

1 HONG KONG LEGISLATIVE COUNCIL -- 10 July 1991

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 10 July 1991

The Council met at half-past Two o'clock

PRESENT

HIS EXCELLENCY THE GOVERNOR (PRESIDENT)

SIR DAVID CLIVE WILSON, G.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 SIR PIERS JACOBS, K.B.E., 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 STEPHEN CHEONG KAM-CHUEN, C.B.E., J.P.

THE HONOURABLE CHEUNG YAN-LUNG, C.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.

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

THE HONOURABLE CHUNG PUI-LAM, O.B.E., J.P.

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

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

THE HONOURABLE DAVID LI KWOK-PO, 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, O.B.E., J.P.

THE HONOURABLE TAM YIU-CHUNG

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

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

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

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

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

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

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, O.B.E., J.P.

DR THE HONOURABLE LEONG CHE-HUNG

THE HONOURABLE LEUNG WAI-TUNG, J.P.

THE HONOURABLE JAMES DAVID McGREGOR, O.B.E., I.S.O., 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 MRS ANSON CHAN, J.P.
SECRETARY FOR ECONOMIC SERVICES

THE HONOURABLE MRS ELIZABETH WONG CHIEN CHI-LIEN, I.S.O., J.P.
SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE ALISTAIR PETER ASPREY, O.B.E., A.E., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE JOHN CHAN CHO-CHAK, L.V.O., O.B.E., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

THE HONOURABLE ALBERT LAM CHI-CHIU, J.P.
SECRETARY FOR HOME AFFAIRS

ABSENT

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

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

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

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

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.

Schedule of Routes (China Motor Bus Company) Order 1991.....	
241/91	
Schedule of Routes (Kowloon Motor Bus Company) 1991.....	Order 242/91
Schedule of Routes (New Lantao Bus Company) 1991.....	Order 243/91
District Court Civil Procedure (General) 1991.....	(Amendment) Rules 244/91
District Court (Fixed Costs in Matrimonial Rules 1991.....	Causes) (Amendment) 245/91
Stamp Duty (Amendment) Ordinance 1989 1991.....	(Commencement) Notice 246/91
Road Traffic (Expressway) Regulations 1991.....	247/91
Road Traffic (Traffic Control) (Amendment) 1991.....	Regulations 248/91

Sessional Paper 1990-91

No. 82 -- Report by the Commissioner of Correctional Services on the administration of the Prisoners' Welfare Fund for the year ended 31 March 1990

No. 83 -- J.E. Joseph Trust Fund Report for the period 1 April 1990 to 3 March 1991

No. 84 -- Kadoorie Agricultural Aid Loan Fund Report for the period 1 April 1990 to 31 March 1991

No. 85 -- Sir Robert Black Trust Fund
Annual Report for the year 1 April 1990 to 31 March 1991

No. 86 -- Committee on Science and Technology
Annual Report for 1990-91

No. 87 -- Construction Industry Training Authority
Annual Report 1990

No. 88 -- Clothing Industry Training Authority
Annual Report 1990

Address by Member

Committee on Science and Technology Annual Report for 1990-91

PROF. POON: Sir, the third Annual Report of the Committee on Science and Technology, covering the year 1990-91, has been tabled in this Council today.

The Committee has now completed its work programme for the year and has tendered advice to the Chief Secretary where appropriate. The annual report highlights our main findings and recommendations in each area of work. The major areas in which we have put forward advice are:

(1) the need for supercomputing facilities in Hong Kong;

(2) means of facilitating the development of information technology in Hong Kong,

and particularly in tackling skills shortages;

(3) the use of electronic data interchange for trade documentation;

(4) the commercial viability of biotechnology in Hong Kong and the infrastructure needed to underpin biotechnology development;

(5) the science and technology infrastructure in Hong Kong compared with neighbouring economies;

(6) controls on toxic substances in household products; and

(7) informal education in science and technology.

One of the Committee's major recommendations, arising from our study of the science and technology infrastructure, is that a new administrative framework for science and technology should be established. This would involve the replacement of the Committee on Science and Technology with a new board under the proposed Industry and Technology Development Council, which is currently being considered as a successor to the existing Industry Development Board.

Sir, I understand that the Administration is giving very active consideration to our proposals. Thus the Committee has decided not to initiate new work pending decisions on its future.

Oral answers to questions

Re-appointment of retired civil servants

1. MR CHENG HON-KWAN asked: Will Government inform this Council what is the present policy concerning the re-appointment of civil servants upon their retirement to retain useful experience and expertise in the overall interest of the Civil Service? Will Government also provide statistics of such re-appointment during the past three years?

CHIEF SECRETARY: Sir, the Administration's policy on the continued employment of

civil servants beyond their retirement age is that further employment should be primarily subject to service need. The conditions for re-employment depend upon whether the officer is serving under the Old Pension Scheme or the New Pension Scheme.

For officers who are under the Old Pension Scheme, the present policy, subject to certain conditions being met, is to allow them to be re-employed in the service when they reach the normal retirement age, up to the age of 60. The conditions are that an officer must be physically fit, fully efficient and that his or her further employment would not cause promotion blockage. If an officer fully satisfies all those criteria except that concerning promotion blockage, he or she may be re-employed in a lower rank of his grade.

Under the New Pension Scheme, the retirement age is 60. The extension of service beyond this retirement age is allowed only under exceptional circumstances, such as the need to retain the expertise of an officer, or where there is serious shortage of staff or where there is compassionate consideration in the case of Model Scale One staff. The same principle applies to the re-employment of officers under the Old Pension Scheme beyond the age of 60.

The statistics on the re-employment of officers who served under the Old Pension Scheme during the last three years are as follows:

As at	Number
1.4.1989	4 299
1.4.1990	3 334
1.4.1991	2 680

The number has been declining after the introduction of the New Pension Scheme in 1987 because serving officers who wish to serve until the age of 60 of course can elect to join the New Pension Scheme.

The statistics on the extension of service of officers who served under the New Pension Scheme during the last three years are as follows:

As at	Number
The year ending 1.4.1989	32

The year ending 1.4.1990	59
The year ending 1.4.1991	98

MR CHENG HON-KWAN: Sir, will the Chief Secretary inform this Council whether the officers are allowed to receive their monthly pension during the period of re-employment upon retirement under the old scheme, and of the terms on which they are re-employed?

CHIEF SECRETARY: Sir, the normal system is that an officer is re-employed on agreement terms. On satisfactory completion of the agreement he will receive a gratuity of 25% of his basic salary. He is paid the commuted pension gratuity on retirement but payment of his monthly pension is suspended during the period of his re-employment. Under the new pension scheme, extension of service beyond retirement age will continue to be on pensionable terms and the officer will receive pension benefits when he or she retires after the extension of service and on the expiry of pre-retirement leave.

MR PETER WONG: Sir, have there been any officers who have taken advantage of early retirement and have subsequently been re-employed?

CHIEF SECRETARY: Sir, I do not have that statistic with me but I will endeavour to find out and let Mr WONG know. (Annex I)

British citizenship

2. DR LEONG asked: It is noticed that some people in Hong Kong have acquired British Citizenship but their children, or some of their children, who were born before 1 January 1983, are not granted similar status because of the British Nationality Act 1981. Will the Administration inform this Council whether, and if so, how the Government will assist these families so that the children concerned may apply for registration as British Citizen without requiring them and their parents to leave Hong Kong for the United Kingdom for settlement?

SECRETARY FOR SECURITY: Sir, we are aware of such cases. Those concerned have two avenues open to them to apply for British citizenship: under section 4 of the British

Nationality Act 1981 which requires five years' continuous residence in the United Kingdom; and under section 3 of the Act, which provides for the children under 18 of British citizens themselves to be registered as British citizens at the discretion of the Home Secretary.

The Director of Immigration acts as the handling agent in Hong Kong for the United Kingdom Government in matters relating to Immigration and Nationality. If the families concerned approach the Immigration Department they will be given advice and assistance in applying for the registration of their minor children as British citizens.

DR LEONG: Sir, under section 3(1) of the British Nationality Act 1981, the Secretary of State of the Home Office may, if he thinks fit, cause these children to be registered as full British citizens. Will the Hong Kong Government make recommendation to the Home Office to this effect for the benefit of the affected families and their children in Hong Kong?

SECRETARY FOR SECURITY: Sir, I find it difficult to answer that question in the abstract because we do not have details of these cases. If those concerned care to let us have details of their cases, then we will certainly consider what assistance and support we can give.

MR MCGREGOR: Sir, since it seems possible that it was never intended that such children should be denied British citizenship, will the Hong Kong Government itself make representations to the British Government to have this anomaly rectified and seek special consideration of such cases on a compassionate basis? In other words, Sir, will the Government take positive action instead of taking a supportive role which is not likely to help much?

SECRETARY FOR SECURITY: Sir, I think I can only repeat my answer to the previous question that until we have details of the cases it is very difficult for us to come to any firm conclusion about them. We will certainly consider what assistance we can give, if and when we have details of these cases.

MR PETER WONG: Sir, are parents holding United Kingdom passports eligible to apply under the British Nationality Scheme so that their children born before 1983 can benefit?

SECRETARY FOR SECURITY: Sir, I believe that the answer to that question is no. Persons who are already British citizens cannot be registered again as British citizens under the British Nationality Scheme.

MRS TAM (in Cantonese): Will the Government inform this Council, since the implementation of the British Nationality Act 1981, how many families in Hong Kong have applied for British citizenship for their children by taking advantage of the discretion given to the British Home Office under section 3(1)? How many applications have been approved at the discretion of the British Administration and how many rejected, and if approved, why?

SECRETARY FOR SECURITY: Sir, I do not have statistics going all the way back to 1983 but I do have some figures for the last five years. In the last five years, I believe that 184 applications were made in Hong Kong on behalf of children born before 1983 to British citizens; of these 79 have been approved, 37 have been refused, four were withdrawn, and 64, I believe, are still outstanding.

Sir, with regard to the second part of the question, as I said in my main answer, the registration is at the discretion of the Home Secretary. I cannot speak for the Home Secretary and say precisely what criteria he adopts, but I believe that the essential point which he considers in all cases is the connection which the family has with the United Kingdom.

DR LEONG: Sir, the spirit behind the Nationality Selection Scheme 1990 for Hong Kong is to keep people in Hong Kong. The British Nationality Act 1981, however, drives people to leave Hong Kong for the United Kingdom to avoid the splitting of families. Will the Administration consider using the spirit of the Nationality Selection Scheme 1990 as an argument and negotiate with the Home Office so that it will exercise discretion in favour of the victimized children of the affected families?

SECRETARY FOR SECURITY: Sir, I think I can only really repeat what I have said twice before and that is that until we have details of these cases I find it very difficult to express any sensible opinion on them. When we have details of these cases then we will certainly be glad to consider that.

MR MCGREGOR: Sir, since there is very clearly a problem, and since there may be many affected families who are somewhat confused at the present time in regard to the policy, will the Government take an initiative to issue information which will be helpful to those people to come to a particular place and have their cases examined? In other words, Sir, will the Government take an initiative rather than be responsive?

SECRETARY FOR SECURITY: Yes, Sir, I will certainly consider that. As I said, the Immigration Department does act as the agent of the British Government in these matters and I am sure that they can arrange for some suitable point of contact for all these families.

Shortage of Secondary One places

3. MR DAVID CHEUNG asked: In view of the recent concern expressed regarding a possible shortage of Secondary One places in the coming academic year, will Government inform this Council:

(a) of the latest estimated supply and demand of Secondary One places in the coming academic year; and

(b) whether there is any plan to

(i) increase the number of classes in schools or,

(ii) increase the number of student per class from 40 to 45 or,

(iii) buy more places from private schools?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, the total number of Primary Six pupils

participating in the 1991 Secondary School Places Allocation is 84 273. There will be sufficient Secondary One places to accommodate all of them on a territory-wide basis.

Notwithstanding this overall balance, there are, as in past years, imbalances of supply and demand within the 19 administrative districts. The Schools Reprovisioning Programme will address some of the more serious shortfalls. However, it is neither practical nor necessary to achieve a district by district balance because the requirement for places changes at a pace we cannot hope to match with school reprovisioning.

For districts with an immediate shortfall of places, the selection of schools available to parents has been extended to include schools in neighbouring districts or along easily accessible transport routes. Where new schools are being provided, maximum opportunity is taken to meet any shortfalls by accelerating the building process; by operating more junior classes for the initial period; and/or by advancing the opening of new schools through the initial use of shared premises.

Since there are enough Secondary One places for allocation purposes for the coming academic year, the Government has no plans to increase the number of students per class from 40 to 45, or buy more places from private schools in the coming school year. However as I have explained, we do adjust the number of classes in schools to address district shortfalls on a temporary basis, whenever it is necessary and possible to do so.

MR DAVID CHEUNG: Sir, in respect of schools where the number of forms and classes have to be adjusted, will the Secretary inform this Council whether prior consent and agreement with the school management has been obtained, or is it simply an instruction from the Director of Education?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I believe that these adjustments are always made in consultation with those concerned.

MR SZETO (in Cantonese): Sir, can the Government inform this Council of the annual figures of Primary Six pupils subject to cross-district allocation of Secondary One

places in the past three years; the three districts having the largest numbers of cross-district allocations; the annual figures of pupils subject to such allocation in these three districts; and whether the situations in these three districts will worsen or stabilize in the coming three years?

HIS EXCELLENCY THE PRESIDENT: Could I encourage Members to ask short questions so that it does not sound like a mathematical examination?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I am afraid I do not have the detailed figures available. I will have to provide them to Mr SZETO in writing afterwards. (Annex II)

MR EDWARD HO: Sir, will the Secretary confirm to this Council that the adjustment of the number of classes will not affect the quality of education, and also will he inform us how temporary these arrangements will be?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I can give the assurance sought by Mr HO. As regards the length of time expected for the adjustments to continue to be in effect, I think in each case it will depend on the circumstances.

MR DAVID CHEUNG: Sir, will the Secretary inform this Council how many districts suffer from a shortfall of places?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, basically, the major shortage in overall terms is on Hong Kong Island and this is more or less balanced by surpluses in Kowloon and the New Territories. As regards individual districts, there are 12 districts with varying degrees of deficit on a district basis, and these are counterbalanced by surpluses in the other seven districts.

MR SZETO (in Cantonese): Sir, can the Government inform this Council whether cross-district allocation will increase the outlay under the Student Travel Scheme;

and if so, what the amount of increase was in the past three years?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I will have to add that to the written information I will provide to Mr SZETO later.

MRS TU: Sir, could the Secretary give some assurance that the adjustment which is mentioned in the fourth paragraph of his main answer will not take the form of reintroducing bisessional schools or by increasing the number of "floating classes" to the point that schools cannot manage?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, it is certainly our policy to try and avoid those situations.

MR POON CHI-FAI (in Cantonese): It is mentioned in paragraph 4 of the main reply that the Government will not increase the current ratio of pupils per class from 40 to 45. Will the Government consider, however, lowering the current ratio of pupils per class to under 40, so that there will be more contacts between pupils and teachers in order to improve the quality of education; this indirectly may enhance the care and understanding of pupils thus preventing the occurrence of avoidable tragedies like suicide?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, I think Mr POON's suggestion raises very important policy and financial implications which I shall need to consider very carefully.

MR DAVID CHEUNG: Sir, when children have to be allocated to neighbouring districts, will the Secretary inform this Council how far on average does the Government expect the children to travel?

SECRETARY FOR EDUCATION AND MANPOWER: Sir, our general policy cannot be stated in terms of exact numbers of miles or kilometres; our general policy is that pupils should

not be required to travel too far. Generally speaking, in terms of administrative distance, if a shortfall of places occurs in one district, then as many places as possible will be found in an adjacent district.

Written answers to questions

Public light buses fares

4. MR DAVID CHEUNG asked: In view of the exorbitant prices charged by public light buses during the recent disruption of train service, will Government inform this Council whether it has any plan to exercise some control over the pricing of public light buses to prevent excessive profiteering?

SECRETARY FOR TRANSPORT: Sir, under the existing public transport system, public light buses (PLBs) provide a supplementary service to the mass carriers. There are two types of PLBs -- green minibuses (GMBs) and red minibuses (RMBs).

GMBs operate to specified schedules along designated routes. They provide an essential service to areas where bus operations are not economical or constrained by road terrain. GMB fares are regulated and approved by the Commissioner for Transport.

RMBs operate on non-scheduled routes. They provide a flexible service for passengers who are prepared to pay higher fares in return for more convenience and comfort than is generally provided by buses. The viability of RMBs is left entirely to market forces and the competitiveness of individual operators. They have to compete with other transport modes. On the one hand, if their charges are too high, they may not be able to attract enough customers. On the other hand, if their fares were pre-determined, this would detract from their responsiveness to changes in local market conditions, as often occur in our urban environment. Subject to operating areas and stopping restrictions, they are therefore allowed to utilize fully their flexibility to operate in a manner sensitive to passenger requirements.

The existing pricing mechanisms of GMBs and RMBs are considered appropriate in keeping with their respective roles in the public transport system.

Vietnamese boat people

5. MR DANIEL LAM asked: Since the capacity of the VBP detention centres in Hong Kong will soon reach saturation point and the sailing season for boat people has already begun, will the Administration inform this Council of the measures to be taken to cope with and accommodate the further influx of boat people?

SECRETARY FOR SECURITY: We plan to accommodate new arrivals in whatever space is available in existing detention centres. At the same time:

(a) we are, in co-operation with UNHCR, the Vietnamese Government and the international community generally endeavouring to get the message across to people in Vietnam that there is no point in leaving Vietnam clandestinely in search of a better life overseas; and

(b) we are continuing our efforts to secure agreement to arrangements for the repatriation of all those screened out as non-refugees. To this end we are now discussing with the Vietnamese Government the possible establishment of internationally managed centres in Vietnam to accommodate those screened out as non-refugees.

Police officers committing perjury in court

6. MRS TU asked: Will the Government inform this Council what action will be taken against police officers who are found to have lied on oath in court in the course of criminal proceedings?

SECRETARY FOR SECURITY: Sir, a lie given on oath before a court on a matter which is material in that proceeding amounts to perjury. This offence is punishable on conviction upon indictment by a maximum of seven years imprisonment and a fine.

Where there is evidence that any person, including any police officer, has committed perjury, the matter will be investigated and then referred to the Attorney General who will decide whether to prosecute or not.

If a police officer is convicted of perjury, the Commissioner of Police will decide whether or not to exercise his power to dismiss the officer taking into consideration the circumstances of the case.

Overtime assignments carried out by government drivers

7. MR PETER WONG asked: Could the Administration inform this Council of the total cost incurred in overtime assignments carried out by government drivers in the past 12 months and a breakdown of these assignments by (a) duration, (b) location and (c) nature?

FINANCIAL SECRETARY: Sir, there are currently 2 900 driver grade staff in the government service. Of these, 780 are special drivers who are normally employed for driving specialized vehicles such as street washers, refuse collection vehicles, heavy goods vehicles, articulated vehicles and roadsweepers. The remaining 2 120 motor drivers and chauffeurs are deployed to drive vehicles ranging from small saloon cars to coaches.

All government officers, irrespective of rank, may use government transport to carry out their official duties during or outside office hours. Depending on the operational requirements of individual departments, members of the driver grades are required to work overtime. Since the drivers are deployed to a number of departments, a great deal of administrative work and hence costs would be involved to obtain information on all overtime assignments. However, information on overtime journeys carried out by 55 chauffeurs and 44 motor drivers for top senior Government officials at rank Directorate D4 and above for the last 12 months period (1 April 90 - 31 March 91) is as follows :

Total overtime	Average monthly overtime	
Total cost (\$)	hours worked	hours worked per driver
5,116,000	111 370	95.44

In general, the nature of these overtime assignments consists of home-to-office return journeys and attendance at official functions and/or meetings. It is not possible to provide a breakdown on the precise location of the overtime assignments

without a considerable amount of time, and costs, being spent on analysing in detail the records kept by individual departments.

Planning of health care facilities

8. MR PETER WONG asked: Will the Administration inform this Council of the availability and adequacy of accurate health statistics and costings to enable proper and efficient planning of health care facilities for Hong Kong?

SECRETARY FOR HEALTH AND WELFARE: The Government maintains a whole range of health statistics and cost data on medical and health services. The information is accurate and readily available for the purpose of planning on a broad basis.

Health statistics

Vital health statistics such as infant mortality rate, life expectancy, leading causes of death, incidence of infections and other major diseases are collected, compiled and updated regularly to reflect the health status of the population and to compare with international trends. Apart from this, the Government also conducts surveys as necessary to obtain additional information on specific subjects.

However, the present health information system has certain limitations. It is accurate but crude. It is adequate but not sufficiently sophisticated for planning where more comprehensive information is required or desirable, such as on territory-wide disease patterns, on health needs of individual districts or socio-economic groupings and on the clinical history of individuals. The Department of Health is aware of these deficiencies; and the Report of the Working Party on Primary Health Care has pointed out these limitations and suggested improvement measures. The report is now under consultation for views from our community.

Having regard to public comments, we will be considering practicable ways of improving the present health information system to facilitate more efficient planning of health care facilities and better use of resources.

Health costings

Information on the expenditure of medical and health services is available from computerized accounting systems. Such information includes the cost per bed-day in different types of hospitals, the cost per general or specialist out-patient consultation, the cost for each dressing and injection and the cost per visit by a community nurse. Calculations are made according to:

(a) a full-cost principle, which embraces staff costs, departmental expenses, maintenance and depreciation, administrative overheads and other operating costs; and

(b) an average-cost approach.

Such information is accurate but deficient in many respects such as data on cost of services which are provided free of charge are not readily available and data on the subvented sector are limited and fragmented.

We consider that there is a need to improve the financial information system for medical and health services. Plans are now in hand to strengthen the health accounting system to enable better, more sophisticated planning.

Permanent Hong Kong Government office in Beijing

9. MR MCGREGOR asked: Is there any intention by the Hong Kong Government to set up a permanent office in Beijing? If so, when will this be done?

CHIEF SECRETARY: Sir, there is no immediate intention by the Hong Kong Government to set up a permanent office in Beijing.

Statement

Suspension of operations of the Bank of Credit and Commerce Hong Kong Limited

FINANCIAL SECRETARY: Sir, I wish to inform Members of the present position in relation to the Bank of Credit and Commerce Hong Kong Limited, which I shall refer to as the Bank. The Commissioner of Banking's Office was alerted to the recent problems of

the Bank of Credit and Commerce Group at a meeting of the BCC College of Supervisors at the Bank of England in London on Tuesday last week, that is, 2 July. This followed the discovery by the Bank of England of suspected fraud in parts of the Group outside Hong Kong. The results of that meeting were received in Hong Kong on Wednesday, 3 July. Various contingency measures were immediately put in place by the Commissioner of Banking's Office, including sending a team of bank examiners into the Bank to examine its loan book.

On the evening of Friday, 5 July, it was announced in London that supervisory authorities in a number of countries had moved to close down the business of parts of the Group. A decision had to be made at that point on whether to allow the Bank to open the following morning or not. Since the Bank is a completely separate entity from the rest of the Group and since its operations here were considered sound and viable, the initial concern was to try to keep the Bank open. I shall have more to say about this in a moment. The Bank managed to trade relatively normally on Saturday, although some withdrawals of deposits were made.

We took the opportunity to hold discussions with the Government of Abu Dhabi, which through its shareholding in the parent is effectively the ultimate majority shareholder of the Bank, on the question of financial support for the Bank. The Government of Abu Dhabi had, for the purposes of the Bank's 1990 accounts, provided a Letter of Comfort which confirmed their intention to provide the financial support required to enable the Bank to continue trading for the foreseeable future. The Commissioner wished to have this support reaffirmed and indeed strengthened in the changed circumstances. A representative of the Commissioner's Office flew to Abu Dhabi to hold discussions over the weekend with the Government of Abu Dhabi. However, it became clear on Sunday, 7 July, that the Government of Abu Dhabi was unwilling to provide the necessary financial backing to the Bank.

During the weekend it also became clear that the Bank's ability to conduct its business could be affected by the problems elsewhere in the Group. In the absence of support from the majority shareholder, and given that a disorderly withdrawal of cash could not be ruled out, the Commissioner of Banking instructed the Bank not to open for business from Monday, 8 July, until further notice. He also assumed control of the Bank. Restrictions were placed on the Bank's business to freeze deposits and prevent the movement of funds out of the Bank in order to safeguard the interest of depositors. There are at present some 40,000 depositors, whose deposits total \$11 billion, of which \$4 billion is pledged as collateral against loans.

It has been suggested that the decision made on Monday to suspend the operations of the Bank was inconsistent with the earlier decision to keep the Bank open last Saturday. Let me emphasize that the decision to keep the Bank open was taken having regard to the facts available on Friday evening and in the knowledge that closure of a bank is a drastic step not to be taken lightly. Closure at that stage would also have undermined the attempt to gain the support of the Government of Abu Dhabi. However, when it became clear that support would not be forthcoming, there seemed no point in risking a draining of cash from the Bank which would impair the assets of the Bank and could well have resulted in some depositors being repaid in full to the disadvantage of the rest.

As to the way ahead, the Commissioner has continued discussions with the Government of Abu Dhabi, but these have not yet produced any result. There remains, however, the possibility of a sale of the Bank and this is being pursued with various interested parties.

It has today been brought to our notice that a liquidator has been appointed of the Bank's holding company in Luxembourg. The Commissioner is sending representatives to Luxembourg to discuss any arrangements necessary for the sale of the Bank in Hong Kong.

Sir, some have called for the use of the Exchange Fund to rescue the Bank or pay off depositors. In this connection, I must draw attention to section 3(1) of the Exchange Fund Ordinance which states that --

"the Exchange Fund shall be under the control of the Financial Secretary and shall be used for such purposes as the Financial Secretary thinks fit affecting, either directly or indirectly the exchange value of the currency of Hong Kong and for other purposes incidental thereto".

Although the Exchange Fund has been used before in rescuing a number of banks, this was against the background that the Financial Secretary then had taken the view, and rightly so, that the exchange value of the currency of Hong Kong would otherwise have been unacceptably affected. On this particular occasion, having regard to the facts of the case, as described to me by the Commissioner of Banking, and to the fact that our monetary system, and our skills in monetary management, have, over the past few years, been considerably strengthened, I took the view that the exchange value

of the currency of Hong Kong would not be affected even if the Bank were to be closed down. Indeed, the exchange rate has not been affected by events in the past few days. There is therefore no case for using the Fund.

The present circumstances are such that, in my opinion, the Exchange Fund has no role to play in matters directly connected with the Bank. This position will, of course, be continuously reviewed in the light of the changing circumstances.

Let me stress, Sir, that the Government has taken all necessary steps to safeguard the assets of the Bank in the interests of depositors. We want to make sure that the assets are there and that they do not disappear from our jurisdiction.

Motions

PUBLIC BUS SERVICES ORDINANCE

THE SECRETARY FOR TRANSPORT moved the following motion:

"That the franchise conferring the right to operate a circular public bus service on Hong Kong Island between MacDonnell Road and Central shall not be subject to the profit control scheme provided for by Part V of the Public Bus Services Ordinance."

He said: Sir, I move the resolution standing in my name on the Order Paper.

Early this year, the Governor in Council decided that the manner in which franchised bus routes are awarded should be changed to allow for competitive tendering. The aim is to promote quality, efficiency and innovation in bus services through healthy competition.

In April, the Administration invited tenders for the right to operate a circular bus service on Hong Kong Island between Central and MacDonnell Road. Subject to final approval by the Executive Council, the franchise for this route will be awarded shortly.

Three companies now hold a franchise under the Public Bus Services Ordinance, namely the China Motor Bus Company (CMB), Kowloon Motor Bus Company (KMB) and New Lantao Bus Company (NLB). The first two are subject to profit control scheme while

the last one is not because of its much smaller size of operation.

To allow all contenders including existing franchisees to compete on an equal footing, it is intended that whoever is awarded the franchise to operate the route should be excluded from the profit control scheme.

Under section 5(3)(b) of the Public Bus Services Ordinance, a resolution of this Council is required for not applying the profit control scheme to the proposed franchise.

Sir, I beg to move.

Question on the motion proposed, put and agreed to.

FIXED PENALTY (CRIMINAL PROCEEDINGS) ORDINANCE

THE SECRETARY FOR TRANSPORT moved the following motion:

"That, with effect from 1 October 1991, the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance be amended by adding after item 55 -

"Road Traffic (Expressway) Regulations 1991

(L.N. 247 OF 1991)

56.	Regulation 11	Failing to comply with restriction on using offside lane	\$280
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57.	Regulation 13	Overtaking another vehicle on its nearside	\$280".
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He said: Sir, I move the resolution standing in my name on the Order Paper. It seeks to create two new expressway-related traffic offences under the Fixed Penalty (Criminal Proceedings) Ordinance.

The new fixed penalties to be added are required on road safety grounds to ensure

proper lane discipline on expressways. The first one prohibits, where there are three or more lanes, the use of the extreme right hand lane by vehicles such as medium and heavy goods vehicles. The second one prohibits overtaking on the left-hand side of the vehicle being overtaken. The level of fixed penalty is considered appropriate for the two offences.

It is proposed that the two items, together with the enabling legislation, should come into effect on 1 October 1991. This is to allow sufficient time for intensive publicity to be launched to advise the public and in particular to educate motorists of the new requirements.

Sir, I beg to move.

Question on the motion proposed.

MRS CHOW: Sir, I support this motion and any other such expedient measures to punish discourteous, careless or reckless motorists.

Funny enough, in spite of remarkable improvements in our road systems and various traffic management measures, driving in Hong Kong is no pleasure. One of the main reasons is the "jungle" mentality of most drivers. The hostility displayed behind steering-wheels is most unbecoming and often dangerous.

I therefore support the extension of the imposition of fixed penalty for easily established offences but the effectiveness of it depends on enforcement. For instance, from personal observation I do not see the recent fixed penalty on stopping within the yellow box being too effective. I hope this subsidiary legislation before us will be enforced widely to achieve the actual elimination of inside lane overtaking.

Furthermore, I urge Government to consider a package of measures to upgrade the driving ethics of drivers which should not only rely on punishment, although punishment should be used I suggest, but also through public education as well as incorporating into the training of learners the importance of road courtesy, lane discipline, and considerate tolerance to other drivers. We are a sophisticated city; let us aim for having more civilized motorists on our roads.

SECRETARY FOR TRANSPORT: Sir, I am most grateful to Mrs CHOW for her helpful comments and support of the motion. Indeed, the main emphasis of this proposal really is to focus on two aspects: one is enforcement, the other education. And to give the benefits to motorists, it is first of all important to educate them before we punish them for their lack of obedience with the new rules. Therefore, one of the first aims is to step up our Road Safety Campaign to educate and convince motorists of these proper lane disciplines, in particular on expressways.

At present a Road Courtesy Campaign is being held to draw motorists' attention to the need for greater patience in lane-changing when driving on congested roads. In the next three months we will be launching an intensive publicity campaign to highlight the main points of this new legislation to ensure that lane discipline is followed. The package of programmes is very comprehensive, targetting at existing and potential drivers. It will include announcements of public interest on television and radio, briefings with district boards and professional driving associations, and publication of more than 400 000 copies of a well designed and easily understood pamphlet for direct mailing to individual car owners. Copies will also be available to drivers and interested persons through district offices, government carparks, Transport Department Licensing Offices, and driving schools. In addition, the new legislation will form part of the syllabus for the written driving tests and will feature in the Road Users Code which is updated regularly.

The other aspect, Sir, is of course enforcement. Having given motorists three months' notice of these new requirements in intensive publicity programmes, the police will enforce them with much vigour. At the present time the police have already established an Expressway Unit particularly for expressway-related offences. I have the police's assurance that enforcement action will be stepped up once this programme of education is completed and the motorists have been given sufficient time to learn about the new requirements.

Question on the motion put and agreed to.

PHARMACY AND POISONS ORDINANCE

THE SECRETARY FOR HEALTH AND WELFARE moved the following motion:

"That the Pharmacy and Poisons (Amendment) Regulations 1991, made by the Pharmacy and Poisons Board on 29 April 1991, be approved."

She said: Sir, I move the motion standing in my name on the Order Paper.

This amendment seeks to extend to pharmacists to be employed by the Hospital Authority the same rate of annual practising certificate fees as that payable by their government, university and subvented hospital counterparts. The purpose of this is to maintain comparability of treatment for all pharmacists employed in public hospitals.

Sir, I beg to move.

Question on the motion proposed, put and agreed to.

Second Reading of Bills

DUTIABLE COMMODITIES (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 26 June 1991.

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).

STAMP DUTY (AMENDMENT) (NO. 3) BILL 1991

Resumption of debate on Second Reading which was moved on 26 June 1991.

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).

WASTE DISPOSAL (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 15 May 1991.

Question on Second Reading proposed.

MR CHENG HON-KWAN: Sir, the need to tighten up and provide for control of chemical waste was recognized in the 1989 White Paper on Pollution. The development of a Centralized Chemical Waste Treatment Plant (CWTP) on Tsing Yi Island is now underway. It is expected that the plant will be fully commissioned by late 1992. To make preparations for the commissioning of the plant, the Administration has introduced new control legislation by expanding the present scope of the Waste Disposal Ordinance to provide a legislative framework with enabling powers and general provisions for the making of regulations to implement controls on chemical waste.

An ad hoc group was formed by this Council to study the Bill. The group has held four meetings including one meeting with the Administration and one meeting with a concerned group.

Members noted that the Waste Disposal (Amendment) Bill 1991 was, in essence, an enabling Bill which contained no teeth. The teeth of the Bill were to be contained in the regulations which would provide for the classification of chemical waste by reference to prescribed substances or chemicals, the disposal and collection of chemical waste and the registration of waste producers. Certain Members felt that the Bill should more appropriately be considered in conjunction with the full set of the proposed regulations and the definition of chemical waste.

The Administration assured Members that although the regulations were to be introduced after the passage of the Bill, they would be drawn up after full consultation with the industry. As regards the definition of chemical waste, it was difficult to define in the Ordinance in a precise manner what chemical waste was without resorting to quite onerous testing procedures to accurately define their properties and hazardous nature. To provide a definition which was both flexible and practicable, the Administration considered that the best way was to include the definition in the regulations so that changes could be made to the definition in response to practical experience, changes in knowledge and standards and developments

in the local chemical industry.

Members appreciated the difficulties that were being experienced by the Administration in providing a definition for chemical waste in the Bill at this stage and accepted the assurance given by the Administration that a full consultation on the regulations including the definition of chemical waste would be carried out with the industry before reverting to this Council for further discussion during the legislative process.

Members also noted the concern expressed by the industry on the proposed charging scheme and the objection to the Administration's proposal of recovering the cost of treating the chemical waste by imposing an ad valorem levy on the import and the local manufacture of chemicals. The industry claimed that the methodology of charging would in no way be related to the degree of treatment and that some of the chemicals might be subject to double or triple taxation as a result of the imported chemicals being processed into high-valued products in Hong Kong. Members considered that the industry's concern on the charging system was not without reasons. At the request of the ad hoc group, the Administration agreed that a full consultation in this regard would be conducted and a consultative document on the proposed charging scheme would be issued to the industry for comments this month. At any rate, the proposed charging scheme would require separate legislation and the scrutiny of this Council in due course.

The ad hoc group shared the Administration's view that the passage of enabling Bill would have the function of conveying the message to the public and to the industry that the Administration was determined to control chemical waste and maintain the momentum of Government's effort in controlling pollution. However, Members strongly felt that there was a definite need to build up mutual understanding and to conduct full consultation with the industry on issues which were of great concern to the industry. I hope the Administration would continue to make its efforts in gaining the co-operation and support of the industry to combat pollution and improve our environment.

Sir, with these remarks, I support the Bill.

MR CHEONG: Sir, first of all, I would like to declare my interest as the chairman of the Federation of Hong Kong Industries General Committee.

Having done that I must stress that the industry acknowledges the problem of unscrupulous disposal of chemical waste and supports the Government's as well as the community's determination to strengthen environmental protection and control the disposal of chemical waste through legislative measures.

Nevertheless, the industry is not without worries. The concerns are two-fold. First, as the Bill currently stands, it is an enabling Bill which contains no teeth but allows for the introduction of a set of regulations to control chemical waste. There is no description of what control is going to be imposed, what regulations are going to be formulated. We are simply concerned also that what will be included in the proposed regulations, which are not at present ready and available for scrutiny by this Council, will be introduced into the Council in the coming Session. And if there are no opportunities for this Council whether now or in future to scrutinize the proposed regulations it is basically wrong in principle to accord an enforcement agency too much power without knowing exactly where the limits lie. We urge the Government to conduct consultation not only with the community at large but also with the industry on any proposed regulations including the important definition of chemical waste and take into consideration the views of all parties concerned submitted to this Council so that the legislators would have a chance to scrutinize and make the views known. It is also our sincere hope that the Government will provide a clear and concise definition of chemical waste in the regulation. This is of paramount importance to the whole issue. We also would like to know what we are actually required to do under the law. An unclear and misleading definition would inevitably lead to confusion and uncertainty.

Secondly, the method of recovering the cost of treating the chemical waste is also a question that needs to be examined. It is not that the industry does not want to pay. It is that the proposed charging scheme needs to be arrived at after consultation. Opportunities should be given to the industry to make known our views. Naturally they may not be accepted. The scheme designed for the purpose should be fair. And at the same time, care should be taken to ensure that it will not create unjustifiable financial burden on any particular sector of the community.

With these remarks, Sir, I reluctantly support the Bill.

MR PETER WONG: Sir, as someone concerned about the environment, and especially the

rapid deterioration in the water quality of the Victoria Harbour which has been brought about by untreated discharges of industrial and household waste, I strongly urge that this waste treatment facility be put in place as soon as possible.

Further, as a legislator, I must draw the public's attention to the totally unsatisfactory state of affairs due to the lack of a policy on how the cost of the chemical waste treatment will be recovered.

When the proposal on Chemical Waste Treatment Plant at Tsing Yi Island came before the Finance Committee earlier this year, I raised issue that such a major project would be built without clear guidelines of how the running costs would be recovered. We are now asked to pass the enabling legislation without seeing any further progress made in this direction. Even though a consultancy study has been conducted on the plant, the Administration for reasons unknown, has not published it.

The Administration has advocated an ad volorem duty on all chemicals imported or manufactured. The chemical industry immediately pointed out the inequities of such a simple duty because the cost would hit those who have treated their waste in just the same way as those who poured it down the drain. They sought to float a proposal which was equally flawed by putting an extra amount on the general taxes. We are really experiencing a practical difficulty of how to implement the policy of "polluter pays".

I do not have the resources to come up with a ready panacea. But I would like to know what was the result of that consultant's report which was commissioned to provide an answer on the funding of the Tsing Yi Plant.

So far as the Amendment Bill is concerned, the Friends of the Earth consider that the penalties are pitifully low and the less scrupulous of our industrialists will merely treat the fines as an unwelcomed but necessary cost. The inclusion of an imprisonment term may be the most effective deterrent measure. I would therefore request that the Administration undertake to review the effectiveness of the adopted sanctions at an early date.

Sir, in view of the unresolved cost recovery of the Chemical Waste Treatment Plant, I support this Bill with grave reservation.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: I should like to thank my honourable colleague Mr CHENG Hon-kwan, the convenor of the Ad Hoc Group on the Waste Disposal (Amendment) Bill 1991, for his support of the Bill and the other members of the ad hoc group also for their careful consideration of this proposed legislation.

When proposing the Second Reading of the Bill, I said that its aim was to provide for the necessary powers, including new regulation powers, to operate an effective scheme of control over the management of chemical waste; I also pointed out that the detailed controls would be implemented primarily through regulations to be made subsequently under the Ordinance.

Over the past few months, we have held discussions with industry over the scope and the specific provisions of the proposed regulations. Generally, the intent and scope of these regulations have been welcomed. Points concerning the practical application of some of the detailed controls have been raised and we are now addressing these with a view to ensuring that, while meeting our environmental targets, the effect of the regulations will not be unacceptably onerous to industry.

This Amendment Bill has not, in itself, drawn criticism although some concern has been expressed by industry about a related but separate matter, referred to by both Mr CHENG and Mr WONG, namely, our proposals to recover the costs of the chemical waste treatment facilities through a levy on imported and locally manufactured chemicals.

Sir, I would like to say that the passage into law of the Bill will not, nor should it, pre-empt a full and proper consideration by the Legislative Council of the proposed regulations for the control of chemical waste, and of the legislation which will be necessary to give effect to any charging scheme for the chemical waste treatment facilities. We will not progress to that stage, however, until I am entirely satisfied that the affected parties have been thoroughly consulted and their concerns have been addressed.

In conclusion, I would point out that there has been general and wide-ranging support expressed for the principles behind this Bill regarding the need to exercise control over the management of chemical waste. This is of course very welcome. It also emphasizes that the Government and industry must work closely together to ensure that the significant recent progress made in environmental protection, particularly with regard to air pollution and water pollution, is consolidated and built upon in

the future. I am optimistic that we will be able to co-operate in this way to the benefit of the community at large.

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).

DENTISTS REGISTRATION (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 26 June 1991.

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).

MEDICAL REGISTRATION (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 26 June 1991.

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 MEDICAL PROFESSIONS (AMENDMENT) (NO. 2) BILL 1991

Resumption of debate on Second Reading which was moved on 26 June 1991.

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).

CRIMES (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 17 April 1991.

Question on Second Reading proposed.

MRS CHOW: Sir, I rise to support the resumption of the Second Reading of the Crimes (Amendment) Bill 1991, and shall be moving two amendments during the Committee stage for reasons which I will go into a little later. Before I outline the conclusions on the deliberation of the ad hoc group to scrutinize the Bill and the acceptance of the group's recommendation to support the Bill with amendments in the subsequent Legislative Council In-House meeting, I would first like to give a brief historical background of the public discussion and consultation which had taken place over the last 11 years, so as to ease the minds of some who might be misled by certain unfounded criticism that there has been insufficient public consultation on the issue.

As far back as 1980, barely five months after the formation of the Law Reform Commission, it was requested by the Attorney General and the Chief Justice at the time to consider whether the existing laws governing homosexual conduct in Hong Kong should be changed, and if so, in what way. A sub-committee was formed under the chairmanship of Mr Justice T L YANG (the now Chief Justice, Sir T L) and I had the fortune or misfortune, whichever way you look at it, of serving as a member on the sub-committee. I can therefore tell you first hand of the determination the sub-committee had of consulting most widely and variedly as possible, attempting to draw on the thinking of as many different sectors of the community, from as many perspectives as possible, employing means, approaches and techniques which were designed to find facts and gauge opinions of the public to assist our work. Chapter 9 of the Law Reform Commission Report published in 1983 gave full detail of this very extensive exercise. Just to give an idea of the initiatives taken, there was public appeal by the sub-committee through the media to call for any views to be directed to us. A specially designed questionnaire was sent to a list of organizations of different sizes to gauge the attitude of employers. All district boards and the Fight Crime Committee were consulted. A letter was sent to representative organizations

in the social, business and professional sectors to draw on their reaction. Interviews were conducted with members of the public who chose to come forward, and the sub-committee made tremendous effort to create opportunities for social workers, journalists, academics and all those who had worked with and could claim to have an understanding of the psychology, and feeling and lifestyle of homosexuals. It was only after three years of extensive discussions with groups and individuals to facilitate the most objective and well informed deliberation within the Law Reform Commission that the following conclusion was drawn, and I quote:

"We decide that it should not be a function of the law to enforce moral judgements in areas where there is no need to protect others; but that where conduct harms people or offends the public, then the law should impose sanctions. We conclude that the laws protecting the vulnerable, especially young people or the mentally disabled, from exploitation or sexual corruption, and the law protecting members of the public generally against public behaviour that is indecent or offensive to the majority, should be strengthened in a number of practical ways".

That was in 1983.

Over the years, the question has been raised repeatedly why was Government taking so long to introduce legislation recommended by the Commission.

Having been a member of the original sub-committee, I was naturally quite curious about the delay, and have posed the question from time to time, but have not been given any clear answer except the usual bureaucratic jargon that other priority prevailed. Perhaps that had something to do with it, but I suspected the controversial nature of the issue was probably the main reason.

Then instead of the expected legislation, the public was presented with a consultative document in June 1988. This gave further opportunity for discussion of the real issue, which is whether the law should intrude into what is considered to be immoral behaviour adopted voluntarily and in private between consenting adults and pronounce such behaviour as criminal.

Following the consultation, a motion debate took place in this Chamber in July last year. This Council voted on the motion proposed by the Chief Secretary to remove the criminal penalties relating to homosexual acts committed in private by consenting men who have reached the age of 21; and to extend to men and boys, where appropriate,

the protection from sexual exploitation afforded by the Crimes Ordinance to women and girls and we passed this motion with a majority of 31 to 13.

Today's Bill is the result of 11 years work by many in the community who had a view about the problem posed by the existing law on the subject, in principle and in practice, and no one can justifiably accuse anyone of having shrouded the exercise in secrecy. Nor can anyone complain of having been deprived of the chance to be consulted. Nevertheless with any highly controversial issue, the arguments will go on. Those who remain unconvinced that the change in the law is right, timely and necessary will go on protesting, perhaps, more loudly now than before realizing that their battle is about to be lost. The true mettle of a legislature is to be able to make the right decision in the public interest in spite of controversy.

By and large the ad hoc group was satisfied that the Bill before us fulfills the objectives laid down by the motion last July.

I shall be moving two amendments during Committee stage.

The first results from our view that the original proposed sentence for the crime of bestiality of a fine of \$5,000 and imprisonment for one year is in itself too low in relation to the perceived severity of the crime. Furthermore the fact that these proposed penalties are considerably lowered from the existing one of life imprisonment would send the wrong message that such acts should be condoned. I shall therefore propose that these penalties be amended to a fine of \$50,000 and imprisonment for 10 years.

The second amendment is introduced to ensure that in section 147 subsection (2), the immoral purpose referred to here should only apply to buggery by a man with another man, and an act of gross indecency by a man with another man, and that the subsection should not be read as an exhaustive definition of all immoral acts.

Other issues discussed by the group were:

(1) Different age limits for criminal liability and protection in the Crimes Ordinance. Although the group raised the question that different age limits applicable to unlawful homosexual and heterosexual acts may cause confusion, we accepted that the main objective of the Bill should not be sidetracked by anomalies which are better tackled by an overall review on age limits in the Ordinance.

(2) Whether marriage implied consent for sexual acts between husband and wife. As this issue arose during the course of discussion but had no direct relevance to the main objective of the Bill, and as marriage had never implied consent for buggery, non-consensual buggery in marriage is included as an offence under new section 118A, the group concluded that the wider issue of consent for sexual acts in marriage should not be dealt with here.

(3) Use of premises, and so on, for illegal sexual purposes. Members were concerned that the absence of the word "vehicles" in sections 140, 141 and 142 might provide a loophole in the law. However the group was assured that such a problem does not arise in practical terms, and that even if it does, charges could still be brought without adding the word "vehicles". The Administration also assured members that the matter would be kept under review by the police.

(4) Criminal liability on men under the age of 21 who commit buggery. Members questioned the apparent anomaly between the new sections 118C and 118D in the criminal liability on men and girls under the age of 21 who committed buggery. The Administration managed to convince members that homosexual and heterosexual conduct should not always be equated. The reason for making a male under 21 criminally liable for participating in consensual buggery was to guard against the likelihood of blackmail against the other partner. Members were assured that in normal circumstances it was unlikely that proceedings would be taken against a male under 14.

(5) Level of penalties for various offences. Apart from strong views held by members regarding bestiality, members held the view that although some anomaly existed between the penalties and the relative seriousness of various offences, we should not attempt to conduct such a review during our consideration of this Bill, but that a separate exercise should be undertaken for this purpose. Members would therefore like to urge the Administration to taken this on with some urgency.

In conclusion, Sir, I would like to thank members of the ad hoc group for their diligent scrutiny of the Bill, particularly the women members, who pressed ahead undaunted in spite of the repeated and conspicuous absence of their male colleagues due to some unfathomable cause totally uncharacteristic of their usual enthusiasm.

MR CHEONG: Thank you, Sir. I am going to surprise my colleagues because they might think that I would be launching on a long speech. I shall simply say, insofar as this Bill is concerned which seeks to decriminalize homosexuality, I made my views known very clearly and forcefully, I think, on 11 July 1990. I will refer my colleagues, if they are interested still in the subject, to that particular Hansard.

I oppose the Bill.

MRS TAM (in Cantonese): Sir, I speak in support of the Crimes (Amendment) Bill 1991.

The Government published a consultative paper on amendments to the legislation in respect of homosexuality in June 1988. Since then, there has been much discussion on the issue within and outside this Council and such discussions have stretched over a number of years. In my view, the issue has been fully considered and the time is ripe for passing the Bill.

As I pointed out in the motion debate on the same issue last year, I cannot accept homosexual acts according to my own moral standard. However, considering the trend of social developments, in particular at a time when human rights are highly valued and entrenched in the community and taking into account the implementation of existing legislation on homosexuality and its effectiveness, I come to the view that so long as the public can get the clear message that the purpose of the Bill is not to legalize all homosexual acts and that protection for the interests of young people will continue, I agree to accept the Bill on the principle that such acts will not cause harm or inconvenience to the public. This is to show my respect for the freedom of choice in respect of acts in private.

I wish to reiterate that while the Bill is endorsed and put into operation, the Government should step up the education for young people, so that they know about the protection given to them under the law in this respect. It should also take measures to prevent them from being induced to attempt homosexual acts or committing such acts out of curiosity.

Sir, with these remarks, I support the motion.

MR DAVID CHEUNG: Sir, while I admire my honourable friend, Mrs Selina CHOW, I rise to speak against the Bill and with a sad heart.

Homosexuality is a kind of deviant behaviour which cannot be condoned socially. People try to rationalize the act by saying that it is a matter of sexual preference. It is not. Such deviant behaviour, whatever its cause behind it, needs to be cured.

The universe that we live in has a natural order of things. Natural order dictates that the sun rises from the east and sets in the west. It cannot be reversed. The natural order cannot be destroyed otherwise the society would become chaotic. Homosexuality is against such a natural order, for God instituted sex within the bonds of holy matrimony between a man and a woman, not a man and a man nor a woman and a woman. It is through a heterosexual relationship that God intends human beings to express love in the deepest sense of commitment and to propagate the human race.

Homosexuality has often been defended as a matter of human rights. It is sheer nonsense. Who does not respect basic human rights, but how can one condone wrong doings in the name of human right? Do I have the right to use cocaine because I can afford it and I do it behind closed doors? The answer is obvious. My honourable learned friends who argue for decriminalization on the ground of human right should re-cast their thinking once again in a more sober manner. The right to do this and that must not be used to mean an insurance to do what is wrong and socially unacceptable.

Some pleaded their case on the ground of privacy. Surely, privacy must be respected and protected. But again does privacy mean free for all behind closed doors? I do not think anyone can and should subscribe to that.

Some further argued in the last debate that morality cannot and should not be determined by law. I cannot agree to that at all; after all, a law or any law must be made for the betterment or good or protection of the great majority. Nothing stops the minority from doing it but laws are to protect citizens and to elevate the overall moral atmosphere of any community.

Sir, what Government is trying to do, in my view, is to confuse the public especially the yet-to-mature minds of the young people. A teacher in a sex education class, now, will no longer straightforwardly tell two boys or two girls engaged in homosexuality that they are wrong. How can we expect our teachers in the front line to do "proper" sex education? Do we expect our teachers to pass a value judgement on these things, or do we expect our teachers to remain silent in such cases. There

are more such cases now in schools. In the past academic year, I have been asked to help both boys and girls involved in homosexuality. It is a worrying trend in which teachers feel so helpless and unable to cope.

My honourable friends argued that decriminalization may not mean legalizing homosexuality. Theoretically it may not be so but, Sir, with the first piece of rock breaking away from the embankment, soon, the rest of the embankment will collapse. Where do we draw the fine line? With the criminal element removed, people can face it, engage in it more openly and legitimately. This is the first of two steps leading to eventual legalization. I can only hope that I am proved wrong.

Sir, Britain was founded on Christian principles. The doctrine of the Church of England has been the cornerstone of Great Britain. I hope it still does. If the Church of England still believes in the words of God which clearly and blatantly forbids homosexuality, then, there is no way that the British Administration can pass the Bill into law today. If so, it will be a sad day in the history of morality in Hong Kong.

I have always advocated that homosexuals must be sincerely asked to come out to the open to receive medical attention and psychotherapy. Researches have shown that these cases can be remedied and corrected and cured. It is only legitimate to help these people to turn over a new leaf, to cure them of the deviant behaviour rather than to encourage them to continue with the practice on shaky moral and legal grounds.

Sir, let not your Administration be tarnished by having this Bill passed into law today. If the view of the public is to be respected, I do believe that the present status of the law will be maintained. Sir, I dread to see the day when homosexuality becomes a common practice in our society rejoicing for the wrong reason that human rights and individual freedom prevail.

We, as legislators, have our responsibilities towards society and towards our young people. We must all search our conscience honestly before we make our decision today. Do we want to see our own children engaged in homosexuality? What we sow today so shall we reap tomorrow.

God is a consuming fire and a God of wrath. I dare not act against Him. I call on my honourable colleagues to vote against the Bill. The Honourable PANG Chun-hoi and the Honourable HO Sai-chu said I can include both their names on my speech.

With these words, Sir, I strongly oppose the Bill.

DR LEONG: Sir, I rise to support the Bill. In essence this Bill seeks to decriminalize homosexual activities performed in private by consenting adults. As a corollary it also acts to protect minors under 21 and the disabled. Let me from the outset, Sir, stress that I do not condone homosexuality nor do I favour that homosexuality should be glorified. Instead I would like to extend the views of the medical profession on homosexuality which might perhaps throw light on its decriminalization.

Psychiatrists have told us that homosexuality, per se, is only a variant of sexual orientation and not a disease. Notice that I have used the word "variation" and not "deviation" as expressed by my honourable colleague, Mr David CHEUNG. It is not a deviation as deviation from a sexual orientation has a moral connotation. Many homosexuals are subjected to considerable stress as a result of strong disapproval from the general public. The condemnation of homosexuality by religious authorities and certain draconian laws force these people to keep their sex life secret. They are always in fear of likely discrimination in their employment and ostracized by relatives.

Homosexuals attempt to escape in marriage while allowing themselves occasional encounters by way of anonymous indulgence with prostitutes or strangers. They are in particular danger of being blackmailed, prosecuted or physically assaulted. It is also a well known motive for suicide. Since homosexuality is not a disease but a variation from normality, should these, Sir, unfortunately afflicted suffer from all these harassments?

Statistics have shown that there is probably as much or more heterosexual transmission of AIDS worldwide as there is homosexual transmission. AIDS is not about sexual preferences but about sexual practices. The crucial distinction is not between homosex and heterosex but between safe and unsafe sexual practice.

It should be clear that a law which makes homosexuality a crime cannot be relied upon to encourage safer sexual practice among heterosexuals.

The most effective way of controlling AIDS is through education. Any piece of legislation, Sir, is no replacement for the condom in controlling the spread of this deadly disease.

I do admit that the current law against homosexual acts has successfully protected the public from being offended by what they consider to be immoral and abnormal. But one particular worrying phenomenon is that it encourages homosexuals to keep their sexuality secret and any disease of theirs to themselves. Furthermore it drives the homosexual community underground. It is therefore obvious that homosexuals are more prone to various diseases related to their sexual activities, including AIDS. The problem is for the medical people to help them. Insisting on the current law is definitely not the way to help; decriminalization is more helpful and wiser.

Perhaps I could end, Sir, by saying what the standpoint of the medical profession is in relation to the existing law. And the following is the position of the Hong Kong Medical Association which represents the profession:

Firstly, criminal penalties for homosexual acts in private between consenting adults should be removed. It is felt that the arm of law should not interfere with the sexual behaviour of adult individuals.

Secondly, the present law discriminates against the male homosexuals as female homosexual activities occurring in private are not punishable by law.

Thirdly, the punishment for buggery without consent should be the same as punishment for rape.

Fourthly, punishment for indecent assault for homosexual acts should be the same as punishment for indecent assault on females.

Sir, this stance is fully reflected in the spirit of the Bill that is before us today. But I would like to emphasize that although this is the position of the medical profession, it is in no way to be taken to imply that we condone homosexual activities. Yet being in a forward moving society having just passed the Bill of Rights it would be a retrograde step, Sir, if we still apply double standards on male homosexuals.

Sir, I support the Bill.

MISS LEUNG (in Cantonese): Sir, I rise to speak in support of the Crimes (Amendment) Bill 1991 which has positively responded to the motion regarding homosexuality which was moved by the Chief Secretary and passed in this Council on 11 July 1990. The

main purpose of this Bill is to decriminalize homosexual acts performed in private by consenting male adults, and to extend to men and boys protective provision similar to those which at present protect women and girls from sexual exploitation.

Sir, some of the arguments raised in opposition to the motion moved by the Chief Secretary last year as well as the motion moved today by the Secretary for Security during the Second Reading of the Bill are mainly based on religious beliefs and moral values.

It is well known that being the body for making secular legislation and controlling public finances, the public forum in this Council is neither the arena for any religious activities nor an institute to study any moral philosophy. As we, being the Members who are responsible for making secular legislation, obviously it would be inappropriate for us to be preoccupied by considerations of any religious beliefs and moral convictions. Thus, as we study and comment on the relevant parts of the Bill regarding homosexuality, I agree as what was stressed in the preambles to the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights as well as Article 17 of the former Covenant, we should now pay our utmost attention on the fact that whether "the inherent dignity and of the equal and inalienable rights" of the homosexuals have been fairly recognized; whether their rights which "derives from the inherent dignity of the human person," are fully recognized; and whether they can enjoy the same degree of freedom as other human beings; and whether they may enjoy the "freedom from fear and want", whether their privacy can be ensured of "not being arbitrarily interfered", and their honour and reputation can be protected from being "unlawfully attacked".

As a matter of fact, it will not be difficult for anyone to notice that the answers of all these questions are in the negative, there could not be any other alternative answers. Under the existing draconian laws, the basic human rights of the homosexuals have been severely trampled on, and the so-called religious faiths and the moral convictions of those influential persons are serving as the driving force to trample on the basic human rights of the homosexuals.

Sir, in view of the fact that the motion moved by Chief Secretary were carried with overwhelming majority on 11 July 1990 -- 31 Members supported while 13 Members opposed and 6 Members abstained. Hence naturally I would support the Second Reading of the Bill moved by the Secretary for Security today, and it is unnecessary for me to repeat my viewpoints raised last year in support of the Bill which are entirely

applicable to my speech today. If, in due course, the Bill be passed into law by the Council, I believe that the basic human rights of the homosexuals would then be safeguarded to a certain extent.

Sir, may I cite an quotation from Abide By The Doctrines which was written 2200 years ago by HAN Fei-zi, the great philosopher of Legalists School in the late Warring States Period, so as to herald in advance for the success of the enactment of this Bill. HAN Fei said, " " which meant that: It is stipulated in the law that the capable ones should not exploit the incapable ones, the strong ones should not bully the weak ones, and the majority should not jeopardize the interests of the minority.

Obviously, the heterosexuals are the majority, the strong ones, while the homosexuals are the minority, the weak ones. Definitely, the purpose of the proposed Bill aims at "the strong ones should not bully the weak ones and the majority should not jeopardize the interests of the minority".

Sir, with these remarks, I support the motion.

MR MCGREGOR: Sir, I am glad that at last we have rectified, or just about to, a long-standing public cruelty on a sector of our society who through genetics or preference are different to others. For long years, far too many years, Hong Kong has refused to accept what has been acknowledged for decades in all civilized societies around the world that homosexuals are not criminals nor are they somehow second-class citizens not deserving of understanding and even sympathy. Hong Kong people generally seem to regard male homosexuality as an unmentionable aberration from normal sexual behaviour, so much so that many local people have claimed that homosexuality is a western preference and has little to do with Chinese society. Family and parental attitudes in Hong Kong have never been able to accept the changing patterns and recognition of the wide differences in sexuality and sexual preferences which have come to light in modern times. This Council has reached, or will shortly do, a brave decision to disregard what may be in fact the majority view in Hong Kong. We have given relief to many male homosexuals who will no longer have to fear prosecution and persecution against the state that God created in them. Some of the world's most brilliant men were and are homosexuals. God created them too.

And God in his wisdom has now allowed us to recognize that male homosexuals among us will not have to face public disgrace through the application of a harsh and cruel

law. Sir, I am pleased to support the Bill.

MR SIT (in Cantonese): Honourable Members, I believe that today will be a day of rejoicing for homosexuals. I believe that, no matter what members of the public or the media or the press may say, the chances are that this Council will pass the Bill to decriminalize homosexual acts. So I believe that homosexuals will be opening bottles of champagne and celebrating in a big way tonight.

However, while we are debating this Bill here today, I also notice that there are many students up in the public gallery. Their purpose in coming here is probably not to learn about the decriminalization of homosexuality but to see how the Legislative Council works. But what the Legislative Council is discussing today is the decriminalization or, in other words, the legalization, of homosexuality. I believe that this will have a huge impact on young people. If it is said that it is not illegal for two male persons to engage in homosexual acts in private, then they will perhaps ask, "Does this mean that it is legal?" I hope that my young friends in the public gallery will ignore what some Members say and will not, for the sake of human rights, take the path leading to homosexuality.

HIS EXCELLENCY THE PRESIDENT: Mr SIT, not in this Chamber, please. You should address your remarks to the President in this Chamber.

MR SIT (in Cantonese): I shall return from my digression. The most important argument of those Members who approve of the decriminalization of homosexuality is that two adult males engaging in homosexual acts in private do not affect or cause harm to a third party. I want to ask Members, "If you go home tonight after this meeting and receive a sudden phone call telling you that your son or daughter is a homosexual or lesbian, how would you feel, sad or happy?" I am asking Members to say from their conscience how they would take it.

The Honourable Mrs Selina CHOW has just referred to (and many Members have also made mention of) Chief Secretary Sir David FORD's 11 July 1990 motion for a debate on the decriminalization of homosexuality. Members cited figures saying that this Council passed the motion on that day by 31 to 13 votes. This is of course a fact that cannot be disputed or ignored. However, did Members read the newspaper reports

and commentaries afterwards? Is public opinion and disposition inclined towards supporting the motion or opposing it? I believe that Honourable Members are erudite, care about the community and pay attention to the news. There is no need for me to say any more here. In fact, Members all know that the public is disposed against decriminalization of homosexuality.

Moments ago, the Honourable Mrs Selina CHOW also mentioned that passing the homosexuality decriminalization Bill will demonstrate the courage of the legislature. She was quite right in saying that the Legislative Council is very courageous. But what kind of courage is it? I would like to cite a few examples: When a Member of this Council moved that Government should consult the public on the matter of the new airport, this Council objected. When the general public wanted Government to reinstate capital punishment, the Council, again with great courage, set public opinion aside. When the general public demanded tax cuts, this Council, again as was its wont, rubber-stamped the tax increases. If we can call it "courage" in all of these examples, I think it is "disgraceful courage."

We know that homosexuals are people who "choose not to do it the proper way". Some of our human rights advocates often talk about respecting the rights of the minority. But is the Hong Kong community made up of the "majority" or the "minority"? What we have been seeing this Council do is that it bends over backwards to think for and attend to the minorities. When we were debating capital punishment, we advocated the protection of some utterly abominable murderers, lest they be legally punished and put to death. When we talk about a handful of people within our community who have homosexual tendencies, we again make law to protect them. Well then, is the principle of legislation based on the protection of the interests of the majority in the community or on the protection of the minorities? How will Members choose?

A moment ago, I heard the Honourable LEUNG Wai-tung say that, when we are voting on a Bill, we need not concern ourselves with matters of social ethics or religion. I may have misunderstood her. Now she is raising her hand.....

HIS EXCELLENCY THE PRESIDENT: Mr SIT, a Member has raised her hand. Are you willing to stand down while the Member makes her point? It is your choice. Miss LEUNG, is this a point of order?

MISS LEUNG (in Cantonese): When I was making the point in question a moment ago, I only said, "When we make secular legislation, obviously it would be inappropriate for us to be preoccupied by considerations of any religious beliefs and moral convictions". This is entirely different from what the Honourable Kingsley SIT is alleging to have been said by me earlier. Mr SIT has misunderstood me. Thank you, Sir.

MR SIT (in Cantonese): I thank the Honourable LEUNG Wai-tung for her clarification which has put me in a clearer picture. The Honourable LEUNG Wai-tung had said "When we are deliberating on secular legislation....." What is "secular"? "Secularity" cannot have an independent existence apart from mankind; it does include society, community, moral values and religion. If one does not talk about these things, one becomes an immortal. I hope the Honourable LEUNG Wai-tung will have a chance to become an immortal. There is another point that we must not forget. If the Bill is passed, this Council will have to bear responsibility. As a Chinese saying goes, "You let the enemy off one day and there will be trouble for several generations." Who is to be responsible for the trouble that will be visited on posterity?

Sir, as we know, the United Kingdom has many fine traditions, such as democracy, the spirit of the rule of law and so forth. We in Hong Kong are very glad to accept them. But the legalization, or decriminalization, of homosexuality is contrary to the moral standards of the traditional Chinese society. I feel that we can accept the good things of the United Kingdom but should not accept its bad things. Viewpoints are different because moral standards, and racial cultures are different. Before concluding, I would like to quote the last two lines of a poem: "The girl of Shang knows not the sorrow over the demise of her country; Across the river she still sings about the flowers in her rear garden." Let me tell Members that, as they vote to pass this Bill, repercussions will be felt not today but in the days to come. It is not a matter of 50 years after 1997 but a matter of generations to come. Therefore, in this connection, Government should consider the social situation today. The suspension of capital punishment has already impaired law and order. The passing of the present Bill will impair social morality. Is one to assume that Hong Kong is already embarked on a fin de siècle mood even before 1997 arrives? I do not believe so. I hope that all Members will think and re-think before voting. Members should think about their children and grandchildren whether or not they have or will have them.

Sir, with these remarks, I not only oppose the Crimes (Amendment) Bill 1991 personally but will also cast a vote against it on behalf of my constituents. Thank you, Sir.

MR TIEN: Sir, after the lengthy and emotional speech by the Honourable Kingsley SIT I find it difficult to add anything to it. Sir, I just want to say that for all the same arguments that I had put forth last July in opposing the decriminalization of homosexual act I still hold these today. Sir, I oppose the Bill.

MR MARTIN LEE: Sir, I apologize for being late and that I was not in the Chamber when it was my turn to speak on this Second Reading of the present Bill. Sir, but I just came in time to hear a rhetorical question posed to this Council by the Honourable David CHEUNG. He asked, "Do we want our children to engage in homosexuality?" Well, the answer to that question is clearly no, but I am afraid it does not solve the problem because if our children should be born that way inclined then the question is: Do we want to see them punished with imprisonment or by the imposition of a fine? As for Mr Kingsley SIT's other rhetorical question that if we are told that our own children in fact are engaged in homosexual acts will we be happy or will we be sad? The answer clearly, Sir, is that we will be sad but the question is: Supposing Mr Kingsley SIT will be shocked with that news no doubt he too will be sad but does he want his children to be punished with imprisonment or a fine? That, Sir, is the question. I cannot speak for Almighty God but I know what my Catholic Church thinks about this. Sir, the Catholic Church does not approve of homosexuality but it certainly supports decriminalization of such act between consenting adults in private and this is what the present Bill is all about. Sir, we debated at length last year on the motion moved by the Chief Secretary. I spoke in favour of that motion. I do not intend to repeat those points but I will listen to the Honourable David CHEUNG. I will let my conscience dictate to me how I will vote and I will listen to the Honourable Kingsley SIT. I have thought more than thrice about this matter. He claims to represent his constituents; I believe at the moment there are only fewer than 50 of them who elected him into this Council. My conscience, Sir, dictates to me that I should support this motion.

MRS LAU: Sir, as legislators, I believe that we are expected to be capable of making a distinction between what is illegality and what is merely immorality. The

Honourable Kingsley SIT appears to be confused on this issue. The Bill merely seeks to decriminalize homosexuality; it does not seek to legalize it. Many of my honourable colleagues who spoke earlier on and those who spoke last year on the debate on this issue have made themselves clear that they do not condone homosexuality. But they do not think that it is just and equitable to maintain homosexuality as a criminal act in our criminal statutes. We do not believe that prostitution is moral but we do not seek to criminalize it. Neither is adultery moral; but do we make it a crime?

Sir, I support the Bill.

SECRETARY FOR SECURITY: Sir, I should like first to thank Mrs CHOW and all the members of the ad hoc group for the detailed consideration they have given to this complex piece of legislation.

Mrs CHOW has mentioned two amendments to clauses 3 and 21 of the Bill which she proposes to move at the Committee stage. I support the amendments proposed.

It is almost a year since this Council approved a motion proposing that measures be taken to remove the criminal penalties relating to homosexual acts committed in private by consenting men who had reached the age of 21 and, to extend to men and boys where appropriate the protection from sexual exploitation afforded by the Crimes Ordinance to women and girls. This was in accordance with the recommendation of the Law Reform Commission. I do not propose to repeat the arguments in favour of this Bill which were fully rehearsed when the motion was debated last year. However, I should like to reiterate what I said in moving the Second Reading of this Bill in April, namely, that we are conscious of the need to maintain standard of public decency and to provide adequate safeguards against the sexual exploitation and corruption of others, particularly the young and those who are otherwise vulnerable. The Bill does not advocate or seek to encourage homosexuality. The provisions in the Bill prohibiting the public display of homosexual acts, the corruption of the young persons and homosexual acts committed other than in private will be strictly enforced.

I have noted the points made by Mrs CHOW that some of the existing provisions in the law relating to heterosexual offences might be considered to be outdated to duplicate one another or to be otherwise anomalous. We have taken the view and in this I believe the ad hoc group concurs that the rectification of these anomalies,

if indeed they are anomalies, should not delay implementation of this Bill. It is already a complex piece of legislation and considerable delay would be likely if we were to extend the exercise to encompass a thorough review of all sexual offences covered by the Crimes Ordinance. We shall, however, review separately the points raised by the ad hoc group and mentioned by Mrs CHOW.

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).

GRANTHAM SCHOLARSHIPS FUND (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 26 June 1991.

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).

BREWIN TRUST FUND (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 26 June 1991.

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).

SIR ROBERT BLACK TRUST FUND (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 26 June 1991.

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 1991

Resumption of debate on Second Reading which was moved on 26 June 1991.

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).

Committee stage of Bills

DUTIABLE COMMODITIES (AMENDMENT) BILL 1991

Clauses 1 and 2 were agreed to.

STAMP DUTY (AMENDMENT) (NO. 3) BILL 1991

Clauses 1 to 6 were agreed to.

WASTE DISPOSAL (AMENDMENT) BILL 1991

Clauses 1 to 13 were agreed to.

DENTISTS REGISTRATION (AMENDMENT) BILL 1991

Clauses 1 to 3 were agreed to.

MEDICAL REGISTRATION (AMENDMENT) BILL 1991

Clauses 1 to 3 were agreed to.

SUPPLEMENTARY MEDICAL PROFESSIONS (AMENDMENT) (NO. 2) BILL 1991

Clauses 1 and 2 were agreed to.

CRIMES (AMENDMENT) BILL 1991

Clauses 1, 2, 4 to 20 and 22 to 29 were agreed to.

Clauses 3 and 21

MRS CHOW: Sir, I move that clauses 3 and 21 be amended as set out in the paper circulated to Members. The reasons for the amendment are as stated in my earlier speech.

Proposed amendments

Clause 3

That clause 3 be amended, by deleting the proposed section 118L and substituting --

"118L. Bestiality

A person who commits buggery with an animal shall be guilty of the crime of bestiality and shall be liable on conviction on indictment to a fine of \$50,000 and to imprisonment for 10 years."

Clause 21

That clause 21 be amended, in the proposed section 147(2), by adding after "subsection (1)" --

"but without prejudice to the generality of the expression "any immoral purpose".

Question on the amendments proposed, put and agreed to.

Question on clauses 3 and 21, as amended, proposed, put and agreed to.

GRANTHAM SCHOLARSHIPS FUND (AMENDMENT) BILL 1991

Clauses 1 to 5 were agreed to.

BREWIN TRUST FUND (AMENDMENT) BILL 1991

Clauses 1 to 6 were agreed to.

SIR ROBERT BLACK TRUST FUND (AMENDMENT) BILL 1991

Clauses 1 to 6 were agreed to.

LI PO CHUN CHARITABLE TRUST FUND (AMENDMENT) BILL 1991

Clauses 1 to 6 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

DUTIABLE COMMODITIES (AMENDMENT) BILL 1991

STAMP DUTY (AMENDMENT) (NO. 3) BILL 1991

WASTE DISPOSAL (AMENDMENT) BILL 1991

DENTISTS REGISTRATION (AMENDMENT) BILL 1991

MEDICAL REGISTRATION (AMENDMENT) BILL 1991

SUPPLEMENTARY MEDICAL PROFESSIONS (AMENDMENT) (NO. 2) BILL 1991

GRANTHAM SCHOLARSHIPS FUND (AMENDMENT) BILL 1991

BREWIN TRUST FUND (AMENDMENT) BILL 1991

SIR ROBERT BLACK TRUST FUND (AMENDMENT) BILL 1991 and

LI PO CHUN CHARITABLE TRUST FUND (AMENDMENT) BILL 1991

had passed through Committee without amendment and the

CRIMES (AMENDMENT) BILL 1991

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

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

Bills read the Third time and passed.

4.25 pm

HIS EXCELLENCY THE PRESIDENT: We still have two motion debates to go. Members might welcome a short break at this point.

4.54 pm

HIS EXCELLENCY THE PRESIDENT: Council will now resume. We have two motions down for debate, one by Mr TAM Yiu-chung and one by Mr Martin LEE. Judging by the number of Members who have put down their names, both those debates could take a considerable time. We have another motion down by Mr Allen LEE and again judging by the very small, indeed infinitesimal, number of people who put down their names to discuss it, that might take a short time. I therefore propose, for the convenience of Members, to

take Mr Allen LEE's motion first and then go on as in the Order Paper.

Member's motions

HONG KONG ROYAL INSTRUCTIONS 1917 TO 1991
STANDING ORDERS OF THE LEGISLATIVE COUNCIL OF HONG KONG

MR ALLEN LEE moved the following motion:

"That with effect from 12 September 1991 the Standing Orders of the Legislative Council of Hong Kong be amended -

(1) in the enactment paragraph, by repealing "1917 to 1986" and substituting "1917 TO 1991";

(2) in Standing Order No. 1 -

(a) in paragraph (1) by adding after "Ordinance." -

"Where a general election of all the elected Members is held, a Member who had previously made or subscribed such oath or affirmation shall again do so in compliance with this order before he sits or votes in the Council.";

(b) by repealing paragraph (2);

(3) by repealing Standing Order No. 3 and substituting -

"3. Presiding in Council and in
Committee of the whole Council

(1) The Governor shall be the President of the Council and a Member, appointed by the Governor for that purpose, shall be Deputy President of the Council.

(2) The President, when present in the Council or a committee of the whole Council, shall preside or be Chairman.

(3) In the absence of the President from the Council or a committee of the whole Council, the Deputy President shall preside or be Chairman. In the absence

of the President and Deputy President from the Council or a committee of the whole Council, the senior ex officio Member present shall preside or be Chairman.

(4) The Deputy President or senior ex officio Member shall enjoy all those powers conferred by these Standing Orders on the President or Chairman that are exercisable in respect of the sitting, or part of the sitting, of the Council or a committee of the whole Council at which the Deputy President or that Member presides or is Chairman, or in respect of which the President has requested that he preside or be Chairman.

(5) The Deputy President shall enjoy such of those powers conferred by these Standing Orders on the President or Chairman of a committee of the whole Council, other than those powers mentioned in paragraph (4) of this order, as the President may specify by notice in the Gazette.";

(4) in Standing Order No. 4 -

(a) in paragraph (5) by repealing "an official report" and substituting "the Official Record";

(b) in paragraph (6) by repealing "the Finance Committee and every" and substituting "every standing and";

(5) in Standing Order No. 4A(2)(a) and (b) by repealing "to the Council";

(6) by adding after Standing Order 4A -

"4B. Attendance of Public Officers

(1) The Governor may designate public officers to attend sittings of the Council or committees or subcommittees of the Council.

(2) A public officer designated under paragraph (1) of this order may give notice to the Clerk of items of business to be included in the Order Paper or the agenda of a committee or subcommittee.

(3) Where it appears to the Clerk, when preparing the Order Paper or the agenda showing the business for a sitting, that a particular item of business requires

the attendance of a public officer designated under paragraph (1) of this order, the Clerk shall state, in respect of that particular item, the name of the office of that public officer.

4C. Participation of Public Officers in Proceedings

(1) The public officer whose office is stated in respect of a particular item of business in an Order Paper or an agenda for a sitting may attend at that sitting.

(2) These Standing Orders, except Standing Orders Nos. 1 and 6(1) (Oath or Affirmation), 3 (Presiding in Council and in Committee of the whole Council), 10 (Quorum), 13 (Petitions), paragraph (a) of Standing Order No.29 (Interruptions), and the Standing Orders in Part J (Voting), shall apply, in relation to the item of business in respect of which a public officer attends a sitting, to that public officer as they apply to a Member who is an ex officio Member.";

(7) in Standing Order No. 5 by repealing paragraph (1) and substituting -

"(1) At least one session of the Council shall be commenced in every calendar year, but a session commenced in one calendar year may be continued and concluded in the following year.";

(8) in Standing Order No. 6 -

(a) by repealing paragraphs (3) and (4) and substituting -

"(3) At a sitting not less than 14 days after the Governor has addressed the Council, a motion may be moved without notice for an address of thanks to the Governor for his address.";

(b) in paragraph (5) by repealing "(4)" and substituting "(3)";

(c) in paragraph (6) by adding "and may be moved without notice" at the end;

(9) in Standing Order No. 7(3) by repealing "in cases of emergency";

(10) in Standing Order No. 8 -

(a) in paragraph (1) by repealing "other than the first sitting";

(b) in paragraph (2) by repealing "6" and substituting "8";

(c) in paragraph (3) by repealing "6" and substituting "8";

(d) by repealing paragraph (5) and substituting -

"(5) When in the opinion of the President it is necessary for the proper completion of the business on the Order Paper at a sitting of the Council to continue any unfinished business on another day, the President may order that the sitting shall continue on such other day for that purpose. Where the President so orders at a sitting of the Council, the sitting shall stand suspended and shall resume for the continuation of business on such other day at the time mentioned in paragraph (1) of this order.";

(11) in Standing Order No. 9(6) by adding after paragraph (6) -

"(6A) The notice under paragraph (6) of this order shall be signed by the Member wishing to raise the matter and by three other Members:

Provided that the President may, if in his opinion the matter is an important one of public concern, dispense with the need to have the notice signed by three other Members.";

(12) in Standing Order No. 11(1) -

(a) by adding after subparagraph (a) -

"(aa) Obituary and other ceremonial speeches.";

(b) by repealing subparagraph (h);

(c) by adding after subparagraph (j) -

"(k) Valedictory speeches.";

(13) in Standing Order No. 12 -

(a) in paragraph (2) by repealing "Oral" and substituting "All";

(b) in paragraph (3) -

(i) by repealing "Official Members" where it appears for the first time and substituting "ex officio Members or public officers";

(ii) by repealing "Official Members" where it appears for the second time and substituting "ex officio Members";

(14) in Standing Order No. 16 -

(a) in paragraph (2) by adding at the end "and the questions shall be counted by the Clerk in the order in which notice is delivered under Standing Order No. 17(2)";

(b) by adding after paragraph (2) -

"(3) Where, in the opinion of the President, there will be no debate on a substantive motion at a sitting, no more than eight questions shall require an oral reply. Where, in the opinion of the President, there will be such a debate, no more than three questions shall require an oral reply. The questions shall be counted by the Clerk in the order in which notice is delivered under Standing Order No. 17(2).

(4) In this order, "substantive motion" means a motion that is independent and not subsidiary to another motion, and does not include a motion under Standing Order No. 6 (Proceedings at First Sitting of Session) or under Parts K (Procedure on Bills) and L (Financial Procedure) of these Standing Orders.";

(15) in Standing Order No. 17(3) -

(a) by repealing "three" and substituting "two";

(b) by adding at the end "and not more than one of those questions shall require an oral reply:

Provided that the President may, if in his opinion an additional question is an important one of public concern, allow a Member to ask that additional question.";

(16) in Standing Order No. 18(1) by repealing subparagraph (d) and substituting -

"(d) A question shall not contain independent questions or be so complex that it cannot reasonably be answered as a single question.";

(17) in Standing Order No. 19 -

(a) in paragraph (4) by adding "when called upon by the President" after "any Member";

(b) in paragraph (7) by repealing "Report" and substituting "Record";

(c) by adding after paragraph (7) -

"(8) A Member who has given notice of a question may withdraw the question by giving notice in writing to the Clerk at any time before the question is put on the Order Paper or, where the question is already on the Order Paper for a sitting, by informing the President orally when his name is called at that sitting that he withdraws the question.";

(18) in Standing Order No. 21 -

(a) in paragraph (1) -

(i) by adding "or a committee of the whole Council" after "Council" where it first appears;

(ii) by repealing "thereof" and substituting "of the whole Council";

(b) in paragraph (2)(a) -

(i) by repealing "the day before that" and substituting "two days before the day";

(ii) by repealing "thereof" and substituting "of the whole Council";

(19) in Standing Order No. 22 -

(a) by adding after paragraph (1A) -

"(1B) A notice of a substantive motion, in addition to being signed by the Member wishing to move the motion, shall be signed by three other Members:

Provided that the President may, if in his opinion the motion is an important one of public concern, dispense with the need to have the notice signed by three other Members.";

(b) by adding after paragraph (2) -

"(3) In this order, "substantive motion" means a motion that is independent and not subsidiary to another motion, and does not include a motion under Standing Order No. 6 (Proceedings at First Sitting of Session) or under Parts K (Procedure on Bills) and L (Financial Procedure) of these Standing Orders.";

(20) in Standing Order No. 24(2) and (4) by adding "of the whole Council" after "committee";

(21) in Standing Order No. 25 by adding after paragraph (4) -

"(5) When no more Members wish to speak the President or Chairman shall put the question that the amendment be made to the Council or the committee of the whole Council for its decision.";

(22) in Standing Order No. 26(1) by adding "of the whole Council" after "committee";

(23) in Standing Order No. 27 by adding after paragraph (4) -

"(5) A Member, other than a Member moving a motion or an ex officio Member, shall not, without the permission of the President, to be given only in exceptional circumstances, make a speech lasting more than fifteen minutes.";

(24) in Standing Order No. 31 by repealing paragraph (8) and substituting -

"(8) The conduct of the Governor or Members of the Executive or

Legislative Councils otherwise than in the performance of their official duties shall not be raised.

(9) The conduct of Judges or other persons performing judicial functions shall not be raised.";

(25) by adding after Standing Order No. 32 -

"32A. Application of Rules to Committees

The rules in this Part shall apply to the proceedings in a standing or select committee unless the chairman of the committee orders otherwise.";

(26) in Standing Order No. 33 by repealing "or the Chairman in committee" and substituting ", the Chairman in a committee of the whole Council or the chairman of any standing or select committee";

(27) in Standing Order No. 34 -

(a) in paragraph (1) by repealing "or the Chairman" and substituting ", the Chairman of a committee of the whole Council or the chairman of any standing or select committee";

(b) in paragraph (2) -

(i) by repealing "or Chairman" and substituting", the Chairman of a committee of the whole Council or the chairman of any standing or select committee";

(ii) by adding "or the committee" after "Council";

(28) in Standing Order No. 35(1) by adding "or a committee of the whole Council" after "Council";

(29) in Standing Order No. 36 -

(a) in paragraph (1) by adding "of the whole Council" after "committee";

(b) in paragraph (4) by repealing all the words after "forthwith" and

substituting "immediately after a division bell has been rung for three minutes";

(c) by repealing paragraph (5);

(30) by adding after Standing Order No. 36 -

"36A. Use of Electronic Voting System

Unless the President or Chairman otherwise directs, where an electronic system of voting is provided in the Council or a committee for the purposes of a division, the Members present and voting shall cast their votes in the division by using such electronic system in accordance with the operating requirements of the system, and the President or Chairman shall declare the result of the division accordingly.";

(31) in Standing Order No. 37(1) by repealing "When" and substituting "Subject to Standing Order No. 36A, when";

(32) in Standing Order No. 38(2) by adding at the end ", and that short title shall remain unchanged throughout the passage of the bill";

(33) in Standing Order No. 39 by adding at the end -

"(5) A public officer presenting a bill shall be known throughout the subsequent proceedings on the bill as the public officer in charge of the bill; and references in these Standing Orders to a Member in charge of a bill include a public officer in charge of a bill.";

(34) in Standing Order No. 46 by adding after paragraph (9) -

"(9A) No amendment to the reference to the year in the title by which the bill is to be cited if it becomes law shall be necessary, and that reference may be changed by the Law Draftsman to refer to the year in which the bill becomes law.";

(35) in Standing Order No. 54(1) by repealing "at the same time as any such bill" and substituting "to the Council not later than the sitting at which such bill is placed on the Order Paper for first reading";

(36) in Standing Order No. 60 -

(a) in paragraph (1) by repealing ", one other Official Member, to be nominated by the President,";

(b) in paragraph (3) -

(i) by repealing "two" and substituting "five";

(ii) by adding "but shorter notice may be given in any case where the chairman so directs" after "the sitting";

(c) in paragraph (4) by repealing "Official Member" where it appears for the first time and substituting "ex officio Members";

(d) in paragraph (4A) -

(i) by repealing "in accordance with a decision of the committee";

(ii) by adding ", other than the ex officio Members," after "each member";

(iii) by repealing "Where any such matter has not been so approved by all the members" and substituting "Unless any such matter has been so approved by all the members, other than the ex officio Members, (who shall be not less than eight in number)";

(e) in paragraph (6) by repealing "the Council" and substituting "a committee of the whole Council";

(f) in paragraph (9) by repealing the second sentence;

(g) by adding after paragraph (9) -

"(10) The chairman or the Committee may call any public officer, or, in the case of a head of the Estimates relating to a non-Government body or organization, any member or servant of that body or organization to give information or any explanation or to produce any records or documents which the Committee may require in the performance of their duties; and the Committee may also call any other person

to assist the Committee in relation to any such information, explanation, records or documents.

(11) Subject to these Standing Orders, the practice and procedure of the committee shall be determined by the committee.";

(37) in Standing Order No. 60A -

(a) in paragraph (2) by adding at the end "In the event of the temporary absence of the chairman, the Committee may elect a chairman to act during that absence.";

(b) in paragraph (4) by adding "chairman or the" before "Committee" where it appears for the first time;

(38) by adding after Standing Order No. 60A -

"60B. Committee on Members' Interests

(1) There shall be a standing committee to be called the Committee on Members' Interests -

(a) to examine the arrangements made for the compilation, maintenance and accessibility of the Register of Members' Interests;

(b) to consider any proposals made by Members or others as to the form and contents of the Register;

(c) to consider and investigate any complaint made in relation to the registration and declaration of Members' interests or any complaint of a failure to do so;

(d) to consider matters of ethics in relation to the conduct of Members in their capacity as such, and to give advice and issue guidelines on such matters;

(e) to report to the Council and make recommendations, including a recommendation as to a sanction under Standing Order No. 65A (Sanctions relating to Interests).

(2) The committee shall consist of a chairman and six other members, who shall

be Members other than ex officio Members, appointed by the President.

(3) The committee shall sit at the times (including any time during the period when the Council is in recess between the end of one session and the beginning of the next session) and at the place determined by the chairman. Written notice of every sitting shall be given to the members at least five clear days before the day of the sitting.

(4) Sittings shall be held in public unless the chairman otherwise orders in accordance with any decision of the committee.

(5) The chairman and four members shall form a quorum. All matters before the committee shall be decided by a majority of the members voting. In the event that votes are equally divided, the chairman shall have a casting vote.

(6) The committee may call any person to attend before the committee and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.

(7) Subject to these Standing Orders, the practice and procedure of the committee shall be determined by the committee.";

(39) in Standing Order No. 62 -

(a) in paragraph (4) by repealing "(7)" and substituting "(6)";

(b) by adding after paragraph (10) -

"(11) Where so authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382), the committee may call any person to attend before it and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.";

(40) by adding after Standing Order No. 64 -

"64A. Registration of Interests

(1) Every Member shall, not later than fourteen days before the first sitting

of each session, furnish to the Clerk, in such form as may be approved by the President, particulars of his registrable interests.

(2) Every Member shall furnish to the Clerk, in such form as may be approved by the President, particulars of any change in such registrable interests, within fourteen days of any such change.

(3) The Clerk shall cause those particulars to be entered in a Register of Members, Interests and that register shall be available for inspection by any person during office hours.

(4) In this order, "registrable interests" means -

(a) remunerated directorships of companies, public or private;

(b) remunerated employments or offices;

(c) remunerated trades, professions or vocations;

(d) the names of clients when the interests referred to above include personal services by Members which arise out of or are related in any manner to his membership of the Council;

(e) financial sponsorships -

(i) as a candidate for election to the Council, where to the knowledge of the Member the sponsorship exceeds 25% of his election expenses; or

(ii) as a Member of the Council, by any person or organization, stating whether any such sponsorships includes any payment to the Member or any material benefit or advantage, direct or indirect;

(f) overseas visits relating to or arising out of membership of the Council where the cost of any such visit has not been wholly borne by the Member or public funds;

(g) any payments or any material benefits or advantages received from or on behalf of foreign governments, organizations or persons;

(h) land and property of substantial value or from which a substantial income is derived;

(i) the names of companies or other bodies in which the Member has, to his knowledge, either himself or with or on behalf of his spouse or infant children, a beneficial interest in shareholdings of a nominal value greater than one-hundredth of the issued share capital.";

(41) by adding after Standing Order No. 65 -

"65A. Sanctions relating to Interests

Any Member who fails to comply with Standing Order No. 64A or 65(1) may be admonished, reprimanded or suspended by the Council on a motion to that effect.";

(42) by adding after Standing Order No. 67 -

"67A. Procedure for Obtaining Leave
for Member to Attend as
Witness in Civil Proceedings

(1) For the purpose of obtaining the leave of the Council under section 6(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) in order that a Member may be required to attend as a witness in any civil proceedings on a day when the Council is sitting, the party to the proceedings requiring the Member so to attend on that day shall not later than 21 days before that day submit to the Clerk a written statement of the request and of the reasons why the attendance of the Member is required on that day.

(2) The request for leave shall be placed on the Order Paper for the sitting next following the receipt thereof by the Clerk and, unless on a motion moved at that sitting by any Member the Council determines that such leave shall be refused, the Council shall be deemed to have ordered that such leave be granted.

(3) The Clerk shall give written notice of the decision of the Council to the party by whom the request for leave is made and also to the Member concerned.

67B. Procedure for Obtaining Leave to Give

Evidence of Council Proceedings

(1) For the purpose of obtaining the leave of the Council under section 7 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) in order that evidence may be given elsewhere in respect of the contents of minutes, records of evidence or any document laid before the Council or a committee, or in respect of any proceedings or examination held before the Council or a committee, the person seeking such leave shall submit to the Clerk a written statement of the request and the reasons therefor and such further information as the Clerk, on the direction of the President, may require in any particular case.

(2) The request for leave shall be placed on the Order Paper for such sitting as the President may appoint and, unless on a motion moved at that sitting by any Member the Council determines that such leave shall be refused, the Council shall be deemed to have ordered that such leave be granted.

(3) The Clerk shall give written notice of the decision of the Council to the person by whom the request for leave is made.

(4) Where the leave of the Council referred to in paragraph (1) of this order is sought during any recess or adjournment or dissolution of the Council such leave may be given by the President or, if the President is unable to act, by the Deputy President appointed by the President for the purposes of this paragraph.";

(43) in Standing Orders Nos. 9, 14, 15, 19, 20, 23, 28, 30, 39, 42, 45, 55, 56, 58 and 60, by repealing "Official Member" wherever it occurs and substituting "ex officio Member";

(44) in Standing Orders Nos. 11, 60 and 60A, by repealing "Official Members" wherever it occurs and substituting "ex officio Members";

(45) in Standing Orders Nos. 7, 35 and 40, by repealing "Governor" wherever it occurs and substituting "President".

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

About a year ago, my colleagues agreed that an ad hoc group should be set up to conduct an overall review of the Standing Orders of this Council to reflect current

practices and account for the changing circumstances. The ad hoc group has held eight meetings to scrutinize amendments to the Standing Orders and a total of 45 amendments have been proposed to the Standing Orders which are set out in the Order Paper.

I will elaborate on a number of issues which are significant.

Presiding in Council and in Committee of the whole Council

The main purpose of the amendments to Standing Order 3 is to provide for the appointment of the Deputy President and for the Deputy President or senior ex officio Member present to preside or be Chairman of the Council or a Committee of the whole Council in the absence of the President. The Deputy President will generally enjoy all powers conferred by the Standing Orders on the President or Chairman of a Committee of the whole Council. Sir, in order to give the Legislative Council an independent image, you have announced to appoint Mr John SWAINE to be the first Deputy President of the legislature and he will preside over most sittings except the first sitting of each Session when you deliver your policy speech and the first Budget sitting when the Financial Secretary presents his Budget. The amendments will enable Mr SWAINE to fulfil his role as the Deputy President effectively.

Attendance of public officers and participation of public officers in proceedings

The provisions in the additional Standing Orders 4B and 4C are entirely new. The number of Official Members in this Council will be reduced to three in October 1991. In order to fill the gap left by the exit of seven Official Members, public officers, designated by the Governor, will be able to attend and participate in meetings of the Council or of the committees of the Council. The Standing Orders (with certain exceptions) will apply to such designated public officers as if they were ex officio Members. The exceptions include taking the oath or affirmation, acting as president or chairman, quorum, petitions and voting. Under the proposed new provisions, a designated public officer will be able to present Bills, answer Members' questions, move motions, move amendments to Bills and speak as though he or she were an ex officio Member.

Motions for the adjournment debates of this Council

In order to ensure better use of limited time available at a sitting and that the debate is of concern to a significant number of Members, a new Standing Order

9(6A) has been added to provide that for an adjournment debate under Standing Order 9, the notice of motion must be signed by the Member wishing to raise the matter and by three other Members. Some of my colleagues have proposed to increase the number of sponsoring Members to five. Having considered the need to protect the right of a non-Government Member to propose an adjournment debate, my colleagues eventually agreed by a majority that the number of sponsoring Members should be three. Nevertheless, the President has the discretion to dispense with the requirement of additional signatures for important matters of public concern.

Questions to the Government

It is specified in existing Standing Orders 16 and 17 that no more than 20 oral or written questions may be asked at any one sitting and a Member may not ask more than three questions at any one sitting respectively. My colleagues considered that the existing practices stipulated in the "OMELCO House Rules" worked well and recommended that the Standing Orders be amended having regard to the House Rules.

The amendments to Standing Orders 16 and 17 bring about changes in accordance with the provisions in the rules. Of the 20 questions permitted at a sitting, only eight (or three if there is a substantive debate) may be for oral reply and a Member may not ask more than two questions at any one sitting of which only one may be for oral reply. "Substantive motion" is defined to mean a motion that is independent and not subsidiary to another motion and does not include a motion thanking the Governor for his address or which is in relation to Bills or financial procedure. However, there is a discretionary power for the President to permit a Member to ask more than two questions if the additional question is an important question of public concern. As regards supplementary questions, Members are of the view that there is no need to stipulate the number of supplementary questions permissible in the Standing Orders and consider that it should be left to the President to decide having regard to considerations such as interest and concern of the public.

Motions

Standing Order 22 has been amended to provide that a notice of substantive motion must be signed by the Member wishing to move the motion and by three other Members. Again, some Members felt that the number of sponsoring Members should be five in order to ensure that the limited time available at a sitting would be better utilized and that the motion was of concern to a significant number of Members, but, having

considered against the rights of individual Members, it was agreed by a majority that only three sponsoring Members would be required. Nevertheless, there is also a discretion for the President to dispense with the other three signatures if the motion is an important one of public concern.

Length of speeches

Sir, there is no Standing Order limiting the length of speeches. According to the findings of a research undertaken by the ad hoc group, the average length of speeches during the last few major debates was between 12 and 14 minutes. It was suggested that the length of speeches in the Council be limited to 15 minutes with an exception for the Member who moved the motion and for ex officio Members. A new paragraph is added to Standing Order 27 to provide that a Member, other than a Member moving a motion or an ex officio Member, may not make a speech lasting more than 15 minutes. However, there is also a discretionary power given to the President to relax the rule should circumstances so warrant.

Electronic voting system and division bell

Amendments to Standing Order 36 and the new Standing Order 36A provide for the introduction of a division bell and the use of electronic voting system respectively. Electronic voting system which will be installed shortly will only apply to meetings of this Council or of a Committee of the whole Council. As regards the division bell, my colleagues are of the view that it will be useful for the bell to ring for three minutes to draw the attention of Members in the Legislative Council building to take part in the voting.

Committee on Members' Interests and declaration of interests

New Standing Order 60B provides for the creation of another standing committee to be called the "Committee on Members' Interests". This committee has terms of reference similar to those of the House of Commons' Select Committee on Members' Interests. It consists of a chairman and six other members, all non-Government Members appointed by the President. Sittings are in public unless the chairman otherwise orders in accordance with a decision of the committee. A quorum is the

chairman and four other Members. Matters are decided by a majority of the members present.

New Standing Order 64A provides for a register of Members' interests. Members will be required to furnish the Clerk with the relevant information in a form approved by the President not later than 14 days before the first sitting of each Session. Changes must also be notified within 14 days of the change. The register will be available for public inspection. Registrable interests are defined and follow the nine categories used by the House of Commons in London.

New Standing Order 65A provides that any Member who fails to comply with Standing Order 64A Declaration of Interests or Standing Order 65(1) Personal Pecuniary Interest to be Disclosed may be admonished, reprimanded or suspended by the Council on a motion to that effect.

Committee structure of the Legislative Council

Review of the Standing Orders of the Legislative Council is an on-going exercise. I am sure that efforts will be made to further refine the Orders where necessary.

In May this year, the ad hoc group held two meetings to examine the committee structure of the Legislative Council. It has been recommended that, among other things, a co-ordinating and selection committee be established to be responsible, firstly, for the efficient conduct of Legislative Council business and co-ordinating all the scrutiny work on legislation. Secondly, this committee will advise the President on the membership of the Public Accounts Committee, the Committee on Members' Interests and other select committees in particular those formed to scrutinize Bills. It is also proposed that more committee meetings should be open to the public. I do hope these recommendations will be further examined in the 1991-92 Session.

Finally, I would like to take this opportunity to thank my honourable colleagues of the ad hoc group, Mrs Selina CHOW, Mr Martin LEE, Mr SZETO Wah, Mr Andrew WONG, Mr Ronald ARCULLI, Mrs Nellie FONG, Mrs Peggy LAM, Mrs Miriam LAU, Dr LEONG Che-hung, Miss LEUNG Wai-tung, Mr Kingsley SIT and Mr James TIEN, for the tremendous amount of time and efforts contributed to the group's deliberations. I would also like to thank the Administration and the OMELCO Secretariat for their untiring support

rendered to this group.

Sir, I beg to move.

Question on the motion proposed.

HIS EXCELLENCY THE PRESIDENT: Since I mentioned the very small number of Members who wish to speak, the number instantly doubled and now I have the names of Mr Martin LEE and Mr Andrew WONG who wish to speak. Could I just check that nobody else wishes to?

MR MARTIN LEE: Sir, as this Council progresses ever so slowly towards being a truly representative and effective legislature, there is a pressing need for changes in the way we operate. As such, I welcome the ad hoc group study in the deliberation on the Standing Orders and many of the proposed amendments that are before us today. While I have some reservations about some of the proposed changes, I believe that the majority of the steps are positive, and in particular, I support the establishment of the Committee on Members' Interests.

At the same time, it is clear that this Council must undertake a far more comprehensive and fundamental examination of how we operate. With the introduction of democratically elected Members this autumn, this Council will be entering a new era, and we must devise institutions and practices that will allow us to become an efficient legislature that is accountable to the public. One of the first priorities is to establish a committee system that is representative and open and based on clearly defined procedures. To that end, we will need to revise substantially the current Standing Orders, even after the amendments made to them today, and this will be a major challenge for the new legislature. During this forthcoming review, I am sure the Council will examine several of the issues that have been dealt with in a piecemeal fashion during this round -- particularly the order of speaking of this Council and the ability to initiate motion debates.

I am afraid that the ad hoc group has failed to address one of the most necessary changes to the Standing Orders, namely, the removal of the Governor as President of this Council, and there is nothing personal about this.

Sir, Article 71 of the Basic Law provides that "the President of the Legislative Council of the Hong Kong Special Administrative Region shall be elected by and from among the members of the Legislative Council". I therefore completely fail to see why the Governor of Hong Kong should still preside over this Council until 1995.

Similarly, as a matter of principle, this Council should be allowed to elect its Deputy President at the start of the new Session in October. I have the greatest respect for the integrity and ability of Mr John SWAINE QC and I have no doubt that this Council would elect him if we were given the opportunity to do so. Why then, Sir, are we not taking this necessary step in our constitutional development in October?

I would now like to turn briefly to two changes proposed today, the consequences of which I believe have not been fully thought through. The first is the change to Standing Order 22 in order to require a motion to be supported by three other Members. The requirement of three sponsoring Members will work against really independent Members who do not have allies in the Council either from a political party or among other Members. As a matter of principle, we ought to allow individual Members to bring matters to the floor of the Council. Who are we to say even before hearing a Member out that his or her motion is not worthy of discussion in this Council? If the matters contained in the motion are of importance, the Council ought to discuss them; if not, the debate will be very short indeed.

While some Members may worry about the possibility of Members bringing too many issues to the floor of the Council, there are two safeguards. First, democratically elected Members will have to be responsible to their constituents; any attempt on their part to "abuse" the system might cause them to lose their seats in the next election. Second, an open committee system would enable Members to raise issues for public discussion concerning Bills at the Committee stage; thus, Members would not feel compelled to initiate motion debates relating to Bills as the sole means to have issues discussed in public as now.

The second subject is the time limit on speeches. While I have no fundamental objection in principle to setting time limits on debates, I must state that the only acceptable reason for this is the efficient working of this Council. The reason advanced by some Members during the ad hoc group discussions -- that work in this Council was taking up too much time from their own business -- is entirely without merit. If Members are not willing to devote all their time or at least a substantial

part of their time to the work of this Council, then they should not accept or seek membership in the first place.

I am opposed to the current proposal of the ad hoc group on time limits. First of all, I do not believe it is appropriate to make a distinction between official Members and other Members. Second, I believe that certain allowances ought also to be given to the main speaker or speakers in opposition as is the case in most democratic parliaments.

As a general proposition, Members can certainly confine their comments to 15 minutes. Yet, certain very complex issues -- such as the Bill of Rights -- might require more than 15 minutes. It is important to bear in mind that the problem at issue here is the total time of all speeches -- not the total time of any individual speech. I therefore favour a system where Members could allot their unused time to other Members, thus keeping a limit on the total time while allowing individual speakers with particular expertise or interest to go beyond 15 minutes if necessary. To rely solely on the discretion of the President would introduce a harmful degree of uncertainty and capriciousness into the system.

Closely related to the question of time limits is that of the order of speakers. Indeed, this latter question is of greater importance and relevance than the former. For, the problems that the ad hoc group wishes to solve -- length of sessions, unfairness to persons with low seniority who have to speak last, repetition of points expressed earlier -- can best be addressed by altering the outdated and awkward system of speaking by order of seniority.

Rather than going mechanically down the line of seniority and alphabetical order, the speaking order should strive to provide for a concise, balanced debate. Members and the public in general will all benefit from a well-ordered exchange of views. I suggest that Members who wish to speak on the Bill or motion in question should indicate whether they will speak for or against it. Members within each group could then determine their own speaking order (for example, give precedence to convenors of standing committees), and the President could call alternatively on speakers from each group. Such a system would prevent repetition of points, allow for junior Members to participate more actively, clarify the issues in question, and reduce the total debate time. It is not surprising, therefore, that this type of system is used in most democratic parliaments.

Even if we cannot follow such a procedure yet the least we can do is to enable the principal opponent (such as the author of the ad hoc group's minority report) to speak immediately after the Member who moves the Bill or motion. It should be left to all those who have indicated their opposition to the Bill or motion to agree amongst themselves on who should speak first. Failing agreement, the President should decide.

In sum, several of the changes introduced today are worthwhile and necessary. At the same time, when this Council reconvenes in October, we will need to examine again carefully and conscientiously these outstanding matters in order to make this Council more efficient, open and accountable. Only then can we develop this Council from its previous status as a colonial rubber stamp into a truly viable legislature that will work for the interests of all the people of Hong Kong.

With these reservations, Sir, I support the motion.

MR ANDREW WONG (in Cantonese): Sir, I rise to speak in support of the Honourable Allen LEE's motion which seeks to amend the Standing Orders of this Council. I am not going to canvass the motion before us point by point but will only pick a few proposed amendments which I consider relatively significant and which warrant particular attention. They are as follows:

(1) As regards the office of Deputy President, I do not think that it would pose a problem as grave as the Honourable Martin LEE would have us believe. It would be best if an amendment could be introduced as soon as possible to have a person (other than the Governor) appointed President of the Council and following this, say, by 1995, to make the office of President an elected office.

(2) Among the proposed amendments set out in the annex, there is one to the effect that a notice to raise a matter must be signed by the Member wishing to raise it and by three other Members. This requirement relates to adjournment debate under paragraph (11) of the annex and substantive motion under paragraph (19). I am of the opinion that as far as substantive motion is concerned it would not be appropriate to require that the notice to move it be signed by the mover and three other Members. If Members of this Council hold the view that excessive numbers of Member's motions will inhibit the efficient conduct of government business in the Council, the best way to get round it would be to apportion floor time, for example, to designate certain

sitting days where individual Members are given exclusive floor time to raise matters of their choice, and other sitting days where more floor time is given for public business to be transacted. I am basically against the requirement as to co-signing of notice for adjournment debate because such debate is limited to 45 minutes in duration and only one such debate is allowed at one sitting. It should be appropriate for a Member to raise it without requiring three other Members to co-sign the notice.

(3) With regard to paragraph (23) of the annex, the observations with regard to the 15-minute limit made by the Honourable Martin LEE a moment ago would not seem to be too correct. I think that 15 minutes would still seem to be too long. Most times Members would not need to speak more than 15 minutes. I feel that if we need to enforce a time limit, 10 minutes would be best. However, there must be flexibility in enforcing it and the President may in his discretion give more time to the mover of the motion, officials, panel chairmen or the principal opposer of a motion.

(4) There are three paragraphs in the annex devoted to Members' interests, that is to say paragraphs (38), (40) and (41). Paragraph (38) deals with the setting up of a Committee on Members' Interests. I have little to say on this. The same is true of paragraph (41) which deals with sanctions. However, paragraph (40) which deals with registration of interest is open to question. The existing system which divides registrable interests into three categories is not mandatorily laid down under Standing Orders. Now it is being proposed to expand registrable interests into nine categories modelled entirely on that of the United Kingdom House of Commons. Item (e)(ii) may give rise to problems of interpretation. (e)(ii) requires a Member to register financial sponsorships by any person or organization and to state whether such sponsorships include any payment to the Member or any material benefit or advantage, direct or indirect. But according to the existing law of Hong Kong, no incumbent Member shall receive any benefit or advantage of any sort whether in money or in kind. Will this item (e)(ii) lead to misunderstanding that on becoming a Member one can still receive these benefits and once registered, the benefits will be "legitimatized"?

(5) With regard to paragraph (29) which deals with division, the Honourable Allen LEE said a moment ago that an electronic voting system might be introduced. To my way of thinking, the most significant change proposed in paragraph (29)(c) is to repeal existing Standing Order 36(5). According to the existing Standing Order 36(5), if the balance of voices seems unclear, and upon a Member claiming a division, the President or Chairman may take the vote of the Council or Committee, as the case may

be, by calling upon the Members who support his judgement of the voices to rise in their places. If I remember correctly, this has not been used since 1987. Upon repeal of this particular Standing Order a Member will be entitled to claim a division after the voice votes are taken and the President or Chairman, as the case may be, shall not be entitled to refuse. I think this is a very important improvement.

Finally, I should like to say something on the recommendation to set up a selection committee as mentioned by the Honourable Allen LEE. The Honourable Martin LEE in his speech also gave a range of views as to how best to improve the committee structure of this Council. In the review of the committee structure, I would suggest that it should fall to the Selection Committee to select Members to sit on various legislation committees which will be different from committees deriving their existence from the merging of so-called "departmental committees". This will be the best improvement measure at the present stage. Upon the setting up of the Selection Committee, membership of the various legislation committees will be determined. This will be in contrast to the present practice under Standing Orders of appointment by the President of the Council. Neither will appointments be made by the full Council, because within the Council the majority may overwhelm the minority. The review has been going on for over a year. The outcome may not be as desirable as the Honourable Martin LEE would imagine. But I find it strange that the Honourable Martin LEE, though he accepts that to move forward is the right direction, should insist that we must take 10 steps forward or none at all. I believe that at the present stage if this Council wants the scrutiny process of Bills to be more transparent and open it would be best to set up a Committee on Legislation. I just hope that in our eagerness to strive after the most ideal state of perfection, we will not forget that the integrated development of a system must proceed and evolve by progressive steps.

Sir, with these remarks, I support the motion.

Question on the motion put and agreed to.

CENTRAL PROVIDENT FUND

MR TAM YIU-CHUNG moved the following motion:

"That this Council urges the Government to take immediate steps to re-examine the setting up of a Central Provident Fund or other forms of compulsory retirement schemes in order that workers in Hong Kong are provided with comprehensive retirement

protection."

MR TAM (in Cantonese): Sir, I move the motion standing in my name on the Order Paper. First of all, I would like to tell Members a story, a real case handled by a social worker.

We often tell old people that we wish them live to a hundred years in order to please them. But to old Mr CHAN, longevity is no blessing. Mr CHAN is now 91 years old. But he still has to worry about making ends meet and toil for his living!

The back staircase of an old building has been the shelter for Mr CHAN and his wife Mrs CHAN for more than 20 years. From time to time, Mr CHAN sits at the entrance to the building -- he is the watchman of the building.

For over 20 years, the ownership of the building has changed twice. And twice has Mr CHAN asked the new owner to let him stay. In order to show his dedication, he is always at work and open the door punctually every morning and he closes the door at eleven every night after everyone leaves. Mr CHAN has moved to live in the building from his home at a small mezzanine floor. Mrs CHAN, who has been the cleaning lady of the building, is more than 10 years younger than Mr CHAN. For more than 20 years, their living has been centered on the building. They eat, live, sleep and work there.

When Mrs CHAN was asked how much they were paid by the owner, she said that she had never met the new owner. The lift operator hands them the salary, which makes up \$3,000-odd for the two, every month.

"Three thousand dollars is good enough for us!" Mrs CHAN does not mind that for two years there has been no raise in their salary. She is worried about the health of Mr CHAN. She also finds it exhausting to sweep the floor and clean up the toilet. She wants to know how much they will get if they retire now.

In her mind, there will be compensation for retirement. Looking at her hopeful face, who have the heart to tell her the fact that there is no such thing as retirement in the law and that there is no compensation for retirement! What we have is something which is known as "Long Service Payment". Some may think that in the broadest sense it can be regarded as pension!

When Mrs CHAN was asked how long she had been working for the new owner, she said, "five years". How should we explain to her that she probably cannot get more than \$10,000 for the service payment! Can we say that she will have "pension" if her boss is a "good person"?

Sir, that is how the story ends. Incidentally, just now when I was outside the Legislative Council Building, representatives of the Federation of Trade Unions presented me a caricature, in which the characters somewhat look like Mr and Mrs CHAN in my story. Be it a story, or just a caricature, it is reflecting the reality -- the helplessness of the aged in their miserable lives and the frustration of the younger generation. This reality aptly proves there is a pressing need for Hong Kong to have a good retirement protection system. None can deny this, though one can avoid talking about it.

Honourable Members, I am not sure what you will feel after hearing the story. I feel quite sadden for it, especially when I realize that such stories happen time after time around us and the protagonists are those who have built this beautiful and prosperous city and let us sit here so comfortably.

Sir, we have just passed the Bill of Rights. In the debate on the reinstatement of the execution of the death penalty we have endorsed the motion on abolishment of the death penalty. There is an atmosphere of respecting human rights and humanitarianism both in the Government and in the community. Even those serious crimes offenders are not excluded. However, why should we be so mean to those respectable elderly people who have contributed to the building of this prosperous city and not allow them to enjoy a happy and comfortable life in their twilight years? Why should we allow such phenomenon as "two old people die of suicide every three days" to exist?

We are often proud of the fact that Hong Kong is a metropolitan city. Our financial industry and container terminal are among the best in the world. Many of our industrial products are well received around the world. Our Gross National Product is second only to Japan in Asia. But at the same time, our retirement protection system is lagging far behind most of the countries which are so much less advanced in terms of economic development than we are. Please look at the serious degree of destitution of our elderly people in the absence of any retirement protection systems. According to the Study of Old Age Allowance Recipients 1987 by the Social Welfare Department, only 0.5% of old people over the age of 70 enjoy pension;

only 9.1% rely on government welfare reliefs; only 4.5% live on their own savings and the remainder have to depend on their families. Among those elderly people depending on their families, 60% cannot get any pocket money and less than 2% can have \$200 to \$300 every month.

The Hong Kong Federation of Trade Unions has recently completed a survey on the living of old people beyond the retirement age. The findings indicate that 80% of workers have to continue to work after they have reached the retirement age. For those interviewees who have quitted work, near 40% stop working because "their physical condition does not allow them to do so". Among those interviewees who are still working over 70% say that they continue because of money consideration. Moreover, less than 50% of the workers interviewed could get benefits or compensation, which were mostly in the form of severance pay, when they quitted their last job. Those who get less than \$20,000 for leaving benefits or compensation approximate to 60% and less than 10% of them can rely on the sum of their post-retirement living. 50% of the elderly people interviewed said that they have to survive on their present employment. In the absence of retirement protection, most of our old workers have to go on working "until they die". I would like to ask everyone of you here, can we take pride of the deplorable situation facing the elderly people in Hong Kong? Do we want to see the story of Mr and Mrs CHAN to repeat itself? Do we want to let our youngsters and middle-aged people of today become Mr and Mrs CHAN of tomorrow?

Sir, honourable colleagues, I have described this real case in such detail and cited the above information out of the wish of showing you a fact: the retirement protection to elderly workers in Hong Kong is extremely inadequate. After their retirement elderly people not only cannot enjoy their twilight years comfortably, but also have to face the cruel fact of living because of the loss of working ability. This is a simple fact which the Government has refused to face squarely despite its simplicity.

Honourable colleagues, we frequent the glamorous side of the city in our everyday life and seldom come into contact with Mr and Mrs CHAN. However, I hope that we shall not be blinded by the colourful neon light and those skyscrapers. There is another world surrounding us, not very far away and in the same Hong Kong society. In this world, there are over 80 000 single elderly people taking shelter in caged apartments or one or two person units of the Housing Authority. Some of them are members of families which earn a monthly income of as low as \$3,000 to \$4,000. Some of them work as watchmen, porters, cleaning amahs and factory workers. There are hundreds

and thousands of Mr and Mrs CHAN. Today we sit here comfortably to discuss the well-being of these people who are in the lowest stratum of society. I hope that you can give serious consideration to the situation of Mr and Mrs CHAN and support the motion. I must reiterate that the objective of the motion is to urge the Government to face squarely the increasingly serious problem of retirement protection to elderly people and to work out an effective compulsory retirement protection scheme. As to the concrete approach of the scheme like whether it should be a Central Provident Fund or other approach, it is only a technical matter and is not insisted in the motion. I therefore hope that my honourable colleagues will not oppose the motion for reasons of technical considerations or disagreement to certain approaches.

Sir, the Government has time and again evaded its due responsibility for providing elderly workers with retirement protection. I hope that the Government can take up its responsibility this time. As the saying goes "It is never too late to repair the fences even if one sheep died". If from now on the Government can give serious consideration to the subject, it can still work out remedial measures. A further delay for several years will aggravate the problem by the time when the ageing problem approaches its peak and the Hong Kong society will have to pay an even greater price. Sir, although by that time it will be the Special Administrative Zone Government which has to face the problem and pay for the price, I hope that the current Government can face the problem squarely and in a responsible manner, tackle it with farsightedness in formulating a long-term policy. I urge the Government to set up an an hoc committee comprising representatives from employers, employees and the social service sector as soon as possible to study the retirement problem of elderly people and work out practicable retirement protection systems. This is an urgent business which Hong Kong has to deal with indeed. Sir, my views and recommendations above have the support of the Honourable HUI Yin-fat who cannot attend this meeting. Moreover, I noted that Dr the Honourable Henrietta IP will later on move an amendment to my motion. But since her amendment has little difference from my original motion as far as the objective is concerned, I will duly accept if Members support her amendment motion. Sir, I so move.

Question on the motion proposed.

HIS EXCELLENCY THE PRESIDENT: I have received notice from Dr Henrietta IP to move an amendment to the motion. Her amendment has been printed on the Order Paper and circulated to Members. In the normal way I will call upon her to move her amendment

when it comes to her turn to speak.

MR CHEONG: Sir, having heard the Honourable TAM Yiu-chung's speech moving his motion, I must congratulate him for delivering a very moving episode of facts which I do not dispute -- facts about and . What I am about to say on this particular topic is another set of facts. This set of facts, I am sure, will not be welcomed by a lot of people in Hong Kong, because I will not be able to state it as movingly as Mr TAM Yiu-chung did.

The other set of facts is: yes, we have an ageing problem, we have a problem of people who have worked their lives for a long time for Hong Kong, albeit they received wages for it. But at the end of the day now they still need to live. Life still goes on and because of inflation, and so on, the economy has moved in step, expectations have gone much higher than originally anticipated and old retired people are finding themselves in a very difficult situation. As a caring society, Sir, I submit we should examine ways and means of dealing with this particular problem. But the question I ask is: Is a central provident fund or any compulsory contributory scheme suitable for Hong Kong? In my own view, no, Sir, it is not suitable, simply because in the context of Hong Kong, our economic development is, rightly or wrongly, very much dependent on economic activities undertaken by investors whether they are local or foreign. One may brand investors or businessmen a greedy lot whom one could despise. But at the end of the day business activities create economic activities, create employment opportunities and therefore drive the growth of the economy. It is the macro aspect that I would urge my colleagues to advert to in considering this particular issue of whether or not we should have a compulsory element in it.

In the context of Hong Kong, especially now, given the uncertainties such as the confidence crisis, brain drain and the 1997 question, the only advantage that investors have in remaining in Hong Kong is to be able to enjoy the low tax base. If we are to move into a system like that of the United Kingdom in the early 1960s whereby the Government looked after its citizens from cradle to grave, then, what will the cost be to the government coffers, to the recurrent expenditure year after year and to the taxpayers? How is the Government going to raise that kind of money? Government will have to cast the tax net much wider than what it is now. Government may not be able to afford all the improvements in social welfare, housing, medical services and so on without having to raise more revenue. My point is: by all means let us examine the matter, let us have committees, let us find ways and means of dealing

with the social problem of our ageing population. But should it be a call for one set of solution which is a compulsory provident fund or a compulsory contributory scheme?

Sir, I remember that back in 1987 I stated during a debate on central provident fund a fact and that fact was that the concept of a central provident fund had been studied by economists, such as FELDSTEIN who is former chairman of President Reagan's Council of Economic Advisers in the United States. The conclusion from the study was that the better provision through Government of social security, the lesser a citizen would desire to save leading to a shrinking of resources for further economic development. FELDSTEIN estimated that the United States social security system has reduced personal savings in the United States by as much as 38% leading to a reduction in cumulative capital resources for re-investment thereby contributing to reduction of GNP growth of the United States up to 1972 by as much as 11% to 15%. Projecting that scenario to Hong Kong for a moment, it would be worth noting that our past growth has been due to the hard work as well as to the available personal savings of our entrepreneurs and their friends or families who provided the needed impetus and capital to work, be successful and move up the social ladder, not only for themselves but also for any of those who work with them. Sir, I would hasten to add by simply reiterating that I am sure that industrialists or business people in Hong Kong are not as uncaring as some people have depicted them to be. We are certainly a caring society and we will certainly look at cases of despondency or cases that merit contribution from the rest of the community to help those who cannot help themselves. But at the end of the day, the engine of economic growth in Hong Kong depends on our continued vitality to work hard and to be able to face up to the challenges of the future. Sir, I think that is the spirit that we need to foster. It is not the spirit of compelling the Government to look after every citizen that will be the right path for Hong Kong. And for that reason, despite Dr Henrietta IP's proposed amendment as to feasibility, I find it difficult to support the motion because of the compulsory element.

Sir, I will oppose both the motion and the amendment.

HIS EXCELLENCY THE PRESIDENT: Dr IP, you may now speak to the motion and also put forth your amendment if you wish.

DR HENRIETTA IP moved an amendment to Mr TAM Yiu-chung's motion:

That Mr TAM Yiu-chung's motion be amended by inserting "the feasibility of" after "re-examine".

DR IP: Sir, I move that Mr TAM Yiu-chung's motion be amended as set out on the Order Paper. Sir, no one in Hong Kong can profess not to have seen elderly and frail men and women carting heavy loads of rubbish across our streets, sometimes uphill. Nor can we turn a blind eye to the existence of elderly watchmen. Yet Hong Kong is considered a prosperous community where even race horses enjoy air conditioning. We must look positively into ways in which we can adequately compensate our retiring population. They have worked to make Hong Kong what it is today. They deserve to retire with dignity and to enjoy the rest of their lives in comfort.

For the financial year 1990-91 the Government has spent \$1,576.38 million in old age allowance, and an estimated \$660 million in public assistance for the elderly. With the increasing longevity and successful birth control, Hong Kong's population is getting older. This financial incurment to look after our aged therefore will increase with time. This does mean that with the status quo the responsibility of providing for an increasingly large aging population will rest on the shoulders of a decreasingly small work force.

If we consider Hong Kong to be a going concern, spearheading through 1997 into the 21st century, we must begin to plan ahead to shift this responsibility of looking after the future elderly onto themselves when they are still young. That is to say -- to get our existing young work force, their employees and the present Government to save up for their own future use.

It is true that our present Government attempts to provide for the elderly or the retirees with the old age allowance, means tested public assistance, and long service payments. The question is whether any of these taken separately or in combination is sufficient; and do they benefit all retiring elderly persons who need them?

It is obvious that they are not sufficient! How can an elderly survive on a \$400 or so old age allowance per month? Culturally, Chinese people prefer to be self sufficient rather than to apply for public assistance.

Therefore in reality the elderly prefer to work to their very last sweat rather than to turn to the Social Welfare Department for money. It is for this reason that it is not uncommon in Hong Kong to see frail elderly men and women enduring manual labour. Are we being fair to our elderly?

The long service payment does not cover staff in the construction and manufacturing industry who are on daily contract and who form the bulk of our labour force. Neither will a voluntary fund alone be beneficial to them. Yet these people are least able to earn enough to save up for old age.

Their only asset is their physical strength and finger agility which will be lost in old age. Time has come for Government to actively address the problems facing Hong Kong's elderly population in a comprehensive manner to ensure that all our elderly can enjoy the fruits of their labour on retiring. In doing so, a central provident fund or some form of compulsory retirement fund are only two of the many options.

Sir, it is for this reason that I propose to amend my honourable colleague TAM Yiu-chung's motion by adding the words "the feasibility of" as tabled.

A central provident fund or some form of compulsory retirement fund may solve the financial security for our elderly but may itself bring on other economical problems. The method of collection, the level of contribution, who will benefit, how the fund is to be managed and so on will have to be worked out in depth to ensure that administrative cost is kept low, that those who really need it will benefit, that lower paid worker's take home pay will not be severely affected and that investors are not driven away.

A compulsory and contributory retirement fund which expands on and which will substitute our existing old age allowance, public assistance for the elderly and long service payment may be a possible solution. Contribution by the employee, the employer and Government will bring a more balanced approach.

Those who have never worked in open employment -- say housewives, but who served the community indirectly, should not be singled out. A pragmatic scheme would be one which should be introduced gently with the target of full financial security for the elderly after a certain number of years.

Sir, we can learn from the bad experience of other countries and, while instituting a pragmatic scheme, veer far away from the pitfalls, such as high taxation and the loss of a competitive edge. Many poorly developed countries in Asia have compulsory provident funds and they have still kept their competitive edge.

If at the end of the day the disadvantage of introducing such a scheme outweighs the advantages, it is not sufficient for Government just to decide not to introduce any such scheme at all.

A responsible government must go further to find an alternative solution now, to provide financial security for the future aged, rather than take the risk of creating an economical problem for future governments which have to bear the brunt of the responsibility.

To conclude, Sir, I would like to see Government urgently and actively approach the feasibility of setting up a compulsory retirement fund with an open mind, failing which an alternative solution must be proposed to address the financial security for our future aged population without creating a liability for future governments.

With these words, Sir, I seek to amend the motion as tabled to Members.

Question on Dr Henrietta IP's amendment proposed.

HIS EXCELLENCY THE PRESIDENT: Once again let me remind Members of the rules for these debates where there is an amendment. A Member who has spoken before -- a limited number in this debate so far -- can speak again on the amendment but his/her remarks should be confined to the amendment. A Member who speaks now will be taken as speaking both to the original motion and the amendment and therefore cannot speak again once the amendment has been disposed of. I have the names of the following Members who indicate that they will take part in the debate. If additional Members wish to speak, they would please indicate that after I read out the present list which is follows: Mr CHAN Ying-lun, Mr CHUNG Pui-lam, Mr HO Sai-chu, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mrs Rosanna TAM, Mr Andrew WONG, Mr Paul CHENG, Mr Ronald CHOW, Mrs Nellie FONG, Mr Daniel LAM, Mrs Miriam LAU, Dr C H LEONG, Mr Jimmy MCGREGOR, Mrs SO CHAU Yim-ping, Mr James TIEN, Mrs Elsie TU, Mr Peter WONG, Secretary for Health and Welfare, Secretary for Education and Manpower. Are there any other Members who wish to speak?

Before we launch onto that list, I notice that it is almost 6 o'clock and when it comes to that point, the Council ought to adjourn under Standing Order 8(2).

6.00 pm

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

Question proposed, put and agreed to.

MR CHAN (in Cantonese): Sir, first of all, I consider it more desirable to set up private retirement schemes than a Central Provident Fund. Through the establishment of different private schemes, diversification of investments is likely and the negative effect of accumulation of funds on the financial and investment scene, as in the case of a CPF, may well be avoided. Insofar as enhancing efficiency and returns on investment are concerned, private provident funds are definitely much more enterprising than the generally conservative and play-safe style of work characteristic of the Government.

Retirement schemes available in the private sector, including provident funds, old-age pensions and retirement pay, give workers an opportunity to save up for a rainy day. Besides, the employer's contributions to such schemes are exempt from taxation.

At present, privately-operated schemes are less favourable than a CPF in two respects. First, as these schemes are voluntary in nature, employers are not bound to provide retirement protection for their employees. As a result, only one-third of local workers can participate in retirement schemes provided by employers. Although different kinds of retirement schemes are being provided by employers, there is little prospect of all employers joining these schemes on their own initiative. Unlike CPF, privately-operated schemes which are voluntary in nature are not in a position to force all employers and employees to join.

Second, not all privately-operated schemes can provide the same protection as a CPF. At present, as it is not stipulated by law that the funding and management of a scheme should be separated from the other operations of a company, there is no

protection for the employees. Up to now, more than half of the retirement schemes have not been approved by the Commissioner of Inland Revenue in accordance with regulations governing pension schemes and it is likely that most of these schemes do not have separate assets or are not properly managed. Although the Occupational Retirement Schemes Bill is intended to plug these loopholes, the employees still cannot get the protection they need because the Bill has to be redrafted and will not be presented to the Legislative Council for enactment this Session.

Since private retirement schemes are voluntary in nature and no legislative control has yet been in force, so it is not likely to provide employees with any retirement protection. This is one disadvantage of private retirement schemes when compared to a CPF. Nevertheless, I still do not think that the establishment of a CPF can solve the problem. While Malaysia and Singapore have set up CPFs of their own, it must not be neglected that both are suzerain states where paternalistic rule is being more vigorously enforced than in Hong Kong and where people are free from a sense of uncertainty about their future. At present, the people of Hong Kong do not want the Government to have too much interference in the private sector's economic activities. While there is a sound government bond market in Malaysia and Singapore where conditions are favourable for CPF investment, Hong Kong is always free from any long-term debts. This may well be a gratifying achievement, but at the same time it has made conditions less favourable for the successful establishment of a CPF in Hong Kong. Besides, the \$5 billion ceiling imposed on the total amount of borrowing by the Hong Kong Government, as stipulated in the Memorandum of Understanding concerning the construction of the new airport in Hong Kong and related questions, is yet another factor which needs to be considered.

In view of the fact that the establishment of a CPF is not a workable proposition and that only an estimated one-third of all employees in Hong Kong are provided with retirement schemes by their employers, the majority of workers are expected to have to earn their own living upon retirement, with some having to live on public assistance. This situation will only add to the burden of the community.

I think both the employers and employees have a duty to provide retirement protection. This will also help reduce expenditure on social welfare. In the long run, I support the compulsory introduction of provident fund schemes in the private sector, which should be entirely administered by the employers themselves. The role of the Government should be the provision of a sound and reasonable regulatory framework rather than the administration of such schemes. As to the compulsory

establishment of private retirement schemes, I think employees should first of all be made aware of the importance of retirement protection through the promotion of civic education. However, as there is no denying the fact that any mandatory scheme will definitely deprive people of the right to choose, the Government must think thrice before it acts. Also, the consent of the majority of employees is necessary before the introduction of such schemes. It would be most ideal for everyone to participate in a scheme on his own initiative. Before a consensus is reached, the Government may consider introducing legislation to require employers to provide retirement schemes for those employees who are willing to join. Small business operators who do not provide separate schemes may participate in a pooling agreement. Employees who quit office will get back their own contributions plus interest accrued. Payment from the employer's contributions will depend on the employee's length of service. This arrangement will help encourage workers to remain in their job for a longer period and thus help reduce the turnover rate.

As the people are entitled to make their own choice, I think any proposal to make employees' participation in retirement schemes compulsory must be well thought-out despite the fact that there is a need for retirement schemes especially in the face of an ageing population. If everyone is willing to participate, it will be to the satisfaction of all. Otherwise, the compulsory introduction of a scheme will only cause widespread public resentment and will in the end prove to be a thankless task.

Sir, with these remarks, I support Dr the Honourable Henrietta IP Man-hing's amended motion.

MR CHUNG (in Cantonese): Sir, the Hong Kong Government has all along been practising the policy of non-intervention under which the socio-economic developments of the territory are thriving and as a result, we have seen full employment and growth in income of employees in our society. Everybody can choose his life style and enjoy opportunities of advancement. Under these circumstances, so long as the Government continues its efforts in improving social well-being and undertakes to provide retirement security for the hundreds of thousand elderly employees, the establishment of Central Provident Fund is apparently not a pressing need for the society.

Times are changing. The policies on social security and welfare of Hong Kong should therefore be upgraded in order to keep pace with the social changes. Should we set up the Central Provident Fund now or should we introduce other compelling

measures to provide for retirement security? In view of the different circumstances, it is necessary to have the matter reviewed.

It should be noted that as Hong Kong has entered into the latter part of the transitional period, there is evidently a new trend towards the future. It has been laid down in Articles 36 and 39 of the Basic Law the guidelines for the "social welfare" and "retirement security" to be provided for local residents in the future. Although it is beyond our ken whether the arrangement and objectives expected to be achieved under these guidelines will be practicable after 1997, we should start to plan for a suitable legal framework in order to cope with the developmental needs six years later under the through train concept.

I am not saying that we may decide on whether the Central Provident Fund should be set up just by assessing the existing measures from the angle of the Basic Law. In fact, we should carefully examine several issues directly related to the Central Provident Fund.

Firstly, are there still a great number of local employers and employees holding divergent views in respect of the proposal of compulsory Central Provident Fund scheme?

Secondly, will the Government encounter any problems in shouldering the sole responsibility to meet the ever-increasing funding needs for the retirement security?

Thirdly, there may be hundreds of billion dollars aggregated in the Central Provident Fund in the long run. Will it trail off part of the economic viability or produce detrimental effects to the overall economy of the territory?

Fourthly, since the Central Provident Fund Scheme will straddle 1997, whether acceptable safeguard measures and compensatory suretyship in respect of the management, monitoring, interest-earning, credit and debit as well as insurance of the scheme cannot be figured out now?

Unless these four major issues are satisfactorily assessed and resolved, it is undesirable to hastily decide on the setting up of the Central Provident Fund.

Undoubtedly, we should pay attention to the needs of local employees for retirement security. The concept of provident fund has been generally given due

weight in the private sector. Such a scheme should include the following major features:

(1) The level of contributions to the fund may be decided by individual companies, but the amount should at least be set at a reasonable ratio to employees, wages and the calculation formula should be spelt out explicitly.

(2) There should be reasonable provisions for the eligibility criteria and retirement age entitled to the fund under the scheme. We should recognize that there are various jobs and health requirements in different trades and if an employee changes his job, his previous contributions can be transferred to his new employment.

(3) We should prevent the provident fund benefits from being affected by personnel changes or pay adjustment in an unreasonable manner. (This point is particularly important, otherwise it would be meaningless to set up the provident fund.)

(4) The fund and the related assets under the scheme should be independent from the finances of the company or organization concerned. Besides, the provident fund scheme of a company should be distinct from the long- service scheme and their accounts should not be confused. Accounting and auditing of the provident fund should be handled separately.

Sir, all these major features and other necessary requirements are also applicable to various existing provident fund schemes in the private sector. These schemes should be brought under statutory control and management. According to the law, all private provident fund schemes, irrespective of their nature or no matter whether they are managed by professional institutions such as banks which provide trust service on contract, may be put under control by the Government administratively and financially in an effective manner.

Sir, if it is decided to provide a legislative framework for the setting up of Central Provident Fund and that an adjustment period is necessary before the implementation of the scheme, a compelling provident fund and trust scheme in the private sector should be introduced and followed by regular reviews to see if the Central Provident Fund scheme should be developed fully on the basis of private provident fund scheme.

Sir, I believe that it is still not the right time for setting up the Central Provident Fund but the development of provident fund in the private sector as a retirement security for employees should be encouraged through legislation.

Sir, these are my remarks. Although I feel that reviews should be conducted when appropriate, they should be done with caution and in measured and progressive steps. There is no immediate need to review the setting up of a Central Provident Fund. As a result, I cannot support the original motion or the amendment at this stage. Thank you, Sir.

MR HO SAI-CHU (in Cantonese): Sir, the question on the establishment of a central provident fund scheme was debated in this Council in May 1987. Today, we raise the question again to discuss the practicability of such a scheme.

It is a social obligation to secure the benefits of workers, especially that of aged workers. As workers have worked hard throughout their life to create social wealth, their livelihood should be safeguarded upon retirement. Four years ago, I mentioned that as the provident fund scheme would achieve positive effects, employers and employees of the private sector should be encouraged to set up retirement schemes of their own accord. A compulsory retirement scheme was however undesirable. I also considered that the setting up of a central provident fund might give rise to the undesirable effect of interfering the market economy as a large sum of money would be pooled together with the direct involvement of the Government. The present situation shows that the worries expressed then not only have not been dispelled but intensified. With the present slackening economic growth and surging inflation rate, the Government and the community in general demand a substantial reduction of public expenditure. Being at the latter stage of the transitional period, Hong Kong has to face many changes. It is a bad time to set up a central provident fund which affects three parties, that is, employer, employee and the Government. If we adopt the system in Singapore, the contribution to the fund by employers and employees is at 25% and 5% respectively. Employers do not want to shoulder more responsibility in view of a sluggish economy and the uncertainty of the future felt by some people. A compulsory retirement scheme is a disincentive for investors. Furthermore, low income employees may not like to have a portion of their monthly income deducted to contribute to the fund, thus affecting their immediate income. As for the Government, the containment on public expenditure makes it impossible to deploy sufficient manpower to monitor the scheme. Under an environment of high inflation rate, it is

technically very difficult to invest the large sum of money being polled together for maintaining the value of money without interfering the market economy. Any mishandling will lead to public discontent. Thus, the present condition is not ripe to set up a central provident fund.

Sir, I propose the Government to further secure the benefits of workers in other aspects. The Protection of Wages on Insolvency (Amendment) Bill 1991 has been recently enacted to provide a better severance payment for employees. The long-service payment awarded to workers under the present labour legislation should be amended and improved. The provident fund scheme should still be implemented on the initiative of employers and employees. The Government can offer encouragement such as tax reliefs and so on to attract more companies to join the scheme. For those companies which have implemented the provident fund scheme, workers will be better secured and in turn they will work with more enthusiasm, ultimately the company will be benefitted.

Sir, although I think the present situation is undesirable to set up the central provident fund, I still think that the Government should continue to show concern on this matter and study other more effective measures to protect the livelihood of the retired workers.

Unfortunately, the motion today covers a central provident fund and the compulsory introduction of certain measures which I do not endorse. I can only say I do not agree. I oppose Mr TAM's motion and the amendment by Dr IP.

MR MARTIN LEE (in Cantonese): Sir, I do not want people to think that all employers are opposed to this motion. Let me say first that I, too, am an employer, but that all of my employees are very young and there are not many of them. "Respect for the old" is a Chinese virtue and an inherent traditional Chinese concept. However, concepts are concepts, while in real life the distribution of social resources and the promotion of education are not consistent with, or exemplary of, the true meaning of "respect for the old." We have not made a comprehensive social plan for the future aging of the population. On the contrary, we have put forth only some plans for "treating the head when the head hurts and treating the foot when the foot hurts." The pity is that many old people have either heads that hurt or feet that hurt. Just now, the Honourable TAM Yiu-chung mentioned Uncle CHAN and Auntie CHAN. I myself recently visited a "cage" apartment in Wan Chai. An old "uncle" lived there. His name was HO. Uncle CHAN may in the future become like Uncle HO. Uncle HO is retired.

When speaking to us, he used Chinese sometimes and English sometimes. This showed that he was educated. He is now receiving public assistance. He spent \$450 on his bed space in the "cage" apartment. That "cage" apartment was somewhat peculiar in that people had to get "horizontal" before entering it. God bless them, but it really looked bad. Uncle HO said that he ate only one meal a day, namely, supper. That was because he did not have the money for breakfast and because he had nothing but bread for lunch. Therefore, when I look at this matter, I believe that those Members who are in the category of employers are not without feelings of sympathy. Still, I hope that they will pay more visits to "cage" apartments and get in touch with more old people. This is because I do not believe that those who have money do not have feelings of pity.

Security in retirement for the old is an important part of the social programmes for the old, but this Council has time and again voted down the establishment of any system that provides security in retirement. For instance, in 1987, this Council voted down the establishment of a Central Provident Fund. For most of the employed, security in retirement remains so far an unresolved problem.

That the population of Hong Kong is aging is beyond question. Data released by Government's Census and Statistics Department show that, in 1991, there are 540 000 people who are 60 years old or older, accounting for 9% of the population. By the year 2001, there will be 740 000 people who are 65 years old or older, accounting for 12% of the population then. The above data show that the number of old people will increase by 39% within 10 years. Clearly, the aging of the population is becoming an increasingly serious problem.

This Council and the Administration must broaden their vision and provide a system of security in retirement for the employed. I think that there are many standpoints from which one may support Government's establishment of a Central Provident Fund or a compulsory system of security in retirement, namely, the standpoints of entitlement, of social commitment and of social solidarity.

From the standpoint of entitlement, this Council last month passed the Bill of Rights Bill, thereby implementing in practical terms the United Nations' International Covenant on Civil and Political Rights. However, we should not forget that the International Covenant on Economic, Social and Cultural Rights, too, should be implemented in practical terms through domestic legislation. Article 9 of the Covenant clearly provides that citizens shall have the right to social security,

including social insurance. Also, Article 39 of the Basic Law provides that those provisions of the two international covenants, as well as the international labour conventions, which are applicable to Hong Kong shall remain in effect and that they shall be implemented through the laws of the Hong Kong Special Administrative Region. In addition, Article 36 of the Basic Law provides that the residents of Hong Kong shall have the right to social security and that labour welfare and security in retirement shall be safeguarded by law. We reiterate here that social security is a right to which citizens are entitled.

From the standpoint of social commitment, 70% of Hong Kong's existing workforce will not enjoy security in retirement, and public assistance is a social security measure that basically is not available to retired persons. However, if Government is to use tax money to provide appropriate security in retirement, it will have to collect more taxes. Doing so not only will affect Hong Kong's tax system but is sure to meet with strong resistance from Hong Kong's business circles.

In fact, every individual should make preparations for his own retirement and assume some responsibility for doing so. However, in most cases, the resources of the individual are quite limited. Therefore, Hong Kong needs to pool the financial resources of the community and, through legislation, enable the employer, the employee and Government to co-operate trilaterally to provide a suitable system of security in retirement, that is, a Central Provident Fund. Such a system of security in retirement funded by contributions will not have to be implemented by Government with the massive use of public money. It is also consistent with the capitalist spirit of more gain for more work. Participants in the system must be wage earners, and the more each of them earns, the more must he contribute and the more pension will he receive later on. Therefore, Government must reconsider the establishment of such a system.

Some people think that, because Hong Kong is in a transitional period and because many professional people are planning to emigrate, the establishment of a Central Provident Fund would not be appropriate. I do not agree. Most people of Hong Kong will not be able to emigrate. Government has the duty to provide a system of security in retirement for the local employed population. The establishment of a Central Provident Fund will precisely demonstrate that Government, employers and employees are willing to make an effort for, and a commitment to, the long-term development of Hong Kong.

Sir, during the 1987 debate on the subject of a Central Provident Fund, I fully

supported the establishment of such a fund for solving the problem of security for retired people. At present, more than 140 countries in the world are providing a social security system. 105 of them are developing countries, which are economically more backward than Hong Kong. This shows that a social security system financed by contributions is feasible. Among European and Asian countries, Germany and Singapore are proof that a contribution-based social security system, so far from hindering economic development, conduces to harmonious industrial relations.

Sir, now should not be the time for further discussing whether or not the system should be established. We have been discussing this for 20 years. Now should be the time for discussing what actions to take.

I originally intended to oppose Dr the Honourable Henrietta IP's amendment motion, in order to prevent Government from further dragging its feet. However, I want more Members to support the motion so that it may be passed today. Therefore, I am now prepared to support Dr IP's amendment motion. Sir, respect for the old, to some old people, must not wait too long. They will die. I hope that Members will look at this issue with compassion. Of course, employers' "pockets" will be affected. However, if we are to make money in this community, we need the support of our employees.

Sir, with these remarks, I support the Honourable TAM Yiu-chung's motion and also Dr the Honourable Henrietta IP's motion for amendment.

MR PANG (in Cantonese): Sir, Hong Kong has been a colony of the British Empire for 150 years. But today, the people of Hong Kong are not even given the basic protection for their livelihood. For the vast majority of aged workers, they do not know where to get the money from to support themselves upon retirement, and "have no means to live on when they are old".

Statistics show that there were 745 800 people aged 60 or above in mid-1990 and that the trend of ageing will become more apparent year after year. According to a report released by the Central Committee on Services for the Elderly in 1988, the proportion of the elderly population, aged 60 years and over, is expected to rise to 20% by the year 2001, that is, one elderly person in every five people. On several occasions, the Government categorically rejected calls for the establishment of a Central Provident Fund. Today, should the Government still hold fast to its stand

and refrain from formulating and implementing a long-term, comprehensive retirement scheme, the ageing population will become a heavy burden on the community as a whole. It is anticipated that subsidies in the form of relief for the elderly will exceed \$3,500 million in 2001, representing 53% of total social security payments.

The Chinese people have long cherished a fine tradition of upholding human dignity and simply do not want to beg for help or ask favours from others unless confronted with a crisis of life and death. They look upon public assistance which is now being provided in the form of relief as a disgrace. Therefore, they regard this form of assistance as totally unsuitable for a predominantly Chinese community like Hong Kong. If the Government holds on to such mistaken idea and policy, elderly people will continue to be deprived of human dignity and will be made to turn to Government for relief instead.

As we always pride ourselves upon Hong Kong's affluence and modernization and rank the territory second only to Japan and Singapore, the Government must come up with a package of protective measures befitting a progressive society so as to ensure that everybody will not only be able to earn his living, but can also spend his remaining years in happiness through the establishment of contributory retirement schemes. Unfortunately, an assessment report released after "closed-door" deliberations of an interdepartmental working group in 1986 categorically voted down the proposed establishment of a contributory Central Provident Fund which has long been sought after by the labour sectors. As a perfunctory gesture to appease the workers, the Government has introduced some other forms of public assistance, long-service payment and private provident fund schemes instead.

Sir, should the Government change its attitude and have the determination to implement a comprehensive social security, Central Provident Fund or retirement scheme, I think any scheme can work. Of the 150 countries all over the world, more than 140 countries and districts have set up contributory retirement schemes. Since there is already ample proof that such schemes are workable in most countries or districts, how can Hong Kong be the only exception? The crux of the matter lies with the Government, and it is not a question of whether Hong Kong is capable of providing such schemes but a question of whether it is willing to do so.

In fighting for better retirement security, the labour sectors are unanimous in their views. They have urged the Government to take immediate steps to re-examine the setting up of a Central Provident Fund or other forms of retirement schemes in

order to provide comprehensive retirement protection for all workers in Hong Kong.

I suggest that the Government immediately set up a working group among Government officials, employers' and employees' representatives, experts and academics familiar with retirement protection to deliberate on the issue before presenting a report to the Government and this Council for consideration.

Sir, as the months and years of one's life are limited, the Hong Kong Government under your leadership should strive to promote the well-being of the vast majority of local people when it can still exercise administrative rights over the territory. This will also add to the achievements in your official career.

Sir, I support Mr TAM's original motion. He does not oppose Dr IP's amendment. It is because Dr IP's amendment and Mr TAM's motion have one point in common, that is, calling upon the Government to take action immediately. Now is the time to act.

With these remarks, Sir, I support the Honourable TAM Yiu-chung's motion.

MR SZETO (in Cantonese): Just now the Honourable Stephen CHEONG expressed his appreciation of the speech by the Honourable TAM Yiu-chung. However, I think that the facts described in Mr TAM's speech do not deserve appreciation at all and that we should feel shocked and distressed. Mr CHEONG also mentioned that Hong Kong's industrial and commercial sectors are kind-hearted. Is this so? I would invite Members to judge from the attitudes of their representatives in this Council today on the two motions before us. As a kind-hearted person and a member of the industrial and commercial sector, why does Mr CHEONG object to the amendment motion which merely proposes to study the feasibility?

Sir, the increasing life span of mankind and the success of family planning are great social achievements. However, they also bring serious problems which must be solved. With the change in the age profile of the population, the ratio of the aged is growing. The lack of a good security scheme for life after retirement will not only make the aged, who had dedicated their whole lives to the prosperity and progress of the community, miserable, but will also add to the burden of the younger generation and the community as a whole, which will hinder continued prosperity and progress. Hong Kong has made tremendous achievements; yet it is also facing this serious problem of the aged, which must be solved, and this obstacle to continued social prosperity

and progress.

We must not forget our roots. "The ancestors planted the tree, and their children enjoy the shade". The prosperity and progress of society today are the fruits obtained from the toils of the retired people who dedicated all their working lives to society. How can we sit in the shade under the tree and enjoy the cool breezes and the fruits, but look on with apathy while those who planted the tree are struggling hard to stay alive on meagre means? Now we have forgotten them, some day we shall also be forgotten in the same manner.

Seventy-two years ago, the same year when the May 4th movement broke out, Mr LU Xun said "With a heavy burden on our back and putting a shoulder to the gate of darkness, we let them go forth to the place of openness and light, so that they will live happily and lead a reasonable life in future." This is of course a sentence with very extensive and deep meaning. However, thinking of the security scheme for life after retirement, are we prepared to see that generation after generation will forever be under this heavy burden and the gate, and be forgotten when old age and death claim them; but not prepared to build the pillars to prop the heavy burden and the gate, so that both the older and the young generations will live happily and lead a reasonable life in the open and the light? We have the historical responsibility to build such pillars.

The establishment of a Central Provident Fund (CPF) or other compulsory retirement scheme has also other meanings:

(1) Those who have no security whatsoever on retirement are almost all grassroot working people. The absolute majority of them will remain in Hong Kong. The expectation of being provided for in old age will enhance their sense of belonging, which will play a more positive role in the territory's future prosperity and stability.

(2) The setting up of a fund will lead the way in cultivating a good social trend of "stocking up grain in case of famine". In this way, not only can runaway consumerism be held in check but also perhaps inflation can be mitigated to a certain extent.

(3) The enormous resources saved in Hong Kong can be used in Hong Kong, thus greatly stimulating investment in economic development and various reconstruction.

This will constitute strong and fresh material forces to promote prosperity and stability.

(4) It will show more solidly and forcefully the advantages of Hong Kong's present social system, which is beneficial to the implementation and realization of "one country, two systems".

The present welfare for the aged in Hong Kong is only "a meal offered with pity and mixed with contempt" and "a cup of water to put out the fire of a cartload of wood". With the inexorable aging of the population, in the foreseeable near future even such a "meal" and such a "cup of water" will become an unbearable burden. If one can foresee this future scenario and yet is not willing to make preparations in advance, one dares not imagine what will become of tomorrow's society.

The wording of the original motion is "to re-examine". "Re-", because such a proposal had been rejected by Government before. If this is rejected again, it will reflect that both Government and this Council have not improved much during the past few years. If even "examine" is refused, this callous attitude is not only contrary to public opinion, but also lags behind social progress of Hong Kong. I ask Honourable Members not to cling to the words "Central Provident Fund". The whole motion and the amendment are meant to provide security to the aged after retirement so that they do not have to experience hardship and misery in old age. By focussing on CPF but disregarding the crux of the matter, I feel, it will be nothing but an audacious attempt to confuse the issue.

Sir, since the original motion displays a clear and positive stance on CPF or other compulsory retirement scheme, and is more forward-looking than the amendment, I therefore support the original motion at first instance and object to the amendment. However, if the original motion is unfortunately rejected, I shall reluctantly support the amendment since "to have something is better than none at all".

Sir, although I have such different attitudes towards the motion and the amendment, yet on further thought, if even the amendment which is rather vague cannot go through this Council, the original motion is bound to be rejected. Such being the case I support the amendment.

MRS TAM (in Cantonese): Sir, Hong Kong's ageing population and retirement security

problems are social welfare issues that should not be evaded. I have repeatedly pointed out in this Council that with a rising population of elderly persons in Hong Kong, Government's payouts on Old Age Allowance will become a heavy burden on the community as a whole as these spendings continue to grow. As a long-term measure, therefore, the Government must explore ways to provide proper retirement security for the aged in Hong Kong.

In the past, we have held a great deal of discussions on the subject and different views have been expressed by different sectors in the community. Proposals put forward include the establishment of a Central Provident Fund, compulsory introduction of a contributory provident fund scheme, and voluntary establishment of provident funds in the private sector. Due to a divergence of views from various sectors in discussions held earlier, the proposal to set up a Central Provident Fund was subsequently voted down.

Between compulsory and voluntary modes of operation, the most ideal scenario would be for employers in the private sector to take the initiative of setting up provident fund schemes for their employees and for these schemes to be properly regulated by the Government. However, even with these schemes, things might go contrary to one's wishes. Therefore, should the voluntary approach prove to be unworkable, the Government might have to consider making the introduction of contributory provident fund schemes compulsory or dealing with the problem by other means. In this connexion, it appears as if I am inclined towards the spirit of the motion moved by the Honourable TAM Yiu-chung. However, taking into account the need to adhere to the Government's policy as well as the appropriateness of timing, I cannot but express reservations about Mr TAM's motion which, among other things, urges the Government to take immediate steps to re-examine the setting up of a Central Provident Fund or other forms of compulsory retirement schemes. For the same reason, I also cannot support the motion moved by Dr the Honourable Henrietta IP Man-hing.

In respect of encouraging the establishment of retirement schemes in the private sector, the Government has already taken a first step. In response to Government's proposal to ensure the proper regulation of private provident fund schemes, this Council has commenced its deliberations on a draft Bill and there will be further discussions on the Bill in the next Session. If at the same time the Government takes positive steps to promote the implementation of retirement schemes in the private sector on the one hand and considers the compulsory establishment of such schemes on the other, such a policy is bound to give rise to contradictions and make the public

more confused. This may discourage those private sector employers who are considering the voluntary introduction of retirement schemes from pursuing the idea and may thus run counter to Government's intention to encourage the establishment of retirement schemes in the private sector.

I have noticed that the number of private retirement schemes registered with the Government has increased from some 5 800 in 1988 to more than 10 000 up to May this year. Although the result has not been all that encouraging, yet I have reason to believe that, on the strength of this upward trend, it is worth trying out further the idea of promoting the establishment of private retirement schemes. It is also reasonable to assess any concrete response to the passage and implementation of the draft Bill concerning the regulation of pension schemes before deciding on whether or not to continue with existing practices. However, I have to stress in particular that Government should review continuously its policy of encouraging the private sector to provide retirement protection. If the response and progress are found to be less than satisfactory and not up to expectations, the Administration should no longer shy away from considering introducing a compulsory retirement protection scheme, so that the post-retirement life of the aged in Hong Kong can be comprehensively protected.

Furthermore, I think the Government might as well give a thought to suggestions by some civic bodies, such as the contributory pension scheme proposed by the Hong Kong Social Security Society recently.

Sir, with these remarks, I cannot support the motions standing in the name of the Honourable TAM Yiu-chung and Dr the Honourable Henrietta IP Man-hing at the present stage.

MR ANDREW WONG (in Cantonese): Sir, when this Council debated the motion on Central Provident Fund on 13 May 1987, I said in my speech (Hong Kong Hansard 1986-87: pp 1577-9 of the English version, pp 971-2 of the Chinese version), "It has taken us some 20 years to arrive at this present state of debate and discussion, the first review being conducted in 1966. I support the call for the setting up of a committee to be appointed by you, Sir, but not to deliberate on the pros and cons, but to study in detail the nitty-gritties of implementation. Let us not procrastinate and put off till tomorrow, as there is always a tomorrow after tomorrow, and yet more tomorrows to follow in the vain hope that doomsday will never come." My position on it remains

the same even after four years. So it follows that I cannot support Dr the Honourable Henrietta IP's amendment motion as it only urges the Government to re-examine the feasibility of setting up a central provident fund. Nevertheless, the Honourable TAM Yiu-chung said the amendment was acceptable, the Honourable Martin LEE and the Honourable SZETO Wah shared the same view. As a matter of fact, I have great faith in their immense political wisdom which, if I were to compare with them in this respect, might make me feel like a politically uninitiated person. So I am ready to accept Dr IP's amendment but would hope that the "feasibility" contained therein refers to the feasibility of implementation regarding the details of setting up a compulsory retirement scheme, centrally co-ordinated or otherwise, but not a re-examination of the whole matter so as to determine in what form such a scheme should be introduced, voluntary or whatever.

Sir, I support the introduction of legislation to put in place a compulsory provident fund with the employer and the employee each contributing, say, 5% of the employee's salary. The provident fund scheme that I am in favour of shall be administered by individual companies rather than by a central authority. It should be made compulsory by law which will lay down the requirement as to the minimum level of contributions each party shall make to the fund. The employer, if he so wishes, can of course contribute a greater share. The whole scheme will be under the supervision of the Government.

Sir, today I am not going to tell any stories. Nor will I be emotional in delivering my speech. This is not to say that I will stand aloof from the issue but because I believe that everybody should be rational and reasonable. Up till now, I still cannot understand why some Honourable Members and employers are so strongly against a compulsory provident fund. In the provident fund debate on 13 May 1987, I worked out the financial commitment an employer would have to make under a compulsory provident fund scheme (assuming the contributions to be 5% of the salary both from the employer and the employee) as opposed to that under a statutory Long Service Payment Scheme. At that time, I said: "Long service payment legislation requires employers to pay a maximum of 12 months' salary after 18 years of service. A contributory provident fund with employer/employee each contributing 5% is expected to give the employee some 22.7 months' salary after 20 years, assuming an interest rate of 2.5%. In other words, the employer's burden is about 11.35% and this includes contributions spread over 20 years and interest on contributions. Employers are already shouldering this comparable responsibility." But to the employee, the benefits he gets from a provident fund scheme will be much greater. As for the employer,

given that the financial commitments are the same in both cases, that is, a lump sum payment of 12 months' salary in the case of Long Service Payment Scheme and the same amount in the form of regular contributions and interest forgone in the case of a contributory provident fund, the only difference will be the method of payment. Which would an employer prefer, payment in lump sum or by instalments? After the analysis, I should believe that promotion ought to be given to encourage participation in a voluntary provident fund scheme. At present, the number of participants is just over 10 000 but what is more important should be the percentage of working population involved. Nevertheless, after four years of promotion, the result of having only 10 000 or so participants is, in my view, by no means satisfactory. In this case, Sir, I am of the view that a study into the details of implementing a compulsory provident fund should at once be conducted.

Sir, I support both the Honourable TAM Yiu-chung's motion and Dr the Honourable Henrietta IP's amendment motion.

MR PAUL CHENG: Sir, after a decade of unparalleled economic growth during the 1980s of which we can all be proud, it is not unexpected that Legislative Council Members are called upon to examine social legislation. Social legislation is a natural outgrowth of economic prosperity. Everyone deserves a share in the economic prosperity that Hong Kong has enjoyed, and such legislation seeks to contribute further to improved living standards for our Hong Kong citizens.

One important part of social legislation is, of course, making provisions for each one of us when we have grown in years to the point where we can no longer be a part of the workforce. The question put before us boils down to how best we can do this in the cultural, economic and political environment that uniquely makes up our home.

I understand the issue of a central provident fund was examined and debated thoroughly as recently as 1987, as well as in 1975 and 1966. Each time, the idea of setting up a central provident fund (CPF) was rejected.

Since I did not take part in these previous debates I would now like to take a few minutes to express my views. Whilst a CPF would provide some degree of retirement provision for those who have been employed, but it would not be of significant benefit to those most in need -- namely, those who have not been able to work, or have worked

only irregularly, or who have had low wage earnings. It is within this context that legislators must determine priorities and goals for legislation and must uphold fiscal responsibility.

We must remember that Hong Kong is an entrepreneurial community with more than 80% of its businesses employing less than 20 people each. Hong Kong's free enterprise and positive non-intervention policies have allowed these businesses to flourish. In turn, they have provided an attractive livelihood for our people that is surpassed only by Japan in the entire region. A report by Bankers Trust goes so far as to point out that Hong Kong's economy retains a vitality that leaves little doubt its per capita income in the year 2000 will exceed British per capita income.

It is noteworthy to also refer to the long-service gratuity law which took effect in 1986. Given that most Hong Kong workers are highly mobile until they reach the ages of 35 to 40, they benefit to a greater degree from a long-service gratuity award calculated on terms of service than they would on a compulsory retirement scheme.

Part of the reason for this is that it is difficult to fix an employee contribution rate high enough to substantiate the efficiency of the fund but at the same time low enough for lower income workers. In addition, it is difficult to achieve interest rates of funds that compare favourably with inflation at a time when most would argue inflation is out of control.

And then there is the question of maintaining Hong Kong's economic competitiveness in the world. There is no question but that Government mandated retirement schemes detract from new investment. The cost for employers could be viewed as a form of added tax which would result in labour demands for proportionate wage increases.

So far I have merely mentioned the economic aspects, but as thoughtful legislators, we must also assess the cultural and political dimensions. Culturally, Hong Kong people prefer to manage their own monies (rather than relying on the state); and Hong Kong's saving ratio at 25% of income is among the highest in the world.

Government statistics also show that although the elderly population is expanding, there has not been a corresponding increase in reliance on public help. This may be affected by the fact that more than 80% of those aged 60 or above continue to live with their families.

I present these aspects of our cultural environment -- not to detract from our responsibility to help the older segment of our community. Of course we must look after our elders. What I believe is that social legislation must be well-targetted to reach those who are in need. Neither a central provident fund, nor compulsory retirement schemes, can give us well-targetted measures which would address this need effectively. We are better served by following through our policy planning based on the 1990 White Paper which addresses care for the aged.

As for our political environment, now is the most inopportune time to be collecting money to set up a fund. There has been enough controversy during this transition period over how various reserve funds and pension funds are being managed and invested. Are we really foolhardy enough to recommend setting up yet another fund to be managed at this point in time? For myself, I believe that such a scheme would not add more bricks and mortar to building confidence in Hong Kong's future. I think we would be adding one more element to stimulate more distrust.

Do we really believe we can convince Hong Kong people that Government will be a better manager of their personal savings for the future than they are themselves? At a time when inflation is our Public Enemy No. 1, do we honestly believe we can achieve a fund that will maintain its integrity by being both conservatively invested while also bringing in desired interest earnings?

How many of us are also confident that the question of how such a fund is being used will not be played and replayed in the people's minds and hearts? A central provident fund scheme for workers could be subject to political pressures.

As convener of the ad hoc group which has reported just a little more than two weeks ago on its study of the Occupational Retirement Schemes Bill 1991, I fully agree with the objectives of the Bill to ensure schemes are properly managed in order to protect employees. This is the step in the right direction. I must caution against compulsory legislation and schemes.

Let me close by reiterating the following points:

- (1) We need to recognize that any government intervention and regulation of market forces will detract from economic efficiency.

(2) Hong Kong's competitiveness against our Asian neighbours must be maintained in order for us to continue to attract new investment.

(3) Improved social security for elderly citizens is an important goal that must be achieved through more targetted measures.

(4) A centralized compulsory retirement scheme would create a huge fund that would both impact the financial market as a powerful institutional investor and would offer a convenient source of funds to meet government borrowing thereby encouraging less responsible fiscal policy.

(5) Compulsory retirement schemes do not help those in greatest need, which should be our first priority when examining social security arrangements.

With these remarks, Sir, I cannot support either the original motion or the amended version.

MR CHOW (in Cantonese): Sir, the Government has all along opposed the introduction of a comprehensive social protection system in Hong Kong on the grounds that Hong Kong cannot be developed into a western-style welfare state.

In 1987, the Government rejected the implementation of compulsory retirement protection schemes by employers. Instead, it encouraged employers to decide at their discretion whether they should take part in such schemes. Since then, the debate on the setting up of "Central Provident Fund" has not died away. On the contrary, three years' experience has shown that the response of the private sector to the setting up of provident funds or retirement schemes is not satisfactory. This reveals that it is not an effective approach to allow employers to decide on their own whether they should introduce pension or central provident fund schemes. Government statistics have indicated that presently there are only about 21 096 private institutions providing such retirement schemes as provident fund and pension. In 1989, such schemes covered only around 707 000 employees or 26% of the labour force. When compared with the present working population which stands at 2 700 000 persons, the percentage is meagre and it shows that the schemes as a result of government encouragement cannot give protection to retired workers.

When this Council debated the "Drafted White Paper on Social Welfare into the

1990's and beyond" on November 7, last year, many of my colleagues, including myself, had urged the Government to reconsider the feasibility of setting up the Central Provident Fund. I clearly remember that in concluding the debate the Secretary for Health and Welfare said that Members' calls for the introduction of central provident fund schemes would be referred to the Secretary for Education and Manpower and the Secretary for Monetary Affairs for consideration. But up to this day, all the three secretaries have not responded to the request of Members. The Government's repeated delay in addressing to Members' and the public request for central provident funds is in fact tantamount to "stealing a bell with ears plugged", though the Government is "stealing" the basic civil rights of the public rather than a "bell".

Undoubtedly, the Government should have studied the feasibility of setting up of central provident funds and social protection schemes on installment basis when making the Draft White Paper on Social Welfare into the 1990's and Beyond. But it has shirked all its responsibilities by simply saying that "the work does not fall into the terms of reference of the working party". The responsibility of the Government for providing elderly persons with protection is further limited to the extension of the Long Service Payment Scheme and encouragement to set up private pension schemes. This is indeed an "ostrich policy" of the Government with an intent to evade the problem of retirement protection and disregard the retirement protection to workers.

As a matter of fact, a lot of administrative problems will be involved if we are to rely solely on the private sector to decide on the setting up of pension or provident fund schemes. For ordinary small and medium-sized enterprises or some traditionally run undertakings and factories, the employers will hesitate about the problem of setting up central provident funds because they lack knowledge of labour law and the Labour Department rarely takes the initiative to deploy personnel to explain on relevant legislation probably because of inadequate manpower. As for the employees of these small and medium-sized enterprises or traditionally run undertakings and factories, many of them have been working since their apprenticeship or for several decades. Once these undertakings and factories are subject to the possibility of bankruptcy and closing down, the employers will have to continue the operation by means of putting workers on the drip in order to avoid the Long Service Payment as they may not be able to provide employees with adequate compensation for the Long Service Payment after liquidation or selling out of machinery and assets. Will it be fair to employers and wage earners of the middle and lower social strata if the Government allows the status quo to continue? Will this makes the employers and

employees of such traditionally run undertakings and factories and small and medium-sized enterprises suffer unnecessary losses?

Besides, a lot of difficulties are faced by some industries like garment making where the salary is calculated on daily or piece rated basis. According to a survey conducted last year by the Garment-Making Trade Workers Union, only two out of the 13 factories covered in the survey have set up provident or pension funds. Four have set up annual bonus systems while the remainder only provide workers with canteens or lunch allowance. Sir, in view of the fact that over 200 000 workers and more than 9 000 factories are engaging in garment making, which is the mainstay of the Hong Kong industrial sector and plays a leading role in the manufacturing industry, is not the flimsy occupational or retirement protection to garment making workers runs counter to the objective of the Government in developing Hong Kong into a caring society?

The above examples have shown the loopholes in the existing system which provides legislation to require all employers to be responsible for the Long Service Payment but not the setting up of provident funds. Since the Government has time and again turned down the introduction of a central provident fund system for reasons of high administrative costs and excessive accumulation of capital, why does not the Government consider making legislation first at this stage to require all employers to set up provident fund systems for employees so that both employers and employees will have reasonable protection and thus reduce the possibility of failure to provide employees with suitable compensation by employers, especially those of small and medium-sized enterprises and traditionally run undertakings and factories, when the business has to close down for particular reasons.

Furthermore, it is an established fact that the population of Hong Kong is ageing. Owing to low fertility rate and longer average life expectancy, the population of elderly persons at or above the age of 60 in Hong Kong will rise from 13% or 748 700 in 1990 to 15.4% or 974 500 by 2000. The percentage of children and youngsters at or below the age of 24, on the other hand, will fall from the present 36.8% to 31.1% by 2000. The handling of the worsening ageing problem will be a primary task for the Government in future.

At present, there are over 410 000 persons receiving old age allowance in Hong Kong while nearly 65% of recipients of public assistance are elderly persons at or above the age of 60. The Government has appropriated 71% of its expenditure on social

services for social protection services. The amount will rise progressively from 3.5 billions this year to 4.85 billions by 2000. Can such rise in expenditure offers effective retirement protection to elderly persons? The answer is negative. With the continuous increase in the population of the elderly persons, the above rise will subsequently be counter-balanced by the increasing number of applicants. It will not have significant improvements to protecting the living of the elderly in their twilight years but will bring even greater burden to the Hong Kong society as a whole. The setting up of a comprehensive social protection system on contributory basis is therefore an issue that cannot be avoided. Unless the Government intends to present itself as a "beast", it cannot act like an "ostrich" forever in order to delay the implementation of Central Provident Fund, while not compelling employers to set up provident fund schemes by legislative means.

The proposal of treating family as a basic unit in looking after elderly persons has also been subject to challenges recently. The popularity of nuclear families has gradually reduced the care for elderly persons by their families. Moreover, as more and more women have to seek employment to supplement the daily necessities of their families, there are more elderly persons left unattended. Meanwhile, a number of people have left their parents behind because of emigration. All these have shown that there is an obvious need in society for the implementation of effective and comprehensive retirement protection systems. I believe that my proposal will be supported by 18 Members in the two Councils at the least who have all reached the retirement age of 55.

As a matter of fact, the setting up of a Central Provident Fund System by the Government may be considered as a move which is "beneficial to all". In addition to the saving on government social expenditure on public assistance, old age allowance and disability allowance, it also help the Government maintain the stability of society and avoid such untoward circumstances as economic volatility or the need for trimming of expenditure. This is particularly true when the expenditure on social services has been obviously affected in the face of a massive infrastructural development by the Government. It is certain that the society will be hard hit if the Government does not study the implementation of the Central Provident Fund Scheme as soon as possible.

Comprehensive retirement protection systems have been available in other Southeast Asian countries like Singapore, Taiwan and Malaysia. In the case of Hong Kong, however, though it is among the top five most advanced places in the world in

terms of Gross Domestic Product, it is ridiculous that it gives no protection to the rights of employees after retirement. At present, about 2/3 of the elderly persons over the age of 60 in Hong Kong have to work as cheap labour in order to make a living. Is this a "disgrace" to the prosperity and development of Hong Kong?

Besides, the expenditure incurred on provident fund by every company should be granted tax concession as before in order to encourage the private sector to implement provident fund systems willingly. This may give incentive to the private sector to join such schemes and the Government can reduce the expenditure on old age allowance in the long run.

The Government has all along insisted on adopting the compromise of encouraging the setting up of provident funds on a private basis rather than compulsory. The two approaches, however, are totally different. As I have mentioned above, the response and progress of private provident funds or retirement protection schemes by employers at their own initiative are very slow and most of the employees in Hong Kong have not been covered by such protection schemes.

Sir, I therefore reiterate my hope that the Government could give consideration as soon as possible to legislation at this stage requiring employers to set up provident fund systems for employees so as to make adequate protection available to employers and employees and reduce unnecessary losses incurred by employers of small and medium sized enterprises or some traditionally run undertakings and factories. In this respect, I hope the employers can give some reasonable compensations to their employees on closing their operations.

Sir, it has been over five years since the debate started on whether or not there should be a Central Provident Fund. It will be a great regret to the Government if it continues to disregard the interests of the public. The situation will be the same as what Mr WALDEN said in his book "Sir, your tail is showing".

Sir, before entering this building for the meeting today, I was presented with a plastic piggy saving box by a group of petitioners from many of the varied groups outside. I asked my colleagues how they would interpret this piggy. Some of them said, "save it for the rainy day". But I hope Members will not take it that Hong Kong workers could be treated as piggies any more because none will be on sale. Finally, I would like to voice my support for the original motion and amendment moved by the two Honourable Members as I share their views. Thank you.

MRS FONG: Sir, the question of financial security for the aged and the infirm, and particularly for those who have contributed many productive years in the work force, is a very important issue facing all societies. However, it is also a very complex one. There are many facets to consider. Major issues are:

(1) Should the Government provide such financial security or should it be provided by the private sector?

(2) If it is to be a responsibility of the private sector, should the Government administer the funds?

(3) Should such security in fact be compulsory or should it be left up to market forces, to force or not to force employers to introduce provident funds if they wish to attract the workers they require?

Apart from these questions, there are special circumstances of Hong Kong that have caused many employers to be less than enthusiastic about setting up provident funds. These include facts like:

(1) For many years Hong Kong has been viewed as a transient place. Hence very few companies have set up provident funds. Salaries and wages have been paid in full to all employees. The responsibility has been left with the employees themselves to decide how to invest or save their money for their old age.

(2) There has been a high degree of turnover. Job hopping has in fact at times seemed to be the norm. Hence provident funds have not been very effective.

(3) The labour market has been very tight. Employers have thus to offer compensation packages that are weighted towards the maximum current pay-out to their employees. Long-term benefits have been seen, by the employees, as less attractive than immediate cash.

We must recognize that in general the principal effect of provident funds is to defer a part of the wealth that accrues to employees, to compensate them for their efforts, and to have such portion of their wealth administered by someone else on their behalf until they reach a certain age or satisfy certain employment conditions. This administration brings benefits, but it also brings bureaucracy and costs that

must be covered from the earnings that could otherwise go to the employees.

To summarize my views on provident funds:

(1) I do not believe a central provident fund administered by the Government is necessarily the answer to guarantee the financial security of the retired workers of Hong Kong. Government sponsored funds can provide security, but they also have distinct disadvantages.

(2) A compulsory private scheme is also not necessarily the answer.

(3) There are, however, many advantages to private sector sponsored provident funds. The first is that private sector sponsored provident funds are generally less costly to administer and manage. However, legislation would be necessary to safeguard the assets of these funds.

(4) There should be a provision for benefits under private funds to be transferrable or, in certain circumstances, deferred. This would be a way to tackle Hong Kong's particular problem of worker mobility, including that of emigration.

The Occupational Retirement Scheme Bill proposed to this Council earlier, which has been deferred until next year, attempted to address the issue of safeguarding the assets of provident funds. I would welcome its resubmission in the coming year. However, I feel that we need to bring forward further directives to enable the transferability and convertibility of retirement funds to fully address the problems facing employees today.

Sir, with these thoughts I say once again that I do not feel, at this stage of Hong Kong's development, that a central provident fund would be an effective use of resources in confronting the issue of financial security during retirement.

With these remarks, Sir, I do not support the original motion nor the amended motion.

MRS LAM (in Cantonese): Sir, I must thank you first for allowing me to join the speakers at short notice. I believe none of us would object to devising a good retirement fund arrangement for old people who had contributed to society. Of course, among

the many arrangements, provident fund is indeed a feasible option. However what kind of provident fund it is going to be is a point which calls for careful consideration.

I do not agree with either a Central Provident Fund (CPF) or a compulsory provident fund scheme, in particular CPF. We know that a neighbouring country which implements a CPF has run into serious difficulties. Moreover I feel that any scheme which involves an element of compulsion is not the best scheme, nor is it necessarily effective. Here I wish to cite a concrete example. I believe Members are aware that in the past decades I had been promoting birth control in family planning. In Hong Kong we never used compulsion, and all we did was through publicity and education so that Hong Kong people practised birth control of their own accord. And now, I think Members will agree the results are there for all to see. People keep practising it without being told to. However, in China the implementation of the birth control scheme is by way of compulsion. Regettably this method has not been very successful up to date. And one truth that has been discovered about birth control in China is that once a new set of circumstances emerges or a change of circumstances occurs, people immediately give up the plan forced upon them and resort to free births. Even though this point may not exactly match the point about CPF, the principle remains the same -- anything by compulsion will not last long.

Provident fund is a good arrangement. By deducting a part of the employees' pay every month, and the employers contributing the same or a multiple of the amount, workers may have a sum of money on their retirement to see through their old age. However I think the best method should be to educate and encourage both employers and employees so that they agree to sit down and work out an arrangement which is acceptable to both sides. I trust such a provident fund will be effective and shall have the support of all in its implementation.

Sir, for the above reason, I really cannot support the motion of the Honourable TAM Yiu-chung, and the amendment of the Honourable Henrietta IP.

MR LAM (in Cantonese): Sir, it is particularly meaningful for us to reopen the issue of central provident fund at the time when we just received news that the Chinese and British Governments have initialled the Memorandum of Understanding on the new airport.

The purpose of a central provident fund is to establish a retirement protection

scheme for our workers in Hong Kong so that they will work contentedly, knowing that their future will be secured. I think this is the major factor leading to stability of our society.

According to information of the Social Welfare Department in 1984, there were 594 800 people over the age of 60. It was estimated three years ago that the number would increase to 737 100 by 1990. The problem of the aged is getting more and more serious. Many advanced countries are finding solutions to the problem of so called "grey tide" which means that there will be more and more old people with hoary head. Thus, "grey tide" will appear in society.

As to whether a central provident fund should be set up, Sir S. Y. CHUNG showed his support in this Council on 28 July 1976. He urged the Government to set up provident fund for the workers but the suggestion did not receive much attention.

Sir, you pointed out in your Policy Address on 7 October 1987 that a compulsory provident fund will provide the least benefit to those who are most badly in need of help, that is, those without a steady job or live on their meagre income. You also said that a compulsory provident fund would have undesirable or detrimental effect on our economy. Thus, you rejected the idea of having a central provident fund or any other compulsory provident fund system.

But now the relationship between the Chinese and British Governments has returned to a state of harmony. As the massive infrastructural projects have to be implemented by phases, to have full employment should be the objective of the Government's social policy. According to the estimate of the Social Welfare Department, by the year 2000, we will have 15% of population over the age of 60. Since the relationship between the Chinese and British Governments is in a state of harmony, the Government should have a long-term plan which straddles 1997 for our social welfare policy. It is very meaningful for us to debate on this issue today as far as the overall interest is concerned. If we provide social security for the elderly, it will enhance a sense of belonging and bind the society closer together. On the other hand, the funds accumulated from the central provident fund can also be a source of capital for the massive infrastructural programme of the Administration. If the money is well used, we will be able to get good return by market loan, and it will be helpful to promote social stability and development.

Sir, the issue of the central provident fund relates to the livelihood of everyone

in society. It is both economical and political. Society develops in different manner each stage. We should have new methods to cope with new social problems, and it is time to raise this issue for further review.

Sir, with these remarks, I support the motion.

MRS LAU: Sir, Hong Kong has agonized over the question of whether or not it should have a central provident fund for over two and a half decades. As the effect of a central provident fund scheme would be to pass over to employers and employees themselves the responsibility to provide financial support for retired workers, thus to a certain extent alleviating Government of the burden to provide social security for old aged people, one wonders why Government has repeatedly given the proposition a cold shoulder. But in my view it is only right that a proposal with such far-reaching financial and economic implications should be approached with the greatest of caution. Having carefully considered the issue, I feel that the decision taken by Government in 1987 that a central provident fund would not, at least for the time being, serve the best interests of Hong Kong is probably a right one.

Over the past years, umpteen arguments for and against the establishment of a central provident fund in Hong Kong have been canvassed both within this Council and without. Some of the arguments for such a scheme are indeed valid but they must be weighed against the overall impact which such a scheme would have on the economic development of Hong Kong. After all, it is the success of Hong Kong's economy that is the mainstay of Hong Kong's stability and prosperity both now as well as after 1997. To my mind, the crucial factors for deciding whether or not we should have a central provident fund scheme, or for that matter, any other form of compulsory retirement scheme, are:

(1) Would such a scheme solve our problem of inadequate security for the aged?

(2) Would such a scheme find favour with all employees?

(3) Is such a scheme compatible with Hong Kong's unique industrial and economic development?

(4) Are the alternatives to such a scheme working?

Dealing with the first factor, there is no doubt that we do have the problem of an ageing population, the projection being that the number of aged above 60 will increase from 750 000 in 1990 to almost 1 million in the year 2000. These elderly people would need some form of financial support in order to maintain a dignified form of livelihood during their twilight years. At the moment, the social security provisions for elderly people in the form of old age allowance, special needs allowance and public assistance, even if taken together, are far from being adequate. But to what extent can a compulsory retirement scheme replace existing social security arrangements, however inadequate they are? Clearly such a scheme benefits only those who have engaged in steady employment earning a reasonably high salary. Those who have not worked, or have only worked intermittently, or those who are self-employed would receive no benefit. Housewives as well as those who cannot work for health or other reasons and casual workers are automatically excluded. Those who earn very little would probably also be excluded. When these people get old, it would still be incumbent on Government to provide for them under the regime of social welfare. From the outset, it is abundantly clear to me that the scheme would not and could not solve the problem of financial security for the aged.

Coming to the second factor, a central provident fund scheme connotes compulsion. This means that whether or not employees like it, they will get less take home pay. Whilst the percentage of contributions may be kept small during the initial period of operation, the experience of other countries in the Asia/Pacific region which operate statutory provident fund schemes is such that in time to come pressures will mount to enhance the contributions. Such pressures may be irresistible as it would be impossible to retract once the scheme is started. In Singapore, the contributions are running as high as 35% of wages with the employee's share being 25%. In Malaysia, the rate is 20% with the employee's share being 9%. For those who are receiving high wages, this may not present a problem. But for the employee who looks to his or her monthly pay-packet for payment of mortgage instalments or rent and other living expenses with very little left every month, the mandatory deduction of a percentage of salary could produce hardship. And there are those who would rather save money themselves for the purpose of personal investment or for the rainy day. Compulsion deprives the individual of his freedom of choice as to how to apply his savings and I am not so sure that this later group would welcome the idea of somebody else managing part of his hard-earned money.

On the third factor, it would be naive to assume that contributions from employers under such a compulsory scheme would not have an impact on production costs. For

the bigger establishments the impact may easily be absolved and present no problem but many of these would probably already have their own retirement schemes on a voluntary basis. For the medium-small size business undertakings, which form an essential part of the fabric of the economic structure of Hong Kong, the impact may produce disastrous results. As at the third quarter of 1990, there are a total of 214 722 establishments in the three major divisions of manufacturing, wholesale, retail and import/export trades, restaurants and hotels, financing, insurance, real estate and business services. Out of this, 209 421 establishments (representing 97.5%) engage less than 50 people and 182 575 establishments (representing 85%) engage nine people or less. This compares with 96.8% engaging less than 50 people and 82.5% engaging less than 10 people at the end of 1986. These statistics show that the number of medium-small size undertakings continue to proliferate in Hong Kong. These undertakings are highly productive and innovative. They have provided job opportunities for many and they have made significant contributions to the prosperity of Hong Kong. But at the same time, this group is most vulnerable as many of them operate on small profit margins. The compulsory imposition of retirement schemes increases production costs which in turn weakens business competitiveness. Some of these medium-small size undertakings may not survive the abrupt change and the resulting effect on our economy as a whole may be very damaging. Can we afford to run the risk of such consequences? Again the main objection to the proposal would appear to be the element of compulsion. I believe that most employers, whether big or small, would if they could make better provision for their employees. This is so particularly at a time when competition is keen for quality staff. Sir, I regret to say that staff loyalty is a virtue that is fast disappearing in Hong Kong. In place we have staff mobility which poses as a serious headache to most employers, not to mention the vast amounts spent almost endlessly to train new staff to replace those who have left. Nowadays, many employers have to resort to the provision of fringe benefits such as provident fund or retirement schemes in order to attract and retain staff members. Over the past 10 years or so, we have seen more and more employers taking the initiative to set up such schemes for this very reason. But if the schemes were made compulsory, with benefits being transferable, the attraction would be lost and the incentive to stay on with one's employer would be very much lessened.

On the fourth and last factor, the alternative to a compulsory scheme is of course a voluntary scheme. Although voluntary schemes in Hong Kong took off slowly, recent amendments to our labour legislation, particularly in the area of long service payments provided considerable incentive to the establishment of voluntary

retirement schemes. Many employers who face the responsibility of having to pay out substantial amounts upon an employee's retirement under the Long Service Payment Scheme would, if they can afford it, opt for setting up of a provident fund since their contributions to approved schemes can be set off against their liability for long service payments. The number of approved schemes have gone up from 5 469 at the end of 1987 to 10 370 this year. At the same time, the number of private establishments offering provident fund or retirement schemes escalated from 8 351 in 1987 to 19 214 in 1990 bringing retirement benefits to over 700 000 employees. The increase is not insignificant and is indeed an encouraging phenomenon. However, I feel that Government must still continue to promote and foster the further development of such private schemes. I am confident that many more of such private schemes will come though and the private sector must be given time to adjust to necessary changes and work out the schemes according to their own time-tables. In the meantime, consideration should be given to further improve the Long Service Payment Scheme by extending eligibility criteria and providing greater flexibility to those who claim thereunder. This would provide additional impetus to employers to expedite the setting up of their own private retirement schemes.

Lastly, Sir, as I mentioned earlier, the existing social security measures for the elderly are far from being adequate, particularly for those above the age of 70. If old age allowances and other related allowances are to remain whether or not we have retirement schemes, compulsory or otherwise, I believe that it is high time that we seriously considered reviewing such allowances to bring them up to realistic levels. Simultaneously, housing as well as other medical and welfare provisions pertaining to the elderly should also be looked into so that the final package to be offered would be one that is truly capable of catering for the needs of this vulnerable lot.

Sir, as I do not believe that for the time being any compulsory measure for retirement schemes, whether centralized or decentralized, is right for Hong Kong, I can neither support the original motion nor the proposal amendment.

DR LEONG: Sir, enough brawls have been locked in the debate on Central Provident Fund which seems to go on ad infinitum. Never has a debate on this subject lulled with a conclusion so far.

Government has up to this point in time only dipped its toe too tentatively in the unknown waters of a full-scale employee protection and public pleas for such have

so far run into an administrative brick wall.

Government has so far been very committed to its hardware development -- the infrastructural projects (the new airport, port and metroplan and so on). Let me put it to you, Sir, that the rose garden concept will not work unless similar stress is being laid on the necessary software development i.e. a compulsory retirement scheme for our 2.8 million working population.

Sir, there have been some public misconceptions on the Central Provident Fund.

The fund is to help the working population when they retire, not the old and the deprived who are currently already devoid of any proper retirement protection.

When people argued that there is no need to address on the issue of Central Provident Fund as there have been schemes such as the long service payment, the old age allowance and public assistance, it is in fact pulling wools over the eyes of the public.

These schemes are designed therefore to help the vulnerable group who are unable to help themselves, not those who are employed.

Government has all along shrugged its responsibility of taking care of the retired, leaving them to the mercy of their families to take care of their post-retirement lives.

In the face of the increasing breakdown of traditional family relationships (where brain-drain has a lot to do with it), it was important to establish a compulsory retirement scheme to protect the retired and the central provident fund is one form of exercising the scheme.

I am all for a compulsory retirement scheme for our working population.

Let me elaborate point by point the importance of such a compulsory retirement scheme. Firstly, there is rapid aging of our population. Many Members of this Council know fairly well that there is an increase in the number of aged people in Hong Kong and I am not going to repeat that any more. As far as I can say, by 2001, it is estimated that one among five of our population will be 60 or above.

Secondly, there is an alarming trend of disintegration of families due to socio-economic changes, especially when the problem of brain-drain is so preoccupying the minds of so many Hong Kong people. The result of this disintegration is that the elderly people are left high and dry, living in solitude, posing extra burden on hospital services.

Official statistics showed that between the years 1984 and 1988, the number of elderly patients (65 or above) being treated in the four regional hospitals in Hong Kong had increased by a total of 39%. This growth rate is significantly higher than that of all patients which has increased only by a total of 15% over the same period.

The average annual growth rate of 9.8% of elderly being treated in hospitals over the same period is also higher than the average annual growth rate of 5.7% of the elderly population in Hong Kong.

They also tend to stay longer in hospitals, averaging 6.3 days as compared to some 4.6 days for the overall population.

If one looks at the Social Welfare Department figures, it is even more alarming. It showed that in 1987, only 0.5% of those over 70 years old had secured pension, 9.1% relied on social assistance and only 4.5% lived on their own savings whilst the others looked to their families for support.

Some academics estimated that by 2001, the number of elderly living with their families would fall by 50% and there would be 150 000 elderly living alone.

The meagre old age allowance and public assistance, with their current rate of adjustment, would help little to solve their livelihood problem. To refresh colleagues' mind: old age allowance is now only \$393 for those aged 65 or above (as from April this year), public assistance is \$870 for one single person.

Turning to the third point, many have spoken against a compulsory retirement scheme. In the absence of such, how can we be prepared to shoulder the needs of the ever enlarging old and vulnerable population? Without proper preparation, Sir, the society will then have to shoulder the very heavy burden to see this deprived group being cared for through a bigger portion of public money. Would this then mean high tax? Does it really mean that Hong Kong will be dragged into the situation of a "High Tax -- Welfare State" which investors have been forever nightmarish about?

Sir, not only do we need a compulsory retirement scheme, we should have a time schedule to work toward. With 1997 round the corner, would it be fair for the future SAR Government be asked to carry the hot potato of a "High Tax Welfare State"?

Sir, retirement benefits is a subject dear to the hearts of Hong Kong's working population. The present retirement arrangements leave much to be desired.

The economic sufferings of the workers should not be belittled. If their difficulties were not arrested, the go-go days of labour unrest will ensue.

Too much grass have grown under Government's feet on this front. I therefore urge Government to make retirement schemes compulsory for employees at the earliest possible time.

Sir, it is totally unacceptable for Hong Kong, the world's 11th largest trading territory, and one of the most affluent in the region, to be rid of a comprehensive retirement benefit package to safeguard its working population in its twilight years.

Today, the local population is acutely aware of this lacuna in overall labour welfare and is pressing for a full-scale retirement scheme to bridge the yawning gap in labour relations.

What is required is the will. Government and the business and industrial community must think carefully and think at once about this. It is better to have the working people on your side than have them confronting you.

Finally, Sir, may I stress again that should there be no sound retirement schemes for the working population, given the fast aging rate of our population, by the turn of the century, Government has to shoulder an even heavier financial burden for the old and the deprived than it is shouldering now.

Sir, I see the need for a sound retirement scheme with a time schedule to work with. We have therefore to take a step forward now. I therefore support Mr TAM's motion and cannot support Dr IP's motion.

MR MCGREGOR: Sir, my constituency, the Hong Kong General Chamber of Commerce, has consistently over a number of years opposed the introduction of a central provident fund. The reasons have been set out just as consistently and they have not changed. They include the higher and sometimes unpredictable cost to employers of such a scheme, the substantial inflationary pressures it will create, inflexibility of a system of contributions where decisions lie in the hands of the Government and the great difficulty of ensuring adequate protection of the huge amount of money to be managed and invested.

Small employers -- there are tens of thousands of these in Hong Kong -- may find the additional burden of costs too great and this in turn will certainly reduce the vitality and vigour of the entrepreneurial spirit in Hong Kong which is the main spring of our economic success.

Employers support the development of the social security system which protects and supports employees in Hong Kong. Over many years, the fabric of this system has been put into place. Protection and compensation for workers against accident, bankruptcy and any unreasonable treatment by employers has been approved by the Labour Advisory Board during the last two or three decades and is continually being improved. Employers support the principles and concepts of a provident fund and are willing to see the passage of legislation which will protect workers from any abuses arising from the operation of such fund.

My constituency however believes that these funds made must be voluntary to allow the greatest possible flexibility amongst small and medium size companies and their employees. It must be remembered that Hong Kong's labour force is very volatile and the movement rate of workers between enterprises is high. The cost of a state-operated central provident fund in these circumstances could be prohibitive.

The Chamber believes that the Government should continue to support the development of privately-operated provident fund schemes including full schemes which provide for the small employers with only a few employees. These exist already and are successful. Provident fund schemes provide security to workers during and after their productive years but it cannot be a substitute for a Government-run old age pension scheme. I have asked many times in this Council for the Government to set in motion a detailed feasibility study to determine the parameters of an old age scheme which may be within our reach. I believe that this should be done within the next year. We cannot leave our senior citizens to the mercy of the private sector.

Only the Government can establish and manage such a scheme of social security.

Sir, I support Mr TAM's motion as amended by Dr Henrietta IP. I think the kind of feasibility study envisaged will show that a central provident fund is not a viable proposal. But yet, Sir, it might be.

MRS SO (in Cantonese): Sir, the continuous development in Hong Kong's economy for the past 20 years has resulted in tremendous achievements. Hong Kong has now become the third largest financial centre in the world. As far as trade is concerned, Hong Kong ranks quite close to the top in the international trade community. While the economic situation continues to improve, the standard of living of the public also rises progressively. Employees begin to look at the problem of welfare and retirement protection. Thus some groups and organizations strongly advocate the implementation of a Central Provident Fund by the Hong Kong Government in order to provide employees with old age pension and retirement benefits.

I support the setting up of a Central Provident Fund provided that it must be implemented with the voluntary consent of both the employer and the employee. Nevertheless, I have different views on the setting up of a Central Provident Fund. There are several factors worthy of notice in implementing a Central Provident Fund system as follows:

Firstly, the setting up of a Central Provident Fund involves complicated administrative matters. Moreover, is there any spare capacity to deal with a Central Provident Fund at a time when the Government is totally devoted to the development of the infrastructure? More importantly, there will be the problem of handling the huge amount of capital accumulated after the implementation of the system. If the capital is used for investment, it will be easy for the Government to manipulate the market and cause damages to the flexibility and adaptability of the financial market.

Secondly, a Central Provident Fund will have impacts on the financial structure. It will affect consumer spending and is detrimental to economic development. As a Central Provident Fund contains the element of compulsory saving, the increase in installment will suppress individual consumer spending. It will strike certain blows to the consumer market in particular and have deterrent effect on the overall economy.

Thirdly, the implementation of a Central Provident Fund will be a blow to the local economy. As employers are to be responsible for part of the contribution, the labour cost, especially in the case of some small factories, will be increased. A heavier burden will weaken the competitiveness and further affect the Hong Kong economy.

Fourthly, young employers are not willing to take part in the Central Provident Fund. I am also an industrialist. I set up a provident fund scheme 15 years ago. My experience reveals that nowadays most of the young employers prefer getting higher pay in real terms than to taking part in any Central Provident Fund Scheme. If a Central Provident Fund is to be implemented on a compulsory basis, it will cause discontent among them and nullify the meaning of introducing the scheme.

In my opinion, the setting up of a Central Provident Fund is a viable means to improve the retirement benefits of employees in Hong Kong. As I have mentioned in the early part of my speech, any Central Provident Fund can only be implemented with the support of employers and employees. The Occupational Retirement Scheme Bill 1991 which is currently studied by Members of this Council is very effective in improving the provident fund system and it facilitates the implementation of private provident fund schemes. Furthermore, the Government has in principle agreed to relax the limitation on long service payment. This will bring greater benefits to young and middle-aged employees and is worthy of support.

Sir, with these remarks, I oppose to any compulsory schemes of Central Provident Fund. But I support Government encouraging the private sector to set up individual provident fund schemes to be monitored by the Government. I, therefore, cannot support the original motion or the amendment. Thank you, Sir.

MR TIEN: Sir, my first reaction to the motion was to ask why the old question of the central provident fund should be debated again. After all, the whole matter has been thoroughly thrashed out on numerous previous occasions in 1966, 1975 and 1987 -- or once every decade. On these previous occasions the whole idea was, after careful consideration, quite properly shelved.

Having studied in detail the subject, I concluded that the Government had, after intense, detailed and fair consideration of all the facts, decided not to proceed with any compulsory savings scheme or a central provident fund.

My present feeling is that, while a new review has little to offer, we should nevertheless remember that since we are now only six years away from the 1997 change of sovereignty, this debate is therefore both timely and opportune to set the record straight once and for all for the rest of this decade.

The language of the motion

The original motion calls upon the Government to take immediate steps to re-examine the setting up of a CPF. The amended motion calls upon the Government to take immediate steps to re-examine the feasibility of the setting up of a CPF. Let me just mention that a thorough examination and feasibility study was conducted just four years ago, and this Council heard the Governor's final decision on May 13 1987. I believe that, calls for immediate action today on such profound matters as the setting up of a CPF, are ill-advised. Such schemes should be well-conceived and not half-baked, for it will take a good deal of time to educate our employers and employees on the matter of forced savings. After all, how do we know that Hong Kong's workers really want it, when they know that it involves not only "taking out" upon retirement, but also involves "putting in" every month.

Is it not the height of arrogance for the sponsors of the motion to imagine that they know what is best for Hong Kong's workers. Have we consulted publicly the 2.7 million workforce their views on forcing them to save?

A further reference in the motion is to compulsory retirement schemes. Of course, retirement schemes are apparently beneficial, but how many workers are in favour of these things being made compulsory? Many workers will not understand that once you are in such a scheme, you are in for ever. People in Hong Kong are not accustomed to being dictated to as regards the way we allocate our income, but this motion uses the word "compulsory" as if it was a term of approval -- which it most definitely is not.

A further problem with this motion is the idea of comprehensive social security protection. Now, I am sure that there is some confusion here. A CPF is not identical with a comprehensive scheme of social security. For example, in Britain, social security is quite distinct -- in scope and administration from the National Health Service. So, what exactly is this motion talking about in its advocacy of comprehensive social security of the welfare state as in Britain, Germany and other

Western European states?

All in all, as I read this motion, it is a good indication of the thinking of its sponsors and their friends, who appear to want to establish an instant welfare state in Hong Kong.

Arguments against central provident fund

Sir, it may help to group the arguments against the idea under three heads. These are firstly, arguments based on economic factors, secondly, on psychological factors, and thirdly, on political arguments. These by no means exhaust all possibilities, but are a convenient starting point. I will examine each of these in turn.

The first set of ideas is essentially concerned with the costs and benefits of the scheme. Those who support the scheme must know that it involves contributions from both employers and employees. This is not a free scheme. Somebody has to pay. At 5% contribution by employer and employee each, a worker earning say, \$5,000 per month, would have \$250 deducted from his wages by force and, forever rising with the level of his wages until the day he retires.

Sir, few people on low salaries will welcome what is, in effect, a tax, which is compulsory and from there will be no benefit until they retire. For their part, employers will also have to find funds to cover the huge burden imposed. They may be tempted to cut wages, or more realistically, give less wage increases. Now are we going to suggest a compulsory wage increase scheme as well, and if so, how much that compulsory wage increase should be? Equal to inflation, or 1, 2, or 5% points above inflation rate? Are we going to regulate all these in a free market economy that we so treasure to maintain under the Joint Declaration of one country two systems. Employers may also be tempted to redeploy staff. Above all, employers will be compelled to take on more administrative staff and accountants to service the scheme. Employers, both in the service and manufacturing sector, will try to pass on the extra costs to the consumer. Of course, nothing will be more inflationary. Let me stress again that CPF is not a free gift. Everyone will have to pay. What we have here is a form of compulsory saving. The scheme takes money out of the pockets of employer and employee alike, and puts this cash into a fund. At 10%, 5% each from employers and employees, this fund is estimated at over HK\$16 billion a year initially if all the 2.7 million workforce is to be covered. The management of such a huge amount expecting a high return will certainly create a problem. The public will not be

satisfied if this fund yields only bank deposit interest. Can the local financial market absorb \$16 billion a year, if not, are the fund managers expected to invest in Australian real estate, or the New York stock market? What will happen to our people's retirement savings if these investments turned sour.

Sir, let us also not forget that over 80% of the business enterprises in Hong Kong are small -- under 20 persons per establishment. For, how much more difficult, in terms of survival of these firms, would it be if they were burdened with CPF? Administratively, how much manpower will have to be devoted to collecting CPF from these small establishments. Surely, we must recognize that inflation is CPF's best friend, and since inflation is public enemy No. 1, we should not play games with inflation in pursuit of schemes like CPF.

Sir, I now turn, briefly to the second of my group of criticisms, which I call psychological. I ask Honourable Members to imagine how workers will feel when they are informed that they must hand over 5% of their hard-earned wages to some faceless fund. They will be told that CPF is for all, and will lead to certain benefits on some far-off date, say, when they reach 60 years old.

To the average people on the street not aware of the intricacies of CPF, I very much doubt whether they will know what is going on. Hong Kong has never nurtured the welfare state mentality. That is a mentality which has numerous intellectual admirers; but the people on the factory floor are not intellectuals.

The principles of the welfare state are obscure even to the people of the west, but, they will be a greater mystery to independent-minded Hong Kong people. Indeed, in a Chinese society, it is traditionally the family, not the state, which holds everything in place. When one is in need, one usually look towards the family for help. The welfare state, with its idea of contributions to this proposed type of fund, is essentially European. It had its origins in Germany, as an idea, over a century ago. Its intention was then not to benefit, but to control, workers.

As for my third group of criticisms, these are political. As 1997 approaches, we have a natural worry about the economy in general. We have to hope that economic prosperity will not be undermined by political uncertainty. I am confident of our continuing economic success, but I do feel that nothing should be done to jeopardize this success. We can well do without untried and expensive schemes which increase uncertainty both before and after 1997. We do not know whether wages in real terms

will grow, and there is no guarantee that the fund can be sustained. We do not know whether the fund at \$16 billion a year, by 1997, totalling \$90 billion might be used to finance other projects in China, or whether workers in Shenzhen might want a piece of the action.

Sir, I realize much of what I have said is not supportive of the idea behind this motion. However, I believe there are alternatives. We live in an age of privatization. It follows that private pension fund schemes will serve Hong Kong and its practical realities far better than a CPF. We should encourage more companies to set up pension funds voluntarily. We need to expand and extend our current welfare provisions in a constructive, well-designed and measured way. Let us continue to build on what we have; let us expand the help for the aged, the sick and the needy, but in practical, and well thought out ways. Currently, both medical and housing needs for the retired elderly people are adequately provided by Government. For those over 65 years old, having no children or relatives to support, no working ability, disabled or ill health, they can apply for old age allowance, as well as public assistance. They get at least \$1,740 to \$2,100 per month today. I feel that considerations can be given to providing more in these areas to the unfortunate few.

Sir, for the unfortunate 91-year-old Mr CHAN and his wife as mentioned by the Honourable TAM Yiu-chung or the poor Mr HO who can only afford bread for lunch as mentioned by the Honourable Martin LEE, they have my full sympathy. But would a CPF have helped them? Take Mr CHAN for example, he is 91 years old now. If we have the CPF scheme when he was 20 years old in 1920 and when he worked till 65 years old in 1965, how much could a CPF have given him? To be very frank, off hand I have no idea what wages are in 1920, but in 1965 wages for security guards in factories are about HK\$300 per month. If we take that final figure of \$300 and balance off the interest earned on his 45 years of contribution by simply taking the \$300 per month multiplied by 12 months a year, by 45 years and by 10%, the grand total is \$16,200. One could argue that \$16,000 is a lot of money in 1965. But unless Mr CHAN made very wise investment in the Hong Kong stock market or in lands speculation and became very lucky, I doubt very much that that \$16,000 could have lasted him into the 1970s. Then the question becomes: what happens to Mr CHAN in the 1980s or today? Mr CHAN, unfortunately and most likely, will again be working today in the factory as a security guard. To help Mr CHAN and the group of these unfortunate few, what we need is not a CPF, but an additional safety net to help those who are not covered by all our current social, medical, housing and other benefit schemes.

Sir, there is no merit to rush head long into expensive theoretically comprehensive schemes, which do not fit Hong Kong's needs. We should move step by step, expanding the benefits we know well, and not by a leap in the dark towards some contribution, the so-called CPF. I do not think that we should leave such a burden for our children.

Sir, with these remarks, since I do not support a central provident fund or any compulsory retirement schemes, I therefore support neither the original nor the amended motion.

MR PETER WONG: Sir, I tend to support the motion as amended by Dr the Honourable Henrietta IP. It is my belief that while a central provident fund is not practicable for Hong Kong for the reasons explained by my honourable colleagues in this as well as previous debates, some form of Hong Kong-wide scheme to provide for retirement will be necessary and should be examined seriously now.

As responsible employers, we want to ensure that between employers and employees, money will be put aside to provide for workers' retirement. The problems of security of the funds, their adequacy in view of inflation and so on have to be addressed. The private sector must acknowledge its obligations towards its workers.

It remains for the Hong Kong Government to explain why it seeks to exempt itself from what it preaches to others regarding social security for its own workers in not setting aside money to meet its pension obligations.

But what of those who are not employed or who do not or cannot look after themselves? The wording of the Honourable TAM Yiu-chung's motion is sadly deficient on this point and this is where we should look further beyond the narrow interests of our workers.

According to Census and Statistics Department figures, 14% of the population aged 65 or above (748 000) persons -- some 100 000 old people will still be working by the year 2001 in order to earn their living, largely because they are not covered by any retirement schemes. Among them are people who are not regularly employed -- hawkers, construction workers, those working shifts and so on. Most would be unfortunate in not being financially capable of saving enough for their old age. Now, is it fair that those responsible employers should be expected to foot the bill a second time by having to pay additional taxes so that benefits can be paid to those

not covered by any retirement scheme? Remember that they have already paid the cost of setting up proper funds for their own employees.

It has been, and will always be, the Government's responsibility to look after the underprivileged and those least able to fend for themselves. In this regard, basic provision for income security for all members of the growing elderly population is an inherent responsibility from which the Government cannot dissociate itself. There is a need for this Government to face fairly and squarely the issue of collective social security by reviewing its commitment to the existing paltry public assistance and social security payments, which have been estimated to increase to the not inconsequential sum of HK\$8 billion by 2001. From every point of view, a timely decision by the Government to take up the comprehensive retirement benefit issue can only help to enhance its public image and boost confidence. We need a viable safety net.

Up till now, with the benefit of our low tax rates, the businesses and professionals of Hong Kong have been the major payers of this double impost without real complaints. But let me sound this warning yet again -- every time we legislators propose an increase in social benefits, we have to make sure that money is obtainable from somewhere. Empty promises are and will be seen by the public as just electioneering ploys of ambitious politicians who do not really expect to fulfil those promises.

Let Government and employers join together and explore the ways and means of setting up a proper retirement benefit system with a safety net, especially how it can be paid for, and at the same time enhance the competitiveness of Hong Kong's commerce and industry. We will have to heed the counsel of the professional actuaries who are well versed in the technicalities of retirement schemes and can help us to understand the implications of any proposal. We have to arrive at a solution that best meets the needs of Hong Kong in the years to come.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Sir, today's interesting motion debate will leave a deep impression in my memory, though it may not be so thrilling after all. The issue of Central Provident Fund has been the subject of discussion by many people over a number of years; but up to the present, the issue of how to cater for a rainy day in old age is still troubling us. I know people from all walks of life hold different views. However, I think it is important that such a major

issue as this should be fully debated in the open; and should not be treated haphazardly or with sporadic attention. Here, I would like to take the opportunity to share with you the efforts made by the Health and Welfare Branch and its departments over the years and across the board and to expound on our social security policies.

We all should plan for our future. Recently, problems of financial support for the elderly have become a centre of discussion by sociologists, economists and community leaders alike. The Government has repeatedly stressed that we should provide adequate security for the general public now and in the future. This issue is of particular importance to the elderly people of today and tomorrow. Without financial security for one's old age, if one were to face poverty, if one were destitute and dependent, would not "the blessings of longevity" be turned into a never-ending worry?

Sir, at present most people in Hong Kong retire after the age of 60. In the context of welfare services, "elderly persons" are defined as persons aged 60 or over. Therefore, by providing comprehensive services for the elderly, it also means adequate care for the "retired persons". In the past, "it was seldom that one lived to be 70 years old". But now, it is not unusual to be 70. In the light of this, an aging population should not be considered as a social problem. I think a population which enjoys longevity should be seen as a natural development of a progressive society.

Since the question of Central Provident Fund was debated in this Council in May 1987, the Government has made continuous efforts to improve welfare service and social security for the elderly. Examples are the review on various housing needs of the elderly in 1988, the increasing numbers of care and attention units, and the introduction of priority housing scheme for the elderly. A comprehensive review on various social welfare services was conducted in 1990 for public consultation. During the same period, public assistance and other allowances had been raised on four occasions. Old Age Allowances have also been increased accordingly and extended to include the 65-year-olds. The Old Age Allowance for people over 70 is non-contributory, and non-means tested and if I might add, without conditions attached.

It has long been the policy of the Government that in the provision of medical services, no one is denied adequate medical care simply because he cannot pay for it. Medical services are provided by the Government at minimum charge, and those who are in genuine need are even exempted from payment of fees. Therefore, our Uncle

CHAN and Auntie CHAN or even Uncle HO and Auntie HO need have no fear, for no one in Hong Kong is deprived of the basic rights for medical treatment because of senility and poverty. However, can the quality of service fulfill our ideal? Do we offer a choice? We in the Branch are studying how to adopt the most appropriate medical insurance to meet the demands of the general public.

Concurrently, we continuously review the need to cater for the daily necessities of the elderly people including their food, clothing, shelter, transport, medical and recreation needs. My colleagues and I have been working with various concerned bodies and specialists to examine the adequacy of provision and ways for improvement. Separately, we will produce a Green Paper on rehabilitation policies and services. All these will be published for comprehensive public consultation.

Elderly people in our society are our invaluable assets. Their collective wisdom and wide experiences will assist in the development of the next generation. We should respect the elderly. To look after them is our duty. We are bound to grow old in the end -- You and I, "the young and the breathless". Hong Kong is a place worthy of praise for having preserved the Chinese traditional virtue of taking care of their family members. Nothing is sadder than a situation "where the son wishes to support his parents, but his parents are there no more". With our population aging, it could be sadder for "a son to want to care for his living parents yet to have no financial means". We are conscious of the need to look ahead to design policies which will be able to cater to the changing needs of our society. Therefore, we in the Branch are actively and positively making unstinted efforts to address various issues, because I believe whether we are going to have a Central Provident Fund or not, we will need social welfare and medical services that cater for the most needy. Our safety net and set polices will surely help them. Thank you, Sir.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Sir, the question of whether a Central Provident Fund or any other compulsory retirement scheme should be established in Hong Kong is in fact not a new one. Since 1966 the feasibility of setting up a Central Provident Fund has been studied time and again in great depth by the Administration and several debates have also been held by this Council to discuss the issue, of which the adjournment debate held on 13 May 1987 was particularly comprehensive. After repeated studies and discussions, I believe Members are now conversant with the pros and cons of setting up the Central Provident Fund. Having carefully listened to the speeches delivered by Members in today's debate, I am of

the opinion that Members are just harping on the same string, for the arguments for and against the motion presented by the two opposing parties are basically similar to those which were brought forth in previous debates. Some Members think that the establishment of the Central Provident Fund can help resolve the funding problem of the new airport and other development programmes. At a glance, this seems to be a new and rather attractive argument. But in fact the Administration had already looked into the possibility of using the Central Provident Fund as a source of capital to finance infrastructural projects in the study conducted in 1987. Our view was that it would not be of any great help unless the Central Provident Fund provided loan capital below the market rate; but if loan capital were raised from the Fund on favourable terms to finance infrastructural projects, the Fund might fail to obtain a reasonable return for its investment and was thus unfair to its contributors. Our view has not been affected by the decision to build the new airport.

Basically, whether or not to set up a Central Provident Fund or similar retirement schemes is merely a matter of format. The main concern is how to ensure that the retired people and the aged in general can spend their remaining days in happiness and contentment. Summing up the debates held in the past and today, it is clear that we all agree this issue must be addressed. But opinions may vary as to the method. Some people think that the Government should make it compulsory for the employers and employees to set up a Central Provident Fund or similar retirement schemes. By doing so, the Government can reduce expenditure in social welfare and most retired people can get financial assurance to a certain extent. They enjoy greater self-esteem when they can rely on themselves rather than social security. On the other hand, some people state that the Central Provident Fund or other compulsory retirement schemes actually cannot help the needy people solve the problems they will meet after their retirement. On the contrary, the Central Provident Fund or other compulsory retirement schemes can raise the production cost, weaken Hong Kong's competitiveness overseas and cause other serious problems to the whole economy. Therefore, other solutions to secure the livelihood of the aged should be sought.

In 1987, after careful consideration, the Government decided not to set up a Central Provident Fund. The Government has taken into consideration two main factors. Firstly, the setting up of a provident fund or retirement schemes to safeguard the livelihood of employees after their retirement is based on the assumption that these retirees, before their retirement, have worked continuously for a considerable length of time, and have a steady and moderate income. Only under these circumstances can a provident fund be most effective. However, employees meeting these requirements

generally realize the need to provide for their future and are capable of doing so through saving and investment even without retirement schemes; besides, a fair number of them have already joined provident fund schemes organized by private firms. On the other hand, the Central Provident Fund or compulsory retirement schemes are of not much help to the low paid or those without regular employment in solving their problems after retirement. Let me give you an example. Mr LEE Sei was a worker in a factory. It was a steady job and did not require special skills. He had a monthly income of \$4,000. Mr LEE's factory ran a provident fund scheme. The employer and the employee each contributed every month an amount equivalent to 5% of the employee's monthly income, which was deposited into an account in the name of the employee. The provident fund scheme, which was managed by professionals, had an annual real growth of 2.5%, after inflation was deducted. Under such favourable conditions, Mr LEE worked continuously for the factory for 20 years, during which his monthly income increased progressively to what was equivalent to \$7,200 of today by the time he retired. On the day of his retirement, Mr LEE obtained from the provident fund a lump sum equivalent to \$164,000 of today. Assuming Mr LEE put the money in the bank as a fixed deposit at an interest rate of 9% per annum, and withdrew the interest payment every month, the monthly interest payment, in terms of today's purchasing power, is just \$1,230. From this, it can be seen that the Central Provident Fund seems to offer little in safeguarding the livelihood of the low income group after their retirement. I do not know if Uncle CHAN and Uncle HO enjoyed the same good working conditions of Mr LEE Sei when they were young.

The Government's other main consideration is that the Central Provident Fund is actually a compulsory saving scheme which, once implemented, may have quite serious effects on our economy. Since workers are required to contribute towards the provident fund, their monthly disposable income will be reduced correspondingly. On the other hand, cost for employers will be increased as they have to contribute to the fund. Although such cost increase may ultimately be absorbed into the employees' wages or other fringe benefits, business loss caused by such cost increase may have adverse effects on our overall economy. In addition, a large amount of capital placed under the Central Provident Fund must always look for the best yet not too venturesome investment opportunities, resulting in massive capital flowing in and out of the financial system, thus imposing great pressure on the financial market and the linked exchange rate system.

I definitely do not intend to negate the value of a provident fund. In fact, under appropriate circumstances, a central provident fund is virtually a good way

to get prepared for rainy days. And the Government has all along encouraged the private sector to set up voluntary provident funds. What we disagree to is the suggestion the Government should require all employers and employees who are engaged in economic activities to join the Central Provident Fund or other forms of retirement schemes, as we strongly believe that this practice has more disadvantages than advantages.

When deciding not to set up a Central Provident Fund, the Government is also well aware of the needs of the retired people and the elderly. Therefore, in 1987, it was decided that a series of measures, which were considered to be more effective than the Central Provident Fund, would be implemented to help the retirees and other elderly people resolve their problems of livelihood. The Government's progress in providing welfare services and security assistance for the elderly has just been described by the Secretary for Health and Welfare, who has also firmly reassured us of the Government's commitment in this respect. The Administration has undertaken in 1987 to keep improving the Long Service Payment Scheme in order to provide better employment benefits for employees during their employment period. In an effort to encourage employers to establish provident fund or retirement schemes, the Government also pledged to provide a statutory system to regulate retirement schemes. In both respects, we have made good progress. In July 1988, the Long Service Payment Scheme has been extended to cover those who retire owing to aging or health problems. With the gazetting of Employment (Amendment) Bill 1991 in May this year, the Long Service Payment Scheme was further improved so that younger workers may also receive a part of the long service payment after five years' service if they are unfortunately dismissed. It is intended that the Bill will be tabled at this Council in October. After these legislative amendments, Long Service Payment will in nature become a form of retirement protection. And in order to protect long service and severance payments from being affected by employers' insolvency, the Protection of Wages on Insolvency (Amendment) Bill 1991 was enacted in May this year so that affected employees may receive more payments under the Protection of Wages Insolvency Fund. As far as the supervision of retirement schemes is concerned, the Occupational Retirement Schemes Bill 1991 has been tabled at this Council. Concurrently, the level of provident funds and pensions set up by private organizations has been going up during the past few years. At the end of 1987, the Inland Revenue Department approved 5 469 retirement schemes; but up to the end of April this year, the number of such schemes rose to 10 370. Moreover, according to a survey conducted by the Census and Statistics Department, there were 8 351 private organizations providing retirement schemes for 468 000 employees, or 26% of the workforce in 1987; up to 1990,

the number of organizations operating such schemes rose to 19 214, covering 707 000 employees or 33% of the workforce.

Sir, in addition to the work mentioned by the Secretary for Health and Welfare, the Government will continue its efforts to improve labour legislations, especially the Long Service Payment Scheme, so that the employees, no matter whether they are dismissed or retire, can get a lump sum of money. The Government will also keep on encouraging the private sector to set up retirement schemes or provident fund schemes. I believe the Government's decision on Central Provident Fund and the related issues in 1987 was correct. After today's debate, I cannot see any new arguments that would suffice to change these decisions.

Sir, with these remarks, I do not support the Honourable TAM Yiu-chung's motion and the amendments moved by Dr the Honourable Henrietta IP.

Question on Dr Henrietta IP's amendment put.

Voice votes taken.

The President said he thought the Noes had it.

MR MARTIN LEE: Sir, may I ask for a division?

HIS EXCELLENCY THE PRESIDENT: You are just in time. I had almost moved. Two Members have called for a division. I propose in this case to have a division rather than call on Members to support or otherwise my initial judgment. The Clerk will therefore call out the names of Members one by one. Members can say "Aye" if they support the amendment, "No" if they oppose the amendment or they may abstain from voting.

Dr Henrietta IP, Mr CHAN Ying-lun, Mr Martin LEE, Mr PANG Chun-hoi, Prof. POON Chung-kwong, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Andrew WONG, Mr Ronald CHOW, Mr Daniel LAM, Mr J.D. MCGREGOR, Mrs Elsie TU and Mr Peter WONG voted for the amendment.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mr Stephen CHEONG, Mrs Selina CHOW, Mrs Rita FAN, Mr CHENG Hon-kwan, the Secretary

for Home Affairs, Mr HO Sai-chu, the Secretary for Planning, Environment and Lands, the Secretary for Transport, the Secretary for Security, Mrs Rosanna TAM, Dr Daniel TSE, the Secretary for Economic Services, Mr Edward HO, Mr Paul CHENG, the Secretary for Health and Welfare, Mrs Nellie FONG, Mrs Peggy LAM, Mrs Miriam LAU, the Secretary for Education and Manpower, Dr C.H. LEONG, Miss LEUNG Wai-tung, Mrs SO CHAU Yim-ping and Mr James TIEN voted against the amendment.

Mr Kingsley SIT abstained.

The President announced that 13 Members voted for the amendment, 27 voted against it and one Member abstained. He declared that the amendment was negatived.

HIS EXCELLENCY THE PRESIDENT: Now as Dr Henrietta IP's amendment has been negatived, we resume the debate on Mr TAM Yiu-chung's original motion. Does any Member who has spoken neither to the original motion nor to the amendment now wish to speak? I am not sure if there are any. But if there are and they wish to speak, will they please declare it now? Mr TAM, I think you wish to reply.

MR TAM (in Cantonese): Thank you, Sir. I would like to make some concluding remarks. It was revealed in the debate that Members who supported the motion indeed outnumbered those who opposed it. But considering the 10 official Members' votes, it was not surprising that Dr IP's amendment was negatived. Therefore, I am not expecting that my motion will be passed. In fact, my motion is a most basic demand -- to urge the Government to take immediate steps to re-examine the setting up of a central provident fund or other forms of compulsory retirement schemes in order that workers in Hong Kong will be provided with comprehensive retirement protection. I am just demanding a re-examination of the scheme and Dr IP's amendment motion, indeed a subset of mine, demands even much less. I have accepted her less demanding motion. But unfortunately, the Government has categorically turned it down. This has further illustrated that the Government has no real intention to consider and examine the issue. It is really disappointing! I had wanted to prepare a series of arguments to hit out at those specious opposing views but I am not going to do it now, not because I am surrendering but because I believe a debate on the issue will come up again before this Council very soon. I shall not have to put up with another four years of galling silence, as I did last time, before another debate will come up before this Council again. Probably a longer debate on retirement security for the workforce will be

held before this Council by the end of this year or within next year. I have nothing further to say now. I do not want to waste Members' time because following is another motion debate. That is a reality, a reality no less real than the case of Mr and Mrs CHAN. I cannot help expressing deep regret over this.

Sir, with these remarks, I conclude the motion.

Question on Mr TAM Yiu-chung's motion put.

Voice votes taken.

The President said he thought the Noes had it.

DR LEONG: Sir, may I ask for a division?

HIS EXCELLENCY THE PRESIDENT: A Member has asked for a division. I propose to allow a division rather than to ask Members to support or otherwise my provisional ruling. As before the Clerk will read out the names of Members of the Council. Members should say "Aye" if they support the motion, "No" if they oppose the motion or they may abstain.

Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Andrew WONG, Mr Ronald CHOW, Mr Daniel LAM, Dr C.H. LEONG, Miss LEUNG Wai-tung, Mr J.D. MCGREGOR and Mrs Elsie TU voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mr Stephen CHEONG, Mrs Selina CHOW, Dr Henrietta IP, Mr CHAN Ying-lun, Mrs Rita FAN, Mr CHENG Hon-kwan, the Secretary for Home Affairs, Mr HO Sai-chu, the Secretary for Planning, Environment and Lands, the Secretary for Transport, Prof. POON Chung-kwong, the Secretary for Security, Mrs Rosanna TAM, Dr Daniel TSE, the Secretary for Economic Services, Mr Edward HO, Mr Paul CHENG, the Secretary for Health and Welfare, Mrs Nellie FONG, Mrs Peggy LAM, Mrs Miriam LAU, the Secretary for Education and Manpower, Mrs SO CHAU Yim-ping, Mr James TIEN and Mr Peter WONG voted against the motion.

Mr Kingsley SIT abstained.

The President announced that 11 Members voted for the motion, 29 voted against it and one Member abstained. He declared that the motion was negatived.

8.45 pm

HIS EXCELLENCY THE PRESIDENT: We still have one further debate on a motion. Members might like to take a break at this point. I suggest that it is a relatively short break. I know that there is some supper upstairs. I am sure Members do not want to stay for breakfast.

9.11 pm

HIS EXCELLENCY THE PRESIDENT: Council will resume.

NEW AIRPORT

MR MARTIN LEE move the following motion:

"That this Council welcomes the decision to go ahead with the new airport; and at the same time, reaffirms the right of the people of Hong Kong to have the sole and entire responsibility for all decisions on all affairs of Hong Kong other than defence or foreign affairs, whether they straddle 1997 or not."

MR MARTIN LEE: Sir, I move the motion standing in my name on the Order Paper. Sir, the Memorandum of Understanding initialled last week between the Chinese and British Governments will allow the Hong Kong Government to go ahead with the new airport, which is welcome news indeed for Hong Kong. Certain terms of the agreement, however, pose a severe threat to the autonomy of Hong Kong and the ability of our people to manage our own affairs. While I welcome close communication with China, we must ensure that the final decision on all Hong Kong affairs, with the exception of defence and foreign affairs, remains in Hong Kong. To this end, I stress to my honourable

colleagues today that only if this Council takes vigorous and conscientious action will we be able to protect the future autonomy of Hong Kong and ensure that Hong Kong people will truly rule Hong Kong.

I am sure that Members have noticed that my motion does not contain a direct reference to the agreement initialled last week by the representatives of the Chinese and British Governments. The reason is simple. I am afraid that certain key points of the agreement in its present form are so vague as to render impossible any meaningful analysis of the document. I will highlight those points in my speech today, and I will call on the British Government, as a party to that agreement, to make clear what the meaning and implications of these points are.

We must remember that the British and Chinese Governments have put radically different interpretations on the Joint Declaration, thus leading to the recent diplomatic row over the airport. We must therefore ensure that no such misunderstanding will occur under this new agreement. Until we in this Council are exactly clear as to what the provisions of this agreement mean and how they are to be implemented in practice, we should not impetuously jump the gun, as my honourable colleague Mr Stephen CHEONG seems to wish us to do, by endorsing this agreement prematurely.

Clearly, Hong Kong needs a new airport if we are to remain the economic heart of the Pacific Rim, and I believe most people in Hong Kong are happy to hear that the airport project will go forward. In addition, the agreement promises to improve relations between Britain and China, and this better relationship should also be good for Hong Kong. It is hoped that closer and more positive contact between the two Governments will allow them to iron out many of the issues yet to be resolved by the Joint Liaison Group.

At the same time, the new Sino-British agreement comes almost exactly at the midway point of the 13-year transition period between the 1984 Joint Declaration and the 1997 transfer of sovereignty to China, and the agreement therefore will have a profound influence on the course of events during the last six years of British rule in Hong Kong. Indeed, one could say that the agreement outlines a new blueprint for the two Governments to follow over the next six years. That being the case, it is of great importance that we evaluate this new blueprint today, compare it to the 1984 Joint Declaration, and, most important, decide what the role of this Council should be during this second half of the transition period and beyond 1997.

The 1984 Joint Declaration was based on the principle that we the people of Hong Kong should rule Hong Kong, and we should have a high degree of autonomy to manage our own affairs. The only exceptions to this principle of self-government relate to defence and foreign affairs which would be reserved to the Central People's Government. Hence, all decisions on internal matters such as finances, infrastructure, economic policy, and legislation would be for the people of Hong Kong to decide.

Despite, however, the clear provisions of the Joint Declaration and the series of promises made in 1984 and 1985 by both Governments, Britain and China have subsequently worked consistently throughout the first half of the 13-year transition period to ensure that the right of the people of Hong Kong to govern their own community democratically would not be realized either before or after 1997.

Given the history of the first half of the transition period, few in Hong Kong can be surprised at the new blueprint that the two sides reached last week. The essence of the original agreement -- that the people of Hong Kong would rule Hong Kong -- has been replaced with the political understanding that emerged over the last six and a half years between Britain and China: namely, that it is not necessary to allow the people of Hong Kong to have control over their own local affairs. That this new agreement should be reached at the outset of the second half of the transition period is particularly ironic in that this was originally supposed to be the point at which democratic self-administration here was to be reaching full bloom.

Though the agreement initialled last week may contain few surprises, this Council should nevertheless be aware that the Memorandum of Understanding and the negotiations preceding it signify a remarkable constitutional development. At the outset of the negotiations, meetings were held exclusively between the Chinese and Hong Kong Governments, and both the British and Hong Kong Governments insisted then that the airport was a matter for Hong Kong. Before long, however, colonial officials from Hong Kong were replaced at the negotiating table by their superiors from the Foreign and Commonwealth Office in London, and during the final rounds, no representative of the Hong Kong Government was even allowed to attend. In the absence of any participation from Hong Kong representatives in the negotiations, how can anyone here be sure that Sir Percy CRADDOCK and Sir Robin McLAREN had not followed their earlier practice of concluding a secret agreement or understanding with Beijing?

Sir, in your press conference last Thursday, you said that what is important is the message, and not the messenger. But if you choose to use someone else's messenger, how can you be sure that your message was conveyed, and not that of the true master of the messenger? In the circumstances, the very visible absence of any representation from Hong Kong during the last stages of the negotiations has not surprisingly engendered a suspicion here in Hong Kong that there might have been a secret deal or understanding other than what is recorded in the Memorandum of Understanding.

Now, we have it on record from you, Sir, that there is no secret collateral understanding. But then you were not there. Further, Sir, you have done great damage to the credibility of yourself and your Government when you looked the press and the people of Hong Kong in the eye after last week's Executive Council meeting on Tuesday and told them in clear terms that the position concerning the new airport had not changed from the time in the preceding week when you went to London. In other words, you denied that there was any truth in the press report about renegotiations over the airport. I call for an official explanation of why the Government chose to lie rather than refusing to comment. For, once a government is seen to have resorted to lies in order...

HIS EXCELLENCY THE PRESIDENT: Attorney General.

ATTORNEY GENERAL: I rise, on a point of order and under Standing Order 31, to ask whether Mr LEE would like to consider whether his last remarks fall within the terms of Standing Order 31, please.

HIS EXCELLENCY THE PRESIDENT: Mr LEE, you referred to the Government but the words used might come under Standing Orders as being offensive. And I am sure you can put the point you wish to make in a way which does not offend the Standing Order.

MR MARTIN LEE: Sir, as you said quite properly, I referred to the Government.

HIS EXCELLENCY THE PRESIDENT: Mr LEE, I have called upon you to put whatever it is

you wish to say in language which does not offend against Standing Orders.

MR MARTIN LEE: Sir, if you rule me out of order, I shall not press on with this point. But I do submit that reference to the Government is permissible. If I cannot even criticize the Government.....

HIS EXCELLENCY THE PRESIDENT: Mr LEE, I am ruling on a point. I did not precisely rule you out of order. I used the words with great care. I noted that you used the word "Government" and I called upon you to put whatever point it was that you wished to put in language that did not offend the Standing Orders. I think the point was quite clear. Please continue.

MR MARTIN LEE: I am obliged to you, Sir. I call for an official explanation of why the Government chose to lie rather than refusing to comment. For once a government is seen to have resorted to lies in order to suppress the truth from the public, how can they ever be assured that what the Government says is the truth is not in fact a lie?

There is of course the related question of people buying heavily on shares and futures contracts based on such sensitive insider information probably through leaks from one or other Government or both of them. According to figures, the Hang Seng Index began shooting up on Monday and continued all week long so that by the end of the week there was a gain of about 200 points in the Hang Seng Index with the rise of about 160 points before the official announcement was made on Thursday afternoon. When asked about this in a recent public affair television programme, the Chief Secretary said it would be a matter for the Securities and Futures Commission. Perhaps he was not quite right, for what happened might not have been a proper matter for investigation by the SFC because insider dealing under the Securities Ordinance relates to the dealings in securities of a particular company as a result of sensitive information relating to the same company. But there is now public concern over this issue in the financial sector and the statement made on Tuesday by users only enabled the people with the right information to buy into the market at prices lower than it would otherwise have been possible. Sir, as we have been demanding for fairness in the stock exchange for some years now, I suggest that this is a suitable matter to be investigated into perhaps by a select committee of this Council to see who have benefitted from this chain of events last week and to decide whether the provisions

relating to insider dealings in the Securities Ordinance should be expanded to include this type of insider dealings.

Yet, perhaps even more important than the lack of Hong Kong participation in the talks is the fact that the two signatories to the new agreement are the Governments of the People's Republic of China and the United Kingdom. Though this new agreement deals almost exclusively with the internal affairs of the territory, the Hong Kong Government is not a party to it. Under the agreement, the British and Chinese Governments dictate to the Hong Kong Government how it is to handle matters that the British Government has long maintained are for the Hong Kong Government to decide; and the Joint Declaration clearly promised that these matters would be entirely within the sphere of the autonomy to be enjoyed by the SAR Government after 1997.

For example, the two Governments dictate to the Hong Kong Government:

- * how it is to draft its own laws in respect of the Airport Authority Ordinance;
- * how it shall select members of an executive body, namely, the Airport Authority, and who one of its members should be;
- * what construction projects it should undertake between now and 1997;
- * how it should plan its finances;
- * and, finally, that the Hong Kong Government must spend money to establish certain executive and advisory committees, namely, the Airport Authority and the Consultative Committee.

It is worth noting at this point that this Council, which is responsible for enacting the necessary legislation and approving the necessary funds for all these matters, has never been consulted throughout the entire period of negotiation. Nor has this Council been offered the opportunity to ratify this agreement which dictates how we are to conduct our own business. The constitutional significance of the British Government telling the Hong Kong Government how it is to spend its money is far-reaching indeed. I wonder how Honourable Members would have felt back in February if the British Government had, without consulting this Council, signed an agreement with the United States under which Hong Kong was obligated to contribute a certain sum to the United Nations forces in the Persian Gulf?

In addition, the agreement reserves the most critical airport matters -- the granting of major franchises or contracts and the acceptance of loans -- for discussions between the British and Chinese Governments in the Airport Committee. No representative of the people of Hong Kong will even have the opportunity to attend these discussions, the sole subject of which is how the money of the people of Hong Kong is to be spent! Furthermore, the agreement does not make clear that the Hong Kong Government has the responsibility to make final decisions on these vital matters. In a clause of appalling vagueness, the Memorandum of Understanding says only that "Any decision will give full weight to the Chinese Government's view" -- thereby begging the question as to who is to make the decision in the first place.

The exclusion of the Hong Kong Government from this agreement and the exclusion of Hong Kong Government representatives from participation in the proposed Airport Committee raise critical questions about the degree of autonomy Hong Kong will henceforth enjoy. Officials from the British and Chinese Governments do not represent the people of Hong Kong: they have no allegiance to Hong Kong, and they are ill-equipped to make vital decisions as to how our money is to be spent.

Yet, this is not just a question of ideals. Rather, it is a matter with enormous practical implications. First of all, one of the central premises of the Joint Declaration -- that the people of Hong Kong know best how to manage their own affairs -- remains as true today as it was in 1984. The airport is to be built in our city with our money. It is we in Hong Kong who ought to decide how the various projects will proceed and what companies are best able to build it. If these decisions are made in London and Beijing, then Hong Kong will suffer because of the sheer unfamiliarity of both decision makers with the territory and the danger that their representatives will consider factors other than the economic and other interests of Hong Kong.

In addition, the infringement on the autonomy of Hong Kong has far-reaching implications indeed for our economic status in the international community. The ability of Hong Kong to participate in multi-lateral organizations and receive independent consideration from the international community in matters ranging from air landing right to tariff rates to immigration quotas rests on the autonomy of Hong Kong. It is only if we are recognized by the international community to have the high level of autonomy promised in 1984 that we can continue to participate in key organizations like GATT and treaties like the Multi-Fibre Arrangement. If the

international community believes that our Government must now bow to the wishes of either the Chinese or British Government on questions of domestic affairs, it will be very difficult for us to be admitted or continue as an independent member to these international organizations and agreements.

In seeking to participate in such international accords, the Hong Kong Government has always maintained that it has full autonomy over all domestic matters, free from any interference of the sovereign United Kingdom Government. As the Hong Kong Government stresses in the official Hong Kong 1991: "Because of Hong Kong's status as a dependent territory, the Secretary of State for Foreign and Commonwealth Affairs is constitutionally responsible to the British Parliament for the actions of the Hong Kong Government and he has authority to give directions to the Governor of Hong Kong. In practice, however, such formal directions have not been issued in living memory, and Hong Kong conducts its affairs with a high degree of autonomy in all domestic matters". I am afraid that this new agreement which contains provisions for directions to be given by the British Government to the Hong Kong Government on a wide range of domestic matters has made a mockery of this assertion.

I call upon the Administration today to explain to this Council why it is the United Kingdom Government, rather than the Hong Kong Government, that is to discuss the issue of airport-related contracts with the People's Republic of China. Indeed why is it necessary to set up the Airport Committee under the Joint Liaison Group, which is supposed to deal only with matters relating to change of sovereignty, rather than establishing a committee between Hong Kong and China?

I also call upon the British Government, as the signatory to the agreement, to clarify who is responsible for final decisions under clause C(i), which states "Any decision will give full weight to the Chinese Government's views". Are final decisions on the critical matters of airport-related contracts and franchises to be made by Britain or Hong Kong or will they be made jointly between Britain and China like all issues placed before the JLG?

Furthermore, Sir, I would like to inquire what is to happen in the event that the Hong Kong Government does not agree with the choice made by the Sino-British Airport Committee as to which company is to be granted an airport-related franchise or contract? Will the Hong Kong Government truly be able to turn down the choice of the British and Chinese Governments?

The final area that is urgently in need of clarification from the British and Chinese Governments is the highly elastic Clause G, which states that "Both Governments wish to intensify consultation and co-operation over Hong Kong issues in the approach to 30 June 1997". What type of consultation is to be conducted under this clause? Will you assure us today, Sir, that representatives from Hong Kong will be present whenever any decision is being made by the two Governments about the affairs of Hong Kong?

In addition, what will be the timing of consultations? Will the British Government secretly consult the Chinese side even before policies are discussed in the Executive Council or this Council and then strictly obey the wishes of the Chinese side? Or will the consultation be open and transparent and take place in such a way as to allow us in this Council to take into account the views of the Chinese Government as well as the wishes of the people of Hong Kong during the public debate on these matters, because whereas the latter is acceptable to us, I believe, is certainly not the former? And after this Council has received answers from the United Kingdom Government on these important questions, I certainly hope that we can receive an assurance from the Chinese Government that they concur with the British position for the one thing we do not wish to see is disagreement between the two Governments on these key issues.

The final subject I would like to address is the most important: namely, what is the role that this Council should play under this new blueprint for the next six years? Despite its numerous flaws, the agreement is carefully worded in one respect, namely, it does not formally strip away the power of the Hong Kong Government to make decisions on most matters. The clear exceptions are airport-related projects that extend beyond 1997, loans in excess of \$5 billion, and appointment of a PRC representative on the Airport Authority.

As I have pointed out earlier, the agreement does not make clear who is to have the final decision on airport contracts and franchises. We in this Council must insist that this power remain in Hong Kong. For, ultimately, it is up to us whether to approve the money for any airport project, and we must be accountable to the people of Hong Kong in exercising our power over the public purse. If we believe that the British and Chinese representatives on the Airport Committee are acting in a way contrary to the interests of Hong Kong, we should work with them in a spirit of co-operation to convince them to alter their positions. At the same time, we must insist upon the principle that the Finance Committee of this Council will not approve

even one dollar for a project unless we are convinced that that dollar will be spent in a way most beneficial to Hong Kong.

Likewise, we must exercise our powers of legislation conscientiously. We must ensure that the Airport Authority Ordinance is drafted in such a way as to provide for both efficiency and accountability; we should not just follow the Mass Transit Railway Corporation Ordinance blindly in places where it is not appropriate just because Chinese and British negotiators feel that is the way the Ordinance should be written. When the Airport Authority is formed, we must monitor the Authority's actions carefully and ensure that it remains fully accountable. One important step in this direction is to compel the Authority to hold its meetings in public except when the necessity for secrecy is demonstrated.

Sir, we in this Council must not allow the creation of the Airport Consultative Committee to lessen our vigilance in monitoring the airport and related projects. This Consultative Committee will be appointed by the Governor, so it is unlikely to play any meaningful role in monitoring the actions of the executive branch. Thus, it will be up to those in this Council who have been elected and therefore are accountable to the public to ensure decisions of the Government on the airport are in the best interests of the people of the territory.

Such a concern is equally pressing in the case of all other major non-airport matters that are referred to in the very vague clause G of the agreement. While we should encourage dialogue with China, this Council must insist that we in Hong Kong retain the final decision-making power on all the domestic Hong Kong matters that are to be discussed between the British Foreign Secretary and the Chinese Foreign Minister and between the Governor and the Director of the Hong Kong and Macao Office.

In short, we in this Council have the unshirkable duty to protect the autonomy of Hong Kong that was promised to us in 1984. It is clear the British and Chinese Governments are more than willing to sacrifice our autonomy for their own ends, and the colonial Government in Hong Kong, I am afraid, may be only too glad to help. Therefore, we have nowhere else to turn other than to ourselves if we are determined to preserve the Joint Declaration and its promises that gave us so much hope in 1984. I therefore ask all Members to support this motion to show that our determination to be masters of our own house has not changed. And, in particular, I ask the official Members to show through their vote whether they are still committed to autonomy for Hong Kong in which case they should vote for me; or if they have given it up, in which

case they should vote against me.

For these reasons, I call upon the British Government to answer my questions as to the meaning of the many vague clauses in the document. And then, but only then, I call upon the British Government to submit this Memorandum through its colonial administration in Hong Kong to this Council for formal ratification. Since the agreement deals entirely with the domestic affairs of Hong Kong, this Council must be given the opportunity to formally accept or reject the Memorandum. For the failure of the British Government to do so would be a fundamental infringement of the autonomy of Hong Kong which is the whole essence of the Joint Declaration.

Sir, I so move.

HIS EXCELLENCY THE PRESIDENT: I have received notice from Mr Stephen CHEONG to move an amendment to the motion. His amendment has been printed on the Order Paper. I will call upon him to speak and move that amendment if he wishes in the normal turn of speaking.

Question on Mr Martin LEE's motion proposed.

HIS EXCELLENCY THE PRESIDENT: Mr Stephen CHEONG, you have given notice to move an amendment to the motion. You may now do so if you wish.

MR STEPHEN CHEONG moved an amendment to the motion:

That Mr Martin LEE's motion be amended by deleting all the words following "welcomes" and substituting for the words deleted the following:

"the initialling of the Memorandum of Understanding between representatives of the Governments of China and the United Kingdom thus enabling the important new airport project to proceed smoothly; and also urges both governments to build on the understanding and co-operation achieved to bring about a smooth transition for Hong Kong, bearing in mind the need to safeguard and uphold the promise by both governments to Hong Kong that the local government would have a high degree of autonomy over all matters other than defence or foreign affairs in accordance with the Joint Declaration

and the Basic Law."

MR CHEONG: Sir, I move the amendment standing in my name on the Order Paper. I would simply retain four words in the Honourable Martin LEE's original motion, that is, "That this Council welcomes". After that, my amendment deletes all that his motion says to be replaced by the following:

"the initialling of the Memorandum of Understanding between representatives of the Governments of China and the United Kingdom thus enabling the important new airport project to proceed smoothly; and also urges both governments to build on the understanding and co-operation achieved to bring about a smooth transition for Hong Kong, bearing in mind the need to safeguard and uphold the promise by both governments to Hong Kong that the local government would have a high degree of autonomy over all matters other than defence or foreign affairs in accordance with the Joint Declaration and the Basic Law."

Sir, I would first like to explain to my colleagues in this Council, and through the media to the world and to the people of Hong Kong, why I am amending this particular motion. As the convener of the Legislative Council ad hoc group to study the financial arrangements for the new airport and related projects, I have closely followed developments of the airport related projects. Sir, you will recall that in your policy speech delivered in October 1989, the intention to embark on the ambitious PADS projects was announced. At that time, the majority of Members who spoke on the subject warmly welcomed the infrastructural developments that would enable Hong Kong to stay ahead as a financial, commercial and communication centre of Asia. Not only in this Council, Sir, do we welcome this, Hong Kong people, Hong Kong community also welcome it. The rest of the world also supports it. This support, insofar as this Council was concerned, was reaffirmed in the motion debate held on 21 November 1990. The first part of Mr LEE's motion is therefore an unnecessary repetition of what has been thoroughly debated in this Council, and therefore has no bearing without any reference to the recently initialled Memorandum of Understanding. He chose to explain why he left out the Memorandum of Understanding. His arguments were cogent, well delivered, but basically on a totally wrong premise because in his mind, and I do not blame him for it, he cherishes his right of doubting everything that the Government of the United Kingdom or the Government of China does in the interest of Hong Kong. I just hope the followers of his do not follow the same type of reasoning; otherwise, it would not necessarily be to the interest of Hong Kong. After all, I do recognize that they do command certain respect among the

community.

Sir, the initialling of the Memorandum of Understanding is very important because it reflects the commitment of both the Chinese and the British Governments on the smooth transition of Hong Kong after so many ups and downs as reported by the media amidst the rough and tumble of the protracted negotiations over this particular issue. There was no doubt that prior to the announcement by you, Sir, and the respective announcements from the British and the Chinese Governments, there was within Hong Kong an air of despondency. And that air of despondency was not only in Hong Kong, but also in the minds of international investors. When the news broke last week, I personally experienced rekindled excitement and optimism about the future of Hong Kong. I happened to be in Washington, DC, working for the interest of Hong Kong in the bilateral negotiations between Hong Kong and the United States over the textile quotas situation. And at the time that the news broke I also had the opportunity of meeting various Congressmen, Senators, staffers, as well as United States Government officials to exchange views primarily on the MFN issue. But they all indicated to me how happy they were for Hong Kong to have this particular issue settled, because both China and the United Kingdom again had demonstrated their good sense for the good of Hong Kong. They all expressed a sigh of relief that the new airport project is finally able to proceed. How then can this Council not accord welcome to such developments? Does Mr LEE suggest that he or his party of United Democrats do not welcome the initialling of the Memorandum of Understanding thereby enabling the project to move ahead?

Insofar as the second part of Mr LEE's motion is concerned, there was no reference at all to both the Joint Declaration or the Basic Law. If this Council were to debate the motion as it stands, I fear that this Council would run the risk of misleading the people of Hong Kong as well as being misunderstood by the world at large.

First, Mr LEE sought to reaffirm the right of the people of Hong Kong, as worded in his motion, to have the sole responsibility to make decisions and so on. How will this be achieved, may I ask? Is my honourable colleague suggesting that every executive action and policy should be decided upon by the people of Hong Kong through the holding of referendum everyday? Surely, it must be the Government of Hong Kong that he implies to have the sole responsibility to make decisions. If that is the case then the motion should be amended to have a clear reference to the Government of Hong Kong whether now or in the future.

Secondly, Sir, I have said many a time and in many forums, as well as in this Chamber -- and I make no apology to repeat again today -- that Hong Kong is not, and cannot be, an independent territory. It may be a shame, but that is the stark reality. Whatever our interpretations may be for the phrase "high degree of autonomy", we have to remind ourselves that such a phrase in fact arose as a result of the Joint Declaration negotiations and the Basic Law promulgation by China. If we do not want to debate issues in a vacuum, we have to have regard to the reality that the Government of Hong Kong does not, as of right, without the acquiescence of the sovereign state, possess sole responsibility to make decisions. As a dependent territory of the United Kingdom, Hong Kong has derived the right to govern from the United Kingdom. By 1 July 1997 the SAR Government of Hong Kong will derive the right to govern Hong Kong from China, who not only has repeated many times publicly her intentions, but has also acted through the promulgation of the Basic Law to confer on the future SAR Government a high degree of autonomy over all local matters other than defence and foreign affairs.

Hence in my view, it would be misleading and devoid of reality to assert, as Mr LEE tries to do in his motion and in the main part of his speech, that the Hong Kong Government as of right without acquiescence of the sovereign state has possessed the sole responsibility to make decisions. Sir, this subtle distinction is of paramount importance and I urge my colleagues to consider it very carefully. Having set the facts right, let me hasten to add that I do not mean, nor do I advocate, that the Government of Hong Kong now, or the future SAR Government, does not and will not need to have a high degree of autonomy over all local matters. I only wish to remind ourselves that even if some of us do not like it, we do have constraints and we have to operate now and in the future within such constraints.

Thirdly, Sir, Mr LEE's motion refers to matters straddling 1997. The mere fact that he should mention 1997 implies his acceptance of the reality that 1997 is a significant date. Why is it a significant date? Surely, it is only because by then there will be a transfer of sovereignty of Hong Kong from the United Kingdom to China. In that context, in debating matters straddling 1997, how can we not refer to the documents of the Joint Declaration and the Basic Law? That is why I have added it in my amendment.

Sir, Hong Kong is undergoing a very unique and perhaps painful experience. In the transfer from one sovereign power to the other, although it has been promised by both sovereign powers that the present system of Hong Kong will be maintained and

that the Joint Declaration enshrines that understanding in principle, nevertheless, uncertainty sets in and this is only natural. Should we expect that such a document like the Joint Declaration is able to cover all the possible matters that may crop up in the transitional period? It therefore behoves the Governments of China and the United Kingdom to discuss and consider such matters in a co-operative and friendly way, always bearing in mind what the impact their decisions and actions might have on Hong Kong's prosperity and stability. This is the spirit of understanding and co-operation which I think is of utmost importance in bringing about a smooth transition. I simply urge that the Chinese and British Governments should try to work together, also together with the Hong Kong Government in accordance with the spirit of the Joint Declaration and build upon the Memorandum of Understanding to bring about a smooth transition for Hong Kong. I believe, Sir, my amendment not only more accurately reflects the spirit of these documents, it also reflects, in my view, the wishes of the silent majority of Hong Kong.

Turning to recent development, I am heartened to know that the Hong Kong Government and the community as a whole can now proceed with the airport and related projects with at least some degree of certainty and confidence. As my honourable colleagues have mentioned in previous debates, Sir, I firmly believe that these mammoth infrastructural projects will ensure that Hong Kong has the necessary foundation to be the hub of Asia -- financially and commercially -- in the years to come. Besides having an international airport and port facilities which will be able to keep pace with developments of Hong Kong, the projects will also yield many benefits to our community -- valuable land to be released in urban Kowloon for sensible overall planning and the removal of a source of serious noise nuisance as well as pollution for those living under the flight path. It is time for this Council and the whole community of Hong Kong to pledge our support to the Government to move ahead firmly and earnestly, so that whatever losses that have been caused by any delay could be minimized.

Before I close, Sir, I would simply like to deal with two points raised so eloquently by the Honourable Martin LEE. He stressed that we, this Council, should be the masters of our own house. I respect this view. But I would urge him to consider the reality that we are not an independent state. If we are, we can be masters of our own house. We do not have to rely upon our sovereign state of the United Kingdom or our future sovereign state of China to negotiate and to discuss issues that affect us. And unfortunately, we are not. So I urge him to consider this particular point.

Mr LEE also brought up a point and that is that the sincerity of British officials -- maybe though he did not say it, probably he meant Chinese officials as well -- to negotiate and exchange views over issues affecting Hong Kong is open to doubt because, as he alleges, they owe no allegiance to Hong Kong. I urge him not to harbour this particular thinking, because if he continues to harbour this, it is not likely to lead him to rational thinking and analysis over any future matters affecting the interest of Hong Kong. Insofar as his point about "if we are not masters of our own house, how is the world to accept that Hong Kong has a high degree of autonomy, especially in relation to multilateral negotiations and our economic status?" is concerned, I would simply like to say to him that I just came back from Washington on Sunday, having successfully concluded a negotiation bilaterally between the Government of Hong Kong and the Government of the United States over textile and apparel exports for the next four years. Of course the initialled ad referendum agreement still has to be ratified by our Government as well as the United States Government. But at the time of the conclusion of the multilateral negotiations, it was clearly known that the United Kingdom and China had already initialled the Memorandum of Understanding. There were no questions, no adverse effects, as he has speculated, on our multilateral negotiations arising from doubts or interpretations of what has gone wrong within that Memorandum of Understanding. Sir, insofar as our economic status is concerned, I can only observe that it is only a very small group of people from Hong Kong who have asked United States Senators and Congressmen not to grant MFN status to China without conditions. Who does not know that the withdrawal of MFN status by the United States from China will hurt Hong Kong the most. We will have tremendous economic problems. Is this small group of people working in the interest of Hong Kong? And now they say that the initialling of the Memorandum of Understanding is going to cause us so much trouble and is going to cost us our autonomy. Mr LEE also said that he did not mention the Memorandum of Understanding in his motion because he did not see the need to endorse it prematurely, whilst in the same breath he said he recognized that most people in Hong Kong welcomed the initialling of the Memorandum of Understanding, thus enabling the airport project to move ahead. What was he saying? The people of Hong Kong have already endorsed it in his own words. If we endorse it today in this Council, are we endorsing it prematurely? Sir, I have to give opportunities to other Members to speak. I beg to move.

Question on Mr Stephen CHEONG's amendment proposed.

HIS EXCELLENCY THE PRESIDENT: Although I have explained the ground rules at the beginning of the previous debate, I would like to repeat them here just to make sure that every Member has a clear picture of the procedure. A Member who now speaks to Mr Stephen CHEONG's amendment is considered to be speaking to both the original question and the amendment. Therefore he or she cannot speak again to the original question after the amendment has been disposed of. However, a Member who does not wish to speak to the amendment now may speak either to the motion or to the motion as amended after the amendment has been considered.

MRS CHOW: Sir, originally I found the first part of the Honourable Martin LEE's motion quite agreeable. Having heard him speak, I am not sure any more. He welcomes the decision to go ahead with the new airport but does not accept the memorandum as a crucial step facilitating that going-ahead. If he is sincere about his criticism of the memorandum then surely he cannot possibly logically welcome the decision to build the airport, the viability of which relies solely on the accord. This the whole of Hong Kong understands and accepts. The whole of Hong Kong that is, except Mr LEE.

Sir, article 4 of the Joint Declaration says, "The Government of the United Kingdom and the Government of the People's Republic of China declare that during the transitional period between the date of entry into force of this Joint Declaration and 30 June 1997 the Government of the United Kingdom will be responsible for the administration of Hong Kong with the object of maintaining and preserving its economic prosperity and social stability and that the Government of the People's Republic of China will give its co-operation in this connection". Article 3(2) of the Joint Declaration says, "The Hong Kong Special Administrative Region will be directly under the authority of the Central People's Government of the People's Republic of China. The Hong Kong Special Administrative Region will enjoy a high degree of autonomy except in foreign and defence affairs which are the responsibilities of the Central People's Government".

Having referred to the above articles, I submit to my colleagues here that we cannot by any stretch of imagination construe the Honourable Martin LEE's motion to be in line with these articles for nowhere is it stated that Hong Kong is to have the sole and entire responsibility for all the decisions on Hong Kong affairs whether now or beyond 1997.

While I support the wording of the Honourable Stephen CHEONG's amendment as

technically correct and in sentiment accurately representative of the mood of our community, I do not necessarily agree that we need to adopt an attitude of resignation which I detected in the speech. He referred to the constraints Hong Kong had to live with. I prefer to think of them as parameters for parameters are not necessarily negative. In fact Hong Kong is the community that has prospered and grown within parameters. Long may this continue.

Mr CHEONG mentioned the silent majority. I believe an ambivalence permeates that silent majority who are only silent because their views do not enjoy the amplification of channels such as this Chamber or the media. They want Hong Kong to retain its lifestyle and freedom achieved through a high degree of autonomy but they are pragmatic enough to recognize that relationship between Hong Kong and China must be based on give and take. More importantly, they are smart enough to recognize that repeated and continuous confrontation with China is not going to get us anywhere. If anything, it might produce the opposite result. But this is not to say that we should not strive for the high degree of autonomy which has been promised to us and is the foundation of our confidence for the future. But when one talks about a high degree of autonomy one already accepts the fact that that autonomy is not absolute. The real test is whether we are able to agree with China on the same degree of autonomy acceptable to both Hong Kong and China. The way to achieve this depends on a combination of the following:

(1) To demonstrate that the Hong Kong Government, particularly the executive, is worthy of that autonomy by its competence and commitment to the best interest of Hong Kong.

(2) To establish transparency of information so that the Government is accountable for all its decisions.

(3) To do everything possible to dispel suspicion and to build up trust with China.

(4) To be firm without being offensive.

These are no easy tasks and demand a lot of patience, tolerance and perseverance but it is the only way open to us. The mind boggles as to what would be the likely scenario if the Honourable Martin LEE were to lead discussions between Hong Kong and China in future if he were put in such a position, or perhaps he deems that discussions

with China are entirely unnecessary on the basis of the absolute autonomy which he has assumed for Hong Kong.

Now that the memorandum of understanding is to be signed we must throw our sight forward and make a success of the project. The Airport Consultative Committee under the Joint Liaison Group and the Airport Authority, hopefully with some useful input from the consultative committee, must now set off to work efficiently, cost-effectively and in Hong Kong's best interest and keep this Council and our community amply informed of their progress.

MR HO SAI-CHU (in Cantonese): The Memorandum of Understanding recently initialled between the Chinese and United Kingdom Governments was widely welcomed by the public. Its significance not only lies in Hong Kong being now free to go ahead with the new airport project as scheduled so that long-term economic benefits will be generated, but also in the political upswing marking the resumption of amicable relations between the two Governments which will further develop co-operation. It will also give Hong Kong people assurance and confidence that Hong Kong will have a smooth ride in the latter half of the transitional period. Given that the new airport is a mammoth project which straddles 1997, it is natural and necessary that investors should seek commitment assurances from the future HKSAR Government.

In accordance with the Sino-British Joint Declaration, the Hong Kong Government will be responsible for the administration of the territory before 30 June 1997. However, with effect from 1 July 1997, the Chinese Government will resume the exercise of sovereignty over Hong Kong and in accordance with Article 31 of the Chinese Constitution, Hong Kong will be empowered to exercise a high degree of autonomy provided for under the Basic Law. Therefore, the Chinese Government is the only government which can best represent the SAR Government before its establishment. It will be extremely difficult to carry out the new airport project without the support of the Chinese Government. In order to protect the interests of the future SAR Government, the Chinese Government, before making known its position, demands access to information relating to the airport project. It also demands that all important related matters which straddle 1997 be discussed between the Chinese and United Kingdom Governments and a fiscal reserve of not less than HK\$25 billion be kept for the SAR Government. All these demands seem reasonable. It is almost one year since the Hong Kong Government last invited the Chinese Government to discuss the project. In the course of it, constant bickering broke out dampening Hong Kong people's

confidence in the future. The Memorandum of Understanding came as a surprise to us and now all dark clouds are gone. The spirit of mutual understanding and mutual accommodation has been manifested in the Memorandum which is indeed an advantage to Hong Kong, China and the United Kingdom. It will also enable the Chinese Government to protect the rights of the SAR Government on the one hand, the Hong Kong and United Kingdom Governments to maintain their effective administration of the territory on the other. From a positive point of view, the Memorandum is another new milestone signifying better co-operation between the Chinese and United Kingdom Governments after the signing of the Joint Declaration. Links among Hong Kong, China and United Kingdom will be closer. Representatives of all levels of the three Governments will meet regularly to discuss matters which require co-operation. Trust among them will therefore be strengthened and differences eradicated. This is advantageous to maintaining Hong Kong's prosperity and stability and ensuring a smooth transition.

Sir, during the transitional period, officials of both the Chinese and United Kingdom Governments meet regularly to discuss matters of mutual interest. The Chinese Government is in fact not interfering with the Hong Kong and British administration of the territory. Nor is it co-administering the territory with the United Kingdom Government. This only serves as a measure to strengthen co-operation between them when 1997 is drawing near. I am sure the Chinese and United Kingdom Governments will strictly follow the Sino-British Joint Declaration and the SAR Government will exercise a high degree of autonomy.

I do not want to spend more time on Mr Martin LEE's motion and speech. I fully support the arguments advanced by Mr Stephen CHEONG and Mrs CHOW to hit out at those of Mr Martin LEE and I am not prepared to repeat them here. I do not think we will be able to pave a better way and create a better environment in which we and our offspring will be happy and willing to live if we do not trust the Chinese, United Kingdom and Hong Kong Governments though we do hope that the former two can trust each other. Therefore I do not support Mr Martin LEE's motion.

Mr CHUNG Pui-lam has given due recognition and support to the foregoing remarks. Mr CHUNG and I welcome the signing of the Memorandum of Understanding and support Mr Stephen CHEONG's amendment motion.

HIS EXCELLENCY THE PRESIDENT: Mr LEE, since you have already spoken to the main motion, your remark should be restricted please to the subject of the amendment.

MR MARTIN LEE: I am much obliged, Sir. When I submitted this motion last Thursday, I thought it was non-controversial. I was therefore surprised when I received notice of the Honourable Stephen CHEONG's proposed amendment yesterday evening. When I browsed through it, I thought it was just a long-winded way of saying the same thing that I have said in my original motion. But when I reread it, I found that there was a deep and fundamental difference of philosophy and attitude between my motion and the Honourable Stephen CHEONG's proposed amendment. The first point concerns whether or not this Council ought to pass a motion welcoming the Memorandum of Understanding today before we even know the meaning and implication of several key clauses. I have already addressed the Council on the difficulties of interpretation in relation to clauses C(i) and G when I moved my original motion and I will not repeat them.

Let us not forget that the recent disagreement between the British and Chinese Governments as to what role China is entitled to play in relation to this new airport as well as all important matters straddling 1997 stemmed from the different interpretation that each side had sought to place on the Joint Declaration. It seemed clear to the British and Hong Kong Governments that the construction of an airport and other related projects would be matters for the British Administration here to decide. But not so, said China who stated that it had the right to participate in decisions on all major projects straddling 1997. If the Joint Declaration which everyone originally believed to have made clear as to who was responsible for the domestic affairs of Hong Kong before 1997 could be subject to such different interpretation then I strongly fear that this document which is so much more vague than the Joint Declaration would lead only to more disputes and conflicts.

Sir, it is not a matter of trust or no trust, as suggested by the Honourable HO Sai-chu. The question is what can or what do we make of this document? Further, as a result of the vagueness of these key clauses, the new agreement does not make clear who has the critical power to make final decisions on the airport as well as other important matters straddling 1997. And pending clarification on these key provisions of the memorandum, it would be irresponsible for this Council to support it without reservation, as the Honourable Stephen CHEONG would like us to do. I must say that having heard Mr CHEONG's eloquent speech I find that he has not ventured to say what those vague though important clauses actually mean. And yet he wants us to support the Memorandum of Understanding unreservedly in order to bring about

a smooth transition. But if one does not even know what these key clauses mean how can one be assured that there will be a smooth transition based on it. The more fundamental point of disagreement between the Honourable Stephen CHEONG and myself concerns our very different philosophy as to the right of the people of Hong Kong to manage our own internal affairs. My motion asks this Council to reaffirm that the people of Hong Kong have the sole and entire responsibility for all decisions on all affairs of Hong Kong other than defence and foreign affairs. The Honourable Stephen CHEONG's proposed amendment however implies that the Joint Declaration does not promise the people of Hong Kong the right to manage our own affairs. He seems to suggest that we are not entitled to democratic self-administration as a matter of right but only by dint of the mercy of our sovereign state. May I ask the Honourable Stephen CHEONG then what is the meaning of Hong Kong people ruling Hong Kong; what is the meaning of a high degree of autonomy over all affairs other than defence and foreign affairs? If these two promises do not mean that we the people of Hong Kong have the right to manage our own internal affairs, except defence and foreign affairs, then what on earth could they possibly mean?

The Honourable Stephen CHEONG stated yesterday at a press conference that my motion reaffirming the right of the people of Hong Kong to manage their own internal affairs ignored the political reality that Hong Kong was not going to be independent after 1997. Of course Hong Kong will not be independent after 1997, but my motion does not suggest it at all. Yet the Honourable Stephen CHEONG somehow seems to have entirely forgotten the promise in the Joint Declaration of "one country, two systems". He does not seem to comprehend the difference between democratic local government and national independence. I will remind the Honourable Stephen CHEONG that the whole idea behind "one country two systems", which is China's own basic policy towards Hong Kong, is that when Hong Kong does become part of China we will be allowed to run our own system, that is, separate from the system in the mainland and we are going to be masters of our own house, except defence and foreign affairs. The Honourable Stephen CHEONG told the press conference yesterday that my motion is not realistic because we in Hong Kong do not enjoy autonomy over decisions like the death penalty or the stationing of the People's Liberation Army troops in Hong Kong Special Administrative Region. Indeed what he said on the death penalty was a repeat of what he said in this Council during a debate on the abolition of the death penalty two weeks ago. But the Honourable Stephen CHEONG, I regret to say, is wrong on both counts. As a matter of domestic law of Hong Kong this Council has full power to remove the death penalty from our statute books. I was happy to see a People's Republic of China official recently affirming the Chinese stance that this is a matter to be decided

by the people of Hong Kong. Yet now Mr CHEONG would wish to take away this decision from Hong Kong. As for the stationing of troops in the future Special Administrative Region this relates to the defence of the Special Administrative Region, and as such it is clearly a matter for the Central People's Government and therefore not within the scope of my motion. On all of these points, Mr CHEONG makes clear that he places little value on the autonomy of Hong Kong, at least so he implies. I am afraid to say that his proposed amendment reflects a colonial mentality of the saddest and most disturbing type. According to Mr CHEONG's views we the people of Hong Kong have no inherent right to govern ourselves. Indeed the Honourable Stephen CHEONG seeks to delete any mention of the people of Hong Kong from my motion. Rather, the Honourable Stephen CHEONG's proposed amendment suggests that we are totally dependent on our colonial masters to grant us what they will.

In this regard, I am afraid the Honourable Mrs Selina CHOW is not much different. She said that a high degree of autonomy suggests that it is not absolute. I agree. But then she went on to say that we therefore must agree with China as to what is the autonomy acceptable to both China and Hong Kong. Sir, I thought that all that was done many years ago when the Joint Declaration was signed -- that we are going to be masters of our own house except defence and foreign affairs. So we cannot leave it to be further agreed between Hong Kong and China. For then China would say it is that little and so Mrs CHOW would say it is that little. Mrs CHOW also asked a rhetorical question of me as to how I would lead any negotiation with China. Sir, I can tell her -- and fortunately she may be listening to me in another room -- from my experience of discussions in the Basic Law Drafting Committee that the position I have always taken is that I would never shirk from principle and I will never be afraid to ask for the highest possible autonomy for Hong Kong within the framework of the Joint Declaration, that is, I insist that we the people of Hong Kong must be masters of our own house except defence and foreign affairs. During the earlier stages of the drafting process, I had been encouraged repeatedly by individual drafting members of the Basic Law Drafting Committee from the Mainland that I must continue to take this stance. Then when on occasions I told them how depressed I was because even the Hong Kong drafters were not entirely with me but most of them being against me on all points, these Mainland drafters said to me, "Carry on, Mr LEE, because if we believe you are right, we will support you". That is the answer to Mrs CHOW's rhetorical question.

The Honourable Stephen CHEONG criticized me for my having put in my motion the phrase "the people of Hong Kong", and yet having excluded the Hong Kong Government.

But surely, Sir, the expression "Hong Kong or the people of Hong Kong" being the greater must logically include the lesser which is the Hong Kong Government. And under the Joint Declaration, the Hong Kong Government is to be composed of local inhabitants, that is, the people of Hong Kong. But, of course, the Hong Kong Government, being the lesser term, does not include the people of Hong Kong. That is why Mr CHEONG's proposed amendment should not be preferred.

I am afraid Mr CHEONG, honourable though you are, the people of Hong Kong no longer accept your colonial vision for we no longer see ourselves grovelling on our knees to ask our masters to grant what is rightfully ours and what is formally promised to us in the Joint Declaration. Rather, we, the people of Hong Kong, see ourselves walking with our heads held high and deciding for ourselves how we will shape our own destiny. If you do not accept that, perhaps we should consider.....

HIS EXCELLENCY THE PRESIDENT: Mr LEE, it is a rule of order that a Member should not address another Member directly but should do so through the President, please.

MR MARTIN LEE: Sir, if the Honourable Member who proposes the amendment does not accept that perhaps he should consider running in the democratic elections in September for that would give him a chance to see if the people of Hong Kong, the silent majority, believe his formula to be the best for their future. The Honourable Member who moved the amendment mentioned about his recent visit to Washington DC and I congratulate him on his success on the MFA negotiations. But I must remind the Honourable Member who opposes my motion by way of his amendment that the fact that no objection was taken by the United States does not guarantee that no member of the General Agreement on Tariffs and Trade will ever raise objection in future.

In sum, then, Sir, when Members vote today on the Honourable Stephen CHEONG's amendment I hope Members will keep several points clearly in mind:

Do Members agree with the Honourable Stephen CHEONG that we in Hong Kong have no right to manage our own affairs?

Do Members agree with the Honourable Stephen CHEONG that the Joint Declaration does not provide for Hong Kong people to rule Hong Kong?

Do Members believe that we are not able to administer ourselves under "one country, two systems"?

I am afraid then a vote for the Honourable Member's amendment today is a vote against the very essence of the Joint Declaration including the right of democratic self-government in Hong Kong and not national independence during the 50 years from 1 July 1997. The choice is for Members. I am much obliged, Sir.

HIS EXCELLENCY THE PRESIDENT: Could I again appeal to Members to be brief and to look at the clock and consider their fellow Members.

MR PANG (in Cantonese): Sir, during the past few months, the public has been expressing concern as to whether the new airport would be built or not. They all had the same request, that is, they should have the right to know. In particular this Council has requested the Government on many occasions to increase its transparency. But what struck us as being, with the benefit of hindsight, ludicrous was that on 3 July the Honourable Jimmy McGREGOR moved an adjournment debate to reiterate our request.

You, Sir, shuttled between Hong Kong and London to brief the Prime Minister and the Foreign Secretary but when you returned to Hong Kong you told the press that there was no new development. But after we had the debate here on 3 July, on coming out of this Chamber, we heard the news that "the negotiation has succeeded."

Sir, I do feel sorry for you, because the Government of our sovereign state, the United Kingdom, did not reveal a thing to you. Had you known it, I trust you would have told this Council on the quiet, so that we would not have had to waste our time on the debate. As to our colleagues in the Executive Council, they were even done greater injustice. It was because on the afternoon of 4 July, you, Sir, asked us to attend a special meeting where you happily announced that a Memorandum of Understanding had been concluded. This not only pleased the Hong Kong people, but also colleagues in this Council were so elated that they banged the tables in exultation and even wanted to call for champagne to celebrate. However on second thought, the initialing had been done much earlier, yet we only came to know of it on 4 July. Why was there a lag of three days? The time-lag was terrific. Was it because Beijing had become the North Pole, or another world altogether?

Of course let me reiterate that all along I have been most supportive of the Port and Airport Development Strategy and the Rose Garden which you proposed. However for a Government with an element of democracy and with a modicum of respect for this Council, was it necessary to maintain confidentiality to such an extent? Was there an element of cheating? If not, then I would have nothing to say.

Many of my colleagues in this Council had done their best in the past to recommend important documents which affected the destiny of Hong Kong people. First we recall that when the Sino-British Joint Declaration was announced, Honourable Members of this Council did their best to recommend that it was the best ever document. When the turn of the so-called Basic Law came, they also strongly recommended it. As a matter of fact, Hong Kong people were never entitled to object. Now the Memorandum which has just been initialled is, so it would seem, 100% welcomed by Hong Kong so much so that we should come close to letting off firecrackers to celebrate. Regrettably this has been prohibited for years in Hong Kong. We seem to welcome it because Hong Kong's reserve of \$76 billion would be all spent. The Government calculated that each one in Hong Kong would only have to bear a tiny part, only \$9,000 plus. Very tiny indeed, only one third of my Councillor's allowance.

Yet I feel uneasy. First, a moment ago I said what have changed the destiny of Hong Kong people are: the Sino-British Joint Declaration and the Basic Law. Now would the initialled Memorandum change our life again, or affect the prestige of the Hong Kong Government? In the past, we all thought that it was China who wanted to deprive Hong Kong of its administrative power. I think this is not so. Now the party which would really deprive the Government under your leadership of its administrative power before 1997 is the United Kingdom.

What is more important is this. As the new airport which will have a bearing on Hong Kong people's future is a matter for Hong Kong and funded by Hong Kong people's money, why is the Hong Kong Government not entitled to participate? Your administrative power was barred from the meeting hall, and everything was decided by the United Kingdom.

However I have just heard of something which I am not sure of. If I make a mistake, I hope, Sir, you will forgive me. The Memorandum which was announced on 4 July had already been initialled on 30 June. The time lag was too long, 1, 2, 3 July; yet 30 June was Sunday but 1 to 3 July were Monday, Tuesday and Wednesday. I cannot confirm this. The Honourable Martin LEE just said that he hoped the matter would

be investigated. Some people have reaped large profits on the stock market. Is that true? I think we should examine our conscience.

Very much by coincidence, some always say that we represent the public interest, and our decisions purport to be the most wise decisions. I heard a lot of it today, but is it really so? Today the Crimes (Amendment) Bill 1991 was passed. Is this reasonable? Homosexuality (buggery) is against the Chinese tradition, which is considered evil by Chinese (I am sorry I cannot speak Cantonese too clearly). Now it is a rape of public opinion to allege that decriminalization represents the majority view of the people. Is this really what the public wants? We should ponder over it. I do not want to say more.

Sir, I have the greatest respect for you. Today, we enter and leave this Chamber as and when we please. But you, Sir, are sitting tight and upright to listen intently. And you have also to make sure that Honourable Members observe the Standing Orders. Despite Honourable Members' eloquence, you, Sir, already know what the results of today's voting will be. People outside this Council are saying: the Legislative Council is a rubber stamp. Our honourable ladies and gentlemen are firemen, the fire brigade, who are all mobilized today.

Sir, I reiterate that I do not object to the new airport, but I do object to any motion concerning the Memorandum.

MR EDWARD HO: Sir, on first reading the wordings of Mr Martin LEE's motion, it is easy to render support to it. I had not put my name down to speak in this debate as I wanted to listen first to what Mr LEE has to say so that I can understand whether the two parts of his motion are consistent and, if not, how they can be reconciled.

The first part of the motion suggested that this Council welcomes the decision to go ahead with the new airport. As the decision to go ahead with the new airport was predicated upon the Memorandum of Understanding initialled between the Chinese and the British Governments on 30 June 1991, I could only assume that Mr LEE endorsed the content of that Memorandum. For if he had not done so, he could not have welcomed the decision to go ahead with the airport. If my assumption was correct then the two parts of the motion are consistent and I would have no problem in supporting it. In my opinion it is certainly within the spirit of the Joint Declaration and the Basic Law that the people of Hong Kong and the local government would have the right and

responsibility to administer the affairs of Hong Kong other than defence or foreign affairs.

On the other hand, if Mr LEE does have reservations in principle that the autonomy of the Hong Kong Government has been prejudiced by the Memorandum of Understanding and he has just indicated that, then I have to first understand whether Mr LEE, in welcoming the decision on the airport, was prepared to forgo his principles in order to see the airport go ahead. I would not expect Mr LEE to have done so, and apparently he is not, in which case, his motion is ambivalent and therefore difficult to gain my support.

I am encouraged that Mr LEE spoke of right and responsibility. Whilst the people of Hong Kong aspire to the right to administer its affair, that right should strongly be coupled with a solemn responsibility. In exercising its right, it should ensure that it is for the long-term interest of the community and, much more seriously, that it would not create adverse situations for Hong Kong from which it cannot be extricated.

Sir, I have long pushed for the building of the new airport, as early as my first speech in this Council in November 1987. The new airport and associated infrastructure has long been regarded by our business community and most Members of this Council as vital elements for the economic development of Hong Kong to enable it to remain as a vibrant international centre of business, finance and industry after 1997 and beyond. In the few months prior to the agreement on the Memorandum of Understanding, there has been wide concern in all sectors of our community that, if an agreement is not reached, not only will those vital elements for our future development be lost, but more seriously, that it would indicate that the Chinese Government and the British Government were not able to co-operate and reach an understanding on matters that were of clear benefits to the future of Hong Kong.

Then, the adverse impact on the confidence of the people of Hong Kong in their future would be most traumatic, especially at this time, with less than six years to the change of sovereignty in 1997.

At this time, we can no longer expect that we in Hong Kong can ignore the importance of a smooth transition to 1997, and disregard the fact that we can only have a smooth transition with the co-operation and understanding of the Chinese Government, the British Government and the Hong Kong Government.

The Memorandum of Understanding has created an understanding between the Governments concerned how major infrastructure and matters associated with it that straddle 1997 can go forward in a practical manner.

It has placed certain stipulations on the Hong Kong Government on how it would implement the airport project. But either those stipulations were clearly defined such as for major airport-related franchises that straddle 1997 when discussions are restricted to one month to avoid delay, and restricted by governing criteria of profitability and efficiency, or, in other cases, as in the amount of debt to be repaid after 30 June 1997 and in the amount of fiscal reserves to be left on that date, the stipulations were in general accord with opinions that have been voiced by a large number of the people in our community that the Hong Kong Special Administrative Region should be able to start on a strong financial footing.

Mr LEE referred in his speech to "infringement on the autonomy of Hong Kong" and he referred to the fact that the airport "is built in our city, with our money".

Firstly, as I said in the early part of my speech, I do not dispute that we have been promised a high degree of autonomy, and I would certainly agree with Mr LEE that, if the airport were to be built and completed and paid before 1 July 1997 with our own resources, without the need for China's endorsement for international financing and participation, then the Hong Kong Government should be able to make all decisions on the project without referring to the Chinese Government or, as Mr Martin LEE put it, "master of our own house".

Sir, I have always admired Mr Martin LEE's charisma, intelligence, eloquence and idealism. I would have more admiration for him if he was willing to comprehend and recognize realities. The reality is that whereas we do enjoy a high degree of autonomy now, that does not confer upon this Government the authority to make decision on behalf of a yet-to-be-formed Special Administrative Region Government. The reality is that we are not able to build our own airport in our own city with our own money, as he would have us imagine. The reality is that we cannot have a smooth transition to 1997 without the co-operation and understanding of the Chinese Government, the British Government and the Hong Kong Government.

Sir, the Memorandum repeats many times that the Chinese Government will adopt a positive attitude in the areas that it will be consulted. It is that positive

attitude that we have been seeking, and it is that positive attitude that is now enshrined in the Memorandum of Understanding. As responsible leaders of our community, we should now cease to cast doubts and search for hidden agenda. Instead, we should adopt a positive attitude in building a better Hong Kong for the future.

For those reasons, Sir, I support Mr Stephen CHEONG's amendments rather than Mr Martin LEE's motion as they reflect a positive attitude towards the future, and this attitude is our responsibility that goes with our right.

MR PAUL CHENG: Sir, at issue here is an understanding of what "one country, two systems" is all about -- today, during the transition period, and in the 50 years beyond 1997.

There is no question but that we are all working to see that Hong Kong takes no steps backward from what we enjoy today. That this work involves the need for ongoing consultation and effective communication is obvious. No party can work in isolation if we are to be successful.

Under the spirit of the Sino-British Joint Declaration of 1984, the idea of "Hong Kong people ruling Hong Kong" is embraced within the reality that sovereignty is now British and will revert back to the People's Republic of China. Such a working relationship by necessity calls upon us to take every opportunity to heighten and improve communication as direction setting and policy making occurs.

Both the Joint Declaration and the Basic Law provide us with arrangements for securing a high degree of autonomy under Chinese sovereignty and for preserving the way of life in Hong Kong that has provided a quality standard of living that has always attracted new immigrants to our doorstep. The intent has always been to maintain the essentials of the present system. The operating schemata for achieving this is collaborative.

This does not mean that our honourable colleague, Mr Martin LEE, has to give up on his aspirations for Hong Kong people to have a strong voice in running the Hong Kong Special Administrative Region, or be the master of our own house, as he puts it; except in this case, the master is not the owner. What it does mean is that collaboration must take place. Sweeping confrontational statements are damaging to Hong Kong's future and in turn to the people of Hong Kong. Remarks which single out

one party and suggest that it is all powerful are also not helpful.

Leadership in a collaborative process must understand how to get differing parties to work side by side. Such leadership involves sharing a vision and communicating on how we can achieve that vision. It entails nurturing a productive working relationship. Hong Kong at this stage needs more than just political leaders. We need sincere, thoughtful and above all responsible leaders.

If we are to successfully build for the future, we must obviously not be afraid to state our purpose and views with resolution and commitment but at the same time we must be willing to accept that there is always more than one road to reach a destination. For this reason, I support the Honourable Stephen CHEONG's amended motion, which is more closely aligned with my own personal view that during these transitional years we must temper our idealism with realism if we are to continue to make steady steps forward.

With these remarks, Sir, I support the amended motion.

MR CHOW (in Cantonese): Sir, the success of Sino-British negotiations over the new airport issue signifies that the green light is now on for the project. But does it also imply that a warning signal has at the same time been given in relation to the territory's affairs during the transitional period? For in future, these affairs, whether they are related to the smooth transition of Hong Kong, may have to be taken up with the Chinese side for consultation. While such consultation is not tantamount to the right of scrutiny or final decision-making, it could pose restrictions on any moves taken by the Hong Kong Government.

According to the Memorandum of Understanding on the new airport and the related issues initialled between the Chinese and British Governments, the British Foreign Secretary and the Chinese Foreign Minister will meet twice a year to discuss issues of common concern; the Hong Kong Government will inform China and listen to its views on the composition of the Airport Authority and the Consultative Committee; and a Hong Kong-based official of the Bank of China Group will be appointed to be an official member on the Airport Authority. All these indicate that the Government will have to face more and more restrictions in handling local affairs, and these restrictions will surely be of hindrance to the effective administration of Hong Kong. It is indisputable that the great power of the Hong Kong Government "waness".

In fact, as far as the whole issue is concerned, I cannot think of a more relevant word other than "doing one thing under the cover of another" to describe the initialling of the Memorandum. Despite that the agreement was signed as early as 30 June, Sir, you remained calm and collected even after the Executive Council meeting on 2 July, and the details were not disclosed until 4 July. During these four days, what has happened to the airport issue? Why is it that an announcement is not made until a few days later? Are there any major secrets? If not, why should the results of negotiations be concealed? All these are hard to understand. Hong Kong people will be affected most by the airport issue, but all along, how much do they know about the issue and is their participation adequate?

I can recall that before the director of the Chinese State Councils' Hong Kong and Macau Affairs Office, Mr LU Ping, attended the meeting on the Basic Law of Macau on 16 April, he said, "We maintain that when necessary, we shall make public the whole process of the negotiation because we want to be responsible and accountable to the people of Hong Kong." The Chief Secretary, the Honourable Sir David FORD, had also said during the Legislative Council's debate on the new airport on 17 April that once an understanding on the airport project was reached with the Chinese Government, the Government would certainly tell the Council and the public the contents of the talks. Nevertheless, according to your comment on 2 July and the remarks by Mr LU Ping yesterday that "China and British had already reached an agreement and there was no need to reveal the details of the airport negotiations", it seems that both Governments have forgotten what they had earlier said.

With still six years to go before 1997, it is not certain whether there will be any other memoranda of understanding to be signed between the two Governments. But it is believed that there will definitely be more issues which will have to be negotiated through diplomatic channels between the two Governments during the transitional period. If the people of Hong Kong were to be excluded in each occasion, what difference will it make between that and what Mr LU Ping has commented as "You throw the banquet and I foot the bill." It will only be that the Chinese Government will join in to hold banquets apart from the British one.

It is true that Hong Kong is not a sovereign state. But in the final analysis, the issues discussed by the two countries and which straddle 1997 are closely related to the people of Hong Kong. Will it go against the wishes of the people of Hong Kong if each of such issues will have to be addressed at the diplomatic level without their

participation? As such, will these issues meet with resistance in future? All these are unpredictable.

Since the Basic Law always emphasizes the principles of Hong Kong people ruling Hong Kong and a high degree of autonomy for Hong Kong, it is reasonable for the people to take part in discussions on matters straddling 1997. Only by so doing will the interests of Hong Kong be fully reflected. As for those affairs not straddling 1997, there is no doubt that it should be even more reasonable for the Hong Kong Government to have the decision-making power. For it will then be in line with the above two principles.

Sir, I hope that the settlement of the new airport issue does not mean that the people of Hong Kong are simply "jumping from the frying pan into the fire." Both the Chinese and British Governments must implement the provisions of the Sino-British Joint Declaration and the Basic Law. They must not force their diplomatic interests upon Hong Kong issues during the transition to 1997.

MRS FONG: Sir, the wording of Mr Martin LEE's motion is misleading. It may appear constructive at first glance. But it is one-sided, simplistic, confrontational and lacking in foresight. Practically everyone in Hong Kong has heard that an agreement has been reached and that the airport plan can proceed. This was however the form of what happened. The real issue is that the British, Hong Kong, and the Chinese Governments found a basis on which they can co-operate. It is this basis for co-operation that I believe is the most valuable part of the agreement.

When the Joint Declaration was signed in 1984, the message was very clear. It was that on 1 July 1997 Hong Kong would cease to be part of Britain, and China would resume the exercise of sovereignty over Hong Kong. No matter what degree of autonomy that has been promised that will prevail, Hong Kong will be part of China as of that date. The wording in Mr Martin LEE's motion fails to give adequate recognition to this, the most fundamental aspect of the Joint Declaration. Stability and prosperity in the transition years and the years beyond 1997 will not be gained through confrontation nor through the celebration of the right to stand apart. Stability and prosperity depend, firstly, on a high level of trust between the Chinese and Hong Kong Governments; secondly, a high level of understanding by the Chinese Government of the practices and policies that prevail in Hong Kong and the differences that exist between Hong Kong and those that prevail in China; and thirdly, recognition by China of the benefits that can be derived from Hong Kong's status as a regional financial

centre and of the role it can play in contributing to China's four modernizations and to its opening to the outside world. We can affirm that Hong Kong has the sole and entire responsibility for all decisions on all affairs of Hong Kong as suggested in Mr Martin LEE's motion and we could reaffirm it as many times as he would like. However, if Hong Kong is unable to score highly on trust, understanding and recognition, the years ahead will be very difficult.

China has stated more than once that it would like to maintain prosperity and stability in Hong Kong. Is it not appropriate for Hong Kong to reaffirm to China that it is willing to play its part. We should welcome not only the decision to go ahead with the airport. We should also welcome the much greater agreement it signifies. We should express our wish to see all efforts made to foster the trust, understanding and recognition that are vital if it is to last. A major impediment to progress has been overcome. A milestone has been passed. However, other impediments will appear quickly unless we recognize that their origin is in the environment. We need to be prepared to work to maintain and improve our relationship and gain respect on a continuous basis, not to just resolve crises when they become serious.

Sir, the motion is an unfortunate and myopic view of what has been achieved last week by all parties to the agreement. I therefore cannot support the motion.

The amendment proposed by Mr Stephen CHEONG recognizes the trust, understanding and recognition that are much needed. I therefore support his amended motion.

DR LEONG: Sir, with the state-of-the-art airport project at last be permitted to go full steam ahead, many people in Hong Kong are pinning their hopes on it to heal the trauma, both politically and economically, of Hong Kong in the upset years ahead.

All many see in this airport project, if successfully implemented, would enable Hong Kong to rise like a phoenix from the ashes. Alas, here is a jab at confidence, as some would believe.

For both the British and the Chinese Governments, the agreement no doubt reaps benefits. It will lead to the establishment or the re-establishment of relations between the two sovereign states at the highest level. The decision to have both prime ministers sign the accord heralds a new era for both sovereign powers. "Many

concessions have been made" has been repeatedly said. Yes, concessions there are, and I am sure concessions there will be, but all these are done for the benefits of Her Majesty's Government and the Beijing Government. But should not we consider "what price glory" it has nailed on Hong Kong and the Hong Kong people?

The price tag of this "would-be colossal asset" is not measured in dollars and cents: it is the high autonomy of Hong Kong, a thing that is promised by both Britain and China to the people of Hong Kong. How kind are the leaders in Washington to be jubilant for Hong Kong as indicated by the Honourable Stephen CHEONG without knowing that a heavy price tag comes with a Memorandum of Understanding.

No matter how engrossing the airport project may appear to be, the spirit of the land is at stake. Without the spirit, Sir, a dream-like wonderland is but a soulless territory of factories.

Sir, I am not a sad-eyed dreamer nor a pessimist, but I am in doldrums when I read about the agreement. Let me hasten to add that I am all for the building of the new airport. But the crux of the matter is that I see the current agreement as a quicksand burying the spirit of "high autonomy of Hong Kong" and "Hong Kong people administering Hong Kong".

The agreement had clearly demonstrated how well the two Governments had spun the web barring Hong Kong people to participate in making decisions about their own future.

Sir, when the Joint Declaration was made in 1985, I held the belief that the two Governments would be sincere enough to increasingly allow Hong Kong people to participate in making decisions on their future.

The initial phase of the development of the new airport discussion may have strengthened Hong Kong people's belief that this may be the case. To wit, the Hong Kong Government has repeatedly maintained that the decision on the new airport was one that it could on its own make. Her Majesty's Government has been saying that the decision on the airport was for Hong Kong alone to make and not for Britain to dictate. The Chinese Government had made it appear that she was concerned with the airport plan for the location, the design and the cost effectiveness, the finance and, as if standing on Hong Kong's side, the lack of proper consultation with the public.

The Memorandum of Understanding, Sir, gives the lie to them all. In short, the "Airport Agreement" has shattered my belief of "Hong Kong people making decisions on their future".

China's new ambassador to the United Kingdom, Mr MA Yuzhen, has made it chillingly clear on Sunday that all decisions affecting the future of Hong Kong will now require China's stamp of approval. And I quote:

"Without China's co-operation, when matters concerning the future come up, I do not think any decisions will work."

"That is only in the interests of Hong Kong, in the interests of the prosperity of Hong Kong. So in that sense, I would not say that this is a veto. This is a spirit of co-operation."

Mr MA was generous enough not to use the word "veto". And so is in the Memorandum of Understanding concerning the construction of the new airport. Instead of using the unpleasant word, the words "common view" in English and " " in Chinese were used.

So the Hong Kong Government can only proceed with any major airport project for which the bulk of government expenditure will fall after 30 June 1997 if the two sides have reached a common view concerning them.

Same to borrowing by the Hong Kong Government exceeding HK\$5 billion and to be repaid after 30 June 1997.

More, the Hong Kong Government will inform the Chinese side of the members of the Airport Authority and the consultative committee whom it proposed to appoint, and will be willing to listen to any views that the Chinese side might have, before deciding on the appointments.

Hong Kong people, Sir, are, once again, forced to accept conditions directed at their future reached by our two super guardians. It would have been at least more tolerable if it was Hong Kong who by the end of the day decided to cave in to certain terms. At least it was Hong Kong people who made the decision voluntarily, not forced upon by those who, on the one hand constantly paid lip service and maintained that the decision was ours to make and on the other imposed the decision on us.

After reading the Memorandum, Sir, I have two questions to ask on top of what Mr LEE has just asked:

(1) Is the \$25 billion reserve to be left for the Hong Kong Special Administrative Region face value or real value at 1997?

(2) Has the Chinese Government any power over the change of membership of the Airport Authority and the Consultative Committee after 1997? Will the Chinese representative on the board of the Airport Authority give up his membership after 1997 as his historical mission as the proxy for the HKSAR will have been completed?

I would like to urge here for Government to reveal at the earliest possible time the terms of reference of the Airport Authority and the Consultative Committee; the power of the Authority's chairman and the vice-chairman.

Sir, as the saying goes, there is no point crying over spilt milk. For Hong Kong people, or at least for the majority, life has still to go on. Let us therefore think positively and work for that silver lining which is supposed to be present with every cloud. I call on the three Governments therefore to reaffirm the right of the people of Hong Kong to have the sole and entire responsibility for all decisions on all affairs of Hong Kong other than defence or foreign affairs, whether they straddle 1997 or not.

To the Government of Hong Kong, Sir, I would like to make some pleas:

(1) That the Hong Kong people be allowed to participate in the Airport Authority and the Consultative Committee. Let these bodies be used as training houses for politicians elected by the people of Hong Kong and devoted to making Hong Kong their home to learn the art of self administration;

(2) That the Government should make known to the public the whole negotiation process. This much, I believe, Sir, the Government owes to the people of Hong Kong;

(3) That the information on the plans and budget of the new airport be compiled in a publication to be available to all in Hong Kong free of charge. At least, this may help to pacify adverse public sentiment over the issue with a view that Hong Kong people may put their collective shoulders again behind the wheel to work its will.

To the Chinese Government, Sir, I plead that as the future sovereign state of Hong Kong, and the future sovereign state it will be, it will adhere to the Joint Declaration, not only to the spirit but also to the letter.

To the British Government, I plead that no more secret deals be made for Hong Kong without the knowledge of the Hong Kong people. It is a very basic human right that anybody should have his/her right to determine his/her own destiny.

Turning to the amendment to Mr LEE's motion as proposed by Mr CHEONG and comparing the amendment to the original motion, I have the following words to say. Mr LEE's motion highlights an important point. I believe it stresses the right of the Hong Kong people to determine our future affairs. This is not, in my mind, the only inherent right of the people of Hong Kong but it is something that the Joint Declaration has categorically stressed. To me, this is the crux of the matter in ensuring that Hong Kong and its people can survive into the future. Mr CHEONG's amendment, I believe, focuses on building understanding and co-operation between Britain and China. But where does this leave Hong Kong? Will Hong Kong still have to exist on the crumbs falling off the negotiating table of Britain and China? When can we, in Hong Kong, stand on our own feet and make our own decisions? Surely, Sir, this is not and is not moving towards self-governance or independence, but to see the high degree of autonomy which is so ardently promised to Hong Kong and Hong Kong people.

Furthermore, Sir, Mr CHEONG's speech has given me an impression that he and his followers are willing to forgo certain amount of autonomy in exchange for co-operation and understanding.

With respect, I cannot agree nor swallow this. Nor is this what the Hong Kong people were being told when the Joint Declaration was signed. I therefore support Mr LEE's motion and cannot accept Mr CHEONG's amendments.

MR MCGREGOR: Sir, I believe that the Honourable CHAN Ying-lun who has seen my submission agrees with the points I want to make. Originally I did not have any difficulty with Mr Martin LEE's motion because the degree of autonomy he refers to is really quite identical to that promised by the Joint Declaration and the Basic Law. If Hong Kong were to be allowed this degree of autonomy, then we should do very well and so would China. I do not however care for Mr LEE's attack on the integrity of the Government nor indeed on that of the British Government. But both Governments

in my view have worked hard to obtain approval for the airport from China thus preparing the way for the continued economic development of Hong Kong. The alternative was unthinkable. I am personally well pleased that the agreement has been reached and that the way has been opened to improve relations with China. Any idea that Hong Kong can unilaterally make its own decisions on major policies and projects which are economic and social in nature but which have a substantial impact on post-1997 Hong Kong without consulting and obtaining the views of China is simply to deceive ourselves and to mislead the people of Hong Kong. It cannot be supposed that throughout Hong Kong's long colonial history the British Government has not been fully consulted on all major policies. Final decisions have certainly been made in Hong Kong, especially in recent times. But the United Kingdom Government has enjoyed very close contact with the Government of Hong Kong over a wide range of important issues. The status of Hong Kong will change in 1997 but again it cannot be supposed that the Chinese Government will willingly leave all economic and social affairs to the SAR Government, especially given the enormous importance of Hong Kong to China, which is much, much greater than the importance of Hong Kong to Britain. It is up to Hong Kong to ensure that a system of effective consultation with China is set up so that the work of running this sophisticated territory can be done by Hong Kong people with the greatest co-operation and the least restriction from China.

In my dictionary, autonomy is said to mean a self-governing community. A high degree of autonomy is open to interpretation. The more we consult with China, the less China suspects our ability and our motive, the greater the autonomy that we will be granted.

Allow me to say, Sir, in passing that the rising trend of argument for the sake of argument in this Council is something I am sorry to see in recent times. We must surely all try to take a balanced view based on our own experience and our overall responsibilities. It is sad to see an argument being developed because of what looks uncommonly like personal animosity based on political distaste. If this sort of thing continues Hong Kong will be ill served and this Council will waste a great deal of time.

Sir, with this friendly warning, I support Mr CHEONG's motion.

MR SIT (in Cantonese): The new airport project has been debated in this Council for a number of times and the public should have been very familiar with our views. The

motion by the Honourable Martin LEE today is also about the new airport with emphasis shifted to the Memorandum of Understanding recently initialled by the Chinese and the United Kingdom Governments. The reasons why Mr LEE puts forward this motion can, in my view, be summarized in three points:

First, he is suspicious of the motives behind the memorandum;

Second, he does not have confidence in the document;

Third, he fears that the initialling of the memorandum might possibly be an act of betrayal.

Mr Martin LEE, in his speech, requested clarifications from the Chinese and the United Kingdom Governments -- I hope I have not misinterpreted his words. But have we forgotten that the Memorandum of Understanding concerning the construction of the new airport pertains to matters outside the internal affairs of the territory? Mr LEE might have fallen into logical errors at this point. Whether Hong Kong needs a new airport is, strictly speaking, foreign affairs which should be a subject for discussion between the Chinese and the United Kingdom Governments. The Honourable Martin LEE must have forgotten that Hong Kong is still under British rule until 30 June 1997. That is to say, Hong Kong is still a British colony and its foreign affairs should of course be handled by the United Kingdom Government. Even after 1997, any matters pertaining to foreign affairs should and can only be the responsibility of the Chinese Government. For us to demand a say in the airport project, it would only be possible if the project ceased to be foreign affairs.

If I remember well, after the initialling of the Sino-British Joint Declaration, I read from the newspaper that Mr Martin LEE hailed the accord on the future of Hong Kong a good agreement which should deserve our support. Here I would like to add that I am not sure whether Mr LEE was misquoted in the paper. But could I ask the Honourable Martin LEE why he considered the agreement acceptable at that time? Mr LEE did not participate in the negotiations; so what made him believe that the Sino-British Joint Declaration was a good agreement? In the same vein, could I be enlightened as to why the present Memorandum of Understanding is, according to Mr LEE, a bad deal for the people of Hong Kong? One should avoid being overcome by subjectivity as it may very often blind one from reasoned judgment.

As to the new airport, a deal has been struck and the project about which we are

concerned has changed in nature and should no longer be foreign affairs. We need a new airport and the two Governments have given us the green light to go ahead with the project. So it is not the time, at this present stage, to start the discussions all over again. Instead, we should concentrate our attention on the financial arrangements and source of fundings of the project, and whether tax increase will be one of options the Government has in mind to finance the new airport. If, for example, some people consider the site formation works for the new airport too expensive, then we should examine in detail the financial arrangements, which are the internal affairs of Hong Kong, and try to find solutions to the problems. No longer should the airport project be discussed at the diplomatic level as it is not foreign affairs any more. The Honourable Martin LEE seems to have confused internal matters with foreign affairs; so I am afraid I have to vote against his motion. On the other hand, the Honourable Stephen CHEONG's amendment appears to be more practical and realistic and, for this reason, I would prefer to support his amendment motion.

Sir, with these remarks, I support the Honourable Stephen CHEONG's amended motion.

MR PETER WONG: Sir, it is all too evident that Hong Kong warmly welcomes the decision to go ahead with the new airport, but I find the second part of the motion to be incompatible with clause 3(2) of the Joint Declaration which states that "The Hong Kong Special Administrative Region will enjoy a high degree of autonomy, except in foreign and defence affairs which are the responsibilities of the Central People's Government." This provision is reflected in Articles 12, 13 and 14 of the Basic Law.

The situation under which the Memorandum is evolved is likened to a tripartite negotiation between a new landlord, the outgoing landlord and the tenants over the construction of an escalator of a department store which will be paid for by the tenant. Being the future proprietor, China the in-coming landlord has, in all fairness, sought a say in a major construction project which straddles the transitional lease period. The requests for close consultation over any loans to be incurred, the appointment of the contractors and any other matters that will eventually come under her sovereignty must be seen to be reasonable and unobstructive. China has not sought any outright veto on her part and is content with being fully consulted and having her views listened to. As for the tenants who up till now have not had the practical experience of managing such a major project, they will have to work hard to immediately organize themselves into a proper building management committee. It is hoped that,

by gradually learning the ropes, the committee may one day evolve into an efficient and democratic corporation.

In the real world, a good deal is one where everybody wins and nobody is the loser. Unless we adopt this approach, everybody will lose out. Reality demands some give and take so that all sides feel comfortable and hence will keep to that deal. Mr LEE seems to think otherwise and stands accused of being a "deal-breaker". I believe that the Memorandum of Understanding Concerning the Construction of the New Airport in Hong Kong and Related Questions is a deal that by and large makes all sides feel comfortable and can be the beginning of a period of mutual understanding and co-operation that will lead to stability, progress and common benefits. We must give this breakthrough a chance to take firm roots and blossom.

Sir, I concur with the Honourable Stephen CHEONG's amendment to the Honourable Martin LEE's motion. But my vote is not against the autonomy of Hong Kong as suggested by Mr LEE, but for the high degree of autonomy as promised in the Joint Declaration.

CHIEF SECRETARY: Sir, I hope Members will forgive me if I indulge in what other Members have been doing in the course of an earlier debate, and that is to tell a small story to start my speech, not this time about Mr WONG or Mr CHAN but about a Mr Martin LEE. And I hope he will also forgive me if the evidence which I produce is hearsay. But no doubt he will correct me if I am wrong. It does come, however, from an impeccable source. The story goes that on the day of the announcement of the agreement, Mr LEE approached one of the lady Members of the Executive Council, embraced her warmly, kissed her and said, "Well done, that is a good agreement." I find that a very fascinating story for two reasons. Firstly, Mr LEE certainly seemed on that day to think that there had been a good agreement signed. Even more importantly and quite correctly, he recognized the role of the Executive Council in coming to that decision. It falls rather odd with his suggestion today that this deal has been done behind the back of Hong Kong with no participation either of the Administration or indeed of the Executive Council. The fact of the matter, Sir, as you have so clearly put it, was that the Hong Kong Administration and the Executive Council were involved at each stage. We are not living in the days of steam packets and courier pigeons. We have confidential fax and we have been in touch both with London and indeed with our negotiators in Peking throughout the whole of these discussions. And clearly what was important -- because this is a practical arrangement -- is that the arrangement was acceptable to Hong Kong and to the Administration, because after all we are going

to be the people who build the airport. And I will come back to that again in a moment.

Much has been made by some Members of the so-called conspiracy in the dark days between the day on which the agreement was initialled on 30th and announced on the 4th. It was a difficult time. Clearly there was a situation in which we knew the agreement had been initialled. Certainly we did because we were involved until three o'clock in the morning with those negotiations. But the arrangements for the public announcement of that clearly took some time. There was some co-ordination to be done. Co-ordination between Peking, London and of course ourselves. And those arrangements took time. There was no conspiracy. We were not in the dark. And, Sir, I think your statement which was made at a difficult time which said that the public position on the airport remained unchanged was simply a reflection of the fact that the public position on the airport was indeed unchanged since you last made the comments on the airport.

Let me turn briefly, Sir, to the agreement itself. I think the strength of the agreement is that it does provide practical workmanlike arrangements which enable us to get on with the building of the airport. The annex to the understanding lists all the major projects. The understanding itself makes it very clear that the Hong Kong Government is going to be responsible for the building of those projects, clearly a recognition of the role of the Hong Kong Government in the building of this airport. Yes, there will be some matters which will be discussed and many Members have referred to clause 3 of the agreement. The matters which are to be discussed are matters for which the SAR Government assumes responsibility in 1997. We have always accepted the situation that we should discuss with China matters which fall to the responsibility of the SAR. We believe that is a reasonable position to be in. And we believe that clause 3 which is in that agreement provides a framework, a good time scale and very good arrangements for us to reach an agreement on those matters. There is no suggestion in that clause of any veto. There is no suggestion in the whole agreement indeed that Hong Kong is being given directions as to how it should or should not build this airport. Clearly that is absurd. Nor is the role of this Council either in its law-making role or indeed in its role in approving funds for this project called into question. The authority of this Council in passing the Airport Authority Bill is unquestioned. The authority of the Finance Committee in providing the funds for this project or not doing so is unquestioned. Nor, Sir, is your authority questioned. In fact, it is clearly recognized that you will appoint members of the Airport Authority and of the consultative committee. I was quite surprised to hear Mr LEE suggest that because it was you, Sir, who was going to be appointing members

of the consultative committee we were somehow going to have a number of lap dogs on that committee. Could I gently remind Mr LEE that the chairman of the Consumer Council is appointed by the Governor and I am not aware that he has found himself inhibited in any way by being so appointed.

Sir, let me turn finally to the reference which is made in the final clause of the agreement, clause (g) which refers to continuing consultations in the period after 1997 and the visits of the Foreign Secretary with his opposite number in China. Sir, this is a recognition of something which I think many Members of this Council and we in the Administration have recognized for a long time. It is that in the run-up to 1997 there has to be close co-operation and discussion with China on matters of mutual interest. Indeed, it was the Foreign Secretary Mr Douglas HURD himself who made that suggestion when he visited Beijing earlier in the year. And indeed he did discuss that suggestion in Hong Kong before he made it. So this is not part of another conspiracy or that we are seeing an alternative method of trying to negotiate behind our backs. There are many matters of mutual concern other than the airport which no doubt the Foreign Secretary will wish to discuss.

Sir, we believe that in this agreement we have an understanding which meets our practical need to get on and build this airport. It provides us with Chinese support in an unequivocal way and that Chinese support will in turn induce a high degree of private participation which is what we have been seeking all along and that private participation will reduce the costs of this airport for the people of Hong Kong. We are delighted with that clause in the agreement. It provides us with the certainty to proceed in a workmanlike way.

Sir, I think the feeling in Hong Kong as we judge it at the moment is that the dark cloud which was hung over not only the airport but also our relationship with China has been blown away. There is an uplift in the mood of the people here and I think that is right. I suppose it is too much to hope that the skies will remain totally blue over the next six years and that there will not be the odd cloud. But I think that we will all agree that the weather forecast is much better now than it was a week ago. I think we can look forward over the next six years to a degree of confidence in our relationship with China and above all giving Hong Kong the airport it richly deserves.

Sir, I support the amended motion.

Question on Mr Stephen CHEONG's amendment to Mr Martin LEE's motion put.

Voice votes taken

The President said the thought the Ayes had it

MR MARTIN LEE: May I ask for a division, please?

HIS EXCELLENCY THE PRESIDENT: In this particular case, the balance between the Ayes and the Noes seemed to me to be reasonably clear. So I will ask Members of the Council whether or not they support my judgment and I will do it in the normal way by asking those who support my judgment that the Ayes had it to stand and I will then ask those who do not support that judgment to stand. Will those who support the judgment of the voices -- I emphasize it is a judgment of the voices -- that the Ayes had it please stand in their places? Thank you. Will those who disagree with the judgment please stand in their places? Thank you.

The President then declared that Mr Stephen CHEONG's amendment was carried.

HIS EXCELLENCY THE PRESIDENT: As Mr Stephen CHEONG's amendment has now been agreed, we will debate the motion as amended, that is, Mr Martin LEE's motion as amended by Mr Stephen CHEONG's amendment. Does any Member who has not yet spoken, either on the original motion or on the amendment, wish to speak? Mr LEE, as the mover of the original motion, you have the right to reply if you wish to do so.

MR MARTIN LEE: Sir, I hope I shall not be keeping Members till tomorrow. I must confess that while I am on my feet at this stage of the proceedings I feel exactly like the Honourable TAM Yiu-chung when he rose to his feet in the debate on his motion. Really there is not much to say but for the matter of the record, I would submit that it is important to clarify a few points which arose during Honourable Members' speeches subsequent to my speech in opposition to the Honourable Stephen CHEONG's attempt, which is successful, to amend my motion. First, I would like to deal with the speech by the Honourable Edward HO who fails to see consistency between the two parts of my original motion. But let me assure him that I had reason and logic on my side. It is because I support the decision to go ahead with the new airport

although I am truly worried that an interpretation could be placed on the Memorandum of Understanding which would effectively nullify the high degree of autonomy already promised in the Joint Declaration. And that is why I did not seek to endorse the memorandum of understanding pending clarification, but sought to reaffirm our sole and entire responsibility for all decisions on all the affairs of Hong Kong other than defence and foreign affairs whether they straddle 1997 or not. And that was precisely what the Hong Kong Government, the Executive Council and this Council have been fighting for during all material times. And we have been led into believing that no power of veto has been surrendered to China both in relation to the airport and other major matters straddling 1997.

As for the speech of the Honourable Paul CHENG, he talked about sharing a vision. I would like to have a share in that vision. But my problem is that I find the vision to be blurred -- blurred by the vagueness of terminology of the most material clauses. Then the Honourable Paul CHENG talked about tempering idealism with realism which, I suppose, is an elegant way of saying, "Concede when China does not like it". I remember one saying in a book entitled The Thoughts of Chairman MAO where he said " " (When the enemy advances I retreat). Maybe that is precisely what the Honourable Member meant.

The Honourable Mrs Nellie FONG as usual described me as confrontational and lacking in foresight. Her logic is of course that if we protest, even though we see our high degree of autonomy being whittled down, then we must not shout otherwise we would be described and criticized as confrontational. But I wonder whether Mrs FONG really believes that China will respect us if we were to accept whatever China wants us to have? I suggest the answer is no, because I believe the leaders of China will respect people who stand on principle and I do not believe they would trust those who try to serve two masters -- a British master first and a Chinese master later.

As for my true friend, the Honourable Jimmy McGREGOR, I accept his well-intentioned warning and I can only assure him that I would never speak in this Council based on animosity against a political opponent.

The Honourable Kingsley SIT accused me of having fallen into logical error because he claims that the airport pertains to foreign affairs. I must say I was bewildered by that statement. I wonder whether he ever realized that the Hong Kong and Chinese Governments were indeed engaged

HIS EXCELLENCY THE PRESIDENT: Mr LEE, Mr McGREGOR has raised his hand. Is this on a point of clarification? If so, Mr LEE, are you prepared to stand down?

MR MARTIN LEE: I will always give way to the Honourable Jimmy McGREGOR.

HIS EXCELLENCY THE PRESIDENT: That is a terrible commitment to make. But you have made it. (Laughter) Mr McGREGOR.

MR McGREGOR: Sir, I could go on for another half hour. But I would just like to make the point that I did not mean Mr LEE. So he should correct himself.

HIS EXCELLENCY THE PRESIDENT: Thank you. Mr SIT is also raising his hand. Mr LEE, would you give way to him also? Thank you very much.

MR MARTIN LEE: With reservation this time. (Laughter)

MR SIT (in Cantonese): What I have said is that the new airport project, originally an internal affair, has been escalated to be discussed at the diplomatic level. I hope this point will now be clearer to the Honourable Martin LEE.

HIS EXCELLENCY THE PRESIDENT: Attempts at clarity aside, let us also watch the clock.

MR MARTIN LEE: The clock is quite clear, Sir. (Laughter)

HIS EXCELLENCY THE PRESIDENT: Distressingly clear, if I might say so. Carry on, Mr LEE.

MR MARTIN LEE: I cannot understand, Sir, how the construction of an airport at one

stage was not foreign affairs but at a subsequent stage becomes foreign. The stationing of troops of course is obviously defence. I would have thought that if one talked about relations with a foreign country or discussion of various treaties that might well be foreign affairs. But the construction of an infrastructural project, no matter how big, cannot come under foreign affairs. And that is why indeed at the beginning both the British and Hong Kong Governments had insisted that any decision on the airport fell to be determined by the Hong Kong Government. I would say to the Honourable Kingsley SIT that it is our responsibility to have vague expressions clarified, particularly in the light of Mr MA's remark as quoted by Dr the Honourable C.H. LEONG to this Council as to what interpretation the Chinese would place on this memorandum of understanding.

As for the Honourable Peter WONG, I agree with him that the memorandum of understanding could be the beginning for co-operation. In fact, I would add I hope it will be the beginning of trust and co-operation, and not mistrust and suspicion. But it all depends on how one interprets the key clauses of this memorandum because if one places another meaning on these relevant words then it could also be the total loss of our high degree of autonomy.

As for the little story told by the Chief Secretary, of course he must be privy to a lot of intimate things done by me in private. Let me remind the Chief Secretary the circumstances of the meeting. We were called to an important meeting at 4 pm; we were not given an advance copy of the memorandum of undertaking -- understanding rather -- though I wish it had been undertaking. Indeed I was told later on by the press that they were given embargoed copies as usual. I came to the Council Chamber

HIS EXCELLENCY THE PRESIDENT: The Chief Secretary, I believe, now wishes to clarify. Mr LEE, are you prepared to give way?

CHIEF SECRETARY: A point of clarification, if I may. The press were given a copy of the statement at the same time as Members of the Legislative Council.

HIS EXCELLENCY THE PRESIDENT: Mr LEE, please continue.

MR MARTIN LEE: I am pleased to hear that. But of course the press, if they had been given a copy at 4 pm, which was the time we got it, did not start to ask questions until 5 pm. So they had one hour's time to look at it. But we legislators had no time to digest it, or perhaps no more than three to four minutes. We had to deal with a number of questions and so I did, at the end of that meeting which lasted about 45 minutes, say that which the Chief Secretary has ascribed to me. But it is easy to see why because I did not see the word "veto" or the words "joint decisions" or "common view" in clause 3(1) and clause G. And so I was at least happy that the one most crucial point, I thought, had not been conceded. But when I had more time to study it, I began to have reservation, precisely because of the different interpretations that could be placed on these clauses. And it is significant, Sir, as you may think, that no attempt has been made by the Chief Secretary, who was privy to much more information than we, Councillors, would ever hope to have, to explain to us the meaning of these key clauses either. Could it be that he does not know?

Let me tell the Chief Secretary, through you, Sir, a little story which I read in the editorial of the Hong Kong Economic Journal today, which also criticized me. A junior cadre in China, according to this little story, was unhappy with the small size of the flat which was allotted to him. So he made a complaint to the authority, that is to say, senior members of the party. They studied the problem, convened meetings and then decided that pigs should then live with him in this little unit. This little man protested vehemently, having now to live with pigs. And that went on for a few days until the senior members of the party then decided saying "Well, in consideration of your complaints, we have decided that the pigs should go from your flat." And this man was so happy and thankful. But of course his little flat remained as small as before, but at least he did not have pigs there any more. The moral of the story is of course that when China wanted something unreasonable, China always asks for something which is totally unreasonable and is very vehement in all negotiations making people believe that that was her ultimate objective which is not open to negotiation. Then at the end the negotiators would, I suppose, go back to the original bottom line and the other side would be so thankful and say to themselves, "God, it could have been worse". So it was in that spirit that I think we all left the meeting thankful that it had not been worse.

Sir, when I look at the amended motion -- really, Sir, you would be crediting me with a lot when you in due course will describe it as my motion having been amended which will have only four little words of my own remaining -- I see the word "smoothly"

once and then the words "smooth transition" later, because in the amended motion, it is obvious that the mover assumes that with the signing or the initialling of the memorandum of understanding, the new airport project could proceed smoothly and that both Governments could build on the understanding and co-operation in order to bring about a smooth transition for Hong Kong. But again I ask: how can we assume that there will be a smooth transition when we do not know what the key provisions actually mean. So ultimately, Sir, I cannot in conscience support a motion which calls for approval of a document which I do not fully understand either in the English or Chinese language. It is because one could read the material clauses in two totally different ways: one giving the right of decision to Hong Kong and the other giving the right of veto to Beijing. So I cannot support my so-called motion as amended.

Question on Mr Martin LEE's motion as amended by Mr Stephen CHEONG's amendment put and agreed to.

Private Member's Bill

First Reading of Bill

ELECTORAL PROVISIONS (PROCEDURE) REGULATIONS (AMENDMENT) BILL 1991

MR MARTIN LEE: Sir, let me assure you that this is the last time you will hear me tonight and I will still keep my promise of not having to bid you good morning. Sir, in a meeting last week, the Secretary for Constitutional Affairs presented to Members of the OMELCO Panel on Constitutional Development the commitment of the Administration to implement a polling station buffer zone plan in order to ensure that voters will not be impeded or harassed in their access to the polling stations during the elections to the Legislative Council this September. As the scheme of the Administration is very similar to what I was proposing in my Bill I have decided to allow the Administration to implement their scheme for this September and then determine if legislation is necessary. I would therefore withdraw my Bill.

Adjournment and next Sitting

HIS EXCELLENCY THE PRESIDENT: And now still just on the 10th of July and in accordance with Standing Orders I adjourn the sitting until 2.30 pm on Wednesday, 17 July 1991.

Adjourned accordingly at ten minutes to Twelve o'clock.

Note: The short titles of the Bills/motions listed in the Hansard have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.