

1 HONG KONG LEGISLATIVE COUNCIL -- 27 November 1991

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OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 27 November 1991

The Council met at half-past Two o'clock

PRESENT

THE DEPUTY PRESIDENT

THE HONOURABLE JOHN JOSEPH SWAINE, C.B.E., Q.C., J.P.

THE CHIEF SECRETARY

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

THE FINANCIAL SECRETARY

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

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

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

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

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

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

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

THE HONOURABLE TAM YIU-CHUNG

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

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

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

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

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

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

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

THE HONOURABLE LAU WAH-SUM, O.B.E., J.P.

DR THE HONOURABLE LEONG CHE-HUNG

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

PROF THE HONOURABLE EDWARD CHEN KWAN-YIU

THE HONOURABLE VINCENT CHENG HOI-CHUEN

THE HONOURABLE MOSES CHENG MO-CHI

THE HONOURABLE MARVIN CHEUNG KIN-TUNG, J.P.

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE TIMOTHY HA WING-HO, M.B.E., J.P.

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

THE HONOURABLE SIMON IP SIK-ON, J.P.

DR THE HONOURABLE CONRAD LAM KUI-SHING

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE MISS EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

THE HONOURABLE GILBERT LEUNG KAM-HO

THE HONOURABLE ERIC LI KA-CHEUNG, J.P.

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE NG MING-YUM

THE HONOURABLE STEVEN POON KWOK-LIM

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

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

DR THE HONOURABLE SAMUEL WONG PING-WAI, M.B.E., J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG

ABSENT

THE HONOURABLE SZETO WAH

DR THE HONOURABLE LAM KUI-CHUN

PROF THE HONOURABLE FELICE LIEH MAK, O.B.E., J.P.

IN ATTENDANCE

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

MRS ANSON CHAN, J.P.
SECRETARY FOR ECONOMIC SERVICES

MR YEUNG KAI-YIN, J.P.
SECRETARY FOR THE TREASURY

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

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

MR JAMES SO YIU-CHO, O.B.E., J.P.
SECRETARY FOR RECREATION AND CULTURE

MR JOSEPH YAM CHI-KWONG, J.P.
SECRETARY FOR MONETARY AFFAIRS

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.

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|---|--------|
| Designation of Libraries (Urban Council Area) (No. 4) Order 1991..... | 415/91 |
| Designation of Museums (Hong Kong Museum of Art) Order 1991..... | 416/91 |
| Public Health and Municipal Services (Civic Centres) (Amendment of Thirteenth Schedule) (No. 2) Order 1991..... | 417/91 |
| Specification of Public Office..... | 418/91 |

| | |
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| Waste Disposal (Amendment) Ordinance 1991 (Commencement) Notice 1991..... | 419/91 |
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Sessional Papers 1991-92

No. 21 -- Report of changes to the approved Estimates of Expenditure approved during the First Quarter of 1991-92
Public Finance Ordinance : Section 8

No. 22 -- Ocean Park Corporation Annual Report 1990-91

No. 23 -- Hong Kong Sports Institute (Jubilee Sports Centre)
Annual Report 1990-91

Addresses by Members

Report of changes to the approved Estimates of Expenditure approved during the First Quarter of 1991-92
Public Finance Ordinance : Section 8

SECRETARY FOR THE TREASURY: Mr Deputy President, in accordance with section 8(8)(b) of the Public Finance Ordinance, I now table for Members' information a summary of all changes made to the approved estimates of expenditure for the first quarter of the financial year 1991-92.

Supplementary provision of \$154.4 million was approved. It was fully offset either by savings under the same or other heads of expenditure or by the deletion of funds under the Additional Commitments subheads.

During the period, non-recurrent commitments were increased by \$555.1 million, new non-recurrent commitments of \$142.0 million were approved and approved non-recurrent commitments of \$68.2 million were revoked.

In the same period, a net decrease of 812 posts was approved.

Items in the summary have been approved either by Finance Committee or under delegated authority. The latter has been reported to the Finance Committee in accordance with section 8(8)(a) of the Public Finance Ordinance.

Ocean Park Corporation Annual Report 1990-91

MR RONALD ARCULLI: Mr Deputy President, tabled before the Council is the Ocean Park Corporation's Annual Report for 1990-91.

In the past financial year to 3 June 1991, Ocean Park (including Water World and Middle Kingdom) welcomed some 2.4 million visitors. This total represents an annual increase of 11% and is a record for the Park since it opened in 1977.

Operating income for Ocean Park rose by 25% this past year to another record of \$242 million. Net operating surplus amounted to \$46 million, a 9% increase, again, the highest ever.

These excellent results are all the more remarkable, when we take into account the destabilizing global events of the past year, most notably the Middle East crisis and its subsequent detrimental effects on Hong Kong tourism.

Unfortunately, as revenues and profits increased, so also did operating expenses rise -- by 19%, to \$153 million. This unusual increase is mainly attributable to the full-year operation of Middle Kingdom, compared with only six months in its previous first year.

However, financial viability has not been the Park's sole objective, but merely a means of achieving its broader corporate goals. In the spirit of accomplishing these objectives, the year 1990-91 saw the development of various educational pursuits, as well as increased commitment to scientific research.

The most exciting new attraction was undoubtedly the \$39 million Shark Aquarium, opened nearly a year ago in December 1990. The Merry-Go-Round was introduced for younger visitors and live entertainment expanded too. The success of such attractions has assured the management of Ocean Park that the provision of top quality family entertainment is the direction of the future.

Ocean Park's most ambitious project of 1991 will open in December when the 70-metre Ocean Park Tower is completed. The facility is the first of its kind in Southeast Asia.

Uppermost in the minds of the Park's directors has been to supply these outstanding facilities at affordable prices. In May this year, the Park announced a combined admission charge of \$140 for Ocean Park and the Middle Kingdom, previously two separate attractions.

To further emphasize the added value and to reinforce the Park's position as a family entertainment venue, a new admission policy has been introduced, permitting children under 12 years and senior citizens aged 60 or above free entry. The Park will continue to review the situation to ensure that a portion of its operating surplus is directly passed on to visitors.

Finally, in relation to the Ocean Park Trust Fund, I am happy to report that the Fund has had a successful year. The year-end value of Ocean Park's investment portfolio of the Ocean Park Trust Fund rose to a total of \$211 million.

In summary, this has been an all round successful year for Ocean Park and the Park looks forward to another successful year in 1991-92 as we begin a major five-year expansion plan.

Oral answers to questions

Land Development Corporation

1. MR FREDERICK FUNG asked (in Cantonese): Will the Government inform this Council:

(a) what criteria and procedures are adopted by the Land Development Corporation for formulating plans of urban renewal;

(b) secondly, whether landowners and tenants affected by the redevelopment projects of the Land Development Corporation would be fairly compensated and properly rehoused; and

(c) thirdly, whether the Government and the Land Development Corporation have

plans to review and reform existing principles, policies and arrangements?

(d) fourthly, some owners would like me to reflect the following point. They would like me to show you this, that is, you have given the LDC a very important and powerful sword -- has this been abused? Thank you.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I have notice of the first three parts of that question but not the last and I am not going to attempt, at this stage, to answer the last part. The answers, seriatim, are as follows:

(a) Before it launched its overall plan for urban renewal, the Land Development Corporation commissioned a series of Studies on Urban Development Opportunities to look into the adequacy of community and infrastructure facilities, the socio-economic characteristics, the building conditions, and the land ownership pattern within various study areas in Hong Kong. The studies enabled the Corporation to prepare its plans for urban renewal schemes. But in any case, almost all the areas which the Land Development Corporation proposes to develop have for many years been subject to statutory outline zoning plans defining the proposed land uses of the area including community facilities and open space.

Although the Town Planning Board redesignated many of these areas as Comprehensive Development Areas to prevent individual developers who might frustrate the Board's urban renewal schemes, it made it very clear that the Corporation would be required to provide specified community facilities and open space in its subsequent submissions to the Board. Within these requirements the Corporation plans its own schemes, taking account of the nature and potential of the area, the local community and the financial viability of the different uses, and taking advice from the local planning office. Its detailed proposals must go through Town Planning Ordinance procedures, including consultation with district boards and public objection procedures.

(b) The second question: in passing the Land Development Corporation Ordinance in 1989, it was one of the main concerns of Members of this Council and of the Administration to ensure that the Ordinance gave adequate protection to owners/tenants affected as well as providing a reasonable framework for the Corporation to attract private enterprise to join in its schemes. For this reason there are a number of requirements for reference to the Government included in the

procedure, which are aimed at ensuring that the rights of owners/tenants have adequate protection. The stipulations on compensation are quite clear.

If the Corporation has not, in the view of the Administration, offered reasonable terms, the Administration will not put an application for resumption to the Governor in Council. "Reasonable terms" essentially means similar offers to those which the Government itself would make in the context of a resumption, which, broadly speaking, are required by the Ordinance to reflect the market value of the property. Again as a prerequisite to agreeing a resumption the Secretary must be satisfied that the Corporation has provided appropriate housing to those living in the area. This can take different forms, varying from simple cash payments to the provision of flats on a rental basis to those people who cannot afford to buy a flat of their own. The Land Development Corporation does not have the advantage enjoyed by the Housing Society and the Housing Authority of a substantial pool of low-priced or low-rental or temporary housing to assist in its clearances, but it has made considerable efforts to buy and adapt flats to assist those most in need.

(c) The third part: the Government and the Land Development Corporation think that after several adjustments of the offers made they are generally about fair and about right. I agree however that the Corporation and Government should take stock of the situation after some of the clearances have been completed to ensure that they continue to be so.

DEPUTY PRESIDENT: Mr FUNG, there was a fourth part to your question as to which notice is required under Standing Order 17. You have not given notice but if it is a question which you think you can ask as a supplementary question, then put it in that way and I will, exceptionally, allow you to ask your normal supplementary question. Do you want to re-phrase the fourth part of your original question as a supplementary question? It has got to comply with the rules as to supplementary questions.

MR FREDERICK FUNG (in Cantonese): That relates to the second and third parts of the question. But I still have a supplementary question to ask.

DEPUTY PRESIDENT: Yes, I did say that I would allow you, exceptionally, to go on to your normal supplementary questions, if you want to pursue your fourth question on

the original question, provided you can do it as a supplementary.

MR FREDERICK FUNG (in Cantonese): Yes, Mr Deputy President. In relation to the second part of the question, I have a supplementary on compensation. According to the LDC, there were five options for compensating flat owners. May I know whether they will be entirely at the discretion of the LDC, or flat owners will be allowed to select one of the five options? As regards the third part of the question, there have been a lot of conflicts between the LDC and the flat owners in previous clearances. Although the Administration has no intention of conducting an early review now, I would like to ask, in view of these conflicts, whether representatives of flat owners will be included on the LDC and whether an arbitration body will be set up to facilitate the future urban redevelopment? I would like to put my fourth question as a supplementary: Would the LDC abuse the Crown Lands Resumption Ordinance?

DEPUTY PRESIDENT: Could you deal with the first two supplementaries, Secretary, and defer the last one.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, the LDC, in making offers of compensation to persons affected, is acting as a private party, and landowners who receive these offers are also in the same position as if a developer were offering compensation. So it is perfectly free and proper that the LDC should offer compensation in different forms, and it is also perfectly proper that the owners should choose between them or reject all of them.

I now turn to the second question which is about conflicts with landowners. The LDC membership is appointed by the Governor for a certain term. It obviously would not be appropriate for particular landowners affected to be appointed ad hoc to deal with the particular clearance in which they are involved. Clearly, the Governor has to consider the membership every time it comes up for appointment in the light of the needs of the Corporation and in the light of the interests which the Corporation is meant to protect.

DEPUTY PRESIDENT: Mr FUNG, would you rephrase your last supplementary which goes back to the fourth part of your original question?

MR FREDERICK FUNG (in Cantonese): The Administration has not replied to the second part of my supplementary which is about the setting up of an arbitration body. If I am to rephrase that part, it will read: At present, the LDC is empowered to invoke the Crown Lands Resumption Ordinance, will it be possible that such a power could be abused?

DEPUTY PRESIDENT: In so far as you are asking the Secretary to answer a question as to whether the LDC would abuse the Ordinance, the immediate objection I see to that question is that you are asking for an opinion. And there may well be other reasons why that question should not be put; so I am going to rule that question out of order, Mr FUNG.

MR FREDERICK FUNG (in Cantonese): I will rephrase it again. Under what circumstances can the LDC invoke the Crown Lands Resumption Ordinance?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, under the Land Development Corporation Ordinance it is provided that the LDC may request that resumption powers are taken out but it is not their decision as to whether such powers should be invoked or not. First of all, they must satisfy the Secretary for Planning, Environment and Lands that the offers they have made are fair and reasonable both in respect of compensation and of housing. And also, the Secretary will satisfy himself that the circumstances are such as to conform with the general requirements of the project being for a public purpose. Now so far for the Secretary. The Secretary then takes the resumption to the Governor in Council and the Governor in Council takes its own view as to whether a project is a public purpose for the purposes of the Crown Land Resumption Ordinance and that is a decision which is reserved entirely for the Governor in Council.

MR FREDERICK FUNG (in Cantonese): The third part of my question is whether the existing policies and principles have been reviewed. I raise that point in view of the fact that there were a lot of disagreements and disputes between the LDC and flat owners and even petitions and so on in recent clearances, which leads to the question of

whether an arbitration body is needed.

DEPUTY PRESIDENT: In what context do you ask whether the Government would set up an arbitration body? To arbitrate in what circumstances, Mr FUNG, and between whom?

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, I think the Administration has not answered the question on the establishment of an arbitration body?

DEPUTY PRESIDENT: Secretary, this involves changes to the Ordinance.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I think I can give some kind of answer to that question. As I said earlier in answer to a supplementary, at the stage when the LDC is making offers to the owners it is acting as a developer and the owners are at liberty to refuse it. They could, I suppose, as between two willing parties, agree to arbitration; there is nothing to prevent them doing that. But should the owners of the property be dissatisfied with the price offered, all they really have to do is to reject LDC's offer and then the matter is in the hands of the Government as to whether to recommend a resumption to the Governor in Council and subsequently in the hands of the Governor in Council as to whether a resumption is to be approved. And at that stage, if a resumption is approved, then it becomes the Government's responsibility to make an offer of compensation to the owners and that of course is subject to the adjudication of the Lands Tribunal. So in the end an owner can always get a judicial adjudication in respect of the compensation to be paid.

MR MARTIN LEE: Mr Deputy President, bearing in mind that under the present practice individual flat owners are always bought out by the LDC acting usually in conjunction with a large land developer, and that the flat owners are paid compensation in case of a resumption by taking into account the market value of their flat but not the redevelopment potential of their flat, will consideration be given in future to encourage, or at least to allow, these individual flat owners to participate as small shareholders in the redevelopment scheme, if they so wish, so that they will get more equitable treatment?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, this is not a new idea and there is nothing in the Land Development Corporation Ordinance which prevents the Corporation from joining existing owners into a scheme. Indeed on occasions, owners of free-standing lots have been invited to join in LDC developments. But the Corporation's schemes inevitably take several years to reach fruition, bearing in mind all the acquisitions and the procedures involved, which is a very long time for a small owner to wait. Up till now the Corporation has not thought that the advantages which it could confer were worth the additional complications of having numbers of small owners as additional partners in a development scheme.

MR MAN SAI-CHEONG (in Cantonese): Mr Deputy President, the Government resumes land for redevelopment through the Land Development Corporation. May I ask whether the resumption exercises are adequately monitored by the Government or will they be open to abuse by the LDC? Are there any criticisms from the community in relation to the resumption exercises and are there a lot of disputes arising from them? Will this Council suggest better ways of monitoring the resumption exercises?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, in my main answer I mentioned one of the ways in which we monitor the LDC in its clearance activities in that we have to be satisfied of the fairness and reasonableness of the compensation and housing offers before agreeing to the resumption. And indeed, there have been considerable adjustments to the offers and arrangements for clearance and rehousing as a result of the Government's intervention. As regards the second point raised by Mr MAN, beyond the usual recourse of any owners or any members of the public to Legislative Councillors, at present I would not see any particular need for the Legislative Council to become directly involved. That function which the Legislative Councillors have, which goes for all citizens in all circumstances, is undoubtedly useful in itself and does help to put appropriate pressures on the Government, and through the Government, on the Corporation.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, having heard what have been said so far, I would like to ask the following questions: First, will the Government agree that there are some deficiencies in the Land Development Corporation which have

been the cause for so many objections from the community? Second, it has just been mentioned that the Governor in Council will agree to resumption provided that very reasonable prices are offered. As in the case of Li Chit Street in Wan Chai, the Corporation initially offered \$960,000 for the resumption of a flat. However, after some tenants voiced their objections, the Corporation offered \$1.2 million for a flat of the same size. The difference was an increase of 27%. In other words, the Corporation will offer higher prices if they are put under pressure. Will the Government admit to this? Third, will the Government consider putting under auction those pieces of land which have not been successfully resumed, so that they can be sold at more reasonable prices?

DEPUTY PRESIDENT: There are three questions there; one of these deals with a specific case. Are you able to deal with that part of it this afternoon?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I think I can probably deal with most of it. Urban renewal is a complex process and involves some trauma as is always the case throughout the world, even where the urban renewal areas are in poorer condition, more like slums than they actually are in Hong Kong. The LDC is feeling its way and it is not surprising that in the course of its early clearances it has had to adjust some of the offers, in some cases in response to the Government, and in other cases in response to the refusals of the owners to accept the offer. But I think that Members should not read into a situation, where a number of the owners reject the offers and where offers have to be revised, as one which is in any way out of order. I believe that when people in the urban area have seen more of the LDC in action, and when the LDC has more experience -- with the adjustment of offers it has made in the course of the five renewal schemes which it has already started -- things probably will go reasonably smoothly. Of course, even at that stage, there will be differences of opinion over values but I think that Mr CHIM's strictures on the Corporation may not be strictly fair and they may not at this stage be anything to seriously worry about.

MR MARTIN BARROW: Mr Deputy President, may I first of all congratulate the LDC on the redevelopment of the Western Market which was opened by His Excellency the Governor this morning. Notwithstanding the concerns that have been expressed by Members this afternoon, could the Secretary confirm that in further urban renewal

plans preservation of Hong Kong's heritage will be taken into account for the benefit of the community as a whole and the tourism industry in particular?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: I will be happy to confirm that. It is one of the particular principles of the Metroplan which was published last week that much more attention should be given to conservation of our heritage.

MR JAMES TO (in Cantonese): Mr Deputy President, the LDC mentions in its annual report that there are five methods of compensation. One of these is owners' participation as shareholders in redevelopment projects, another is flat for flat exchanges whereby owners are offered redeveloped flats on the original site. May I know if any offer in this manner has ever been made in the past and whether such a method will be adopted in the future? Have any feasibility studies been carried out in this respect? Furthermore, is the Secretary aware that the LDC has to provide appropriate housing arrangements for residents affected by the redevelopment projects?

DEPUTY PRESIDENT: Is it a point of order, Mr McGREGOR?

MR JIMMY McGREGOR: Yes, Mr Deputy President. These are questions which should be asked in single form. This point has been made many times, Mr Deputy President, and what I query is, if individual Members ask five or six or eight or 10 questions at one time, then the same number of Councillors will not be able to ask a single question, and I ask whether you could rule on that issue.

DEPUTY PRESIDENT: I can rule in so far as Standing Order 18(1)(d) states that a question shall not contain independent questions or be so complex that it cannot reasonably be answered as a single question. Now I do not think Mr TO has transgressed so far, but I would caution that you keep your questions short, Mr TO, bearing in mind that your question should not contain independent questions and it should not be so complex that it cannot be answered as a single question.

MR JAMES TO (in Cantonese): I will take that into consideration, Mr Deputy President.

The second part of my question refers to the reply of the Secretary in which he mentioned that the LDC had to provide appropriate housing arrangements for affected residents. Regarding this point in law, I wish to ask the Secretary if he is aware that the law only states that "an assessment should be made as to the appropriate housing arrangements for residents", and not that appropriate rehousing should be provided. If it is put in that manner, may I know if the wording is appropriate? If not, should it be amended?

DEPUTY PRESIDENT: Do you wish any part of the question put again, Mr Secretary?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I do find the situation a bit confused by the extreme complexity of the first part of Mr TO's question, and the intervention and subsequent resumption. And I think I could reply to the second part which was a rather simpler one. I will look at the issue of the wording of the Ordinance and ensure that it is appropriate to the situation. And if Mr TO could possibly phrase the nub of the first part of his question -- I remember the general context of it though -- to enumerate the actual things to which he wants an answer, that would be a great help to me.

DEPUTY PRESIDENT: Can you put it again please, Mr TO?

MR JAMES TO (in Cantonese): Put it simply, compensation can be in two ways -- one is LDC joining the owners into the scheme as shareholders, the other is a flat for flat exchanges. I would like to know if any feasibility studies have been carried out; if not, whether they had ever been proposed in the past; and if they had been proposed, whether they will be carried out in the future?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, of course what we are talking about is the LDC rather than the Government as such. As to whether they have any formal feasibility studies, these matters have been considered in the past. And I think I would prefer to let Mr TO have written information of the details at a later date, if I may. (Annex I)

Control of costs of medical services

2. MR MICHAEL HO asked (in Cantonese): In view of the current high inflation rate, will the Administration inform this Council:

(a) of the specific measures, if any, to control the rise in the cost of medical services in respect of the public sector and to avoid increasing the financial burden of the public in this respect;

(b) whether the fees and charges for medical services in respect of the public sector will be reviewed and, if so, the criteria on which the review will be made; and

(c) when the fees and charges for medical and health services in respect of the public sector will be revised again?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, I shall answer the three-part question seriatim:

(a) With advances in medical technology and rising public aspirations for more and better services, the cost for medical services is escalating the world over. The rise in the cost of medical services is not simply a matter of inflation. Hong Kong is no exception. However, Government is committed to improving the services to meet community needs. We are, of course, conscious of the need to contain cost and to maximize deployment of resources. This is particularly important bearing in mind that government expenditure on medical services is paid for from the public purse: that is to say shouldered by the public either through fees and charges or through general taxation (from different pockets of the same purse).

On specific measures to control cost of medical services, the establishment of the Hospital Authority is a major step in this direction. The objective behind its establishment is to improve cost-effectiveness in the better utilization of resources and to enhance operational efficiency through hospital management reforms.

It is well recognized that hospitalization is expensive. From the community health point of view, it is more cost-effective to keep people healthy and well and,

therefore, out of hospitals. In this light, Government is committed to improving primary health care and ambulatory care services.

In primary health services, we also aim to contain cost and ensure maximum cost-effectiveness. This is particularly relevant since primary health care is also participatory care. Our emphasis is on prevention, on health education and on promotion of self-care. The aim is to make for a healthy lifestyle and a healthier community as a whole.

Furthermore, it has been our practice to conduct value-for-money studies and to review, on an on-going basis, the effectiveness and efficiency of services delivered. Through these, we have streamlined procedures, eliminated outdated practices and introduced new ways of delivering services.

Health service delivery is labour-intensive. We have, as far as practicable, started to introduce automation and provide lay support to assist professional staff, so as to achieve the best value for money from our health care workforce.

Thus, a good deal has been done to control the rise in the cost of medical services. We will continue to explore other possibilities and implement further measures as practicable. Our objective is always to provide high-quality patient care in the most cost-effective way.

(b) As regards fees and charges for medical services, these are reviewed annually. Under existing policy, fees and charges at public hospitals and clinics are set at levels which reflect several considerations, including the fact that public sector hospital and clinic services are heavily subsidized. While charges should be generally affordable, patients are expected to make some contribution towards the cost of the services. This notwithstanding, nobody should be prevented, through lack of means, from obtaining adequate medical treatment.

In the light of escalating cost and various calls for review of the existing policy, we will be re-examining our fees and waiver arrangements. Our aim would be to achieve a more equitable distribution of responsibility between users and the general tax-payers, to allow greater choice for patients and to facilitate more cost-effective use of resources. It is worth noting here that the daily fee for in-patient treatment in general wards only recovers less than 3% of the total cost to the taxpayer.

As regards the final part of the question:

(c) No decision has been made on the timing of any future revision of fees and charges for medical and health services.

MR MICHAEL HO (in Cantonese): Mr Deputy President, in the first paragraph of part (b) in the main reply, it was mentioned that charges should be "generally affordable" and that patients were expected to pay more for medical services. Will the Administration inform this Council whether affordability of the community could be used as a criterion to determine the scale of increase for medical fees and charges, and how this "affordability" can be assessed?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, against the background of escalating costs and rising public aspirations, it is necessary to review and rationalize our current fees and waiver arrangements to meet changing community needs and local circumstances. I understand and acknowledge that fees and charges have always been complex, emotional, and they have philosophical dimensions. It goes beyond the question of simple calculation, or science, or economics. This is particularly so as it is difficult -- internationally it has been recognized to be difficult -- to measure the value of and the return on investment on health. At this stage, I have no preconceived idea as to what approach should be adopted to assess the affordability of the community, or the future determination of the rationale for fee review. Our concern is primarily with the continued accessibility of medical services to those who need treatment, also with a concept of equity in distribution of responsibility and flexibility of choice for patients. All options will be examined and all factors taken into consideration in this connection. I will also take into consideration a broad spectrum of views on what is meant by "affordability".

DR LEONG CHE-HUNG: Mr Deputy President, taking into consideration that costs of medical treatment are met from the public purse, will the Administration consider indicating to patients on discharge, or when they have completed their treatment in a clinic, the actual costs incurred during their treatment? If so, what sort of ways will the Administration use to tell patients; and if not, why not?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, this is a very interesting question which I will refer to the Hospital Authority. At the present moment the cost of medical treatment is not reflected in the charges. But in many countries overseas people do get information on the costs of the medical treatment and I think it could be one of the methods of billing but this is a procedural mechanism in fact. I will refer the question to the Hospital Authority.

DR LEONG CHE-HUNG: Mr Deputy President, could the Secretary answer the second part of my question which is: What about those patients who are treated in a clinic which belongs to the Department of Health?

SECRETARY FOR HEALTH AND WELFARE: I will give it some thought too. Thank you very much.

DR HUANG CHEN-YA (in Cantonese): Mr Deputy President, first of all, I would like to congratulate the Secretary on her eloquence. Also I am glad to hear that she has a good habit of reviewing the cost effectiveness and efficiency of medical services in Hong Kong in order to see if they are good value for money. I should therefore like to ask what areas are being looked into in respect of the surveys conducted by the Government at the moment? Is there any survey on, for example, the wastage of resources and the harm being done to the health of the community as a result of lacking a neurological rehabilitation unit in the territory?

DEPUTY PRESIDENT: Have you got the question, Secretary?

SECRETARY FOR HEALTH AND WELFARE: I think the question, Mr Deputy President, is outside my personal experience; and the complexity is out of my depth.

DEPUTY PRESIDENT: Dr HUANG, do you want to have your question replied to in writing?

DR HUANG CHEN-YA: Yes, I would like to have it in writing as to the areas that the Department of Health is looking into regarding measurements of cost effectiveness and efficiency. Thank you, Mr Deputy President.

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, I think I now understand the question. May I attempt to answer the question of value for money and where the areas are where costing can be undertaken. I would like to take this opportunity to say that in medical services it is easy to add up costs but less so to measure cost effectiveness, because on the question of value for money, theoretically cost effectiveness is measured by comparing the output with the amount of input. This would mean, for clinical treatments, a comparison of expenditure between units, and the success rate of treatments given; even less still, to assess value for money, the same approach cannot be readily applied in preventive medicine where the outcome is not immediately apparent and may at times be obscured by other extraneous factors. So the concept of unit costs and value for money has been challenging the minds of better people than myself and I would in due course attempt to answer in writing more philosophically and with more scientific calculation on the comparison of unit costs and how to achieve cost effectiveness. (Annex II)

DEPUTY PRESIDENT: You have got to make this short, Dr HUANG. It is not another question, is it?

DR HUANG CHEN-YA: No, Mr Deputy President, it is just a very short follow-up and it is simply to ask whether Government can consider consulting health economists and epidemiologists as to how to conduct these surveys that the Secretary finds difficulty with?

SECRETARY FOR HEALTH AND WELFARE: In fact, Mr Deputy President, as regards health economics, the whole subject is very new. Internationally, there are not many specialists around. One can always proclaim to be a self-appointed specialist, and there are many self-appointed specialists in Hong Kong. I hope I have the advantage of seeking their advice, in Hong Kong, at some later stage.

MR PETER WONG: Mr Deputy President, will the Administration inform this Council whether it has any policy on the amount of GDP that should be spent on health care, and in particular what is being spent and will be spent on automation in the health care sector?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, the manner of funding medical services in Hong Kong is quite different from that of other countries. We fund through annual exercises, through the estimates and by the amount of money allocated to it, rather than by a predetermined percentage of the GDP.

Protection of Wages on Insolvency Fund

3. MR TAM YIU-CHUNG asked (in Cantonese): According to the Annual Report of the Protection of Wages on Insolvency Fund Board for 1990-91, about 33% of the applications for ex-gratia payments for arrears of wages and 51% of the applications for payments for wages in lieu of notice involved amounts exceeding the respective maximum coverage of \$8,000 and \$2,000 respectively. Will Government inform this Council whether there are any plans to review the existing maximum coverage for these two types of payment?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the Protection of Wages on Insolvency Fund came into operation in April 1985. Since then three reviews have been conducted in 1986, 1988 and 1990, and have resulted in progressive extensions of the coverage of the Fund. Specifically, the Fund, which originally covered arrears of wages only, was extended in 1987 to cover seven days' wages in lieu of notice up to \$2,000, and in 1989, to severance payment up to \$4,000; in 1991, the maximum coverage of severance payment was increased to \$8,000 plus 50% of any entitlement in excess of \$8,000.

The maximum levels of payment from the Protection of Wages on Insolvency Fund will continue to be reviewed periodically. The next review is due to be conducted in July 1992.

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, I agree that successive

improvements have been made to the Protection of Wages on Insolvency Fund since it first came into operation. But regarding arrears of wages and wages in lieu of notice, I raised before this Council in May 1986 the question of further improvement to the maximum payments. Yet I gather from the second part of the Secretary's reply that the Administration does not see the urgency in the matter. Is the Secretary aware that the present upper limit on payment of arrears of wages was based on the 1977 figure of \$2,000 an average worker could earn a month which is very much lower than the going rate of wages? Is it inadequate or unfair to the employee who applies for a payment that exceeds the limit?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, I shall certainly look into Mr TAM's points. One other relevant factor is that the limits on maximum payments for wages in arrears and wages in lieu of notice are also related to the limits stipulated in the Companies Ordinance and the Bankruptcy Ordinance on preferential debts in a liquidation or bankruptcy proceeding.

MR PANG CHUN-HOI (in Cantonese): Mr Deputy President, despite the three extensions of coverage as mentioned in the Secretary's reply, the relevant payment under the Protection of Wages on Insolvency Fund is still based on the figure of \$2,000. So the present method of calculating employees' compensation and long service payment is in fact out-of-date. What the Secretary meant is that a review will be made every two years, in which case the next review will be in July next year. But in view of the fact that the going rate of wages is way above the basis on which payments are calculated, will the Administration consider conducting the next review at an earlier date?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the latest improvement to the Protection of Wages on Insolvency Fund only came into effect recently and I think it would be fair to allow time for the effect of the latest improvement to be observed before we launch into the next review. As regards the question as to why these limits have not been increased in the past, they have been looked at in the context of the previous reviews and it was the conclusion of the successive reviews that perhaps greater priority should be accorded to the other improvements which have been introduced.

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy President, the severance or long service payment is the largest sum of compensation an employee can get in his lifetime. Will the Administration inform this Council, in reviewing the Protection of Wages on Insolvency Fund, whether due regard would be given to the fact that the present rate of severance or long service payment up to \$6,000 is out of step with reality? Also, will consideration be given to the fact that applications for payments of wage arrears normally increase after the New Year? In order to protect the interests of the employees, the Administration should not wait until July 1992 to carry out another review. Would the Administration conduct an earlier review on the levels of severance and long service payments and on the overall situation in relation to arrears of wages?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, I shall certainly consider the suggestion made by Mr LAU.

MR PETER WONG: Mr Deputy President, will the Secretary please inform this Council, what the rationale is for arriving at the seven days' wages in lieu of notice and the various levels of payment, and whether that rationale is still relevant today?

SECRETARY FOR EDUCATION AND MANPOWER: Basically, Mr Deputy President, the Protection of Wages on Insolvency Fund is a kind of insurance policy which would enable workers, who have claims to make in a situation where an employer is involved in bankruptcy proceedings, to obtain a quick and easy form of payment. Now as I said earlier, the maximum rates of payment for arrears of wages and wages in lieu of notice are related to the maximum limits under the Companies Ordinance and the Bankruptcy Ordinance on preferential debts in bankruptcy and liquidation proceedings. This is the basic rationale on the basis of which the limits were originally established. Of course, when we review the operation of the fund, we will look into whether the various limits stipulated continue to reflect current circumstances and continue to be sufficient to cover present-day needs.

One point I would wish to make, of course, is that normally in any liquidation or bankruptcy proceeding there is a finite amount of money available for distribution to creditors, and an upward adjustment in the preferential limit could affect the

interests of the lower-paid workers as against the interests of the higher-paid workers.

Written answers to questions

Secondary school places in Tuen Mun

4. MR NG MING-YUM asked: Will Government inform this Council:

(a) of the provision of and demand for secondary school places in Tuen Mun in the past decade;

(b) of the number of Government and subsidized secondary schools in Tuen Mun at present; the number of schools with floating classes and the manner in which these floating classes are distributed;

(c) of the estimated demand of secondary school places in Tuen Mun in the next decade;

(d) of the number of new secondary school premises to be built in Tuen Mun in each of the next 10 years and the total number of school places to be provided by these schools;

(e) of the measures that will be taken to ensure that there will not be an imbalance in the provision of and demand for secondary school places in Tuen Mun in the next decade;

(f) of the way in which surplus school places may be put to better use; and

(g) of the remedial measures that will be taken to ensure an adequate provision of school places?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the answers are as follows

-

(a) The provision of secondary school places and the demand for Secondary I places

in Tuen Mun are given below. The demand figures are actual Secondary School Places Allocation figures.

| Year | Demand for S1 places | Provision of S1 places | sec sch places (S1-S7) |
|------|----------------------|------------------------|------------------------|
| 1982 | 2 043 | 3 624 | 15 364 |
| 1983 | 2 859 | 3 624 | 17 229 |
| 1984 | 3 877 | 3 904 | 18 417 |
| 1985 | 4 760 | 4 094 | 18 930 |
| 1986 | 6 223 | 4 778 | 20 310 |
| 1987 | 6 867 | 5 918 | 22 920 |
| 1988 | 7 634 | 6 989 | 26 880 |
| 1989 | 8 611 | 7 825 | 31 200 |
| 1990 | 9 078 | 8 019 | 34 700 |
| 1991 | 9 224 | 8 239 | 36 700 |

(b) At present there are two government secondary schools and 30 aided secondary schools in Tuen Mun. All of them have or will have floating classes. The existing practice is that an old standard-design secondary school (with 24 classrooms and 12 special rooms) can operate a maximum of 30 classes (including up to six floating classes) while a new standard-design secondary school (with 26 classrooms and 14 special rooms) can operate a maximum of 30 classes (including up to four floating classes), if the need arises.

(c) It is not possible to give the estimated demand for secondary school places in Tuen Mun in the next decade, since demand figures are calculated for the territory as a whole and not for individual districts. The Government's policy is to provide secondary school places up to the approved targets on a territory-wide basis.

(d) At present, the Government plans to build six more secondary schools in Tuen Mun in the next decade. The total number of places provided by these schools will be 6 960. The details are as follows -

Public Works

| Programme | Expected year | School places |
|----------------------|---------------|---------------|
| Project No. Area | of completion | provided |
| 83 ES Area 2B | 1992-93 | 1 160 |
| " Area 2B | 1992-93 | 1 160 |
| (Priv Arch) Area 31A | 1993 | 1 160 |
| 57 ES Area 16 | 1996-97 | 1 160 |
| " Area 16 | 1996-97 | 1 160 |
| 62 ES Area 31A | 1996-97 | 1 160 |

(e) The school building programme is closely monitored to ensure that the total number of school places in the territory as a whole is adequate to meet the demand of all districts at all times. Every effort is made to minimize district imbalances by siting new schools in areas where they are needed or by adjusting the school nets for the allocation of secondary school places. However, it is not possible to achieve a complete balance of supply and demand in each individual district due to frequent demographic changes.

(f) Floating classes will be reduced.

(g) In addition to the above, one of the measures being taken by the Education Department to cope with high demand is to advise schools to operate more lower form classes at the initial stage by adopting the 8-8-8-4-4 class structure. Other measures may include advanced opening of new schools in borrowed or shared premises.

Maltreatment of imported workers

5. MISS EMILY LAU asked: Regarding recent media report on alleged wage deduction and unreasonable dismissal of 18 imported workers from China, will the Government inform this Council:

(i) whether the incident is now being investigated and if so, when the investigation will be completed; whether this Council will be informed of the findings of such investigation;

(ii) what measures will be taken to assist foreign workers whose wages have been deducted, in particular those who have left Hong Kong after the dismissal, to claim their wages in arrears;

(iii) of the number of complaint cases concerning wage deduction since the implementation of the labour importation schemes; the number of successful prosecution cases and the average and the highest amount of fines imposed; and

(iv) what short-term and long-term measures will be taken to ensure that foreign workers are adequately protected by local labour legislation?

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the answers to Miss LAU's questions are as follows:

(1) As regards the specific case involving 18 imported workers who alleged that their wages had been underpaid and that they had been unreasonably dismissed, four of the workers have decided to take their case to the Labour Tribunal for adjudication while the remainder have decided not to pursue their claims. The Labour Tribunal hearing is scheduled for 11 December 1991. The Labour Department is taking separate action to investigate whether the employer concerned has contravened the Employment Ordinance. It is not possible at this stage to predict how long these investigations will take. They are, however, being undertaken as a matter of urgency. Once the results are available I shall inform the Council in writing. (Annex III)

(2) The Labour Department intervenes by asking the employer concerned to pay back any outstanding wages. Should there be any dispute between the employer and the worker about any deduction or underpayment, the case will be referred to the Labour Tribunal for adjudication. The Department provides assistance to the workers concerned in applying for extensions of stay so as to enable them to pursue their claims. The Department also assists workers who have been dismissed as a result of their complaints to find alternative employment.

(3) The Labour Department has detected 334 suspected items of wage underpayment and deduction (up to end-October 1991) during inspections including complaints received from foreign workers. Fifty-three items have been substantiated and the rest are either unsubstantiated or still under investigation. Up to 22 November 1991, one employer has been convicted for underpayment of wages and was fined \$1,000 for

each of the two summonses. Prosecution action has been initiated against four other employers and is being considered against nine other employers. In addition, two other cases have been referred to the Labour Tribunal which are still pending.

(4) As regards measures to ensure that foreign workers are protected under local labour legislation, the Labour Department has already stepped up its enforcement action. A total of 1 540 inspections (covering 60% of imported workers) were made to places of employment and living quarters of the imported workers in September and October 1991. The Labour Inspectors have been distributing to individual workers information regarding their rights and entitlements, including the wages prescribed in their employment contracts. Employers have been advised in writing and in person that wages should be paid directly into the bank accounts of imported workers.

In addition, at the time of application for visa extension for imported workers (upon completion of one year's service), the Director of Immigration will require employers to certify that wages as stipulated in the employment contracts are being paid. Provision of false information is liable to a maximum fine of \$50,000 or 14 years imprisonment under the Immigration Ordinance.

In future, the contract of employment will contain a specific clause requiring payment of wages to the worker's bank account. We intend to propose legislative amendments to increase substantially the penalties for offences relating to unlawful deduction and underpayment of wages.

Arms in Vietnamese boat people detention centres

6. MR LAU WONG-FAT asked: Will Government inform this Council how it is possible that Vietnamese boat people in detention centres can have access to and make weapons continuously; whether measures have been taken by the Administration to deal with the problem; and whether there is legislation to prevent boat people from producing or being in possession of such weapons; and if so, whether prosecution has ever been initiated against them in this connection?

SECRETARY FOR SECURITY: Mr Deputy President, past experience shows that weapons are made within the centres and not obtained from outside. They are manufactured from metal or other hard fixtures and fittings in the centres, such as railings from the bunk beds, electrical wire tubing, water pipes, window frames and window bars. The work is carried out mostly at night. Given the size of the camps and the overcrowded

conditions, camp managements do all they can to prevent these activities.

Weapons are produced primarily because of the factional rivalries in the detention centres. We try as far as possible to take into account places of origin and to keep different regional groups apart in an attempt to minimize these factional rivalries. However, disputes also often arise between different local groups or simply between gangs from within the same area.

We are also trying to reduce the raw materials available for production of weapons. Whenever major fittings or installations are replaced in the centres, non-metal components, such as fibre glass or plastic, are used as far as practicable. It is, however, impossible to eliminate all metal or other hard materials from the centres.

Regular weapons searches are conducted in each centre, and special operations with police reinforcements are carried out from time to time.

Production and possession of offensive weapons in detention centres is punishable under the Summary Offences Ordinance, and under the Immigration (Vietnamese Boat People) (Detention Centre) Rules 1989 made under the Immigration Ordinance.

As dormitories in the centres are congested, with bunks and the personal belongings of Vietnamese migrants, it is sometimes difficult to identify the owners of any weapons discovered. Nevertheless, whenever sufficient evidence is available to support a prosecution, charges are brought against the offenders. A check of court and police records indicates that, between January 1989 and June 1991, 233 Vietnamese migrants were charged with possession of offensive weapons under section 17 of the Summary Offences Ordinance. 143 were convicted. Sentences imposed ranged from 14 days to 18 months.

Criminals carrying firearms at the time of an offence

7. MR JIMMY MCGREGOR asked: Given the increasing use of dangerous weapons and firearms by criminals in Hong Kong, will the Government consider establishing a statutory minimum sentence of 10 years imprisonment for any person found guilty of having in his possession at the time of an offence any firearm whether or not the firearm was used in the commission of a criminal act?

SECRETARY FOR SECURITY: Mr Deputy President, we have no plans to propose a minimum sentence for these offences.

The maximum penalty for possession of firearms without a licence is a fine of \$100,000 and imprisonment for 14 years; for robbery it is life imprisonment; and for carrying firearms or imitation firearms with intent to commit an arrestable offence, it is also life imprisonment.

The present maximum penalties are, by any standards, severe and we believe they are adequate. The Attorney General is empowered to seek a review of the sentence in a particular case if he considers that it is manifestly inadequate or wrong in principle.

Crime rate in Tsuen Wan and Kwai Tsing Districts

8. MR LEE WING-TAT asked: Regarding the law and order situation in Tsuen Wan and Kwai Tsing Districts, will Government inform this Council of the following:

(i) the quarterly total crime figures in these two districts during the past year with a breakdown showing the different categories of these crimes;

(ii) the measures to be taken by the police to curb the increase of various crimes which were on an upward trend in the past year;

(iii) whether there is a shortage of police officers in these two districts and, if so, how serious the shortage is; and

(iv) how the local residents can obtain crime data on these two districts?

SECRETARY FOR SECURITY: Mr Deputy President, a comparison of total crime statistics in the first three quarters of 1991 with the same period in 1990 shows a rise of 18.6% in Tsuen Wan District and 12.4% in Kwai Chung District. Detailed crime statistics are at Annexes A and B.

The police are taking various measures to combat increasing crime in these two

districts . They have strengthened policing at street level and stepped up investigation work. Policing in the streets by officers of the districts is augmented by patrols by the Police Tactical Unit and Emergency Unit. In September this year, an extra Police Tactical Unit company of 160 men was deployed to the New Territories Region to provide additional coverage.

The establishment and strength of disciplined staff in the Tsuen Wan Police District are 590 and 515, and in the Kwai Chung Police District 522 and 425 respectively. Vacancies are mostly in the uniformed branch. CID units are generally at full strength. Overall, the police at present have an establishment of 24 288 Junior Police Officers with 23 329 officers in post. Every effort is being made by the District Commanders to ensure that the maximum manpower is deployed to operational duties and to maintain the police presence on the ground. The Police Tactical Unit and Emergency Units are kept at full strength.

There are established channels of communication through which members of the community are informed of the crime situation in the district in which they live. These include the District Board, District Fight Crime Committee, and Area Committees, all of which are attended by police officers. Individual members of the public who are concerned about any particular category of crime may obtain the information they require from the Police Community Relations Officer in each district.

Annex A

Total Crime in Tsuen Wan District

| | 1990 Reported | 1991 Reported |
|--------------|------------------|------------------|
| 1st quarter | 1 178 | 1 417 |
| 2nd quarter | 1 274 | 1 580 |
| 3rd quarter | 1 534 | 1 728 |
| 4th quarter | 1 570 | |
| Annual total | 5 551 | (4 725) |

Crime Statistics for Tsuen Wan District

| | 1990 | | 1991 | | Changes | | Changes | |
|--|---------|-----|---------|------|---------|---|---------|-------|
| | (1-3/Q) | | (1-3/Q) | | (Nos.) | | (%) | |
| Rape | 2 | 4 | +2 | +100 | | | | |
| Indecent assault | | | 41 | 37 | -4 | | -9.8 | |
| Murder & manslaughter | | | | | 6 | 4 | -2 | -33.3 |
| Wounding | | | 85 | 54 | -31 | | -36.5 | |
| Serious assaults | | | 225 | 259 | +34 | | +15.1 | |
| Robbery with firearms | | | | | 2 | 0 | -2 | -100 |
| Robbery with PLOs | | | 14 | 28 | +14 | | +100 | |
| Other robberies | 368 | 542 | +174 | | | | +47.3 | |
| Blackmail | | | 57 | 21 | -36 | | -63.2 | |
| Burglary | 732 | 799 | +77 | | | | +10.7 | |
| Theft from vehicle | | | 262 | 272 | +20 | | +7.9 | |
| Taking conveyance without authority | | | 342 | 381 | +39 | | +11.4 | |

Quarterly Statistics of Tsuen Wan District for the years 1990 and 1991

| | 1st Quarter | | 2nd Quarter | | 3rd Quarter | | 4th Quarter | | 1st Quarter | | 2nd Quarter | | 3rd | |
|-------------------------------------|-------------|-----|-------------|-----|-------------|-----|-------------|----|-------------|----|-------------|--|--------|--|
| | (1990) | | (1990) | | (1990) | | (1990) | | (1991) | | (1991) | | (1991) | |
| Rape | 0 | 1 | 1 | 5 | 1 | 2 | 1 | | | | | | | |
| Indecent assault | | | | 7 | 19 | 15 | 20 | 11 | 10 | 16 | | | | |
| Murder and manslaughter | 1 | 1 | 4 | 4 | 1 | 1 | 2 | | | | | | | |
| Wounding | 20 | 19 | 46 | 21 | 19 | 17 | 18 | | | | | | | |
| Serious assaults | | | | 70 | 77 | 78 | 53 | 65 | 95 | 99 | | | | |
| Robbery with firearms | | | | 1 | 0 | 1 | 1 | 0 | 0 | 0 | | | | |
| Robbery with pistol like objects | | | | 4 | 7 | 3 | 6 | 14 | 7 | 7 | | | | |
| Other robberies | 103 | 122 | 143 | 154 | 150 | 165 | 227 | | | | | | | |
| Blackmail | 18 | 18 | 21 | 15 | 8 | 7 | 6 | | | | | | | |
| Burglary | 212 | 215 | 295 | 335 | 275 | 259 | 265 | | | | | | | |
| Theft from | 82 | 75 | 95 | 78 | 91 | 79 | 102 | | | | | | | |

vehicle

Taking conveyance 86 134 122 112 117 127 137
without authority

Annex B

Total Crime in Kwai Chung District

| | 1990 | 1991 |
|--------------|----------|----------|
| | Reported | Reported |
| 1st quarter | 801 | 985 |
| 2nd quarter | 867 | 952 |
| 3rd quarter | 1 026 | 1 093 |
| 4th quarter | 1 002 | |
| Annual Total | 3 696 | (3 030) |

Crime Statistics for Kwai Chung District

| | 1990 | 1991 | Changes | Changes |
|-----------------------|---------|---------|---------|-----------|
| | (1-3/Q) | (1-3/Q) | (Nos.) | (%) |
| Rape | 2 | 5 | +3 | +150 |
| Indecent assault | | 32 | 37 | +5 +15.6 |
| Murder & manslaughter | | 9 | 2 | -7 -77.8 |
| Wounding | 43 | 49 | +6 | +14 |
| Serious assaults | 195 | 218 | +23 | +11.8 |
| Robbery with firearms | | 0 | 0 | 0 0 |
| Robbery with PLOs | | 3 | 8 | +5 +166.7 |
| Other robberies | 266 | 340 | +74 | +27.8 |
| Blackmail | 13 | 28 | +15 | +115.4 |
| Burglary | 480 | 557 | +77 | +16 |
| Theft from vehicle | 159 | 182 | +23 | +14.5 |
| Taking conveyance | 204 | 252 | +48 | +23.5 |
| without authority | | | | |

Quarterly Statistics of Kwai Chung District for the years 1990 and 1991

| | 1st Quarter Quarter (1990) | | 2nd Quarter (1990) | | 3rd Quarter (1990) | | 4th Quarter (1990) | | 1st Quarter (1991) | | 2nd Quarter (1991) | | 3rd Quarter | |
|--|----------------------------------|-----|-----------------------|-----|-----------------------|-----|-----------------------|----|-----------------------|----|-----------------------|--|----------------|--|
| Rape | 1 | 1 | 0 | 1 | 5 | 0 | 0 | | | | | | | |
| Indecent assault | | | | 7 | 9 | 16 | 11 | 5 | 21 | 11 | | | | |
| Murder and manslaughter | 3 | 1 | 5 | 2 | 1 | 1 | 0 | | | | | | | |
| Wounding | 10 | 15 | 18 | 15 | 13 | 21 | 15 | | | | | | | |
| Serious assaults | | | | 47 | 62 | 86 | 76 | 58 | 72 | 88 | | | | |
| Robbery with firearms | | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | |
| Robbery with pistol like objects | | | 1 | 2 | 0 | 5 | 2 | 5 | 1 | | | | | |
| Other robberies | 69 | 79 | 118 | 90 | 86 | 122 | 132 | | | | | | | |
| Blackmail | 3 | 5 | 5 | 10 | 13 | 4 | 11 | | | | | | | |
| Burglary | 118 | 171 | 191 | 174 | 177 | 177 | 203 | | | | | | | |
| Theft from vehicle | 64 | 52 | 43 | 36 | 59 | 56 | 67 | | | | | | | |
| Taking conveyance without authority | | | 61 | 75 | 68 | 85 | 59 | 83 | 110 | | | | | |

Death certificates issued by China for Hong Kong residents

9. MR LEE WING-TAT asked: Regarding the death certificates issued by the different levels of government administration in China in respect of Hong Kong citizens who unfortunately passed away in mainland China, will Government inform this Council -

(i) whether such certificates are recognized by the Hong Kong Government;

(ii) what assistance it will provide to the citizens who have difficulties in obtaining such certificates in respect of their friends or relatives who have passed away whilst in mainland China; and

(iii) whether standing channels have been established between the Hong Kong Government and the different levels of government administration in China to handle the above problems; if so, how long does it normally take to solve the problems; if not, what the reasons are?

SECRETARY FOR SECURITY: Mr Deputy President, we recognize death certificates issued by the relevant Chinese authorities in respect of Hong Kong residents who die in China.

Registration of deaths which occur in China is a matter for the Chinese Government. Our advice to persons who encounter difficulties in obtaining such certificates for their friends or relatives is to approach the local branch of the New China News Agency.

The Director of Immigration has not come across any cases where problems have been encountered in obtaining death certificates in respect of Hong Kong residents who die in China. For that reason, we have not established any special channels of communication on this matter with the Chinese authorities. However, if we do receive any requests for assistance, we would be prepared to take up the matter with the NCNA.

Completion dates for residential developments

10. MR FREDERICK FUNG asked: Will Government inform this Council whether in approving projects for residential development, a time limit is imposed on the completion of the projects?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, where land is granted by the Government for residential, or indeed other, development, a time limit for completion of the development is imposed under the building covenant contained in the conditions of the grant. A typical covenant for residential development would be 36 months. For particularly large and more complicated development, it might be longer and might be phased.

Extension of franchise for China Light & Power

11. MR FRED LI asked: Will the Government inform this Council

(a) whether it has consulted any groups or individuals prior to reaching agreement in principle with the China Light & Power Company Limited and its associated companies on extension of the franchise for another 15 years and on the terms of the profit control scheme, and if so, which groups or individuals have been consulted; and

(b) what is the reason for entering into an agreement with the companies just a few days before the Legislative Council debate on the control schemes and franchise agreements with public utility and transport companies, without giving consideration to the views that might be expressed by Members in the debate?

SECRETARY FOR ECONOMIC SERVICES: Mr Deputy President, I should first make clear that the China Light & Power Company Limited (CLP) does not have a franchise or any exclusive rights from Government to supply electricity. The present Scheme of Control Agreement (SCA) between Government and CLP, Exxon and their associated generating companies (the Companies), which expires on 30 September 1993, is a voluntary agreement on mutually agreed terms. Without this voluntary agreement Government would have no right to examine the expansion plans of the Companies or to approve their tariffs.

As regards (a) the negotiations leading up to the agreement in principle with the Companies on the extension of the SCA for a further 15 years from 1993 were conducted in confidence and no specific consultation was held with groups or individuals. However, the Agreement has been published in English and Chinese since 1982 and, over the years, the Government has taken careful note of the views expressed on its terms by the public, in the media and following from presentations given to interested parties, such as OMELCO and the Consumer Council.

While there has been little, if any, adverse comment on electricity tariff levels or the reliability of supply, concerns have been expressed on the rate of permitted return, on the potential scope for the Companies to over-build capacity in order to earn more profit and on the effect of electricity production on the environment.

All these concerns were taken fully into account by the Administration during

the course of the extensive and protracted negotiations with the Companies and, as a result, a number of changes to the terms of the new SCA have been agreed to strengthen the Government's ability to monitor the performance of the Companies.

As regards (b) negotiations with the Companies on the renewal of the SCA commenced in January 1991. There was some urgency in completing the negotiations because the Companies will shortly need to begin raising finance for the construction of the proposed new power station at Black Point, the first units of which will be needed sometime between 1996 and 1998. Some potential investors have made clear that they consider agreement on the terms of the new SCA to be a prerequisite to major loan finance for the project.

Negotiations were concluded in September following which the revised terms of the new SCA were approved in principle by the Executive Council in October. Arrangements were made for a full briefing of OMELCO Members as soon as possible after the establishment of the Economic Services and Public Utilities Panel. This briefing took place on 11 November.

In accordance with arrangements which have been agreed in the JLG, to keep the Chinese Government informed of major franchises which extend beyond 1997, the Chinese side have been given an opportunity to express their views on the new agreement before it is finalized.

As I said during the Legislative Council debate on schemes of control and franchise arrangements, which took place on 13 November, the Government has seriously taken into account the views of the public before reaching agreement in principle with the Companies. The Government is satisfied that the terms of the new SCA provide for an appropriate balance between the interests of consumers and shareholders.

PADS projects consultancy

12. MR EDWARD HO asked: Will Government inform this Council whether in awarding consultancy contracts to foreign firms for the Port and Airport Development Strategy projects, due consideration would be given to (a) the local working experience of such firms, (b) the feasibility of requiring firms which do not have local working experience to associate themselves with local firms, and (c) the possibility that such local association would enable technology transfer to professionals in Hong

Kong?

SECRETARY FOR WORKS: Mr Deputy President,

(a) when Government considers employing a firm of engineering consultants, local or overseas, to carry out public works projects including those under the Airport Core Programme, a qualitative appraisal and assessment is made as to the bidding firms' capabilities and suitability to carry out the specific project. The assessment based on information provided by the bidder takes into account, inter alia, the following:

(i) previous experience in the type of project envisaged, both in Hong Kong and elsewhere;

(ii) its general performance record;

(iii) its capabilities for the size of project envisaged;

(iv) the strength of its local personnel, and in particular local partners;
and

(v) its experience with Hong Kong Government as the client.

Overseas firms which are employed to carry out work for Government are required to establish and maintain, for the duration of their engagement, an office in Hong Kong under the direction of a Project Director who has to have sufficient authority and adequate qualified professional, technical and administrative staff of sufficient size to ensure progress to the satisfaction of Government.

(b) There is no requirement which compels firms without local working experience to associate with local firms, if they are to work on government projects. Such associations do occur naturally however, to meet the requirements of individual consultancy briefs.

(c) When foreign consultants work in Hong Kong they normally employ local professionals. Also government professional staff in their consultant management capacity have close involvement with these firms. These together with the frequent practice of local and foreign firms coming together in consortia, or local firms

engaging foreign specialist firms as sub-consultants, provide the close associations which result in technology transfer from foreign firms to local professionals.

Motion

TELEPHONE ORDINANCE

THE SECRETARY FOR ECONOMIC SERVICES moved the following motion:

"That the Schedule to the Telephone Ordinance be amended -

(a) in Part V -

(i) by adding after item 25 -

"26. Surcharge for duplex \$216
ringing feature per annum
(see Note 9)"; and

(ii) by adding after Note 8 -

"9. The duplex ringing feature provides 2 directory numbers (with different ringing tones) on a single direct exchange line."; and

(b) in Part VI by adding after item 5(c) -

"(d) Alteration of the terminating \$90".
number schedule

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

Under section 26(1) of the Telephone Ordinance (Chapter 269) the Hong Kong Telephone Company may levy charges not exceeding those specified in the Schedule to the Ordinance. Section 26(2) of the Ordinance gives this Council the power to approve amendments, including additions, to the Schedule, by means of a resolution.

The Telephone Company wishes to offer two new services not listed at the Schedule, namely: Duplex Ringing Feature and Daytime Manager Alteration.

The Duplex Ringing Feature will provide two directory numbers with different ringing tones on one telephone line. This will allow subscribers to use a single line for a telephone and a facsimile machine, with separate numbers. Alternatively the different ringing tones for the different numbers could be used to distinguish domestic from business calls, or calls to different users of the same telephone. The company proposes to charge an extra \$216 annually per line for this optional feature. This works out at an extra \$18 per month.

The Telephone Company currently runs a service called International Toll-Free Service. This service allows people outside Hong Kong to call local subscribers free of charge on international toll-free numbers in response, for example, to a business promotion. The call charges are paid for by the local subscribers. As part of the service, the company provides, free of charge, a "daytime manager" service. This enables local subscribers to route incoming toll-free calls to different telephones at different times of the day. The company now wishes to provide for alterations to the original call routing at a cost of \$90 per alteration.

The resolution before this Council seeks to add the charges for these new services to the Schedule to the Telephone Ordinance. I have examined the proposed charges, and consider them to be a reasonable reflection of the cost of providing the services.

Mr Deputy President, I beg to move.

Question on the motion proposed, put and agreed to.

First Reading of Bills

INLAND REVENUE (AMENDMENT) (NO. 5) BILL 1991

BROADCASTING AUTHORITY (AMENDMENT) BILL 1991

COPYRIGHT (AMENDMENT) BILL 1991

Bills read the First time and ordered to be set down for Second Reading pursuant to

Standing Order 41(3).

Second Reading of Bills

INLAND REVENUE (AMENDMENT) (NO. 5) BILL 1991

THE SECRETARY FOR THE TREASURY moved the Second Reading of: "A Bill to amend the Inland Revenue Ordinance."

He said: Mr Deputy President, I move that the Inland Revenue (Amendment) (No. 5) Bill 1991 be read the Second time. The Bill is designed to limit the scope for tax avoidance or minimization in two important but unrelated areas.

The first part of the Bill seeks to prevent exploitation for tax avoidance purposes of section 16E of the Inland Revenue Ordinance. This section was designed to encourage the upgrading of technology in Hong Kong, by allowing capital expenditure incurred on the purchase of patent rights, or rights to any trademark or design to be deducted for tax purposes. However, it has become clear that it is often used for transactions which are completely unconnected with the upgrading of technology.

In his speech concluding the Budget debate on 17 April 1991, the Financial Secretary announced the Government's intention to close this avoidance loophole by introducing legislation to define more strictly the type of expenditure which would qualify for deduction. To delay action until the enactment of legislation would have put large sums of revenue at risk. He therefore indicated that, subject to their being passed by the Legislative Council, the proposed amendments would apply to transactions entered into on or after 18 April 1991. Clause 2 of the Bill now before Members would amend section 16E of the Inland Revenue Ordinance accordingly.

The second part of the Bill deals with leveraged leasing. In 1986, legislation was introduced to restrict depreciation allowances for tax purposes where a ship or aircraft had been acquired through a leveraged lease transaction, and the user of the ship or aircraft was not a Hong Kong operator. Since 1986, however, many instances have been encountered where a foreign operator of a ship or aircraft would be able to enjoy an allowance for depreciation under the law as it now stands. The

amount of tax leakage involved has been substantial.

Clauses 3 and 4 of the Bill would amend the Ordinance by denying depreciation allowances to all foreign operators of ships and aircraft. Moreover, the share of any partner's loss from such a partnership that can be set off against his other income would be restricted to the amount he actually had at risk in the partnership. As the Financial Secretary informed this Council on 14 November 1990, these provisions would generally apply to transactions entered into on or after 15 November 1990. Public knowledge of this timing has pre-empted a mass of transactions, with massive revenue loss implications, following the Financial Secretary's announcement.

The tax avoidance and minimization that this Bill seeks to prevent would, if not stopped, continue to result in the loss or deferral of tax revenues estimated at hundreds of millions of dollars a year. This loss, if not stopped, would certainly have to be made up elsewhere.

Mr Deputy President, I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

BROADCASTING AUTHORITY (AMENDMENT) BILL 1991

THE SECRETARY FOR RECREATION AND CULTURE moved the Second Reading of: "A Bill to amend the Broadcasting Authority Ordinance."

He said: Mr Deputy President, I move the Second Reading of the Broadcasting Authority (Amendment) Bill 1991. The Bill is to empower the Broadcasting Authority to regulate the non-technical aspects of HutchVision's satellite television uplink and downlink licence.

On 18 December 1990, the Governor in Council approved the award of a satellite uplink and downlink licence to HutchVision Hong Kong Limited. On 15 October 1991, the Governor in Council further advised that HutchVision's licence should be amended to allow HutchVision to carry sound services.

Under the existing legislation, the Broadcasting Authority (BA) does not have the power to regulate directly satellite television and satellite radio services.

This means that the sole authority for HutchVision's licence has been the Telecommunications Authority (TA) who, in respect of the non-technical aspects such as programme content and advertising standards, is obliged only to consult the BA and no others. This is not in line with the existing arrangement for the regulation of sound broadcasting and off-air television broadcasting under which the BA and the TA are the authorities for non-technical aspects and technical aspects respectively. It is therefore necessary to amend the Broadcasting Authority Ordinance so that the BA can regulate the non-technical aspects of HutchVision's service.

Clause 2 of the Bill is intended to bring within the purview of the Broadcasting Authority satellite sound and television broadcasting services. It amends the definition of "broadcasting" to include satellite television and satellite sound services received by the public whether or not encrypted and whether or not a fee is charged, in addition to terrestrial television and radio services.

Clause 3 of the Bill provides the Broadcasting Authority with the power to administer the provisions of licences for satellite TV and satellite sound services in respect of programming, advertising and all other provisions of such licences that confer a function on the Broadcasting Authority, and to ensure standards with regard to programme content.

Clause 4 adds new sections 9A, 9B, 9C and 9D to the Ordinance to give the Broadcasting Authority the power to issue Codes of Practice, make directions to satellite licensees, impose financial penalties and provide an avenue of appeal by the licensees.

Clause 5 provides for the Broadcasting Authority's Complaints Committee to consider complaints in respect of satellite TV and sound services.

Mr Deputy President, I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

COPYRIGHT (AMENDMENT) BILL 1991

THE SECRETARY FOR RECREATION AND CULTURE moved the Second Reading of: "A Bill to amend the Copyright Ordinance."

He said: Mr Deputy President, I move the Second reading of the Copyright (Amendment) Bill 1991. The Bill proposes to add a provision to section 3 of the Ordinance to state that the place from which a satellite broadcast is made is, for the purpose of that section, the place from which the signals carrying the broadcast are transmitted to the satellite.

All licensed broadcasters in Hong Kong are listed in the Schedule to the Copyright Ordinance (Chapter 39) except HutchVision Hong Kong Limited, the holder of a satellite television uplink and downlink licence which was granted in December 1990. A listing in the Schedule affords copyright protection in Hong Kong to broadcasts made from a place in Hong Kong by listed broadcasters. It is appropriate to extend this protection to HutchVision which has already commenced broadcasting.

In view of this, the Administration will recommend to the Governor that HutchVision be added to the list of broadcasters in the Schedule by means of a notice published in the Gazette. It is, however, also necessary to amend the Copyright Ordinance to clarify that the place from which a satellite broadcast is made is the place from which the signals carrying the broadcast are transmitted to the satellite. This is because, without such an amendment, it could be argued that the satellite broadcast is not made from the uplink point -- which in HutchVision's case is Hong Kong -- but from the satellite itself. Since broadcasting and telecommunications satellite are normally situated about 36 000 km above the equator, it could be argued that a broadcast originating at a satellite does not originate from a place in Hong Kong and, hence, satellite broadcasts would not enjoy copyright protection.

Mr Deputy President, I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

STOCK EXCHANGES UNIFICATION (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 13 November 1991

Question on Second Reading proposed.

MR LAU WAH-SUM: Mr Deputy President, an ad hoc group was formed by the Legislative Council In-House on 8 November 1991 to study the Bill. Within a short period of one

week the group has held three meetings, including one jointly with the representatives of the Administration, the Securities and Futures Commission (SFC) and the Stock Exchange. The group has also considered two submissions received from the Exchange and the Hong Kong Stockbrokers Association respectively.

The Bill has two main purposes.

The first one is to give the Exchange a statutory duty to maintain a fair and orderly market and to act in the public interest. Relevant provisions are contained in the proposed section 27A of the Bill. The group is satisfied with these provisions and would recommend to Members of this Council that they be supported.

The second purpose of the Bill is to restrict the use of proxy voting in the Exchange's Council elections. Relevant provisions are contained in the proposed section 10, subsections (3) to (6) of the Bill. Indeed, these were the provisions which have formed the centre of discussion of the group.

At the very beginning, the group has one big question in mind, that is: "what is the appropriate level of restrictions that would effectively prevent the proxy appointment system from being abused?"

In making its search for the answer, the group has carefully considered the following four proposals:

(a) the proposal as contained in the Bill which was endorsed by the Executive Council on 22 October 1991;

(b) the revised voluntary reform package endorsed by the Exchange's Council at its EGM held on 30 October 1991;

(c) the proposed amendments to the Bill made by the Exchange in its submission to the group. It is understood that part of these proposed amendments, that is, that connected with the proposed section 10(5)(a), was previously agreed by the SFC and the Executive Committee of the Exchange on 4 November 1991; and

(d) the proposal advanced by the Hong Kong Stockbrokers Association in its submission to the group on 14 November 1991.

The group in general feel that the circumstances under which an individual member of the Exchange can appoint a proxy as proposed by the Bill are too restrictive when compared with those applicable to a corporate member and that the Bill in this respect should be amended.

As to how the Bill should be amended, all members of the group agree with the principle that the Exchange, being a self-regulatory body, should be entrusted with the responsibilities to self-regulate its business, including the appointment of proxy in the Exchange's Council elections, and that while entrusting these responsibilities to the Exchange, some sort of safeguard should be in place.

There are, however, no unanimous views regarding the details of the necessary amendments. A few members of the group consider that the proposals as contained in the Exchange's revised voluntary package can adequately provide the necessary checks and balances to prevent the abuse of proxy appointment system and should therefore be adopted in the Bill as far as possible.

Most members of the group, however, feel that if the proposals contained in the Exchange's submission concerning the amendments to section 10(5)(a) and (b) and the Stockbrokers Association's submission concerning the amendment to section 10(6) are suitably incorporated into the Bill, they would represent a fair and appropriate level of the restrictions required.

After much discussion, the group has, by simple majority, agreed that the following proposed amendments should be made to the Bill:

(a) regarding a new section 10(5):

(i) subsection (5)(a) restricting the appointment of proxy to the circumstances of a member being ill, away from Hong Kong or has other good reasons be amended to read as "is unable to attend and vote in person due to any reason which is acceptable to the Committee of the Exchange Company";

(ii) subsection (5)(b) requiring a member appointing a proxy to make a statutory declaration for his absence and the reasons therefor if so required to do so by the Exchange be deleted; and

(b) regarding a new section 10, subsection (6), the authority for approving proxy

instrument should be entrusted to the Exchange Council and not to the SFC as proposed.

To keep my speech short, I will leave it to my honourable colleague, Mr CHIM Pui-chung, to explain these proposed amendments in detail when he moves the amendments at the Committee stage.

Mr Deputy President, in a few minutes' time, Members would have to say either "aye" or "no" to the proposed amendments. If the "ayes" have it, it will be a clear indication that this Council has placed its trust in the Stock Exchange as a self-regulator. I sincerely hope that the Exchange would strive to ensure that proxy voting of its Council election in future will be administered in the most proper and fairest manner.

With these remarks, I support the motion.

MR RONALD ARCULLI: Mr Deputy President, this Council is asked today to consider amendments to the Stock Exchange Unification Ordinance. Members will no doubt hope that this marks the end of a long and sometimes tortuous search for a durable solution to some key issues that have plagued our stock exchange. This search, at times, has attracted unwanted or perhaps even undesirable publicity. In a search for a properly but not overly regulated financial market, there have been some fairly fundamental changes. No doubt in arriving at such changes, sensitivities and concerns of the financial market would include its users as well as members of the stock exchange.

I shall only therefore speak on the issue of proxies, and in this respect criticism could be levelled against the Administration for not adopting the voluntary package which had the hundred percent backing of the members of the stock exchange at their meeting on 30 October this year. At that meeting, members resolved, amongst other items, that an individual member should be entitled to nominate as his proxy his authorized clerk or sales representative, for meetings where the election of members of the committee of the stock exchange is to take place. The Bill as it stands, does not conform to the voluntary package.

The relevant amendments to be proposed by the Honourable CHIM Pui-chung do bring it a little closer to the voluntary package. In the amendment to be proposed there is however, a requirement that an individual member is unable to attend and vote before he is allowed to appoint a proxy. The SFC was not prepared to agree to the formula

under the voluntary package but has agreed, perhaps reluctantly, to the amendment to be proposed. The committee of the stock exchange, after some hiccup, also agreed to the amendment to be proposed but would have preferred, as I understand it, the formula in the voluntary package.

What has happened is that the committee has been caught up by a timing issue. In other words, the stock exchange needs the new provision to be in place now, so that the stock exchange can get on with the business of elections. We therefore now have a formula that does not conform to the voluntary package, but is agreed to in the circumstances that I have outlined, between the SFC and the committee. This is not an entirely satisfactory solution and calls for an explanation from the Administration.

Secondly, the Administration has informed the ad hoc group scrutinizing the Bill that the Administration will take a neutral stance. Again, I believe that the Administration should explain to this Council why it has chosen to adopt that course of action.

MR PETER WONG: Mr Deputy President, I commend to fellow Members the Stock Exchange Unification (Amendment) Bill 1991, and with some reluctance, the amendments to be moved by the Honourable CHIM Pui-chung. The Bill is the culmination of over five years of work in which I participated, first as a member of the defunct Securities Commission, and now the Securities and Futures Commission.

Relations between the stock exchange and the Commission have never been easy, and I sincerely hope that everyone will put past events behind them. Incidentally, as I have just retired from the Commission, what I have to say does not necessarily reflect its current thinking.

My commendation to the amendments, with reluctance, is since it is a dilution of what would otherwise have been a legitimate check on the unfettered discretion of the Stock Exchange Council over the admission of proxies to re-elect itself. However, there was the question of time constraint and my very real fear that if this compromise was not adopted we would be put back to square one, resulting in the Commission enforcing a solution. Even though fully justified in many people's eyes, that would not be welcomed or observed in spirit by the Exchange. But time will not stand still, Hong Kong must progress as a major financial centre for

the trading of stocks and shares, and we must be prepared to meet the new challenges ahead. I call upon both the Exchange and the Commission to accept the changes now being put through as a working compromise of all the conflicting demands. The Exchange now has the powers, and I hope, the will to self-regulate. It must now demonstrate to one and all that it will discharge its obligations fairly and impartially of a statutory monopoly, in the public interest. I am sure that the Commission, in its turn, will do everything possible to achieve mutual co-operation. The two must learn to work in harmony and trust. This Council, and I certainly, Mr Deputy President, will be watching. The first indication would be the publication by the Exchange of fair guidelines on the acceptance of proxies.

Mr Deputy President, with these words, I support the Bill as amended.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, this year marks the centenary of Hong Kong's securities industry, a time-honoured industry in comparison with other trades in Hong Kong. From the first establishment of the Hong Kong Stock Exchange to the setting up of the Far East Exchange in 1969, the Kam Ngan Stock Exchange in 1971 and the Kowloon Stock Exchange in 1972, the number of stockbrokers has grown from the initial few dozens to a peak of over 900. Despite the great number of stockbrokers and a series of crises that Hong Kong has gone through since the institution of the Hang Seng Index more than 20 years ago -- the riots in 1967, the nosedive of the Hang Seng Index from 1774 points to 150 points in 1974, the jitters over Hong Kong's future leading to a plunge of the Hang Seng Index from 1810 points to 690 points in 1982, the world stock market crash in 1987, the Tiananmen incident in 1989 and the Gulf war in 1990 -- these brokers have never wavered from their steadfast devotion to duty. Out of the 900 or so brokers in the industry, only less than 1% got into trouble of one sort or another despite the financial crises. The result was that the Government emerged from the crises almost wholly unscathed. As to the loss relating to the Hong Kong Futures Exchange in 1987, I would say that this was due to decision errors by the government officials concerned; this is a point that should best be left to history to judge. Stockbrokers have been working diligently -- though perhaps unknown to the public -- contributing much to Hong Kong's status as a financial centre. At the most conservative estimate their contribution to the public coffers should be in the order of tens and even hundreds of billions dollars. Many listed companies, thanks to the efforts of stockbrokers, have achieved remarkable success. The government officials concerned, particularly those from the Securities and Futures Commission (SFC), have not only failed to appreciate the stockbroker's efforts; worse still they have chosen to make a case out of some

unrepresentative incidents just to undermine the reputation and status of the stockbrokers. This is indeed discouraging and will undoubtedly deal a blow to the sense of belonging of the local stockbrokers. In the end it will do no good to the economy of Hong Kong. I hope that the officials concerned will understand this.

Since the unification of the exchanges in 1986, the Stock Exchange of Hong Kong has been operating strictly in accordance with the company law of Hong Kong. There may unavoidably be instances of man-made errors; but it should not be that all the members are to blame. This is particularly the case in respect of the Hong Kong-based stockbrokers representing local or overseas Chinese interests who have all along been giving full support to the Government's correct policies and leadership. In addition to safeguarding the interests of investors, they have contributed to the development of Hong Kong as one of the world financial centres and the internationalization of the local stock exchange. More to it, they have been in support of the Exchange's reorganization though in no way will they accept any irresponsible allegations from the SFC. They find it hard to share the SFC's view expressed to the Exchange Council, that the interests of the major market users should be widely represented on the Exchange Council. This view of the SFC implies that Hong Kong may virtually be under the control of those who pay the highest tax. I do hope that the SFC, in recommending an amendment to legislation, will also agree with those advocating amendment that the Bill of Rights, the company law and the spirit of the Sino-British Joint Declaration should also be factors for consideration. That is to say, instead of intervening in the administration of the Exchange, more emphasis should be laid on maintaining dialogue and co-ordination between the various parties concerned. I would therefore like to take this opportunity to express before this Council the views of most of our stockbrokers. May I also hope that we will stand by each other and work towards the goal of a better future for Hong Kong.

MR JAMES TO (in Cantonese): Mr Deputy President, the past practice of voting by proxy adopted by the Stock Exchange Council has long been criticized as a potential area of abuse. It is because proxy voting is liable to lead to vote-rigging. The small stockbroker find himself under pressure to appoint a proxy to vote on his behalf or to wheeldeal in such a way as to come close to committing a criminal act. The Securities Review Committee

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, I take exception to Mr James

TO's "vote-rigging" talk which is absolutely unfounded.

DEPUTY PRESIDENT: Mr TO, would you just repeat that part of your speech?

MR JAMES TO (in Cantonese): I only said it was liable to lead to that; it could lead to that.

DEPUTY PRESIDENT: I do not think Mr TO has said anything which is contrary to Standing Orders, Mr CHIM. Please continue, Mr TO.

MR JAMES TO (in Cantonese) : The Securities Review Committee in its 1988 report on the workings of the Stock Exchange pointed out that the principal loophole relates to collected data on instances of abuse of proxy voting. The review committee was of the view that elections to the Exchange Council are of great importance and members should be personally present to vote. It was therefore recommended that voting by proxy be abolished. The Honourable LAU Wah-sum, who was then a member of the review committee, supported the recommendation.

The Securities and Futures Commission made an analysis of the voting conducted by the Stock Exchange Council in 1989 and 1990. The findings were as follows:

In the 1989 election, total number of votes cast was 510 of which 28% (142) were cast personally by members. In other words, 72% (368) of the votes were cast through proxy. Of the total number of proxy votes, three individual members acting as proxies accounted for 42%.

In the 1990 election, a total of 494 votes (fewer votes this time) were cast of which 16% (78) were cast by members personally and 84% (416) were cast through proxy. Three individual members acting as proxies accounted for 52%, that is to say, more than half of the proxy votes cast.

As a matter of fact, all elected candidates got elected on an overwhelming block vote, which of course included almost all proxy votes. Candidates who lost the elections won very few votes.

Furthermore, it is learnt from information obtained from the Government that the stockbroking community has the following complaints:

(a) In the 1989 and 1990 elections to the Stock Exchange Council, some stockbrokers were under considerable pressure to appoint proxies to vote for some candidates (a point to note is that some stockbrokers have to rely on other stockbrokers for business);

(b) One of the complaints alleged that at least one individual member who exercised most of the proxy votes had, at the nomination stage, openly predicted who among the candidates would win and who would not. This caused some potential candidates to hold back and eventually they did not stand for election;

(c) One member who had exercised proxy votes influenced or attempted to influence the way elected candidates in the Exchange Council transacted business.

The Law Reform Committee on Company Law has been studying the proposal to abolish the proxy voting system of the Stock Exchange. Although the Law Reform Committee is not in favour of abolishing the system entirely, it has agreed that proxy voting should be allowed only if it is made subject to strict limitations and that preventive measures should be in place to reduce the chance of abuse. Furthermore, the said committee has recommended that proxy voting should be allowed only where a member is ill, out of the territory or unable to vote personally on other valid grounds; that when a member appoints a proxy he must produce a statutory declaration setting out adequate and valid reasons for his absence; that the proxy must be a registered employee of the member; that one proxy can represent only one member, that is to say, one other member, in voting. The Stock Exchange's amended voluntary reform package imposes restrictions on the appointment of proxies; it lays down that no one shall be appointed proxy for two or more members simultaneously and the proxy must be a partner or an employee of the member concerned.

In fact, the voluntary reform package passed by the Stock Exchange Council on 3 October is also in favour of restricting the right to appoint proxies by laying down that one member can only appoint one proxy who must be a registered member of the Stock Exchange. The voluntary reform package was to have been submitted to an extraordinary general meeting on 30 October for scrutiny and endorsement. If the court had not, on a point of legal technicality, declared the meeting to be null and

void the rule restricting the appointment of proxy would have been part of the articles/memorandum of association of the Stock Exchange already.

Then the Stock Exchange reached an agreement with the Securities and Futures Commission just before the Exchange's appeal against the SFC's issuance of a statutory reform package was due to be heard before the Governor in Council. At that time the Stock Exchange Council promised to fully support the proposal to restrict the appointment of proxies. It was on such basis that the Executive Council accepted the proposal and the legislative process was set in motion to have the proposal enacted as law. If I have misunderstood the basis on which the Executive Council has endorsed the proposal, would the Executive Council Members seated in this Chamber please correct me?

But before long, a Stock Exchange representative who appeared before the Legislative Council ad hoc group seemed to have disowned the agreement they had earlier supported.

I understand that today the Honourable CHIM Pui-chung will be moving a motion to amend clause 2 of the Bill. Mr Deputy President, I support the amendment Bill as presented by the Government and laid before Members here now. As regards the amendment to be moved by Mr CHIM, I do not think I should give my views on it at this Second Reading stage. I shall therefore reserve my comments until the Committee stage when I shall argue point by point against the amendment to be moved by Mr CHIM. Thank you.

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, the Stock Exchange Unification (Amendment) Bill 1991 in front of Members was prepared by the Administration and approved by the Executive Council on 22 October 1991 for introduction into this Council. The approval was given before, and I repeat, before the Stock Exchange's voluntary reform package was considered at its EGM held on 30 October. The Bill was drafted at a time when the Securities and Futures Commission (SFC) and the Stock Exchange were still in the midst of a difficult negotiation concerning reform. In the event, certain provisions in the Bill were subsequently considered by some to be a little restrictive, having regard to the spirit of self-regulation.

The Honourable CHIM Pui-chung will move amendments to ease some of the restrictions. The amendments have been agreed by the ad hoc group of this Council,

formed to study the Bill and chaired by the Honourable LAU Wah-sum. The Administration is happy to see the level of confidence and trust that this Council is prepared to place on the Stock Exchange. In the spirit of finding a commonsense solution to reform, the SFC has also advised, and the Administration is satisfied, that the amendments would not, and I repeat, not unacceptably erode the effectiveness of the Bill in achieving its purpose, which is to prevent the abuse of proxy voting and to ensure that the Council of the Stock Exchange will be elected in a fair manner.

The Bill as amended forms an integral part of the voluntary reform package of the Stock Exchange. All of us want this package as a whole to be a success.

To alleviate the concern of those Members who still feel uncomfortable and prefer the more restrictive approach, the SFC will continuously monitor whether or not the Stock Exchange administers the system in a fair and responsible manner.

It is very much the hope of the Administration that the enactment of this Bill will mark the end of a period of turbulence and the beginning of a new chapter for the Stock Exchange in its development into a fully self-regulatory body of a status commensurate with the level of confidence and trust by this Council and by members of the public. The Stock Exchange should be given an opportunity to get on with it.

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).

EMPLOYMENT (AMENDMENT) (LONG SERVICE PAYMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 23 October 1991

Question on Second Reading proposed.

MRS MIRIAM LAU: Mr Deputy President, the Employment (Amendment) (Long Service Payment) Bill 1991 seeks to further improve the Long Service Payment Scheme introduced in 1985 in two areas. First, it seeks to standardize the rates of payment over a two-year period. Secondly, it enables workers below the age of 45 to be entitled to 50% of

the lump sum payment upon completion of five years' service, their entitlements to be increased progressively in line with their length of service. The Bill was introduced into the Legislative Council on 17 October 1991. Anticipating that great concern would be shown by workers and their representatives to this Bill and the principles behind it, an ad hoc group was formed to study the Bill.

In the course of examining this Bill, the ad hoc group received four representations and met with three interested groups. They all considered the proposals contained in the Bill to be inadequate and made a number of suggestions for further improvement. The ad hoc group discussed the various suggestions with the Administration. The Administration pointed out that while some of the suggestions deserved further consideration, it would be necessary to refer them back to the Labour Advisory Board for deliberation and advice. This was accepted by the ad hoc group. As a result, two new proposals were put to the Administration with the request that they be urgently considered by the Labour Advisory Board. These were the proposals to lower the retirement age from 65 to 60; and to standardize the rates of payments for all workers immediately instead of over a two-year period. The Labour Advisory Board considered these proposals at their meeting held on 15 November 1991.

Subsequent to the Labour Advisory Board meeting, the Administration agreed to accept the proposal to standardize the rates of payment for all workers, whatever their age, in one go. The ad hoc group was informed that although three of the employers members present at that Labour Advisory Board meeting objected to the proposal, two other employers members present were persuaded to support the same together with the employee members. However as regards the other proposal of whether the retirement age should be lowered to 60, there were widely divergent views amongst members of the Labour Advisory Board, and the Administration was therefore unable to accept this proposal for inclusion in the Bill.

Apart from the above proposals, the question of the Bill taking retrospective effect was also raised. The Administration expressed strong reservations and explained that dating back legislation which affected people's rights and obligations would set a very undesirable precedent. It would also create uncertainty amongst members of the public as to whether or not in future new laws or regulations would be applied with retrospective effect and what sort of criteria would be used to gauge necessity for retrospectivity.

Having considered the representations received, the clarifications provided by the Administration and the fact that the majority of the interested groups agreed that the early passage of the Bill was desirable despite a general feeling that further improvements should be pursued, the ad hoc group concluded that the Bill should not be delayed. After all, there are many workers who would benefit from the improvements proposed by the Bill even in its present form and their interests should not be ignored. The ad hoc group however felt that other proposals to further improve the Long Service Payment Scheme deserve further examination by the Labour Advisory Board and has urged the Administration to seriously consider such proposals. In regard to the additional improvement of standardization of the rates of payment in one go instead of over a two-year period, I will later on at the Committee stage move an amendment to delete the transitional provision under clause 5 of the Bill.

On behalf of the ad hoc group, I would like to take this opportunity to thank the members of the Labour Advisory Board for their co-operation in further discussing the improvements to the Long Service Payment Scheme as requested by the ad hoc group at short notice. I would also like to thank the Administration for assuring Members that the provisions of the Long Service Payment Scheme would continue to be reviewed so that our hard working and deserving workers who have made great contributions to the growth and development of Hong Kong's economy would get even better protection hopefully in the not too distant future.

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

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, six years have passed since the enactment of the legislation on the long service payment scheme in 1985. During all these years, the Ordinance was only reviewed once in 1988 and three years have passed before the legislation is reviewed again today. It seems that each review of the legislation takes a long time.

If we compare the amendments of the two revisions to the proposals all along advocated by the labour sector, we will realize the difficulties confronted in improving the protection of the workers.

I remember that when the legislation of the long service payment scheme was enacted in the Legislative Council in 1985, I pointed out that the provisions on the years of service and the reduced rate of payment are discriminating against young

workers and are most unreasonable. When the amendment Bill was passed in the Legislative Council in 1988, I once again made the above criticisms. I further pointed out that the qualifying age for long service payment on resignation should be lowered from 65 to 60. Several years have lapsed before these discriminatory provisions are finally amended in this revision. However, the revision is incomprehensive and sloppy. The complicated discounting provisions relating long service payment to the age of the workers still remains. Why does the Government not make things simple by stipulating that all workers, regardless of age, are eligible to receive full long service payments if they have worked for five years. As regards the lowering of the qualifying age from 65 to 60, no improvements have been made in this revision, much to my disappointment and regret. To elderly workers, the long service payment is the only money they can live on after retirement. It is like a quilted coat in a severe winter, however thinly quilted the coat may be. However, extension of the scope of protection to this group of elderly workers is totally ignored in this review. This is really disappointing. I urge the Government to conduct a review as soon as possible, so as to lower the qualifying age for long service payment on resignation from 65 to 60 and to change the qualifying years of service from 10 to five. To those who worry that such amendments will lead to the resignation of a great number of elderly workers, I can only say: "You are really ignorant of the suffering of the mass." To a worker over 60, resignation is tantamount to unemployment. Would there be workers who dare to take such a risk?

Apart from these, the labour sector has all along made other reasonable demands, such as improving the provisions concerning the eligibility of employees who resign on grounds of ill-health so as to give genuine protection to ill-health workers, and scrap the limitation on the long service payment to not more than the total income of the worker over the past 12 months and so on. These demands have not been reviewed in this revision. I hope the Government will respond to these demands in the next revision.

Recently, many workers have successively complained to me of being dismissed after the Bill was Gazetted. These workers should have been included within the scope of benefits by the Bill. In fact, how many workers have been similarly dismissed within the five-month period after the publication of the Bill in the Gazette? Actually, a simple measure is sufficient to stop unscrupulous employers from evading their responsibility, that is, allowing the Bill to have a retrospective effect from the date of Gazette. Regrettably, this little request is rejected.

Although I am dissatisfied with the amendments of the legislation, improvements have nevertheless been made even though they still fall short of the requests from the labour sector. As "half a loaf is better than no bread", I will still support the amendment motion proposed by the Honourable Mrs Miriam LAU. However, I hope that the Government would, as soon as possible, conduct another review on the long service payment legislation, especially on those provisions concerning the protection of elderly workers. I hope we do not have to wait for another three years for another revision.

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

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy President, the Employment (Long Service Payment) Ordinance caused major controversies from the moment it was put through the legislative stages up to and during its implementation. It also incurred the strong criticism and discontent of the labour circles. The truth is that the law merely provides that an employee with a long service record as defined should, upon the termination of his employment, receive a prescribed amount of compensation. The reason for making that law was that, heretofore, when the employment of an employee with a long service record was unjustifiably or unjustly terminated, or when an old employee retired, he had had no protection whatsoever. What all this meant was that the Government, in order to reject labour's demand for a Central Provident Fund, took the conciliatory step of doing something that was not quite as good: it used long service payment as a means of countering the sustained workers' protests during the 1970s and the early 1980s. As of today, the Employment Ordinance provides that an employer may, by giving seven days' or one month's notice or by paying an amount in lieu of notice, terminate the employment of an employee at any time without any explanation. Though the Employment (Long Service Payment) Ordinance provides that an employee with a long service record is entitled to payment, this provision is clearly discriminatory against employees below the age of 40. Also, the Ordinance defines long service as 10 years. This is very harsh given the simple reality in Hong Kong, which is that very few employees meet this long service definition. Also, in order to qualify for long service payment, an employee's employment must be terminated by his employer. He will not qualify if he quits on his own, the only exception being where he is 65 and having been on the job for 10 years or where he is ill and certified by a doctor as permanently incapacitated from the job in question. Because of the various restrictions, very few employees really qualify for the benefit.

I feel that the Employment (Amendment) (Long Service Payment) Bill going through the Second and Third Readings before this Council today still fails to correct the shortcomings of the parent Ordinance. This Council's ad hoc group on the Bill made the suggestions that younger workers should receive compensation on a pro rata basis depending on their age and years of service and that the retirement age should be lowered from 65 to 60. These suggestions were put to the Labour Advisory Board to discuss and review. In the end, they were adopted only in part. The rest was opposed by the employers side of the Labour Advisory Board. As a result, the Bill totally omits even such scant protection and financial compensation as may be made available to old workers about to reach the retirement age. Undoubtedly, the Bill is to be commended for changing the definition of long service from 10 years to five years. However, for pro-rating the long service payment for workers under the age of 40, the Bill provides for the use of ratios that are overly complex and that may result in new discrimination. The Bill fails to treat younger workers on an equal footing. Because the Ordinance provides that an employee should receive his long service payment only at the time of termination of his employment, the initiative is in the hands of the employer, who is thus provided with an escape from his responsibility for paying compensation: by terminating the employment of an employee one day short of his reaching the required age, the employer reduces long service payment by nearly half. In fact, to justify discrimination against younger workers, the Government and employers argue that it is easy for younger workers to find new jobs and that employers, who have provided training, are the losers when employees quit. I think, however, that such arguments are contrary to the spirit of the Employment (Long Service Payment) Ordinance. One must realize that a younger worker will have spent the most precious years of his youth on the particular job and, upon termination, will lose the advantages of skill and seniority. Also, many jobs, particularly jobs in the manufacturing trades, are paid at a piece rate and require little training time. In these jobs, the pay is based on the amount of work done. If one looks at the related labour laws all over the world, one will see that age is never a criterion. This is why we are having this ludicrous and ridiculous situation where the amended criterion is worse, relative to the original criterion.

The Bill is silent on a matter of general concern to employees, namely, the matter of an improvement that will make long service compensation payable to a voluntary quitter who is 60 and has been on the job for five years instead of being 65 and having been on the job for 10 years. This omission is the most condemned and criticized by the labour circles. In Hong Kong's neighbouring countries or territories, 60 is

the retirement age. I really do not understand why people in a reputedly prosperous and progressive place like Hong Kong must wait until they are 65 before they can retire. More ironically, we in this Council only last week paid tribute to the social contributions of the elderly. In the views that they expressed, many Members seemed to forget this question: As they retire, is there a financial commitment made to the elderly, who worked to make Hong Kong prosperous? In fact, we are merely indulging in wishful thinking when we regard long service payment as a substitute for pension. For a long time, it has been quite sad for Hong Kong to fail to provide retirement protection. As we indulge here in talks about the problems of old people, have we asked ourselves what services that we provide to the old people will really benefit them? In fact, the Government, too, often fails to plan for the elderly. Only when it was evident that a Central Provident Fund could no longer be put off did the Government decide to set up compulsory provident funds. But it will still take some time before the relevant scheme can provide retirement protection to the elderly. Meanwhile, long service payment remains to be old workers' treasure chest upon retirement. The idea that old workers who meet the definition of long service should receive long service payment is approved by the labour circles and also by this Council's ad hoc group on retirement protection. Unfortunately, the provisions of the Bill have not been changed accordingly. The greatest obstruction was the opposition of the employers side in the Labour Advisory Board. I regret that the structure of the Labour Advisory Board is such that it can influence legislation to the extent of affecting its improvement. One is even more indignant at the Labour Department for failing in its duty. In the debate on the present Bill, the Labour Department should not have played a neutral role but should have fought for the better protection of employees. In many instances, the Labour Department failed to make an effort to improve the Bill. Such an attitude clearly favoured management at the expense of labour.

Mr Deputy President, some of the original provisions of the Employment (Amendment) (Long Service Payment) Bill have been improved. The new provision allowing employees below the age of 36 to receive full compensation was a change made as suggested, after discussions were held by the ad hoc group. Such a development was rare in the history of legislative deliberations. However, over some controversial issues, provisions detrimental to employee interests have been retained. I am the most unhappy with this. I think that the only feasible thing to do is to remit the Bill to the Labour Advisory Board for further consultation and revision so that old workers may gain more practical protection and will not have too many worries when they retire. Therefore, I will continue my effort in this area. I can only abstain from voting

on the present Bill. Members of the United Democrats of Hong Kong will abstain in sympathy. This is to show that I do not fully accept the Bill and that I want to say sorry to those employees who are affected by the failure to lower the required age from 65 to 60. Thank you, Mr Deputy President.

MR STEVEN POON (in Cantonese): Mr Deputy President, labour welfare has always been the focus of debate between employers and employees. Labour unions and employer organizations have expressed a lot of views on this controversial issue and there are points worthy of our sympathy in the arguments of both sides.

As accumulation of social wealth continues, there should be proportionally more attention given to labour welfare. This is not only an inevitable outcome of the development of society, but is also a key factor of maintaining social stability.

I started my career as a small employee. During the past 26 years, I have worked in a personnel department as a supervisor and I have worked as a general manager. I am myself an employee and have also discharged the duties of an employer.

I believe that to care for the livelihood of dismissed employees is very important when we consider labour welfare. The objective of the Employment (Long Service Payment) Ordinance is to grant employees the right to receive a sum of long service payment if they are dismissed not because of misconduct and if they have to retire because of age, provided that they have worked for a minimum number of years. It must be stated that if an employee resigns voluntarily or changes job to work for other employers, he will not be entitled to any long service payment unless he retires because of old age. In fact, the long service payment should be renamed as the "Long Service Dismissal Payment". With constraints in the form of the length of service, the monthly salary on the part of the employee and the retirement age, the Employment (Long Service Payment) Ordinance only provides employees with the most basic protection. We should be as generous as possible when considering the content of the Ordinance.

I agree to the direction of amendment of the Employment (Amendment) (Long Service Payment) Bill as tabled. But I believe that the degree of amendment should be improved appropriately.

I am of the view that the Bill should seek to abolish all constraints and discounts

imposed on young employees. It is indeed outdated to include age requirement in the conditions. A long service has nothing to do with age.

Under the existing legislation, provisions pertaining to the right to long service payment include 65 years of age in the case of old age retirement and completion of 10 years' service. In all comparatively well-established enterprises, the retirement age of employees is set at 60. Even in China, the retirement age is generally set at the same. I therefore view that the requirement should be amended. Meanwhile, as the definition of long service payment is basically made in the light of five years' service, the requirement of 10 years' service for retiring employees should be amended accordingly.

I hope that employers can understand, support and accept the above views. I call on the Government and the Labour Advisory Board to continue their discussions on matters including the above suggestions, so as to make the Employment (Long Service Payment) Ordinance more equitable and to make it take care of dismissed or retiring old employees in a more reasonable manner.

I am dissatisfied that the Bill is tabled for enactment after five months since it was Gazetted. Concerning such sensitive issues, as Mr TAM Yiu-chung has pointed out, the Government should give consideration to the possibility of shirking responsibility by some vicious employers, and try to avoid having similar arrangements in future.

I support the amended motion of Mrs Miriam LAU.

MR HENRY TANG: Mr Deputy President, in 1985, when the long service payment scheme was established by the Labour Advisory Board by consensus, the consensus was that younger workers will receive only partial payment of the long service payment due to the training costs that the employers will have to bear since certain industries have to have a very long training period, such as up to one year for certain electronic industries. And the second reason for the partial payment for younger workers is the ease of employment. It is quite obvious that someone who is in his/her early twenties or thirties would be much easier to find alternative employment either in the same industry or in another industry, compared to someone who is in his/her forties or fifties.

I am disappointed to hear today that a consensus that had been reached in 1985 was criticized in 1988 and is now being criticized in 1991. Furthermore, I am disappointed to hear certain of my most respected colleagues criticizing the composition of the Labour Advisory Board. The Labour Advisory Board consists of six employer members as well as six employee members -- the six employee members, five of whom are by election, one of whom is appointed; and the six employer members, five of whom represent employer organizations, one of whom is appointed; the Chairman of the Labour Advisory Board being the Commissioner of Labour. How come they are not qualified to adjudicate or to deliberate on labour issues, since that is an equally divided board?

I understand that since the 65 or 60 years of age for retirement issue was discussed in the Labour Advisory Board only as recently as two weeks ago, and the reducing of retirement age from 65 to 60 has undue implications to the comprehensive retirement scheme that is due to be considered, it is in principle already agreed by the Executive Council and I see no reason to amend that particular course right now, considering that it is already agreed by the Executive Council and is due to become part and parcel of Hong Kong's retirement scheme.

On that basis, Mr Deputy President, I support the amendment proposed by Mrs Miriam LAU.

MR HOWARD YOUNG (in Cantonese): Mr Deputy President, I had joined the ad hoc group chaired by Mrs Miriam LAU to study the Bill before today's discussion. When we received some labour organizations, I knew that the amendments proposed this time would fail to meet all the demands of the labour sector. I am looking at the issue from two perspectives. I come from the tourism functional constituency and my constituents are mainly employers. But I myself am an employee. Therefore, I think the issue should be viewed from the perspective of balance of interests between the two parties. First of all, I regret that the Labour Advisory Board did not support the proposal of reducing the retirement age from 65 to 60. Take my trade as an example. Given that it is a new industry, should one care to ask any employer or employee in the trade, they will respond and say they will be surprised beyond bounds if they will have to wait until they are 65 before they can collect long service payment or enjoy retirement protection. Two factors must be taken into account in view of Hong Kong's actual situation: firstly, many industries are really facing shortage of labour. So I think reasonable protection must be offered to employees so as to boost

their morale. This will make them work harder for the enterprises or companies they work with. On the other hand, as mentioned in last week's debate, we must admit that the age profile of the Hong Kong population is changing. Such being the case, there will be a greater number of elderly workers in the future. Therefore, there will be a greater need to protect and take care of the interests of those who have contributed to our society. In spirit, I support the Long Service Payment (Amendment) Bill. But I do hope that the Government, employers, the labour sector and employees will not take it that these amendments will solve the problem once and for all and that it will be a long time before further amendments will be necessary. These amendments are only the first step. I also hope that in the near future, the Labour Advisory Board and people from different walks of life can seriously discuss how to enable those employees who have rendered long service to their employers to get the retirement protection they deserve when they reach 60 instead of 65.

Mr Deputy President, I support the Bill.

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, it is clear from what has just been said that the proposals in this Bill, as well as the Long Service Payment Scheme generally, are of great concern to both employers and employees. Not surprisingly, although there is a large measure of consensus on the basic principles and underlying spirit of the Scheme, there are differing views on the extent to which the benefits under the Scheme should be improved and the pace at which such improvements should be made. These differences can best be resolved through patient discussion and consultation. Indeed, the Bill now in front of the Council has emerged after extensive consultation with, and within, the Labour Advisory Board.

I am grateful to Mrs Miriam LAU, and the ad hoc group of which she was Convenor, for their careful and constructive scrutiny of the Bill. The Administration has, at the request of the ad hoc group, sought further advice from the Labour Advisory Board on two specific proposals related to the Bill. As a result of these further consultations -- and I join Mrs LAU in thanking the Labour Advisory Board for their readiness to discuss the issues at short notice -- the Administration was able to agree to accept the proposal to standardize the rates of payment immediately rather than over a two-year period. The Administration therefore supports the amendment which Mrs LAU will later move at Committee stage.

As regards the other proposal to lower the retirement age from 65 to 60, we have

concluded that further discussion is required given the wider implications of the proposal for our framework of labour legislation and for the overall manpower supply situation. There is already provision under existing legislation for retirement on health grounds.

A number of other proposals have been put forward both in the ad hoc group and in today's debate. I have taken careful note of them and will examine them in consultation with the Labour Advisory Board. In the meantime, I fully support the ad hoc group's conclusion that the early passage of this Bill, including the amendment to be moved by Mrs LAU at Committee stage, is desirable and important.

Thank you, Mr Deputy President.

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

Bill read the Second time.

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

Committee stage of Bills

STOCK EXCHANGES UNIFICATION (AMENDMENT) BILL 1991

Clauses 1 and 3 were agreed to.

Clause 2

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, I move that clause 2 be amended as set out under my name in the paper circulated to Members.

A total of three amendments to clause 2 are proposed. I shall explain them seriatim.

First, concerning the proposed amendment to the new section 10(4)(c). As drafted, the wording of this section casts doubt as to the number of proxies needed to be appointed by a Stock Exchange member with one vote covering more than one seat in the Stock Exchange Council. The proposed amendment to this section will clarify the position by clearly stating that such member need appoint only one proxy.

Secondly, concerning the proposed amendment to the new section 10(5). According to this section, appointment of a proxy by an individual member would be allowed only if he is ill, away from Hong Kong or has other good cause. Additionally, a member appointing a proxy may have to make a statutory declaration for his absence and the reasons therefor if so required by the Stock Exchange. The Stock Exchange and the Hong Kong Stockbrokers Association consider that when compared with the requirements for proxy appointment in respect of a corporate member, those for individual members appeared to be somewhat restrictive. The new section 10(5), if amended as proposed, would allow an individual member to appoint a proxy if he is unable to attend for reason acceptable to the Stock Exchange Council. A statutory declaration for his absence is no longer required. It is considered that such amendment will still provide sufficient safeguards against possible abuse of the proxy system without being too restrictive.

Finally, the proposed amendment to the new section 10(6). According to this section, the Securities and Futures Commission (SFC) would be the statutory authority to approve the form of the proxy instrument used. The proposed amendment seeks to replace the SFC with the Stock Exchange Council as the approving authority for the proxy form. It is felt that the Stock Exchange has now acquired a more material place as a self-regulator, and that it should be entrusted gradually with more self-regulatory work whenever possible.

Mr Deputy President, I beg to move.

Proposed amendment

Clause 2

That clause 2 be amended by --

(a) in proposed section 10(4)(c), by adding "by another member" after "appointed".

(b) by deleting proposed section 10(5) and substituting -

"(5) A member who is an individual shall not be entitled to appoint another person to be a proxy under subsection (4) unless he is unable to attend and vote in person due to any reason which is acceptable to the Committee."

(c) in proposed section 10(6), by deleting "Commission" and substituting "Committee".

Question on the amendment proposed.

MR STEVEN POON (in Cantonese): First of all, I would like to declare interest as a member of the Exchange Council.

Stockbrokers have never agreed to the proposed cancellation of the proxy system. The Bill tabled today and the amendments proposed by the Honourable CHIM Pui-chung were arrived at after the Securities and Futures Commission and the Stock Exchange had had a lengthy discussion on the issue. But a very important matter of principle is involved: why is it that a corporate member is allowed to appoint a member of its staff to be its proxy, but an individual member is not allowed to appoint his own staffer who has been registered with the Exchange to be his proxy? This bears on the principles of fairness and democracy. The views of the Honourable James TO which I have just heard are contrary to the principles of fairness and democracy. The amendments proposed by Mr CHIM Pui-chung already impose a number of restrictions on individual members who have to submit reasons acceptable to the Exchange before they are allowed to appoint their proxies. However, corporate members need not do this. I resent these restrictions imposed upon individual members. The Honourable Ronald ARCULLI has also mentioned this point. I find it hard to agree with Mr James TO that the proxy system be cancelled.

Mr Deputy President, should the interests of stockbrokers be affected, their consent must be sought first. The amendments proposed by Mr CHIM Pui-chung represent the views of different sectors and I would like to urge Members to support his motion for amendment. Thank you.

MR JAMES TO (in Cantonese): Mr Deputy President, first, in response to the Honourable Steven POON's query as to why a corporate member shall be entitled to appoint a proxy while an individual member shall not, I would suggest that if some sort of restriction is considered necessary it would be in accord with the principle of fairness for the Honourable Steven POON, or perhaps even the Honourable CHIM Pui-chung, to propose an amendment to the effect that every member, be it a company or an individual, shall

be subject to such restriction rather than advocating a relaxation of control as has been done by Mr Steven POON. Secondly, I have not mentioned any blanket cancellation of the proxy appointment system; I only said that this was suggested in the 1988 report of the Securities Review Committee -- a widely represented committee with members including some of our honourable colleagues. Thirdly, Mr Steven POON said a while ago that this package represented a compromise arrangement between various parties or bodies and the Government. But the question arises as to why the amendment before this Council today should be moved by Mr CHIM Pui-chung but not the Secretary for Monetary Affairs. I came across a letter the other day and discovered that the Secretary for Monetary Affairs would prefer to remain neutral in this particular case as it had appeared to the Secretary that the proposed cancellation of the requirement for a statutory declaration (which an individual member would have to make to give reasons for his absence if he wanted to use the proxy vote) had in fact exceeded the arrangement agreed earlier on by the Securities and Futures Commission (SFC) and the Stock Exchange. But as the Honourable Ronald ARCULLI has said, we still hope that the Secretary will explain his neutrality and tell us the appropriate arrangement that he has in mind.

Turning to the amendment motion by Mr CHIM Pui-chung, the amendment proposes that the reason an individual member gives in appointing a proxy should be acceptable to the Executive Committee of the Stock Exchange. The point in altering the much criticized proxy voting system is to ensure that the system will not be subject to abuse. To this effect it is stated in the Bill that an individual member shall be restricted to the use of proxy voting unless his absence is due to some good cause and, if so required, the member may have to make a statutory declaration to give reason for his absence. With this amendment which we have before this Council Mr CHIM Pui-chung intends to leave it to the Executive Committee of the Exchange to decide what will constitute a good cause. But members of the Executive Committee are all, if not directly, interested parties; in such case the proposed arrangement would make the system even more susceptible to abuse. In the most extreme circumstance, members of the Executive Committee (Council) of the Stock Exchange may even arbitrarily approve their supporters to use the proxy vote while denying their opponents the same right. The problem lies in leaving it to the Exchange Council to decide what cause will constitute a good cause. Some Executive Committee members may be very lenient in this respect to the extent that almost all who are unable to attend and vote will be allowed to appoint other persons as proxies.

Moreover, the cancellation of the requirement of making a statutory declaration

will mean that members need not provide even a basic reason for using the proxy vote. As I said a while ago, this might explain why the Secretary for Monetary Affairs preferred to wash his hands of the case and refused to take upon himself the responsibility which the mover of this amendment might have to bear. Some members of the Stock Exchange worry that the amendment may infringe and impose unjustified restrictions on the right to use the proxy vote in the future. Perhaps I should point out that Mr CHIM Pui-chung's amendment relates to acceptance of the reason for absence by the Exchange Council. The original proposal in the Bill, however, requires that good cause which may include, among others, ill health or absence from Hong Kong, be given before appointment of proxy is allowed. Some members may be worried about the requirement for making a statutory declaration. But if one would care to take a good look at the original proposal in the Bill, one would discover that the statutory declaration needs only be made at the request of the Stock Exchange; how would abuse or shocking cases arise under this proposed arrangement? Mr CHIM Pui-chung also pointed out that the present Bill would seem to be unfair to individual members. I have made my point on this. I believe that, instead of relaxing control, the restrictions as contained in the reform package should be extended to corporate members if the proposed arrangement is considered inequitable. So may I suggest that even if in the end my views are rejected and Mr CHIM Pui-chung's amendment is carried, consideration will still be given to this point that I have mentioned? Further, I should like to clarify the two points raised by the Honourable LAU Wah-sum a few moments ago. First, Mr LAU said that it is not the intention of the Bill to vest the SFC with the power to interpret as to what constitutes a good cause. But allow me to urge Honourable Members to study the Bill again. The Bill does not contain any words to that effect. Instead it only says that "other good cause" is required to account for a member's absence; and it is the court's ruling, not the SFC's interpretation, which will be sought if a controversial case arises. Second, according to Mr LAU, any support a Member gives to the ad hoc group's recommendation, that is to say, Mr CHIM Pui-chung's amendment, will be construed as a vote of support for self-regulation by the Stock Exchange. I am all for a self-regulatory stock exchange; but nowhere in the Bill do I see any indication of conferring on the SFC any unwarranted monitoring power. So if reasonable restrictions on the proxy appointment system are considered necessary, I fail to understand why on the one hand a member's absence should be justified with good cause while on the other hand the already lax requirement of producing a statutory declaration at the request of the Stock Exchange should be further relaxed. This, I should say, would not appear to be a balanced approach.

With these remarks, I am opposed to the Honourable CHIM Pui-chung's proposed amendment to clause 2 of the Bill.

DEPUTY PRESIDENT: Mr CHIM, you have the right to reply, but before you do so, does any Member wish to speak on the clause 2 amendments? Mr CHIM, yes, you may reply.

MR CHIM PUI-CHUNG (in Cantonese): As regards what the Honourable James TO said, could I ask whether he was representing himself or the United Democrats of Hong Kong? It is understood that there are two types of members in the Exchange, namely, corporate members and individual members. Corporate members have the right to use the proxy vote but individual members are placed at an unfair disadvantage in this respect. The goals the United Democrats of Hong Kong are striving for are human rights, freedom and democracy. But what Mr TO has been advocating already amounts to exploitation of the rights and privileges of the individual members of the Exchange. This in itself is against the cherished spirit of the United Democrats. This is an instance of freedom being pitted against freedom and democracy against democracy. This kind of spirit and attitude is irresponsible. I do hope Members concerned will assess and scrutinize this Bill. Thank you.

DEPUTY PRESIDENT: What is your point, Mr TO?

MR JAMES TO (in Cantonese): Mr Deputy President, since Mr CHIM has raised a query with me as regards the people or organization I represent, could I say a few words in response to that?

DEPUTY PRESIDENT: It is not a point that you have to answer, Mr TO.

Question on the amendment put.

Voice votes taken.

Mr James TO claimed a division. The Deputy President ordered the Council to divide under Standing Order 36(4).

DEPUTY PRESIDENT: Council will proceed to a division. The division bell will ring for three minutes and the division will be held immediately afterwards. As we are in session, I would remind Members to maintain order, please.

DEPUTY PRESIDENT: The voting system has now been activated. There is going to be a change in the way in which the system is used because of the queries we had last time we used the system. The system was tested and retested and found to be in perfect working order. But it is, of course, essential that Members have complete confidence in the integrity of the system. So what I propose to do is to take Members through every single step of the voting procedure and to proceed to the next step only when I am satisfied that you are satisfied, and it will only be at the end of the day when you are all satisfied that the display will flash and I will announce the result.

There is no countdown, incidentally. We shall take as long as this needs to get it right.

The system has been activated and your "Present" light on the panel should be flashing, just that one light. If any Member's "Present" light is not flashing, please rise and we will see to it.

FINANCIAL SECRETARY: Mr Deputy President, I have already pressed my voting button; I have registered my presence and voted.

DEPUTY PRESIDENT: Thank you, Mr MACLEOD. So every "Present" light is now flashing. Press the "Present" button if you want to be registered as present.

MR TAM YIU-CHUNG (in Cantonese): All the lights except the "Present" light are flashing.

MR PANG CHUN-HOI (in Cantonese): That is also the case with me.

DEPUTY PRESIDENT: Order, please.

DEPUTY PRESIDENT: Some of you are one step ahead of me. When you press the "Present" button, the "Present" light goes out and the other three lights come on, that is, the light for "Yes", "No" and "Abstain". I suggest you bear with me and we start again and take it step by step. Let us start again. I would ask Members, please, not to vote prematurely. We have got to get it right. We cannot have queries after the result has been displayed. So bear with me and let us take it step by step. Your "Present" light should now be flashing. If your "Present" light is not flashing, please rise or indicate that something is wrong. All right. Now press the "Present" button if you want to be registered as present. The light above your "Present" button should have gone out and the lights for "Yes", "No" and "Abstain" should be flashing. If that is not the case, please rise or indicate that this is not the case.

The next step now is to press the button for the way you wish to vote, "Yes", "No" or "Abstain". If you do not press any of these buttons, as I think you are entitled to do, you will be recorded in the printout as "Present" but with no vote recorded. So please now vote the way you wish to, "Yes", "No" or "Abstain" or press no button at all. Now if you have voted, that light will be on, but the others will be out. If that is not the case, please indicate to me or rise. If you have voted in error, you can still correct it now by pressing the button for the way you wish to vote. I will now ask the Clerk to activate the display and once that is done, it will be too late for queries, please.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mrs Rita FAN, Mr NGAI Shiu-kit, Mr PANG Chun-hoi, Mr TAM Yiu-chung, Mr Andrew WONG, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mr Martin BARROW, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Peter WONG, Mr Vincent CHENG, Mr Moses CHENG, Mr Marvin CHEUNG, Mr CHIM Pui-chung, Mr Frederick FUNG, Mr HA Wing-ho, Mr Simon IP, Mr Gilbert LEUNG, Mr Eric LI, Mr Steven POON, Mr Henry TANG and Mr Howard YOUNG voted for the amendment.

Mr HUI Yin-fat, Mr Martin LEE, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LEE Wing-tat, Mr MAN Sai-cheong, Mr NG Ming-yum, Mr James TO, Dr Samuel WONG and Dr YEUNG Sum voted against the

amendment.

Dr C H LEONG, Mr Jimmy McGREGOR, Mrs Elsie TU, Prof Edward CHEN, Miss Emily LAU, Mr Fred LI, Mr TIK Chi-yuen and Dr Philip WONG abstained.

THE DEPUTY PRESIDENT announced that there were 30 votes for the amendment, 14 votes against it and eight abstentions. He declared that the amendment was carried.

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

EMPLOYMENT (AMENDMENT) (LONG SERVICE PAYMENT) BILL 1991

Clauses 1 to 4 were agreed to.

Clause 5

MRS MIRIAM LAU: Mr Deputy President, I move that clause 5 of the Bill be deleted.

One of the objectives of the Bill was to standardize the rates of payment so that all eligible employees, irrespective of age would be able to get the full amount of their entitlement based on length of service. However, for reasons which most of our ad hoc group members found difficult to accept, the original proposal was to achieve such standardization over a two-year period in relation to workers under the age of 36 whereas other over that age would be entitled to the full amount immediately. It was felt by these members that if the intention was to standardize the rates for all eligible employees, then no one should be unfairly discriminated. Accordingly it is proposed that the transitional provision under clause 5 of the Bill, which delays the achievement of standardization for workers under the age of 36, should be deleted.

Mr Deputy President, I beg to move.

Proposed amendment

Clause 5

That clause 5 be amended by deleting clause 5.

Question on the amendment proposed, put and agreed to.

Question on clause 5, as amended, proposed, put and agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

STOCK EXCHANGES UNIFICATION (AMENDMENT) BILL 1991 and

EMPLOYMENT (AMENDMENT) (LONG SERVICE PAYMENT) BILL 1991

had passed through Committee with amendments and 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.

5.05 pm

DEPUTY PRESIDENT: It is just after 5 o'clock. I propose to take a 20-minute break before we get to the Member's motion.

5.25 pm

DEPUTY PRESIDENT: Council will resume.

Member's motion

SALE OF PUBLIC HOUSING FLATS TO SITTING TENANTS

MR LEE WING-TAT moved the following motion:

"That this Council urges the Housing Authority to widely consult the public in reviewing the objective, pricing, maintenance, management, and other aspects in connection with the sale of public housing units to sitting tenants."

MR LEE WING-TAT (in Cantonese): Mr Deputy President, I move the motion standing in my name on the Order Paper.

The Sale of Public Housing Flats to Sitting Tenants Scheme had its origin at the first meeting of the Housing Authority's relevant ad hoc group in August 1989. It came to an end with the expiration on 21 October 1991 of the deadline for the submission of applications. As is generally known, the Scheme, which took two years to prepare, has been a complete failure. 6 900 flats in 11 buildings were offered for sale by the Housing Authority. The number of interested sitting tenants was a mere 510, equalling 7.4% of the number of flats offered for sale. It appears on the surface that the selling prices of the public housing flats are quite attractive in light of the sustained high prices in the private sector housing, and this is what is puzzling to people in general and the Housing Authority in particular. What is more, in the calculations of the Housing Department, a sitting tenant can, with the use of only 40% of his income, turn himself into a property owner and, in addition, free himself of the pain of having to pay double the rent should he become well-off 10 years after moving into his public housing flat. That should be quite attractive. Where, then, is the problem? I do not intend to begin by talking about such matters as pricing and maintenance. Instead, I hope to review the basic causes of the failure of the Sale of Public Housing Flats to Sitting Tenants Scheme on the basis of an examination of some fundamental changes made in the housing policy in the course of the past few years.

Some time ago, during the policy debate, I talked about the question of the long-term housing strategy. I would like now to go into this a little more deeply. The Government in 1987 published a paper on the long-term housing strategy. No public consultation was held in the course of the preparation of that paper. The paper said in its preamble, "While the basic aim of ensuring that adequate housing at an affordable price or rent is available to all households must be maintained, the opportunities for assisted home purchase should also be increased." According to the strategy, the trend was to shift gradually to private developers as the principal

suppliers for satisfying housing needs during the period from 1988 until the early 21st century, and opportunities for home ownership were to be greatly increased. A Home Purchase Loan Scheme thus came into being. Now, beginning as soon as the year 1992-1993, the Housing Authority will achieve a one-to-one ratio between public housing flats to let and housing flats for sale. Also, as disclosed in the Housing Authority's annual report, the number of flats to let will decline sharply from 33 900 in 1990 to 15 300 in the year 2000. The Sale of Public Housing Flats to Sitting Tenants Scheme was in line with some of the requirements of this long-term housing strategy.

One unclear area in the long-term housing strategy concerns what role the Government will play while encouraging tenants to acquire properties. Is the Government's first and foremost aspiration to assist the general public in acquiring properties? Or is the Government to help tenants in acquiring properties on one hand and, on the other, to make a profit as well as giving indirect assistance to property development by private developers? When there is a conflict between these goals, how will it choose?

A year after the announcement of the strategy, that is, in 1988, the Government announced a reorganization of the Housing Authority, and a set of new financial arrangements between the Government and the Housing Authority was passed. Under these new arrangements, the \$27 billion that the Government has infused and will infuse up to 1992 into the Housing Authority will become the Government's permanent investment in the Housing Authority, and the Housing Authority will each year remit an amount equal to 5% of this permanent investment as interest to the Government. What is more, the Housing Authority will have to remit to the Government half of its profit from non-residential flats (including shopping spaces, industrial spaces and parking spaces). During the year 1990-1991, the Housing Authority had to remit \$1.9 billion to the Government. Note that the amount is \$1.9 billion. From these financial arrangements, one can see the Government's gradually declining commitment to housing. This explains why the measures considered or implemented by the Housing Authority in recent years were all intended to reduce financial commitment to the public and to increase its income from tenants or buyers of public housing. The Housing Authority has not only increased the supply of Home Ownership Scheme housing and put forth the Sale of Public Housing Flats to Sitting Tenants Scheme but also made a linkage between these two kinds of housing for sale and housing in the private sector. This is a formal indication that the Housing Authority is gradually lightening its responsibility for public housing, using public housing as a means

of earning profit for the Central Government, and using a linkage policy to prevent prices in the private housing sector from being affected by public housing. The recent price surge in the property market is more than a matter of land supply. I think it is also a portent of the failure of the long-term housing strategy.

I feel that, in order to see the real significance of the Sale of Public Housing Flats to Sitting Tenants Scheme, one must look at the two policy points mentioned above. The objectives and specific measures of the Sale of Public Housing Flats to Sitting Tenants Scheme provide a tangible indication that the Government and the Housing Authority are reducing their commitment to housing and are gradually commercializing housing. The terms of reference of the ad hoc group on the Sale of Public Housing Flats to Sitting Tenants Scheme are: "To consider the feasibility of selecting appropriate rental flats from the existing Housing Authority estates and selling them in different phases to the qualified sitting tenants, having full regard for the social, economic and financial impact." The report does not list an objective for the Scheme apart from these terms of reference. If the ad hoc group's terms of reference are an indication of the objective of the Scheme, then it is a very blurred objective. Is the acquisition of properties by public housing tenants to be the first and foremost consideration of the Housing Authority? Or is the Housing Authority's primary objective to make a lot of money? When there is conflict between the two, how should the Housing Authority choose? If one looks more deeply into the matter, the Housing Authority can easily hide its real money-making objective by setting such a blurred objective. This is why, when the tenants heard about the Scheme towards the end of 1989 and began entertaining some hope, they little thought that it was going to be just another dream of acquisition of properties.

A basic cause of the failure of the Sale of Public Housing Flats to Sitting Tenants Scheme was the Housing Authority's linking the selling price to the market price. It offered public housing for sale in the way that merchandise was put on sale at a discount. The selling price of public housing was set at 55% of the market price. Upon the completion of the entire Scheme, the profit was to be \$2 billion. Let me repeat: The profit was to be \$2 billion. That profit would not be much less than the profit from the Home Ownership Scheme. The result of the linkage policy was to put the selling price far above the level that public housing tenants could afford. Because of the recent price surge in the private sector housing, the linkage policy caused the selling prices of public housing flats to rise sharply. People simply could not afford them. The Scheme was to fail sooner or later. The Housing Department announced some time ago that the average household income of tenants moving

into public housing flats from 1973 until recently was \$7,000. Using this as the base, it calculated that the sitting tenants of the public housing flats for sale could, with the use of only 40% of their household income, turn themselves into property owners. I have more than once publicly questioned such a calculation, giving the following reasons. The public housing flats offered for sale are four to five years old counting from the first day of occupancy. In most cases, each of the sitting tenant households still consists of a married couple with two children. As for the public housing flats with occupancy dating back to 1973, they are now 18 years old. In most of these old blocks, the income of the sitting tenants has increased as a result of there being more household members working. The Housing Department made a great error when it calculated the household income of all tenants who have moved into public housing since 1973 and took that figure for the median income of households to whom the public housing flats were to be sold. The household income of the new tenants is far below that figure. This point was noted in the Housing Authority's review of the failure of the Scheme. It has recognized that, in many cases, the household income of tenants is under \$6,000. If this figure is used, calculations will show that the principal tenant needs to spend 50% to 60% of his income on mortgage payments and management fees. To low income families, who spend a very high percentage of their income on everyday consumption needs, mortgage payments taking up 50% to 60% of their income constitute a heavy burden. Of course, tenants can tell from personal experience the poor quality of public housing; they know that future maintenance expenses will be like money thrown into a bottomless pit. I believe that some of my colleagues will be going into greater details about this point. The Housing Department, when preparing the Scheme, often made the estimate that the sale of public housing would be as popular as the sale of Home Ownership Scheme housing. Officials of the Housing Department do not realize that the tenancy rights of the sitting tenants of public housing are basically protected. The mortgage payments that they would be required to make would be four times the rents that they now pay but would not change their environment.

In fact, when routine consultation was held about the Sale of Public Housing Flats to Sitting Tenants Scheme, the Housing Authority had an opportunity to revise that Scheme. Unfortunately, none of the views expressed by the general public during the consultation period, such as the recognition of public housing as a social welfare benefit for low income people, the unpegging of the price of public housing from the price in the private housing sector, a longer-term warranty covering repairs and maintenance, the establishment of a maintenance fund and the continuation of the Housing Department's responsibility for management, was adopted. Thus, the tenants

of public housing had to respond by using their weapon of last resort -- refusal to buy. They heeded the proverbial con man advice to his son: "Don't be greedy for obvious advantages." Unfortunately, the tenants of public housing were not even close to gaining any advantage from the Scheme. In the motion that I am moving, I suggest that the Housing Authority widely consult the public in reviewing the Scheme. I mean real consultation and not routine consultation or false consultation. Wide consultation should mean the following:

- (1) An open consultation process, during which the public will be provided with sufficient information.
- (2) The consultation to be as wide-ranging as possible, with the participation of all district boards, relevant interest groups and groups of tenants to whom public housing flats are to be sold, such as buildings' mutual-aid committees. Members of the relevant ad hoc group and senior officials of the Housing Department are to attend the consultation activities.
- (3) Upon the completion of consultation, the views gathered to be compiled into a report made available to the public.
- (4) The Housing Authority to give full consideration to the views and, where a suggestion is not adopted, explain why.

Mr Deputy President, I am a member of the ad hoc group on the Sale of Public Housing Flats to Sitting Tenants Scheme. In the course of the preparation of the Scheme during the past two years, I did my best to reflect the views of the general public. However, most of them by far have not been accepted. I am greatly dismayed. I am a bit sad because the Scheme has failed. However, upon thinking more deeply, I find there is a positive side to the failure of the Scheme. At least, the failure will make the Housing Authority conduct a serious review of the causes thereof and design a new scheme that agrees with the interests of the general public. Today, outside the Legislative Council Building, there are many groups and tenants presenting petitions urging the Housing Department to take a proper look at the real needs of public housing tenants in regard to the acquisition of properties.

On behalf of the United Democrats of Hong Kong, I shall briefly describe our position concerning the Sale of Public Housing Flats to Sitting Tenants Scheme. We think that housing is a necessity of life and a benefit that a responsible government

should provide to the public. On the basis of such a principle, the selling price of public housing should not be linked to prices in the private sector housing but should be calculated by simply adding a reasonable profit to cost. This profit is to provide the funds needed for the further development of public housing.

The Housing Authority will hold a meeting again on 28 November to discuss the policy. I hope that the Housing Authority will really heed the views expressed inside and outside this Council and come up with a popular scheme for promoting the acquisition of properties by public housing tenants.

Mr Deputy President, I would like also to give a brief response regarding the matter of the motion for amendment. My first and foremost purpose in moving my motion was to provide colleagues of this Council with an opportunity to hold a rational policy debate that would establish the true facts and arrive at the right course, and, as far as possible, to come up with a relative consensus for the consideration of the Housing Authority. When I filed the notice of motion in mid-October, there were two options that I could consider.

The first option was to write into the motion in clear and unequivocal terms the position that I considered to be correct.

The second option was to frame a motion that would set a forward course and would be more mildly worded.

I believed that the first option would give rise to a debate that would be very acrimonious and divisive. The motion debate would, as it unfolds, gravitate towards political arguments rather than arguments on policy. Also, discord within this Council would cause our strength to be dispersed instead of being concentrated and make it impossible to arrive at a consensus. I remember that the first and the second time when I proposed the motion at the In-House meeting, some colleagues expressed reservations and proposed amendments. So I made some changes by way of seeking a common ground while letting differences remain. If we were to move a motion when the parties to debate on it were in diametric opposition, we would fail to concentrate our strength and fail to make the Housing Authority conduct consultation that would be really open. The motion for amendment, when stating the position with regard to the Sale of Public Housing Flats to Sitting Tenants Scheme, enumerates only objective, pricing, repair works and the interests of those who remain public housing tenants. This is not wide-ranging enough. In addition to these four points, public housing

tenants have asked for the recognition of public housing as a social welfare benefit for the low income people. They have raised such matters as the right of ownership transfer, mixed ownership, management and a maintenance fund. There are different suggestions, for instance, concerning pricing alone. This is why the consultation urged for in my original motion is wider-ranging than that urged for in the motion for amendment. Besides, a real process of consultation will give the general public an opportunity to express their views once more and will reflect their views directly to the Housing Authority.

Mr Deputy President, with these remarks, I beg to move.

Question on the motion proposed.

DEPUTY PRESIDENT: Mr Frederick FUNG has given notice to move an amendment to the motion. His amendment has been printed in the Order Paper and circulated to Members. I proposed to call upon him to speak and to move his amendment now so that Members may debate the motion and the amendment together.

MR Frederick FUNG moved an amendment to Mr LEE Wing-tat's motion:

"To replace "to widely consult the public" by "," and add after "sitting tenants" the following:

", to assist public housing tenants in acquiring their own properties as its social objective, to set the prices of the public housing flats in accordance with the purchasing power of the tenants, to complete all necessary repair works before the sale of the flats, and to protect the interests of those who remain as public housing tenants. Besides, the Housing Authority should widely consult the public before a final decision is made on the outcome of the review"

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, I move that the Honourable LEE Wing-tat's motion be amended as set out in the Order Paper.

I feel that Mr LEE Wing-tat's motion, which seeks a common ground while letting differences remain, has in fact changed the original subject of the policy to sell public housing to a request that the Housing Authority conduct a review and

consultation. Unless I misinterpret the wording or unless the motion is meant to side-track, nowhere in the motion do I find any room for discussion of the Sale of Public Housing Policy. Before I explain the wording of my motion, I would like to explain why I must amend the original motion.

Firstly, I must state that the Standing Orders of the Legislative Council in fact permit Members to amend motions. This is in accord with the spirit of establishing the true facts and discussing them per se. It is no big deal. At the In-House meeting, I suggested that Mr LEE Wing-tat should say something more in his motion to set a course. It was only after my suggestion failed to be adopted that I began considering moving an amendment to the motion. In fact, the purpose of my motion for amendment is to enable this Council to perform its function of monitoring and evaluating government policy. I think that Mr LEE Wing-tat's original motion does not enable Members of this Council to use the motion debate as a means of performing their function of monitoring and evaluating government policy. Nor does the original motion set the stage for views serving to chart a course as to objective, pricing, maintenance and management in the context of the Sale of Public Housing Flats to Sitting Tenants Scheme. Therefore, I feel that I must move an amendment.

I must also stress that my motion for amendment, even if passed, will represent no more than a body of opinion that would carry some weight with the Housing Authority. It will not be a binding decision. For the first phase of the Housing Authority's Sale of Public Housing Flats to Sitting Tenants Scheme, there are 6 897 eligible sitting tenant households. Only 510 of them (that is, 7.4%) have expressed an interest in buying. This shows that the Scheme has not realistically responded to the needs of public housing tenants. The Housing Authority stated that it consulted the public during the period from October 1990 until January 1991 concerning the report of the Ad Hoc Committee on Sale of Public Housing Flats to Sitting Tenants. Regrettably, however, the Housing Authority did not heed public opinion favouring the pricing of public housing at a level affordable to the sitting tenants; it also ignored public housing tenants' complaints that the quality of housing was no good. Mr LEE Wing-tat's motion urges the Housing Authority to widely consult the public in its review of objective, pricing, maintenance and management in the context of the Sale of Public Housing Flats to Sitting Tenants Scheme. As a member of the Legislative Council and of the Housing Authority, I am very much in favour of the need for the authorities to widely consult the public before adopting any policy that affects people's livelihood and to make policy with due regard to public opinion. Concerning public consultation, I believe that I am in agreement with Mr LEE Wing-tat.

What, then, is the difference between the two motions? The difference is in the timing of consultation. Mr LEE Wing-tat's original motion seems to say that the Housing Authority must widely consult the public when conducting the review. My motion for amendment urges the Housing Authority to sum up the experience of the failure of the first phase of the Sale of Public Housing Flats to Sitting Tenants Scheme, to review the outcome of the public consultation last time and then to put forth new proposals concerning objective, pricing, maintenance and management in the context of the Scheme. Then, it must hold wide consultation before making the final decision. I feel that the Housing Authority must take these steps. In fact, whether a scheme of the authorities will succeed or fail depends not only on whether wide consultation is held but even more on whether public opinion is heeded. Let me use this occasion to recapitulate the outcome of the authorities' past consultation on the Scheme. Information provided by the Housing Authority shows that the public approved of the Housing Authority's putting forth the Sale of Public Housing Flats to Sitting Tenants Scheme to satisfy their need to buy subsidized homes, but that, in most cases by far, the public disapproved of the pricing of public housing by the same criteria that apply to Home Ownership Scheme housing. Also, the public was not satisfied with the conditions of the public housing flats offered for sale including the quality of the buildings. Also, the public asked the authorities to carry out the necessary repair works and set aside money for the establishment of a maintenance guarantee fund. Also, many members of the public stated that they chose to remain public housing tenants in order to protect their tenancy rights.

I know that, after the first phase of the sale of public housing ran aground, the Housing Authority held a preliminary review at the 5 November meeting of the Home Ownership Committee. Also, at its open meeting tomorrow, the Housing Authority will review its various schemes for promoting home ownership by the public. The trend is that the Government is becoming more open and more willing to hold public consultation. I believe that it will be difficult for the Housing Authority to find a reasonable excuse for refusing to accept the outcome of the Scheme and new proposals.

As a Legislative Council Member, I feel that, by passing the original motion, we will be evading our responsibility, failing to reflect public opinion on the sale of public housing, which is a matter of concern to the general public and to the sitting tenants of public housing flats, and failing to provide the Housing Authority with a course-setting opinion. As a Legislative Council Member, I am making a five-point comment on the Scheme as follows:

The first point concerns the objective of the sale of public housing. I have contacted many tenants of the buildings selected for the first phase of the Scheme, as well as the relevant groups. They all approved of the social objective of this Scheme put forth by the authorities, which is the acquisition of properties by members of the public for use as their own homes. However, in order that the properties may be acquired for use as homes, the prices of the public housing flats offered for sale must be affordable to their prospective buyers. If a sitting tenant does not want to buy the flat in which he now lives, the rent, too, must be affordable to him. Only thus can the two objectives promoted by the Housing Authority be met. In addition, whether to let or for sale, the flats should meet an assured quality standard. I feel that these views are acceptable. In saying the above, my intention is merely to point out that, whether letting or selling, the Housing Authority's social objective should be the same, namely, to help the people of Hong Kong to find secure dwelling places. The number of people now living in public housing accounts for nearly one half of Hong Kong's total population. In addition, there are households who are eligible for public housing but who are living in sub-standard private sector rental housing. I feel that providing them with secure dwelling places is a social objective that the authorities should pursue. An element of social stability is that everybody has a secure dwelling place.

I feel that the Sale of Public Housing Flats to Sitting Tenants Scheme is another property acquiring option provided by the Housing Authority to public housing tenants, that is, an option in addition to the option of Home Ownership Scheme housing and the option of being left to acquire properties on their own. In the implementation of the Scheme, consideration should not be limited to the interests of only those public housing tenants who are interested in acquiring properties. There must also be protection for the tenancy interests of those public housing tenants who do not intend to acquire properties but want to continue living in public housing flats as tenants. This, then, is the second point that I think the Housing Authority should consider. In the 11 buildings where flats were offered for sale during the first phase of the Scheme, many tenants are not interested in buying the flats where they live. They have often expressed their worries of various kinds. One, after over half of the flats in a building are sold, the buyers may decide to undertake a major renovation of the building. If so, this will lead to a rise in rents. The tenants are very worried because, if they cannot afford the new rents, they will be evicted by the authorities. Two, the quality of the public housing buildings where flats were offered for sale is not good. The Housing Authority will stop managing the buildings three years after the sale. The tenants are worried that the conditions

inside and outside their flats will deteriorate and that consequently future repairs and maintenance bills will be more expensive. These worries show that the tenants probably do not understand or are unhappy with the policy of the Housing Authority or that they have no confidence in its promises. During its review of the Scheme, the Housing Authority must put forth measures for improvement that are responsive to the tenants' worries, measures that will make sure that they can continue living in public housing flats as tenants and will continue to have secure dwelling places.

Thirdly, concerning the pricing of the public housing flats offered for sale, the prices of the public housing flats offered for sale during the first phase were set in disregard of public opinion. No wonder the sale ended in failure. I am opposed to setting prices by the same criteria that apply to Home Ownership Scheme housing. Because the prices of the Home Ownership Scheme housing flats are linked to market prices, a surge in prices in the private sector housing leads to a similar surge in the prices of the Home Ownership Scheme flats, which would thus become unaffordable. I strongly demand that the Housing Authority set the selling prices of public housing flats on the basis of the sitting tenants' purchasing power. I think that the Housing Authority should set the price according to the cost of reprovisioning of the flat and applying an adjustment factor for geographical location and environmental considerations. If prices are set according to such a formula, the Housing Authority can be sure that the proceeds from the sale of one flat will be sufficient for meeting the cost of construction of another flat. This is to say that the price will be totally devoid of a component which is profit. I am opposed to the sale of public housing as a way of making money for the Housing Authority so as to reduce the Government's financial commitment to it. As far as I know, one flat in Pok Hong Estate in Shatin offered for sale can provide an illustration. The cost of building a replacement flat is \$440 per sq ft of covered area. In other words, to build a replacement public housing flat with a covered area of 542 sq ft, the cost is about \$240,000. However, the Housing Authority set the price of the flat, as one of the public housing flats offered for sale during the first phase, at \$310,000. Clearly, setting the selling price at the cost of replacement will definitely lighten the burden for public housing tenants. I hope that the Housing Authority will think of other ways to help public housing tenants, enabling them to afford to buy the flats where they live. In fact, subject to the general principle of cost recovery for the construction of replacement flats, the Housing Authority should allow buyers to set the amount of each payment and the total number of payments. Those sitting tenants who are interested in buying the public housing flats where they live but whose means are limited should be offered the option of

making mortgage payments equal in amount to the present rent payments, plus paying management fees and rates. They will thus be enabled to acquire properties for use as their own homes. Then, as their financial situation improves, they can make higher mortgage payments. I feel that the Housing Authority has the means and the ability to design such a plan. I believe that flexible mortgage payments can encourage those with limited means to join the ranks of property buyers. As for those sitting tenants who are financially better qualified and who are willing to buy their public housing flats at prices higher than the replacement cost, the Government may consider making preferential arrangements with regard to the restrictions on resale.

Fourthly, there is the matter of conditions and quality of the public housing flats. The pricing of the flats definitely affects sitting tenants' interest in buying. Another matter, a matter of even greater concern, is the poor quality of buildings in public housing estates and the insufficient response to complaints. The quality of public housing flats is very poor, and, when tenants complain, the authorities respond indifferently. Repair works are not carried out effectively. This, too, greatly dampens the sitting tenants' interest in buying. The Housing Department in September 1991 completed a survey of the 6 900-plus flats in the 11 public housing buildings in the first phase of the Scheme. The finding was that the conditions even in the cases of buildings between four and six years old were very unsatisfactory. Their degree of disrepair was worrisome to the tenants. The major and minor problems found included the peeling off of cement, leaking ceilings, leaking window frames, damp walls, defective pipes, damaged latrine doors, local damage due to redecoration, cracks on the surfaces of brick walls, leaking kitchen window frames, inadequate fresh water supply and certain structural cracks. The Housing Department estimated that the repairs for these problems would cost as much as \$25 million.

It is therefore clear that, if the sitting tenants' confidence in the Housing Authority's Sale of Public Housing Flats to Sitting Tenants Scheme is to be restored, the authorities must consider anew the need to complete all necessary repair works before any flat is offered for sale. In fact, whether public housing flats are to be sold or not, the authorities have the responsibility to repair quickly those buildings where problems have appeared. This is an effective way to provide the tenants with secure dwelling places and bring the quality of construction under better monitor and control.

Fifthly, there is the question of public consultation. Over the years, the Housing Authority consulted the public on many consultation papers and reports. It

has, however, been my observation that the Housing Authority's past consultations were "posturing without substance." In fact, the Housing Authority does not seriously consider public opinion in the making of policy. Therefore, I urge members of the Housing Authority to learn from the failure of the Scheme a lesson about failure to heed public opinion, and, during its review of the Scheme, to give serious consideration to the views of this Council and of the general public, to come up with new proposals upon the conclusion of the review and to widely consult the public before making the final decision. In addition, they should not consult the public if they do not sincerely intend to heed public opinion.

Though my speech today is focused on the Sale of Public Housing Flats to Sitting Tenants Scheme, I believe that my five-point suggestion is also appropriate to the Home Ownership Scheme. The Sale of Public Housing Flats to Sitting Tenants Scheme is only one of the schemes for promoting home purchases by members of the public. I urge the authorities to begin studies soon on other measures for helping members of the public to acquire properties for use as their own homes.

Mr Deputy President, before I conclude, let me repeat my five-point suggestion:

Firstly, whether public housing is to be sold or let, the objective should be to help members of the public to have secure dwelling places.

Secondly, in schemes to sell public housing, pricing should be based on the purchasing power of members of the public. Members of the public should be permitted to set the amount of each mortgage payment and the number of payments according to their means. The price paid by a member of the public for a flat must be sufficient to meet the cost of construction of a replacement flat.

Thirdly, before public housing flats are sold, all the necessary repair works must be completed.

Fourthly, the tenancy rights of those who remain tenants in public housing buildings where flats are offered for sale are to be protected. Ways should be devised to free them from their various worries.

Fifthly, after completing their review of the Scheme, the authorities should widely consult the public on new proposals before making the final decision. The authorities must discontinue false consultation which is "posturing without

substance." They must heed public opinion and make policies that will promote acquisition of properties by members of public for use as their own homes.

Mr Deputy President, I appeal to my colleagues of this Council, whether or not they belong to any group, to accept and support my motion for amendment, which is in accord with the spirit of seeking to establish the true facts and discussing them per se. Thank you, Mr Deputy President.

MR EDWARD HO: Mr Deputy President, that the Sale of Flats to Sitting Tenants Scheme has suffered a disappointing setback is a fact, as only 7.4% took up the offer. It is therefore necessary for the Housing Authority to have a complete review of the scheme, to decide whether it should be modified, deferred or abandoned entirely. It will be necessary to examine the reasons for the rejection by the public rental housing tenants, the target of the scheme, and what should be the way forward if the Housing Authority continues to believe that the objective of enhancing home ownership is a desirable social objective and that sitting tenants in Housing Authority estates who otherwise cannot afford to buy private sector or Home Ownership Scheme flats do desire to own their own units.

I understand that the Housing Authority has already begun this review: the Home Ownership Committee has already met once to examine the reason for the disappointing response to the scheme. Members of the Housing Authority have been given notice that a proposal to review the scheme will be discussed at its meeting tomorrow.

In reviewing the result of the latest sale, I am sure that members of the Authority will want to re-examine all the points contained in Mr LEE's motion debate, namely, "the objective, pricing, maintenance, management, and other aspects in connection with the sale of public housing units to sitting tenants". The Authority will have to satisfy itself whether its decisions on all these aspects were the right ones in view of the current situation. As a member of the Housing Authority, I shall of course be particularly interested to listen to opinions expressed by Members of this Council in this debate.

The wording of Mr LEE's motion seems to focus on the question of consultation in the review. He asked the Authority "to widely consult the public". First of all, I have to assume that he did not wish to imply that the reason for the disappointing result was due to a lack of wide consultation.

Before the scheme was decided by the Housing Authority and submitted to the Executive Council at the end of April 1991, the Authority set up in August 1989 an Ad Hoc Committee on Sale of Flats to Sitting Tenants, chaired by Dr Philip WONG and of which Mr LEE Wing-tat was a member. The committee examined the proposal in detail and submitted a report to the Housing Authority. Following the production of this report, the Housing Authority at its meeting on 28 September 1990 agreed that the committee should conduct a three-month public consultation exercise. This took place from mid-October 1990 to mid January 1991. The level of response to the consultation was very high.

In preparing for this debate, I have reviewed again almost all of the available documents on the background of the scheme, the ad hoc committee's report and in particular the Report on Public Consultation on Sale of Flats to Sitting Tenants dated January 1991. The report summarized the amount of publicity on the consultation exercise. In addition to publicity in the mass media, a briefing session for district board members was arranged, and consultations were made with the 19 district boards. A total of about 160 000 copies of the summary booklets and 5 000 copies of the full report were distributed to tenants and the public. The report also summarized the public's reaction to acceptance of the scheme, option to buy or rent, selection of blocks for sale, pricing, resale restriction, management and maintenance, eligibility criteria, and such matters as proposed administrative and conveyancing arrangements.

Contrary to what Mr LEE Wing-tat would have us believe, there cannot be any doubt that a genuine wide consultation has indeed been undertaken before the ad hoc committee made its recommendations in March 1991 to the Housing Authority on various aspects of the scheme and the timetable for its implementation. The question before us is whether another wide consultation should now take place which would cover the same ground as the first consultation exercise.

The background of all of these matters should not have changed from March of this year. What is relevant in the coming review would be for the Housing Authority to re-examine the relative weights it has placed on the many different opinions and suggestions it has received during its consultation exercise. Any consultation exercise would produce many divergent opinions and these weightings affected directly the nature of the decision.

At the same time, the Authority should also re-examine the assumptions it made on the level of affordability of particular tenants in a given block that was to be sold, what financial incentive there was for such tenants and their receptiveness to purchase their own homes. Clearly, some of these assumptions had turned out to be wrong. There are two important factors which are unique to public rental housing tenants: firstly, they have secure tenure and, secondly, they are enjoying a low rent. Even if it can be shown that they can afford to pay the monthly mortgage payments and even if these payments were of a reasonable percentage of their income compared to those living in private sector housing, these payments will work out to be of a much higher percentage of their income than they were used to. For instance, it was assumed that a flat would be affordable if the expenses associated with the purchase took up 40% of household income, even though public housing tenants pay on average only 7% of their income on rent.

For those families whose monthly household income has not increased substantially above the Waiting List Income Limit, clearly the housing purchase costs of 40% of their income would not be realistic.

In reviewing whether prices can be adjusted downwards, the Housing Authority will need to consider the effect of pricing relative to that of Home Ownership Scheme, and the impact of both types of home ownership on the financial position of the Authority. We should realize that the Authority's financial position is such that there is little scope for reducing the income derived from Home Ownership Scheme/Private Sector Participation Scheme, unless additional income can be obtained from other sources. Currently, both Group A and Group B public rental estates incur a deficit, even after allowing for the profits generated by the non-domestic operations.

In so far as Mr Frederick FUNG's amendment to Mr LEE's motion is concerned, my opinion is that the aspects that Mr FUNG wants the Housing Authority to cover in its review should already have been embodied in Mr LEE's original motion. In any case, Members speaking to the motion can speak freely on all those aspects. I recall Mr FUNG himself objected to this type of semantic amendments in a recent motion debate in this Council. I therefore do not support Mr FUNG's proposed amendment.

Mr Deputy President, I believe that the Housing Authority should continue its objective to encourage more home ownership by families who could not afford to buy new flats under the Home Ownership Scheme and reasonable accommodation in the private

sector. It should now examine all available options to achieve this objective. To the extent that new options would be examined, I support that the Authority should consult the public on aspects of the scheme or such other options that have not already been covered in the first consultation exercise.

With these qualifications, Mr Deputy President, I support the motion.

MRS SELINA CHOW: Mr Deputy President, I rise to support Mr LEE Wing-tat's motion and to express my reservations concerning Mr Frederick FUNG's amendment. It is, however, a qualified support for Mr LEE. As a principle, no one can fault Mr LEE's proposal. Of course it would be in the interests of the Housing Authority to open itself to the widest possible exposure of views that the public might have on such a major exercise of offering for sale public housing units to sitting tenants, particularly in the light of the wide variety of reaction to the effort. However, it is important to be conscious of the form that the consultation should take, and the resources required to service it, and to be assured that resources are not unnecessarily wasted in the process.

Therefore while I do accept Mr LEE's suggestion in principle, it is important that no efforts should be wasted through duplication, and all the views that have been collected to date, whether it was the result of the three months' public consultation period last year by the Housing Authority or the views expressed throughout the last year when the units were on sale, should be considered.

Mr FUNG's amendment, on the other hand, suggests a degree of social engineering and fails to acknowledge the fine difference between the Housing Authority as a provider of a social service for the less well-to-do, which is its role as landlord, and as a vendor of property. The fact that the recent venture of selling these units to tenants did not succeed represents a failure of a commercial effort and a review of this result should be examined in this light.

On examining the pricing of the units which have been offered for sale, anyone who is remotely familiar with property prices would agree that the discount determined by the Housing Authority is really quite attractive. When market price of private uncompleted units are selling at \$2,000 to \$3,000 per sq ft, the Housing Authority's offers which range from \$525 to \$680 appear to be extremely low. However on closer examination such comparison can be misleading and meaningless in terms of the appeal such low prices should have or may have. The units in question are after all not

offered on the open market; they are aimed at a very restricted market of public housing tenants who are protected tenants enjoying security of tenure, rental considerably lower than market rent, and level of rental determined by affordability of tenants. Currently, these tenants are paying a monthly rental of around \$800, but if they are to buy the unit the monthly mortgage would be about \$3,000. With this additional payment comes also the responsibility, financial and otherwise, of ownership. To any shrewd consumer in the position of a sitting tenant, the Housing Authority's proposition is much less attractive than it may initially appear. The questions remain: what further discount the Authority needs to offer so that sitting tenants will buy; whether such discounts are justified and equitable to the taxpayers who financed the development of these units in the first place and purchasers of HOS flats?

It has been suggested that the pricing has to be substantially reduced before sitting tenants will respond. In other words, prices might have to be reduced to \$400 or even \$300, or even less per sq ft, before tenants would be interested. I submit, for the consideration of the Housing Authority and the Administration, that the whole policy of the sale of these units to sitting tenants should be reassessed to determine whether it is meaningful to continue. For tenants who aspire to become owners, they are already enjoying an advantage over eligible members of the public to purchase Home Ownership Scheme units. I urge the Authority to review the proportion of rental and HOS flats so as to meet the increasing demand of public housing tenants to own their own home.

Before I conclude, I feel we should put our present discussions in the context of the highly successful public housing programme that has been initiated and managed in Hong Kong. It is only fair that tribute be paid to the Housing Authority as the body responsible for that achievement.

MR HUI YIN-FAT (in Cantonese): Mr Deputy President, I have always supported the Sale of Public Housing Flats to Sitting Tenants Scheme formulated by the Home Ownership Committee (HOC) under the Housing Authority (HA), because acquiring one's own property for self-accommodation is not only the common desire of every family, the rich and the less affluent alike, it is also an essential element for the Government to encourage people to take root in Hong Kong. Furthermore, the sale of public housing flats can increase HA's liquid fund and speed up the construction of public housing flats, hence enabling early provision of permanent accommodation to those

prospective public housing tenants desperately in need of improving their living environment. In fact, during the adjournment debate in this Council on 8 May this year, I have already made clear the reasons for my spiritual support to the scheme. Therefore, I have no intention to repeat them today.

The surprising response to this scheme and the admission of its failure by the HOC are due to a number of complex reasons and cannot be accounted for by simply stating that the staff of the Housing Department have over-estimated the affordability of the tenants. As a matter of fact, the main reason for the failure of the scheme is that the thinking of the HA is in total disjuncture with the aspirations of the tenants. In other words, the scheme actually does not have adequate support from the market. I recall that during the above debate, I did advise the Administration that "HA's good will alone is not enough to make the scheme a success. The response of the tenants concerned is also very important. Their main considerations are: whether the price is low enough and who will undertake or share the responsibilities for future management and maintenance of the flats." Regrettably, the parties concerned did not take this fully into consideration.

Reality has told us that people who know best about careful and strict budgeting are those "prospective owners of public housing flats" rather than those senior officials who devised the whole scheme and played with statistical figures. Only they know best as to whether the flats for sale have any purchase value. Let us imagine, how would they be prepared to pay mortgage instalments three times their present rental to purchase flats which are inferior to those in the private sector in terms of internal or external design, quality and facilities provided. Moreover, even if a sitting tenant does not buy the flat, at least one of his children registered as a household member can succeed to the tenancy right. Taking into consideration the average life span of a building, decades of aggregated use by two generations of a family is almost tantamount to permanent ownership. In view of this, how could we expect them to spend 40% of their total family expenditure each month for a period over 10 years to acquire permanent ownership of a property not entirely to their satisfaction?

I do appreciate HA's difficulties in setting the price level of the flats. First, if the price is set at too low a level, it will give undue preference to the sitting tenants who are already enjoying substantial government subsidies. This would lead to an outcry from taxpayers, particularly from those who are non-public-housing tenants. Second, there are worries that successful implementation of the scheme may

have undesirable impact on the private property market. In spite of these difficulties, the scheme is devised in light of the needs and aspirations of the sitting tenants, therefore, the prime consideration should centre on its contribution and invisible value to the community as a whole. As a matter of fact, the provision of public housing is in essence the Government's efforts to fulfil its social responsibility to provide low cost accommodation to the low income families. This basic principle should under no circumstances become a trading condition of a commodity as a result of the sale of public housing flats scheme. I sincerely hope that the HA would take this fully into account when it conducts a comprehensive review on the public housing tenant home ownership assistance scheme and reformulates the pricing standards in future.

All in all, I agree to two of the conclusions arrived at in the special meeting of the HOC held on 5 November, namely: (i) cease implementation of the scheme and HA should conduct a comprehensive review on all public housing tenant home ownership schemes; (ii) defects of all rental public housing flats, irrespective of whether they are under any plan for sale, must be rectified. This is the right way to face reality and to prepare for the future. It is also the Housing Department's basic responsibility which it cannot deny. As I still believe in the spirit and social significance of the sale of public housing flats schemes, I consider that the set-back in the implementation of the present scheme should not take away our confidence and determination in having another try, for relinquishment only denotes complete failure.

Mr Deputy President, laid before us are two versions of the motion introduced by the Honourable LEE Wing-tat and the Honourable Frederick FUNG, who are the convener and deputy convener of the OMELCO Standing Panel on Housing respectively. I do not understand their motive and rationale for moving two similar motions, but since I have always made my judgements about an issue on its own merits, and in view that Mr FUNG's motion is more specific and comprehensive and in line with my attitude, with these remarks, I support his amendment motion.

MR PANG CHUN-HOI (in Cantonese): Mr Deputy President, I have in my hand an encouraging press release issued by the Hong Kong Tourist Association. I note that Hong Kong has, inter alia, "the world's largest civil engineering project under way (the Port and Airport Development Scheme)", "one of the world's tallest buildings outside United States (Bank of China Tower)", "the world's first US\$1 billion building

(Headquarters of the Hong Kong and Shanghai Banking Corporation)" and it is "among the world's leading reclaimers of land". Indeed, these are the achievements which Hong Kong people take pride in, and which make Hong Kong's head lift up abroad. I have not come, of course, to praise today. I am here to discuss the fundamental housing problem faced by the Hong Kong people who have those proud achievements.

The Housing Authority put forth the "Sale of Public Housing Flats to Sitting Tenants Scheme" recently. I welcome the scheme on the grounds that it encourages people to purchase their own properties and occupy their own homes. However, many of its details, for example, over-pricing and unfavourable pegging of prices to market values in the private sector, are open to criticisms. Many comments in this regard have been made through the media. I hope these could be included in the Housing Authority's review on the scheme for reference. I am not going to speak about them any more.

Nevertheless, while I regret about the failure of the scheme, I want to remind the Administration again that there is a possibility of conflict between the housing policy of "financial self-sufficiency" and "concern for the grassroots' interest". What should the Administration choose if a policy which can take care of the grassroots' interest fails to bring profits for the Housing Authority? Should it choose the grassroots' interest, or rather, should it take the Housing Authority's proceeds as the premises, sacrificing the well-being of the grassroots? On this most fundamental question of the people's housing, should a responsible government focus on "financial self-sufficiency" alone? Even more, should it give people the impression that it is trying to withdraw from its commitment towards public housing as early as possible?

It is revealed in a recent report submitted by the Director of Audit that there are more than 36 000 vacant flats in the public sector at present. One of the reasons, it was alleged, is that "in persuading those households with many years of residence in the urban area to move from the districts where they are presently living, even to attractive new estates in the extended urban area", the offers were refused by the offerees. However, the figures of the Waiting List indicates that some 150 000 applicants have been waiting for public housing. I, too, have waited for years. I wonder if the Housing Department could provide us with the figures showing the distribution of vacant flats in the urban districts for reference.

Lastly, I want to remind the Administration again not to put the cart before the

horse in implementing its public housing policy. Given the sizable structure and autonomous operation of the Housing Authority -- a body related to the housing problem of the majority of people, it should be monitored by the Legislative Council, that is by all the people in Hong Kong. Otherwise, at this very moment when we claim the prosperity and stability we are after, it is hard for us to tell our poor little citizens who continue to stay on this land and make their contribution towards the future of Hong Kong that the solution to their basic housing problem is not in their own hands. Mr Deputy President, I support the Honourable LEE Wing-tat's motion.

I feel that the Honourable Frederick FUNG's motion is uncalled for. Given that both motions aim for more or less the same thing, any argument over rhetoric is unnecessary. Both motions share the same notion of consulting the public on an extensive basis before formulating any policy. Let us wait and see how they fare in future.

Mr Deputy President, with these remarks, I support the motion moved by the Honourable LEE Wing-tat.

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, I should like to speak in response to the Honourable PANG Chun-hoi's comment as to my motion being "uncalled for".

DEPUTY PRESIDENT: Your right to speak a second time is very limited, Mr FUNG. If there is something about your speech which has been misunderstood, you can seek to clarify that point, but not to raise any fresh matter. Is there a point which has been misunderstood?

MR FREDERICK FUNG (in Cantonese): I think there is some "misunderstanding".

DEPUTY PRESIDENT: Then please clarify as concisely as you can, Mr FUNG.

MR FREDERICK FUNG (in Cantonese): The Honourable LEE Wing-tat's motion lacks a direction. It demands that the Government should keep an open mind and conduct a

consultation exercise and a review. But my motion has a clear orientation.

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, in May this year, the Council held a debate on the Sale of Public Housing Flats to Sitting Tenants Scheme. At that time, I strongly criticized the scheme proposed by the Housing Authority and concrete suggestions were made. However, the Housing Authority turned a deaf ear to these opinions and consequently the scheme ended in failure. Today, in order to avoid a repetition of the arguments raised during the last debate, I would like to look at the scheme from another angle.

Immediately after the announced failure of the scheme, the Chairman of the Housing Authority said that the Housing Authority will consider lowering the stipulated percentage required of tenants willing to buy their flats before a block is put on sale, that is, even if there are less than 50% of tenants willing to buy their flats, the scheme will still proceed. Before that, in reaction to the very poor response to the scheme, the Housing Authority declared, as reported in the press on 30 September, that it would change the ratio of the types of flats to be built. According to the "study" quoted by the Housing Authority, the demand for public housing would decrease. Thus more HOS flats would be built in future and the number of public housing would decrease. From these two statements, we can see how determined the Housing Authority is in "selling flats".

It is also worthy to take note of another press report on 28 October. According to that report, a survey conducted by the Housing Authority showed that for those families which moved to the newly completed housing estates in the past two or three years, the percentage of their income spent on rent has gradually gone down. Officials of the Housing Department said that the Housing Authority would take into account the results of that survey when it reviewed the domestic rent policy in future. Furthermore, it was reported earlier on that for those tenants who moved to new housing estates due to the demolition of their old housing estates, the Housing Authority intended to shorten the period of exempting them from paying double rent from 10 to five years. We cannot help worrying that the Housing Authority is trying to make use of rent increase as a means to achieve its objective of selling flats.

Actually, the policy of selling flats can be accepted in principle as it provides a choice to tenants to own their flats. However, if the scheme is to be considered as one aspect of the overall public housing policy, the matter is not as simple as

it seems.

First of all, what actually does the scheme aim at: increasing or decreasing the commitment of the Government to public housing? If the proceeds of the scheme is wholly used to build more public housing, the scheme is worthy of support. However, so far the Housing Authority has not given any undertaking in this regard. Judging from the Government's housing policies in the past few years, it seems that the main objective of the scheme is to reduce the commitment of the Government to public housing. Thus, in reviewing the scheme, the Housing Authority should firstly clarify the specific use of the proceeds of the scheme.

Secondly, the implementation of the scheme must be totally on a voluntary basis, not merely in form but in deed as well. That is to say, the Housing Authority must not adopt any planned or premeditated means to force tenants to support the scheme. As the Housing Authority has complete control on all public housing policies, such as rental and allocation policies and so on, it can very well make use of other policies such as rent increases to achieve the objective of selling flats. For example, the two messages contained in the press reports that I have just mentioned obviously force tenants to reconsider buying rental flats. Coincidentally, the two reports were directed against those tenants targeted for the scheme. More surprising was that while the survey conducted by the Housing Authority indicated a decreasing percentage of income spent on rent, the findings of the recent census showed that the increase rate of the median public housing rent was double that of the increase rate of the median monthly income of all households in Hong Kong. How should such difference be accounted for?

In fact, if we look at the various housing policies implemented by the Government since the formulation of the Long Term Housing Strategy in 1987, such as pegging the selling price of the Home Ownership Scheme flats to market prices, well-off tenants policy, Home Purchase Loan Scheme, the present Sale of Public Housing Flats to Sitting Tenants Scheme as well as the domestic rent and allocation policy under review, we can see the trend of development. On the one hand, the Government gradually reduces its commitment to public housing, and on the other hand, it gives incessant indirect support to private property market in the guise of satisfying the public's desire for home ownership. The Government cannot deny that its land and housing policies have pushed up the spiral price increase of HOS flats and private properties. If the Housing authority, in implementing the sale scheme, still adheres to the policy of pegging the prices of the public housing flats to market value, serious

consideration should be made as to whether such act will fuel property prices. At present, housing problem has become a focus of social conflicts in Hong Kong, not only with regard to property prices, the redevelopment of old areas and the use of land, but also the more fundamental problem of whether the basic housing need of the public can be satisfied. The negative effects of the Long Term Housing Strategy have gradually surfaced. The Government should conduct a comprehensive review on this so as to avoid these conflicts to get out of hand.

The ultimate failure of this scheme also reflects the outdated closed door policy making process of the Housing Authority. This lesson is useful not only to the Housing Authority, but also to other independent statutory bodies with public policy making powers. The urgent task before us is how to increase the transparency and accountability of decision making so as to ensure that policies derived can reflect the genuine needs of the public. Otherwise, the problems will still remain unsolved even if the Housing Authority conducts 10 more closed door reviews.

Finally, I would like to quote some figures provided by the Society for Community Organization so that my colleagues can understand the basic living conditions and housing needs of the people of Hong Kong from another angle. At present, there are 4 000 street sleepers in Hong Kong, partly due to the fact that they cannot afford to pay the rent. There are still 100 000 people living in adverse temporary housing areas (some of them have been living in these areas for as long as 20 years), 600 000 people living in old housing estates due for redevelopment and 300 000 people living in cottages; and some 50 000 singletons living in wooden compartments, mezzanines or bedspares of old private buildings. The living area of cage dwellers in urban areas is 17.2 sq ft, even smaller than a 6 feet x 3 feet bed. How should these figures be handled? I hope the Housing Authority will give us an answer.

Mr Deputy President, as the present housing policy aims primarily at reducing the Government's commitment to housing and turning public housing flats into commodities, I have reservation on treating the Sale of Public Housing Flats to Sitting Tenants Scheme as an aspect of the overall housing policy. Thus, I abstain from voting on both motions.

MRS PEGGY LAM (in Cantonese): Mr Deputy President, undoubtedly, the "Sale of Public Housing Flats to Sitting Tenants Scheme" formulated by the Housing Authority (HA) is a failure. It is now the right time for us to conclude our experiences, review

our gains against the losses and learn useful lessons.

There is a golden rule in the study of marketing, that is, any successful promotion of sale would have to take care of the interests of the customers. Looking back on this sale of flats scheme, the HA, in devising its sale strategies, had not fully considered the interests of the public housing tenants. Perhaps the HA was too confident of its own products, assuming that in Hong Kong where land is so scarce, none would give up the chance to own the flat in which they live. However, public housing tenants are at a special situation. In name they are tenants, but in fact they enjoy many privileges as flat owners, including the right of permanent residence. Thus to ask them to spend their life savings on a flat that is in effect theirs is not a task as "taken-for-granted" as the HA had imagined.

Therefore, if the HA decides to relaunch its sale of public housing flats scheme, it must first take care of the interests of its customers who are the sitting tenants of the flats for sale, and supplement with full explanation and lobbying. The points to be tackled could be: When the tenants own their flats, would they have greater autonomy and no longer be bound by the current legislation relating to the living-in and leasing of public housing flats? Would the buying of public housing flats be an effective means to retain the value of their money and fight inflation? Besides, the HA should review the design of the whole scheme to ascertain whether the interests of the tenants and the purchasers have been fully taken care of, and that the scheme was not just a gimmick for the HA to "cash in".

From the public relations perspective, the scheme failed because it had not established an effective channel of communication and dialogue with the market. It must be remembered that public housing estates are very cohesive communities where neighbourhood influence is great. If the scheme is viewed by influential people or official bodies in those communities as adversely affecting their overall interests, strong opinions and public pressure would develop so much so that even the interested tenants would hold up their plans of purchasing their flats.

As a matter of fact, from the conception to the implementation of this sale of flats scheme, the HA might have failed to thoroughly understand the aspirations of the tenants and tenant organizations. It is not surprising that the scheme was subsequently denied and criticized by various parties concerned. Some pressure groups tend to use the "conspiracy theory" to interpret government policies and other policies formulated by organizations under the auspices of the Government. So, it

is only through a sincere dialogue, thorough explanation and effective communication can we allay the fears and anxieties of the public.

Facing the failure of this sale of flats scheme, a most convenient and attractive solution would be the lowering of the flat prices. However, while I agree that the prices of public housing flats should be pegged with the financial condition and purchasing power of the tenants concerned, such prices should not be in total disjuncture with the market property prices. We must understand that the slashing of the prices for the sake of selling the flats is tantamount to a waste of public resources. The HA needs adequate funds to develop its housing programme, and the needs of those queuing up for public housing flats have to be answered urgently. The lowering of flat prices goes against the principle of fair play and would ultimately affect the interests of the taxpayers and the general public.

Moreover, even if the prices are slashed we could only attract a minority of the tenants who wish to buy cheap flats, probably doing injustice to other tenants. Since public housing flats are built using the taxpayers' money, I think the public would agree to selling these flats at a fair price. They might have reservation on selling the flats at an unreasonably low price.

So in my opinion, unless measures are taken to encourage flat ownership by imposing restrictions on the period of residence in public housing flats, or that tenants whose financial position has improved after five or 10 years of residence in public housing flats must move out if they do not purchase their flats; otherwise, the authorities concerned should employ more flexible means so that most tenants could afford to pay their mortgage instalments, for example, by waiving the downpayment and lengthening the period of loan repayment, or granting the purchasers an especially preferential interest rate on mortgage.

The "Sale of Public Housing Flats to Sitting Tenants Scheme" has attracted strong criticisms from the tenants and the public at large, presumably because there are many and repeated complaints about the barely acceptable condition of the flats, the dripping-wet ceilings and peeling walls. So, before the HA relaunches the scheme, it must conduct a comprehensive inspection on the facilities and external conditions of the flats and the public housing estates as a whole, undertaking repair, maintenance and renovation as necessary. Such would enhance greatly the attractiveness of the flats put up for sale.

Lastly, the HA must formulate a set of sound and all-round postsale management policies. Many public housing tenants are worried that once the scheme is implemented, many conflicts and problems would arise between the new owners and the tenants concerned, while the HA could shirk its responsibility of managing the estates, making them the victims of such an experiment after all. Therefore, the HA must reassert its commitment to the management of public housing estates and clearly defines its areas of control.

Mr Deputy President, with these remarks, I support the motion moved by the Honourable LEE Wing-tat.

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, the scheme proposed by the Housing Authority to sell housing flats to sitting tenants has only attracted 7.4% of the tenants concerned to submit their applications. This percentage is much lower than the expectation of the Authority which has estimated that over half of the sitting tenants would return their applications. This is an indication that the policy of the Housing Authority is a far cry from the housing reality and aspiration of these residents. Therefore the Housing Authority should in future listen to public opinion.

One of the major reasons for the failure of this scheme is that the quality of the public housing flats is really poor. But the Housing Department has not taken up the responsibility of carrying out maintenance works which are required inside individual flats or in common areas, such as repair works to spalling concrete and seepage in the blocks concerned. Furthermore, in view of the frequent damages to some facilities of the blocks (such as the lifts and letter boxes, and so on), the tenants are very concerned about a series of problems such as whether there will be maintenance service to these blocks; if so, whether the maintenance service will be adequate and proper; and who should pay for the cost of maintenance and repair and how to safeguard the quality of these blocks in future?

In fact, the implementation of this scheme has just made public the long-standing problems in public housing estates such as the blocks are of extremely poor quality and the maintenance and repair works are much below the required standard, and so on. On the maintenance front, the Housing Department apparently has not been undertaking its basic responsibilities. Take Fu Shin Estate in Tai Po as an example, very often there have been complaints about seepage through the window frames. The

absolute majority of these complaints have not been dealt with since the occupation of this housing estate five years ago. As to the housing estate as a whole, complaints lodged by the tenants against the spalling of concrete and seepage in their flats have to wait for one, two, three or a longer time before their cases would be dealt with "seriously". When I say to be dealt with seriously, I mean comparatively speaking they are being dealt with in a way unlike many other cases which have been handled extremely perfunctorily or even have never been touched at all.

Usually when the tenant is dissatisfied with the seepage problem in his flat, he would lodge the complaint with the estate office of the Housing Department by telephone. The staff of the Housing Department would then ask the complainant to go to the estate office to fill in a form. When there is no response after the form has been completed, the complainant would visit the estate office personally for enquiry. The reply given would be that follow-up action will be taken. In some cases, the record of a complaint case cannot be located and the complainant has to fill in the form again. Finally, after waiting for a long period of time, the complainant would be informed that staff of the Department would come for inspection. Sometimes, a long time elapses and no staff come up for inspection. Or the staff failed to show up even for an appointment made beforehand. So the complainant has to go the Housing Department for the arrangement of another appointment for inspection. During the several months after inspection, the tenant would not be informed when the maintenance works will commence, and so he has to visit the Housing Department again and would be informed that arrangement for maintenance works will be made as soon as possible. After waiting for several more months, if the tenant is lucky, the technicians will come for maintenance, if not, his complaint will never be dealt with. Even after the completion of maintenance works, it is possible that the seepage problem might emerge again very soon. The unlucky tenant has to repeat this extremely irritating and time-consuming complaint procedure again and again. In fact, this bitter experience has been shared by a lot of sitting tenants of public housing estates.

It is quite common that the lifts in public housing estates, particularly trident blocks constructed in recent years, would be out of order and this is really an irritating problem to the tenants. In each trident blocks, there are only three lifts and very often one or even two of these lifts would be out of order. And in most cases, the lifts out of order would take one week and sometimes even one month before they are repaired to normal function.

According to the findings of a survey conducted by the Housing Department, among

the seven blocks of public housing for sale, spalling of concrete is found in 15% of the flats averagely, while in the worst block 25% of its units are suffering from this defect. As for seepage through the window frames, averagely 41% of the flats have complained for this problem. The greatest number of complaints lodged by tenants in one block was as high as 82%. If you yourself live in these blocks, would you like to purchase these flats? Are you willing to pay an instalment four times the existing rental in order to purchase such a poor quality flat? The Housing Authority has undertaken to consider some maintenance measures before these flats are put on sale. But why is it that maintenance works will only be done when these flats are put up for sale? Now the Housing Authority is aware of the problems, why does it not carry out the maintenance works immediately? Since maintenance is the basic responsibility of the Housing Department and it should undertake the maintenance works as soon as possible so that the tenants can live in some premises that fulfill their needs. It is only then that the sitting tenants will purchase these flats.

Therefore, if the Housing Authority has any sincerity to make the scheme a success, it should speed up the maintenance programme. Maintenance works should not only be conducted in housing flats put up for sale, other housing flats should also be included in the maintenance programme as a reasonable measure.

To sum up, the Housing Authority should consider the following views:

(1) The Housing Department should immediately resolve the problem of poor quality in the flats. In cooperation with the sitting tenants, it should work out a checklist for maintenance items which should be examined by independent building surveyors. The maintenance contract should be given to the contractors within a short period of time and the maintenance works should commence right away under the supervision of the Housing Department.

(2) Since the public have no confidence in the quality of our public housing flats, the Housing Authority should take up the responsibility of maintenance not just for one year but rather a certain period say five to 10 years after the sale of these flats.

(3) If any of these blocks are declared to be dangerous buildings in future, the owners should have the right to be resettled and get a reasonable compensation.

With these remarks, I support the Honourable LEE Wing-tat's motion.

DR HUANG CHEN-YA (in Cantonese): Mr Deputy President, with regard to the discussion about the Sale of Public Housing Flats to Sitting Tenants Scheme, members of the public and those of us assembled here all argue about whether the selling price is reasonable. From the standpoint of the Housing Authority, the selling price of the public housing flats is only 50% of the market value of those flats of buildings of the same age in the same neighbourhood. However, in the minds of public housing tenants, the difference in quality between public housing and private sector housing of the same age in the same neighbourhood is quite clear. Once a sitting tenant buys his public housing flat, he will have to make a mortgage payment of between \$3,000 and \$4,000 a month, which is out of proportion to the current monthly rent, which is \$1,000-plus at the most. He will also be responsible for paying management and maintenance fees. From the standpoint of the buyer, the hope of course is that the selling price of public housing will be cheap, the cheaper, the better. Are public housing flats worth buying, then? Can the sitting tenants afford them? Some of my colleagues will be discussing these questions. I would like to focus my discussion on the question of the right of ownership transfer.

I think that it was a major flaw on the part of the Housing Authority that, while offering public housing flats for sale, it set all kinds of restrictions on ownership transfer in respect of the flats that are sold. This increases the risk for the public housing tenants who acquire the properties and reduces the value of their investments. The Housing Authority regulates that, during the first 10 years after a public housing flat is sold, it can be sold back only to the Housing Authority and that, during the first five years, it can be sold back only for the original price. Now, take a family earning an average income of \$8,000 a month. After it buys a public housing flat, its monthly mortgage payment will take up nearly half of its income. It must yet pay the everyday consumption expenses. The rest of its income, which can be saved, will be a very limited amount. If the family should encounter a problem such as unemployment or illness, it would have a crisis in making mortgage payments. Also, a rise in the interest rate may affect the family's ability to make the payments. Last year, for instance, difficulties in making mortgage payments were experienced by more than 600 households living in Home Ownership Scheme housing. It is believed that the risk is definitely higher for the buyers of public housing flats, who are even less well-off. If a public housing flat is sold back to the Housing Authority for the original price during the first five years after it has been bought, the buyer will not be able to recover the mortgage payments and the legal costs that he will

have paid. He will also lose his public housing tenancy right. This will put him on the horns of a dilemma. He will suffer a double loss. Of course, there is a risk for whoever acquires property. But the difference is that an ordinary property owner has the right to transfer ownership, so that, if he must sell and if the overall property market is not in decline, he will not lose heavily or lose everything, as may the buyer of the public housing flat, who is under regulatory restrictions. Also, the Housing Authority regulates that it will pay only the original selling price for a public housing flat that it repossesses during the first five to 10 years after the original sale, while a buyer reselling his flat at the open market after the 10th year must pay back the 40% price discount to the Housing Authority. If one also takes interest, cost and depreciation into consideration, the prospect of an appreciation in the value of a public housing flat is very limited. How, then, can public housing tenants find the Sale of Public Housing Flats to Sitting Tenants Scheme attractive? In theory, it will be possible to sell the flat in the open market after the 10th year. However, in Hong Kong's mortgage market, the mortgage ratio for properties over 10 years old is very low. Another point is that banks simply may not accept the mortgages of properties over 10 years old, let alone the flats in question, some of which are much older. Yet another point is that the life of a public housing flat now is normally 30 years; after reaching that age, it must be demolished. Buying a public housing flat is not a worthwhile investment and is not a way to preserve the value of one's money. I even fear that the buyer may have to sell at a loss. I believe that the Housing Authority wanted to uphold the objective of providing suitable housing to low income people and to prevent public housing flats from becoming commodities that could be bought and sold speculatively and that was why it laid down the restrictions in question, borrowing from regulations governing the transfer of ownership of Home Ownership Scheme housing. However, the average income of public housing tenants differs from that of applicants for Home Ownership Scheme housing, and there is also the difference that the public housing flats are offered for sale after many years of occupancy while Home Ownership Scheme housing flats are sold in a freshly completed condition. Also, Hong Kong people often have to change their residences, in order to move closer to places of work or to schools attended by their children or as a result of household membership changes. During the election campaign, when we made house calls, we often found that people had moved. People change their residences for reasons that are proper. We should not penalize them just because we are against speculation. Therefore, the restrictions on ownership transfer unnecessarily increase the risk for the buyers and are very unrealistic. If the Housing Authority really wants to help people in acquiring properties, why does it not consider the following instead?

Firstly, allow the buyer to transfer ownership, provided that, during the first five years, he must sell to a public housing sitting tenant or to a person on the public housing tenancy waiting list. Secondly, allow the market to decide the selling price. Thirdly, the Housing Authority is not to collect the price difference where the value of a flat has appreciated.

These three suggestions will enable buyers of public housing flats to exercise a greater degree of the right of ownership and to receive the benefit of the profit if the value of the flats appreciates. Then naturally the tenants will be taking a greater interest in buying and the public housing flats more capable of preserving the value of their investments. Where the Housing Authority is concerned, because the buyer during the first five years will be a sitting tenant or a person on the public housing tenancy waiting list, there is no conflict with the objective of providing suitable housing to low income people. Nor will it be difficult to prevent public housing flats from becoming commodities that can be bought and sold speculatively. Because the seller of a public housing flat risks losing his dwelling place, the process whereby more well-off tenants give up such housing and buy private sector housing instead will be speeded up. In addition, the original public housing flat assigned to a tenant may be too far away from his place of work, from the school of his children or from where many relatives live, but he has moved into it anyway because the rent is cheap. He has to spend a lot of time on the road and suffer other inconveniences of many kinds. When such a person applies for transfer to a different public housing flat, the Housing Department normally does not want to be very helpful. A more flexible Sale of Public Housing Flats to Sitting Tenants Scheme may enable sitting tenants and low income people to find alternative dwelling places that will be closer to their places of work or to the schools of their children or that will be more suitable following household membership changes. This will lighten the load of city traffic and make it easier for one to look after one's relatives and friends. Also, there will then be different kinds of housing on the market: public housing, Home Ownership Scheme housing and private sector housing. There will be more choices. People of different income levels will all have opportunities to buy their own homes. This will do a certain degree of good to property market stability and social stability. The right to transfer freely the ownership of public housing flats will decide how risky it is to buy these flats, how buying a public housing flat will help preserve the value of one's money and how valuable that investment will be. It will also decide what impact the policy will have on housing supply.

I think that great care must be taken during the review of the Sale of Public Housing Flats to Sitting Tenants Scheme. Mr Deputy President, I am very much in favour of setting the prices of public housing flats on the basis of the purchasing power of the sitting tenants, having the necessary repairs completed before the sale and protecting the rights of public housing tenants. Unfortunately, the Honourable Frederick FUNG's motion for amendment relieves the Housing Authority of the need to consider the right of ownership transfer. I think that, without the right to transfer ownership freely, there is simply no way in which people can acquire properties for use as homes and for protection against inflation; instead, it is like telling people to buy prison cells for their confinement. Mr Deputy President, with these remarks, I support Mr LEE Wing-tat's original motion.

DR CONRAD LAM (in Cantonese): Mr Deputy President, given its result, the Housing Authority's recent "Sale of Public Housing Flats to Sitting Tenants Scheme" may well be concluded as an exercise which has prematurely come to an end before being anywhere within sight of success. Such a conclusion is in no sense meant to suggest any farsightedness or foresight on the part of the Housing Authority which has, as a matter of fact, steered a completely wrong course at the outset of the exercise. And it has wandered farther and farther away from success. Failure is the mother of success. Whether the Housing Authority will be able to make a success of its future sale of public housing flats will, above all, depend on its ability to draw a useful lesson from this abortive exercise and make corrections, instead of being dragged off from the proper track by potential monetary gains. In order to ensure success, the Housing Authority must put itself back on the right track. To peg the prices of public housing flats to the market value of equivalent private flats, being purely a business orientated strategy, is not in line with the objective of building public housing flats to satisfy the housing needs of the grassroots. The correct approach is to maintain their prices and costs on a par. Most commodities are subject to the law of depreciation and go down in value at a rate in proportion with their age. It is, however, very different in the case of property value which is allowed to grow with time to an unrealistically high level, even after a deduction of an inflation and other factors. The Phase I of the Kowloon Walled City clearance exercise is going to be carried out today. Some walled city residents have been protesting against this planned exercise on the ground that the steady increase in the prices of Home Ownership Scheme flats throughout the course of their disputes with the Government over the compensation issue has rendered the finally offered compensation inadequate to serve the Government's original intention and purpose set several years ago, which

were to ensure that the affected would be adequately compensated on a flat for flat basis. Had the price of HOS flats been pegged with costs rather than the market price of private property, the number of protests from residents of the Walled City might have been much smaller.

Eighty percent of the population in Wong Tai Sin district are public housing residents. Having worked there for more than 20 years, I have had plenty of opportunities to hear the opinions from the hearts of the public housing residents. According to the views of some public housing residents, the failure of the recent public rental flat sales exercise is attributable to the following three factors:

(1) No advantage: when all considerations are taken into account, it becomes clear that it is more economical to remain a sitting tenant than to become an owner of a public housing flat;

(2) No money: they said that at a time of runaway inflation, low income and extraordinarily high priced public housing, they do not have sufficient money to afford it even if they wanted to;

(3) No confidence: it has nothing to do with the confidence in Hong Kong after 1997. It refers to the confidence in the quality, management and maintenance of the public housing flats. Just now, many Members have quoted quite a number of examples; so I do not intend to repeat.

Although I am not a businessman, I do have heard of the term "market research". If the Housing Authority wants to make the sale of public housing estates a success, it will have to carry out a detailed market research, that is, to collect a wide spectrum of public views. At present, the inadequate public representation in the Housing Authority and the policy of the Authority itself makes one feel that high land price policy and the interest of large developers are taking the form of an invisible hand which tries to influence the Housing Authority either directly or indirectly.

It was mentioned by a Member just now that the Housing Authority had consulted the public over the pricing of public housing flats put up for sale. But the Authority had followed its own course in disregard of public opinion. This proves again the existence of an "invisible hand".

As over three million people are now living in public housing flats in Hong Kong, the interest and views of these public housing residents must be adequately represented in the Housing Authority before any housing policies that are correct, fair and appropriate to the up-to-date circumstances can be formulated.

Mr Deputy President, with these remarks, I support Mr LEE Wing-tat's motion.

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy President, housing policy affects all the people of Hong Kong irrespective of the kind of housing in which they live. Therefore, in considering the sale of public housing, one must begin by discussing the overall housing development strategy. First of all, I will read a manifesto. This manifesto makes a proposition that deserves to be carefully thought over and analysed. It is a manifesto of the doctrine of the snail. It is drafted by an organization called The Solidarity of the Homeless. Its title is: "Man Has His Nest." Of all animals, we envy the snail the most. Snails have their own houses, their own homes. A house is a part of their life. It is their most basic right and the safeguard of their living in dignity. Things are very fair in the community of snails. One snail, one nest. There is no shortage; there is no greed for more. However, please think. If snails' shells become a commodity that can be bought and sold for profit, what will happen? Some greedy snails will begin buying and selling snail shells. They will refuse to be fair and let fellow-snails use their surplus shells. They will ask for a high shell rent or shell price. Soon, there will emerge some snails which cannot afford the shells. They will wander around pitifully day and night, looking for shells. Fortunately, a snail's shell is considered to be a part of the snail's life. It is a very serious matter. So the government of snails will not turn a blind eye but will come out quickly to do justice and find a solution. Unfortunately, we are the shell-less snails in this community of ours. We are meek. We do a lot of hard crawling. We never complain. Our humble wish is to work hard and buy our own shells. With great difficulty, we manage to save some money, that we earned in the sweat of our brow. But then, we find that, overnight, the prices of all shells have gone up. This has happened because those who already had shells have bought up and taken away our shells. We do some calculation. To our despair, we find that we will never be able to afford shells. Most of our children will have to be shell-less snails. What has gone wrong? The answer, as shell experts tell us, is that this is a free market and nobody is to blame. O God, we have been working hard all our lives and still we cannot afford our shells. Is that our fault? If it is not our fault, then there is reason for us meek snails to be angry. We urge this community of ours to learn

from the community of snails and to regard housing as a basic human right, an inalienable basic human right, and basic condition for a happy and stable community. We appeal to this community of ours, to this government of ours, to learn from the government of snails. It may take its time in everything else that it does. But it must hurry up and do this particular thing about housing. It must help us to keep the prices of housing fair. It must deploy social resources for the massive construction of housing. We appeal to our fellow-men with shells to learn from the snails and refrain from regarding housing, which is a necessity of life, as a gambling chip or a money-making tool and from buying and selling it speculatively, with the result that it becomes impossible for us to afford to buy or rent housing. When we are without shells, we will stop being as meek as the snails. Finally, we appeal to all the shell-less snails in the community to unite. Only through unity can we change the various inequitable housing problems that now exist. Only through unity can we find a solution.

Mr Deputy President, I believe that most of us gathered here are snails with shells. Some may have more than one shell. But do we understand that the shell-less snails want to have a comfortable nest? The Housing Authority in 1987 put forth a long-term housing strategy, establishing the sale of Home Ownership Scheme housing and the promotion of home purchases as the main direction for housing development up to the year 2001. Recently, the Housing Authority took the further step of putting forth the Sale of Public Housing Flats to Sitting Tenants Scheme to quicken the pace of the Home Purchase Scheme. True, all low income people want to have dwelling places that are owned by their families. But what they want are shells that are a part of life and not commodities that can be bought and sold speculatively in the market. The published purpose of the Housing Authority's development strategy is to help members of the public to buy their own homes. But, behind people's backs, the public housing flats, which are a social welfare benefit, are being turned into a privatized commodity. This is the diametric opposite of the wish of the general public. It is "cry up wine and sell vinegar." Down the road of gradual privatization, the Housing Authority in recent years put forth a succession of retrogressive policies. For this, it has been constantly condemned by the public. The most unpopular among its policies include charging well-off tenant households double rent; using tenants' income increase as a justification for raising rents; linking the selling price of housing to the market price; and now the linking of the proposed selling price of public housing flats to the market price. I think that, if the causes of the failure of the Sale of Public Housing Flats to Sitting Tenants Scheme are to be clearly understood, we must proceed from the stand-point of the sitting tenant households and appreciate

that they are opposed to the commercialization of a social welfare benefit, opposed to the linking of the selling price of public housing flats to the market price and unhappy with the Housing Authority's housing policy in recent years. The Housing Authority's attempt to explain the failure of the Scheme in terms of some technical factors and the "Invisible Hand" theory is clearly a shirking of responsibility and a refusal to face reality. Apart from the problems mentioned above, we should also pay attention to the impact on low income people if the Sale of Public Housing Flats to Sitting Tenants Scheme should materialize. Firstly, there is the change from rent payments to mortgage payments. This necessarily means an increase in housing expenses, which will directly affect the pattern of consumption. For low income people, a big increase in housing expenses means a reduction in other expenses, such as that on medicine, on food and on social entertaining. For them, the quality of life will be indirectly affected. Nor will the quality of housing change. In addition, to those on the waiting list as prospective tenants of public housing, the sale of public housing flats will reduce the number of vacant flats. This means that, if there is no increase in the construction of public housing, their waiting time will be longer still. Therefore, it can be said that there are lots of problems with the Housing Authority's Sale of Public Housing Flats to Sitting Tenants Scheme. These problems should be fully studied, and the public must be consulted anew. There should be no more making of plans without regard for the realities. Many tenants' groups have suggested that public housing flats be sold at cost. Groups like the People's Council on Public Housing Policy have suggested that the ownership of public housing flats be assigned to tenants after 15 years of uninterrupted tenancy. Also, some groups have suggested that only newly completed public housing may be sold. The above suggestions of private bodies deserve the further consideration of the Housing Authority. Here, I would like to warn the Housing Authority against trying to exploit the public's need to own properties for the purpose of commercializing public housing.

Finally, I would like to talk about public housing tenants' participation in the latest public housing sale. The general view of the media is that the Scheme has failed. However, a more worthwhile talking point is the success of the tenants, as borne out by their performance. The Housing Authority has all along been indifferent to public opinion. The reason why this bureaucratic body "got burnt" like the proverbial old cat is that the public housing tenants were united in refusing to co-operate. It was the unity of popular forces that caused the Housing Authority's Scheme to fail just when success was getting within grasp. Now, as we the snails with shells sit in this air-conditioned room to hold pseudo-expert discussions on the rights and interests of shell-less snails, I find the situation really a bit

ludicrous. From the recent development, it can be seen that the union of shell-less snails among the populace is the real force for effectively countering the bureaucracy of the Housing Authority.

Mr Deputy President, with these remarks, I convey my sincerest admiration for the efforts of the tenants' groups.

MISS EMILY LAU (in Cantonese): Mr Deputy President, for many years, like many other Hong Kong people, I have felt that the Government's public housing policy is a social welfare benefit and is intended to provide housing to the middle and lower strata of society, to low income people. For this reason, I was very surprised at the Government's recent proposal to sell public housing flats at a profit by linking their prices to prices in the private housing sector. Among the public housing tenants I contacted, many are greatly worried. They say that public housing used to be a benefit and that the present policy is a step backward. This also happens to be one of the causes of the failure of the Sale of Public Housing Flats to Sitting Tenants Scheme. Mr Deputy President, in the past two months, I held five public housing tenants' consultation meetings in my constituency. Each time, the sale of public housing featured as a hot topic. Many public housing tenants were eager to speak. Their speeches expressed a lot of unhappiness with the matter. Just now, many of my colleagues have talked about such issues as pricing and maintenance. I do not intend to repeat them. I wish to say one thing today. It is, as Dr the Honourable Conrad LAM too has just mentioned, "the invisible hand." I am very much in favour of the Honourable LEE Wing-tat's motion. This is because he says he hopes that the Housing Authority will widely consult the public. I feel that this is a very important point, because I feel that the Housing Authority, as currently constituted, cannot represent the views of the people of Hong Kong but provides occasions for a serious clash of roles and conflict of interests. This is why Dr Conrad LAM has just now spoken in relatively subtle and guarded terms. In contrast, I would like to speak with greater candour, even naming names.

As everybody knows, the public housing policy is very important. It affects the interests of several million members of the public; it also affects prices in the private sector housing. It is a very sensitive matter. Some people want to make huge profits from it. So it is hoped that the policy makers will be impartial and selfless. Look at the members of the Housing Authority. Do they inspire confidence? What kinds of persons do they include? One member of the Housing Authority is Mr

HU Fa-kuang, a former Legislative Council member and the Chairman of Ryoden Holdings Limited. According to the Housing Authority's annual report, Mr HU is also the director of five other major companies, including Hysan Development Company Limited. Another member is Mr Thomas KWOK Ping-kwong, a major real property developer. He is the Vice Chairman and Managing Director of Sun Hung Kai Development Company Limited. Two others, namely, Mr LEUNG Chun-ying and Mr Sean Patrick BURKE, are surveyors. Mr Carlos CHEUNG Hon-kau is from the engineering profession. There is a colleague of ours who is from the Surveying and Planning Division of Engineering, Architectural, Surveying and Planning Functional Constituency. He is Mr Edward HO Sing-tin, Executive and Legislative Council Member. Professionals with close ties to the business circles are glamour guys. We have to have special functional constituencies for their sake, and of course they are indispensable. Mr LEUNG Nai-pang is from the legal profession. Mr Stanford MILLER is from the profession of accountants. Of course, there is Dr Philip WONG, described in the Housing Authority's annual report as an outstanding businessman. He is a colleague of ours. He is also the chairman of the relevant committee in charge of the Sale of Public Housing Flats to Sitting Tenants Scheme. Of course, the Government's possible explanation is that its consistent policy is to have people from the relevant professions in the relevant committees, because they can make recommendations to the Government. On the other hand, it is the hope of many members of the public and mine that people in such important policy bodies will not have too many self-interests and will not have too many commercial interests that need to be protected. After naming the names of members of the Housing Authority, I would like to talk about the Chairman of the Housing Authority, Sir David Akers-Jones, former Chief Secretary. According to the Housing Authority's annual report, Sir David is the non-executive chairman and director of many companies. However, the names of these companies are not published. The problem is, Mr Deputy President, whom do these people represent? When they are making a policy of such importance, can we and the general public be made to believe that they will put the protection of public interests first? I very much hope that the Government will do its best to avoid possibilities of conflict of interests when appointing members to bodies or committees of such importance. Although last time I described myself in figurative terms as a little child, I am not a little child. Nor will I be too naive concerning certain matters. I understand that, in many matters in Hong Kong, conflicts of interests are hard to avoid. So I will back down a bit and express my second best hope. I hope that, as in the case of Legislative Council Members, Government will require them to declare their interests and disclose the names of the companies to which they belong, thus letting the public know clearly on whose behalf they make their decisions. Apart from the Housing Authority, several

other bodies are concerned with the land policy, including the Land Development Corporation, the Town Planning Board, the Land and Buildings Advisory Committee and the Country Parks Committee. I hope that the members of these bodies, too, will declare their interests.

Finally, Mr Deputy President, I think that the motion of Mr LEE Wing-tat and that of Mr Frederick FUNG are actually similar. I quite agree with Mr Edward HO, who said just now that there is no need to go about it this way. Sometimes, I feel very sorry; do we have an amendment just for the sake of having an amendment? As everybody probably knows, many in Hong Kong feel that there is great confusion in this Council, where there is a lot of in-fighting over many issues. I hope that Members of this Council will have the overall interests of the territory as their prime concern; there are many things in Hong Kong waiting for us to do.

With these remarks, I support Mr LEE Wing-tat's motion.

DEPUTY PRESIDENT: Mr LEE Wing-tat, do you wish to speak on the amendment?

MR LEE WING-TAT (in Cantonese): Mr Deputy President, I feel that today's motion debate has been quite rational. There has been no violent quarrel in the course of the debate. I believe that the public will see, from tomorrow's news reports, that our debate is healthy. This is to say, what the public will see is our debate on the question of the public housing policy and the causes of the failure of the Sale of Public Housing Flats to Sitting Tenants Scheme. I can see that, up to this point, more than half of my purpose in moving the motion debate has been accomplished. At least, we are able to sit here together dispassionately as we talk about major matters of concern to, and faced every day by, the public. I would like only to make some points in response to Mr Frederick FUNG's motion for amendment.

After listening to Mr FUNG, I feel that the substance of his motion is not much different from that of mine. I am not straining myself to find a common ground, but I also do not want to find difference for the sake of finding difference. I agree with Mr FUNG's point about consultation. Mr FUNG said that the Housing Authority's latest consultation was "posturing without substance." I fully agree. Mr FUNG also said that the duty of us Legislative Council Members is to monitor the Government's policy, to move debates on matters of concern to the public and to make the relevant

departments heed public opinion. I also fully agree. These are our common grounds. Where then are our differences?

Firstly, Mr FUNG was of the opinion that it would be very difficult for the Housing Authority to reject wide consultation at this point. Mr FUNG's involvement with the housing question is greater than mine, but my confidence in the Housing Authority is less than his. Apart from the problems mentioned just now by Miss Emily LAU, I believe that we do not have much confidence in the Housing Department's way of doing things or in the Housing Authority's work. Half of my close to 10 years' participation in social movements has been involved with the question of housing. In the past, we saw many policies made without consultation. Can the "consultation" on the Sale of Public Housing Flats to Sitting Tenants Scheme this time really be called "consultation"? I have no conclusive answer myself. Although I am a member of the relevant subcommittee, I feel that it is false consultation where we merely do some superficial work but do not really listen to the views of the public. Therefore, we should look at how "consultation" is defined. If we merely do some superficial work, if we ask the opinions of the district boards but then make some policies according to our own views, that is not consultation. "Consultation," as proposed by me, means really listening to people's views and giving them full consideration before making a just and correct decision. I already talked about this in my first speech. It has also been repeatedly talked about by many friends engaged in public policy research, that is to say, how "consultation" should be defined.

Just as I have said, consultation consists of many steps and has a large scope.

Firstly, consultation means, among other things, an open process. In its course, sufficient information is to be provided. Only thus can people have an opportunity to participate fully in the discussion of the problems.

Secondly, affected parties must be consulted, including district boards and tenants' bodies. Most importantly, the views of those who are in responsible positions and who can influence the making of policies must be listened to.

Thirdly, after the consultation, a report must be prepared for reading by the public. The reason for taking this step is that it will give the public confidence in the consultation. The Hong Kong Government did so in the past. For instance, in 1988, it set up a survey office in connection with direct election, though that consultation process was subsequently terminated in a very ludicrous manner. But

at least, the said office wrote down in detail all the views expressed by the public. However, this step in itself is not sufficient. After a responsible government or institution completes consultation, writes the report and knows what the views of the public are, it must yet announce which of the views will be accepted and why, and which will not be accepted and why. Did the Housing Authority, in its consultation work, follow such a procedure every time? The answer is "no". If I remember correctly, the Housing Authority in 1985 published a consultation paper entitled "Public Housing Subsidy Policy." It is popularly known as the consultation paper on "well-off tenant policy." It seems that the Housing Authority did some of the things required by the process that I have just mentioned. It failed to do or, for certain reasons, refused to do the rest. Therefore, even now, I have no conclusive answer as to whether or not the Housing Authority really held open consultation.

Miss Emily LAU just now mentioned a very good point which I omitted in my first speech and that is who should hold the consultation and be responsible for making the final decision. If you ask me whether I have confidence in the present members of the Housing Authority, similarly my answer is that I have no confidence. If they are the ones to hold the consultation and also to make the decision, I do not believe that that will be very good. If possible, I really hope that a relatively impartial committee will be formed of people who do not have a conflict of interests, so that the public may have confidence in it. The third point relates to certain questions referred to in the motion moved by Mr Frederick FUNG. These are where arguments as to policy differ which I, in my first speech, already addressed. Just now, I heard Mr Frederick FUNG say that he agreed that the selling price should be based on the cost of reprovisioning, adjusted for geographical location. That view, however, continues to be canvassed in public debates. At least, over the issue of pricing, I have heard Mr FUNG's view; I have also heard the view which is that a reasonable profit should be added to the cost of construction; I have also heard the view favouring the substitution of rent payment for mortgage payment; and I have even heard the view that the Scheme should not have been brought into being.

Fourthly, I would like to respond to whether my motion sets a course. I feel that it does. At least, I have pinpointed four important areas and other matters to which the Housing Authority must pay attention. The Housing Authority has to review and identify the basic causes of the failure and to hold wide consultation. These two points are course-setting. If the wide consultation that I propose has the substance that I say it has, I believe that public opinion will be given close attention and consideration.

Fifthly, I would like to respond to the substance of Mr Frederick FUNG's speech. It is a relatively substantive speech, which mentions such things as purchasing power, completion of necessary repair works before the sale and the protection of tenants' interests. However, I hope that everybody will appreciate that different people interpret these issues differently. Taking "purchasing power" as an example. In its latest consultation paper, the Housing Authority said that it felt that the selling price should be completely in line with tenants' purchasing power. Why was that not done then? Some said that purchasing power meant 30% of household income; some said 40%; others even said 60%. So what is the "purchasing power" that is mentioned in the motion? Also, the motion for amendment talked about the need "to complete all necessary repair works before the sale of the flats." Does this mean that no more attention will have to be paid to repairs after the buyers have taken over or bought the flats? Will it be necessary to have a maintenance fund to honour the maintenance warranty or a longer-term maintenance warranty? It is also possible that different people will interpret this issue differently. In addition, how are the rights of tenants to be protected? Some tenants think that one safeguard is their not having to share the future maintenance expenses. Some feel that the Housing Authority's opinion that tenants must share the future maintenance bills equally is a safeguard, a mutual protection. Some say that a maintenance fund will solve the problem of protection of the rights of the tenants in the future. Which kind of protection, then, does the motion mean when it mentions protection? I think that, unless we pass a motion which includes the specific interpretation of the proposer or the amender, the motion for amendment itself will be similarly subject to different interpretation. I feel that our most important purpose is to give all colleagues an opportunity to debate a policy in a manner that will establish the true facts and arrive at the right course. My motion has already accomplished such a purpose.

Mr Deputy President, this is my submission. Thank you.

DEPUTY PRESIDENT: Mr FUNG, you have a very limited right to stand up. What is your intervention for?

MR FREDERICK FUNG (in Cantonese): I felt that the Honourable LEE Wing-tat has misunderstood my presentation just now.

DEPUTY PRESIDENT: I think it is a matter of interpretation of your speech, not a matter of misunderstanding. I cannot allow you to speak again.

MR GILBERT LEUNG (in Cantonese): Mr Deputy President,

Continued implementation of the sale of public housing flats to sitting tenants scheme

Today we discuss the sale of public housing flats to sitting tenants. It is the most opportune time to discuss this matter. Although the ad hoc committee under the Housing Authority has already proposed to shelve the scheme for the time being, the Authority has yet to make a final decision. In my view, the Authority has received only 510 applications which represent 7.39% of the total eligible tenants, this does not indicate that the scheme is a complete failure and should be rendered "abortive".

I highly approve of the spirit of the scheme. As it is stated in the Report of the Ad Hoc Committee on Sale of Flats to Sitting Tenants, "The desire for home ownership is evidenced by the enthusiastic response to the Home Ownership Scheme sales exercise each phase of which was many times oversubscribed." Since the public desire for home ownership is growing, there is a real need to offer public housing flats for sale to satisfy public demand. The scheme is just like a newborn "baby" who has been contracted a disease after its birth and has caused anxiety to us. Although the "baby" is sick, I am sure no one will want to "strangle" it to death but to cure it. We would like to work out a remedy for the illness.

The failure of the scheme at its first phase is evidently due to the non-attractive price of the flats to the tenants. The Housing Authority has pegged the price to 55% of the market value. Such a price level appears to be very attractive but the Authority seems to have forgotten that the value of properties in the territory has continued to mount up in recent years and has gone beyond the reasonable level. The price of private sector properties is not within easy reach of even the middle income group. Although a greater discount of market value will be applied in producing the selling price, the lower income tenants will have difficulty to afford the mortgage loan. Besides, these new tenant-turned owners will have to shoulder the burden of management charges and rates as well. No wonder tenants of public housing flats have to consider the matter seriously to see if they can afford to buy a flat. If they cannot afford it, they have to "refrain" from it. Many people want to eat hamburger,

but if they cannot afford to buy one, they have to a resort to cheaper sort of bread.

As a matter of fact, when the Hong Kong Government launched the public housing scheme, its target was to take care of the living needs of the lower income group. It is some sort of social welfare. As regards the current sale of public housing flats scheme, one of its objectives is to expedite the recovery of its investment. The public has an impression that such a scheme is a "money-making" exercise. I object to the idea of selling public housing flats as they are commodities for "profit making" purpose. I think we should continue to regard the public housing scheme as social welfare and a government's commitment. Therefore, the Authority should not peg the price of public housing flats only to market value.

I wish to make clear that I do not agree to the policy of pegging the price of public housing flats merely to the current market value which has gone beyond reasonable level. Even though the tenants are to be given a discount, say 35%, off the market price, the problem still exists. When the owner resells his flat, he has to pay a higher level of land premium, the difference of which will rise higher and higher, and the sitting tenants will then complain that the land premium is too high.

As a professional surveyor, I examine that there are mainly three approaches for evaluating property price. Perhaps I should explain the different features of these three approaches.

(1) Comparative Approach

This is the commonest way for evaluation which is considered fair and accurate as the latest transaction cases of comparable properties, probably the flats of the same area on upper or lower floors will be considered. In this way, many subjective considerations will be removed and wrong judgement will be avoided.

(2) Investment Approach

Return to be yielded from rentals of properties will be considered under the approach. The investment in properties will be compared with other forms of investment. The value of the property must be calculated on basis of the returns it can yield.

(3) Cost Approach

The idea is to calculate the cost for building a similar property. The cost involved will surely include the land value, construction cost and professional fees.

In light of the above approaches, I have the following opinions concerning the pricing of the current sale of public housing flats:

(1) If the Housing Authority were to adopt the comparative approach, we must adopt a relatively objective standard for comparison. The public housing flats in question are all five years old. In fact, when the sitting tenants moved into these flats, they had the right to choose between public housing flats or Home Ownership Scheme flats. Therefore, if the Housing Authority were to adopt the comparative approach to evaluate the price of these flats, it should use the market price of the flats when they were ready for occupation as the standard for comparison.

(2) As we all know, property speculation has played the most important role in the surging up of property price. The current price level has been far beyond the assumed value set on a basis of a stable property market. If we are to adopt the comparative approach, the prevailing market price may fail to reflect the public need for home ownership.

(3) When properties with a tenancy are sold, they usually attract a price lower than that of properties which can afford vacant possession. The discount rate varies from 10% to 20%. The target of the current sale of public housing flats is the sitting tenants. But the discount rate is so very unreasonable to make the target tenants find the prices so very unattractive. For example, if a certain tenant pays a monthly rental of \$800, then the annual total would be \$96,000. In terms of investment and calculating on a ten-year full return and supposing the area of the flat is 400 sq ft, then the flat's value should be \$96,000 -- a far cry from the \$300,000 priced by the Housing Authority. The formula is therefore quite simple. That is to say, for tenants who are enjoying such low rents with the Housing Authority paying for the rates and management costs, they will not hasten to purchase the flats they are occupying from the Housing Authority for so high a price.

Improvement works before sale and management after sale

Mr Deputy President, pricing is the principal cause of the failure of the scheme. The crux of it is the quality of the public housing flats for sale. The quality of public housing has all along been an issue for public concern. The condition of

public housing estates has been appalling. Public lifts are frequently out of order. Exposure of steel bars and cracks are commonly found in lobby, corridors and stairways. How can one have confidence to buy such a "shabby" flat from the Housing Authority? I wonder if the Consumer Council, on passing a Bill, would bring such "shabby" flats under its monitoring? If the Authority is to relaunch the scheme, the problems have to be addressed at root. Only when the quality of such flats has been improved that can confidence of sitting tenants be restored and will the scheme have a chance to succeed.

In fact, the Housing Authority has already been aware of the quality problem of the public housing flats. The Ad Hoc Committee has recommended that in order to alleviate the fear and uncertainty of the sitting tenants, independent surveyors will be employed to examine the conditions of the common areas of the sale blocks. The survey will result in a list of repairs and tenants will be allowed to report on defects found inside their flats and the Authority will consider including such defects in the repair list. We have to understand that these flats were completed after 1979 and the Authority said that there should be no major structural problem for blocks built after 1979. However, the Authority seems to have forgotten again that the absence of major problems does not mean that there are no minor defects which may bother the tenants a lot. How can they enjoy a good accommodation if they have to remedy the defects arising from cracks and leakage from time to time?

Major problems and minor defects should also be taken care of. In my view, apart from common areas, independent surveyor should also be asked to conduct condition survey covering the internal area of the flats as well. Since tenants are not experts and it may be difficult for them to discover problems which have not been revealed. It is better to ask a professional surveyor to conduct the survey and prepare a list of repairs. The repairs must be done immediately and should not be dealt with as it was originally proposed in the scheme under which repairs will not be carried out until the tenants concerned have indicated interest in buying their flats. In fact, whether the public housing flats will be put on sale or not, the Housing Authority has the responsibility to maintain the good quality of public housing flats.

Besides, I wish to mention one point. The Housing Authority should continue to assume management responsibility in particular the co-ordination of maintenance and repair for the public housing flats after sale. In reality, what concerns the sitting tenants is that should there be considerable cost arising from repair works in future, lower income families may find it hard to shoulder the financial burden. Although

the Authority has promised that it will still be responsible to remedy any defects arising from repair works within one year of the sale, there may be defects which arise after more than one year, such as the problems of the "substandard public housing blocks", which have not been discovered after years. Therefore, the anxiety of tenants is understandable. To completely remove the doubts of tenants, the Authority should guarantee that it will be responsible for any repair works should there be any fundamental problems of the structure detected after the sale of the blocks.

To conclude, whether the sale scheme is to be shelved indefinitely or for a long term, I hope that the Housing Authority could conduct a review so as to correct the deficiencies of this scheme. Secondly, in pricing the public housing flats for sale, the Authority should use the prevailing price of HOS flats as base. As to maintenance and repairs, the Government should be responsible for the structural repairs of the blocks. Finally, I support that public opinion should be widely consulted and the opinions of the tenants should be given full consideration on the scheme of sale of public housing flats. These are my remarks.

MR TIK CHI-YUEN (in Cantonese): Mr Deputy President, in the traditional Chinese concept, starting a family is an important task for a person and buying a home to settle down is one of his life long ambitions. According to not a few surveys, there has been an increasing desire among Hong Kong people to own flats so they can settle down to devote themselves to work. However, private property prices have gone up to such heights that they are virtually beyond the reach of the lower middle income groups. The unhealthy state of the real estate market means that most Hong Kong people are unable to achieve their life long ambition of owning their homes. It is in this context that one way of helping people to become private flat owners is for the Government to provide more flats below the market price so they can have a real option. The Home Ownership Scheme launched by the Housing Authority since 1978 has attracted many home buyers. It enables lower middle income households to own flats while making it possible for the more affluent households living in public housing to upgrade their home environment. This will in turn enable the applicants on the Waiting List to move into vacated public housing flats.

In 1988, the Home Purchase Loan Scheme was introduced by the Housing Authority to enable residents to buy flats on the private property market. The Sale of Public Housing Flats to Sitting Tenants Scheme was launched this year by the Housing Authority to enable public housing tenants to own their present flats. The Scheme

has become the subject of a heated debate since its announcement. While no strong objection has been voiced against the idea of selling public housing flats, questions were raised regarding the quality and sale prices of the flats on offer. Consequently, less than 10% of the tenants have been willing to join the Scheme. In August and September of this year, Mr Fred LI and I attended a number of seminars held by residents of Fu Shin Estate of Tai Po and Tsui Ping Estate of Kwun Tong to hear their views on the Scheme.

Meanwhile, we collected the views of close to 70% of the households living at one of the blocks of Fu Shin Estate selected for sale. We found that 87.8%, or roughly 90%, of our respondents were not willing to buy their own flats under the conditions set out by the Housing Authority. Indeed, only 2.3% indicated they would join the Scheme. Of those who said "no", 80% felt that the flats were too highly priced, 40% were not happy with the quality of the flats on offer. Leaking, ceiling paint peeling off, and cracks on the walls were some of the problems identified. The point should be made here that not all of the tenants who said they were not interested in the Scheme were ruling out the possibility of buying their present flats altogether. Nearly 55% of these respondents indicated that they would buy if the price was just slightly cheaper. Apart from the issue of price, the tenants also requested that the Housing Authority carry out the necessary repair works before offering the flats for sale.

We discovered from the above findings that sale price and state of repair were important factors which tenants would take into account before deciding whether or not to buy public housing flats. And these two factors have in fact been discussed at great length by colleagues in this Council. I would like at this point to look at the principles involved in the Sale of Public Housing Flats to Sitting Tenants Scheme.

Many people will agree that the Scheme has its own merits. First of all, as the public purchasing power has been enhanced by our economic development, the sale of public housing will provide an option to satisfy the popular desire to own property.

Secondly, the sale of public housing will reduce the government subsidy for the more affluent households so that resources could be properly used to better help the lower income families. This view, however, is based on the assumption that government subsidy for home buyers is in fact less than the money used to subsidize public housing tenants.

Thirdly, with proportionally more people being enabled to become owner-occupiers, social stability will be enhanced. This is of course conditional upon the people having the ability to afford the prices set for the public housing flats.

Fourthly, the public housing flats will in future be managed and maintained by their new owners. This will result in improved quality of management as well as improved community involvement.

However, the Scheme has three demerits, which I list as follows.

Firstly, the sale of public housing flats will most probably reduce the provision of public housing unless the Government steps up the production of public rental housing to make up for the flats sold. If this is not done, provision will definitely fall. Indeed, the 10 year Long Term Housing Strategy contains recommendations in this direction.

Secondly, the flats offered for sale are of a relatively better quality, having advantage of location and better state of repair. In other words, now that the better quality public housing flats which fetch higher rents have been put up for sale, the remaining ones are those which are in poorer shape, whose rents are lower, and which will be costly to maintain. This will bring pressure on the Housing Authority, which cannot balance its books, to raise the rent, creating more hardship for the lower income earners.

Thirdly, not all home buyers are buying homes because they are better off economically. The present policy of charging double rent, restricting transfers, and restricting the infusion of offspring, has effectively forced some public housing tenants to resort to home buying to solve their problems. But they are the people who do not actually have sufficient economic means. When their income falls, they will not be able to meet their mortgage payments and they will be dispossessed of everything they have. When more and more people find themselves in a similar plight, the result will be social disturbance.

It can be seen from the above discussion that the Sale of Public Housing Flats to Sitting Tenants Scheme has both its merits and demerits. It is for this reason then that public consultation be conducted, and further discussion held, regarding its objectives and other technical problems. The disappointing response to the

Scheme so far has been the result of inadequate grasp of the feelings of would-be buyers and their ability to afford.

Mr Fred LI and I are in support of Mr LEE Wing-tat's motion. Regarding Mr Frederick FUNG's amendment motion, we feel that there is no need for us to specifically prescribe sale price and other matters of a more technical nature. We would rather not go into the specifics until we have listened to more public views.

Mr Deputy President, with these remarks, I support the motion standing in the name of Mr LEE Wing-tat.

MR JAMES TO (in Cantonese): Mr Deputy President, whereas many colleagues have spoken on the sale price of public housing, I only wish to go into a discussion at this point about the issues arising from management and the Deed of Mutual Covenant (DMC).

Problems relating to the Sale of Public Housing Flats to Sitting Tenants Scheme

Public housing becomes private property once it has been sold. Problems faced by the property owners will become matters of concern to the sitting tenants intending to buy their present flats. Concern in the past has not been high because in the past attention has been focused on issues such as estate management and the housing subsidy policy. Indeed, quite apart from the pricing of the flats for sale and after-sale rights, another equally important factor to take into consideration is maintenance and its related problems. Failure to address this issue will expectedly affect the attractiveness of the scheme to prospective buyers. However, after the sale of public housing, the issue of mixed ownership will arise, which is to say that while some public housing flats are occupied by owners, others are rented out to tenants. It is for this reason that the Scheme has still to take into account the rights of the tenants who have decided not to buy their present flats.

First of all, I would like to talk about the problem of land ownership. Public housing estates selected for sale would of course include the residential flats, but are the public facilities such as car parks and public open space and amenity plots also included? We sometimes feel that sale of the land involved should wait but nevertheless, land is worth a lot of money, particularly urban land on which public housing is built, like the land where the Tai Hang Tung Estate now stands. It is for this reason that the quantity of land bought will have a bearing on the sale price

of the land in question after several years. What land rights has the Government reserved? For example, in the DMC of an HOS project in Sham Shui Po, there is specific provision for the access roads of the HOS court to be used by the tenants of the adjacent public housing estates. In other words, the HOS owners, unlike private property owners, do not have the full and absolute right to land use. The problem will become even more complicated if the housing estate is sold by the block in different phases. For example, the housing estate consisting of six blocks has three of its blocks sold on conditions excluding the amenity plots on the ground level. The occupiers or flat buyers will only end up buying their residential portion of the building with access to the amenity plots on discretionary grounds only. It is for this reason that problems such as these must be carefully considered.

Apart from the issue of DMC, another matter of concern is the problem of pre-sale repair. It is a real problem. I am sure colleagues will recall the frightening accounts given by many HOS residents of leaking and other problems, which incidentally some colleagues have also narrated in graphic detail to us. I do not want to go into that again.

Paragraph 5.26 of the Report put together by the Ad Hoc Committee on Sale of Public Housing Flats to Sitting Tenants Scheme states that, before the flats go on sale, private surveyors will be engaged to examine the condition of the buildings involved. I tend to agree with Mr Gilbert LEUNG on the point he made that such examination is confined to the public areas, and does not include the interiors, which residents are most concerned about as dwellers. The rationale is that the sale flats have all been completed after 1979 and should therefore be structurally safe. In any case, all interior problems may be discovered by the examination of the public areas. Also, the interior structural condition cannot be easily determined because of interior wall painting and other interior decorations. Paragraph 5.27 states that tenants may report on their own initiative any damage to the interior of their flats. It would seem from these two paragraphs that residents' needs are already taken care of but there are a lot of practical problems. If the Housing Authority considers that interior painting and decorations may affect the examination of structural safety, then it may be fair to say that it is much more difficult for the residents, who know nothing about engineering, to ascertain what the structural problems, if any, might be. Secondly, it is unfair then that the onus of reporting interior damage should rest with the tenant who is a total layman, particularly in so far as structural safety is concerned, and who has then to produce proof that he is not contributory to the damage in question. Thirdly, though the Report states that the tenants may

report on their own initiative, it makes no mention of when and how. Report should, by common sense, be made before the sale. But I think if all tenants respond by actually reporting the damage, the Housing Authority will have a real problem on its hands because there are so many problems involved. Fourthly, on the issue of a complete repair list which the surveyor is supposed to prepare, I would like to know what the standards are. Of course, we are not saying...

7.56 pm

DEPUTY PRESIDENT: My attention has been drawn to the fact that a quorum is not present. I am therefore bound to suspend the sitting until a quorum is made up.

7.59 pm

DEPUTY PRESIDENT: We have more than a quorum present. And as it is almost 8 o'clock, this Council ought to be adjourning very shortly.

ATTORNEY GENERAL: Mr Deputy President, 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.

DEPUTY PRESIDENT: Council will resume.

MR JAMES TO (in Cantonese): Returning to the repair list, what then are the standards required? If the repair list is drawn up for the sale, then are the repairs to be made only to meet the inhabitable standards, or are the repairs absolutely necessary? If they are, will they be made to the flats not selected for sale. I have a lot of misgivings on this.

Paragraph 5.29 of the Summary says that redecoration works such as the brushing up of the entrance lobby will show that the buildings are in a good state of repair,

apart from being an indication of the Housing Authority's sincerity in launching the Scheme. But residents are concerned about the extent of the redecoration work and exactly what parts of the building are being redecorated. They may not be concerned if they do not intend to buy, but they are naturally concerned if they are about to put their money down. They are aware of the possibility raised in Appendix A of the Summary that the owners may suggest improvement works; the provision of security guards in the lobby and appropriate counters, as well as the installation of a security gate, is some of the measures which should be taken. I believe that the Housing Authority should, before the sale of the public housing flats, pay for the costs involved, which are estimated to be no more than a few tens of thousand dollars per block. This is a more positive way of showing sincerity and will effectively save the Housing Authority the administrative cost of collecting money later on, ranging from a few to about a hundred dollars from each flat.

Consultation on Standard DMC

This issue has immense bearing on the power of management. The rights of the residents will not be easily protected if, according to the Housing Authority's suggestion, management will transfer from the Housing Authority after two years to one of its listed management companies. The problem has in fact been borne out by some past incidents. Whereas the management company will charge a high fee (at least compared to that charged by the Housing Authority, which is far more actively involved in running the Estate), residents will find it difficult to channel their complaints about cleaning work and management to the authorities concerned. While the Housing Authority believes the responsibility lies with the management company, to which residents should refer their grievances, the management company considers that the residents should approach the Housing Authority and refuses to get directly involved with the residents.

Actually residents have mixed feelings regarding the question of management. While they want the power to manage their own buildings, they also want the Housing Authority to continue as a manager. While the private management companies will focus on their business interests, the Housing Authority has a political responsibility, will refrain from profiteering and ensure that the buildings are managed properly. Indeed, the Housing Authority's report on public consultation has recorded the desire of the public to see the Authority continue as the manager of the estates. What is more, given that the Housing Authority has the perpetual right to manage HOS flats, it will not be exactly fair to HOS residents if it now transfers

the property rights to public housing residents after two years. It is for this reason that I believe that public consultation should be conducted on the standard DMC such that the Government will not be criticized for being unfair in offering different sale conditions. I understand that consultation is underway regarding the revision of unfair private building DMCs. It would look very bad if the Government itself came under criticism.

Regarding after-sale management and maintenance, decision should rest with the property owners as to how their rights should be exercised.

Property owners tend to wish to see their living environment improved, by building a swimming pool for example, and the cost of such improvement work will be passed on to the tenants. Whereas the owners may want to build a swimming pool, the tenants should not be made to bear the construction cost. In the event of this happening, it should be left to the decision of a meeting of all owners and the proposed work should not go ahead unless it has been endorsed by at least one half of all the owners. The present suggestion of the Housing Authority is that a major improvement work has to have the endorsement of two thirds (not one half) of all owners, as opposed to the requirement applicable to most DMCs that the endorsement of only one half of the owners involved will suffice for a major or minor work to be carried out. Supposing that the Housing Authority owns one third of the flats which are rented out and another one third of the flats can find no buyers, then only a small number of owners remain to be lobbied for any improvement work to be vetoed. This is extremely unfair to the other owners. I think there is a lack of balance. Meanwhile, I also suggest that the removal or special allowance be raised to encourage the few remaining tenants of a block with most of its flats sold to move out, in order that the polarization and confrontation of owners and tenants can be averted.

It has also been suggested that the cost of a major improvement work should be split between owners and tenants. But I do not think it is fair. Why? Because improvement work will push up the property price, which is advantageous to the owner. I do not think it is fair that the cost should be split precisely for this reason. Of course, on this issue of fairness, it will be argued that it is after all unfair that public housing tenants should have vastly different living conditions depending on whether they live in a rental building or a building which has been sold. My view is that any unfairness is due not so much to Housing Authority policy as to external factors, if most of the flats in the housing block concerned just happen to have been sold, in which case the owners are entitled to the better conditions. I suggest that

if the removal or special allowance can be raised to encourage the remaining tenants to move out then it would be fairer to everybody.

Mr Deputy President, with these remarks, I support Mr LEE Wing-tat's motion.

DR PHILIP WONG (in Cantonese): Mr Deputy President, the problems relating to the sale of public housing flats which we heard today had in fact been discussed at various meetings of the Ad Hoc Committee on the Sale of Public Housing Flats to Sitting Tenants Scheme, the Home Ownership Scheme Committee and the Housing Authority. It was the consensus of the majority then that, considering the special circumstances of the public housing tenants, the public housing flats should be sold at a greater discount than the HOS flats, and that a relationship between the two in the selling price should be maintained. Indeed, the selling price of a public housing flat is only half of the price for an HOS flat in the same district, or one third of the going price of a newly completed private flat. It was for this reason that most of the Housing Authority members felt that the price was very reasonable. It will enable the tenants who have the economic means to improve their living conditions to eventually become a property owner; it will also help the Housing Authority to accomplish its long-term objective of enabling more and more Hong Kong people to become property owners. The Scheme has various provisions to strictly safeguard the interest of the tenants to the extent that the Housing Authority has undertaken to fund all the necessary repair works and maintain the buildings for one year after sale.

Both Mr LEE Wing-tat's motion and Mr Frederick FUNG's amendment motion stress public consultation. Indeed, being members of both the Ad Hoc Committee on the Sale of Public Housing Flats to Sitting Tenants Scheme and the Home Ownership Scheme Committee, Mr LEE and Mr FUNG should be well aware of the fact that a three-month consultation exercise was held by the Housing Authority on the report of the Ad Hoc Committee and a positive response was drawn from the public. The majority view was in favour of the principle that public housing tenants should be given the opportunity to choose to buy their rental flats. It was only after meticulous comparison, serious study and discussion of the public views collected, and appropriate adjustments made to the management arrangements and pricing structure, that members of the Ad Hoc Committee submitted their final recommendations to the Housing Authority. For example, the discount on the selling price per flat is 50% more than that envisaged in the Report for consultation. We believe that the Housing Authority has sincerely and positively adopted all the constructive and feasible views of members of the

public both during the three-month consultation period and in its conduct of follow-up work thereafter. In other words, all the preparatory work that needed to be done has already been done. Whether the desired result has been achieved is another issue which should be reviewed by the Housing Authority in future, but it should not become cause for scepticism over the work of the Authority per se and excuse for intervention.

Mr Deputy President, I think both Mr LEE Wing-tat's motion and Mr LAU Chin-shek's motion two months ago, despite their different wording, have the same spirit of demanding that the Government and statutory bodies should consult the views of this Council before any agreement is reached, or indeed decision is taken to go ahead with any project at all. Regarding Mr LAU's motion, Mr Stephen CHEONG moved an amendment motion, which was later endorsed, substituting "seriously take account of" for "consult". In fact, the same voting result may be applied to the motion standing in Mr LEE Wing-tat's name. I abstained from voting because I would not want to oppose Mr CHEONG's amendment motion to create the impression that I was in favour of Mr LAU's motion. On the other hand, if I voted for Mr CHEONG's amendment motion, it might mislead people into believing that all along I had been thinking that the Government and some statutory bodies had not respected or sufficiently considered the views of this Council and the public, neither of which even remotely reflected my attitude. Admittedly, there have been some instances of the Government not sufficiently considering the views of this Council and the public, and the recent policy decisions affecting the financial sector are example of these. Some policy makers in the Government took no heed of the views expressed in the finance industry, even going so far as to warn in no uncertain terms that strict regulation would follow if the industry did not comply. When the departments concerned found that they did not have industry support, they saw fit to play the trump card of public interest. It was just as if the rules were suddenly changed in the midst of a soccer game and the player who stubbornly stood his ground was either shown the red card and warned off the field, if he was lucky, or penalized by being banned from the game for a number of years, if he was less lucky, and there were players who had the worse fate of having his qualification to play revoked altogether. This is of course very disappointing to the people who have an informed knowledge of the ethics of the finance industry and the way in which it operates; it shakes their confidence in government policy making. Having said that, we must also admit that incidents like these are few and far between. We should not, on the basis of such isolated instances of the Government making the wrong decision and letting the people down, negate the fact that the Government has been essentially efficient. I believe that both the views of this Council and the public generally are seriously considered by the Government and the statutory bodies

in their decision making. This incidentally is what a responsible government is obliged to do. In the transition period, we expect the Government to maintain its efficient operation as in the past and accept, in carrying out its responsibilities, public scrutiny and criticism. I think the Government has the responsibility to consult this Council and meticulously canvass public opinion on marginal issues. But after the Government has already adequately assessed an issue and reached a correct judgment then there is no need to repetitively conduct consultation exercises to duplicate previous efforts because to do so will only waste the time and energy of the administration, and taxpayers' money. What we need is a government which is conscientious, competent, responsible, one which will respond promptly and appropriately to swiftly changing social and economic situations, one which is open-minded and willing to face the consequences of its policy, one which will accept praises as well as criticisms and strive to constantly improve and better itself on that basis. A responsible government is one which will astutely judge when to consult and when not to over-consult. I do not want to see the transfer of policy making power to this Council at this point by our executive-led Government, whose performance has so far continued to be satisfactory.

Mr Deputy President, I have the reputation of being a man who is not afraid to speak his mind. I think the fact that I have the courage to express my different opinion today speaks for itself. But I believe that an outspoken person is not someone who has the courage to criticize the Government or a statutory body, even to the extent of criticizing for the sake of being critical, objecting for the sake of objection. I am not afraid to criticize the Government when it has in my opinion done wrong; I am not afraid to support the Government when it has in my opinion done the right thing. An outspoken person should positively develop his critical independence to give the devil his due, as it were, through his learning, experience, thinking, judgment and sincerity; he should not allow himself to be influenced by sudden shifts in public opinion which may affect his fortunes either favourably or adversely. Colleagues have just now commented on the government housing policy over the past 20 years. It is my opinion that the Government should be praised for its public and Home Ownership Scheme housing policy which has achieved praiseworthy results over the past 20 years. I think colleagues still recall vividly the living conditions which prevailed in Hong Kong in the early nineteen seventies. In order to solve the housing problem at the time, the Housing Authority was set up to co-ordinate, and advise the Government on all public housing matters. The Housing Authority has since 1973 done a lot of work. It has successfully launched the policy of building public housing flats and Home Ownership Scheme flats to provide

accommodation for nearly one half our present population. This achievement is as self-evident as it is praiseworthy; it has great bearing on social stability, economic prosperity, and not least, family harmony. The Housing Authority has been able to contribute to the proud achievement because, being a statutory body rather than a government department, it enjoys a measure of autonomy which allows it to make decisions and get on with its job with minimum bureaucratic red tape. If this Council should become sceptical of the overall work performance of the Housing Authority and shows no support for its autonomy, then the negative effect this produces will translate into dilatory decision-making, lowered efficiency and slipping standards. The losers will eventually be the near three million residents now living in public housing flats or Home Ownership Scheme flats, as well as other individuals who are badly in need of Housing Authority assistance. I am not, of course, saying that the Housing Authority should be complacent with the status quo; I wish to see the Housing Authority build on its present foundation to keep pace with social and economic development. We should strive to meet the urgent needs of another portion of the population in order that we may be able to achieve the objective of providing suitable accommodation for all the people of Hong Kong, by the end of the century. The Sale of Public Housing Flats to Sitting Tenants Scheme is a step in this direction. As we are aware, as at 31 March 1991, the Housing Authority had built a total of 422 000 public housing flats for over two million people. With the exception of a minority of tenants, the general feeling is that the living environment provided by the Housing Authority has been significantly improved. But the fact is that the rent collected from the public housing estates, minus the recurrent costs, is not enough to pay for redevelopment or other environmental improvement projects. A realistic projection shows that, if rent is relied on as the sole revenue, then after deducting the maintenance and management costs, it will take as long as one hundred years before the Housing Authority will be in a position to pay for the cost of redeveloping the public housing estates. But what building in Hong Kong, I dare ask, will remain standing for one hundred years without major repair work being carried out or re-developed? Redevelopment in a relatively short time means we have to adopt either one of these two options. Either we make use of the proceeds from the sale of HOS flats to supplement the cost of redevelopment, or we ask the Government to come up with the huge funds to subsidize the redevelopment. Whether the first option is feasible in principle is a controversial issue; it should be carefully reviewed by the Housing Authority when it meets again and a report should be put together afterwards. I will not comment further on this because of the time constraint.

I hope colleagues will take note of the fact that the economic means of a vast

number of long-term tenants of public housing flats has significantly improved with their income being well over the limit for applicants for public housing. They have been receiving huge public subsidy over the years and they can actually pass their tenancy rights to their offspring. The result is that a lot of needy applicants who meet the eligibility criteria are unable to become public housing tenants, being deprived effectively of their right to government subsidy. We can see that the tenancy laws in Hong Kong actually give more protection to tenants than to owners. While this is understandable when the laws are applied to private property, we are now talking about public housing rather than private property. In other words, it is the responsibility of the Housing Authority to see to it that taxpayers' money is used to look after the people who are least able to solve their housing problem. In future meetings of the Housing Authority I will advocate that the well-off tenants move out of public housing under certain circumstances so that the flats they vacate can be taken up by the more needy households. In terms of implementing the relevant scheme, I want to stress that the Housing Authority should continue to enjoy its flexibility and autonomy.

Mr Deputy President, with these remarks, I cannot support either Mr LEE Wing-tat's motion or Mr Frederick FUNG's amendment motion.

DR YEUNG SUM (in Cantonese): Mr Deputy President, according to Standing Orders, the Honourable Frederick FUNG's moving of an amendment to the Honourable LEE Wing-tat's motion is a normal practice.

The "Sale of Public Housing Flats to Sitting Tenants Scheme" has now been proved unsuccessful. This failure was officially admitted by the Housing Authority. As only about 10% of the sitting tenants have indicated their interest to buy these flats, the scheme is apparently a complete failure. Mr Deputy President, I would like to concentrate my speech on discussing the Housing Authority's strategy in implementing this scheme and the various factors which have had a part to play in shaping this strategy.

At the very start, the Housing Authority thought that the scheme could provide potential buyers from among sitting tenants with an opportunity to realize their aspiration to be property owners at a reasonable and affordable price. According to the price scale set by the Housing Authority, the average price for a five-year-old public housing flat in the urban area with a usable floor area of about 400 sq ft

is \$350,000. If it is mortgaged for 95% of its price and the repayment of loan is to be made by installments over a period of 20 years at an interest rate of 10.5% per annum, the flat owner will have to pay an instalment of some \$3,000 each month. With the median family income in public housing estates currently standing at \$8,000, the Housing Authority expected families with an income close to this level would be able to absorb 74% of the flats put on sale under this scheme. It believed that the sitting tenants might find it reasonable and affordable to spend 40% of their family income on monthly repayment of their housing loans.

The reality has proved that the Housing Authority's evaluation had been overly optimistic and that the scheme had been a failure. The failure of this scheme has brought tremendous financial pressure on the Housing Authority which, according to its original calculation, expected to get a profit of \$1 billion from a successful sale of 4 000 flats under this scheme. Owing to the failure of this scheme, the Housing Authority is now expected to suffer a deficit of \$5.3 billion by the end of the fiscal year 1995-96. It will mean \$13 billion in short of the originally estimated surplus of \$7.76 billion. If the Housing Authority does not plan to sell its public flats again, it will possibly need to borrow the necessary fund from elsewhere.

My listing the foregoing figures is meant to show the Housing Authority's motive for introducing the scheme was to earn a handsome profit by playing upon the sitting tenants' desire to own their flats. If successful, not only can this scheme rid the Housing Authority of its obligation to bear the maintenance cost of the flats involved, but it can also bring in an attractive amount of revenue, thus reducing the Government's financial commitment to public housing. It is evident that the scheme was aimed at earning a large amount of income for the Housing Authority instead of providing an opportunity for sitting tenants to buy their flats at a reasonable and affordable price.

With regard to this scheme, there are two notable points about the principles of its policy that I want to specifically point out. The first one is the great emphasis which the Housing Authority has placed on the sitting tenants' ability to pay. The second one is the pegging of the prices of public housing flats to their market values. These two principles are a wide departure from the public housing policy which the Government has adopted since 1973.

For a long time, it has been the Government's housing policy to regard the provision of public housing as a kind of social service. Mainly through the granting

of land and the provision of loans, the Government has subsidized the construction of public housing estates which are now providing dwelling places of acceptable standard for nearly half of the population. Besides, with the public housing rent set at a relatively low level which takes up only a small proportion of the income of the tenant-households (the present level is 18.5% of the median income of the tenant-households), a large number of public housing residents not only can enjoy a stable home, but also can spare a larger portion of their income to improve their quality of life after paying for the rent. In return, these people provide our society with an industrious and highly productive labour force. As most of them go out to work, they form part of the working population. Owing to the relatively low public housing rent, these people seldom have the need to take strong industrial action to demand for wage increase. This accounts for the reason why the labour relations in Hong Kong are much more harmonious than those in its neighbouring countries.

However, such a housing policy of treating the provision of public housing as a form of social service was fundamentally changed in 1988. With the amendments made to the Housing Ordinance in 1988, the Housing Authority was vested with the power to make decisions independently on its financial and administrative matters. Since then, the Government has gradually reduced its subsidies to the Housing Authority, forcing it to develop itself into a genuine "self-financing" body. Worse still, no subsidies will be given to the Housing Authority after 1994.

Since the Housing Ordinance was amended, the Housing Authority has become more like a "independent empire" with full power to formulate its policies and decide on the use of its resources. In the absence of public consultation and supervision, the Housing Authority has gradually developed towards "privatization". Thus, in introducing the Sale of Public Housing Flats to Sitting Tenants Scheme, the Housing Authority stressed on the affordability of the sitting tenants and pegged the selling price of the housing flats to market value.

Under the new policy and its principles, the provision of public housing will very likely be regarded by the Administration not as a social service aimed at improving the general quality of life at grassroots level in Hong Kong, but rather as a means to grab profit for the Housing Authority. This is a most unfortunate change of policy. The United Democrats of Hong Kong has emphatically pointed out the far-reaching implications of such a development. Not only will it impose extra burden and pressure on the general public in Hong Kong, but it will lead to a wider

gulf between the rich and the poor, thus putting local labour relations and the stability of Hong Kong in jeopardy.

Mr Deputy President, before concluding my speech, I, on behalf of the United Democrats of Hong Kong, would like to make two requests to the Hong Kong Government. They are: 1) the public housing policy should be reviewed to ensure that the principle of treating public housing as a kind of social service is to be maintained and fully implemented; and 2) the Housing Authority should be held responsible and accountable to the public.

Mr Deputy President, with these remarks, I support the Honourable LEE Wing-tat's motion.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, this has been a stimulating debate and, as I agree with Mr LEE Wing-tat, a healthy debate reflecting a general concern over the future of the Housing Authority's Sale of Flats to Sitting Tenants Scheme which will be discussed tomorrow in the Housing Authority. And I would like to emphasize that it was supposed to be a debate about sitting tenants and not the homeless, that is, shelled rather than shell-less snails, as Mr LAU's analogy suggested.

Despite the tenants' low response, I note there is general support in this Council for the concept of giving public housing tenants a further avenue to owning their flats. This support is important because if there were serious doubts about the concept, it would not be worth our while to re-examine the details of the scheme. The disappointing response to the offer has led many into thinking that there had been insufficient public consultation, or that the Housing Authority had completely ignored the views expressed during consultation. Neither of these allegations is true. The proposal to sell flats to sitting tenants had been the subject of wide consultation for a period of three months, from mid-October 1990 to mid-January 1991.

The Authority had in its deliberations taken into account comments raised by the public before launching the scheme. True, with the benefit of hindsight, certain aspects of the scheme will need to be reconsidered and I am grateful for Members' views and suggestions.

Nor do I accept the criticism that consultation on the scheme has been inadequate

or narrowly focused. During the three-month consultation period on the ad hoc committee's report, Housing Department staff attended each district board to explain the scheme and to hear members' views on it. Efforts were also made to solicit the views of public housing tenants and the public at large. As many as 160 000 copies of an information booklet and 5 000 copies of a full report were distributed to tenants and the public through estate offices and district offices, and in response to requests. The Housing Department was represented, at several open forums organized by district board members and tenants concerned groups. Some district board members and tenants' groups conducted surveys of tenants' opinions on the scheme and the findings were made known to the Department.

But let me say from the outset that the primary objective of this scheme is to provide more families with an additional opportunity to own their home. Some have alleged that the Authority is just trying to reap a profit out of the scheme or that it is moving away from its commitment to provide housing for the needy. I just remind Members that any net revenue generated under the scheme, or for that matter any of the Authority's operations which produce a net income, will be ploughed back into the housing construction, improvement, and maintenance programmes. Without a strong financial base the Authority will not be able to plan its housing programme years ahead and to meet its commitment.

I would now like to turn to the financial relationship between the Housing Authority and Government. It has been suggested that the Government should provide greater assistance to the Housing Authority to enable it to lower its selling prices. I point out the financial arrangements that were agreed in 1988 between the Government and the Housing Authority work very much in the Authority's favour. The Authority's budget for the current year provides for payments of \$3.7 billion to be made to the Government but the benefits valued are \$12.1 billion, mainly in the form of land to be received, thus providing a net inflow of in excess of \$8 billion. Before the Government could agree to granting additional funds to the Housing Authority thereby increasing the degree of subsidy to those who benefit from the Authority's programmes, it would need to be convinced that the Authority was unable to carry out its programmes within the present arrangement. I do not believe that to be the case.

On pricing, which has been the most controversial issue, the consultative document on the scheme recommended that pricing should follow the usual Home Ownership Scheme method with due allowance being given to the conditions of the rental blocks compared with the purpose-built HOS blocks. This recommendation was the subject of

considerable debate during public consultation, partly because of the perception that Home Ownership Scheme prices were already on the high side, and partly because many believed that prices should only reflect the historical construction costs with some adjustment, in order to make them sufficiently attractive to the sitting tenants. In the course of the last public consultation, many had expressed concern about affordability. Because of these concerns the level of discount was increased beyond that indicated in the consultative document. The final pricing included a further 10% discount of the assessed market value to take account of the buyers being sitting tenants. Moreover, generous allowance was also made for the design, condition and the age of the blocks, with the result that prices were around half the level of current HOS prices and around a third of the prices of newly completed private sector properties in the same district.

In arriving at this decision the Authority was conscious of the need to produce prices which should be fair and reasonable but also the need to achieve a balance with the prices under the Home Ownership Scheme, because the terms and conditions of the two schemes have many common features and public housing tenants may choose between them. Factors affecting pricing are likely to be examined again if the Authority decides to proceed with a comprehensive review.

Some Members of this Council have expressed concern also about the quality and maintenance condition of rental blocks generally, and the sale blocks in particular. Similar concerns were expressed during the last public consultation. The Authority thought that it had already taken adequate steps to allay tenants' concern through the undertakings given in the consultative document, and subsequently to the tenants concerned that prior to sale a condition survey of the common areas in the block would be carried out by an independent surveyor and that any defects identified by this survey, and other defects inside the flats which the tenants had reported, would be repaired and the work guaranteed for a further year. I should mention here, on the general question of construction defects such as water seepage, plumbing and other problems, that the Authority has already agreed to make good the defects irrespective of whether these flats would be sold. The Authority would also consider expanding its Comprehensive Repair Programme to cover housing estates built in the mid-1980s.

As to the condition of the flats, during the previous 18 months only a total of 2 600 reported defects were recorded covering the 11 blocks and the 7 000 flats, that is, approximately one defect in one-third of the flats. This is not abnormal. However, as a result of tenants being required during the sale to report all defects within

their flats, or being invited to report all defects within their flats, a total of 6 000 were reported. I think one may safely assume from this that many of the defects were not previously thought serious enough to report; and of course they were asked to report by the Authority, and also encouraged to do so by various concerned groups. It was very reasonable that a large number of reports should be made in the circumstances where the tenants were just about to buy the flats.

Some Members pointed to the need to protect the interests of those who remain as public housing tenants. Certainly, I can assure this Council that the Housing Authority was indeed very conscious of this need. If a block had been sold, those residents who had decided not to buy could remain living in their flat as tenants without any change in their terms. They would be consulted on future management decisions and the Authority would reflect their views at meetings of the Ownership Committee or Owners' Corporation, and would vote accordingly. To ensure transparency of this arrangement it was also envisaged that the tenants' association would be empowered to elect a representative to attend meetings of the management committee of the Owners' Corporation as an observer. If by a two-third majority the Owners' Corporation decided that major improvements should be made to the block, tenants who could not afford to pay their share of the costs would be exempted. Those who did not want the improvements would be assisted to move to another block in the same estate or district. There has been no intention at all to force tenants to buy or to drive them out of rental housing.

In the course of this afternoon there has been some hint that some members of the Housing Authority and its committees have various commercial interests, including interests in property development which might be in conflict with their jobs on the committees. Miss LAU has listed only a selection of Housing Authority members but if one looks at the overall membership of the Authority and its Home Ownership Committee, one will see that it is well balanced. The Authority has several other members who are public housing residents or elected members of district boards on these committees. The Home Ownership Committee does of course benefit from having both the proposer and the Member who wished to amend this motion, Mr LEE and Mr FUNG, to voice their opinions on prices and other issues affecting prospective purchasers and Home Ownership residents. There are thus diverse views and this makes for a lively debate with different proposals being put forward. I have no reason to doubt that all members of the Authority and its committees are dedicated to the interests of the Authority and to the public at large whom they serve.

In conclusion, Mr Deputy President, I must admit that it is easy to be wise after an unsuccessful trial. There are indeed many lessons to be learnt from this trial; these will need to be carefully studied and objectively analysed. And as I said earlier, the Housing Authority is expected to reach a view tomorrow on its Home Ownership Committee's recommendation that a comprehensive review of all Home Ownership Schemes, including the scheme being debated this afternoon, should be conducted. Many of the views expressed in this debate will, I am sure, be of great value to the Authority in both tomorrow's and in its future deliberations.

Thank you, Mr Deputy President.

Question on Mr Frederick FUNG's amendment to Mr LEE Wing-tat's motion put and negatived.

DEPUTY PRESIDENT: Mr LEE, do you wish to reply as the mover of the motion?

MR LEE WING-TAT (in Cantonese): Mr Deputy President, we have been debating this question for four hours today, but, as I said in discussing Mr Frederick FUNG's motion for amendment, our debate today is quite healthy. At least, there has been no personal attack or mutual name-calling. I hope that our future motion debates and adjournment debates will be rational debates seeking to establish the true facts and arrive at the right course, like last Wednesday's debate on the question of the elderly and today's debate on the sale of public housing flats. I would like to respond to several points. The first relates to Mr Graham BARNES' status and associated questions. Mr BARNES is the Secretary for Planning, Environment and Lands. He has many responsibilities. He is responsible for matters of planning, environment and lands. In this Council, he has to respond to our queries and arguments as an indirect representative of the Housing Authority and the Housing Department. I would not say that Mr BARNES has failed to make sufficient answer to the questions we raised; yet, I feel that interpellation in this respect is conducted at a few removes between questioner and respondent. Concerning the making and implementation of the housing policy, the Housing Authority has the responsibility to make policy and the Housing Department is the enforcer. However, members of the Housing Authority and officials of the Housing Department are not directly answerable to us in this Council as to how policy is made or why policy has run into hitches. Of course, I understand that Mr BARNES is a member of the Housing Authority. Still, quite clearly, because he

has a hundred other things to do, I believe that he does not spend much time on his work in the Housing Authority. This, in fact, is an extension of a problem that we often discuss in our meetings: What is the relationship between an independent public body or authority and this Council? We know that not only is there the Housing Authority but there is also the Hospital Authority coming into being later. The relationship between these independent bodies and this Council is quite worth noting by Members of this Council; I myself have made a comparison. It is that, last Wednesday, when Members in this Council passed a motion, Mrs Elizabeth WONG, Secretary for Health and Welfare, stated that she would quickly carry out our recommendations. Although we are not a body with policy-making power, there is at least a rather clear relationship of interpellation between us and Secretary-rank officials. Very often, I am puzzled as to how many of the suggestions of my colleagues will be accepted by the Housing Authority and how many will be carried out by the Housing Department. This is at least because the relationship of interpellation between us and the Housing Authority is quite blurred. However, I very much hope that Mr Nigel SHIPMAN, who is present today...

DEPUTY PRESIDENT: Mr LEE, you are strictly replying and of course you have the last word. But you are in fact raising a number of new points which means that the Secretary will not have the opportunity of dealing with these. I am reluctant to stop you, but I think you have got to deal with these points with a measure of self discipline.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, I will quickly turn to some of the points made by Mr BARNES. In the debate today, colleagues of this Council have already very clearly identified the problems we found with the Scheme, such as problems in respect of pricing, maintenance and management; we have also given many suggestions and ideas for improvement. I hope that these problems will, through Mr SHIPMAN, who is present today, be reflected to the Housing Authority.

Finally, I turn to the financial question of the Housing Authority that Mr BARNES has just talked about. I do not quite agree with his view. Mr BARNES seems to feel that the present financial relationship between the Central Government and the Housing Authority is sound. In my view, that relationship needs to be reviewed. Just as I said in my speech, during the year of 1990-91, the Housing Authority had at least to remit \$1.9 billion to the Central Government. That is a very big financial

burden on the Housing Authority. Now, when it reviews future financial arrangements, the Housing Authority is already feeling the financial burden. The reason is that the amount it must remit each year will increase steadily.

If my motion is passed today, I hope that the Housing Authority will heed Members' views and conduct extensive consultation. As I said critically just now, consultation held in the past was not wide-ranging but rather perfunctory. I hope that, after the failure of the Scheme, a new method of consultation will be used to enable more tenants to express their views and that the Housing Authority, after collecting the views, will make a real revision of the Scheme, thus helping to realize the hopes of the low income people for property ownership.

This is my submission. Thank you, Mr Deputy President.

Question on Mr LEE Wing-tat's motion put and agreed to.

Adjournment

CHIEF SECRETARY: Mr Deputy President, I move that this Council do now adjourn.

DEPUTY PRESIDENT: Mr Frederick FUNG has given notice to raise a subject for discussion on the adjournment. Could I remind Members that in an adjournment debate there are 45 minutes for Members to speak. At that point or after all the Members wishing to speak have spoken, whichever is the earlier, I will call upon the Secretary for Recreation and Culture to reply.

Control of pornographic publications

8.51 pm

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, this Council passed earlier in 1987 the Control of Obscene and Indecent Articles Ordinance in order to exercise control over locally released books, newspapers, magazines and video-tapes, and to safeguard our youngsters from the bad influence of undesirable articles. However,

the Ordinance has so far not been able to effectively stop the proliferation of pornographic articles.

I can observe a pornographic trend of the popular media coinciding with a popular trend of pornographic materials. What I mean by the pornographic trend is that some highly popular mass circulation newspapers and magazines, which should provide family reading, have actually taken to publishing Class III, sexually explicit pictures and articles in their supplements. Category III films and telephone numbers of vice establishments are widely advertised. In extreme cases, much to the horror of parents, some newspapers have carried full-page advertisements of Category III films on their front pages. People buy newspapers so they can read the news and the commentaries, without being aware of their lurid content and pornographic pictures. The most embarrassing part of the story is that, once these newspapers are brought home, they become family reading, which is how pornography too has become very much part of the family reading.

The popular trend of pornographic articles is the second point I wish to make. According to the legislation, any publication which has been labelled as indecent by the Obscene Articles Tribunal should not be sold to a young person under the age of 18. However, according to a survey carried out in August this year by the Youth Association on some 3,000 Form IV to Form VII students in Shatin, 40% of the interviewees in fact admitted to being regular readers of comic books for adults. Whereas close to 90% of these young people bought these books from the newsstands, nearly 40% were patrons of bookshops and second hand and rental comic book stalls.

Book stalls specializing in second hand adult magazines and comic books have appeared in recent years, in Ap Liu Street of Sham Shui Po and Cat Street of Central for example, selling their cheap merchandise to customers young and old. They have a great appeal to the youngsters whose purchasing power is low. Many students obtain pornographic articles from these convenient venues in total defiance of the law.

Recently, government attention has been focused on the proliferation of pornographic video-tapes but a crucial part of the class of indecent articles actually consists of books, newspapers and magazines. Causes may be many but I can see two problems with the way the law is working presently, both of which I would think directly contribute to the present undesirable state of affairs. Firstly, the public is either not aware of the Ordinance or does not fully understand it. Secondly, the Ordinance is difficult to enforce. I have the following remedial suggestions.

Firstly, the content of the Ordinance should be publicized. When the Control of Obscene and Indecent Articles Ordinance was passed in 1987, the then Chief Secretary undertook at the time to widely publicize its content. However, according to my contact with members of the public, most of them could not differentiate between the three classes, namely the neither obscene nor indecent, the indecent, and the obscene. If they could not tell the difference, there is no way they could lodge a complaint. The public is not clear about the fact that the sale of these indecent and obscene publications to a young person under the age of 18 would constitute an offence in law. I feel that there is a need for the Government to launch a new publicity campaign.

Secondly, the public should be encouraged to participate in the monitoring of the situation. The present practice is for the Television and Entertainment Licensing Authority to carry out inspections on newsstands and shops. However, there is nothing that they can do about the sale of pornographic articles because there are so many newsstands and shops involved and there is simply not enough manpower to create the necessary deterrent effect. Not a few stalls make the point of expanding their trading activities at night by offering the pornographic articles for sale. I think that simplified procedures should be devised to enable members of the public to complain about such activities so that the relevant government departments may act on the information supplied to carry out investigation. Public participation will on the one hand enable members of the Obscene Articles Tribunal to better understand public feelings in order to devise a set of more socially acceptable criteria; it will also on the other hand subject the traders specializing in such pornographic merchandise to public scrutiny. Deterrence by the Ordinance will be enhanced in this manner and the manpower resources devoted to inspection will be accordingly lessened.

Thirdly, the printing of warning labels should be expedited. I suggest that the Ordinance should be revised to require the label "not to be sold to a young person under the age of 18" to be printed prominently on both the indecent and obscene articles so that the public may be warned appropriately.

Fourthly, venues of sale should be restricted. While vendors may sometimes find themselves in a difficult position to refuse to sell the pornographic articles to young people under the age of 18, the law enforcers and inspectors will face similar difficulties in carrying out their duties. I think that consideration should be

given to restricting the sale of such articles to certain venues to facilitate inspection.

Fifthly, regarding the issue of appointment of Adjudicators, I think that the Government should consider appointing young people who have just reached the age of 18 or parents of young children so that the moral attitudes of young people, and parental moral values for that matter, may be suitably represented.

My proposal for the control of pornographic articles, and pornographic publications in particular, is not to be taken as a request for the Government to follow the example of some totalitarian states in controlling the publication industry and stifling the freedom of expression. But in order to better safeguard the freedom of the press and the freedom of publication, I believe that it is up to a responsible government to ensure that appropriate legislation is in place and effectively enforced such that our impressionable young people are not corrupted by the evil influence of pornography. Let us work with the Government to ensure that our next generation will grow up in a healthy environment.

This is my submission. Thank you, Mr Deputy President.

MRS PEGGY LAM (in Cantonese): Mr Deputy President,

"Pornographic publication" and the "pornographic inclination of publications"

The control of pornographic publications has been focused primarily on those adult magazines which publish specially the photographs of naked women. However, entertainment weeklies, which used to pose as family magazines, have become more and more "pornographicized" recently. Aiming to promote their sales, these weeklies compete with one another by publishing photographs of indecently-dressed female artistes who are widely known to the readers. Of course, these photographs on the front cover and inside pages of the weeklies fall behind those in the adult magazines in terms of nudity. But as far as social morality is concerned, I am afraid that an even more adverse impact has been produced. Firstly, penetrating every stratum of our society with a total circulation of more than 100 000 copies and posing as family magazines accessible to each and every member in the family, these weeklies are exerting an influence which should not be under-estimated. Secondly, since the models posing for the photographs in these weeklies are popular artistes widely known

to the public, more serious distortions and misconceptions would be formed among the readers in respect of sexual fantasies, the relationship between the two sexes and social value.

The pornographic inclination of these entertainment weeklies, which are the mainstays of local magazine publications (from the circulation point of view), has recently been a very worrying development in Hong Kong. Does this imply that the legislative control on pornographic publications has to be extended? Of course, reference must also be made to the freedom of publication. Moreover, the pornographic inclination of the publications also has a bearing on the standards of morality and the sense of value of the community as a whole, so the problem cannot be solved through the institution of legislation alone. There is little doubt that we have to face up to the problem and conduct more in-depth discussions and more extensive consultation.

Enforcement of legislation on control of pornographic publications

Stricter enforcement measures or amendments are indeed necessary for the legislation on the control of pornographic publications, especially in areas like the wrapping method of pornographic publications, film stills displayed by cinemas, the packaging and promotional materials for pornographic video tapes as well as advertisements of Category III films in newspapers. We all know that the transparent plastic wrappers currently used are useless to avoid arising the juvenile's curiosity.

Technology related "pornographic commodities"

While discussing the control of pornographic publications, we must not neglect the pornographic commodities beyond the printed medium. In fact, there is a trend of developing pornographic commodities with high technology in Hong Kong, which has already been glutted with information. Computer softwares consisting of pornographic programmes have become more and more popular and their contents more and more suggestive. This is a problem which should be considered in the right perspective when we advocate the popularization of computer education.

Sex education

In fact, I have all along felt that instead of relying on legislative control

which serves as a passive means to check the pornographic publications, a more positive approach should be adopted through the promotion of sex education so that juveniles can acquire sexual knowledge through proper channels, thereby satisfying their curiosity and craving for knowledge, instead of letting them receive distorted and played-up concepts about sex through pornographic publications. With the introduction of sex education in secondary schools by the Education Department, it is disappointing to know that up to now many schools have not yet included sex education in their curricula. Meanwhile, parents should also bear the responsibility to impart their children correct sexual concepts, while the public and the media should take the irresponsible publishers of pornographic publications to task.

Control of pornographic video tapes and laser discs

The Government has recently announced that the video tapes and laser discs for renting and sale are to be placed under the jurisdiction of the Control of Obscene and Indecent Articles Ordinance. This measure not only plugs the loopholes of the existing legislation but also shows the Administration's determination to face up to and resolve the problem.

However, some points warrant our attention in particular. The first concerns the effective enforcement of the relevant legislation. Once the legislation is implemented, I believe, a few video centres which are larger in scale and have a large membership would exercise self-discipline. But the numerous shops which are specially engaged in pornographic video tape rental and sale business are a cause for concern. These shops have an adequate supply of pornographic video tapes and laser discs and enjoy the patronage of a group of regular customers. I believe, they would not easily give up such profit-making business. The Administration must deploy more manpower to inspect these shops and step up prosecution action in order to ensure effective law enforcement.

Secondly, I am much concerned about whether the classification criteria for pornographic movies, video tapes and laser discs are consistent. In fact, the contents of all those films are of the same nature and it is inappropriate to apply double standards. If the renting and the sale of Category III video tapes and discs are banned whereas films of a similar nature are allowed in cinema, the business of the cinemas which show such films may be boosted. This would not only contravene the principle of fair play but also go against the spirit and objective of the

legislation.

We must also be aware of the possible adverse effects that may be brought about by further controls on pornographic video tapes. That is, curiosity would be aroused as a result and pornographic video tapes may be regarded as a rare commodity. Now I stress once again the importance of sex education. In this context, if we reinforce the legislation and enforcement action but neglect sex education, the original purpose might be defeated and eventually our loss could be greater than our gains.

Lastly, I would like to point out that the control of video tapes should be based on clear, substantive and widely-accepted standards and guidelines. Otherwise, the freedom of artistic creativity and consumers' rights would be jeopardized.

Mr Deputy President, my views have been stated as above.

MR CHEUNG MAN-KWONG (in Cantonese): Mr Deputy President, as representative of the teaching constituency, I often receive complaints from school masters and teachers concerning the problem of pornographic publication. They are concerned that:

(1) Although the law prohibits the sale of indecent publications to persons under the age of 18, it is apparent that many students have access to these publications, and are circulating them in the school. These publications disseminate wrong concepts about sex as well as abuses to women, which have a very bad influence on adolescents.

(2) Some entertainment magazines have resorted to printing obscene photographs on the cover page in a bid to boost sales. As these magazines are usually bigger in size, the prominent display of obscene pictures at the newsstands, in restaurants or even in the family has made it very embarrassing for many parents.

(3) What is more alarming is that some newspapers had made crude and detailed coverage of a recent court case involving the practice of prostitution by film stars. These newspaper reports gave an impression that over half of the local news page was being used to carry a pornographic story. It is doubtful whether such a level of reporting the case is really necessary.

Mr Deputy President, I am fully aware that our society enjoys freedom of press

and expression. An adult's reading preference should not be meddled with so long as it is lawful. However, I hope members of the public will appreciate that one major responsibility of educationists is to instill into students correct concepts about sex and to ensure that they are brought up in a healthy environment. It is also our duty to teach our students to honour the dignity of the female sex and not to allow female bodies to be displayed in the street like commercial commodities.

In view of the above, we have reasons to urge the Government to strictly enforce the law to prohibit the sale of indecent publications to persons under the age of 18. Efforts should also be made to step up inspection and prosecution against contravention of the Control of Obscene and Indecent Articles Ordinance by entertainment magazines so as to curb the proliferation of pornography. Lastly, we hope that the media will exercise self-discipline and will never neglect their social responsibility in their endeavours to promote business.

Every one may become a parent one day. The corruption of social morals brings harm not only to other's children but to our own children as well. It is our obligation to build up for them a healthy and rational environment so that the younger generation will grow up dignified and cultivated.

Mr Deputy President, the foregoing are my remarks.

MR FRED LI (in Cantonese): Mr Deputy President, I have been involved in the discussion of the Control of Obscene and Indecent Articles Ordinance at the district board level on many occasions. Indeed, I have consulted the views of a number of district board members prior to this Adjournment Debate. I wish to offer a summary of some of the views expressed on this issue. Before the control legislation went into effect, pornography was on sale at newsstands, openly and without cover. With the enforcement of the legislation, initially, I noticed that the pornographic publications were sold under the cover of opaque or semi-transparent plastic wrapping, on which the warning "not to be sold to a young person under the age of 18" was clearly printed. But now, if I ask my colleagues in this Council to look in the newsstands, they will see then that, while the magazines are still wrapped under cover, the cover is now transparent and no longer the same opaque plastic wrapping, and the warning in writing is not conspicuous at all. I think this practice is against the law. But unfortunately, this gets us back to the same old problem of enforcement, which many of my colleagues have already dealt with at great length. I have made many comparisons, indeed I have bought some of these magazines before and after the enactment of this control legislation, for precisely this purpose. I can see that

they have in fact become even more pornographic after we have the legislation. I guess the same is true of films, now that films are classified into three categories by law. Not being a moralist, I wish to make it clear that I do not intend to get entangled with the definition of pornography here, nor do I wish to comment on whether the standards should be tightened up or relaxed. I just want to say that, for lack of thorough control, we have the legislation which is not strictly enforced.

I guess the recent government attention to the issue of control over video-tapes has been motivated by the Government's eagerness to close the problematic loopholes of the Ordinance. My view on the banning of Category III video-tapes is that we are in fact going from one extreme of turning a blind eye to the loopholes to the other extreme of advocating a total ban in our eagerness to close the loopholes. Hong Kong is a free society and adults should enjoy the freedom of choice. I completely agree with what my colleagues have said about positively promoting sex education. Whereas adults should of course be free to choose to watch Category III films, it is the responsibility of the Government to see to it that impressionable young people are not exposed to bad influence. It is just like what the Government is doing in the way of licensing the places of entertainment, making illegal the serving of alcoholic drinks to young people under the age of 18. The Urban Council will inspect these places, and if these places serve alcoholic drinks to young people under the age of 18, it would be against the law. And some Member of this Council has proposed banning the sale of cigarettes to younger people under the age of 18. We are very concerned about the well-being of our young people. I request therefore that the Government follow the example of many foreign countries in restricting to licensed shops the sale of all kinds of pornographic articles, including books, newspapers, magazines, and films on video-tapes, video-discs and computer discs. These shops should be located in out-of-the-way places for objections will be voiced by residents if they are located at the ground floor of residential buildings. I think this issue is worth studying and consideration should be given to the setting up of shopping arcades specializing in this kind of merchandise. Then we can go about banning pornography from the newsstands; I think this is an easier way to go in terms of managing and monitoring the situation. In foreign countries, no one under the age of 18 may enter such shops and monitoring is easy. The shops have records available for inspection and government officers can carry out raids from time to time to check if there are underage customers. It is just like what we are doing about Category III movies, in which case we hold the cinema staff responsible for the admission of audience. I feel that if, instead of thinking along the lines of restricting access, we propose the wholesale ban of all Category III video-tapes, we will be effectively

depriving the adult of his freedom of choice. It is as stupid as putting the cart before the horse. I therefore hope that different solutions be explored instead of imposing an all-out ban, which is bound to fail. I hope the Government will give serious thought to what I have said.

Mr Deputy President, this is my submission.

MR NG MING-YUM (in Cantonese): Before speaking on the issue of pornography, Mr Deputy President, I have to declare that in order to properly prepare for today's debate, I have read a considerable number of pornographic publications. I found them quite sensually appealing, indeed more appealing than those I had read before I married.

Mr Deputy President, we all want Hong Kong to develop into an open society and there are certain values which we have to defend if we want this to happen. We have to defend the freedoms of expression, of creative production and of publication. We have to defend the rights of women and children so that they will be free from discrimination and exploitation. The problem is what shall we do if these values clash? We need to reconcile the conflicting values. While people are appealing for stricter control of pornographic articles, questions regarding what constitutes pornography have been asked in some quarters. Why should pornography be controlled? What is the rationale for advocating control? Have people really thought about this question? What policy objective is there to be achieved, and what kind of effect is there to be created, through the control of pornography? Indeed, is control the right way to achieve the desired effect? Will the whole thing actually backfire such that the more control there is the more pornography will be manufactured? Meanwhile, how are the standards of control set? How right is it that a small minority of people should be given the power to decide, on the basis of their accustomed political, economic, social, cultural and academic experience, what kind of publications the rest of our society should or should not be exposed to? There are people who will indulge in sexual fantasy watching the picture of a female showing a naked back. There are people who will not be aroused even if they are presented with the picture of a seductively posed, completely nude body. It is not clear whether pornography is more the result of the reader's imagination or the fault of the publisher. Why are we free to exhibit certain parts of the human body but not other parts? Why is it that the publisher has the right to choose to publish pictures of humans in proper attire but no equal right to publish pictures of humans with no clothes on? If we accept that the exhibition of certain parts of the human body should be banned on

the ground that they arouse sexual desire, should we equally ban the pictures of the handsome faces of men and women which are considered to be capable of provoking sexual desire?

I have the experience of being an educator of young people. I am, of course, very concerned about the damage done to female dignity and adolescent growth by the proliferation of pornography. I have a keen interest in the problem, being the father of two small children. But I have to confess that I truly believe that the issue of stricter control of pornography should be approached with the utmost caution. It is up to the Government to reconcile the conflict of looking after the rights of women and children with protecting the freedom of expression. Standards have to be adjusted as our society becomes more and more open and rules of propriety change accordingly. Otherwise, in our eagerness to control pornography, we may end up having to paying an even greater social cost.

There are people who, with their best intentions, want to transform society into a greenhouse so that our children may grow up under maximum protection. We should, however, be wary of the danger of doing bad things with good intentions, which is to say that our over-protected children may actually end up doing outrageous things as they do not know how to cope with the eventual disappearance of protection. Suicide for a trivial cause is a case in point. It is up to us to draw some conclusions from the recent spate of stupid incidents involving our youngsters. Are we over-protective of our young children? Is over-protection one of the causes? In fact, social evils of all kinds are bound to be with us. But I do not think that the right way to go is thoroughly sterilize the social environment such that our young children may grow up in an uncontaminated society. I fear that, even if such an uncontaminated society existed, children brought up in that kind of environment would not be able to develop a strong immune system. A more practicable way is for us to acknowledge the existence of social evils while strengthening the immune system of our young people so that they may be able to resist whatever bad influence that may come their way. To counteract the damage done by the proliferation of pornography, the Government should thoroughly enforce the existing legislation while stepping up education and counselling services such that children will be given family life education and taught the right attitude to take towards sex.

To sum up, I believe that the Government should uphold the following principles as it proceeds, which are, namely, reconciling all interests in the process of legislation, thorough enforcement of existing legislation, stepping up education and

intensifying the provision of counselling services.

This is my submission. Thank you, Mr Vice-President.

MR JAMES TO (in Cantonese): Mr Deputy President, I can see that there are few remaining colleagues and I worry if we have a quorum. I would like really to respond to Mr NG Ming-yum's point about immunity. I attended last night a seminar on the control of pornographic publications and I also had the opportunity of talking to friends in the medical field who are strongly opposed to strengthening control. The views (not conclusions) expressed actually centred around the issue of whether youngsters should be permitted to read pornographic publications, or have easy access to pornography generally. I can actually see that there are ways in which damage may be done. The increase in crimes involving sex (sexual assault), prostitution, juvenile sex resulting from a permissive sexual attitude, the damage done to female dignity, the embarrassment caused to parents, all of these factors have contributed to the fear of adults for youngsters picking up bad habits. No matter whether such fear is really legitimate or not, it is an issue which we should be concerned with. Indeed, when adults have inadequate sex education, it is unrealistic to expect them to be immune to all sorts of evils, and to ask them to educate their young, with their little knowledge at this stage.

Many colleagues have mentioned loopholes in the Ordinance. I have done my homework in terms of reviewing the existing Control of Obscene and Indecent Articles Ordinance. I would like to offer my views in exchange for the more learned views of my colleagues.

Firstly, the articles referred to in Control of Obscene and Indecent Articles Ordinance are not clearly defined. Consequently, loopholes have been found to circumvent the law with newly developed technologies.

Secondly, section 8 of the Ordinance provides that Class II articles which meet the requirements of the Obscene Articles Tribunal may be sold in public places, though not to a young person under the age of 18. However, such requirements apply only after the items have been scrutinized by the Tribunal. Meanwhile, section 24 on penalty provides that an article identified as Class II should carry a warning notice either on itself or on its wrapper. Taking these two clauses together, we can see the loophole that some sex magazines may actually carry an inconspicuous warning notice printed in very small characters, a tactic which some colleagues have just brought to our attention, and sometimes the warning notice may actually be camouflaged

in such a way that it does not stand out. These magazines are selling so fast that it may turn out that they are classified into Class II only after they have been sold out. The purpose of the legislation is completely defeated. This is the first loophole.

The second loophole is that, according to section 22(1), although the Class II articles may not be sold to a person under 18, the defendant may defend his case and actually get away with it if, farcically, he somehow manages to comply with the requirements set by the Tribunal. What are the requirements then? They are either you tear off the over-explicit pages or you put the book in wrappers, particularly if it flaunts an explicit picture on its cover. The problem with these requirements, then, is that the Tribunal has missed the most important point, which is that the article in question is not to be sold to anyone under the age of 18. In other words, if this most important requirement is not included through the negligence of the Tribunal, then despite its scrutiny, Class II articles will still be made available to young customers. This is a very big loophole.

Thirdly, section 4 provides for a notice of classification to be published in both the Chinese and English newspapers before the class for which the article in question is classified takes effect (section 19). In this connection, while all articles may be sold in public places not all publishers will feel obliged to submit their articles for classification. There is consequently no need for them to print the warning notice on the cover to comply with any requirements if the articles have not been classified. The result is that no one will voluntarily go through the classification process and the publisher may actually get away with it. The Legal Department should look at this loophole because it is likely that it will defeat the purpose of the present law.

Another problem is one of enforcement. TELA recently seized twelve family magazines published in the past six months for classification by the Tribunal, four of which have subsequently been classified as Class II. It would seem that Class II family magazines are very popular but even now, according to information available to me to this day, no prosecution action has been taken against vendors of such magazines to people under the age of 18. There are two possible reasons for this. One is that prosecution is not necessary because no breach of the relevant law has ever happened in Hong Kong. The other is that if we have reason to believe that it would have been impossible for such breach not to have happened, then the plain fact will be that the law has never been enforced. If that is the case, I would like

to know why.

I found in the discussion that prosecution is the responsibility of the police rather than that of TELA. It is fair to say that the police are naturally more concerned about robbery and murder cases happening around the territory than the matter of Class II articles being made available to youngsters. In other words, it is a problem of law enforcement.

I have some suggestions to make. If a family magazine is found to have exceeded the limits set by the Tribunal, then it is up to TELA to serve an initial warning on the publisher. Then either one of these two scenarios will happen. The offender may behave and refrain from further excesses, which is what some magazine publishers have done now. Or the offender may become more alert, but if he should continue with the excesses, then in the event of prosecution, the police may as well stress the point in court that no improvement has been made by the offender despite the warning letter, in which case then a harsher sentence will be handed down. I believe that the issue of warning has its deterrent effect.

Lastly, I also suggest that the police may actually concentrate their efforts against several mass circulation magazines, in a show of determination to combat pornography. Indeed, having discussed this matter with a number of experts in sex education, I tend to believe that, as many of my colleagues have pointed out, the important thing is not so much control as the introduction of sex education to young people. I was thinking last night whether it might be a good idea if the Government actually requests the publisher of Class II magazines to attach a pamphlet to their publications, which will effectively remind the adult readers, particularly if they happen to be parents themselves, of the positive aspects of sex education and that it is up to them to educate their younger generation. The cost of printing the pamphlet is minimal compared to the effect which it will achieve. The Government may encourage the publishers to go along with this plan; enforcement of related measures can wait after it is evident that this has failed to achieve its desired effect.

The last point, which is also a loophole, is that it is an offence in law, under the present legislation, for a father to display a Class II article in front of his son. A psychiatrist said to me, "That's a problem. We can't even use a Class II article for the sake of sex education now." Another example is that, with so many family magazines being classified into Class II, it will become an offence in law

even for a 19-year-old to pass a Class II magazine, which he has finished reading in the restaurant, to his younger, 17-year-old, brother.

I believe that, in reviewing this legislation, consideration should be given to exempting certain parties involved from prosecution, such as father and son, doctor and patient, and so on, in order not to incriminate innocent offenders.

Mr Deputy President, this is my submission.

DEPUTY PRESIDENT: The 45 minutes allowed for Members' speeches will run out at 9.36 pm.

MR HOWARD YOUNG: Mr Deputy President, I rise to speak at this late hour not because the subject matter is best described at night but because as one of the signatories supporting Mr FUNG in raising this matter I feel that at least there has been one point not yet mentioned by the speakers before me.

The point is that I am under the distinct impression that although the laws do provide for categorizing of films into Categories I, II and III, I believe that Category III advertisements can in fact be shown in cinemas that are currently showing Category I movies. That, I am told, has created enormous embarrassment to friends and parents who have taken their children to watch the movie without expecting to see the sort of trash that is shown to them before the commencement of the film proper.

I am very impressed by the in-depth research and the vivid descriptions of the various publications my learned colleagues have described in this debate and I shall not describe them any further. But I would only like to add that I, and I believe Mr Martin BARROW also, am aware that there are many places in the world, including places in Asia, that do take the promotion of the "four S's" as an attraction to develop tourism into their countries -- the "four S's" meaning the sun, the sand, the sea and sex. I think in the context of Hong Kong, and I am sure the Hong Kong Tourist Association will agree with me, we do not need the latter "S" and our tourism is thriving with another "S" which is shopping.

Therefore I am most grateful to Mr FUNG for raising this matter and if the Secretary for Recreation and Culture can finish his reply in 30 seconds we all still

have time to do further research at the 9.30 pm show.

SECRETARY FOR RECREATION AND CULTURE: Mr Deputy President, first I would like to thank the Honourable Frederick FUNG and all those who have spoken at this adjournment debate for their constructive indepth research and constructive advice and comments. I do not intend to address every point raised individually unless they are particularly pertinent. Instead I shall talk on the issue in general terms and address the matter on a broad front.

This issue touches on some of the most fundamental concerns of society and of the individual. These include our concerns about the right to freedom of expression and information, our sentiments about the degree of privacy appropriate to certain actions and situations, and our concern about the sustaining of family life and parents' entitlement to ensure that their children's upbringing is a guided process of education rather than a haphazard exposure to concepts with which they may be too immature to deal. As a government, we are fully aware of our heavy responsibilities. Therefore, our basic philosophy in laying down laws and regulations is to try and strike the right balance and to reflect in our practice the views and wishes of our community as faithfully as we can.

Thus, the aims of the Government's existing policy and legislation in the control of obscene and indecent articles are twofold:

(a) to maintain a balance between the need to safeguard freedom of expression and information on the one hand, and the need to protect young people against any possible corrupting influence of such articles on the other; and

(b) to set up a classification system which takes account of the changing standards of propriety in our community.

The Control of Obscene and Indecent Articles Ordinance (Cap. 390), enacted in 1987, therefore, has two distinct elements. Firstly, instead of imposing a strict censorship, it provides for the classification of all obscene and indecent articles by an Obscene Articles Tribunal into three classes. Class I articles are those for general consumption and may be published without restriction. Class II are those which are indecent but, subject to restrictions on their display, sale and access, may be sold to persons over 18 years old. These restrictions include putting the

article in a wrapper and carrying a warning against its sale to persons under 18 years. Class III articles are those which are obscene and are banned altogether. In this way, the Ordinance severely restricts the access to indecent materials by young people, while still allowing adults the freedom to obtain them. It also provides a clear yardstick for parental control and guidance to be exercised. This, in my view, is better than restricting the sales outlets of such articles as suggested by some Members. The concept of restricting the distribution of indecent articles to licensed outlets is not new. When the Ordinance was being drafted in 1986 a similar idea was considered and wide public consultation was conducted at that time involving all the district boards. This was overwhelmingly objected to by the public at that time because the idea was not easy to implement and at the same time it would generate ill feelings and disputes among local residents because it is difficult to decide where to locate these outlets.

The Ordinance does not attempt to define "obscenity" and "indecent", as this is a near impossible task to do. This is left to the Obscene Articles Tribunal. This Tribunal is made up of a Presiding Magistrate with two or more members drawn from a Panel of Adjudicators appointed by the Chief Justice from people of all ages, both sexes and from all walks of life. As such, our peers will determine what the accepted standards of propriety in our community are at any given time. By requiring the Tribunal to maintain a repository of all classified materials for general reference, and by allowing parties concerned to seek a full hearing of the Tribunal in case of suspected inconsistency, a large measure of consistency is assured. I agree with the Honourable Frederick FUNG that perhaps the existence of these repositories is not widely known to allow people to go and make general reference. Therefore, I think we will consider ways and means of publicizing it more widely in future.

The Ordinance also provides for heavy penalties against offenders; the maximum penalty being a fine of \$1 million and imprisonment for three years.

Many Members have advocated strong enforcement. I wish to state here that enforcement is being done as far as the Administration could spare resources. Besides the inspectors of Television and Entertainment Licensing Authority (TELA) making constant vigilant inspections of bookstores, newspaper stands, video shops and other outlets, the police and customs and excise officers also take strong actions both in seizing such articles and in prosecuting offenders. In the four years from September 1987 to August 1991, officers from these two departments had seized a total of 135 609 obscene and indecent articles and had taken out 1 073 prosecutions, securing

938 convictions, with fines ranging from \$300 to \$50,000 and imprisonment from one month to 18 months.

The Honourable Frederick FUNG mentioned about newspapers and family magazines, I wish to point out that newspapers and family magazines are all subject to the provisions of the Control of Obscene and Indecent Articles Ordinance. In the past, the TELA had issued many advisory or warning letters to the publishers and distributors of these articles when it was noticed that their contents were likely to infringe the law. A number of prosecutions had been taken out in the past and distributors and publishers had been fined. As regards the recent cases involving a few newspapers and family magazines referred to by some Members, I wish to point out that we are currently considering prosecution action and I do not think it is proper or prudent for me to say anything more here today.

Let me assure this Council that the Administration will continue to exercise constant vigilance and take appropriate enforcement against the proliferation of obscene and indecent articles in the market as far as our resources permit.

Recent inspections and review of our enforcement action have shown that there are loopholes in the law. These are:

(a) films and video tapes already classified under the Film Censorship Ordinance (Cap. 392) do not fall under the purview of the Control of Obscene and Indecent Articles Ordinance (Cap. 390). Because the standards of classification under the Film Censorship Ordinance is generally more relaxed in view of the highly restrictive access of Category III films to young people under 18, this particular loophole in the law has resulted in a number of Category III films becoming readily available for sale or hire at video shops; and

(b) the warning notice required to be carried on the cover of articles classified as indecent by the Tribunal, which reads: "This article contains material which may offend and may not be sold to a person under the age of 18 years", gives the impression that only the sale of such articles to persons under the age of 18 is prohibited, but not their distribution, circulation or hire. As a result, some bookshops or newspaper stalls have made available indecent articles to young persons on hire.

The Administration is now taking steps to plug these loopholes and an amendment Bill will be introduced to this Council soon. In fact the draft Bill has already

been gazetted last Friday.

A number of Members have expressed concern over the transparency of the wrappers used by distributors or vendors of indecent articles, as young people can still see clearly what these articles display. I entirely share this sentiment and have already requested the chairman of the Obscene Articles Tribunal to consider stipulating the use of opaque wrappers as a condition. The Tribunal seems responsive and opaque wrappers are more frequently used now.

However, for as long as there are profits to be made, and the publication and sale of pornographic articles does attract very handsome profits, there will be unscrupulous merchants who will try to flout the law. The Administration will continue to be vigilant and take enforcement action to the best of its ability within available resources. But in order to effectively tackle this social problem, enforcement action alone by the Administration is not enough. As so many Members have indicated, the community must also do its part. Parents should exercise more parental guidance and control over their children, and at the same time try to impose a certain degree of self-discipline upon themselves to ensure that such articles are not kept lying around at home within easy reach of young children. Schools too should be instilling an open and proper attitude to students on the subject of sex, violence and morality. Publishers, authors, distributors, shopowners too should exercise more social responsibility and show a greater concern for the mental well-being of our young people and impose a greater degree of self-discipline in their businesses. Only with the combined effort of the community at all levels, and the determination of the Administration through vigilant enforcement action could we hope to be able to put a check on the proliferation of pornographic articles in our community.

Finally, Mr Deputy President, I wish to assure this Council that I shall continue to keep the Administration's policy and practice in this matter under constant review. Members tonight have made some very constructive and useful suggestions and I shall certainly take them on board in my review of the practice and legislation governing the control of pornographic articles. Thank you.

Question on the adjournment proposed, put and agreed to.

Next sitting

DEPUTY PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 4 December.

Adjourned accordingly at fifteen minutes to Ten 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.