and positioning of any destination indicators, notices or signs displayed in public service vehicles and insignia worn by the operators of such vehicles.

The main purpose is to empower the commissioner to specify the display and positioning of fare tables inside taxis. At present, fare tables are normally displayed at the front panel inside taxis where it is difficult for back seat passengers to read. This has sometimes led to disputes between passengers and drivers and complaints of overcharging. The proposed regulation will ensure that passengers are better and more clearly informed of the approved taxi fare scales,



thus reducing likely disputes with taxi drivers. The opportunity is also taken to specify the display of destination indicators, notices and signs in public service vehicles such as public light bus to ensure uniformity of practice by the trade and for better public information.

The Transport Advisory Committee has been consulted and supports these proposals.

Upon passage of the Bill, the Road Traffic (Public Service Vehicles) Regulations will be amended accordingly. The Transport Department will consult the public service vehicles trade on the specifications, allowing sufficient time for the operators to comply with the specifications before the new requirements are enforced.

Sir, I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

#### LEGAL AID (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 28 June 1989

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

Bill read the Second time.

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

#### COMPANIES (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 5 July 1989

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

Bill read the Second time.

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

HONG KONG INDUSTRIAL ESTATES CORPORATION (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 5 July 1989

At this point Mr. Stephen CHEONG declared his interest as chairman of the Hong Kong Industrial Estates Corporation.

Question on the Second Reading of the Bill proposed, put and agreed to.  
Bill read the Second time.

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

INLAND REVENUE (AMENDMENT) (NO. 3) BILL 1989

Resumption of debate on Second Reading which was moved on 24 May 1989

Question on Second Reading proposed.

MR. PETER POON: Sir, I welcome the Inland Revenue (Amendment) (No. 3) Bill 1989. Our existing salaries tax system treats a married woman's income as that belonging to her husband for the purpose of calculating tax liability. This antiquated system is based on a principle that dates back to the earliest days of income tax in 1805 in the United Kingdom and it produces results which are no longer acceptable today: there has been considerable public pressure in the past few years for a change to the system. The source of complaint about the system is two-fold. First, married couples both earning salaries have to shoulder a heavier tax burden than two single taxpayers earning the same level of aggregate income. Such additional burden totals hundreds of million of dollars a year and has been referred to grudgingly by some as the "marriage tax" for many years. Secondly, it is considered that the system does not give proper recognition to the privacy and independence in the tax affairs of married women.

The Administration had been under considerable pressure both from the public and from OMELCO in the last few years for introducing a new system which would allow income of married couples to be charged to tax separately. The Financial Secretary, in his speech concluding the 1988-89 Budget speech, finally agreed to introduce separate

taxation for working wives as soon as practicable. As an interim measure to enable technical procedures to be worked out, he introduced the working wife allowance. The present Bill gives effect to the Financial Secretary's undertaking.

The Legislative Council ad hoc group set up to study the Bill received six representations which contained many helpful suggestions. We had several meetings with the Administration. A number of issues have been raised for discussion and have been amicably resolved. Consequently, we have agreed to a number of Committee stage amendments which, in our view, are improvements to the Bill. Despite the complexity of the matter, the Bill is generally considered to be well drafted.

I would now like to speak briefly on two points which have been raised during the deliberations of the ad hoc group. I am sure other speakers will refer to them in greater detail.

The first concerns the criticism regarding the unnecessary complication of our tax system. OMELCO have considered the issue at great length for some years and decided that such complexity is unavoidable to address the changing circumstances of our society, especially when more and more working women feel that their status as an independent taxpayer should be respected and many of them object strongly to the unfair tax burden under the present system.

The second point concerns the working wife allowance. We have received a submission from the Hong Kong Federation of Trade Unions requesting the retention of the allowance on the grounds that certain two-income families, especially those in the lower income group, would be subject to a heavier tax burden. Whilst we fully sympathize with this group of taxpayers, we have fully considered and generally accepted the arguments of the Administration that as the allowance was introduced only as an interim measure, comparison of the tax burden should therefore be made with that before the allowance was introduced, and the continuation of the allowance would work against the principle of equity since two-income families would then be enjoying more tax benefits than single income families with similar levels of income. Perhaps, the answer to the problem facing the lower income group should be addressed by more generous adjustments to the basic personal allowance aiming at alleviating the tax burden on the lower income group in general.

In examining the Bill, we have been very conscious of the fact that although no system of tax can work to the advantage of every taxpayer, it should be as equitable

as possible. We have therefore tried to ensure that no married couple would be worse off under the new system compared to the situation before the introduction of the working wife allowance. Suitable amendments to the Bill will be made to this effect. The Administration has really done a great deal of work and research and has been reasonable in its approach in granting relief in appropriate circumstances. They should be congratulated for having performed such a difficult task.

Finally, I wish to state that apart from certain transitional provisions, the new system of separate assessment will apply to final Salaries Tax Assessment for the year of assessment 1989-90, that is, to salaries earned for the year commencing 1 April 1989. I understand that relevant practice notes will be issued by the Commissioner of Inland Revenue as soon as possible.

Sir, with these remarks, I support the Bill.

MRS. FAN: Sir, the debate on whether married women should have their salaries assessed separately from their spouses has gone on in this Council for a decade. Numerous Councillors have called for separate taxation so that the privacy and independence of the married women's income can be preserved, and that couples would not be required to pay more tax, as a family unit than would two single individuals with the same income. At the beginning, the Administration was not sympathetic to this view at all. When pressed, in 1983, the then Financial Secretary made some peripheral adjustments to the tax liability which allowed the married women to be responsible for the portion of tax levied on her income, but the joint assessment system on the aggregated salaries of the couple remained. The debate continued. As time goes by, more and more tax administrations adopted separate assessment for married couples. By 1987, there was virtually unanimous support among OMELCO Members for separate taxation. In his 1988-89 Budget speech, the Financial Secretary introduced a working wife allowance of up to \$15,000 and indicated that he would consider further how separate taxation for working wives might best be introduced. While the working wife allowance was welcomed as an interim measure, many Members, including myself, were looking for a firm commitment on the implementation of separate taxation, because while the benefit is important, the principle of equitable treatment for the married women is equally important. We were therefore very pleased when the Financial Secretary in his reply gave a firm commitment with 1990 as the target date for implementation. The long drawn out debate of a decade finally comes to an end.

Sir, the Inland Revenue (Amendment) (No. 3) Bill 1989 is a complicated piece of legislation, as the Financial Secretary rightly predicted in 1988. However, I would rather pay the price of a slightly more complex tax system in order to remove the historical vestige that a wife is not a legal person separated from the husband and to uphold the principle of equity, privacy and independence for the working wife. I do not believe that a working wife allowance is sufficient to enable married women to exercise independent control of their taxation affairs, if they so wish; nor is it fair for their spouse to be landed with their tax bill.

While I appreciate that the Hong Kong Government will lose significant revenue if this Bill is passed into law, one should remind oneself who the beneficiaries of this legislation will be. They belong to the middle income group whose joint annual earning ranges from \$170,000 to \$330,000. These people are mainly young professionals and middle management. They are the sandwich class, who are often overlooked in our social and tax policies. It is only fair that they should also benefit occasionally. Furthermore, separate taxation will also serve to encourage married women to join our work force, and in turn, help to alleviate the labour shortage problem.

When separate taxation for working wives come into effect, the working wife allowance will cease. The Hong Kong Federation of Trade Unions has pointed out that for a certain group of married couples, of comparatively lower income, this means a larger tax bill ranging from a few hundred to over two thousand dollars. The federation therefore requested the retention of the working wife allowance. While I am sympathetic to these couples, I have doubts as to whether it is appropriate to retain the allowance, which is an interim measure for separate taxation. An interim measure must cease to operate when the complete package comes into being. Rather, I would suggest, as my honourable friend Mr. Peter POON has suggested, that the Administration should consider the possibility of an appropriate increase in the level of basic personal allowances in the next Budget, in order to give some relief to this particular group.

Sir, I would like to take this opportunity to congratulate the Financial Secretary and the Commissioner of Inland Revenue for their sterling effort in introducing this Bill into this Council on schedule. Sir, I have pleasure to support the motion.

MR. TAM (in Cantonese): Sir, in response to public demand the Government proposes

amendments to the existing Inland Revenue Ordinance to allow members of the public to file combined or separate tax returns. Such a move is undoubtedly worthy of our support. However, I must point out some injustice in this Bill which overlooks the vertical aspect of equity in the allocation of resources in the society. I consider it necessary to take the equity factor into full account at the time of formulating taxation policy, because social justice is a very important goal in social development. However, on careful scrutiny of the Bill I have found that the Bill is not bringing any benefit to the lower income group. In comparison with the existing Inland Revenue Ordinance, the Bill will even cause economic loss to them.

The reason is that while this amendment Bill allows married couples to exercise the right of opting for separate assessment, it removes the working wife tax allowance which they enjoyed in the past one year. Under these circumstances taxpayers of the lower income group will have to pay more tax to the Government and thus their financial burden will become heavier. I would like to take this opportunity to point out two very important features of the separate taxation system for husband and wife in this Bill:

Firstly, a moderate progressive taxation system has been adopted for salaries tax in Hong Kong, that is, the higher the personal income, the higher the tax rate. The greater the difference between the income levels of the husband and wife, the greater will be the proportion of the total family income accounted for by the spouse earning a higher salary, who consequently will have to face a relatively higher tax rate. As a result the actual tax burden of this family will be heavier than the other family with similar aggregated income but in which the husband and wife are having approximately the same salaries. In other words, separate tax assessments will benefit those families with husbands and wives earning approximately the same level of income.

Secondly, in the case of two families with husband and wife earning equal share of income but the total family incomes being different, the tax burden of the family with a lower total income is significantly eased under the existing taxation system because the working wife tax allowance enjoyed by this family represents a significant percentage of its aggregated income. On the contrary, under the new system this family will not benefit very much from separate taxation because its total family income is already rather low. On balance, a comparison between the new system and the existing one reveals that the lower income families will somewhat lose out because of the new system. Without any substantive data, it is impossible to gauge accurately

the effects of the new system on taxpayers, but basing upon the aforesaid two features and other data available, we can assess the impact of the new system upon the taxpayers. The computation of salaries tax liability under the proposed and existing systems reveals that where the husband and wife, with no children or dependant parents, earn the same level of income and their annual total income is below \$140,000, they will have to pay more tax under the new system. In other words, should each spouse of the family earn less than \$5,800 a month, they are liable to pay more tax. The median income of employees in Hong Kong in the first quarter of 1989 is only \$4,4591, indicating that over half of our employees are earning less than \$5,800 a month. Thus many families may have to pay more tax as a result of their low income. This is indeed a perfect irony. The above comparison is only based on the presumption that husband and wife are earning the same level of income. Under the new tax regime, the greater the difference of income between husband and wife, the more unfavourable the new system will be. Thus, I believe my estimates on the unfavourable effects of the new system are already very conservative. It is evident that the working wife allowance is of paramount importance to low income families.

To safeguard the interests of the affected families, I am of the opinion that in the implementation of separate taxation, taxpayers should be allowed to opt for separate or combined assessments, and those families who elect joint assessment should also be entitled to the working wife allowance. Apart from preventing the decline of living standard of the low income groups and the aggravation of uneven distribution of wealth in our society, the working wife allowance also serves to offset to some extent the additional expenses of a working mother. It is a kind of incentive to encourage married women to join the labour force, through which their social values may be enhanced.

In view of the above mentioned justifications for the retention of the working wife allowance, a total of 11 industrial and educational organizations, which includes the Hong Kong Federation of Trade Unions, have incessantly pressed for the retention of such allowance during the last two years. During the last two Budget debates, I urged the Government to allow the husbands and wives to have the right to opt for separate or combined assessments in the implementation of separate taxation and to retain the working wife allowance for those couples who elect joint assessment. Regrettably, the Government still turns a blind eye to the significance of the retention of the working wife allowance. I am sorry to see that this Bill, which seeks to give effect to separate taxation, proposes the revocation of the working wife allowance. Though the purpose of this Bill seeks to provide for separate

taxation for married couples, which has all along been the objective pursued by the labour sectors, I still have reservations about this Bill.

Sir, with these remarks, I abstain from voting on this motion.

MRS. FONG: Sir, the Bill before us is really not a Bill to reduce the impact of taxation on married women, or married couples, as is popularly believed. Rather, it is a Bill to distinguish some relatively insignificant individual rights of married women from the collective rights of the family unit. This is because the supposed inequities in taxation which were used to justify the change, no longer exist. They were already addressed a year ago.

The costs that this Bill will add to the operating costs of the Inland Revenue Department are substantial. The costs could probably be justified if the Bill was necessary to bring about a more equitable distribution of the tax burden, but this is not the case. This was done in 1988 with the introduction of the working wife allowance. The costs could also be justified if there was a public demand from the local population for wives to have the right to maintain confidentiality about their income and taxation matters from their husbands by having the right to prepare their own tax returns. However, I have not seen the social need for this, nor have I heard the public call for it.

In these circumstances, I cannot see the justification of the Bill.

The real tax impact of the changes proposed has not been fully explained. Also, the financial impact of the Bill is not well understood in terms of added costs. In summary:

-- the tax burden of higher income families (those paying the standard rate) will remain the same as at present;

-- the tax burden of middle income families will be reduced, as the new benefits to them will exceed the ones they lose;

-- however, the tax burden on the lower income families (those earning less than approximately \$150,000 per year) will be heavier, as a result of the new benefits falling short of those that will be lost by the cancellation of the working wife



allowance;

-- the net tax revenue to Hong Kong will be reduced significantly by the added costs to the Inland Revenue Department because of the need to handle a massive increase in the number of salaries tax returns to be processed (an increase of roughly 200 000 or 25% in the number of returns).

Would people really support the introduction of this Bill if they realized that its effect would be to increase the tax burden on the majority of families, especially on those with lower incomes?

Would people really support it if they realized that its effect is just to provide a means for adjusting one very minor aspect of the financial rights of wives in relation to the family unit? Even if they wanted to, for social purposes .....and I do not think they do....., would people want it if they knew its introduction would significantly increase the cost of the tax administration?

Would the 200 000 married women who are the supposed beneficiaries want it, if they knew that they would have to prepare their own tax returns to get the supposed benefit? Would they want it if they knew that in the process, the majority of family units would end up paying more taxes than they pay today?

Should we support this Bill? I personally cannot justify it. I consider it to be an attempt to solve a tax problem that no longer exists. It is an attempt to establish separate and generally immaterial rights for married women, that are not being sought by these women.

Let us focus for a moment on the costs this Bill will generate. It will:

-- increase the cost of the Inland Revenue Department's personnel complement by a reported amount -- which I believe to be ultra conservative -- of \$11 million per year, each year, from now on.

-- involve a one-time capital cost that is said to be at least \$28 million for upgrading the Inland Revenue Department's computer capacity to process the 200 000 additional returns.

-- increase the space needs of the Inland Revenue Department and thus

generate permanent added space costs.

In my view, this Bill is an example, a sad example of how political forces can generate momentum and get themselves into a position where they end up supporting something that is unnecessary and not sought by the very people who are supposed to benefit from it.

I can only sympathize with our Administration. They know that this piece of legislation will complicate the tax law; they know that this will create much more work for them and that the legislation is completely non-cost effective. They have had to comply with the instructions given, and come up with the best possible legislation to handle the issue that was given to them by our political leadership.

I regret to say that by now there may be too much momentum behind this Bill for it to be cancelled, or for there to be any significant modifications. However, I cannot be a party to the introduction of complicated tax legislation to Hong Kong when there is no real or apparent need for it.

I am a tax professional. I have worked with many tax systems in many countries. I have always been extremely proud of Hong Kong's tax system. It has been very simple to administer, very fair to all taxpayers, and a system with one of the lowest collection costs in the world.

I am also a married woman and I find the measure entirely unnecessary and totally irrelevant for the establishment of equity in the majority of family units, in the context of presentday Hong Kong.

Sir, I therefore stand to object to the Bill.

MRS. LAM (in Cantonese): Sir, the Inland Revenue (Amendment) (No. 3) Bill 1989 enables working wives to have the liberty to opt for joint or separate assessment of tax. The Government, being open-minded and responsive to public sentiment, has attained a satisfactory result in the long-disputed system of tax assessment. Here, I must say the efforts of the Financial Secretary and staff members of the Finance Branch are indeed worthy of praise. Nevertheless, the concurrent abolition of the working wife allowance mars this otherwise perfect achievement. In this regard, I register my deep regret with the following observations:

(1) It is hoped that separate taxation for married couples would not only further realize the object of equality between the two sexes, but also help relieve the tax burden of low-income families. However, with the abolition of the working wife allowance, those within the low-income brackets with an annual income of \$160,000 or below will on the contrary have to pay more taxes ranging from \$165 to \$2,154 under the new legislation. For a family with an annual income of \$160,000 or below, the monthly income is about \$13,000, that is, the husband and the wife each earns about \$6,600 per month on average. Given the fact that the median income of local employees is only around \$4,400 (according to a survey in the first quarter of 1989 by the Census and Statistics Department), the introduction of the new legislation may mean pecuniary loss to many people in Hong Kong. Moreover, under the new legislation, if either the husband or the wife earns an income considerably lower than that of the spouse, it is very likely that the couple will have to pay more tax regardless of the income level of his or her spouse. Hence, from the view-point of upholding social justice and protecting the interests of the relatively low-income group, the abolition of the working wife allowance will have negative effects on the community.

(2) The abolition of the working wife allowance will discourage married women from staying in the workforce. As compared with single women, married women taking up employments will incur greater additional expenses, such as those on sending children to nurseries, employing the service of part-time or full-time domestic helpers to take care of the housework, and so on. The abolition of the working wife allowance will therefore deal a blow to the working wives, discouraging them from continuing to work. Hence, they will assess the impact of taking up employments on the financial position of their families and the need to look after domestic chores. Some may even choose to stay at home again on that score. Such a decision will have adverse effects on the current labour shortage situation.

(3) The working wife allowance and the option for separate or joint assessment of tax should not be treated as one issue, nor should either one of them substitute the other. The working wife allowance is viewed as a means to encourage married women to continue taking up employments. It also serves as a recognition of the additional expenditure invariably incurred, hence the need to exempt part of the expenditure from tax, as in the case of granting allowances to dependent parents and children. Accordingly, the working wife allowance should be treated likewise, and should be adjusted annually in line with the inflation rate. In view of the above, the working wife allowance should not be abolished. In case its abolition is inevitable, it is

hoped that an alternative measure would be introduced to reduce loss working wives with low income earnings would suffer. This would encourage them to stay in the workforce.

Sir, with these remarks, I support the motion.

MRS. LAU: Sir, the concept of separate taxation for married couples may be criticized by some people as unnecessarily complicating Hong Kong's simple tax system. It is also undoubtedly quite expensive to implement because revenue loss alone is likely to run into hundreds of millions of dollars every year not to mention the capital expenditure required to upgrade the computer process and the increase in administrative costs to carry the scheme into effect. But the end justifies the means. For years, many Members of this Council have strongly advocated the cause of separate taxation for valid reasons. The fairly inequity of making married couples pay more tax than they would otherwise have to if they were unmarried is, in my view, sufficient justification for introducing measures at all costs to remove that inequity. The other reasons advanced are equally valid. As a woman, I naturally support the arguments for equality between the sexes and the desirability of allowing wives to maintain independence and privacy in tax matters. Our tax system must be simple but, more importantly, it must be just, fair and equitable. It is not right to compromise our principles just because there may be technical difficulties, or just because it may be somewhat expensive to do so.

Some may argue that actually the inequity which I referred to earlier on has already been adequately addressed or redressed by the working wife allowance introduced a year ago. But it must not be forgotten that the working wife allowance was introduced as, and has always been intended to be, an interim measure only pending implementation of separate taxation. It was never intended to be a substitute for separate taxation. As to whether the working wife allowance sufficiently addresses or redresses the problem, the revenue figures speak for themselves. Under the scheme of working wife allowance, the full year cost to the revenue is in the region of \$355 million. If separate taxation were implemented, the full year cost to the revenue would be in a region of \$585 million. This means that without separate taxation, married couples in Hong Kong are actually paying \$230 million in excess of what they would otherwise have to pay.

Some people believe that the removal of the working wife allowance upon

implementation of the separate taxation system would result in a heavier tax burden on some families in the lower income bracket. This in my opinion is a misconception. Under separate taxation, these families would not be worse off than before the introduction of the working wife allowance. In fact they would still be better off. The working wife allowance is not intended to provide relief to lower income families and should not be treated as such. I support the granting of relief to lower income families but I feel that they should more appropriately be sought from increasing the level of personal allowances, as some of my honourable colleagues have suggested, or introduction of some other allowances. The working wife allowance is intended, on an interim basis, to ameliorate an existing inequitable state of affairs. Once that inequity is removed, the allowance cannot justify its existence.

Sir, I welcome the Inland Revenue (Amendment) (No. 3) Bill 1989 which introduces the long-called-for system of separate taxation.

The Bill is short, succinct and to the point. One would have thought that complex issues require complex legislation but this Bill aptly demonstrates that complex laws need not necessarily be complex. In this regard, may I take this opportunity of congratulating the draftsman for his skill and fine work.

It has been argued that taxpayers should be granted the option of choosing whether to be taxed separately or jointly. Whilst theoretically this may be right, I agree that to allow such an option would probably make the system administratively unmanageable. No computer can possibly handle such uncertainty. The Bill as drafted gives no general right of election, but to prevent taxpayers from becoming worse off under separate taxation, the Bill provides that if one spouse shall have an unabsorbed allowance, an election for joint assessment may be made. One small inequity however remains. The sum total of the two basic allowances falls short of the married person's allowance by \$2,000. There may be cases of married couples having to pay more tax under separate taxation than they would if under joint assessment. The ad hoc group considers that this inequity should be removed. The proposed section 10 under clause 3 of the Bill will therefore be amended during the Committee stage to allow couples to make the election for joint assessment where their aggregate salaries tax under separate taxation would be greater than the amount payable by them if they had made the election for joint assessment.

The proposed section 11 under clause 3 of the Bill provides that an election for joint assessment should be made within the year of assessment or the year following.

Although there is provision for granting of such further time as the commissioner may allow, the ad hoc group feels that the time limit should be expressly extended to after the assessment for the year of assessment becomes final and conclusive. Before an assessment becomes final, it may be difficult to decide whether or not an election for joint assessment would be advantageous or disadvantageous. I am pleased that appropriate amendment to this provision will be made during the Committee stage.

In relation to the proposed Part V under clause 9 of the Bill, the ad hoc group expressed concern over the use of the word "may" in relation to the granting of allowances. The word "may" seems to connote a discretion as to whether or not the allowances would be granted. The intent of the legislation is clearly that the allowance will be granted provided the relevant conditions are satisfied. For the avoidance of doubt, the ad hoc group has suggested to substitute the word "shall" for "may", to which the Administration has agreed.

Sir, the introduction of separate taxation removes the unfair tax burden which married couples have suffered for a long time. It goes a long way towards encouraging more women to join our labour force, which is most desirable at this time when our labour market is still tight.

Sir, with these remarks, I support the motion.

MR. PETER WONG: Sir, the Inland Revenue (Amendment) (No.3) Bill 1989 is a very technical piece of legislation enacted with the avowed aim of bringing tax equality to married couples, giving them the luxury of paying no more tax than they would if they were unmarried.

In the words of the Hong Kong Society of Accountants submission to OMELCO "..... we do not regard the concept of separate taxation as being one which can benefit Hong Kong's economy or society; it will merely deflect the attention and resources of the Inland Revenue Department from more worthy and rewarding objectives". I fully endorse that line of thinking as it reflects the considered opinion of Hong Kong's tax professionals.

This Bill must be considered as a political act of faith on the part of this Council and I must compliment our long suffering and much maligned Commissioner of Inland Revenue in producing a very workmanlike Bill to give effect to the surrender by our

Financial Secretary to the power of the feminist lobby.

The commissioner has bent over backwards to be sympathetic and helpful. I have even accused him (but only half jokingly) that he has designed his computer programmes to assist the taxpayer to minimize the tax payable so that our salaries tax professionals will soon be out of a job. This may not be a bad thing. After all they can be engaged in more productive activities. The commissioner has time and again assured us that his computer programmes will point out whether the taxpayers have made the best choice based on their particular circumstances and he has instructed the assessors to make the most advantageous option known to the taxpayers even if they have made the wrong choice initially in their returns. I would like the Administration to officially confirm that this will be the policy.

The Hong Kong Society of Accountants' submission goes on to say that this is "estimated to cost annually some \$600 million in revenue foregone and over \$10 million to administer, plus a once-off capital cost of nearly \$30 million to implement". This is a very high price to pay. Even now, there will still be some couples who are worse off under the new system than before.

Sir, there is no such thing as equity in taxation and this attempt to treat fairly married couples as though they are two singles is flawed in that it makes our salaries tax system no longer simple. Sir, I will therefore abstain from voting.

MR. ANDREW WONG (in Cantonese): Sir, in the past few Budget debates I already stated the case against separate taxation for married couples. My stand against separate taxation and the reasons I hold have not changed since. I therefore agree entirely to the arguments the Honourable Mrs. Nellie FONG advanced in her speech. Here I should like to point out two common misconceptions relating to the present taxation system (a system about to be changed, though). Firstly, the present system is based on the family unit as the object of tax assessment. The head of a family could be a man or it could well be a woman. Secondly, separate taxation for married couples will not necessarily be the only way to redress the alleged inequity arising out of married and single persons all being taxed as a family entity. An alternative way would be to grant a "working spouse allowance" as distinguished from an allowance enjoyable only by a working wife. The question before us today is in fact one of an expedient devised to deal with complications in the taxation system from the impact of women's rights. I cannot therefore support the motion before Council.

MRS. CHOW: Sir, over the years I have been among those who have supported the principle of separate taxation and therefore I am only too happy to support the Bill before Council.

Listening to the debate, it has struck me that it is not easy to be the Administration these days. After giving in to years of request by the public, it is now being taken to task for having given in. Perhaps the problem was that the Administration tried too hard to ease the unhappiness in the community by introducing the working wife allowance which seems to have been responsible for the short-lived anomaly which is now the present cause of complaint.

I am therefore in support of more generous adjustments to the basic personal allowances as soon as possible to remove the anomaly.

Sir, I support the motion.

FINANCIAL SECRETARY: Sir, I wish to thank Mr. Peter POON and members of the ad hoc group set up to study the Bill for their detailed consideration of its provisions during the consultation period. I am also most grateful to Mr. POON, Mrs. Selina CHOW, Mrs. Rita FAN and Mrs. Miriam LAU for their support. I shall be moving certain amendments at the Committee stage.

Let me begin by addressing the arguments of Mr. TAM Yiu-chung and Mrs. Peggy LAM for retaining the working wife allowance. The major flaw of the working wife allowance is that it discriminates in favour of a married couple where both the husband and wife work. In particular, it provides them with a greater entitlement to allowances than is available to a single-income family or to two unmarried persons with the same income. Furthermore, as a matter of principle, an allowance should not be based on the concept of its being compensation for any additional family expenses incurred as a consequence of the wife taking up employment. Save its use as an interim relief measure pending implementation of separate taxation, there are no grounds for providing working married couples with an additional allowance that is not available to taxpayers in general.

Sir, concern has been expressed by both Mr. TAM and Mrs. LAM that some married couples will pay more tax under separate taxation than they would have paid on the



same income had the aggregation system been retained. This concern is based, however, upon a comparison of the tax paid by a married couple under the interim working wife allowance provisions with that which will be payable under separate taxation. One of the reasons why a flat rate working wife allowance could not be adopted as a permanent solution to the so-called "marriage tax" is its inability to deal with the problem equitably at all levels of income. In particular, working wife allowance fails to provide some taxpayers with sufficient relief to negate the full effects of their "marriage tax" while it gives others a tax benefit exceeding their "tax". It is conceptually incorrect to compare the tax payable under the interim relief provisions with the tax payable under separate taxation to evaluate the effect of separate taxation on various classes of taxpayers. The more appropriate yardstick is to compare the tax payable under the legislation prior to the introduction of the interim relief measure with the tax payable under separate taxation. Using this comparison the majority of two-income married couples will, overall, pay less tax. For those adversely affected the joint assessment provisions are available to allow them to continue to be assessed jointly. Thus, while not all married couples will pay less tax under separate taxation none will pay more.

As Mr. Peter POON and Mrs. Miriam LAU have already pointed out, when the re-introduction of the working wife allowance was proposed in the 1988-89 Budget, it was made clear that this was an interim measure designed to provide an immediate benefit to taxpayers while further consideration was given as to how separate taxation could best be introduced. There was never any intention that the allowance would become permanent. With the passing of this Bill all working wives will have separate taxation which, among other things, removes the "marriage tax" and the interim relief measure is no longer required or appropriate.

The proposition put forward by Mr. TAM to allow husbands and wives to opt in and out of separate taxation at random runs counter to the principles of independence and privacy in tax matters. In addition such a system would not be tenable in a low tax regime like Hong Kong because it would create unnecessary complexity in file maintenance, introduce uncertainty in the tax-payer base and place an onerous advisory role on the Inland Revenue Department. However, in recognition that some husbands and wives may not be able fully to absorb their allowances and that others may derive a greater benefit from a married person's allowance than from two single persons' allowances, joint assessment election is being made available to them. To this extent, the option of combined assessment is provided.

Mr. Peter WONG has dismissed the need to extend separate taxation to married women because he considers that this will unduly complicate the salaries tax legislation. Instead, he has endorsed the Hong Kong Society of Accountants stance on the issue. The society has proposed that the "marriage tax" be redressed by increasing the existing working wife allowance. I have already explained why working wife allowance is not an acceptable solution on equity grounds. In addition, it should not be overlooked that the advocates of separate taxation have also based their representations on the need to provide women with independent recognition and privacy in their personal taxation affairs. Mrs. Rita FAN has alluded to the importance of this. Working wife allowance fails to redress these issues.

I can however give the assurance sought by Mr. WONG that the Commissioner of Inland Revenue will identify and issue the appropriate notification in every case where it will be to the advantage of the married couple to elect to be jointly assessed so that no married couple will become worse off under separate taxation.

Mrs. Nellie FONG and Mr. Andrew WONG have spoken against the Bill mainly on the grounds that the working wife allowance or, as Mr. Andrew WONG described it, the working partner allowance is a satisfactory solution to the "marriage tax" problem and that separate taxation of married women is not justified, given the additional administrative costs, the additional tax burden on the majority of families, and the lack of clamour from married women for the right to maintain confidentiality about their income and taxation matters from their husbands. For the reasons I have already identified, a flat rate working wife allowance does not equitably resolve all taxpayers' "marriage taxes" and therefore the underlying inequity still remains. Working wife allowance has not benefitted either married couples where only one spouse works or husbands and wives individually chargeable at standard rates. Nor will separate taxation provide these two groups with any financial benefit. But the majority of all other married couples with both spouses working will receive a benefit from separate taxation. For those who do not, there was no "marriage tax" in the first instance and any benefit derived from the interim working wife allowance can only be regarded as a windfall gain -- their tax burden has not been made heavier because of separate taxation.

Mrs. FONG is quite right to point out that additional costs will need to be incurred to provide for separate taxation. For a number of years the Administration declined requests from Members to grant separate taxation partly on the ground of the revenue that would be forgone and the additional administration costs. At the

time the decision to implement separate taxation was taken, the extent of public debate on the issue clearly indicated that, not only did it have the unanimous support of Members, but also there was substantial demand for it within the community not least because of privacy and individuality considerations.

Finally, I should point out that the decision to introduce separate taxation in Hong Kong is consistent with the trend in this direction in other tax administrations.

Sir, with these remarks, I beg to move.

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).

#### PROTECTION OF INVESTORS (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 5 July 1989

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

Bill read the Second time.

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

#### SUPPLEMENTARY APPROPRIATION (1988-89) BILL 1989

Resumption of debate on Second Reading which was moved on 5 July 1989

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

Bill read the Second time.

#### LEGAL PRACTITIONERS (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 15 February 1989

Question on Second Reading proposed.

MR. EDWARD HO: Sir, an ad hoc group was set up under this Council to scrutinize the Legal Practitioners (Amendment) Bill 1989 and the Legal Officers (Amendment) Bill 1989. As convener of the ad hoc group, I wish to express my appreciation to members of the ad hoc group for their support, as well as to pay a special tribute to the Administration and members of the Law Society and the Bar Association for some very constructive and conscientious discussions and consultations resulting in substantial agreement on a number of points. This has enabled the ad hoc group to conclude its task very efficiently and belied the belief that lawyers seldom agree.

The Legal Practitioners (Amendment) Bill 1989, which gives effect to most of the recommendations of the UMELCO Standing Panel on Security and the Chief Justice's committee on the admission and practising criteria for barristers and solicitors in Hong Kong and on the admission of certain Commonwealth qualified legal officers into private practice, is an important piece of legislation. The ad hoc group formed under this Council to study the Bill sees its mission both as a guardian of the interest of the experienced legal officers concerned in providing them with a fair chance to practise privately, and a guardian of the public interest in ensuring that the community continue to obtain the very high standard of legal service they now enjoy.

Another area addressed by the Bill, which is the imposition of certain restrictions on the present unfettered right of the United Kingdom barristers and solicitors to enter into practice in Hong Kong, is strongly supported. This involved, in the case of solicitors, a three months' residential requirement before the person can apply for admission and a 12 months' residence in Hong Kong before deemed eligible to apply for an unconditional practising certificate. As regards United Kingdom barristers, the person must have at least three years' practice in the United Kingdom and have resided in Hong Kong for at least seven years.

In the past, legal officers working in the Judiciary and government legal services are not entitled to be admitted as Hong Kong solicitors unless they obtain a Post-graduate Certificate of Law from the University of Hong Kong. However, it is reckoned that some of these lawyers have substantial experience and practice of Hong Kong law. The Chief Justice's committee thus recommended that such lawyers be exempted from pursuing the Post-graduate Certificate of Law and be allowed to be

admitted under certain specified conditions.

The Chief Justice's committee has recommended that only service in the Legal Department should be recognized for eligibility to apply for admission. The Administration's view, however, was that there was no basis for discriminating lawyers from the other government departments if they are able to meet the necessary criteria. Both the Law Society and the Bar Association held a strong view, and the Administration conceded that judicial officers should not be eligible.

The Law Society was receptive to the Administration's proposal to include the Registrar General's Department and the Legal Aid Department (for solicitors' work) whilst the Bar Association considered that, as regards barristers, only those from the Attorney General's Chambers should be eligible. After some lengthy discussions among the various parties, it was decided that meanwhile only legal officers from the Legal Department should be eligible, but should discovery be made of meritorious and eligible candidates from the other departments being prejudiced by the present scheme, the situation would be subject to further review.

Sir, the intention of the Chief Justice's committee was that lawyers from Commonwealth countries applying the common law as a substantial part of their legal system should be allowed to admission, subject to the other qualifying conditions in the Bill. Since reference to the Commonwealth would no longer be appropriate after 1997, schedule 1 of the Bill lists the specific jurisdictions from which lawyers in government service had been recruited in the past. The Bar Association considered that the list should not be confined to places from which lawyers have been recruited by Government in the past. It should include other jurisdictions, for example, Singapore which has a system of legal education and training comparable to Hong Kong. The two professional bodies are investigating the legal system in Malaysia, with a view to its inclusion in future, if found appropriate.

The ad hoc group agreed with the Bar Association's view but maintain that the list should only be able to be amended by resolution of the Legislative Council. I shall be moving an amendment during the Committee stage to this effect.

To ensure that the applicants possessed the requisite experience demanded of a barrister, the UMELCO panel has recommended that for admission to the Bar, the applicant must have at least three years of active practice in the High Court of Hong Kong. The Chief Justice's committee considered that a rigid and narrow

interpretation on "active practice in the High Court" was likely to create difficulties. The Chief Justice's committee suggested that the requirement be flexibly interpreted to include High Court related work. The Bar Association accepted the views of the Chief Justice's committee but suggested that these three years should be the last three years of service and that such service be that usually undertaken by a barrister of ten years seniority in Hong Kong. The ad hoc group was concerned that a rigid requirement over High Court experience might give rise to injustice arising from a break of service which could be beyond the officer's control. The ad hoc group suggested, and it was now agreed that the three years' High Court experience should either take place immediately or recently before the date of application for admission.

Besides, to make sure that solicitors admitted under the present scheme are familiar with all the facets of solicitors' work in Hong Kong, the Bill would be amended to empower the Chief Justice to require the passing of an examination on solicitors' accounts as one of the admission criteria.

Sir, the above points are but some of the more important points agreed after a process of consultation that I have already referred to in the beginning of my speech. Without going into details, I would just like to mention that the other equally significant provisions of the Bill, relating to the strengthening of the advisory committee on legal education, updating of the fine levels and the disqualification of a solicitor under a receiving order and so on, are supported by all parties.

With these remarks, Sir, I support the Bill.

ATTORNEY GENERAL: Sir, may I record my gratitude to Mr. Edward HO and his colleagues on the ad hoc group for their significant contributions and help on this short but complex Bill. I would also like to join with Mr. HO in thanking the representatives of the Bar Association and the Law Society for their thoughtful and constructive comments.

As Members, during the Committee stage, Mr. HO and I shall be moving a number of amendments reflecting the consensus of all parties over the Bill. I shall not go into the details of those amendments at this stage, but would like to make a number of more general points.

I turn first to the list of countries set out in the schedule to the Bill. Those countries are the ones (other than the United Kingdom) from which, for many years, expatriate lawyers have come to Hong Kong to work in government legal service. Those countries, to which I shall be proposing, during the Committee stage, adding Singapore, have, like Hong Kong, high standards of legal education, high standards of professional conduct and a reputation for producing lawyers of high quality. They are countries with a strong common law tradition or, certainly, influence. The list is comprehensive and I would not readily see the need for it to be extended. But we are currently examining the case of Malaysia. Were we to propose such an extension, it would only be to include such countries that have the attributes I have just mentioned.

During the consultation with the legal professions over the Bill, some anxiety was expressed over the absence of any express provision requiring the court to take into account the public interest when admitting a former lawyer in government legal service, as a barrister or as a solicitor under the scheme in the Bill. Sir, the Bill did not contain such an express provision, because it is not necessary. The court has a discretion under the Bill as to such admissions. In exercising that, as with any other judicial discretion, considerations of the public interest are always to be taken into account.

I turn now to the question of examinations. One of the amendments I shall be moving in the Committee stage will be to require those seeking admission as solicitors to undertake an examination in solicitors' accounts unless otherwise exempted. This amendment accepts a proposal from the Law Society, which recognizes that solicitors, who handle clients' money, must be able to demonstrate that they have had sufficient training and obtained qualification in solicitors' accounts.

The Bill makes no provision for those former government lawyers admitted as barristers to undertake examinations. But all who are admitted will be required by the Barristers (Qualification) Rules to undergo a period of pupillage with a practising barrister. This requirement will ensure that those who intend practising at the Bar by this route will have had a period of transition during which they will have the opportunity to acquire a knowledge of practice at the private Bar.

The amendments that Mr. Edward HO and I propose to move at the Committee stage in no way detract from the philosophy behind this Bill. That philosophy has two main aspects. The first seeks to strengthen the legal profession in Hong Kong by imposing some restrictions on the present unfettered right of entry of United Kingdom lawyers

to practise here. The second is to permit a small number of lawyers in government legal service who are not presently entitled to become Hong Kong barristers and solicitors to join the legal professions here. Those that are eligible to be admitted under the scheme will have considerable experience in government legal service. Those who are admitted under this scheme, while a loss to Government, will be an asset to whichever branch of the profession they join.

Sir, in making these remarks, I am mindful of the need for a general review of admission to practise law in Hong Kong for lawyers coming from the United Kingdom and the Commonwealth. I touched on this topic in relation to United Kingdom lawyers in this Council on 23 November last year. That general review will naturally be undertaken in consultation with the Bar Association and the Law Society.

Sir, it would be a failure on my part not to re-affirm my appreciation of the contribution of the various parties concerned with this Bill. That includes the ad hoc group, the Bar Committee, and the Council of the Law Society. Their hard work, careful thought and concern for the public interest have contributed to the production of this Bill.

Sir, I beg to move.

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).

LEGAL OFFICERS (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 15 February 1989

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

Bill read the Second time.

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



CHARITABLE TRUST FUNDS (MISCELLANEOUS AMENDMENTS) BILL 1989

Resumption of debate on Second Reading which was moved on 5 July 1989

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

Bill read the Second time.

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

LI PO CHUN CHARITABLE TRUST FUND (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 5 July 1989

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

Bill read the Second time.

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

ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL 1989

Resumption of debate on Second Reading which was moved on 21 June 1989

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

Bill read the Second time.

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

TELECOMMUNICATION (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 28 June 1989

Question on Second Reading proposed.

MISS LEUNG: Sir, the Telecommunication (Amendment) Bill 1989 and the Broadcasting

Authority (Amendment) Bill 1989 are inter-related and so the remarks that follow apply to both of the Bills.

Before commenting on the Bills, I would like firstly to declare an interest as a member of the Broadcasting Authority.

My Honourable colleague Mr. Peter TSAO, Secretary for Administrative Services and Information, already explained clearly the background leading up to the two Bills three weeks ago. I shall not repeat those points again. Suffice it to say that the Administration has justifiably sought to bring more into line the controls on the different modes of broadcasting.

Sir, the question might be asked: why, when the trend in certain other parts of the world appears to be towards deregulation, the Broadcasting Authority will under the Broadcasting Authority (Amendment) Bill be extending its jurisdiction to cover sound broadcasting.

The answer lies in the rapid developments that are now taking place in broadcasting in Hong Kong. When the decision was taken last year to call for interested parties to make proposals on cable television and the decision was taken just a few months ago to grant a second licence for commercial radio broadcasting in 1990, new vistas opened up in the field of television and radio broadcasting. I applaud these moves and the positive attitude of the Administration. These steps should help to ensure that the Hong Kong public will benefit from the latest developments in broadcasting. With greater competition, the opportunities for more choice and better quality programmes for the public are enormous, but these opportunities can only be realized if the developments take place in an orderly fashion, with foresight and planning. I believe that the Broadcasting Authority, working closely with the Administration, has an important role to play in this process.

In the case of radio broadcasting, the Broadcasting Authority has not had any formal responsibility for the regulation of this important medium so far. Now with the impending grant of one new licence in August and another one in early 1990 it is time for the Broadcasting Authority to be given formal responsibilities with respect to commercial radio broadcasting. A licence grants the use of the air-waves, a valuable community property, and it is right that the licensee's use of this should be subject to proper regulation. The Hong Kong public, while it has not always been

satisfied with the quality of broadcasting in Hong Kong, has sometimes been reluctant to make a fuss. In the case of television there is now a formal complaints procedure and the public are encouraged to contact the Broadcasting Authority to register any complaints they may have. It is right that for radio too the public should have an independent body to which complaints can be referred and which will examine those complaints and be in a position to take action on them if necessary. However, responding to complaints is only one part of the picture. As a member of the Broadcasting Authority, I look forward to good working relations with radio licensees in future so that we can encourage and, where appropriate, assist in achieving standards of broadcasting in Hong Kong that can match those any where in the world.

Returning to the Bills before us, the Legislative Council ad hoc group under the able convenership of my honourable colleague, Mr. Ronald ARCULLI, has scrutinized the Bills in detail and considered a number of proposals made by the existing commercial radio licensee, the Hong Kong Commercial Broadcasting Company Limited. After further discussion with the Administration and careful deliberation, we have found that some of the proposals made by the Hong Kong Commercial Broadcasting Company are already covered because of provisions in other legislation or in different parts of the Bills themselves. In other cases we did not feel that the proposed legislation should be amended. Nevertheless, we have proposed two Committee stage amendments. They are mostly technical in nature and I will explain them in greater detail when the Council is in Committee.

With these remarks, Sir, I support the motion.

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION: Sir, I should like to thank the Honourable LEUNG Wai-tung for her support and to thank the members of the OMELCO ad hoc group chaired by the Honourable Ronald ARCULLI for scrutinizing with such efficiency the Telecommunication (Amendment) Bill and the Broadcasting (Amendment) Bill at a time when OMELCO has been particularly busy.

I wholeheartedly agree with Miss LEUNG's remarks about the need for the Broadcasting Authority to expand its role in future given the development in sound broadcasting. Sir, it is also intended that the authority's formal responsibilities should further be expanded at an appropriate time to cover cable television.

Sir, Miss LEUNG's proposed amendments at the Committee stage to both Bills are

indeed of a technical nature and they are designed to further clarify the meaning of these clauses. I have no objection to these proposals.

Sir, with these remarks, I move that the Bill be read the Second time.

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).

BROADCASTING AUTHORITY (AMENDMENT) BILL 1989

Resumption of debate on Second Reading which was moved on 28 June 1989

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

Bill read the Second time.

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

4.29 pm

HIS EXCELLENCY THE PRESIDENT: Members might like to take a break at this point.

4.59 pm

HIS EXCELLENCY THE PRESIDENT: Council resumes.

Committee stage of Bills

Council went into Committee.

LEGAL AID (AMENDMENT) BILL 1989

Clauses 1 to 10 were agreed to.

COMPANIES (AMENDMENT) BILL 1989

Clauses 1 to 6 were agreed to.

HONG KONG INDUSTRIAL ESTATES CORPORATION (AMENDMENT) BILL 1989

Clauses 1 to 4 were agreed to.

INLAND REVENUE (AMENDMENT) (NO. 3) BILL 1989

Clauses 1, 2, 4, 5, 7, 10 to 13, 15 to 17, 19, 22 and 24 to 29 were agreed to.

Clauses 3, 6, 8, 9, 14, 18, 20, 21 and 23

FINANCIAL SECRETARY: Sir, I move that the clauses 3, 6, 8, 9, 14, 18, 20, 21 and 23 be amended as set out in the paper circulated to Members.

Following consultations with members of the ad hoc group and members of the accounting and legal professions, I am proposing amendments to extend the scope of the joint election provisions to make them available to a small group of married taxpayers who would otherwise pay more tax under separate taxation. Initially it was intended that these taxpayers should obtain relief through personal assessment, but, after considering representations from members, it has now been agreed that they will obtain direct relief in salaries tax by electing to be jointly assessed.

The other amendments are minor and consequential in nature. In addition to a small number of drafting points, they include the provision of a right to elect joint assessment for a period of one month after an assessment becomes final and conclusive, and the fine tuning of the allowance provisions where it was suggested that possible ambiguities may have existed.

Sir, I beg to move.

Proposed amendments

Clause 3

That clause 3 be amended --

(a) in proposed new section 10 by deleting subsections (2) and (3) and substituting --

"(2) Where in any year of assessment a husband and wife, not being a wife living apart from her husband, both have assessable income and --

(a) either the husband or wife is entitled to allowances under Part V which are in excess of his or her net assessable income as reduced by approved charitable donations under 12B(1)(a); or

(b) both also have a net chargeable income and the aggregate of the salaries tax which would be payable by them if subsection (1) applies exceeds the salaries tax which would be payable if an election is made under this subsection,

an election may be made by them, subject to section 11, to be assessed to salaries tax in the manner specified in subsection (3).

(3) Where an election is made by a husband and wife under subsection (2) salaries tax shall be payable on their aggregated net chargeable income as ascertained under section 12B(2) and in the case of an election --

(a) under subsection (2)(a), the spouse who would have been chargeable to salaries tax in the absence of such an election;

(b) under subsection (2)(b), the spouse who is nominated by them,

shall be chargeable to salaries tax in respect of such aggregated net chargeable income.";

(b) in proposed new section 11 --

(i) by deleting subsection (2) and substituting --

"(2) An election shall relate to the year of assessment specified in such form and it, and any withdrawal thereof under this section, may be made at any time -  
-

(a) within that year of assessment or the following year of assessment; or

(b) before the expiration of a period of one month following the time when the assessment for the year of assessment becomes final and conclusive under section 70,

whichever is the later, or within such further time, if any, as the Commissioner may allow as being reasonable in the circumstances.";

(ii) in subsection (5) by adding after "10(2)" --

"and, where a nomination under section 10(3)(b) is required, includes such nomination".

Clause 6

That clause 6 be amended, in proposed new section 12B(2) by deleting "10(3)(b)" and substituting "10(3)".

Clause 8

That clause 8 be amended, in proposed new section 13(2)(b) by deleting "solely chargeable to salaries tax under section 10(3)(b)" and substituting "chargeable to salaries tax under section 10(3)".

Clause 9

That clause 9 be amended --

(a) in proposed new sections 27(1), 28(1), 29(1), 30(1), 31(1) and 32(1) by deleting "may" wherever it appears and substituting "shall";

(b) in proposed new section 27(3) by deleting "in relation to a child" in the definition of "adopted";

(c) in proposed new section 29(2) and 29(3)(b)(i) by deleting "10(3)(b)" and

substituting "10(3)";

(d) in proposed new section 30 --

(i) in subsection (1)(a) by deleting "a permanent resident of" and substituting "ordinarily resident in";

(ii) in subsection (4)(a)(i) by deleting "the individual" and substituting "that person and his or her spouse";

(e) in proposed new section 33(2) by deleting "31(3)" and substituting "31(2) and (3)".

Clause 14

That clause 14 be amended --

(a) in paragraph (b) by deleting "subsections (2) and (2A)" and substituting "subsection (2)";

(b) in paragraph (d) by deleting subparagraph (i) and substituting --  
"(i) by repealing "subsections (2) and (2B)" and substituting "subsection (2)"; and".

Clause 18

That clause 18 be amended, by deleting clause 18 and substituting --

"Assessor to make assessments

18. Section 59 is amended -

(a) in subsections (1B) and (1C) by repealing "his wife, not being a wife living apart from her husband" wherever it appears and substituting "his or her spouse, not being a spouse living apart from that individual";

(b) in subsection (1C)(c) by repealing "section 42B" and substituting "Part V".



Clause 20

That clause 20 be amended, by adding after paragraph (b) --

"(c) in subsection (6A) by repealing "section 42B" and substituting "Part V".".

Clause 21

That clause 21 be amended, by deleting clause 21 and substituting --

"Holding over of payment of provisional salaries tax

21. Section 63E is amended --

(a) in subsection (1) by repealing ", subject to subsection (5),";

(b) in subsection (2)(a) by repealing "paragraph (b), (c) or (d) of section 42B(1)" and substituting "Part V";

(c) by repealing subsection (5).".

Clause 23

That clause 23 be amended, in proposed new section 64(9) by deleting "10(3)" and substituting "10(3)(a)".

Question on the amendments proposed, put and agreed to.

Question on clauses 3, 6, 8, 9, 14, 18, 20, 21 and 23, as amended, proposed, put and agreed to.

New clause 8A Treatment of losses after 1 April 1975

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

FINANCIAL SECRETARY: Sir, I move that new clause 8A as set out in the paper circulated to Members be read the Second time.

The clause aims to ensure that the loss provisions in the profits tax legislation will apply to married women on the same basis as they apply to all other taxpayers.

Sir, I beg to move.

Question proposed, put and agreed to.

Clause read the Second time.

FINANCIAL SECRETARY: Sir, I move that new clause 8A be added to the Bill.  
Proposed addition

New clause 8A

That the Bill be amended, by adding after clause 8 --

"Treatment of losses after 1 April 1975

8A. Section 19C is amended --

(a) in subsections (1)(b) and (2)(b) --

(i) by adding "or wife" prior to "does not elect";

(ii) by repealing "or is not deemed to have elected to be personally assessed";

(b) by repealing subsection (3)(b) and substituting --

"(b) in the case of a husband and wife, not being a wife living apart from her husband, the husband or wife is personally assessed under Part VII, ".".

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

PROTECTION OF INVESTORS (AMENDMENT) BILL 1989

Clauses 1 and 3 were agreed to.

Clauses 2, 4 and 5

FINANCIAL SECRETARY: Sir, I move that clauses 2, 4 and 5 be amended as set out under my name in the paper circulated to Members.

The main purpose of the Bill is to exempt advertisements relating to certificate of deposit and commercial paper issues from the need to obtain express authorization by the Securities and Futures Commission. Clause 4 inserts a new section 7A to impose a reporting requirement in respect of advertisements relating to such issues. It requires an issuer of such a capital market instrument or in the case of an overseas issuer, his authorized representative in Hong Kong, to submit to the Securities and Futures Commission, within 10 days of the issue of an advertisement in respect of that instrument, such information as the commission may require.

The purpose of this post-facto reporting requirement is to enable the commission to monitor the development of the capital market, for the better protection of investors. While the underlying purpose has not been brought into question, concern has been expressed about the effect and intended operation of this provision. In particular, it has been suggested that section 7A as drafted is insufficiently precise and will also catch advertisements which are already exempt by virtue of other provisions of the Ordinance.

In the light of these concerns, certain amendments are to be made to section 7A to clarify its operation and to remove an unintentional effect. First, sub-section (1) is amended to make it clear that the information to be submitted will relate to the advertisement and will be specified by the commission by notice in the Gazette. We do not intend that this obligation should be either unclear or onerous. Thus the information required will be known at the time of issue of the advertisement. We envisage that this information will only relate to the basic terms of the capital market issue as reflected in the advertisement and we will be arranging with the commission for early publication of the necessary Gazette notice.

Secondly, a new sub-section (5) is added to provide a revised definition of "authorized representative", presently in clause 2, to make it clear that it means any person in Hong Kong authorized by an overseas issuer in relation to the

advertisement in question. We do not intend that the reporting obligation should fall upon a general agent or professional adviser who may not be authorized or able to supply the information required.

Thirdly, a new sub-section (4) is added to make it clear that section 7A does not apply to any advertisements which are already exempt by virtue of section 4(3) and (5). It is not our intention to affect existing exemptions enjoyed by professionals or supervised persons under these provisions.

Clause 5 inserts a new section 9 which grants an immunity to public officers and the commission and its employees in the bona fide performance of their functions under the Ordinance. In view of the similar immunity in section 56(1) of the Securities and Futures Commission Ordinance which covers any person acting in the bona fide performance of his functions under that Ordinance and other "relevant Ordinances" including the Protection of Investors Ordinance, this provision is unnecessary and is deleted.

Clause 5 also contains a new schedule to the Ordinance. Item 5 of Part III is amended to correct a typographical error.

Sir, I beg to move.

Proposed amendments

Clause 2

That clause 2(a) be amended, by deleting the definition of "authorized representative".

Clause 4

That clause 4 be amended --

(a) in new section 7A (1) --

(i) by deleting "subsection (2)" and substituting "subsections (2) and (4)"; and

(ii) by deleting everything after paragraph (d) and substituting --

"shall submit to the Commission within 10 working days after the issue by any person of any advertisement, invitation or document referred to in section 4(2) (fa), (fb) or (fc) such information with respect to that advertisement, invitation or document, and in such form, as the Commission may specify by notice in the Gazette."

(b) By adding after new section 7A(3) --

"(4) This section does not apply to the issue of any advertisement, invitation or document to which section 4(3) or (5) applies.

(5) For the purposes of subsection (1) "authorized representative", in relation to the issue of any advertisement, invitation or document, means any person resident in Hong Kong who is authorized by a multilateral agency or overseas bank, as the case may be, to act for an on behalf of that agency or bank with respect to that issue."

Clause 5

That clause 5 be amended --

(a) by deleting new section 9.

(b) in item 5 of Part III of the Schedule, by deleting "of" and substituting "for".

At this point Mr. Peter WONG declared his interest as a non-executive director of the Securities and Futures Commission.

Question on the amendments proposed, put and agreed to.

Question on clauses 2, 4 and 5, as amended, proposed, put and agreed to.

LEGAL PRACTITIONERS (AMENDMENT) BILL 1989

Clauses 1, 5, 7, 8, 12 to 15, 17 and 18 were agreed to.

Clauses 2, 3, 4, 6, 9, 10, 11 and 19

ATTORNEY GENERAL: Sir, I move that clause 2, 3, 4, 6, 9, 10, 11, and 19 be amended as set out in the paper circulated to Members. The effect of the deletion of clause 2 together with other proposed amendments is that judicial officers will, as explained by Mr. Edward HO in the Second Reading debate, not be eligible to become admitted as either barristers or solicitors under the scheme proposed under the Bill.

The proposed amendments to clause 3 deal with the conditions for admission as a solicitor. Proposed new sub-section (1AA) governs residence requirements for United Kingdom solicitors seeking admission in Hong Kong and now provides three alternative bases on which such a solicitor may be residentially qualified: three-month residence immediately before admission, or being a Hong Kong permanent resident as defined in the Immigration Ordinance or being ordinarily resident in Hong Kong for at least seven years.

Proposed new sub-section (1AB) deals with the admission as a solicitor of a lawyer with seven years in Government legal service. It now requires the applicant to be admitted as a solicitor or legal practitioner in one of the countries listed in the schedule to the Bill. The applicant must show that, for the three years immediately or recently before the application for admission, he or she was engaged on work similar to that usually undertaken by a solicitor. The applicant must also intend, if admitted, to commence practice as a solicitor and must pass an examination in solicitors' accounts, unless exempted by the Chief Justice under new sub-section (1AC). Proposed new sub-section (1AD) clarifies the criteria for the admission as solicitors of certain law lecturers.

New sub-section (1AE) imposes a limit on admissions as solicitors of ten persons for each 12 months in relation to those who were in Government legal service and new sub-section (1AF) adds a definition of "legal officer".

As originally drafted, clause 4 of the Bill in effect imposed a quota on the number of practising certificates that the Law Society could issue in a year to former Government lawyers admitted as solicitors under clause 3 and it required the Chief Justice's approval before such practising certificates could be issued. The Law Society objected to these provisions, because they were inconsistent with the current arrangements concerning the issue of practising certificates. That objection has been accepted. The amendments to clause 3(1AB) which I have just described will now impose the quota on the number of admissions in a year. New clause 4 omits the provisions dealing with issue of practising certificates. Paragraph (b) of the new clause

corrects a drafting error in the original Bill.

The amendment of clause 6 set out in paragraph (a) of the paper circulated to Members is a consequential change. Paragraph (b) of the amendment provides that where a former Government lawyer is admitted as a solicitor under clause 3 but does not commence practice within 12 months after his admission, his name can be removed from the roll of solicitors.

The amendment to clause 9 deletes the reference to "natural place of domicile" in the list of possible alternative residential qualifications in section 27 of the Ordinance. After careful consideration, it is accepted that the spirit of this phrase is adequately covered by the remaining criteria in section 27.

I turn now to the replacement of clause 10. As originally drafted, clause 10 would have permitted long serving lawyers within the Judiciary or Government legal service who are qualified in one of the scheduled countries to be admitted as barristers. New clause 10 now restricts this admission route to lawyers from the Legal Department of the Government, in keeping with the recommendations of the UMELCO standing panel and the committee under the chairmanship of the former Chief Justice. The new clause will also require applicants to have had advocacy experience and during the three years immediately or recently, before applying for admission, to have been engaged in work usually undertaken by a barrister of 10 years seniority. Other amendments are identical in effect with those made in clause 3 in respect of solicitors. Finally, there will be an annual quota of four on those admitted as barristers under this clause.

The effect of the new clause 11 is twofold. First, as I mentioned in relation to clause 10, the quota for barristers will apply to admissions and not to the issue of practising certificates. Secondly, section 32 of the Ordinance is to be amended so that if a barrister who is admitted under this scheme does not commence practice within 12 months of admission, this will be cause to remove him or her from the roll of barristers.

The main amendment to clause 19 is to add Singapore in the list of countries in the schedule of the Bill.

Sir, I beg to move.

Proposed amendments

Clause 2

That clause 2 be amended, by deleting clause 2.

Clause 3

That clause 3 be amended, by deleting new subsections (1AA), (1AB) and (1AC) and substituting --

"(1AA) The Court shall not admit a person under section 4(1)(a)(iii) unless --

- (a) he has resided in Hong Kong for at least 3 months immediately before his admission;
- (b) he is a Hong Kong permanent resident as defined in the Immigration Ordinance (Cap. 115); or
- (c) he has been ordinarily resident in Hong Kong for at least 7 years.

(1AB) In addition to the powers conferred on it by subsection (1) and notwithstanding section 4(1), but subject to subsection (1AE), the Court may, after the Chief Justice has consulted the Attorney General and the Council, admit a person as a solicitor of the Supreme Court of Hong Kong, in such manner as may be prescribed by the Chief Justice, if --

(a) the Court is satisfied that he --

- (i) has been admitted as a solicitor in a jurisdiction listed in Schedule 1 or if there is no admission of solicitors in such jurisdiction, as a legal practitioner in that jurisdiction;
- (ii) has been employed for at least 7 years in the public service of the Government as a legal officer;
- (iii) has been so employed --



(A) for a period of at least 3 years;

(B) either immediately or recently before the date of his application for admission, on work similar to that usually undertaken by a solicitor in Hong Kong in the course of his practice;

(iv) intends, if admitted, to commence practice as a solicitor; and

(v) is a fit person to be a solicitor; and

(b) he has passed an examination in solicitor's accounts specified for the purposes of this paragraph by the Council.

(1AC) Subsection (1AB)(b) shall not apply in any case where the Chief Justice, after consultation with the Council, is satisfied that the applicant concerned has previously passed an examination in solicitor's accounts.

(1AD) Notwithstanding subsection (1) and section 4(1), the Court may, in such manner as may be prescribed by the Chief Justice, admit a person as a solicitor of the Supreme Court of Hong Kong if the Court is satisfied that he --

(a) is a teacher in a course leading to a Postgraduate Certificate of Laws and is employed and has been employed for at least one year as a full time law lecturer at the Department of Professional Legal Education of the University of Hong Kong or at any other institution approved for the purposes of this paragraph by the Chief Justice after consultation with the Attorney General and the Council;

(b) has been admitted in a jurisdiction listed in Schedule 1 as a solicitor, or if there is no admission of solicitors in such jurisdiction, as a legal practitioner in that jurisdiction;

(c) has in that jurisdiction been engaged for at least 2 years in work that would, if undertaken in Hong Kong, be similar to that usually undertaken by a solicitor in Hong Kong in the course of his practice; and

(d) is a fit person to be a solicitor.

(1AE) The Court shall not admit under subsection (1AB) more than 10 persons in any period of 12 months.

(1AF) In this section "legal officer" means -

- (a) a Legal Officer within the meaning of the Legal Officers Ordinance (Cap. 87);
- (b) a person appointed under section 3 of the Legal Aid Ordinance (Cap. 91); and
- (c) any person deemed to be a legal officer for the purpose of the Legal Officers Ordinance (Cap. 87), by virtue of section 2(3) of the Registrar General (Establishment) Ordinance (Cap. 100)."

Clause 4

That clause 4 be amended, by deleting clause 4 and substituting --

"Practising certificates -- solicitors

4. Section 6 is amended --

(a) by adding after subsection (1) --

"(1A) A practising certificate issued to a solicitor admitted under section 3(1AD) is subject to the condition that the solicitor shall not practise on his own account or in partnership"; and

(b) by repealing the proviso to subsection (6) and substituting --

"(6A) Notwithstanding subsection (6), if the Council considers that an applicant has acquired substantial experience in the law, either in Hong Kong or in the United Kingdom, over a considerable period of time the Council may reduce the period of 2 years to a period of --

(a) one year; or

(b) where immediately before his admission as a solicitor, the applicant was working in the office of a solicitor in Hong Kong, one year less one day for each day of the period he so worked, but the Council shall not reduce the period of 2 years to less than 9 months."."

Clause 6

That clause 6(b) be amended --

(a) in the new subsection (4) by deleting "section 3(1AC) is no longer qualified under" and substituting "section 3(1AD) is no longer qualified under paragraph (a) of";

(b) by adding after new subsection (4) --

"(5) Without prejudice to the generality of subsection (1), where a person admitted under section 3(1AB) does not commence practice as a solicitor within a period of 12 months after his admission, it shall be a cause for the removal of his name from the roll of solicitors under this section."

Clause 9

That clause 9(a) be amended, in the new subsection (1A) --

(a) by adding "or " at the end of paragraph (b);

(b) by deleting paragraph (c);

(c) by renumbering paragraph (d) as paragraph (c).

Clause 10

That clause 10 be amended, by deleting the new section 27A and substituting --

"Additional power of Court to admit barristers

27A.(1) In addition to the powers conferred on it by section 27, but subject to subsection (2), the Court may, after the Chief Justice has consulted the Attorney General and the Bar Committee, admit a person as a barrister of the Supreme Court of Hong Kong, in such manner as may be prescribed by the Chief Justice, if the Court is satisfied that he --

(a) has been admitted as a barrister in a jurisdiction listed in Schedule 1 or if there is no admission of barristers in such jurisdiction, as a legal practitioner in that jurisdiction;

(b) has experience in advocacy;

(c) has been employed for at least 7 years in the Legal Department of the Government as a Legal Officer within the meaning of the Legal Officers Ordinance (Cap. 87);

(d) has been so employed --

(i) for a period of at least 3 years; and

(ii) either immediately or recently before the date of his application for admission, on work similar to that usually undertaken in the course of his practice by a barrister in Hong Kong of 10 years seniority; and

(e) intends, if admitted, to practise as a barrister in Hong Kong within 12 months after his admission.

(2) The Court shall not admit as barristers, under subsection (1), more than 4 persons in any period of 12 months."

## Clause 11

That clause 11 be amended, by deleting clause 11 and substituting --

"Power of Court to strike off  
or suspend barrister

11. Section 32 is amended --

(a) by renumbering it as subsection (1) thereof; and

(b) by adding after subsection (1) --

"(2) Without affecting the generality of subsection (1), where a person

admitted as a barrister under section 27A does not commence practice as barrister in Hong Kong within 12 months after his admission, it shall be a cause for removal of his name from the roll of barristers under this section."

Clause 19

That clause 19 be amended, in the new Schedule 1 by --

(a) repealing ", 27A and 72B" and substituting "and 27A";

(b) adding after "Zimbabwe" --

"6. Singapore."

Question on the amendments proposed, put and agreed to.

Question on clauses 2, 3, 4, 6, 9, 10, 11 and 19, as amended, proposed, put and agreed to.

Clause 16

MR. EDWARD HO: Sir, I move that clause 16 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 16

That clause 16 be amended, by deleting new section 72B and substituting --

"Legislative Council may amend Schedule 1

72B. The Legislative Council may by resolution amend Schedule 1."

Question on the amendment proposed, put and agreed to.

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

New clause 15A Power of Chief Justice to make rules

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

ATTORNEY GENERAL: Sir, I move that new clause 15A as set out in the paper circulated to Members be read the Second time.

New clause 15A seeks to amend section 72 of the Legal Practitioners Ordinance to enable the Chief Justice to make rules in respect of proceedings for admission of barristers and solicitors under the schedule in the Bill.

Sir, I beg to move.

Question proposed, put and agreed to.

Clause read the Second time.

ATTORNEY GENERAL: Sir, I move that new clause 15A be added to the Bill.

Proposed addition

New clause 15A

That the Bill be amended, by adding after clause 15 --

"Power of Chief Justice to make rules

15A. Section 72 is amended in paragraph (a)(i) and (ii) by repealing "3 and 27" and substituting "3, 27 and 27A" in both places where it occurs."

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

LEGAL OFFICERS (AMENDMENT) BILL 1989

Clauses 1 and 2 were agreed to.

CHARITABLE TRUST FUNDS (MISCELLANEOUS AMENDMENTS) BILL 1989

Clauses 1 and 2 were agreed to.

Schedule was agreed to.

LI PO CHUN CHARITABLE TRUST FUND (AMENDMENT) BILL 1989

Clauses 1 to 4 were agreed to.

ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL 1989

Clauses 1 and 2 were agreed to.

TELECOMMUNICATION (AMENDMET) BILL 1989

Clauses 1, 2 and 4 were agreed to.

Clause 3

MISS LEUNG: Sir I move that clause 3 be amended as set out under my name in the paper circulated to Members.

The amendment seeks to delete the term "unincorporated body" under the definition of corporation under new section 13A(1). This will avoid unnecessary legal complications as to whether the controls proposed under the scheme for unincorporated bodies will be as stringent as those for corporations and companies while not adversely affecting the implementation of the Bill.

None the less, we have also requested the Administration to consider in greater detail what specific provisions should be devised to cater for unincorporated bodies when it reviews all the existing broadcasting laws and consolidates them into an omnibus Ordinance.

With these remarks, Sir, I beg to move.

Proposed amendment

Clause 3

That clause 3 be amended, in the new section 13A(1), in the definition of "corporation" by deleting "or an unincorporated body".

Question on the amendment proposed, put and agreed to.

Question on clause 3, as amended, proposed, put and agreed to.

BROADCASTING AUTHORITY (AMENDMENT) BILL 1989

Clauses 1 to 7 were agreed to.

Clause 8

MISS LEUNG: Sir, I move that clause 8 be amended as set out under my name in the paper circulated to Members.

The amendment aims at clarifying that the Broadcasting Authority would be limited to disclosing confidential information in relation to investigations connected with criminal proceedings only but not in relation to investigations of whatever nature.

Sir, I beg to move.

Proposed amendment

Clause 8

That clause 8 be amended, in the new section 23(2)(a), by inserting "in connection therewith" after "investigation".

Question on the amendment proposed, put and agreed to.

Question on clause 8, as amended, proposed, put and agreed to.



Council then resumed.

### Third Reading of Bills

THE ATTORNEY GENERAL reported that the

LEGAL AID (AMENDMENT) BILL 1989

COMPANIES (AMENDMENT) BILL 1989

HONG KONG INDUSTRIAL ESTATES CORPORATION (AMENDMENT) BILL 1989

LEGAL OFFICERS (AMENDMENT) BILL 1989

CHARITABLE TRUST FUNDS (MISCELLANEOUS AMENDMENTS) BILL 1989

LI PO CHUN CHARITABLE TRUST FUND (AMENDMENT) BILL 1989 and

ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL 1989

had passed through Committee without amendment, the

INLAND REVENUE (AMENDMENT) (NO. 3) BILL 1989

PROTECTION OF INVESTORS (AMENDMENT) BILL 1989

LEGAL PRACTITIONERS (AMENDMENT) BILL 1989

TELECOMMUNICATION (AMENDMENT) BILL 1989 and

BROADCASTING AUTHORITY (AMENDMENT) BILL 1989

had passed through Committee with amendments, and the

SUPPLEMENTARY APPROPRIATION (1988-89) BILL 1989

having been read the Second time, was not subject to Committee stage proceedings in

accordance with Standing Order 59. 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.

Member's motion

WHITE PAPER ON POLLUTION IN HONG KONG

MR. PETER WONG moved the following motion:

"That this Council supports the aims of the 'White Paper on Pollution in Hong Kong -- A time to Act' and urges everybody to keep our environment clean."

MR. PETER WONG: Sir, I move the motion standing in my name on the Order Paper.

OMELCO's theme of "Hong Kong is our Home" was developed last week into "Build Hong Kong" and I trust that this motion debate will assist us to make sure that Hong Kong remains a fit place to live in.

The International Covenant on Economic, Social and Cultural Rights states in article 12 that it recognizes "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" through "the improvement of all aspects of environmental and industrial hygiene".

Sir, in your opening address on 12 October 1988 when commenting on the state of our environment, you said "I am increasingly convinced that one of our major priorities must be to halt this decline and to do more to improve our environment. This will require better planning; major initiatives to control pollution discharges; and large-scale investment in facilities for the proper disposal of sewage and municipal and industrial wastes."

I invite everyone to gauge the efficacy of the White Paper by the way those three issues: better planning, initiatives to control pollution discharges and large scale investments in waste disposal facilities, have been tackled.

White Paper

The White Paper is a first step taken by the Government to spell out its policies on pollution and set priorities. Various government departments are being restructured to carry out those policies. The first issue of planning has been addressed.

The second issue is the initiatives needed to control pollution discharges. I see this as the enactment of appropriate legislation to control the quantity and quality of waste and pollution that we tolerate. The Waste Disposal Ordinance, Water Pollution Control Ordinance, Air Pollution Ordinance and the Noise Control Ordinance are all measures to meet these initiatives. However, we have to see how they are enforced.

Lastly, there must be large-scale investments in waste disposal facilities. Of the \$20 billion to be spent over the next 10 years, \$12 billion will be for sewerage and drains and \$5 billion for landfills and transfer stations. This does not leave much for air and noise pollution. The sting is that the polluters will have to pay.

#### Pollution perception

Hong Kong needs a new perception on pollution which is not just an extension of the "Keep Hong Kong Clean" campaign. It is not enough to recognize our pollution problems; but continue to bury the waste. We must see how the problems will develop with our increasing affluence and accept a greater degree of control and higher costs that will be necessary to clean up our Hong Kong home.

As Hong Kong people make their daily advancement, their clamour for an improved environment will grow. It is not enough that people pitch in with their litter only. Their perception must increasingly be based on "what is essential to maintain a healthy way of life" as opposed to remedial measures used to attempt to clear up the mess.

It is not enough that Hong Kong alone tackles pollution. The tall chimneys of our power stations and industries are designed to carry the pollution far away. Similarly, the pollutions from China and Macau can affect us. We must all co-operate to defeat pollution.

I shall address two issues -- management of waste and enforcement and compliance.

Eighteen other Members will address different aspects of the White Paper and I trust that all Members speaking will be sparing with their time.

#### Waste management

We produce some 16 000 tonnes of solid waste everyday. Of this, 3 000 tonnes actually get separated and recycled. A considerable amount is dumped, untreated in our landfills. This is like sweeping the dust under the carpet.

Paragraph 2.35 is the key to the whole problem. I quote "The Government therefore intends to examine more fully measures to limit the amount of waste generated, and to encourage the recovery and recycling of wastes. The prime objectives are to reduce the demand on the limited space available at landfill disposal sites and restrict the generation of wastes that give rise to litter problems".

Incentive should be given to the recycling industry to collect separated household waste, similar to practices in parts of the United States where aluminium drink cans, beer bottles and plastic containers all have deposits charged on sale and refunded upon their return for recycling. In Hong Kong, people are still largely unaware of rubbish saving at source. They should be encouraged to consume less unnecessary items such as elaborate packaging. At the same time the idea of starting bottle banks, battery banks and plastic bag banks should be actively pursued by the Government, the Urban and Regional Councils.

#### Enforcement/compliance

All the White Paper proposals are only good intentions unless clear and strong legislation is enacted and rigidly enforced.

Very little has been said in the White Paper about setting tolerable standards of pollution to be achieved by definite target dates. These standards should be regularly reviewed and updated where necessary. Such enforcement of target performance measures should have been highlighted in the White Paper and not relegated to Appendix B of the Environmental Protection Department 1988 Review. This treatment given to a most important aspect of the entire pollution control programme leaves me with a distinct feeling that there is less than full commitment by the Government.

While the White Paper acknowledges the inadequacy of existing inspection measures,

the Environmental Protection Department has not been equipped with the necessary powers nor resources for effective implementation of its major development plans. A new department with no teeth gives rise to doubts about Government's sincerity in translating the White Paper into concrete action.

Obviously, the Government is still at the early stages of assessing the environmental impact of pollution on our everyday living. If it still adopts the traditional approach to Hong Kong's huge waste control problem and only pays lip service to the enforcement of legislation, it will not be leading Hong Kong's campaign against pollution.

If we are really serious about pollution, we have to be much more committed in our investment, not only in disposal facilities, but also in educating the young and old against our traditional neglect of the environment. We have to make everyone aware of how much damage each of us can do in an unthinking moment, to spoil the environment for everyone else.

Question on the motion proposed.

MR. CHEONG: Sir, as our society becomes more and more affluent, the call to combat effectively and urgently all the pollution problems Hong Kong faces becomes louder and stronger. Just as elsewhere, politicians who are shrewd enough to be on the look out for image-enhancing and vote-getting issues will no doubt make a great play on these issues in the years to come. Hence, I have little doubt that Government will be under heavy pressure both from within and without to provide more and more resources to the limitless expansion of the Environmental Protection Department in the years to come. This is not a bad thing in itself if the need for expansion is well proven. Nevertheless, environment protection is such a sexy subject that we should all guard ourselves against the possibility of being carried away too much by the holiness of the mission to combat pollution. In making our future decisions we must constantly evaluate the relationship between cost, affordability and effectiveness.

Sir, my cautionary note by no means reduces my support for Government's current efforts to combat some of the urgent environmental problems we face in Hong Kong. In fact, with a view to responding to the recently published White Paper in a positive spirit, I urged the Federation of Hong Kong Industries to set up a special All Industry Committee to study the document in detail. Their detailed findings will no doubt be communicated to the Secretary for Planning, Environment and Lands in due course.

But, this afternoon, because of the time constraint placed on our speeches, honourable colleagues may be relieved to learn that I will cover only a few points.

First, we are in broad agreement with the policy objectives set out in the White Paper. However, we feel that while the White Paper has quoted figures and statistics to show the amount of pollutants generated by the community, it does not go far enough to provide a critical analysis to establish that the trend is towards further deterioration unless actions set out in the White Paper are implemented. It would certainly be useful if such an analysis can be provided to present the pollution problems in their proper perspective.

Secondly, as is recognized in the White Paper, many of the environmental problems we witness today stem from Government's lack of long-term and well-co-ordinated planning in the past. It has in some cases resulted in the over-exposure of residential blocks and schools to the adverse effects of industrial pollution since they were allowed to be erected alongside factories which have been long established in zones designated for industrial purposes. It would be unfair to require companies which have made substantial investments in good faith and in compliance with legislation prevailing at the time of their establishment, to shoulder all by themselves a heavy financial burden now to comply with some newly-enacted legislation. Driving manufacturing companies out of business through direct legislation or by mandating huge cost increases to pay for environmental compliance may damage the economy as a whole. The White Paper's recognition that "the increased emphasis on improving the environment must not ignore the needs of the economy particularly where the introduction of the new legislation is concerned" is consistent with the federation's position that a sensible balance must be struck between what is environmentally desirable and what is economically viable.

Thirdly, in considering legislative control and enforcement, it is all too easy to put the emphasis on the punitive element. Instead of focusing on passive compliance and punishment, we submit that encouraging manufacturers to adopt pollution reduction measures through incentives schemes will prove to be more effective. For example, the White Paper has identified waste recovery and recycling as waste management measures which Government intends to promote, facilitate and support. Promoting viable recycling developments and encouraging adoption of pollution control measures and equipment by means of incentive schemes, especially with regard to existing industries, is definitely an area worth exploring. Similarly, some form of government recognition of industries which have taken active steps to

control pollution will also have a positive effect.

Fourthly, we appreciate the need to educate members of the community their responsibilities in creating and maintaining a healthy environment and we support raising public awareness through publicity programmes. We note, however, that the environmental education programmes set out in the White Paper seem to be geared towards enhancing environmental awareness in the academic and professional setting. We submit that industrialists too need to be educated on the ways and means of containing and reducing pollution, and it is important to show them what is wrong and what can be done to correct the wrong. We must appreciate that as the majority of Hong Kong's industrial establishments are small and medium-sized, they do not have ready access to the latest industrial environmental technology and treatment systems and equipment available in the market. We suggest that Government's environmental education and publicity programmes should include activities which are directed at assisting the industrial sector to make the most effective use of limited resources in coping with pollution. Industrialists will find practical advisory services and demonstration of the necessary know-how useful.

Fifthly, to ensure that the policy objectives set out in the White Paper are achieved without causing undue hardship, we urge that there should be close consultation with the industries, particularly where new control measures are concerned.

Before I close, Sir, I would like to draw to the attention of the Secretary and the Director of Environmental Protection some observations made by some industrialists who have had extensive dealings with the Environmental Protection Department in the past. It is their impression that there is no real ability yet in the department to tell industry up front in exact terms what standards one have to achieve. The up-front advice one receives vary from person to person and very much depend on whom one talks to. A frequently adopted modus operandi is for the department to request from industry a consultant's study on the problem. Even then, the process of negotiations leading to the final solution involves a lot of subjectivity depending on how many levels of the departmental hierarchy one has to negotiate through. I hope these are only isolated individual experiences and I urge strongly that attempts be made to try to draw up definitive up-front criteria for individual factories to follow.

Sir, I support the motion.

MR. CHUNG (in Cantonese): Sir, in the first chapter of the White Paper on "Pollution in Hong Kong -- A Time to Act", the Government has pointed out that we are living in an extremely busy and crowded city which suffers from serious pollution problems. Unless prompt actions are taken, Hong Kong will be a filthy mess, noisier and more hazardous than before. In my opinion, this is a warning long overdue. As a matter of fact, the deterioration of our environment has already caused adverse effects on a large proportion of our community and become a subject of public concern.

The White Paper has stated that the Government intends to spend \$20 billion to "combat pollution" in the next decade. In view of the need for environmental protection, it is indeed "a time to act". The Administration should formulate as soon as possible a comprehensive policy and adopt practical measures to speed up the major programmes in preventing pollution and combating the hazards that pollution brings.

According to statistics, each day our community generates 22 500 tonnes of garbage and 2 million tonnes of sewage and industrial waste water. Hazardous emissions from motor vehicles and factories amount to 1 100 tonnes and there are always excessive noises generated from different sources. Among our 5.5 million population, 3 million are constantly affected by air pollution, 2 million suffer from noise nuisance and millions of swimmers bathe in Hong Kong waters at the risk of being infected by diseases and germs. It is conceivable that the authorities responsible for environmental protection must have done quite a lot of work in face of the complicated and intensified conditions of pollution of such magnitude, otherwise the adverse effects of pollution would have been even more intolerable.

The Government has indicated its intention to expand the air control zones under the existing legislation, and establish additional monitoring stations at some major points in line with the progress of environmental planning. The main reason is that although remarkable achievements have been made in connection with legislative controls over air pollution, the White Paper apparently is not entirely happy with the results. To ensure that air quality will be upgraded to and maintained at the minimum standard in accordance with environmental planning, the Environmental Protection Department has been requested to strengthen its controls over the emission of excessive dark smoke from factories and hazardous emissions from motor vehicles. Undoubtedly, all these proposals will help improve the public health. However,



attention should be paid to the financial implications of anti-pollution measures, particularly the necessary technical advice and substantial subsidies for the industries concerned.

On the issue of water pollution, I feel that the progress made in this field is rather slow in comparison with the overall anti-pollution facilities in the territory. With regard to the survey report on "Marine investigation of sewage discharges in Hong Kong" published in 1971, the proposal in the White paper to extend by phases from August 1989 to 1991 the implementation of the Water Pollution Control Ordinance to cover all territory waters implies that the administrative measures to safeguard water quality has lagged behind the overall anti-pollution strategy for two decades.

Concerning the maintenance of cleanliness of our coastal waters, anti-pollution measures have not been successful in achieving the objectives of legislative controls. Undoubtedly there is something to do with the physical constraint of Hong Kong. How can the public sewerage system built over a century ago dispose of the 2 million tonnes of sewage generated daily by the community now? In order to improve water quality and prevent pollution at source, perhaps we need to implement the Sewerage Master Plans and dispose of the effluents well away from our shores through long sea outfalls. It is indeed impossible to have this massive project completed instantly. However, it is feasible "to act" now as suggested in the White Paper. For example, the new sewerage programmes for east Kowloon and Hong Kong Island South have achieved satisfactory results in the prevention of pollution. Although a time-table for planning against water pollution has been set out in the White Paper, the Government should take into account the seriousness of water pollution in setting priorities to individual projects. It should also be noted that, when implementing the control measures on water pollution, the Administration should give consideration to offering reasonable assistance or compensation for all affected industries or shop operators/residents if necessary.

On noise pollution, the White Paper has admitted that traffic noise is the most pervasive form of noise in Hong Kong. However when it comes to the issue of introducing legislative controls, the Administration does not seem to realize that it is "the time to act".

At an earlier stage, the Government pointed out that existing legislative controls on noise generated by motor vehicles are enforced under relevant provisions of the Road Traffic Ordinance. It is stipulated in these provisions that effective

noise reduction devices have to be installed at the exhaust pipes of motor vehicles and they should be operated under good conditions. The Administration is of the view that the transport infrastructure and traffic conditions have direct bearing on the level of noise generated from motor vehicles and the problem is not always amendable by legislative controls. However it is stated in the White Paper that "work has also started on regulation to control noise from new road vehicles."

The White Paper has also pointed out that more than 1 million people in Hong Kong are exposed daily to "unacceptably" high levels of noise from road traffic. According to a survey report published by the Geography Department of the Chinese University last year, the findings of the survey conducted at 255 test points in busy areas along the Island Eastern Corridor and King's Road showed that 90% of the residents in the district are facing road traffic noise at a level exceeding the limit of 70dB in L10(1 hour) that has been laid down in environmental planning. In the case of Sham Shui Po district, the noise pollution caused by traffic at Ching Cheung Road and Kwai Chung Road, particularly at the Kwai Chung Flyover, has brought much nuisance and disturbance to the residents of Ching Lai Court and Mei Foo Sun Chuen in the vicinity. It must be noted that with the development of the concrete jungles in the urban area and growing number of heavy vehicles, traffic noise is a long-standing problem which will have more adverse effects on the general public.

The White Paper has proposed some major remedial programmes including a programme to provide insulation to schools affected by extreme traffic noise as well as another programme to re-surface stretches of road with noise-reducing materials as in part of the Island Eastern Corridor. The introduction of these measures has indicated that deafening traffic noise can be put under control. In the United Kingdom, there are controls on noise from motor vehicles on the roads, and at the same time there is also legislation to provide compensation for those being affected by noise pollution. In my view, traffic noise can be and should be contained by means of legislative controls. On the principle of equity, while penalties will be imposed on offending vehicles, compensation should also be given to residents and shop operators affected by noise pollution.

Unless routes for road traffic can be re-aligned, those residents affected should be given reasonable subsidies in the installation of insulation devices. However, if noise nuisance cannot be abated despite all efforts made, consideration should be given by the Government to resuming the premises concerned by offering compensation

at their market value. In Hong Kong there are already precedent cases in which residents and shop operators have been given reasonable compensation. As mentioned in the White Paper, the Government is implementing a programme to provide insulation to those schools badly affected by traffic noise. Therefore the introduction of legislative controls on noise from vehicles and the implementation of a noise compensation programme for those affected are just proper measures to tackle the problem of noise pollution.

Sir, legislation by itself cannot work effectively. We understand that it is imperative for Hong Kong to have an effective and comprehensive policy to tackle pollution and the necessary legislation to introduce controls. However the most significant part should be played by each citizen in Hong Kong in exercising self-discipline, self-help and self-management in protecting our environment. The people of Hong Kong want the Government to provide them with anti-pollution facilities rather than numerous control measures. It is well understood that "keeping Hong Kong clean is the responsibility of all".

Sir, with these remarks, I support the motion.

MR. HUI (in Cantonese): Sir, I do not have any objection to the first half of the motion being debated by this Council. As you have pointed out in the second policy address you made in this Council, one of our major policy priorities is to halt the deterioration of our surroundings and to make more efforts to improve our environment. As a matter of fact, in the past the Government has only placed emphasis on the development of our trade and industries as well as our infrastructure, whereas the importance of environmental protection has been seriously neglected. As a result, the pollution problems in some districts have become so serious that they are almost beyond redemption. The Government should therefore take the initiative to lead the community to speed up their efforts in tackling various pollution problems which are becoming increasingly serious.

In regard to the second half of the motion, I would like to refer to the various pollution problems Tsing Yi residents have been facing over the past years, in order to bring out the strategy which the authorities concerned should consider when "urging everybody to keep our environment clean".

As we all know, Tsing Yi is one of the new towns which the Government started

to develop about 10 years ago. Since town planning already played a part at that time in our development strategy, so theoretically, the confusion and lack of co-ordination which Hong Kong experienced in its early days of urban development could have been avoided. But that is in fact not the case. The present situation of Tsing Yi can actually be described as "all in a mess". Concrete examples are readily available and I would only briefly bring up the following points:

(1) As very loud hammering noises are incessantly generated by the shipyards located in Tsing Yi north, numerous complaints have been lodged by residents living in the nearby Cheung On Estate and Ching Tai Court. However, as the shipyards had been set up in that district more than 20 years before the residents moved into the estates, the residents can do nothing but to continue to endure the noise nuisance, pending the relocation of the shipyards to the western part of the island.

I am of the opinion that the Government, the departments involved in town planning work in particular, should bear almost full responsibility for exposing the unfortunate residents to excessive noises. It is regrettable that although the representatives of the shipyard operators had reminded the authorities concerned at area committee meetings not to site residential buildings too near to the shipyards area, the advice was obviously not heeded by the government officials who took part in setting the policy.

(2) The air pollution caused by the 45 factory chimneys in the Tsing Yi Industrial Centre has all along been a matter of grave concern for the Environmental Protection Department (EPD) and residents of the four residential blocks of the nearby Cheung Ching Estate. The EPD has conducted numerous tests on air samples collected in the area which all failed to meet the air quality standard. Based on these findings, two copies of "Notice to Abate Air Pollutant Nuisance" were issued to the operators concerned, one of which required that they should use light diesel oil with a smaller sulphur content instead. However, as the legislation has not conferred adequate power on the authorities concerned, the factory operators appealed against the notices and the court ruled that such documents carried no legal effect.

The EPD could have prosecuted those offending factory operators in accordance with the Air Pollution Control Ordinance, but was handicapped by the lack of manpower to enforce the legislation. As a result, the efforts of Cheung Ching residents in monitoring, systematically recording and reporting the illegal smoke emissions were wasted.

(3) As the Town Planning Board has the authority to change land usage at any time, we now find in Tsing Yi such ridiculous situations as blocks of a private residential estate standing next to a cement factory and people living within a hundred metres of oil depots. Although our land resources are very much limited, I do not think that we have reached the stage where we may develop residential sites in a disorderly manner without taking the health of the residents into consideration.

The above observations can explain why the EPD is described by some people as "a tiger with no teeth". It is obvious that the legislation has not equipped the department with adequate law enforcement power. The legislation itself is full of loopholes, and has become a "shelter" for some unscrupulous proprietors. Moreover, the EPD's status among government departments and the weight attached to its advices are also in doubt. As far as I know, the EPD has recommended to the Housing Department that if housing estates are to be built near industrial areas where there are smoke emissions from chimneys, the height of the buildings should be restricted, so that the residents concerned will not be exposed to polluted air. However, the Housing Department has indicated that the proposal, not being a regulation to be observed, could not be accepted as such a restriction would affect the housing provision programme of the department. In fact, there are many instances of similar nature in Kwai Tsing district.

I am therefore of the view that in educating the public to help keep the environment clean, the Administration should start with amending the existing legislation. On the one hand, we should plug the loopholes of the present laws and on the other hand, enhance the power and status of the EPD and provide the department with adequate law enforcement staff. Otherwise the legislation will exist on paper only. Secondly, government officials and other people who are involved in development planning should receive education on environmental protection. The third point in paragraph 8.4 (the overall policy objectives for environmental education) of the White Paper did give a hint about the importance of this aspect of work but has not made any concrete recommendations on the planning of such work. It would be insufficient to rely solely on the professionals of the EPD to exert their influence on consultative committees and the policy branches concerned.

Sir, it is only after the introduction of clear-cut legislation on environmental protection and the officials engaged in development planning have acquired a good concept of environmental protection will Government be able to establish its

leadership in "urging everybody to keep our environment clean". Only in so doing will environmental protection measures be most effectively carried out. Otherwise, our work in promoting environmental protection will achieve very little effect despite the great effort we put into it.

Sir, with these remarks, I support the motion.

MR. POON CHI-FAI (in Cantonese): Sir, the problem of environmental pollution has become increasingly acute as our society develops and our living standard improves. Environmental pollution of Hong Kong has reached a critical state and it is time for us to act now. The White Paper on pollution recently published by the Administration represents the most significant step in improving our environment. The environmental improvement policy set out in the White Paper will have a decisive effect on the prevention of pollution and the improvement of local environment.

There are many factors contributing to our past success, one of which is the high efficiency of our Civil Service. However, in handling the environment issue, the performance of the Administration has not been impressive at all in the eyes of the public. As pointed out in paragraphs 2.12 and 2.29 of the White Paper, the need to provide much-expanded disposal facilities for the growing quantities of household and other wastes was recognized more than 10 years ago. Since then the Government has developed a long-term strategy. However, the draft Waste Disposal Plan, published in the form of a consultation document, was not finalized until recently. It is disappointingly slow to take more than 10 years to finalize a consultation document.

Sir, I am most concerned about the construction of three large landfill sites proposed in paragraph 2.13 of the White Paper. Although the White Paper has stressed that the landfills will be designed and operated to minimize their environmental impact, this guarantee can hardly alleviate my anxieties about the programme. I still recall that similar guarantee was also given by the Administration to me and the residents of Kwun Tong when the Jordan Valley landfill was first constructed. In reply to my question on the environmental problem caused by the Kwun Tong Jordan Valley landfill in this Council on 13 May 1987, the Secretary for Health and Welfare also stressed that "though the Jordan Valley landfill will operate for three years only, it has been designed to the same standards as the larger landfills, and special attention has been given to the need to prevent nuisance which may affect nearby residents." But as a matter of fact, ever since the Jordan Valley landfill started

operation as a refuse dumping ground in April 1986, it has seriously affected the environment of the nearby areas. Obnoxious odour has been emitting from the landfill which has become a breeding ground for rats and vermin. This has constantly caused environmental nuisances, especially in summer, to some 90 000 residents of the nearby Shun Lee Temporary Housing Area, Shun Lee and Shun On Estates, Shun Chi Court and the United Christian Hospital and also given rise to public discontent.

In response to my Legislative Council question on the Jordan Valley landfill on 12 July 1989, the Secretary for Lands and Works clearly pointed out that refuse, however properly treated, would emit obnoxious odour in the hot season and the closure of the landfill next year would be the only long-term solution to the problem of bad smells in summer. As the views put forward by the above two officials contradict with each other, how can the general public be convinced by the guarantee in the White Paper that the proposed landfills will be operated to minimize their environmental impact? Sir, we understand that the problem of bad smells will be completely solved after the closure of the Jordan Valley landfill next year. On the face of it, the problem appears to be simple and the solution seems to be in hand. However, if the officials concerned pay a site visit to the Jordan Valley landfill in person or take up temporary residence in one of the nearby estates to experience for themselves the sickening smell and the filthy environment with rampant rats and vermin, I am sure they all will agree that it is unacceptable and intolerable to wait till the closure of the landfill next year in order to have this environmental problem solved.

6.00 pm

HIS EXCELLENCY THE PRESIDENT: I must interrupt you, Mr. POON, because it is now six o'clock and under Standing Order 8(2), the Council should now adjourn.

CHIEF SECRETARY: Sir, with your consent, I move that Standing Order 8(2) be suspended so as to allow the Council's business this afternoon to be concluded.

Question proposed, put and agreed to.

HIS EXCELLENCY THE PRESIDENT: Please continue, Mr. POON.

MR. POON CHI-FAI (in Cantonese): Sir, Kwun Tong has the most serious air pollution problem compared with other districts in the territory. The residents in Kwun Tong have been constantly living in an unfavourable environment. If the problem of the Jordan Valley landfill cannot be solved now, how can we expect them to have confidence in the proposals of the White Paper on pollution? How can we urge them to render assistance in fighting against pollution and keeping Hong Kong clean? Sir, I must strongly request the departments concerned to spare no effort to improve the living environment in the area before the closure of the Jordan Valley landfill. Besides, careful consideration should be given to the selection of sites for three large landfills as mentioned in the White Paper, so as to avoid recurrence of the same error of the Jordan Valley landfill.

Sir, paragraph 2.24 in the White Paper has pointed out that marine disposal is not necessarily the best long-term option for disposal of sewage sludges. Paragraph 2.23 has also mentioned that the Environmental Protection Department will continue monitoring during the five-year life of the marine disposal scheme, so that appropriate action can be taken in the unlikely event that there are signs of adverse effects on the marine environment. This is indeed worrying and one cannot help suspecting that such a scheme will have adverse effects on the sea waters. Instead of waiting for the occurrence of adverse effects and a subsequent remedy, why cannot the Administration try a better and safer solution now? At the same time, I worry that by the time we notice the adverse effects on the sea waters, the damage done to the marine ecology may have become irreparable. I therefore urge the Administration to give careful consideration to this marine disposal scheme of treating sewage sludges.

Sir, it is stated in paragraph 2.37 of the White Paper that the Government intends to work out some waste recovery and recycling schemes. This is something we need to support. However I have reservations on another remark in the White Paper that "direct participation in waste recovery and recycling activities is not appropriate for Government? Since products from waste recovery are comparatively of a low value and they have to undergo some complicated reprocessing procedures before they are marketable and the marketing of the recycled products involves a lot of time and work, I am afraid that operation of such schemes will hardly do more than break even. Therefore it will be difficult to attract participation from the private sector. None the less, such schemes will help the Government reduce the volume of refuse it has to deal with. Under such circumstances, the success of such schemes may require the direct participation of and subsidy from the Government.



Sir, paragraph 4.7 of the White Paper has pointed out that "the importance of planning cannot be overstated and air quality can be improved and safeguarded through better town planning and project development." However, without the concerted compatible efforts of other government departments, good town planning alone will not help us solve the environmental problems or improve our environment. Take Tsuen Tak Gardens in Tsuen Wan as an example, since there are already a lot of domestic premises, schools and hospitals in the area, it seems to be quite correct from the point of town planning and environmental improvement that the authorities concerned should alter the use of the few remaining lots of land from industrial purposes to domestic purposes with a view to solving the environmental problems at one go. However in the process of granting or approving modifications to the leases of these industrial land for redevelopment, other government departments have not taken into careful consideration the priorities or proposed arrangement, nor have they encouraged attempts to tie in with the comprehensive redevelopment plan of the area. The piecemeal granting or amendments to individual land lease have created the problem of coexistence of both domestic premises and industrial buildings in the same area.

Sir, paragraph 5.10 of the White Paper mentions that "preventive planning against noise ensures wherever practicable that major noise problems are avoided in the future." I think this is the correct approach. In fact, we lacked preventive planning against noise in the past. Take Richland Gardens in Kowloon Bay as an example: due to its proximity to the premises of the Hong Kong Aircraft Engineering Company Limited and the Air Cargo Terminal, the residents there have been suffering from an unacceptable level of noise pollution all the time. The same is also true of the residents of the estates in the northern part of Tsing Yi who have often been affected by the noise generated from the temporary shipyards in the vicinity. Does it denote that the professional officials responsible for environmental improvement have not engaged positively in town planning? Or that they have already tried their best to put forward their advice but their views were not given due attention by the Administration? The Government must conduct a review on the above issues and try to make improvement.

Sir, in conclusion, I wish to say that it is inadequate just to have a good environmental policy. We still need responsible and efficient civil servants to implement the scheduled policy before any improvement to our environment can be achieved. The White Paper has acknowledged that the main reason why our environment is now in an unsatisfactory state is that in the past the Government and the community made choices which gave too little emphasis to the needs of the environment. However

as a matter of fact, the Environmental Protection Division under the Government Secretariat was set up as early as July 1977 to take charge of environmental improvement duties. In 1981, the division expanded and became the Environmental Protection Agency. It was then further upgraded to the Environmental Protection Department in April 1986. These professional officials who have been charged with the responsibility of improving the environment have made a number of unpardonable errors including the selection of Jordan Valley, which is situated in a densely-populated area, as a landfill site; agreement to the construction of Richland Gardens on a site so close to the aircraft repairing and engine testing areas; and endorsement of the co-existence of the public housing estates and shipyards in the northern part of Tsing Yi. All these have led to environmental problems. These officials should be held responsible for all these errors. We hope that the publication of this White Paper and the establishment of the Planning Environment and Lands Branch will be able to rectify the past fallacies and create a desirable environment for the city of Hong Kong.

Sir, with these remarks, I support the motion.

PROF. POON: Sir, I have spoken on several occasions, at least in two previous policy debates and a Budget debate, on the subject of environmental protection in Hong Kong. As a scientist by profession, I have always looked realistically at environmental problems in Hong Kong. To start with, we must not forget that they have been caused by industry and the excesses of a well-off and overcrowded population. If the Government is to be effective in fighting various forms of pollution, it must tackle the problem at source. I believe we must match rhetoric with resolve, adequate resources and their effective application. Let us first consider resolve. There appears to be no lack of political will. I am pleased to see that the Government is determined to tackle the problem of pollution in Hong Kong. The White Paper on "Pollution in Hong Kong -- A time to Act" published in conjunction with "World Environmental Day" on 5 June 1989 includes a package of action proposals including legislative sanctions, massive clean-up operations, preventive measures, and environmental education. On the whole, I find the White Paper quite acceptable as a policy statement aimed to save our environment.

Today, I will offer some comments on Chapter 7 of the White Paper -- Adequacy of Current Arrangements -- with particular reference to technical assistance and advice. Sir, I have said many times in the past that while legislative sanctions

are a must in any attempt to reduce industrial waste, the Government must realize the unique situation in Hong Kong. Its densely populated urban areas and a small overall land area are combined with a reliance on its ability to maintain its competitive industrial edge. Over 97% of our manufacturing industries are small industries employing less than 100 employees; and many are operating in multi-storey buildings with severe space constraints. Solutions to environmental problems overseas cannot be blindly applied in Hong Kong. Many factories simply do not have the space to accommodate extra pollution preventive equipment available in shops. Environmental protection measures need to be custom-made to suit Hong Kong's unique situation. Sir, I am pleased to note that the White Paper has recognized that "industries operate under conditions peculiar to Hong Kong, and pollution equipment may have to be specially designed and manufactured." It went on to say that "if the smaller factory operators are not to be squeezed out of business by the pollution controls that must be applied, they will have to get assistance and advice to help them to comply."

As the way forward, the White Paper suggested, and I strongly endorse, that the Government should reach out to more small factories and provide them with consultancy services at attractive rates, and to undertake more and better long-term research and development in the clean technology, pollution control and waste recovery fields. While the intention and will to improve our environment by providing assistance to the small-time industries should be applauded, I hope the Government will not merely make empty promises, but will act now to demonstrate its sincerity. I suggest that the Government should review the current level and mechanisms of support in order to work out the most effective means of providing consultancy services on a non-profit making basis. This would naturally involve research and development into the best financially viable system most suited to the local manufacturing situations.

I am sure that my colleagues in the tertiary institutions and in other organizations, such as the Hong Kong Productivity Council, would be pleased to take on such challenging projects provided that the Government is prepared to fund these activities. In the end, I feel this would be a cost-effective way to combat environmental pollution from industry without threatening the lifeline of our economic prosperity.

With these remarks, Sir, I support the motion.

MRS. TAM (in Cantonese): Sir, the economic summit of the seven major industrialized countries has just ended in Paris with a formal appeal to all countries to take urgent and resolute actions to protect the environment. This indicates that environmental pollution has become so serious that the whole world has to make concerted efforts to tackle it.

I am happy to find that the White Paper on Pollution in Hong Kong published on the World Environment Day is entitled "A Time to Act", reflecting that the Government recognizes the gravity of the pollution problem in Hong Kong and its sincerity in solving it.

A considerable part of the White Paper has been devoted to making recommendations on how to improve various aspects of our environment. Given the seriousness of the pollution problem there is little doubt that improvement works have to be carried out urgently. But after all, these are just remedial measures. It is only through promoting public awareness of environmental protection can we secure a durable solution to the problem.

"Education" is a preventive measure and a permanent cure to a problem. I shall therefore make some comments in this regard.

Sir, the ultimate solution to the pollution problem lies in changing the behaviour of every individual so that Hong Kong people will conform with the principle of protecting the ecological environment. Apart from promoting public awareness of environmental matters, it is very important that we should provide environmental education for our young people. This will enable them to see the direct relationship between their behaviour and the environment, so that they will have a deeper understanding of environmental issues. They will then begin to care more about the environment surrounding them, building up gradually a sense of belonging and responsibility, and in the end, take concrete actions to preserve the environment. This will be the most effective long-term solution to our ever deteriorating pollution problem.

I am of the opinion that we should provide a continuous programme for the promotion of environmental education in kindergartens, primary and secondary schools. And to promote such education throughout the whole community on a long-term basis, we will require the co-operation of all schools, families and the community at large. We need to draw up an overall environmental education strategy in order to achieve this

goal.

Among all western nations, the United States is one of the first to introduce environmental education. As early as 1970, the United State enacted the "Environmental Education Act" which empowered the Federal Department of Education to formulate environmental education programmes including the setting up of an Environmental Education Office under the Department of Education, the provision of funds to support environmental education studies, and the establishment of a Consultative Council on Environmental Education to advise the Secretary of Education and the Environmental Education Office on matters related to the environmental education programmes.

Sir, the western countries are more than a decade ahead of us in introducing environmental education. It is advisable for us to borrow their experience. I would like to mention in particular "The Belgrade Charter -- A Global Framework for Environmental Education" promulgated at an international seminar on environmental education held in 1975. It has laid down six objectives for environmental education, which are all to be achieved through cultivating in individuals and social groups a sense of care and responsibility towards the environment, so that they will participate directly in helping to resolve environmental problems. These may serve as useful guideline for setting our own objectives.

It is my view that the White Paper has failed to provide a systematic programme to co-ordinate the introduction of environmental education in our schools and as a result, the strategy on how to help young people develop environmental awareness appears to be fragmented. For instance, while the Government plans to introduce a new subject of Environmental Studies in the school curriculum at senior secondary level and some tertiary institutions intend to offer degree courses that are relevant to environmental protection and management work, the Administration seems to have overlooked the need for strengthening the curriculum in the early stages of education at primary and junior secondary levels.

The foundation for developing environmental awareness should be laid as early as possible and the best time for acquiring such knowledge is during one's childhood and adolescence. I therefore propose that the authorities concerned should consider the viability of introducing a separate subject, namely, Environmental Education, in the school curriculum. Such education should start from kindergarten, extending to primary and secondary levels. On the other hand, tertiary institutions should

also consider introducing a special subject, Environmental Science, in the curriculum of the Applied Science Faculty. This special course, which will take the uniqueness of Hong Kong into account, is designed to train environmentalists who are acquainted with the local conditions to take up research work in the relevant field.

In regard to social education, the White Paper pointed out that the Government plans to establish in 1990-91 an environmental information resource centre which will provide a range of information and teaching materials. I strongly support this proposal. However, in order to help members of the public to have a better grip of the abstract and technical aspects of environmental issues, I am of the opinion that the centre should employ a more active and vigorous educational approach by using a variety of media such as visual audio aid and diagram illustrations to show various phenomena, causes, effects and solutions in relation to our pollution problems. Moreover, the Government should assess the effectiveness of the centre in due course with a view to extending such services from the urban area to the New Territories. As many places in the New Territories are affected by pollution caused by livestock farming and industrial development, there is a need to provide more information about environmental protection to the residents concerned.

Sir, undoubtedly we are somewhat late in promoting publicity and educational work on environmental protection, but if we have a strong will and are determined to take action now, it is never too late.

Sir, with these remarks, I support the motion.

MR. TAM (in Cantonese): Sir, pollution has been a long standing problem in Hong Kong. At long last the Government steps up its efforts in preventing this problem from going from bad to worse. Members of the public undoubtedly welcome such a move. However, when reading this White Paper in perspective I find that the authorities concerned have harped on the ways and means to tackle and alleviate the existing pollution problems in Hong Kong without touching on ways to solve the pollution problem at source. This is an inadequacy of the White Paper. Up to now Hong Kong has developed into a city with extravagant spendings. According to the estimates made by quite a number of experts, of the 20 000-odd tonnes of solid wastes and some 2 million tonnes of sewage and industrial waste waters together with other numerous pollutants generated daily by the community in Hong Kong, the bulk can be avoided. Most of the nuisances in pollution have been caused by quite a number of people and enterprises which have

given no thoughts to the negative effects of their behaviour on the environment in the pursuit of their own interests and enjoyment. Therefore, after drawing a lesson from bitter experiences, the Government should begin its work at the fundamental level, that is, the behaviour of the consumers and the operation of the various enterprises in order to seek a thorough solution to the problem. Unfortunately these aspects are only mentioned in a piecemeal manner in the White Paper.

As far as the operation of the enterprises is concerned, the Government has emphasized its non-intervention policy. The Government may consider that its subsidy will lead to low efficiency in the operation of the related enterprises and hence be unfair to other trades. However, on the other hand, we should come to realize the benefits that an enterprise such as a waste recycling firm may bring to society. Its value lies more in its positive contribution towards our society than in the profits it earns because its operation improves the whole environment of Hong Kong. We should therefore offer these operations certain subsidies such as leasing of land or tax concessions to help with their rapid development so that society will benefit more.

Of course, whilst incentives should be offered, it is also necessary to impose restrictions on some other trades because their products or by-products have substantially contaminated the environment. If we can clearly identify these polluting trades, we should charge them appropriate fees for the treatment of large quantities of pollutants generated by them because substantial expenditures have been incurred on these treatment facilities. Even if we impose legislative control on these polluting trades, society still has to bear a certain proportion of the cost of treatment of the pollutants. Furthermore, staff is required to carry out the monitoring work. In view of the above, it is very reasonable to impose levies on those trades which apparently generate pollutants. This is also a furtherance of the basic principle that those who are responsible for the pollution should bear the cost.

Except in special circumstances, at present, written warnings must be issued by the authorities concerned prior to any prosecution against the polluters, and only when they have failed to rectify the situation that prosecutions will be instituted. As a matter of fact some pollution offences have become long-standing ones, made possible by complicated enforcement procedures. The requirement to issue written warnings has reduced the chances of successful prosecution against the offenders, thus reducing the deterrent effect of the law. In the foreseeable future, it may

not be workable to take immediate prosecution action against these polluters; but in the long run, within the promotion of publicity campaigns of environment education and development of anti-pollution techniques, immediate prosecution would gradually become possible. As considerable resources have been allocated to anti-pollution measures and environmental education, our resources should not be wasted in lengthy prosecution procedures any more as their effects in pollution control are far from satisfactory. Furthermore, it will also be difficult to convince the public that litterbugs have to be prosecuted immediately.

Apart from the operation of the enterprises, we should concern ourselves with the problems arising from the behaviour of the consumers. At present many members of the public do not fully understand that substantial pollutants have been generated by their daily behaviour as a consumer, neither are they aware of the need for environmental protection. Thus extensive environmental education must be promoted vigorously. But it should be clearly noted that environmental protection is quite a different matter from the Keeping Hong Kong Clean Campaign. The electronic media have recently given publicity to environmental protection; however, they only convey the message of keeping Hong Kong clean. It should be appreciated that removing rubbish from beaches and streets does not necessarily mean that the environmental problem has been solved. Many areas have to be identified and used as landfills to bury the huge tonnage of garbage. Hence, our primary concern is to persuade the general public to dispose of the residues of their consumed materials properly and to refrain from generating a large volume of pollutants. Through extensive publicity, the community should be educated on the impact of environmental pollution; the relationship between pollutants and our consumption pattern; and the effective means of disposing pollutants. Only by means of enhancing public awareness and dissemination of information that pollution can be kept under effective control.

Certainly, environmental protection does not rest with publicity and education alone. Legislative controls are also essential. To impose a levy on any consumer behaviour that causes pollution is also feasible; however, to avoid double levies such a measure has to be implemented in line with the taxation system imposed on the industrial undertakings which generate pollutants.

I believe that only by confronting directly and squarely the consumption and production activities that affect our environment can we put our pollution problem under effective control, otherwise all remedial measures would become ridiculous and meaningless as a result of perpetual pollution problems.



Sir, with these remarks, I support the motion.

6.29 pm

HIS EXCELLENCY THE PRESIDENT: There are still a number of Members who wish to speak in the debate and Members might like another short break at this point. After the break, I have unfortunately to leave for an official engagement. So I shall ask the Chief Secretary to take the chair. Since this is the last sitting of this Session of the Legislative Council before we leave I would like to thank all Members most warmly for a great deal of hard work during this Session of the Council. We started the year with a considerable number of new Members who quickly established themselves in the collegiate way in which the Council works and have made their mark fully in the work of the Council. It has been a very busy Session.

I think we are used to records here. It is not a record amount of legislation this time but it is a record amount of amendments to clauses, some 250, and that shows the great deal of hard work that goes on behind the scenes. A large part of that is of course because of bilingual legislation that has been a major step forward for the work of this Council during the Session and the Council has taken to it willingly, starting work early in the morning and working its way through a large amount of amendments and trying to make sure that we use standard forms of Chinese for the forms of English that we use.

We started off the year as being a straightforward Session of steady progress but that has been changed over the last two months by the tragic events which have occurred in China. It is at times like this that the community look to Members of this Council for leadership and for political wisdom and I think the Council and Members of the Council and OMELCO as a whole have responded with great determination and courage to the events that we have had to face. I am sure that over the months to come the community will be able to continue to look to Members of this Council for those very same qualities.

In saying that the Council has worked hard I would like to mention also those beyond the walls of this Chamber and behind the darkened glass screen over there who have worked equally hard. The harder the Members of the Council work the harder the supporting staff also work and they have served the Council extremely well. So I

would like to wish all of you a very pleasant and a very well deserved summer break.

6.46 pm

The Chief Secretary presided at the sitting during the absence of the President.

MEMBER PRESIDING: Council now resumes.

MR. EDWARD HO: Sir, Hong Kong is our home.

We have been proud of Hong Kong's achievement in the past decades. The success story of Hong Kong has been told many times and has won the admiration of many around the world.

But, Hong Kong's economic success has not been achieved without a price. The rapid urbanization and industrialization of Hong Kong has led to the inevitable deterioration of our environment. The White Paper on pollution in Hong Kong acknowledges that both the Government and the community "made choices which gave too little emphasis to the needs of the environment".

This was understandable and Hong Kong has not been alone in this. There were two major reasons why efforts to protect our environment have been lacking.

1. In the years that we had to fight against overwhelming odds for economic survival, considerations for quality of life took second place.
2. Hong Kong has been regarded by not a few of its inhabitants, even long before the 1997 question was talked about, as a home in transit, a place where the quickest profit could be made; the primary goal has been the highest production at the lowest cost.

It would be difficult to change the feeling of this group of people in the light of the current confidence crisis. But, for the majority of our people, the 1997 question brought home the need to reaffirm Hong Kong as a place with its own identity and permanence, under the concept of "one country, two systems". To these people, we must commit to improve their quality of life by cleaning up and protecting our environment.

The White Paper spelt out different measures to combat pollution problems in Hong Kong, and they deserve our most serious consideration.

In essence, there are really three ways forward:

1. To introduce legislation to reduce existing sources of pollution and to provide sufficient resources for enforcement and control.

The need for such legislation is fundamental: existing problems must be capable of being remedied at source. It must be recognized that the community would have to pay for the cost of such remedies. For industry which to a large extent has been responsible for much of our pollution problems, it is estimated that, for example, to effect the change to low sulphur fuel, some 20% of industry would have to bear a higher recurrent fuel cost. On the other hand, I have been advised that this additional cost would not represent a significant proportion of their overall production costs. What is more, it is hardly a high price to pay, when our health and the health of our children are at stake.

Legislation would not be meaningful without enforcement, and sufficient resources must be provided to ensure adherence to performance standards for existing legislation and for the proposed new legislation.

Incidentally, target performance standards are not spelt out in the White Paper, and I assume that Government will strictly adhere to the Environmental Protection Department's target performance measures given in Appendix B in their publication "Environment Hong Kong 1989".

2. To construct infrastructure for the proper discharge of effluents.

Infrastructure for sewage and waste disposal has, up to now, been given a low priority. Perhaps they happen to be underground and largely unseen. But the problems of contamination of our waters are certainly not unseen. In the face of competing calls for major capital investments on infrastructure, I urge that the Government will not lose sight of the priority to invest in the Sewerage Master Plans.

Such a priority is not evident in the White Paper. In paragraph 3.24, we are told that a total of some \$5 billion will be required to construct new or modified sewerage

systems in the Sewerage Master Plans. Yet, a total of \$173 million (or 3.5%) only, has been earmarked for the next four years. We should be assured that Government will complete the whole Sewerage Master Plans within 10 years.

3. Effect better town plans which take into account environmental considerations.

(a) The Town Planning Ordinance should be extended to cover the whole of the territory: our environment cannot be protected if effective planning controls can only be applied to the urban or the potential urban areas, as in the present Ordinance.

Mr. HUI Yin-fat directed his criticism at the Town Planning Board. The irony is that the Town Planning Board cannot consider land planning of an area until that area has become an "urban area" or a "potentially urban area", by which time, a lot of development in the area has been committed or even built. Such has happened to Tsing Yi, Tuen Mun and will continue to happen to Tin Shui Wai and other new towns if the Town Planning Ordinance is not amended.

(b) Our Town Planning Ordinance, enacted in 1939, must be revised to recognize the inter-relationship of town planning and environmental protection activities, and to ensure that environmental issues will be given greater regard in all planning decisions than in the past.

Environmental assessment studies should be carried out when a sub-regional plan or an outline zoning plan is prepared. Similarly, planning applications for certain types of development should be accompanied by environmental assessment studies.

Here, I must caution that we should not develop our legislation and planning systems for the purpose of frustrating the right kind of developments. Clear environmental planning criteria and guidelines, as well as specified time for consideration, should be formulated and followed. In this regard, if the Hong Kong planning standards and guidelines are to be used by architects and planners, they should be made readily available to them.

(c) Land use planning

Solutions to minimize environmental problems do not rest with legislation and investments in infrastructure.

Land use planning has a decisive effect on the environment. During the debate on the Green paper on transport, I have touched upon the environmental problems created by industrial zoning located near residential zoning, when planning was largely determined by transport needs.

We have now to provide solutions to environment problem areas which we have inherited: areas such as Kwun Tong, Tsuen Wan, Kwai Chung, and even the newer generation of new towns such as Tsing Yi and Tuen Mun.

Much can and should be done through proper land use planning. Ultimately, it is the responsibility of the Government and our planners to come up with the optimum planning strategy which will provide our community with a place that we can happily call our home.

Finally, Sir, I am aware that, as never before, we will have to decide shortly on some very major infrastructural development. Let us not forget that a sound foundation for the future of Hong Kong cannot be constructed only with cement and steel. That foundation has to consist of a population of healthy and happy people who share and enjoy an environment that provides a better and better quality of life.

With these remarks, Sir, I support the motion.

MR. BARROW: Sir, my objective in speaking in this debate is to emphasize the importance to the tourism industry of the plans to improve the environment.

The task outlined in this important White Paper is clearly a gigantic one which will involve the whole community, not only our industrial sector. To reduce pollution means looking closely at our way of life and seeking acceptable adjustments in some of the ways in which we do things.

Having full community support for environmental protection measures is vital, otherwise a reluctance to accept changes will thwart the best-laid plans. The benefits of reducing pollution and improving the environment would seem to be self-evident, yet they are all too often played down and claimed to be not worth the cost.

This Council will appreciate that closely related to the physical attractiveness of the territory is the welfare of our tourism industry, which earned \$33 billion

in 1988, equivalent to 8% of our GDP.

Tourists will not of course want to visit a destination which fails to meet their expectations of high standards of health, cleanliness and physical attractiveness.

Fortunately, Hong Kong is not only "a shopper's paradise", but also a beautiful and impressive city. We are blessed with what many people consider to be the world's most beautiful harbour -- set against an exciting skyline. One of our Japanese visitors recently said that the harbour itself was "worth billions of dollars" as an attraction.

The last thing that any of our 6 million visitors would want to look at is a polluted harbour, while breathing in polluted air and side-stepping litter on the pavement. The levels of pollution, particularly in the harbour, are starting to be noticed by visitors and urgent action is needed.

If we act now on the proposals of the White Paper, we should be able to preserve the attractiveness of Hong Kong as a tourist destination. Last year, over 70% of our visitors enjoyed their stay so much that they said they would definitely return, while another 24% said they would probably come to Hong Kong again.

Hong Kong is for these millions of visitors a tourism "product". Their trip is something they buy, just as they buy other things in life. We, the people of Hong Kong, are the sellers. We are selling the attractiveness, the friendliness and the mainly tax-free shopping of Hong Kong to the entire world.

Our product must be well-presented and not shabbily-packed. Our "shop window" is the exciting and famous scenes of Hong Kong which are recognized around the world.

If we expect to keep attracting "buyers" and increase tourism's contribution to our economy, then we must take good care of our product.

We must ensure that the "shop window" which Hong Kong presents to the world remains more attractive than those of competitive destinations.

Hong Kong has much to protect by embarking on an environmental programme, not least in the tourism sector.

We have the third largest foreign exchange earning to protect. We have more than 200 000 jobs in the tourism industry to protect. And we have our position as the most popular travel destination in Asia to protect.

For these reasons, plus the other tangible economic and social benefits of the White Paper's proposals, Hong Kong's tourism industry fully supports the Government's proposals.

Sir, with these words, I support the motion.

MR. PAUL CHENG: Sir, I applaud the Government's move of waiving the usual public consultation exercise in the form of a Green Paper by going straight to the White Paper. Time is of essence on the environmental issue. It is like the game of tennis -- we are behind in the deciding set and unless we have the will and desire to win, we will lose the match. The first chapter of the White Paper rightly indicated "we now have to recover lost ground". Open-minded co-operation by all -- the Administration, the public, the industrialists, the schools, the voluntary organizations, the special interest groups -- is essential if we are to win this battle. We are all working towards a common goal -- a cleaner, healthier and safer place for us and the generations which will follow. There is no room for compromise or we run the risk of forever playing a catch-up game.

This is not the forum for covering details. These are best handled by Environmental Protection Advisory Committee (EPCOM), OMELCO's Environmental Affairs Panel and other working groups with the new administrative structure. I will, therefore, limit my comments on broader issues.

The commitment is now in place. The Government must not hesitate in making bold moves. In a catch-up situation, all sectors must be willing to make sacrifices. The Administration must accept the fact that tougher legislation and enforcement will not be popular in certain circles, but it must not let lobbying pressures water down this new initiative.

In the recent 15th Economic Summit of the world's seven major industrial democracies, for the first time, the environmental issue was highlighted in the final communique. Let me just quote a few paragraphs to help emphasize my point. I quote: "Decisive action is urgently needed to understand and protect the Earth's ecological

balance. We will work together to achieve the common goals of preserving a healthy and balanced global environment in order to meet shared economic and social objectives and to carry out obligations to future generations.....We believe that industry has a crucial role in preventing pollution at source, in waste minimization, in energy conservation and in the design and marketing of cost-effective clean technologies.....Therefore, environmental considerations must be taken into account in economic decision-making. In fact, good economic policies and good environmental policies are mutually reinforcing."

I have noted words such as "likely", "intended", "encourage", "voluntary" being used in the White Paper. I hope this is purely editorial style. I would have preferred to see more words such as "will" and "must". I trust in future planning, in programme implementation, in recommending new legislation and amendments, the Administration will be more decisive than the overall tone of the White Paper.

Let me just cite one example. In the "Planning against Pollution" chapter and I quote, "In order to improve the statutory basis for planning against pollution, it is the Government's intention to include, among the proposals that are being put forward in the current review of the Town Planning Ordinance, certain important provisions that relate to environmental planning ..." Intention is simply too weak and vague. The Administration must not be afraid to make definite commitments in controversial and difficult areas or I can guarantee we will be wasting billions of the taxpayers' money.

On the proposed administrative framework, I cannot but feel that the future role of the Environmental Protection Department (EPD) would seem to be too subservient. I hope my impression is wrong -- because with the high calibre professionals we have in that department, it would be a real shame if their expertise will not be fully utilized as a result of the reorganisation. For example, some of the major projects, such as the new airport, will have major environmental implications. I trust there will be a proper mechanism for the EPD to have a strong voice in framing these major project plans.

On funding, the \$20 billion earmarked, on first impression, may appear to be a substantial sum. Further analysis, however, indicates that this may not be sufficient over a 10-year period if we are really to correct the situation. As such, I must urge the Government not to let the turmoil in China or a temporary economic slowdown unduly affect the commitment made on the spending programmes. We must view having a cleaner, healthier and safer environment as one of the key elements in



maintaining long-term confidence in Hong Kong.

On enforcement and compliance, we really must get tough. It is useless to "encourage" compliance because it simply would not work. The Government's "hands off" approach has worked well for Hong Kong in many other ways -- but this approach should not be adopted in our anti-pollution drive. We are running out of time; we simply cannot afford reliance on friendly persuasion. The industrialists must be made to understand that investment in clean technology will be cheaper long term rather than paying "penalties" in the future in the form of buildings requiring more frequent maintenance, in higher medical costs for the staff and a whole string of other hidden costs. I am glad to note that specific changes such as removal of exemptions and the allowance of a 30% increase in discharge over and above the amount discharged at the time the controls in a particular Water Control Zone are implemented will be incorporated into an amended Ordinance in 1990. We need to take more similar specific actions.

Finally, on environmental education, I am glad to see the wide-ranging programmes planned or proposed across the community and at all levels. This is a vital seeding programme for the long pull.

One comment I have relates to the publicity campaign. The sum of \$400,000 allocated for a general publicity campaign in 1989-90 is totally inadequate. Either we spend say \$5 million or we should save the \$400,000. Any public relations or advertising professional would be able to substantiate that spending \$400,000 would be like throwing the money into our polluted harbour. I therefore strongly urge the Administration to re-evaluate this particular item of expenditure -- we must be able to come up with a more meaningful figure.

In conclusion, I would like to take this opportunity to call on all of us to "pitch in" and make Hong Kong an even better place to work and live in.

With these remarks, Sir, I support the motion.

MR. CHOW (in Cantonese): Sir, I trust everyone who receives a copy of the White Paper would agree to its title "Pollution -- A time to act". Although we may not have foresight on the issue of environmental protection, we must at least be able to acquire a sound knowledge of the subject. Otherwise, we would have unknowingly become a person like Qin Gui ( ) or would in effect leave even more stink behind than Qin.

I have not been exaggerating by so saying. Just imagine, how many non-decomposable plastic bags will our family members or maidservants bring home again today from the market?

The White Paper has listed in sequence the ways by which the Administration will overcome pollution caused in the future by waste, sewage, air and noise. These are technical matters with not many areas that we can respond to. With regard to the control of solid waste, the White Paper is only repeating the contents of the consultative document "Draft Waste Disposal Plan for Hong Kong", emphasizing the use of landfills. Another more radical solution, the recycling of waste, has not been recommended. As stated in the White Paper, the lifespan of three large landfills is estimated at only 15 to 20 years. This is certainly not a long-term solution. Moreover, with some non-decomposable material buried underground for a long period, the ecological hazards caused should not be overlooked. Unless our Government is going to follow Italy's example, by prohibiting across the board the production of non-decomposable plastic bags by 1991, otherwise waste recycling is the best way out. Although the recent campaign of retrieval of plastic bags in Sha Tin has not been successful, the Government should still conduct a full-scale and in-depth investigation into the strategy. At least I do not agree to what the White Paper states: that the Government should not get directly involved in this area. If the plan is practicable and can relieve the pressure on landfills, bringing with it commendable social effects, the taxpayers would find it acceptable even though the Government will have to subsidize it.

This brings forth another issue -- environmental education. The publicity on environmental protection launched so far by the Government is only confined to advising people to "pitch in". This only provides protection for the visible environment, and facilitates the authorities in collecting garbage and sewage. After a brief process of compression and secondary treatment, the waste is dumped to a place not within our sight and discharged into the open sea. Do we really believe that "with no dirt in sight, cleanliness can be assumed"? In the area of educational publicity, why does the Government not encourage people to create less litter by using plastic bags less frequently and by categorizing waste to facilitate its collection? Just imagine, a tin of cookies presented as a gift to a friend needs to be packed in a cardboard, covered with a piece of wrapping paper and then placed in a plastic bag, not to mention that there is also a lining sheet inside the tin. Is it not too much trouble? The point is, the growth rate of garbage in Hong Kong during the recent years is greater than our economic growth. The plastic garbage collected in

Hong Kong in 1987 amounts to 16% of the garbage collected by the public sector, nearly doubling those in large cities of Western countries.

In the eyes of the Government, the environment is only of biological significance and is confined to the problem of municipal pollution. As such, it is not considered in relation to such problems as global ecology, population expansion and protection of natural resources, not to mention other countries' perception of green culture in consequence of an examination on red socialism and grey industrialism. Education on environment as promoted by the Government is another kind of environmental destruction.

Apart from education, another two focal points of the Environmental Protection Department (EPD) are legislation together with its enforcement and environmental planning. In the 1977 Environmental Resources Consultancy Report, several legislative items were recommended. Four of the five statutes concerned have already been passed. As regards the legislation concerning "the impact of working environment on individuals," it is not known whether drafting will proceed. The existing loopholes in the legislation and the light penalties imposed on offenders have turned the laws into "paper tigers". In a recent case, 28 factory operators of the Tsing Yi Industrial Centre made a joint appeal, challenging the legal effect of the notification on air pollution served by the Environmental Protection Department. This is the best example to illustrate the doubts cast upon our air control laws. In these cases, Environmental Protection Department officials feel frustrated, but this is insignificant when compared with the "frustration" borne by the Tsing Yi residents over the past few years and in the years to come.

The attitude of tolerance and persuasion adopted in the past by the Government towards polluters has proved a failure. On the theoretical front, Dr. YIP Po-keung, in an article in Ming Pao Monthly in 1987, compared the "Prisoners' Dilemma" in the Game Theory to environmental pollution, conveying the conviction that a "rational economic man" in a free economy is a polluter, and that the pollution of the market mechanism is also deteriorating. Undoubtedly, the introduction of draconian measures brooks no delay. We do not want to be hostile to all industrialists, but today, we should join forces with all those good-natured industrialists to restore the reputation of the business sector and to combat a small minority of people who destroy the environment.

The case of Mayfair Gardens in Tsing Yi has made us realize the impact of town

planning on the environment. The White Paper reveals that a planning department would be set up in 1990 to carry out planning work at different levels. In the Town Planning Ordinance under review, the "Environment Hong Kong 1989" also tells us that new legislation would require that environmental planning objectives should be included at various levels of planning, the element of environment should be included in planning and its related research, and environmental assessments should be made when formulating certain development plans. Moreover, a chapter on "Environment" has already been inserted in the "Hong Kong Planning Standards and Guidelines" in 1985. The progress in these areas is very encouraging. Nevertheless, there is still room for improvement. As far as the legislation and the guidelines are concerned the existing Town Planning Ordinance does not empower the town planners to enforce the plans. The Town Planning Board is only responsible for the "Outline Zoning Plan", whereas the higher level of "Development Strategy Study" is undertaken by the administrative department. The EPD Annual Review 1988 has stated that provisions on "potentially hazardous installations" might be included in the chapter on environment under the "Guidelines". However, the EPD Annual Review 1989 has made no mention of the matter. These problems boil down to two aspects, the ability of planners and public involvement. Planners should have the power to enforce plans and the knowledge about environmental management. At present, they are only required to consider environmental problems under the planning guidelines. But even so, do they have the necessary knowledge? The planning curriculum of the University of Hong Kong only offers the subject on "energy" but not on "environmental management." Is this inadequate? Is there relevant in-service training for serving town planners? As regards public involvement, is it necessary to stipulate by law the right of the public to be consulted? Will the rights of the public to voice objections concerning overall planning be expanded if the "Development Strategy Study" is to be undertaken by the Town Planning Board? Will the understanding of the public be enhanced if the details of "Environmental Impact Assessment" are released? How can the planning concerning the living environment of the public be dealt with by only a small group of people behind closed doors!

Everybody has his own duty in the protection of the environment. The road towards environment protection is rugged, long and winding. There is a saying about young people which is also applicable in environmental protection: "Young men, the world is yours, and also ours; but ultimately, it is yours." In that case, how can we destroy the world of our descendants?

Sir, with these remarks, I support the motion.

MRS. LAU: Sir, in 1988 the Government made a firm commitment to embark on a comprehensive programme for environmental improvements extending over the next decade. The White Paper on pollution reconfirms the determination on the part of Government to make Hong Kong a better place for all of us to live in. The White Paper could not have been published at a more appropriate time. OMELCO's theme for advocating our right of abode cause is that "Hong Kong is our Home". Since we claim Hong Kong to be our home, so much more should we take steps to ensure that it is a clean, healthy and hygienic place for habitation.

One theme underlying Government's overall policy objectives in all areas of pollution is the availability and enforcement of legislation aimed at safeguarding the health and welfare of the community from adverse environmental effects. We already have four principal environmental legislations constituting the legal framework for combating pollution. The Water Pollution Control Ordinance and the Waste Disposal Ordinance both date back to 1980; the Air Pollution Control Ordinance dates back to 1983 and the most recent one is the Noise Control Ordinance in 1988. Despite these legislative controls, our streams and nullahs remain heavily polluted; our bathing beaches close down one after another; dark smoke from chimneys on top of industrial buildings continue to harrass nearby residential accommodation.

In my view, our current scheme of legislative control suffers a number of drawbacks:

- (1) Our environmental legislations are complex and not easily understood by those who have to comply with them.
- (2) Some of our environmental legislations are not stringent enough.
- (3) Our enforcement measures have been slack, piece-meal, half-hearted and lacking in objective.

In regard to complexity of our environmental legislations, although Government has published guidelines and technical memoranda to facilitate ease of comprehension, the subject matter remains complex and few people take the trouble of reading them. In this connection, I feel that it may be desirable to simplify our legislations to make them more comprehensible to the ordinary person. At the same time, efforts

should be made to reach out to potential polluters to explain the legislations to them and to provide them with guidance as to how to comply with the law. Whilst Government's plan is to regionalize control activities, I feel that steps should be taken at district level to promote better understanding of the relevant laws to secure due compliance.

The White Paper acknowledges that some of our legislations contain deficiencies, in fact anomalies. The most notable example is the Water Pollution Control Ordinance which provides for exemptions and allowances to be granted to existing polluters. These provisions which give undue preference and favouritism cannot be sustained and I am pleased that action will be taken in 1990 to remove them. Other areas in the law also require tightening or even toughening up, but in the course of doing so, I urge Government to fully consult and take into account the views expressed by all those who would be expected to comply with such laws. This will ensure that our laws will be strict but not unfair.

In regard to enforcement measures, our various anti-pollution laws have been enforced by a number of departments, including the Environmental Protection Department, the Royal Hong Kong Police Force and the Buildings and Lands Department. I believe that the police must of necessity place primary emphasis on maintenance of internal order and security and therefore only low priority can be accorded to enforcement of anti-pollution laws. The Building and Lands Department is already working to full capacity in enforcing the provisions of the Buildings Ordinance and dealing with illegal structures. How much of its staff resources can it allocate to pollution enforcement duties? In the past, enforcement action has essentially been taken in response to complaints. The result is that few prosecutions have been brought. Over the past three years, less than 200 prosecutions per year have been brought under the Air Pollution Control Ordinance. After declaration of the first water control zone under the Water Pollution Control Ordinance in April 1988, only four prosecutions under that Ordinance have been laid. Since implementation of livestock waste controls under the Waste Disposal Ordinance as from June 1988, 11 cases have been prosecuted. These prosecution figures serve to indicate one thing: the majority of polluters have not been brought to justice.

The White Paper acknowledges that successful enforcement of our anti-pollution legislation requires frequent inspection and regular investigation by the law enforcement units. The Environmental Protection Department has in its recent publication entitled "Environment Hong Kong 1989" laid down target performance

measures for enforcement which include the nature and frequency of inspections and investigations required to effectively enforce the environmental legislations. I am disappointed that such target performance measures are not carried through to the White Paper so that there is no commitment on the part of Government that these measures will be implemented. Indeed the White Paper contains no concrete proposals at all as to how enforcement is to be effectively carried out. Now that major policy initiatives have been identified and targetted and that we are proceeding to invest heavily in environmental improvements, I am of the opinion that it is time to lay down in clear terms proper enforcement guidelines and objectives so that they may be followed by the various law enforcement departments. It is also time to review three other issues relating to enforcement: firstly, whether the scope of enforcement duties of the various departments is sufficiently well defined; secondly, whether these departments are adequately staffed to carry out those duties; and thirdly, how the various departments carrying out law enforcement may be better co-ordinated to achieve more efficient results. I wish to add that although it is important that those enforcing the law should be able to respond quickly to public complaints, it is insufficient to merely respond to complaints without taking enforcement initiatives, for to do so would be merely to react and not to act.

In regard to compliance, I support Government's objective to provide sufficient technical assistance and advice to potential polluters. As I have mentioned in the policy debate last year, I believe that, given proper guidance, many industrialists would be willing to undertake voluntary remedial measures with a view to eliminating pollution at source. In our battle against pollution, we need the concerted efforts and co-operation of all concerned. In my view, it is wrong to simply enforce the law without demonstrating and affording guidance as to how the law may be complied with. Training and provision of advice is of course fine but when it comes to installation of pollution control equipment, this may present some difficulty to the small factory operator. I feel that it is only right that these operators should not only be encouraged but also financially assisted to install such equipment. In this regard, I urge Government to consider allowing such equipment to qualify for a higher rate of tax concession. In cases where such equipment cannot be installed without creating financial hardship to the individual operator, perhaps Government should consider granting loans generously at low interest rates to enable the installation to be made.

Sir, the White Paper aims to put right a serious and deeply-entrenched wrong of the past. The various policies relating to environmental improvements require not

only firm commitment on the part of Government but also the understanding and co-operation of the general public. It is a time not only for Government to act but for all of us to act to make Hong Kong a cleaner and better place to live.

Sir, with these remarks, I support the motion.

DR. LEONG: Sir, I rise to speak in support of the aim of the White Paper on Pollution in Hong Kong -- A Time to Act. In particular, I would like to comment on the following issues:

(a) that Government acknowledges that in the past too little emphasis was attached to the needs of environment pollution;

(b) that Government is serious in its commitment to save our environment through a comprehensive 10-year plan to tackle pollution; the setting up of a new administrative framework to oversee the implementation of these comprehensive plans and the willingness in resources allocation;

(c) last, but perhaps most important, that Government is embarking on a planned long-term environmental educational programme to ensure that a more positive approach is taken on board for our future generations.

Sir, I would not be doing justice to the White Paper if I do not point out certain pitfalls and omissions in it, especially the lack of consideration of the impact of the working environment on health.

I would like to address noise pollution and health. Indeed, Hong Kong has become by academic standard the "noisiest" city in the world. An average Hong Kong citizen is exposed to excessive noise for some 17 hours a day, mainly from aircraft, construction works and road traffic. The latter, that is road traffic, accounts for probably the longest duration of sustained high noise level of 70 to 90 decibels, well exceeding the acceptable level of 60 dB.

The introduction of the Noise Control Ordinance by stages this year will hopefully see a progressive control of the noise problem from construction works.

Though comprehensive in its analysis of noise pollution, this White Paper, Sir,



however, fails to address the issue of prolonged exposure to unacceptable noise level in certain working environment which at its worst may lead to a progressive loss of hearing, or at least as a start, may result in an indirect impact on health through the following:

(a) production of abnormal blood pressure;

(b) loss of appetite;

(c) upset of metabolism; and

(d) insomnia.

I would like to address another issue -- air pollution and health. It is accepted without doubt that the increased incidence of respiratory diseases is directly attributed to air pollution. In the United Kingdom, for example, the incidence of chronic bronchitis is highest in industrial cities where excessive air pollution is the cause of smog production through rapid development of industrialization.

This White Paper acknowledges that the high level of air pollution the people of Hong Kong is constantly exposed to is the result of industrial smoke and motor vehicles emissions, and has outlined plans to improve these conditions. Yet there are a few issues, which though minor at their face values, may produce vast disturbances to health and should be actually addressed:

(a) Passive smoking as an element which is deleterious to health. Whilst it is accepted that "smoking is hazardous to health", passive smoking in an enclosed environment is just as dangerous if not only socially unacceptable. Statistics have shown that similar hazards to health are found in passive as well as active smokers. In this regard, urgent consideration should be given to implementing the recommendations of the Council on Smoking and Health.

(b) Legionnaire's disease or "sick building syndrome". This particular syndrome has not been addressed. This is a silent killer, presently like a "flu" or "pneumonia", produced by rod-shaped bacteria known as "legionnaire pneumophilia". It is most common in an air-conditioning system that uses water sprays in its cooling towers. Ironically too, it is through these centralized closed air-conditioning system that rapid spread of such disease from office to office, ward to ward and so on may ensue,

again in a working environment.

A recent private survey has shown that some property owners in Hong Kong have blocked off some ventilation outlets of air-conditioning systems to save electricity, and that poor maintenance and irregular cleaning of air-conditioning system is not uncommon. Fortunately, Sir, legionnaire's disease is not yet a threat to Hong Kong. Yet I would suggest that active measures should be considered before it is too late;

(c) The complete lack of consideration of environmental air pollution in the planning of buildings reaches a crescendo in the erecting of hospitals surrounded by industrial buildings. One typical example, the Caritas Medical Centre which, for lack of adequate funding for centralized air-conditioning, has to open its windows for better cross ventilation. These windows unfortunately face directly the full blast of exhaust fans from the surrounding industrial buildings, completely to the detriment of the health of the poor inmates in the hospital. Such fallacies should be acknowledged and addressed, and better integration should be instituted, lest Hong Kong be drowned by its own pollution.

I would like to address another issue which is food pollution and health. Whilst the medical and health executives should be commended for their efforts in containing the spread of infectious diseases, we must not lose sight of the fact that food pollution is responsible for one of our major medical problems, that is, hepatitis. In two recent separate surveys done in the Princess Margaret Hospital, 60% of acute hepatitis cases are found to be either due to Hepatitis A or what they call non-A, non-B hepatitis, both being food-orientated infections.

Sir, all these examples are cited with one purpose in mind, which is, to emphasize the importance of integrated planning. Sir, all the health hazards that I have mentioned will lead to the loss of many manpower hours; they will also lead to substantial costs of treatment of these sufferers. Yet, they are all preventable with better planning and foresight. Not only is prevention always better than cure, but statistics all show that proper planning will be cheaper than managing the after-effects.

Finally, Sir, saving our environment entails not only the efforts of the Administration in planning and establishing the legislation, it also requires the community to take part. Take noise pollution as an example: it took painfully six years to draft and introduce the new noise control legislation, but it will still

remain to be seen when employers will provide ear protectors and when employees will respond by wearing them. Here lies the importance of education.

Sir, it is obvious that it will need a combination of firm government commitment, proper education and well-organized planning to provide a safe Hong Kong for our future generations. With these remarks, Sir, I support the motion.

MISS LEUNG (in Cantonese): Sir, I must first apologize for having to deliver an exceptionally lengthy speech. Despite the fact that more than a third of the original speech has been deleted, I shall still be taking longer time to deliver it, probably double that of other speeches in the debate.

Sir, as we all know, the condition of our environment certainly has a direct bearing on the quality of everyone's life. A pleasant environment is not only good for our health but also helps relieve us of our mental stress. Hence, a quality environment is an absolute necessity to both the individual and the whole community.

Sir, the issue of environmental pollution has been neglected for so long that its cumulative effect is now causing us severe problems. Apparently, little attention had been paid to our environment until the late 1970s when the Government began to show a little concern and take some measures to tackle the ever worsening problems of environmental pollution. However, instead of showing any substantive improvement, our pollution problems have become even more serious as a result of rapid economic development and a fast growing population. A heavily polluted environment is indeed a great hazard to our health, physical and mental. Now I think the task in front of us is as formidable as it is urgent. The first step we should take is to find out how we can prevent further aggravation of our environmental pollution problems.

Sir, at the opening of this Session of the Legislative Council on 12 October last year, his Excellency the Governor stated in his policy address that the Government was determined to stop our pollution problems from further worsening and bring about more improvements to our environment. He also highlighted the urgent need for a package of comprehensive and practical long-term environmental improvement plans.

Shortly afterwards on 25 October in the same year, the Executive Council instructed the relevant department to prepare a White Paper on possible actions

against environmental pollution. The department concerned lost no time in finishing this job and purposefully chose to release the policy paper (White Paper: Pollution in Hong Kong--A time to act), the first of its kind in Hong Kong, on 5 June this year to commemorate the World Environment Day. To enable the general public to have an idea of the future work of the Government, the White Paper outlines the measures which the Government will take in striving for a solution to our environmental pollution problems in the next decade.

Sir, to combat environmental problems is obviously a task which requires active participation of the entire population. We need every single resident to co-operate and do his or her share if we are to stand any chance of success. The White Paper has indeed provided us some basic ideas of Hong Kong's environmental protection policy and established a basis for deciding our course of actions. From now on, we should play an active role to furnish the Government with more suggestions on how best we can work together for a better environment.

Sir, it is time for me to give my preliminary views on the White Paper. The White paper has rightly indentified where our pollution problems lie. It has also admitted that these pollution problems have been allowed to grow because the Government did not pay attention to them seriously in the past. This pragmatic and self-criticizing attitude is worthy of our applause.

The White Paper has successfully established a number of comprehensive policy objectives for coping with various forms of pollution. These objectives can be used as a basis for future reviews to see if the existing plans and proposed arrangements are appropriate and adequate and whether they tie in with future development in the next 10 years. Chapter 9: Summary of main initiatives summarizes the main initiatives described in other chapters of the White Paper. One of its purposes is to serve as a checklist in assessing future progress against the planned target dates where and when such comparisons are necessary. This is, I believe, a good way of dealing with it. As regards some of the so-called policy objectives found in various chapters, they are, in fact, merely related to the enactment and enforcement of relevant legislation and therefore should not be deemed as objectives.

Sir, when this Council debated the Green Paper on Transport Policy in Hong Kong last Wednesday, I asked the Administration to advise us, when appropriate, of the guidelines on the publication of government documents in their various forms such as policy reports, White Papers, Green Papers and consultation papers. This time, the Government chose to publish its policy objectives and plans for combating

environmental pollution in the form of a White Paper. In presenting the White Paper to this Council on 21 June this year, the Secretary for Lands and Works said to the effect that the Government had dispensed with a Green Paper and went straight to publish the document in the form of a White Paper because our pollution problems were so serious that "time was of the essence on that subject matter."

At a briefing on the preparation of the White Paper held in early March this year, the Government told the OMELCO Standing Panel on Environmental Affairs that the paper was scheduled for publication in late July. At that time, panel Members urged the Government to bring forward its publication to avoid coinciding with the summer recess of this Council and the district boards and school vacation for fear that people might be less interested in giving views on this important document. The paper has now come out almost two months ahead of schedule. Given this fact, the Government is not justified to cite insufficient time as an excuse for by-passing the Green Paper stage and skipping the process of public consultation. I believe that two months would be long enough for the release of this document in the form of a Green Paper for public consultation.

Sir, in addressing this Council on 21 June this year, the Secretary for Lands and Works said, "This document is presented in the form of a White Paper. Nevertheless, public comments will be welcomed and we will be following our normal consultative processes with industry and with the municipal councils." It is plainly clear that by conducting a consultation of the present form, the Government will be able to obtain the views on pollution from those who create the problems rather than from the major victims of the problems. Moreover, the White Paper has not mentioned any available channels through which the allegedly welcomed public views can be collected.

As I have just said, positive participation of the entire population is required in combating pollution. Thus, the interest of the public in this task, their understanding of the problems and their views on the issue are extremely crucial to our anti-pollution work. I firmly believe that the district boards, in their capacity as the grassroots components of our political structure, can surely offer a lot of substantial views on pollution, especially on a district basis. Being well positioned to have direct contacts with the general public, they are also capable of leading the man in the street to declare war on pollution. Hence, the Government must actively seek the views of the district boards through consultation.

Sir, as for this motion debate on the White Paper, I would like to concentrate

on the aspects of noise pollution, environment planning and environmental education. Let me begin with noise pollution. Besides giving an unbiased description of the nature and sources of noise pollution in Hong Kong, Chapter 5: Noise recommends three major strategies against noise pollution. They are, firstly, to control specific sources of noise through enforcement of the Noise Control Ordinance and its associated regulations; secondly, to carry out preventive planning against noise and to assess new development projects for their noise implications; and, thirdly, to adopt remedial measures with a view to reducing noise impact on buildings seriously affected by noise pollution. I consider these strategies positive and effective.

On legislative controls of noise pollution, if the relevant Ordinances and regulations can be appropriately formulated and effectively enforced, some of the noise problems will be resolved. This can be readily done without having to spend enormous public funds. The fines so collected from offenders (of course I would not want to see offenders) can be used for other environmental improvement programmes as well. These measures are specifically taken against those who are responsible for noise pollution. They should be required to bear part of the cost of environmental improvement programmes.

Obviously town planning can be employed as an effective means to help us abate noise nuisances in our environment. In town planning, we should be most careful in dealing with the locations of industries, power stations, transport facilities such as roads, railways, and container ports that may give rise to noise problems and the zoning of noise-sensitive facilities such as hospitals, schools and residential blocks. These two groups of facilities should be segregated as far as possible. Well-balanced and appropriate land use zoning can reduce demand for vehicles in transport as well as the noise level from busy traffic on the road. We should also carry out noise impact assessment on those development projects that may generate serious noise and put them in the proper locations.

The White Paper points out that the authorities concerned will take remedial measures to abate the serious nuisances posed by noise from aircraft or road traffic on the affected land users. Accordingly the Government will be providing suitable noise insulation to government and aided schools that are seriously affected. Such remedial measures undoubtedly are worthy of our support. However, these remedial measures cannot be extended to all areas of the territory. After all, such an extensive coverage seems to be beyond the ability of the authorities concerned to cope with. As a result, noise pollution will continue to pose serious problems to

other schools and hospitals. On the other hand, the Government should also make a thorough review on ways to reduce the noise level of the Mass Transit Railway, the Kowloon-Canton Railway and road traffic. In my opinion, the Government should set up noise barriers along those sections of the road or railway which pose severe noise problems to the neighbourhood or re-surface stretches of road with noise reduction materials.

Sir, it can be said that the pollution problem we face today, to a large extent, is due to the lack of serious consideration of environmental planning in the course of development of Hong Kong. Undoubtedly, only those cities and territories that take environmental planning into full account can avoid inordinate developments which give rise to pollution problems to the detriment of the environment. Anyway, the points on policy objectives and planning in Chapter 6: Planning against pollution of the White Paper correspond generally with my views and are worthy of support.

Sir, land use planning that pays full regard to the environment factor is always a prerequisite for a healthy environment. Proper planning strategy and well-conceived layout plans can serve to lay good foundation for an ideal environment. However, development strategy and layout plans are usually not formulated according to expert opinions. Town planning in real life is often a kind of a political wrestling behind the scene. The final development strategy and layout plans are often the outcome of a political contest. The expert opinions of professional officers are often rejected at will.

Almost without exception, layout plans on land use can rather accurately reflect the balance of interests among the politicians, the senior officials, the business conglomerates and local influence. Whether we can rely solely on town planning as a means to combat the pollution problem in Hong Kong hinges on the awareness, understanding and the conscience of the senior officials and the politicians and even of the business conglomerates and the local people towards environment problems.

Sir, I would like to turn to the issue of environmental education now. In the absence of any active and well-organized promotion exercise seriously launched by the Government and the people with insight, and in view of the lack of any formal environmental education in our secondary and primary schools, the majority of the population have all along had very little understanding and awareness of the environmental aspect. Thus it is not surprising that the general public have very vague idea of environmental protection and control.

Sir, boosting of civic-mindedness, environmental awareness and education on environmental issues is an absolute prerequisite to preventing the further deterioration of the problem of environmental pollution and to actually improving our environment. If our efforts to resist environmental pollution fail to get co-operation and support from the whole population, they will bear little fruit, or even become futile. Thus, the promotion of territory-wide environmental education is a matter of urgency to Hong Kong, and an inceptive move to actually improve our environment.

One of the most effective means of promoting general environmental education is by way of the mass media, through which the message can be disseminated and promoted to the general public. In so doing, we hope the concern of our population may be aroused on the one hand, while direct information may also be imparted. Apart from this, we may launch a territory-wide anti-pollution campaign to protect our environment and to arouse public awareness on environmental improvement. Through participation, understanding of the general public towards the whole issue will be further enhanced. To make this work, a central body has to be set up for the co-ordination of all necessary matters. As a matter of fact, this idea was put forward by me in the first District Administrative Conference organized by the City and New Territories Administration in May 1983 on improvement of the environment.

Environmental Education should also be promoted in our schools so that environmental awareness and understanding may begin at childhood. Environmental studies may be incorporated in the syllabuses of other relevant subjects in junior secondary and primary classes, while a separate subject on environment should be designed for senior secondary and matriculation students to further enhance the general understanding and awareness of environmental affairs of our younger generation.

Lastly, Sir, I urge hereby that the Government ought to actively combat the problem of environmental pollution and to improve our environment. Though it is pointed out in Chapter one: Saving our Environment that at least \$20 billion (1988 prices) and at least 950 new staff will be required by Government alone over a period of 10 years" in order to implement all the new initiatives within the White Paper, I still feel that it is extremely worthwhile to do so.

Sir, with these remarks, I support the motion.



MR. SIT (in Cantonese): Sir, the recently published White Paper on Pollution in Hong Kong represents a milestone in the history of the territory. It spells out the seriousness of the causes leading to environmental pollution here. As rightly pointed out by you, Sir, at the opening of the 1988-89 Session of the Legislative Council, serious environmental pollution is an unfortunate by-product of Hong Kong's economic success and population growth. Besides, it is mainly due to past neglect over environmental pollution on the part of the Government and the public at large.

The White Paper on pollution and political reforms in Hong Kong are equally important. A democratic and liberal system of government alone cannot make Hong Kong an ideal place to live and work in peace and contentment if its environment is all in a mess.

I have every reason to believe that to live in a cleaner, healthier and quieter city is the common aspiration of all the people of Hong Kong.

The White Paper, totalling 50 pages, embodies the courage and determination of the Government to solve the pollution problems by depicting in great detail the 10-year plan, which is expected to cost at least \$20 billion if adopted. It is believed that the implementation of the recommendations on waste disposal, water quality control, the provision of sewerage, air quality and noise control, planning against pollution as well as on environmental education as set out in the White Paper, coupled with enhanced enforcement of legislation in connection with our environment, will bring tremendous improvement to the environmental pollution problems of the territory.

Indeed, it depends very much on our own effort to reduce pollution problems in Hong Kong. However, given the peculiar geographical location of Hong Kong, our efforts and inclinations alone will produce little results without the co-operation of our neighbouring territories. As pointed out in paragraphs 3.28 and 3.29 of the White Paper, the success of the various measures taken to protect the environment of Hong Kong could be seriously undermined if pollution from neighbouring territories is not kept in check. Hence, it is essential to establish a permanent environmental protection agency jointly with the Chinese authorities as soon as possible, to address the air and water pollution problems affecting both sides.

Lastly, I would like to state that in the course of implementing urban redevelopment programmes under the Metroplan, particularly those in Yau Tsim and Mong Kok districts, the departments concerned, in particular the Land Development Corporation, should fully consult residents of the affected districts, the respective district boards and district offices, before working out specific redevelopment programme or projects, so as to make the best use of opportunities and social resources available in a bid to improve our environment.

Sir, in response to the "Hong Kong is Our Home" Campaign launched by OMELCO Members in presenting Hong Kong's case on the British Nationality Act, let us work hand in hand, with the White Paper's proposals as a basis, in our long and persistent combat against environmental pollution in the territory. We must work towards the goal of further enhancing our living and working environment. In this, I am sure victory will be ours.

Sir, with these remarks, I support the motion.

MRS. SO (in Cantonese): Sir, as a result of rapid economic development in the recent two decades, Hong Kong has become the focus of international attention as one of the four little dragons in Asia. However, having set its mind solely on achieving economic growth in the past years, Hong Kong has failed to realize the need for environmental protection and is now suffering serious environmental pollution problems. On 5 June this year, the Government released the White Paper on pollution in Hong Kong, which lays down plans for environmental improvements in the next 10 years. Although the publication of this White Paper is, in a sense, very much belated, it reflects Government's concern with the issue of environmental protection and its determination to reduce environmental pollution.

Air pollution problems are mostly related to contents of fuel oil. The White Paper proposes to prohibit and restrict the sulphur and lead contents of fuel oil and to control emissions from vehicles. I agree to all these proposals.

As regards incinerators which are one of the sources of air pollution, the White Paper points out that they will be phased out in the next six years. This is indeed a piece of heartening news. None the less, the White Paper has failed to mention what measures would be taken to minimize the effect of these incinerators on air pollution before they are totally phased out.

Apart from outdoor pollution, we must also pay attention to indoor pollution problems as well. At present, the appallingly poor air quality in many indoor working places is a serious health hazard to workers. Besides asbestos, there are other air pollutants which include sulphur dioxide and nitrogen dioxide.

Regarding improvements to our water quality, I welcome the Government's preparation of the Sewerage Master Plans. These plans must, however, be properly geared in relation to our sewage treatment and disposal measures, otherwise our water quality improvement projects will be jeopardized. The White Paper has put forth two possible options of treating sewage. The first option is to have the sewage thoroughly treated before discharging it into the coastal waters. The second option is to dispose of the effluents well away from our shores through marine outfalls after it has been mildly treated. I think the latter is more practicable because it incurs relatively low maintenance cost and there is no need to provide sites for building large sewage treatment plants. None the less, efforts must be made to reduce the adverse effect of the discharged sewage on our deep sea ecology. The Government should endeavour to prevent treatment-resistant and insoluble pollutants, such as toxic chemicals, from being drained into the sea.

Where promotion of environmental protection education is concerned, I support the relevant recommendations of the White Paper. It has been proposed to introduce environmental studies at senior secondary level and degree courses in environment-related engineering science and management studies in the universities. However, the Government should seek to extend the teaching of environmental subjects to primary classes so that children can be educated on the importance of environmental protection at an early age.

At present, the Government and non-government environmental protection groups are each acting on their own policies in promoting environmental protection. As resources available for this purpose are thinly scattered, it is quite impossible to centralize their deployment and use. In order to promote environmental protection education in a systematic manner, the Government should set up an environmental protection education committee comprising community and government representatives to enable joint deliberation and planning on matters of this nature.

Besides, the Government should also allocate more publicity funds for promoting public awareness of the importance of environmental protection. In the past five

years, public spending on publicity for environmental protection amounted to just \$400,000. The allocation of funds for publicity of this kind has now been raised to \$400,000 for the year 1989-1990 alone. However, when compared with the publicity funds allocated to other government departments, this meagre sum is simply not worth mentioning. Given such a small amount of publicity funds, it is rather difficult to achieve the objective of educating the public about the importance of environmental protection.

Apart from relying upon the introduction of legislative controls and deterrent measures by the Government, the success of any effort to solve the pollution problems in Hong Kong must also depend on extensive publicity work. If members of the public come to realize the importance of environmental protection, it will go a long way towards rectifying our present environmental situation.

Sir, with these remarks, I support the motion.

MR. TIEN: Sir, in his speech to this Council in last October, His Excellency devoted a good proportion of his remarks to the problems of the environment. He stressed the seriousness of environmental pollution in Hong Kong. Moreover, he identified pollution generally as "one unfortunate by-product of our economic success". We are all coming to realize that with increasing prosperity, we have increasing pollution.

When the environment is contaminated and fouled, everyone is the loser. We all lose from littering, from excessive motor exhaust, from marine pollution and from the consequences of our own human waste. Unfortunately, there are still too many people in Hong Kong who fail to see this need for self-discipline. Indeed the key to solving the question of pollution essentially rests with self-discipline. This is not to deny the need for the discipline of the law. But the policing of the polluters is only likely to be successful if a policeman stands behind every would-be polluter. Such an idea is quite unrealistic.

The White Paper on Pollution states the nature of Hong Kong's pollution problem and explains the plans of Government in tackling the problem over the next 10 years. There are nine chapters covering a wide range of topics ranging from air, water, noise and solid waste pollution to planning, enforcement, compliance and environmental education.

On the whole, the White Paper is a comprehensive document on Government's pollution control policy. Good initiatives have been proposed, particularly in respect of improvement on environmental planning, expansion of environmental education and assistance to industry in pollution control. The White Paper proposals are grouped under two categories, namely, industry-related specifics and other specifics.

Industry has always been blamed for causing pollution affecting nearby residents. On Tsing Yi Island residents around Tsing Yi industrial centre and Mayfair Gardens complained the first day they moved in about pollution from nearby factories. However, the fact is the factories were there first. Industrialists paid for the land and paid for the building, then the residents moved in. They moved in knowing the factories were there. They moved in because those residential units were cheaper. It is bad town planning that allow residential units to be constructed around factories that created a problem on Tsing Yi Island, not industry.

Sir, I would like to comment on some industry-related specifics. Paragraph 3.7 states that one of Government's overall policy objectives for water pollution is "to provide public sewerage of adequate size to accept all existing and prospective waste water discharges". To achieve this objective, the Government is preparing 21 Sewerage Master Plans (SMPs). Based on the SMPs, new sewer construction works will be undertaken. So far, only two SMPs have been largely completed and other SMPs will be prepared over the next five years.

In the meantime, new water control zones will be declared. Industries in the new water control zones which are still not served by adequate size sewers when the new water control zones are declared will have to treat their waste water to a much more stringent discharge requirement, because the non-availability of an adequate sewage system will force industry to discharge to a stream or the sea. Thus the pollution control cost to be borne by industry will inevitably be higher. To help industry reduce the cost of pollution control, I suggest that new sewers of adequate capacity be constructed prior to the declaration of a new water control zone or prior to controlling industrial waste water from an area which has been declared a water control zone.

On qualified staff, paragraph 3.26 states that "minimum qualification requirements should be established for people who maintain and operate such (treatment) plants". As industrialists will have to assign or employ staff to

maintain and operate waste water treatment plants, it will be necessary for industrialists to know the minimum qualification requirements of the staff to be recruited and whether they are available from our tertiary institutions and also to assess the cost implications.

On water pollution, I am pleased to see that the White Paper sets out, at various places in the document, ways of coming to terms with vehicle emission. The Government's proposals as set out in paragraph 4.21 will no doubt assist in curbing smoke emission problems. Here we have special problems with diesel-engined vehicles used by taxis, light buses and goods vehicles. Research has shown that noxious vehicle fumes are considerable health hazard which causes concentrations of nitrogen oxides. I hope that our control standards for motor vehicle emissions in Hong Kong can be drastically improved.

Paragraph 4.16 states that "the only effective way of dealing with the sulphur dioxide problem is to extend the existing regulations to prohibit the use of industrial fuel oil with a sulphur content greater than 0.5% by weight". However, sulphur dioxide is only one of the many air pollutants. The Government should state the amount of reduction of air pollutants obtainable if factories have to use low sulphur content fuel oil.

The Government should also state the cost implications to Hong Kong, for example to industry such as the textile bleaching and dyeing industry and its downstream industries.

On enforcement and compliance policies, paragraph 7.5 states that "if the smaller factory operators are not to be squeezed out of business by the pollution controls that must be applied, they will have to get assistance and advice to help them to comply". However, the White Paper does not explain the assistance and advice which would be offered at prices which small factories can afford.

Farmers are getting much more than just technical assistance and advice from Government for controlling agricultural waste. Farmers actually receive a subsidy for the installation of treatment facilities.

Sir, if not all polluting factories can be subsidized, at least small factories which are financially not much stronger than farmers should be considered for such assistance.

Paragraph 7.9 states that "the private sector can also play a significant role in 'environmental auditing' ". It is very difficult for small and even medium-size factories to undertake "environmental auditing" without assistance. They do not have such expertise and, worst still, such expertise is not readily available in Hong Kong. The Government should formulate specific programme to assist industries in such environmental auditing. Otherwise, they would simply do nothing but pay a fine when caught. Certainly that is not our objective.

Paragraph 7.14 states that "Government therefore intends to review the current level and mechanism of support to industry". I feel the Government should be specific in stating the time frame for those reviews to match the pace of enacting pollution control legislation.

Sir, I would now turn to the second category, that is, other specifics. Paragraph 1.6 states that "at least \$20 billion and at least 950 new staff would be required by Government over a period of 10 years" to implement the initiatives proposed in the White Paper. If law enforcement is to be strengthened as years go by, the provision of assistance should be expanded to match the increase. The Government should also state the duties of those officers and the number of officers to be deployed to control industrial pollution.

Paragraph 2.14 states that refuse transfer stations (RTS) are built to reduce the number of waste-carrying vehicles transporting municipal wastes to the landfills (since RTS is written under the sub-heading of Municipal Wastes).

However, there is a large quantity of wastes, for example, industrial waste, being collected by private collectors using smaller vehicles. If the private collectors cannot use the RTS then the objective of using containerized road vehicles to transport wastes to landfills cannot be achieved. I suggest the RTS should be open to every one.

Paragraph 2.33 states that it is the intention "to extend the power to issue licences under the (Waste Disposal Ordinance) to cover all major landfills, public dumps, incinerators, transfer stations, chemical waste treatment plants and waste recycling/recovery plants".

However, there is no control on privately operated dumping sites, such as those

on agricultural land and therefore these dumping sites will continue to exist.

Sir, the administration of pollution control is itself a complex matter. For years it was a matter given over to a number of unrelated and unco-ordinated departments. No one department was wholly responsible for environmental protection and this fragmented approach was not successful. Good co-ordination, good administration and good planning are essential to good pollution control. The White Paper sets out the new administrative framework "to carry forward existing environmental programmes and new initiatives". While this aspect is to be welcomed, I nevertheless believe that three administrative bodies, the Planning, Environment and Land Branch, the Drainage Services Department and the Planning Department, as set out in paragraph 1.8, may tend to overlap or even compete with each other in this aspect.

Sir, I spoke earlier of self-discipline as more effective than external discipline. If one were to glance at the harbour any morning it is clear that self-discipline is not, as yet, well understood.

For people are still taking the idea of a throw-away society too literally. We need all the changes set out in the White Paper. But above all, we need a change of heart.

Sir, with these words, I support the motion.

MR. MARTIN LEE: Sir, pollution in the form of waste comes from everybody in Hong Kong whether young or old. Every time we eat or wash our hands or go to the toilet or write a speech, particularly long speeches, we generate waste of one kind or another which may cause a problem to our environment. Thus everybody has a responsibility to help solve our pollution problem. And it is of course a truism that unless we have the fullest support of the public we are not going to be able to keep Hong Kong clean. For years the Government has done next to nothing about our pollution problem. Now that we have got this White Paper, we must ensure that the public will not think that the problem will therefore be contained. Quite frankly, Sir, I am worried; for I can see no sense of urgency at all in our community and the general public does not seem to be aware of the nature or extent of the problem. How many people in Hong Kong, including Members in this Chamber, will know that everybody in Hong Kong has the use of an average of three plastic bags per day? Plastic bags are of course neat



and convenient, but unfortunately they take a long time to disintegrate. The point is: do we need really so many plastic bags per day? I recently took my young boy into a bakery corner of a department store where there were lovely breads of all kinds and shapes -- onion bread, chocolate bread, butter bread and you name it, they have it. It is a self-help corner where one takes up a tray and picks loaves off the shelf. My boy picked up seven small loaves and then it was time to pay. The young lady at the check-out counter put each of the loaves into a little bag. So there were seven little bags which all found their way into a large bag. And when I thought of the pollution problem my boy had caused, my appetite left me.

Sir, there was a report last week of the failure of a pilot scheme to collect plastic waste in Sha Kok Estate in Sha Tin for recycling purposes. The original aim was to collect 14 000 kg of plastic waste but they only managed to collect 139 kg, just short of 1%. The conclusion was that the residents there were most apathetic. But is it right that we should blame them for the apathy when they may not even know what the problem was? What can be done? I suggest we must bring the urgent message to our people through practical means and we must be able to give incentives. First of all, we need better public relations to sell the White Paper. I have suggested engaging a public relations consultancy firm from the private sector to come up with some bright ideas for this very dull topic. We must be prepared to spend more money to promote the aims set out in the White Paper. The \$1 million allotted for this purpose, with a lot of help from you, Sir, I understand, is still grossly inadequate.

As to recycling which is the unanimous objective of Members of the OMELCO Standing Panel on Environmental Affairs, I suggest we must introduce a system which is both simple to implement and attractive to the public. My thoughts are these: we should separate refuse into two categories -- those that can be recycled, like newspaper, other forms of paper, plastic bags, bottles, dry battery cells, tins and so on and those that cannot be recycled, like the leftovers of our meals. And we will provide an incentive in the form of offering a price per pound for such recyclable refuse. I remember when I was a little boy, Sir, there used to be a woman coming to the flat once a week and she would buy all newspapers from us. I could not believe it and said to my mother, "She is actually paying money for refuse?" But somehow the idea was not popular any more. I think we should resurrect it. We should encourage the public to put all sorts of recyclable refuse into one bin and then another bin for refuse which is not recyclable. I suggest, Sir, this should be left to the private enterprise because they have more ideas and I think they can make money from it too.

As to the pollution caused by factories, I have heard Members of this Council taking different views and I dare say I was impressed by both. On the one hand we have got speeches from honourable Members that the creators of the pollution must be punished; they must pay and so on. On the other hand I heard speeches that in relation to some cases the factories were there first and the housing estates only moved in subsequently. So what are we to do? One way of course is to give the factory operators more time before they will be required to comply with the law. But I do not think we can wait. I have suggested to this Council when we had a debate earlier this year on the Budget that we should try to cushion the hardship that might befall some of our smaller factory owners or operators by allowing them tax deductions for chemical outlays, for new equipment in order to enable them to comply with our new anti-pollution regulations. I also suggested the setting up of an environmental fund with contributions from the public coffers as well as from industry itself so that low interest loans or even interest free loans might be given to our small factory owners or operators who need financial assistance in order to install the necessary new equipment or to take other necessary measures to comply with the law. These measures, I believe, will alleviate the financial burden of our small factory owners and operators and ought to pave the way for the strict enforcement of our law.

With these remarks, Sir, I support the motion.

SECRETARY FOR LANDS AND WORKS: Sir, this is the first ever debate in this Council on environmental pollution as such. Its subject is the first ever White Paper on pollution. It is a White Paper because it summarizes not ideas or proposals for what Government might do in the future to counteract pollution, but the programmes and projects to which Government is already committed. Its full title is "Pollution in Hong Kong -- A Time to Act".

The White Paper on pollution was published on World Environment Day, which was 5 June, -- not, I am afraid, a very good day for Hong Kong, and not a good one in which to compete for the publicity which we wanted. Today is a much better day to debate it, following as it does a week in which, as Mrs. TAM mentioned, the agenda of the Group of Seven meeting in Paris has actually more environmental than political content. So I am especially grateful to Members for their support and encouragement today which will help spread the message. Publicity will continue. We are in the last stage of appointing a public relations consultant who will assist Government in preparing and carrying out the public relations campaign to drive home the

anti-pollution and environmental message of the White Paper. And I may say that extra resources including \$1 million, which Mr. LEE mentioned, in cash and far more in free radio and TV time will be available for this purpose.

We are all deeply concerned about Hong Kong in one way or another. The White Paper on pollution is both a statement of the Government concern and a call for others to be concerned about the environment in Hong Kong. While our housing, social services and our livelihoods have all improved, our air has become dirtier, our waters more polluted and our background even noisier. We have not done nearly enough in the past to check this pollution of the environment and the White Paper is inevitably a back-log of expenditure, educational measures and enforcement which should have happened and have been paid for. There is still an opportunity for it to happen now, but it will not be there for long and the longer we wait, the worse will be the problems and the greater the costs. And as Mr. BARROW mentioned, our tourist industry will not wait either. We must not stop at just clearing a back-log; we must not be content with merely acceptable standards; they must be high so that Hong Kong can hold up its head to the rest of the world confidently that it is really living up to its Chinese name. This is not a dream. Japan, with its heavy industry, once had much worse pollution than we have now, but it decided not only to clean up but to set really high standards -- and it did so, and in many cases achieved them. Singapore did it too.

The White Paper sets out comprehensively, for the first time ever in one document, our objectives for tackling the main problem areas -- waste, water, air and noise -- and it states our programmes for dealing with these problems. We have backed this up with strategies for enforcement, education and planning -- all, as Members have noted, essential components of the anti-pollution drive. In all, there are 100 strategies in the White Paper, and we have already begun taking action on each one. We have already achieved five -- modest ones. The target dates are bold, and are of course subject to resources, but a bold approach is needed if we are to make substantial improvements relatively quickly. We will monitor progress ruthlessly through the two-yearly reviews of the White Paper, and this will also give us room to manoeuvre if the situation so demands.

We will shortly be consulting industry over some major initiatives. For instance we think that it is particularly important and right to bring about a reduction of sulphur in fuel oil, for we all have to breathe and we all have a right to breathe clean air. And we also attach great urgency to tightening up the Water Pollution

Control Ordinance to reduce the amounts of industrial effluents polluting our waters. I hope the industrialists and legislators who represent them will realize that the reduction of the pollution of our waters is the aim of the Water Pollution Control Ordinance. And if delays, exceptions and exemptions are continuously insisted upon, this aim will simply not be achieved. And we will not have cleaner waters. These two pieces are perhaps our most urgent pieces of legislation, but the White Paper on pollution seeks public acceptance of a simpler and more basic message that no one has the right to pollute and any industrial activity which creates pollution must include measures for its abatement or cease. And further, industry including farming must not seek public subsidy for abatement; the polluter should himself pay.

While placing responsibility firmly on polluters to "put their houses in order", the White Paper also points out that in very many cases it is relatively inexpensive to install anti-pollution measures. I would like to see more small factories and workshops making use of the services provided by the Productivity Council. The Government will also encourage such initiatives as the centre of Environmental Technology for Industry established at the City Polytechnic in co-operation with the Productivity Council, and with financial assistance from the Hong Kong and Shanghai Bank. The centre will demonstrate non-polluting treatment and recovery systems for industrial waste, and will lay particular emphasis on assisting small and medium-sized factories. We should also encourage more and better long-term research and development in the clean technology, pollution control and waste recovery fields. And plans such as these are being considered.

Sir, the major strategies we propose in the White Paper are not cheap. As His Excellency the Governor mentioned in his October address, Sir, the major review of the territory's sewerage facilities is nearing completion, and we now estimate that a programme for the construction of sewage collection, treatment and disposal facilities, costing about \$12 billion, will be required.

We will also need a further \$5 billion for implementing our waste disposal plans. We have no option but to provide long-term solution for the disposal of our wastes, in the form of three very large landfills, and associated refuse transfer stations, which will also allow us to rid ourselves of smelly urban landfills and incinerators. And we have no option regardless of the extent to which we can encourage and foster recycling.

Sewerage and wastes are like time and tide; they wait for no man. So over the

next 10 years funding our major environmental projects will certainly pose problems. It would be dishonest to suggest that expenditure on the environment will always be accorded an automatic top priority over other economic and social targets, but I can honestly assure Members that the saving and the protection of the Hong Kong environment can be ranked no higher in Government's overall priorities. And equally we will need sufficient staff to carry out these projects, and enforce the laws -- so staff planning is also critical and will be tackled. From what Members have said this afternoon, the Administration can expect support from this Council for these very necessary projects and the staff resources required to make this work.

Sir, I am greatly encouraged by the number of Members who have taken part in this debate, by their very thoughtful comments and for the very strong support and encouragement which they have offered. We will examine the speeches in greater depth, and I will respond to them individually giving greater consideration than I can now to the points made. The publication date of the present White Paper on pollution in Hong Kong was a beginning of the preparation of the next review which, as is made clear in the White Paper, will be completed every two years. Members' comments and public comments which we welcome and have solicited, and suggestions regarding the paper and the programme of action will be the most important part of this exercise. From Members' comments today, it is very clear that Members and the public will want more emphasis to be placed on recycling, assistance to small industrialists, and general information and education. But finally, I must stress that we have a very large programme with some very tough problems to overcome. The solutions are therefore going to have to be very firm. We have not been firm enough in the past, either in the law we passed or in its enforcement, partly because perhaps we under-estimated the problem, and partly because we have never been confident of the community support for imposing tough decisions on the industrial and other sectors, and for diverting so substantial a proportion of our financial and other resources to the saving and preservation of the environment. I hope the White Paper on pollution is no under-estimate of what is now needed to save the Hong Kong environment. I am confident from this debate that we have the necessary political support to do it.

Sir, I support the motion.

MR. PETER WONG: Sir, it has been more than two decades since world environmentalists started their campaigns to save our planet. The industrialists have seen the threat

to their profits but the enlightened ones are trying to strike a balance between what is desirable and what is practical.

Nobody wants to pay more for a product than they have to and it is too easy to go for a cheap disposable against an ecologically sound but more expensive item. Now that we are no longer on the breadline, we must educate ourselves to examine the product and decide which will harm the environment least.

We are continuously reminded that our resources are limited and we must bid for them. Thus we have to prioritize which of the pollutants is the most harmful and has to be eliminated first. Sewage is unsightly, smells and breeds diseases. However it is bio-degradable and if left alone, can correct itself reasonably quickly. On the other hand, chemical and air pollution are less noticeable visually but their damaging effects last much longer.

There is no longer any question that the balance has to be tipped towards the community taking control of pollution very seriously. The real culprit, the production of unnecessary waste and pollution, has to be identified and if not eliminated, then at least minimized. We must act now. There may be no second chance.

Sir, there is no point in saving and building Hong Kong to be our home if it is no longer a fit place to live in. With these remarks, I beg to move.

Question on the motion put and agreed to.

End of Session

MEMBER PRESIDING: Honourable Members, that vote on today's motion brings to an end our official business for this Session. May I please add my thanks to all Members for all the work they have done, and also in particular, for the very helpful and positive attitude which all Members have taken towards the very great deal of legislation which has been put forward by the Administration. Contrary to popular belief, we are not all about to embark on two months' holiday. Many of you will be involved in a great deal of scrutiny of existing legislation which still lies before this Council and many official Members will be working hard to make sure that there is a renewed supply of legislation available when we come back again. (laughter) But we will all have a break from work inside this Chamber. And may I wish you, in that

respect, a very happy holiday until we return again for the first meeting of the next Session which will be on Wednesday, 11 October 1989, at 2.30 pm.

Sitting adjourned accordingly at twenty-five minutes to Nine o'clock

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Architects Registration Bill 1989, Engineers Registration Bill 1989 and Supplementary Appropriation (1988-1989) Bill 1989, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

1 Based on the data in the Quarterly Report January-March 1989 General Household Survey -- Labour Force Characteristics, published by the Census and Statistics Department, Hong Kong