

# OFFICIAL RECORD OF PROCEEDINGS

**Wednesday, 14 October 1992**

**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, C.B.E., J.P.

THE ATTORNEY GENERAL

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

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

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

THE HONOURABLE MRS SELINA CHOW LIANG SHUK-YEE, 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 SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

THE HONOURABLE EDWARD HO SING-TIN, O.B.E., 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, O.B.E., J.P.

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

DR THE HONOURABLE LEONG CHE-HUNG, O.B.E.

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE VINCENT CHENG HOI-CHUEN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

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

DR THE HONOURABLE LAM KUI-CHUN

DR THE HONOURABLE CONRAD LAM KUI-SHING

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE 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 STEVEN POON KWOK-LIM

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

THE HONOURABLE TIK CHI-YUEN

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

DR THE HONOURABLE TANG SIU-TONG, J.P.

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

**ABSENT**

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

THE HONOURABLE RONALD JOSEPH ARCELLI, J.P.

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

THE HONOURABLE MOSES CHENG MO-CHI

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

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

THE HONOURABLE JAMES TO KUN-SUN

DR THE HONOURABLE PHILIP WONG YU-HONG

**IN ATTENDANCE**

MR MICHAEL LEUNG MAN-KIN, C.B.E., J.P.

SECRETARY FOR TRANSPORT

MR YEUNG KAI-YIN, J.P.

SECRETARY FOR THE TREASURY

THE HONOURABLE JOHN CHAN CHO-CHAK, L.V.O., O.B.E., J.P.

SECRETARY FOR EDUCATION AND MANPOWER

MR MICHAEL SUEN MING-YEUNG, J.P.

SECRETARY FOR HOME AFFAIRS

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

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

MR RONALD JAMES BLAKE  
SECRETARY FOR WORKS

MR CHAU TAK-HAY, J.P.  
SECRETARY FOR TRADE AND INDUSTRY

THE HONOURABLE MICHAEL SZE CHO-CHEUNG, I.S.O., J.P.  
SECRETARY FOR CONSTITUTIONAL AFFAIRS

MR BOWEN LEUNG PO-WING, J.P.  
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

MR STUART WREFORD HARBINSON, J.P.  
SECRETARY FOR THE CIVIL SERVICE

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	<i>L.N. No.</i>
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Country Parks and Special Areas (Amendment) Regulation 1992 .....	326/92
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Shipping and Port Control (Typhoon Shelters) Regulations (Amendment of Schedule) (No. 3) Order 1992 .....	327/92
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**Sessional Papers 1992-93**

No. 1 — Hong Kong Export Credit Insurance Corporation Annual Report 1991-92

No. 2 — Report by the Commissioner of Correctional Services on the Administration of the Prisoners' Welfare Fund for the year ended 31 March 1991

No. 3 — Report by the Commissioner of Correctional Services on the Administration of the Correctional Services Department Welfare Fund for the year ended 31 March 1991

No. 4 — Hong Kong Housing Authority Annual Report 1991-92

No. 5 — Report by the Trustee of the Correctional Services Children's Education Trust for the period 1 September 1990 to 31 August 1991

No. 6 — Report on the Administration of the Fire Services Welfare Fund for the year ended 31 March 1991

No. 7 — The Government Minute in response to the Public Accounts Committee Report No. 18 dated June 1992

No. 8 — Regional Council Revised Estimates of Expenditure 1991-92

- No. 9 — Regional Council Annual Report 1991-1992
- No. 10 — Regional Council, Hong Kong Accounts for the year ended 31 March 1992 with Report and Certificate of the Director of Audit
- No. 11 — Revisions of the 1992-93 Estimates approved by the Urban Council during the first quarter of the 1992-93 Financial year
- No. 12 — Land Development Corporation Annual Report 1991-92

### Affirmation/Oath

Miss Christine LOH Kung-wai took the Legislative Council Oath.

Mr Roger LUK Koon-hoo made the Legislative Council Affirmation.

### Address by Member

#### **The Government Minute in response to the Public Accounts Committee Report No. 18 dated June 1992**

CHIEF SECRETARY: Mr Deputy President, laid on the table today is the Government Minute responding to the 18th Report of the Public Accounts Committee on the results of value for money audits completed between October 1991 and February 1992. The Minute reports the action taken, or about to be taken, by the Government upon the conclusion and recommendations contained in the report.

Mr Stephen CHEONG, the Chairman of the Public Accounts Committee, spoke in this Council on 15 July 1992 and raised some areas of concern. I would like to comment on the points raised.

Mr CHEONG highlighted the disparity of treatment between retired civil servants re-employed in the civil service whose pensions have been suspended, and those retired civil servants employed by subvented organizations who continue to draw their pensions. I agree that this is an anomaly. We have sought the co-operation of the Hospital Authority, the Vocational Training Council and the UPGC-funded institutions to include pension suspension as a condition for employing retired civil servants in the future. We shall consider further measures to remove the disparity.

Mr CHEONG also expressed concern over the failure on the part of the Commissioner for Labour to realize the manpower savings originally envisaged

in the computerization project for his Department's Employees' Compensation Unit. The project has now been reviewed and we expect that the estimated savings arising from the deletion of 21 posts will be achieved in full during the current financial year. We recognize the importance of close co-operation between user departments and the Information Technology Services Department during the planning and design stage of computerization projects and the need to set realistic targets for manpower savings. We believe that the establishment of the Management Services Consultancy Branch in the ITSD in 1990 has gone a long way towards facilitating the achievement of these aims. We are finalizing arrangements for the introduction of a new monitoring system which will provide post-implementation reviews of computerization projects. This will ensure that manpower savings and other benefits involved in these projects are in fact realized.

Mr Deputy President, I would like to conclude by thanking Mr CHEONG for his kind comments on the steadily improving standard we have achieved so far in our drive for greater efficiency and better administration. The Government will continue to work closely with the Audit Department and the Public Accounts Committee in the quest for further improvements in cost-effectiveness and efficiency.

### **Oral answers to questions**

#### **Funding of new capital works projects**

1. DR SAMUEL WONG asked: *The provision for capital expenditure in the 1992-93 Estimates is \$31,790 million, 25% of which has been earmarked for the Airport Core Programme. Will the Government inform this Council what proportion of the remaining 75%, that is, \$23,840 million, has been set aside for funding new capital works projects to begin in the current financial year and what these projects are?*

SECRETARY FOR THE TREASURY: Mr Deputy President, before I answer the question, I would like to clarify one point.

When we said in the past that the Government's forecast of its share of works expenditure on the Airport Core Programme would be about a quarter of the Government's forecast of total capital expenditure, we had in mind a figure of \$54.5 billion spread over the five years 1992-93 to 1996-97. This represents less than a quarter of the Government's forecast of total capital expenditure, estimated at \$240.8 billion, over the same five year period. But actual works expenditure on the Airport Core Programme in any one year could be higher or lower than a quarter of actual total capital expenditure in that year.

Turning to the question itself, estimated expenditure this year on the Government's share of ACP works is about \$7.1 billion. This is a little over 22% of total capital expenditure for 1992-93, estimated at \$31.8 billion.

Of the \$24.7 billion to be spent on non-ACP projects, about \$3 billion is earmarked for expenditure on over 200 new works projects for which we expect to let contracts during 1992-93. They appear in the 1992-93 Estimates as Category B items awaiting upgrading to Category A or new items, or they have been included in the block votes for minor works in the Capital Works Reserve Fund. They can all be located in Volume III of the printed Estimates. The figure of \$3 billion does not, however, include the expenditure to be incurred on acquiring land for these projects, as this is met from a separate block vote under Head 701 Land Acquisition.

DR SAMUEL WONG: *Mr Deputy President, could this Council be informed what action the Government will take to ensure that these new capital works projects can begin as planned, bearing in mind the zero growth in staffing in most of the works departments?*

SECRETARY FOR THE TREASURY: Mr Deputy President, as the financial year began, the Works Branch and the Finance Branch of the Government Secretariat have been putting forward a series of proposals for upgrading these 200-odd projects from Category B to Category A of the Public Works Programme. Not until a project has been upgraded to Category A can contracts be let. Subject, therefore, to these projects being upgraded by Finance Committee at its regular sittings, I can assure Honourable Members that contracts will be swiftly let.

MR ALBERT CHAN (in Cantonese): *Mr Deputy President, I have a hypothetical question to ask. I hope the Secretary will not decline to answer because it is hypothetical. Given that China and Britain are still having controversies over the financial arrangements for the Airport Core Programme, if they cannot come to any agreement on this, will the Government change the existing financial arrangements, especially the plan of spending a quarter of the public works funds on the airport new works projects?*

DEPUTY PRESIDENT: Are there any plans, Secretary? Yes, the question is hypothetical but there might be plans.

SECRETARY FOR THE TREASURY: Mr Deputy President, the question is hypothetical. What I have been describing is the Government's share of works expenditure on the Airport Core Programme. These works are not the subject of discussion between the two sides of the Airport Committee. They cover

works such as the West Kowloon Reclamation, the Lantau Fixed Crossing, the North Lantau Expressway, which are government public works projects. I imagine that we will proceed with these projects as far as possible.

MR CHIM PUI-CHUNG (in Cantonese): *Mr Deputy President, just now when the Secretary answered Dr WONG's question, he mentioned that about \$24.7 billion would be spent on government public works projects this year. In paragraph 32 of the Governor's Policy Address, it is mentioned, however, that some \$78 billion would be spent on public projects over the next five years. In other words, the average expenditure each year is around \$15.6 billion. Could this Council be informed whether future expenditure as opposed to current spending on the infrastructure would be drastically reduced? Furthermore, is the reduction the result of the commitment over the airport programme?*

SECRETARY FOR THE TREASURY: Mr Deputy President, I am afraid I do not understand the first part of the question. As regards the second part of the question, the size of the non-ACP component of the Public Works Programme is determined annually by the amount of funds that can be allocated to it. So the size of that component is determined by resource allocation.

DEPUTY PRESIDENT: Would you like to rephrase the first part of your question, Mr CHIM?

MR CHIM PUI-CHUNG (in Cantonese): *Mr Deputy President, I would like to supplement the first part of my question by referring to paragraph 32 of the Governor's Policy Address (if the Secretary has a copy of it in front of him, would he look at paragraph 32.) It states categorically that the Government plans to spend some \$78 billion on the infrastructure over the next five years. If \$78 billion is divided by five, the expenditure each year will be \$15.6 billion. In other words, the current expenditure on the infrastructure has far exceeded the annual expenditure for the next five years. Is that true?*

SECRETARY FOR THE TREASURY: Mr Deputy President, I am afraid I do not have a copy of the Governor's Policy Address in front of me and unless I have seen that paragraph, I am not able to answer the question because I cannot place it in context. But I will study that paragraph and supply an answer in writing. (Annex I)

MR FRED LI (in Cantonese): *Mr Deputy President, now that around 25% of the capital expenditure will be devoted to the airport programme each year, could this Council be informed whether such a proportion will affect other non-airport projects such as the construction of pedestrian footbridges at traffic*

*black spots which are closely related to the livelihood of members of the community? I understand that many of these projects have to be delayed due to problems in the allocation of funds. Does the delay of these projects, which are closely related to people's livelihood, have anything to do with the allocation of 25% of the capital funds to the airport projects?*

SECRETARY FOR THE TREASURY: Mr Deputy President, I do not think I can categorically say that the existence of the Airport Core Programme and our financing of it will not reduce the amount of funds available for non-ACP related public works. It would be idle to deny that. But let us not forget that the ACP component is not more than one-quarter of the total amount to be spent as capital expenditure over the next five years. The remaining component, the non-ACP component, is very considerable, and within that component I am sure there is provision for minor public works. A lot of these minor public works, such as pedestrian crossings and localized improvements to roads and so on, do not cost a great deal of money and they can be programmed over the next five years.

### **Wives and widows of ex-servicemen**

2. MR JIMMY McGREGOR asked: *Despite the assurance given by the British Government that the wives and widows of ex-servicemen will be allowed to settle in the United Kingdom at any time provided that they are still residents in Hong Kong and, in the case of widows, that they have not re-married, many of these wives and widows of ex-servicemen still hope that they can be granted British citizenship without residence in the United Kingdom. Will the Government inform this Council:*

- (a) *whether assistance will be offered to these ladies to acquire British citizenship without having to fulfil the residence requirement, possibly by including them as beneficiaries under the British Nationality Selection Scheme, and if so,*
- (b) *whether the Government will consider setting up a special committee with representatives from the Legislative Council to pursue the matter with the British Government as a matter of urgency?*

SECRETARY FOR SECURITY: Mr Deputy President, the answer to both questions is "no". I appreciate the concerns of the ex-servicemen and their wives and widows but the grant of British citizenship is a matter for Her Majesty's Government to decide. The immigration and nationality status of the spouses of British citizens and former servicemen was debated in the British Parliament very fully during the passage of the British Nationality (Hong Kong) Act 1990. Parliament decided that they should not be exempt from the

residential requirements prescribed by the British Nationality Act 1981. But as Mr McGREGOR has pointed out, assurances were given that the wives and widows of former servicemen would be allowed to settle in the United Kingdom at any time in the future.

MR JIMMY McGREGOR: *Mr Deputy President, given the fact that there are not more than 50 males and 30 females in this situation in Hong Kong, does the Government accept a moral responsibility for ensuring that these ladies are given every possible assistance in securing British nationality, and that Hong Kong and Britain owe them a debt of honour as a result of the bravery and suffering of their spouses?*

SECRETARY FOR SECURITY: Mr Deputy President, their cases have been very fully and very sympathetically considered and that is why the concession was given to them that they would be allowed at any time in the future to settle in the United Kingdom.

MR MARTIN BARROW: *Mr Deputy President, the Secretary informs us in his answer that the concerns are appreciated but he appears to contradict this by saying he will do nothing about it. Can he not explain to the United Kingdom Government that this disgraceful matter is doing nothing but harm for Britain's reputation in Hong Kong, and will he press the British Government to re-examine the position?*

SECRETARY FOR SECURITY: Mr Deputy President, I do not believe that any useful purpose would be served by seeking to reopen this issue. It has been thoroughly discussed over some five years, between the United Kingdom Government, the Hong Kong Government and members of this Council. In particular, Baroness DUNN and Mr Allen LEE made very great and tireless efforts on behalf of these wives and widows and the result that they achieved was the undertaking given that these ladies would have the right to settle in the United Kingdom.

DR LEONG CHE-HUNG: *Mr Deputy President, could the Secretary inform this Council whether the Government would co-operate with this Council to help these poor ladies, if this Council agrees to set up an ad hoc group to consider the matter?*

SECRETARY FOR SECURITY: Yes, Mr Deputy President, we would certainly co-operate.

MR JIMMY McGREGOR: *Mr Deputy President, can the Secretary indicate how these old ladies, who have been living here pretty well all their lives, can move to the United Kingdom to meet the residence requirement of three years before they can speak about nationality and receive a passport, when in fact they are mostly living alone here and have no means and nowhere to turn for support, other than the Government and this Council?*

SECRETARY FOR SECURITY: Mr Deputy President, my understanding is that the wives and widows wanted some form of reassurance for the future and the United Kingdom Government chose to give that reassurance in the form of an undertaking to permit them to settle there at any time in the future.

### **Basic Law provision on senior posts of the SAR Government**

3. MR FREDERICK FUNG asked (in Cantonese): *As Article 101 of the Basic Law stipulates that in the future Hong Kong SAR government certain senior posts may be filled only by Chinese citizens who are permanent residents of the SAR with no right of abode in any foreign country, will the Government inform this Council whether it has drawn up a programme to gradually fill all such posts before 1997 with local Chinese meeting the requirement of the Basic Law and, if so, when details of the programme can be released?*

SECRETARY FOR THE CIVIL SERVICE: Mr Deputy President, we have been planning for many years now to ensure that local officers have the necessary exposure and experience to take over senior posts in the Civil Service. The results have on the whole been encouraging. In the Administrative Service, for example, which provides the reservoir of talent for many of the most senior posts, the percentage of local directorate officers has grown from only 35% in 1982 to 65% in 1992. In the same period the percentage of local Policy Secretaries has increased from 23% to 53%.

In part this reflects the incremental results of our long standing localization policy. But we have not hesitated to take additional measures where necessary. One example is the introduction in 1986 of the guideline that overseas Administrative Officers should usually retire three years early, at the age of 57.

The posts identified in the Basic Law to which the Honourable Member refers will therefore continue to be filled progressively by talented local officers. Where necessary we will, as the Governor indicated in his recent address, develop the momentum of our localization programme further. We are confident that we can meet the requirements of the Basic Law both in full and in good time to allow those selected to acquire sufficient experience before 1997.

MR FREDERICK FUNG (in Cantonese): *Mr Deputy President, the information provided in the reply of the Secretary indicates that in the past 11 years, the percentage of local officers filling posts at the directorate or Secretary level has only grown by 30%. I would like to raise a follow-up question. What is the present position regarding the localization of posts of the following three grades: first, the most important post of the Chief Secretary of the territory; second, principal official posts within the Judiciary, and third, the proportion of local officers who are qualified to rise to the rank of Secretaries in the future, say within one or two years?*

SECRETARY FOR THE CIVIL SERVICE: Mr Deputy President, when it comes to the three grades or posts identified, the post of Chief Secretary for one, I think perhaps I should be careful how I answer the question, otherwise there may be some premature localization of the Secretary for the Civil Service. However, I believe I would be right in saying that the Governor has indicated in public that it is his intention that the Chief Secretary following the present distinguished incumbent will be a local officer, although the timing of that has not been commented upon.

Mr Deputy President, as regards the Judiciary, I am afraid I have not got with me today statistics relating to that because the Basic Law provision to which the Honourable Member referred, in fact, I believe, does not cover the Judiciary. But I will be more than happy to provide the Honourable Member with statistics in due course. (Annex II)

And finally, Mr Deputy President, regarding the Policy Secretaries, I think at present the situation is that eight out of 15 Policy Secretaries are local officers. The historical pattern of recruitment and the way that local officers have performed are such that I would expect that, as a matter of natural course, over the next few years the percentage of local Policy Secretaries will increase very substantially.

MRS SELINA CHOW: *Mr Deputy President, will the Secretary for the Civil Service please elaborate on specific measures which the Government will take to ensure that the necessary preparation and continuity will be achieved through localization in departments which have direct bearing on the upholding of the rule of law, namely, the Judiciary, as has been mentioned — but not so much on the statistics but rather on strategy — the Legal Department and the law enforcement agencies, in particular, the ICAC and the police?*

SECRETARY FOR THE CIVIL SERVICE: Mr Deputy President, we do have ongoing localization programmes for the particular departments or agencies mentioned. As regards the Legal Department, we have got targets and we have special schemes, such as schemes to enhance the promotion prospects for local officers and to give them the necessary training and exposure to improve their

promotion prospects. The same goes with the police force where we have a programme to identify and groom suitable local officers for the future. Again, for the Judiciary, Mr Deputy President, I do not have the information with me and I would point out that the Judiciary is not actually covered by the Basic Law provision to which the question referred.

And finally, Mr Deputy President, as regards the ICAC, there is one post, namely, the post of the Commissioner, which is referred to in the Basic Law and that is a direct appointment by the Governor. And I am sure that the Governor will ensure that the correct individual is posted to that position in good time before 1997.

MR TAM YIU-CHUNG (in Cantonese): *Mr Deputy President, may I ask whether the British Government will discuss with the Chinese Government matters concerning the arrangements in connection with appointments to certain very senior posts in the Hong Kong Government in order to ensure the smooth transition to 1997? If the answer is positive, when will such discussions be held?*

SECRETARY FOR THE CIVIL SERVICE: Mr Deputy President, appointments to these very senior posts will be discussed with the Chinese side at an appropriate time but this will be much nearer to 1997.

MR HOWARD YOUNG: *Mr Deputy President, lack of statistics notwithstanding, can the Government confirm that if one were to look at the breakdown of officers in the Civil Service in the broadest sense — in particular, the law enforcement agencies mentioned by the Honourable Selina CHOW, that is to say, the police, the ICAC and the Judiciary — one would find that the breakdown would not be as rosy as painted in the first part of the answer, namely, as high as 65% being local?*

SECRETARY FOR THE CIVIL SERVICE: Mr Deputy President, that would be true of the police and the Legal Department. However, as I also indicated in my answer, and as the Governor indicated in his policy address, we are prepared to develop the momentum of our localization programme further.

MISS EMILY LAU (in Cantonese): *Mr Deputy President, according to the provision of the Basic Law, the posts of the policy Secretaries must be filled only by Chinese citizens who have no right of abode in any foreign country, which means the Government must know perfectly well who has the right of abode in a foreign country or who is in possession of a foreign passport. May I ask if the Government has got hold of all such information, or whether it is*

*necessary for all Chinese Senior Administrative Officers to declare their nationality status?*

SECRETARY FOR THE CIVIL SERVICE: Mr Deputy President, whether an individual wishes to apply for a foreign passport is a personal matter for the officer concerned. The provisions of the Basic Law and the Joint Declaration are quite clear and it will be up to individual officers to demonstrate that they can comply with the provisions of the Basic Law if they wish to be considered in future for principal official posts.

MR LEE WING-TAT (in Cantonese): *Mr Deputy President, appointments of officers to posts at the Secretary level or to Senior Administration Officers' posts are entirely a matter within the purview of the Hong Kong Government. Referring to the discussions with the Chinese Government as mentioned by the Secretary, is the Administration telling us that that would not involve the use of veto power on the part of the Chinese Government to overrule the appointments of suitable local officers to such posts?*

SECRETARY FOR THE CIVIL SERVICE: Mr Deputy President, this would not involve a veto power. However, I would point out that, of course, in due course the principal officials must be nominated to the Central People's Government in Peking, but that would be after 1997.

MR STEPHEN CHEONG: *Mr Deputy President, in the light of the Secretary's answer that the detailed arrangements and discussions with the Chinese Government for the continuity of the Civil Service will not take place until about 1996, could I ask the Secretary whether it is the Administration's feeling that that would be extremely unfair to the Civil Service, because if there were to be any discussion it should be quicker and the officers concerned should know the results earlier so that they can plan their own future? After all, they themselves have their own future to plan.*

SECRETARY FOR THE CIVIL SERVICE: Mr Deputy President, I do not think I actually mentioned 1996. I simply said that this consultation would have to be nearer to 1997, and certainly in considering the timing, we would have to bear in mind the need to be fair and reasonable with our colleagues who are aspiring to these positions.

**Chinese incursions into Hong Kong waters**

4. MR MAN SAI-CHEONG asked (in Cantonese): *In the light of recent incidents where Chinese officials intercepted or detained outbound vessels within or just outside Hong Kong waters, and in some cases goods were seized by them, will the Government inform this Council:*

- (a) *whether it has initiated active negotiation with the Chinese authorities to obtain reasonable explanations over those incidents;*
- (b) *whether these incidents reflect the problem of unclear demarcation of boundary between Hong Kong and Chinese waters and if so, what action the Government will take to remedy the situation;*
- (c) *what action it will take to negotiate with the Chinese authorities in recovering for the shipping companies goods seized during the incidents; and*
- (d) *what measures it will take to prevent the recurrence of similar incidents?*

SECRETARY FOR SECURITY: Mr Deputy President, as regards part (a) of the question, we have asked the Chinese authorities for an explanation of these incidents. We have received an apology for one of the two incidents which occurred in Hong Kong waters. We have not yet had a reply on the other incidents, although we understand the vessels concerned were suspected of smuggling.

As regards part (b) of the question, only two of the incidents took place in Hong Kong waters. These were well within Hong Kong waters and I do not believe there is any question of the boundary between Hong Kong and Chinese waters having been confused.

As regards part (c) of the question, the shipowners have been advised to make representations via their flag state if they feel they have been unfairly treated. This is in accordance with standard international practice.

As regards part (d) of the question, all the incidents (except those in Hong Kong waters) occurred in the Lema Channel which is prohibited by the Chinese authorities to all but Chinese vessels. The Marine Department therefore issued the prohibition, which is clearly marked on navigational charts. We have also asked the Chinese authorities to inform us through the appropriate channels if they have evidence of any vessels being involved in smuggling, so that we can co-operate by taking action in Hong Kong waters. We accept of course that the Chinese authorities have a right to take action against those they suspect of breaking the law in their waters.

MR MAN SAI-CHEONG (in Cantonese): *Mr Deputy President, the apology made by the Chinese authorities was only in respect of a particular incident. A proper explanation for infringing within Hong Kong waters was, as yet, not offered. Will the Administration inform this Council whether it is necessary for the Hong Kong Government to bring this matter to high level officials of the Central Government of China such as the State Council or the National People's Congress through the British Ambassador to China or the Foreign Secretary, or alternatively, to have the matter dealt with through the Joint Liaison Group?*

SECRETARY FOR SECURITY: Mr Deputy President, I believe that we did raise those two particular incidents, both in Hong Kong, in Peking and in London. We had, I think, a fairly prompt reply to one of the incidents and we are continuing to press for a reply on the other.

REV FUNG CHI-WOOD (in Cantonese): *Mr Deputy President, the persons on board the vessels detained in Chinese waters were mostly Hong Kong businessmen. It might be somewhat unfair to them if they were convicted of smuggling without going through the proper procedure in China. In paragraph (c) of his main reply, the Secretary only said that the shipowners were advised to make representations via their flag state. Can the Government not go further by seeing whether for example the conduct of the trial in respect of the incident is proper?*

SECRETARY FOR SECURITY: Mr Deputy President, there have, I believe, in recent months been 12 reported cases of which we have confirmed six. These all occurred in the period mid-August to mid-September. I believe that most of the vessels were Panamanian vessels, although two were Vietnamese vessels. As I said in my main answer, we have asked the Chinese authorities for an explanation, which I believe is all we can do at this stage. And clearly, when we receive a reply we will consider whether there is anything else that we ought to do.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr Deputy President, in recent incidents where Hong Kong vessels were intercepted by Chinese security officials near Hong Kong waters, some of these vessels were intercepted by armed officials or following firing of shots. Will the Administration inform this Council whether proper explanations were given by the Chinese authorities on each of these occasions, and what measures the Hong Kong Government will take to ensure the safety of vessels in Hong Kong waters, in particular the personal safety of crewmen?*

SECRETARY FOR SECURITY: Mr Deputy President, as I said in my main answer, we have not yet had an explanation on most of these incidents. So I cannot, obviously, report on what the situation was with regard to the firing of shots. As regards the second part of the question, Mr Deputy President, we have of course raised very forcefully, as I said, both in Hong Kong, in Peking and in London, the two particular cases which occurred in Hong Kong waters. We have received an apology in respect of one of those incidents and I certainly hope that the message has got through to the Chinese security forces operating in this area that they must not infringe and seek to exercise jurisdiction within Hong Kong waters.

MR WONG WAI-YIN (in Cantonese): *Mr Deputy President, basically, the Secretary had not answered Rev FUNG Chi-wood's question directly a while ago. In paragraph (a) of his main reply, the Secretary said, "We have not yet had a reply on the other incidents although we understand the vessels concerned were suspected of smuggling." How can he know that these vessels were involved in smuggling activities when a reply is yet to come? And, as no formal charge has yet been laid by the Chinese authorities, will the Secretary inform this Council from which source he came to know that these vessels were engaged in smuggling activities?*

SECRETARY FOR SECURITY: Mr Deputy President, I do not have any firm information relating to these particular ships, but certainly we have had the general reply that the Chinese authorities are seeking to enforce their own laws against smuggling in their own waters, and we accept, of course, that they have a right to do so. I do also know that there is quite a considerable amount of smuggling from coastal vessels both to the east and to the west of Hong Kong, along the coast of China.

MR HENRY TANG: *Mr Deputy President, ships leaving Hong Kong have been boarded and goods were seized. This is tantamount to acts of piracy. In part (c) of his main answer, the Secretary said "the shipowners have been advised to make representations via their flag state". This sounds to me like passing the buck. Why are we not doing more to ensure and to safeguard ships leaving Hong Kong?*

SECRETARY FOR SECURITY: Mr Deputy President, I do not think that there is any reason to believe that these were acts of piracy. The fact of the matter is that we have no ability or jurisdiction to interfere with the Chinese security authorities exercising jurisdiction within Chinese territorial waters.

DR HUANG CHEN-YA (in Cantonese): *Mr Deputy President, will the Secretary inform this Council whether such incidents would affect the reputation of Hong Kong as an international port? If similar incidents occur repeatedly, will it make people feel that the situation in Hong Kong waters and waters near China is very much the same as that of the Strait of Malacca in Malaysia? What measures does the Secretary have to ensure that internationally, Hong Kong will not give people the feeling that it is an unsafe port or a port which is often subjected to interference?*

SECRETARY FOR SECURITY: Mr Deputy President, we are of course concerned to ensure that there is free access to the port of Hong Kong, which is essential to our trade. But equally, we must accept that the Chinese authorities have the right to enforce the law in their own territorial waters. This is not a matter for our own security forces. There has, to date, been no interruption to the main business of the port, no ocean-going vessels have been apprehended by the Chinese. But clearly, we are concerned and that is why we have raised these incidents with the Chinese authorities.

### **Funding of social welfare projects**

5. MR HUI YIN-FAT asked (in Cantonese): *Since the Government has in the past been unable to allocate adequate resources to implement certain promised social welfare projects, will the Administration inform this Council of the following:*

- (a) *what measures and steps will be taken in the future to ensure that adequate provisions are made available for the timely implementation of social welfare policies promulgated in the white papers; and*
- (b) *how to ensure that the interim targets outlined in the "White Paper on Social Welfare into the 1990s and Beyond" for various services will be accomplished by 1995-96 as promised?*

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

- (a) As announced by the Governor in his Address to this Council on 7 October 1992, recurrent expenditure on social welfare will be increased by 26% in real terms between now and 1997. There will be an immediate capital injection of \$2.3 billion into the Lotteries Fund for the secure funding of a major improvement in our welfare services between now and 1997. This capital injection will ensure adequate provision for the timely implementation of all the major social welfare targets set out in the White Paper on Social Welfare

for the years from 1993-94 to 1996-97. This arrangement will not preclude the Government from allocating additional resources for implementing other social welfare policies in future.

- (b) The Government will provide the necessary resources to ensure that the interim targets, as outlined in the White Paper on Social Welfare, will be implemented as scheduled. As mentioned earlier, funding has already been secured for meeting the key targets, not only for the year 1995-96, but for the period up to 1996-97.

**MR HUI YIN-FAT:** *Could the Secretary inform this Council how projects, which are not covered by the Social Welfare White Paper but have already been approved by the Government and have hitherto not been allocated funds for their implementation, are to be funded?*

**SECRETARY FOR HEALTH AND WELFARE:** Mr Deputy President, the package announced this year in the Governor's policy address will ensure a 26% increase in real terms in social welfare funding from now until 1996-97. The real increase for next year, for example, is 7.6%. A substantial amount of new money is thus assured every year in the period up to 1996-97. The Administration's top priority is to meet key targets in the White Paper. Funding for other improvement measures will be justified and funds will be sought through the resource allocation exercise in the normal way.

**MR TIK CHI-YUEN (in Cantonese):** *Mr Deputy President, the Administration undertook to provide two additional outreaching social work teams each year, but it failed to deliver the goods in the past two years. Given that the public are deeply concerned about the youth problem in new towns and would like to see more outreaching service in the area of youth counselling, would the Administration implement the above policy by providing two more outreaching social work teams next year?*

**DEPUTY PRESIDENT:** Is that really in reference to the main question which has to do with general funding policy, Mr TIK?

**MR TIK CHI-YUEN (in Cantonese):** *Mr Deputy President, my question asked whether the Administration would honour its previous pledges in the provision of welfare services for the future. I cite a particular example so as to elicit a response from the Government to see if it has the sincerity to fulfil its promise.*

**SECRETARY FOR HEALTH AND WELFARE:** Mr Deputy President, indeed, the growth of expenditure for next year does not only cater for two teams of

social outreaching work, but four outreaching social work teams for next year, rising to a total of 30 teams by 1995-96, that is, the entire White Paper target.

MR WONG WAI-YIN (in Cantonese): *Mr Deputy President, as regards the provision of services, it had been the practice that certain services such as that of rehabilitation were planned on a territory-wide basis. However, resource allocation was more on the side of funding services in urban areas than those in new towns, thus neglecting the latter. As a result, parents with mentally handicapped children very often have to travel long distances to bring their children to urban areas where such services are provided. Could the Secretary inform us if resources are adequate, will the Administration consider allocating resources on a regional basis, which means allocating more resources to new towns so as to improve the services provided?*

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, time does not stand still. The provision of social services will have to move with the times, if there is a genuine need to meet services in a particular area. The provision of services in new towns for particular groups of people will have to be reasoned, and if there is a genuine case, I will seek the necessary advice from the necessary advisory committees before implementing them.

MR FREDERICK FUNG (In Cantonese): *Mr Deputy President, my understanding if I am correct is that the Lotteries Fund is mainly for capital use. (Please correct me if I am mistaken.) If most of the Fund is actually used to meet expenditure on development programmes for the infrastructure such as the provision of youth centres and centres for the elderly and narrowing the ratio between school social workers and students, is the Administration going to inject more capital in this area in the next few years?*

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, I think there is a slight misunderstanding here. In the past, the Lotteries Fund was mainly used for capital expenditure but the special injection of funds, to the tune of \$2.3 billion, into the Lotteries Fund will be mainly used to meet recurrent expenditure and associated capital expenditure. I hope I have clarified that.

MR ERIC LI: *Mr Deputy President, I think the Lotteries Fund injection is a one-off capital injection, and against this one-off capital injection is both the capital element and also the element of recurrent expenditure for a large and increasing number of services. There is still some uncertainty involved in this capital injection, taking into account inflation and other costs that may be changing over time. Can the Government inform this Council whether it is determined to consider other measures to boost the Lotteries Fund should it prove inadequate to meet the full target of the Social Welfare White Paper?*

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, the basis for the \$2.3 billion injection into the Lotteries Fund includes \$1.6 billion for new direct services and \$0.7 billion for other services currently funded from general revenue, so as to relieve funds to meet, in part, the social security payments. The capital injection may appear, indeed, to be much higher than the increase in recurrent spending. This is because the capital injection required has been derived on the basis of assessed money of the day. We anticipate that when the funds are exhausted from the Lotteries Fund there will be capacity for the commitments to be met from general revenue.

### Air quality in road tunnels

6. MR STEVEN POON asked (in Cantonese): *In view of the fact that on average over 590 000 vehicles use the Cross Harbour Tunnel and other tunnels each day and that most of the people commuting via these tunnels ride in buses that are not air-conditioned, will the Government inform this Council:*

- (a) *whether the Government has established a schedule of fixed standards for the assessment of air quality inside the tunnels to see if it is at a safe and healthy level; if so, what these standards are and whether the air quality inside the tunnels meets these standards;*
- (b) *whether regular and random test are made to assess the safety level of the air inside the tunnels; if so, whether the results of these tests can be published; and*
- (c) *in case of traffic congestion, what contingency measures are available to ensure that the air quality inside the tunnels will not deteriorate to an unsafe level?*

SECRETARY FOR TRANSPORT: Mr Deputy President,

- (a) Legislation governing the operation of private tunnels sets out the maximum levels of carbon monoxide allowed in tunnels. The standards are 250 parts per million during any 30 minute period for the Cross Harbour Tunnel, 125 parts per million at any time for the Eastern Harbour Crossing and 150 parts per million for the Tate's Cairn Tunnel. The differences reflect changes in international practice over the years. In government tunnels, the carbon monoxide level does not exceed 125 parts per million at any time. In fact, carbon monoxide levels in all tunnels are always kept well below 125 parts per million. Levels of carbon monoxide can be taken as an indicator of overall air pollution in tunnels, and measures to disperse carbon monoxide will also reduce the level of other pollutants.

- (b) Levels of carbon monoxide are monitored continuously in all tunnels, using automatic equipment which provides a printed record of sampling results. If concentrations rise to between 50 and 100 parts per million, which is well within the standard set, audible and visual alarms are automatically activated in the control room. The ventilation system is immediately adjusted to improve the air quality. All tunnels are inspected regularly and air quality records are scrutinized. The results of air quality monitoring can be made available to the public upon request.
- (c) Traffic conditions within the tunnels are monitored continuously by staff using closed circuit television. In the event of traffic congestion or vehicle breakdown, particular attention is paid to maintaining air quality. When necessary, extra fans are switched on to improve ventilation and vehicles are stopped from entering the tunnel until the traffic starts moving again.

MR STEVEN POON (in Cantonese): *Mr Deputy President, according to the reply by the Secretary, the relevant legislation governs only the level of carbon monoxide, but not the other pollutions injurious to health. May I ask the Administration (1) whether it will revise the provisions governing the levels of sulphide, nitrogen compound and total suspended particulates, and state clearly in the Ordinance that all tunnels must comply with these standards; (2) in view of recent complaints by bus drivers against air pollution in the Tate's Cairn Tunnel which was said to have affected their respiratory system, whether it will consider installing indication signs at the entrance of the tunnel giving immediate information on the air quality inside the tunnel and a comparison with the normal safety standard, so that users will be aware of the air condition in the tunnel before entering it?*

SECRETARY FOR TRANSPORT: Mr Deputy President, as regards the first part of the question, the existing standards have not included the other component parts of air quality, but the Environmental Protection Department is now investigating these different parts to see if new standards are required.

On the second part of the question, at the present time, as I mentioned in the main reply, all the existing standards have been met and there is really no need to have indication signs at tunnels to show whether these standards have been breached.

MR HOWARD YOUNG: *Mr Deputy President, in view of the changing international practice mentioned in the answer, will the Secretary agree that it will be desirable, and will he undertake to see whether it is feasible, to upgrade the standards for the Cross Harbour Tunnel to be in line with the newer standards of 125 parts per million?*

SECRETARY FOR TRANSPORT: Mr Deputy President, I think that, as I said in the main reply, the EPD already monitors the standards continuously to see if new standards are required. I will certainly ask the department to look at this particular case to see whether new standards are required for the Cross Harbour Tunnel.

DR SAMUEL WONG: *Mr Deputy President, in the second paragraph of his reply, the Secretary for Transport stated that all ventilation systems of the tunnels were inspected regularly. Are these inspections carried out by the relevant government department or independent agency? And what action will the Government take to ensure that ventilation systems are in good running condition?*

SECRETARY FOR TRANSPORT: Mr Deputy President, all the government tunnels are inspected by qualified staff of the Electrical and Mechanical Services Department. The non-government tunnels are inspected by their own staff, who are qualified, plus inspections by the Transport Department, which is also qualified, at regular intervals. So these standards are always being met by qualified staff inspecting all tunnels at all times.

DR LAM KUI-CHUN: *Mr Deputy President, the second paragraph of the reply states that levels of carbon monoxide are monitored continuously in all tunnels. It is known that carbon monoxide leaves the human system very, very slowly. Would the Secretary for Transport inform this Council whether he can give a better indication of the actual levels found in the tunnels and whether it is safe for people to travel through and use the tunnels repeatedly in the course of a day, such as in the case of a bus driver?*

SECRETARY FOR TRANSPORT: Mr Deputy President, I do in fact have the latest sample from Tate's Cairn Tunnel yesterday, showing the exact recording of the carbon monoxide levels. On the north tube the carbon monoxide was only between 4.75 and 31.3 parts per million. In the south tube it was between 8.79 and 42.0 parts per million. So it was well within the maximum levels allowed.

MR TAM YIU-CHUNG (in Cantonese): *Mr Deputy President, according to some bus drivers, the tunnel companies had not operated the ventilation system at the maximum level in order to save energy expenses and the air quality inside the tunnels was therefore affected. Was that one of the causes of the problem? If yes, what action will the Administration take?*

SECRETARY FOR TRANSPORT: Mr Deputy President, the existing tunnels, of course, all have automatic fans to ensure that ventilation is kept at an acceptable level. Upon the complaints from the bus drivers on the Tate's Cairn Tunnel, the tunnel company has been asked to switch on more fans and they have agreed to do so, which will ensure that drivers' complaints are fully met, and this is now being done.

MRS MIRIAM LAU: *Mr Deputy President, can the Secretary inform this council whether the Administration will encourage the bus companies to operate only air-conditioned buses on routes which pass through these tunnels, so as to avoid the air quality problem, and at the same time attract more people to use public transport instead of driving their own cars?*

SECRETARY FOR TRANSPORT: Mr Deputy President, this does raise, of course, an interesting point, which is how far we can promote the use of air-conditioned buses in all tunnels in Hong Kong. There is of course the question of whether these buses are more expensive and whether the public can afford to use them. We will certainly consider, in the long term, improving the use of buses and ensure that most, if not all, buses passing through tunnels are air-conditioned.

MISS EMILY LAU (in Cantonese): *Mr Deputy President, concerning the Tate's Cairn Tunnel, I would like to ask the Secretary whether the problem is one that relates to the terrain of the tunnel. According to some complainants, polluted air accumulated inside the tunnel because of its steep gradient; was that the main cause of the problem?*

SECRETARY FOR TRANSPORT: Mr Deputy President, the answer is no. The Tate's Cairn Tunnel in fact is quite flat; there is no steep gradient. It is different from the other tunnels because the cross harbour tunnels, for example, do have a gradient and there is a problem with that. But the Tate's Cairn Tunnel is flat all the way through and there is no problem which the existence of a gradient would otherwise have given rise to.

DR HUANG CHEN-YA (in Cantonese): *Mr Deputy President, my question has in fact been asked, but I still would like to know whether the staff manning the toll booths at tunnel entrances/exits receive regular health checks, so that it can be known whether their health has been affected by air pollution?*

SECRETARY FOR TRANSPORT: Mr Deputy President, I believe that the staff undergo regular health checks. I will ensure that this point is taken up by the department.

MR VINCENT CHENG: *Mr Deputy President, I must admit that I fail to understand the reply because of all these technical terms: 250 parts per million during any 30 minutes and the like. I want to ask a simple question: Say if the air in this room has a content of carbon monoxide of 250 parts per million, can we last for 30 minutes sitting here, without contracting any health problems?*

SECRETARY FOR TRANSPORT: Mr Deputy President, I really cannot answer this technical question myself either. I believe the commonsense answer is that a volume of air consists of a certain quantity of pollutants, and the standards set are in fact well below the normal level of pollutants found. That means that parts of 250 in a million is acceptable. And in actual fact in none of the cases has that level been exceeded.

### **Written answers to questions**

#### **Station Information Communal System**

7. MR JAMES TO asked: *Regarding the Station Information Communal System (Pilot) being tried out in the Wan Chai Police District, will the Government inform this Council:*

- (a) *of the preliminary results of the pilot system in enhancing the efficiency of the police;*
- (b) *whether the system will be introduced to the other districts of the Hong Kong Island in 1995 if the pilot system proves to be effective and how much this will cost; and*
- (c) *what plan is in hand to implement the system throughout the territory?*

SECRETARY FOR SECURITY: Mr Deputy President, the Station Information Communal System (SICS) was designed to reduce the repetitive administrative work which police officers undertake in recording and updating crime data and management information; and hence to enable police officers to devote more time to active police duties.

The pilot SICS in the Wan Chai Police District has been a considerable success. It improved significantly the efficiency and accuracy of incident reporting and processing of information. In particular, the system has achieved:

- (a) instant retrieval of up-to-date information on crime trends, thus permitting more effective deployment of manpower;

- (b) automatic matching of property items reported lost and found anywhere in the territory;
- (c) improved manpower planning and career development of officers on the basis of up-to-date information on personal details, previous postings, training received and skills; and
- (d) swift and accurate dissemination of internal guidelines and instructions.

In view of the success of the pilot system, it is intended that, subject to availability of funds, SICS should be extended to all police districts on a phased basis, between 1995 and 1997. Since the police are still reviewing the pilot SICS to define more precisely the full system requirements and communication links between police formations, it is not possible to determine accurately at this stage the cost of extending SICS throughout the territory.

### **Monitoring of rental policies**

8. MR MAN SAI-CHEONG asked: *Will the Government inform this Council whether there are plans to set up monitoring mechanisms, either through legislation or administrative means, to ensure that the rental policies of independent organizations which provide low-rent housing services to the public, such as the Hong Kong Housing Society, are adequately and effectively monitored?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, there is adequate and effective monitoring of the rent policies of the Hong Kong Housing Authority, the largest statutory public housing agent in Hong Kong, which manages over 642 000 rental flats. Over the years, the Authority's rent policies, rent reviews for existing estates and rent setting for new estates have been clearly explained to the OMELCO Standing Panel on Housing, District Boards, the media, interest groups and the tenants concerned. All major changes to the existing rent policies are thoroughly debated within the Authority whose membership comprise mainly non-officials representing a good cross section of the community. In addition, all important policy proposals are subject to wide public consultation and the approval of the Executive Council. The current monitoring system has worked well, and there are no plans to introduce additional legislative and administrative measures for this purpose.

As regards the Hong Kong Housing Society, which is a much smaller independent body incorporated by statute and managing about 33 000 rental flats, its activities, including rent policies, are determined by an Executive Committee. Membership of this Committee is drawn from professionals and businessmen, as well as civil servants, serving in their personal capacity. The

domestic rents charged by the Society are set having regard to their affordability to the tenants and are below market rent. They are designed to cover the capital and recurrent expenditure of the estate, to cross-subsidize the rental units for the elderly and to contribute toward the Society's on-going housing projects. Over the years, the rents have been generally acceptable to its tenants. The Society is an autonomous body, operating in accordance with its constitution and will continue to provide affordable housing to the community on a non-profit-making basis.

### **Land uses**

9. MR LEE WING-TAT asked: *In respect of lands where development according to the long-term planned usage cannot proceed because of shortage of financial resources or other reasons, will the Government inform this Council:*

- (a) *whether it will adopt a flexible approach to change the usage of these lands for early development; and*
- (b) *before a decision is taken on the short-term use of these lands, whether the District Board concerned will be consulted to ensure that the interests of the local residents are taken into account?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, it is the Administration's normal practice that government land which cannot be developed immediately into their planned permanent uses may be made available for various temporary uses in the short term, such as Temporary Housing Areas, public car parks, open storage areas, plant nurseries, works area and so on. If the planned permanent uses are not likely to take place for many years to come and if there are suitable replacement sites, the town plan is reviewed to see whether it is desirable for the land concerned to be rezoned for more urgent uses which can be developed earlier.

District Boards are normally consulted on land uses which affect the well-being of people in their districts. This is particularly the case if the proposed uses, whether long-term or short-term, are considered to have significant planning, traffic, social or environmental implications. However, as short-term uses are of a temporary nature and often small in scale, not every proposal is presented to the Boards. District Officers' advice is, nevertheless, sought on all proposals.

### **Pay Trend Survey**

10. MR EDWARD HO asked: *Will the Government inform this Council of the names, nature of business and size of establishment of the companies that provide data for the annual Pay Trend Survey carried out by the Pay Survey*

*and Research Unit of the Standing Commission on Civil Service Salaries and Conditions of Service?*

SECRETARY FOR THE CIVIL SERVICE: Mr Deputy President, sixty-nine companies participated in the 1991-92 Pay Trend Survey, a list of which is in the Annex. An analysis of the companies by nature of business and size of establishment is as follows:

<i>Establishment size/ Economic sector</i>	<i>Small (100-499)</i>	<i>Medium (500-1499)</i>	<i>Large (1500 &amp; Over)</i>	<i>Total</i>
Manufacturing	8	13	3	24 (35%)
Wholesale and retail	10	5	4	19 (28%)
Finance and business services	3	3	2	8 (11%)
Transport and communication	2	3	6	11 (16%)
Construction and electrical installations	2	3	-	5 (7%)
Electricity and gas	-	-	2	2 (3%)
Total	25 (36%)	27 (39%)	17 (25%)	69 (100%)

Annex

#### List of Companies in the Pay Trend Survey Field

British-American Tobacco Co. (H.K.) Ltd.

Broadway-Nassau Investments Ltd.

(previously Mei Foo Investments Ltd.)

Caltex Oil Hong Kong Ltd.

Carlsberg Brewery Hong Kong Ltd.

Caterpillar Far East Ltd.

Cathay Pacific Airways Ltd.

Chiaphua Industries Ltd.

China Light & Power Co. Ltd.

China Motor Bus Co. Ltd.

Coopers & Lybrand  
Crocodile Garments Ltd.  
Dairy Farm Company Ltd., The  
DHL International Ltd.  
Esso Hong Kong Ltd.  
Fook Lee Construction Co. Ltd.  
Hewlett-Packard Hong Kong Ltd.  
Hong Kong Aircraft Engineering Co. Ltd.  
Hong Kong and China Gas Co. Ltd, The  
Hongkong and Shanghai Banking Corporation Ltd., The  
Hongkong and Shanghai Hotels Ltd., The  
Hongkong Ferry (Holdings) Co. Ltd.  
Hong Kong Oxygen & Acetylene Co. Ltd.  
Hong Kong Teakwood Works Ltd.  
Hongkong Telecom Ltd.  
Hongkong Telephone Co. Ltd.  
Hongkong Tramways Ltd.  
Hongkong United Dockyards Ltd.  
Hsin Chong Holdings (HK) Ltd.  
(previously Hsin Chong Construction Co. Ltd.)  
IBM China/Hong Kong Corporation  
ICI (China) Ltd.  
Inchcape Pacific Ltd.  
Jardine Pacific Ltd.  
Jebson & Co. Ltd.  
John Swire & Sons (H.K.) Ltd.  
Kodak (Far East) Ltd.  
Kowloon Motor Bus Co. (1933) Ltd., The  
Lam Soon (HK) Ltd.  
Lap Heng Co. Ltd.  
Leighton Textile Company Ltd.  
Li & Fung (Trading) Ltd.  
Lo and Lo Solicitors & Notaries Public  
Manhattan Garments International Ltd.  
Mass Transit Railway Corporation  
Mattel Toys (HK) Ltd.  
Mobil Oil Hong Kong Ltd.  
Motorola Semi-conductors (HK) Ltd.  
National Lacquer & Paint Products Co. Ltd., The  
Nedlloyd Lines  
Orient Overseas Container Line Ltd.  
Otis Elevator Co. (HK) Ltd.  
Paul Y. Construction Co. Ltd.  
Philips Hong Kong Ltd. Consumer Electronics Factory  
Ryoden (Holdings) Ltd.  
San Miguel Brewery Ltd.  
Shell Hong Kong Ltd.  
Shui Hing Co. Ltd., The

Shun Hing Electronic Trading Co. Ltd.  
Sonca Products Ltd.  
South China Morning Post Publishers Ltd.  
Standard Bottlers Ltd.  
Toppan Printing Co. (HK) Ltd.  
Tyco (Hong Kong) Ltd.  
Vigers Hong Kong Ltd.  
Vitasoy International Holdings Ltd.  
Wearbest Garment Manufacturing Co. Ltd.  
Wilkinson & Grist Solicitors & Notaries  
Winner Company (HK) Ltd.

### **Lane rental for road openings**

11. MR HENRY TANG asked: *Will the Government inform this Council:*

- (a) *of the progress in implementing the trial scheme to charge utility companies lane rental for road openings; and*
- (b) *whether the trial scheme will include an assessment of the comparative effectiveness of the following charging systems in reducing the road occupation period:*
  - (i) *charging from the date of road occupations; and*
  - (ii) *imposing charges after a certain period of time?*

SECRETARY FOR WORKS: Mr Deputy President, the trial commenced in July. Fifty utility works have been identified as being suitable and have been selected for the trial. So far one has been completed, 31 are in progress and the remaining will start soon. The Working Group set up to monitor the progress of the trial and to resolve problems has met twice. No problem has been encountered to date. A report will be produced and conclusions drawn on the merits of the scheme in about six months time.

The trial will be used to evaluate lane rental under three options as listed below. The effectiveness of the two systems (i) and (ii) raised in the question will be compared and assessed.

#### **Option 1: "Unit Working Time" Option**

The permit period will be made up of a basic period and an additional period. The basic period will be determined based on the agreed set of standard unit working periods and the quantities of the different types of works to be carried out. The additional period will be proposed by the applicant to take into account special circumstances related to the proposed works, for example, site

conditions, traffic arrangements, or testing. Free extensions will be allowed if there is a valid reason. The extensions will need to be "negotiated" with the regional staff.

#### Option 2: "Average Working Time" Option

The period will be determined by a very simple formula derived from statistical records of permits with the volume of excavation as the determining factor. No free extensions will be allowed.

#### Option 3: "Daily Rental" Option

A daily rental charge will be imposed from the very beginning of the road occupation period.

### **Visitors taking up illegal employment in Hong Kong**

12. MR TAM YIU-CHUNG asked: *Will the Government inform this Council:*

- (a) *of the number of visitors arrested and charged for taking up employment illegally in Hong Kong in the past two years, the countries they came from and the penalties imposed on them; and*
- (b) *of the number of employers prosecuted during the same period for employing such visitors, and the results of the prosecutions?*

SECRETARY FOR SECURITY: Mr Deputy President,

- (a) In 1991, the Immigration Department prosecuted 536 visitors for working here illegally. Of these, 521 came from China, seven from Pakistan, three from the Philippines, three from Australia, one from Thailand and one from India. The Department prosecuted some 410 such visitors in the first nine months of 1992. Of these, 366 came from China, 15 from Bangladesh, 14 from Pakistan, seven from Thailand, five from India, two from the Philippines and one from Singapore.

Sentences have ranged from fines of between \$500 and \$2,000, suspended prison sentences of between one and three months, and imprisonment for between seven days and two months.

- (b) In 1991, the Immigration Department prosecuted 271 employers for employing visitors. One was acquitted. In the first nine months of 1992, the Department prosecuted 208 such employers. All were convicted. Sentences have included fines of between \$1,000 and

\$6,000; suspended prison sentences of between one and four months; and, in one case, imprisonment for six weeks.

### Vessels detained in Hong Kong

13. MR GILBERT LEUNG asked: *Will the Government inform this Council:*

- (a) *of the total number of detained vessels lying at anchor in the waters of Hong Kong to date; the average time that these vessels have been at anchor in our waters; and the location of their anchorage;*
- (b) *whether the Administration would return the vessels to their owners after judgement of the court has been given in relation to these vessels; if so, whether the vessels would be returned immediately; if not, what the rationale for not doing so is; and in what manner the Administration would dispose of the confiscated vessels; and*
- (c) *having regard to the substantial number of detained vessels lying at anchor in the Port Shelter Water Control Zone in Sai Kung, how many vessels under detention ran aground in the past three years; whether these stranded vessels have posed any pollution problems to the environment; if so, what the present situation of such pollution is; and what effective improvement measures would be taken by the Administration in tackling the environmental pollution problem?*

SECRETARY FOR SECURITY: Mr Deputy President,

- (a) As at the end of last month, there were 79 detained vessels moored alongside Marine Police piers or tied up to buoys, most of them at Aberdeen, Tai Lam Chung, Tui Min Hoi, Ma Liu Shui and Sai Wan Ho. The length of time these vessels are detained varies greatly depending on the nature of the case and the time taken with any court proceeding. An average period would be six to twelve months.
- (b) Whether or not a vessel is returned to the owners is up to the Court to decide. In the event that the Court directs its return, the process is carried out as quickly as possible, though delays can occur when ownership is in dispute. If the vessel is confiscated by order of the Court, it is either retained for use by the Government, sold through the Government Supplies Department or destroyed by the Marine Department.

- (c) I do not know the number of detained vessels that went aground in Port Shelter in the last three years as such statistics are not kept. The main potential pollution problem in such cases would be water pollution from the discharge of oil and fuel. Any fuel or oil spills would be dealt with in the usual manner by the Pollution Control Unit of the Marine Department.

We will, in the next few months, establish a new detained craft anchorage at Sham Tuk, Sai Kung which will eventually provide mooring facilities for 200 detained craft. This will do away with the need to moor such craft at police piers or at buoys in scattered locations.

### Tsing Ma Bridge

14. MR MARVIN CHEUNG asked: *As the tendered price accepted for the contract for the construction of the Tsing Ma Bridge in May 1992 included a substantial portion denominated in pounds sterling, will the Administration advise this Council precisely what steps it has taken, since that time, to protect itself against currency fluctuations; what the current value of this contract is in Hong Kong dollars terms, having regard to any such steps taken, and whether it still compares favourably with the tendered price of the second lowest acceptable bidder?*

SECRETARY FOR THE TREASURY: The accepted tender price for the Tsing Ma Bridge construction was HK\$4,544 million and £188 million. Using the exchange rate of HK\$13.845 to the pound prevailing on 29 April 1992 when the tender recommendation was approved by the Central Tender Board, the Hong Kong dollar equivalent of the tendered sum was \$7,144 million. This was the basis on which the Finance Committee's funding approval was sought on 15 May 1992.

Within half an hour of receiving Finance Committee's funding approval for the project, the Director of the Office of the Exchange Fund at my request arranged for the forward purchase of sterling throughout the five-year contract period when sterling payments were required, at a fixed rate of HK\$13.4 to the pound. The contract is therefore prudently immunized against currency fluctuations. As a result of the forward cover arranged, the Hong Kong dollar equivalent of the Tsing Ma Bridge contract is now \$7,060 million, or \$84 million less than the estimate of \$7,144 million approved by Finance Committee.

I can confirm that the price ranking of the Tsing Ma Bridge tenders remains unaffected by subsequent currency fluctuations.

## Underground economy

15. DR HUANG CHEN-YA asked: *Will the Government inform this Council:*

- (a) *whether the Administration has conducted any research into the state of activities of the underground economy in the territory;*
- (b) *if so, what the scope and scale of these activities are, in what manner they are related to our overall economy; and what impact these activities would have on our general revenue; and*
- (c) *whether consideration would be given by the Administration to levying taxes on such activities so as to increase the general revenue?*

SECRETARY FOR ECONOMIC SERVICES: Mr Deputy President, the underground economy, as commonly understood, refers to economic activities which are not reflected in the official data. Many of these activities are illegal. But there can also be activities which are difficult to identify, locate and measure due to their petty and dispersed nature. Offshore business activities are, however, not part of the underground economy.

As in other places, it is very difficult to make an assessment of the size of the underground economy. In the case of illegal activities, such as drug trafficking and smuggling, the difficulty in obtaining credible statistical information is self-evident.

Examples of petty activities are private tuition, part-time domestic help, fortune telling, and some segments of hawking and personal services. The incomes of the respective service providers are generally unrecorded. Nevertheless, the volume of activities concerned and the total income generated should be relatively small compared with the size of the entire economy. The Administration has information on some of these petty activities but it tends to be fragmentary and not very reliable. Improving our information base would, however, require disproportionate additional resources.

As these petty activities are usually performed by individuals with income below the tax threshold, they are likely to have little bearing on general revenue. Taxes on such activities are levied where feasible and legitimate but the Administration will continue to face practical difficulties in identifying and assessing them for tax purposes.

The Administration is, however, committed to continue its programme of legislative and administrative measures aimed at tax evasion and avoidance. As an illustration, the Commissioner for Inland Revenue investigated 571 cases in 1991-92 and recovered evaded taxes and penalties amounting to about \$438 million.

**"B class" hospital beds**

16. MR HUI YIN-FAT asked: *With regard to the inseparable relationship between public hospital bed charges and the affordability of the public, will the Government inform this Council of the following:*

- (a) *how "B class beds" now under consideration are to be defined and their charges be set; and*
- (b) *how to ensure that the provision of "B class beds" will not result in the reduction of services provided for "general class beds" and the resources to be allocated to such services?*

SECRETARY FOR HEALTH AND WELFARE: The answers, *seriatim*, are as follows:

- (a) Provision of "B class beds" is being considered as one of the options in our overall review of the policy on fees and waiver. Proposals from this review will be presented as options in a Green Paper for public consultation. It is early days yet to provide details on charges to be adopted. Much will have to depend on public comments and on the outcome of a pilot scheme, if introduced.
- (b) Under section 4(d) of the Hospital Authority Ordinance, the policy is that no person should be prevented, through lack of means, from obtaining adequate medical treatment. If "B class beds" were to be introduced, sufficient general ward beds would still have to be provided to meet demand.

**Industrial accidents associated with caisson works**

17. MR TIK CHI-YUEN asked: *In view of the number of accidents involving caisson works in Hong Kong in recent years, will the Government inform this Council:*

- (a) *of the accident and death rates of caisson works in each of the past 10 years;*
- (b) *of the number of working days lost and the amount of employees' compensation claims involved as a result of these accidents in each of the past 10 years;*
- (c) *of the number and percentage of workers who suffered from occupational diseases including silicosis, noise-induced hearing loss, vibration white finger and repetitive strain injury in each of the past 10 years as a result of being engaged in caisson works;*

- (d) *of the practicable measures adopted by Government to ensure the protection of these workers from the hazards of silica dust;*
- (e) *whether the Government will consider amending the existing legislation to protect the safety and health of workers engaged in caisson works; moreover, whether it will enact legislation to ban hand-dug caisson works and replace them by mechanized operations; and*
- (f) *how the Government will step up its publicity and education programmes to help minimize accidents in caisson works?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the answers to Mr TIK's questions, in the order in which they are asked, are as follows:

- (a) The relevant figures for the period 1987 to 1991 are set out at the Annex. Figures for the years preceding 1987 are not readily available.
- (b) The information is not available. The statistics maintained by the Labour Department on the number of working days lost and the amount of employees' compensation claims as a result of industrial accidents are broken down by industry. They are not broken down further by the numerous specific occupations within each industry.
- (c) The detailed statistics requested by Mr TIK are not readily available but the following information is relevant:
  - (i) Pneumoconiosis is a common occupational disease contracted by workers engaged in caisson work. A survey on the employment history of pneumoconiotics assessed during the period 1989 to 1991 showed that, of 252 pneumoconiotics, including those who had contracted silicosis, 90 or 35.7% had been engaged in caisson work.
  - (ii) The Labour Department does not have statistics on noise-induced hearing loss and vibration white finger which are not designated occupational diseases.
  - (iii) So far there has been no record of gas poisoning or repetitive strain injury related to caisson work.
- (d) Labour Department staff carry out enforcement action under the Factories and Industrial Undertaking Ordinance and its regulations:

- (i) The Ordinance requires protection of caisson workers from the hazards of silica by way of safety planning and safety training under its "General Duty" provisions.
  - (ii) The Factories and Industrial Undertakings (Confined Spaces) Regulations prescribe the necessary precautions which must be taken to safeguard persons entering or remaining in confined spaces such as caissons. The Regulations stipulate that unless such confined spaces have been certified safe for entry, no person should be allowed to enter or remain in them without wearing breathing apparatus of an approved type. The person must also wear a safety belt attached to a lifeline so that he may be pulled to safety in case of emergency.
  - (iii) Regulation 42 of the Construction Sites (Safety) Regulations provides that the contractor has to take all reasonable steps as are necessary to prevent the inhalation of dust by the workman, either by providing adequate ventilation or by the provision and use of suitable respirators or other effective means.
  - (iv) A special enforcement campaign is being carried out by factory inspectors to check on all construction sites with caisson work to ensure that safety requirements are complied with.
- (e) The Labour Department is reviewing the relevant statutory provisions with a view to further improving the standards of safety for workers working in caissons and other confined spaces. The feasibility of banning hand-dug caisson operations will need to be carefully considered in view of its implications for the livelihood of existing caisson workers and for the construction industry. There are occasions when caissons are the safest engineering solution, for example, on narrow or steep sites where the use of heavy plant would be dangerous. The Labour Department is seeking views from relevant government departments as well as employers and employees organizations.
- (f) Apart from the regular educational programmes and publicity measures (for example, safety courses, seminars and posters), the Labour Department has launched special inspection campaigns during which the safety message is reinforced through face to face discussion and, where necessary, by prosecution of offenders. A series of special seminars, participated by supervisors and caisson workers, have recently been held by the Department and the tripartite Occupational Safety and Health Council. Press releases

are issued from time to time to remind people of the hazards related to caisson operation.

### Annex

Number of accidents related to hand-dug caisson operation  
for the period 1987 to 1991

<i>Year*</i>	<i>No. of accidents</i>	<i>Accident rate # per 1 000</i>	<i>No. of caisson workers</i>	<i>No. of deaths</i>	<i>Death rate # per 1 000 caisson workers</i>
		<i>Directly related to caisson workers</i>			<i>Indirectly @ related to caisson workers</i>
1987	365	561.5	0	1	0
1988	311	478.5	1	0	1.5
1989	289	444.6	0	1	0
1990	243	373.8	1	1	1.5
1991	283	435.4	1	1	1.5

- \* The number of accidents and deaths of caisson workers for the years preceding 1987 are not readily available.
- # It is estimated that there are 650 active caisson workers. This figure is used as the basis for calculating the accident and death rates directly related to caisson work for the past five years.
- @ Fatal accidents indirectly related to caisson work include, for example, falling through an unfenced caisson opening.

### **Land grant for public rental housing**

18. MRS ELSIE TU asked: *Under the Joint Declaration, the amount of new land which may be granted by the Hong Kong Government is limited to 50 hectares a year, not including land granted to the Hong Kong Housing Authority for public rental housing. Will the Government inform this Council:*

- (a) *of the amount of land that has been granted for public rental housing in the past five years; and*

- (b) *of the number of flats originally earmarked for renting that have subsequently been used for home ownership during the same period; and*
- (c) *whether the land on which public rental housing has been built and subsequently used for home ownership is excluded from the limit of 50 hectares a year?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, ever since the entry into force of the Joint Declaration, the amount of land granted for development has exceeded the 50 hectare limit specified in Annex III to the Joint Declaration by agreement in the Sino-British Land Commission. This demonstrates the cooperation and understanding between the two sides of the Land Commission in making sufficient land available to meet justifiable demands. The answers to the three specific questions are as follows:

- (a) A total of 274 hectares of land was vested in the Housing Authority for control and management under section 5 of the Housing Ordinance between 1987-88 and 1991-92.
- (b) Over the same period, the Authority has produced 16 500 rental type flats for sale under the Home Ownership Scheme. However, these are not necessarily "flats originally earmarked for renting". Decisions to designate certain blocks for HOS uses are taken at an early stage in planning and development because inclusion of the rental block design in the HOS programme gives a wider mix of flat sizes and prices for HOS purchasers.
- (c) Land for construction of HOS blocks is accountable under the annual 50 hectare limit. This also includes transfers of sites from rental purposes to HOS uses.

#### **Local Chinese personnel in the British garrison**

19. MR MARVIN CHEUNG asked: *Will the Government inform this Council whether it is aware of any arrangements being made to redeploy the local Chinese personnel currently employed by the British Forces in Hong Kong, after the Forces have departed and, in particular, whether the Government has considered offering them employment in the Hong Kong Police Force for which they would appear to be admirably suited?*

SECRETARY FOR SECURITY: Mr Deputy President, the British Forces in Hong Kong employ some 3 800 Hong Kong residents of whom 1 500 are serving members of the Royal Navy and the army; the remainder are civilians who provide support services.

Headquarters British Forces, as their employer, have established a resettlement team to assist in managing the rundown in employment of these people and in identifying employment opportunities for them when they leave. The Hong Kong Government assists by notifying Headquarters British Forces of vacancies in the Civil Service. We do not have any special schemes for giving priority entrance to former employees of the British Forces for vacancies either in the Royal Hong Kong Police Force or elsewhere in the Civil Service. They are welcome to apply, and to compete with other applicants.

### **Storage and conveyance of dangerous gases**

20. MR WONG WAI-YIN asked: *With regard to the recent incidents of explosion in Castle Peak Power Station, leakage of chlorine from the Sha Tin Water Treatment Plant and LPG cylinder-laden lorry explosion in Tuen Mun, will the Government inform this Council:*

- (a) *how the Government monitors the effectiveness of existing laws governing the storage and conveyance of dangerous gases;*
- (b) *the locations where there is bulk storage of dangerous gases, such as town gas, chlorine and LPG; and*
- (c) *the criteria used by the Government to assess the impact of these dangerous gas storage facilities on the safety and health of nearby residents?*

SECRETARY FOR ECONOMIC SERVICES: The existing laws governing the storage and conveyance of dangerous gases are the Dangerous Goods Ordinance (Cap. 295) and the Gas Safety Ordinance (Cap. 51). These laws provide for the storage and conveyance of dangerous gases and these are administered by the respective authority. In the case of dangerous gases other than town gas and liquefied petroleum gas, the administering authority is the Director of Fire Services. In the case of town gas and liquefied petroleum gas, it is the Gas Authority, who is the Director of Electrical and Mechanical Services.

The respective authorities monitor the effectiveness of these laws mainly through regular visits to the establishments at which dangerous gases are stored to verify compliance with the relevant legislative requirements or licensing conditions. The frequency of inspection varies according to the size and age of the installation and the risk that it is considered to present. In the case of installations covered by the Dangerous Goods Ordinance, a licence will not be renewed if the establishment concerned does not comply with all of the safety requirements. In respect of installations covered by the Gas Safety Ordinance, improvement notices will be issued. Vehicles used for the conveyance of dangerous gases are inspected by the Fire Services Department or the Gas Standards Office, as appropriate, to ensure compliance with the relevant safety

standards. Inspections of installations or vehicles are carried out in response to complaints. Legal action is taken where appropriate in cases where the legislative requirements are found to have been breached.

The parking of vehicles used to carry cylinders of liquefied petroleum gas is controlled by permit conditions. However, recent experience has shown that the monitoring and control of such vehicles needs to be improved. Consultations with the industry are under way to establish how these improvements can best be achieved.

As regards the location of bulk storage facilities for dangerous gases, the Hong Kong & China Gas Co. Ltd. operates four major plants for the manufacture or supply of their Towngas. These are the gas production plant at Tai Po, the gas works at Ma Tau Kok, the gas holder at Aberdeen and the Substitute Natural Gas plant at Tuen Mun.

The oil companies supply liquefied petroleum gas to 554 installations where the storage quantity ranges from 50kg up to 40 tonnes. These are generally spread throughout the Territory and consist of 394 private installations in various public sector housing developments and certain commercial, industrial and private residential developments and 160 installations on Government premises such as hospitals, correctional institutions and Vietnamese detention centres. Of the total, 200 are bulk storage installations which require regular refilling by the fleet of 38 road tankers operating out of the oil depots on Tsing Yi whilst the others are cylinder installations which have the containers exchanged on site.

As regards bulk storage of chlorine, the main storage facilities are found at Sha Tin Treatment Works where chlorine is transferred for storage from 1 tonne drums to 125 tonne (nominal capacity) bulk tanks. Four bulk tanks are available and one tank is always kept empty for transfer in case of emergency. A further smaller pressure relief tank is also available to cater for accidental pressure build-up. However, for safety reasons and pending the commissioning of a new chlorination system by the end of December 1992, the Water Supplies Department has decided to limit the maximum storage in each of the three duty bulk tanks to 25 tonnes. Thereafter, chlorine will be stored in 1 tonne drums and all existing bulk tanks will be decommissioned and removed. The new facilities will have a contain-and-absorb system to contain any accidental release within the building.

As regards the criteria used by the Government to assess the impact of these dangerous gas storage facilities on the safety and health of nearby residents, in Hong Kong, any installation which stores dangerous gases in quantities equal to or greater than a specified limit is classified as a potentially hazardous installation. The potential risk it presents is analysed taking into account factors such as the specific properties of the gas and its potential effects.

The results of the risk analysis for any particular installation are considered against a set of risk guidelines. The guidelines indicate the potential risk posed by an installation by relating the probability of occurrence of an accident to the consequences in terms of the number of fatalities. The guidelines have two components:

**Individual Risk:** This is the predicted increase in the chance of death per year to an individual who lives or works at a particular place due to a nearby potentially hazardous installation. The maximum limit is set at 1 in 100 000 per year. To put this in perspective, according to a United Kingdom study, this is similar to the chance of being run over by a car.

**Societal risk:** This measures the likelihood of incidents causing multiple fatalities related to potentially hazardous installations. It is presented graphically in the form of a curve — the acceptable limits are within a range of from one death in 1 000 years to 1 000 deaths in one million years.

If the appropriate risk guidelines cannot be met, mitigation measures to reduce the risk level are implemented as far as practicable. Such measures include, for example, improvements to storage facilities and more effective safety devices at the plant. Where necessary, relocation of the plant will be considered.

### **First Reading of Bills**

#### **OATHS AND DECLARATIONS (AMENDMENT) BILL 1992**

#### **AMUSEMENT GAME CENTRES BILL**

#### **WATERWORKS (AMENDMENT) BILL 1992**

#### **TRAVEL AGENTS (AMENDMENT) BILL 1992**

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

### **Second Reading of Bills**

#### **OATHS AND DECLARATIONS (AMENDMENT) BILL 1992**

THE CHIEF SECRETARY moved the Second Reading of: "A Bill to amend the Oaths and Declarations Ordinance."

He said: Mr Deputy President, I move that the Oaths and Declarations (Amendment) Bill 1992 be read a Second time. The Bill proposes to modernize the wording of the Oath of Fidelity for Executive Councillors.

At present, a person appointed to the Executive Council is required, under section 18 of the Oaths and Declarations Ordinance, to take the Oath of Fidelity and either the Oath of Allegiance or the Executive Council Oath as soon as possible after his or her appointment.

The Oath of Fidelity is prescribed in Part III of the Second Schedule to the Ordinance and contains reference to "this Colony" and "Her Majesty's Executive Council in this Colony". The Bill repeals the words "Her Majesty's" and replaces the words "this Colony" with "Hong Kong". The Chinese text is amended accordingly. These changes follow similar amendments to the Legislative Council Oath.

*Bill referred to the House Committee pursuant to Standing Order 42(3A).*

## **AMUSEMENT GAME CENTRES BILL**

THE SECRETARY FOR HOME AFFAIRS moved the Second Reading of: "A Bill to regulate amusement game centres."

He said: Mr Deputy President, I move that the Amusement Game Centres Bill be read the Second time.

The Bill introduced today seeks to establish a new scheme for licensing amusement game centres in order to provide better control over these centres.

There are currently 641 licensed amusement game centres, 514 of which are adult centres, and 127 children's centres. They are controlled by provisions under the Miscellaneous Licences Ordinance.

Licence conditions are imposed on amusement game centres licensees by the Commissioner of Television and Entertainment Licensing under the approval of the Governor in Council.

In May 1990, the Court of Appeal held that a special licence condition relating to age restrictions in amusement game centres was invalid because the condition was not made by way of regulation. The Court considered that when the legislation provided for the Governor in Council "by regulation" to make licence conditions, there was no power to impose or establish licence conditions by any other process. This was so notwithstanding Regulation 9 of the Miscellaneous Licences Regulations which empower the Commissioner to impose special licence conditions under the approval of the Governor in Council.

As a result, only two out of the 18 licence conditions imposed on amusement game centres licensees are valid as they have been included as regulations. These two relate to the transfer of licences and the operating hours

of the centres. All of the other 16 special conditions were ruled to be *ultra vires* and are thus unenforceable.

Due to the *vires* problems, amusement game centres have increasingly been operated in a manner which conflicts with the former licence conditions. Consequently, unapproved machines and games of an indecent nature can be found in many centres, age limits are also ignored. There has been public concern over these problems.

There is also a need for more effective and stricter control over amusement game centres, coupled with much tighter supervision of licensees occasioned by the rapid changes in games machine technology and the increasing complexity of the industry. We have therefore decided to separate amusement game centres licences from the Miscellaneous Licences Ordinance.

The Amusement Game Centres Bill will empower the Commissioner for Television and Entertainment Licensing to impose licence conditions. In order to tackle the existing management problems evident in many centres, the licence conditions will include a number of regulatory provisions.

Of greatest significance will be the conditions to: prohibit the installation of any game which has not been approved by the Commissioner; and bar entry to adult centres to people age 16 and above (corrected to below), as well as to restrict entry to children's centres to persons up to the age of 16 only.

It will be an offence if the licensee contravenes any of the licence conditions. To have a greater deterrent effect, the Bill also provides that the penalty on second or subsequent conviction will be heavier than that on first conviction.

Under the Miscellaneous Licences Ordinance, the Commissioner was empowered to revoke or refuse to renew a licence. Warning letters were issued to the licensee to urge him to improve their management before revocation or non-renewal of a licence was considered. However, many licensees simply ignored these letters and showed no improvement until they receive a final warning.

To ensure that operators observe the licence conditions conscientiously, the Commissioner will be empowered to suspend, revoke or refuse to renew a licence under specified circumstances if licence conditions are breached. The suspension of a licence will serve as a serious warning that if there is no improvement in management, revocation of the licence will be considered. Suspension and revocation of a licence are measures which should go a long way to protect the interest of the public.

An independent Appeal Board will be set up to consider appeals arising from enforcement of the legislation. The Board will be chaired by a person qualified for appointment as a District Judge.

The Bill contains provisions to allow existing amusement game centres licences granted under the Miscellaneous Licences Ordinance to continue to be valid after the enactment of the new Bill. However, in order to ensure that the existing licensed amusement game centres also comply with the new licence conditions, the Commissioner will be empowered to impose these licence conditions on existing licences.

The licensing unit in the Television and Entertainment Licensing Authority will be expanded to provide for the setting up of an inspection team. The inspectors will be empowered to enter and inspect these centres to ensure that licence conditions are strictly complied with. Staff are now being recruited and will be in position in time to begin work as soon as the new legislation comes into effect.

The new scheme for licensing amusement game centres will be implemented following the enactment of the Bill.

I am convinced that there is a need for this new legislation to deal with the many problems associated with these amusement game centres. I am also determined that the new standards will be strictly enforced to protect patrons, legitimate operators and the public alike.

**MR HOWARD YOUNG:** Mr Deputy President, I wish to raise a point of clarification, please.

**DEPUTY PRESIDENT:** Yes, Mr YOUNG.

**MR HOWARD YOUNG:** In the Secretary's speech just now, in the tenth paragraph of the printed speech, there are words to the following effect: "..... and bar entry to adult centres to people aged 16 and above." Should that be "below" or "above"? I was not quite clear when he read it.

**SECRETARY FOR HOME AFFAIRS:** Mr Deputy President, it should be "above" because we are talking about adult centres; we do not want people below 16 to enter adult centres.

**MR HOWARD YOUNG:** In that case, Mr Deputy President, should the word "bar" then be "restrict" rather than "bar"?

**SECRETARY FOR HOME AFFAIRS:** I stand corrected. It should be "below", Mr Deputy President.

DEPUTY PRESIDENT: Thank you, Mr YOUNG.

MR HOWARD YOUNG: Thank you, Mr Deputy President.

*Bill referred to the House Committee pursuant to Standing Order 42(3A).*

## **WATERWORKS (AMENDMENT) BILL 1992**

THE SECRETARY FOR WORKS moved the Second Reading of: "A Bill to amend the Waterworks Ordinance."

He said: Mr Deputy President, I move that the Waterworks (Amendment) Bill be read the Second time.

There are four amendments to the Waterworks Bill.

First, section 7 of the Waterworks Ordinance requires an approved consumer to accept responsibility for the "custody" of an inside service and any fire service in his premises and requires an approved agent to do the same for the communal service. "Custody" has not made it clear that it includes maintenance and repair of these services. Amendment to section 7 makes it clear that the consumer and the agent are responsible not only for "custody" but also for the maintenance and repair of these important services (that is, the services after the meters and within the premises by individual registered consumers and those before the meters and in common areas of the building by the agent).

Second, section 10 of the Ordinance does not empower the Water Authority to enter premises to carry out their required functions. These functions include meter reading, restricting or suspending the supply, disconnecting a service, establishing whether there is any contravention of the Waterworks Ordinance and to install, inspect, test, regulate, alter, repair or remove any part of the waterworks or any fire service or inside service. To correct this, the amendment to section 10 of the Ordinance will empower the Water Authority to disconnect the supply if the consumer fails to make arrangements for the Water Authority to enter premises or carry out any required function.

Third, section 20 of the Ordinance requires the consumer to pay all charges in connection with a metered supply but does not empower the Water Authority to demand charges in connection with the communal service. Section 7(2)(c)(ii) makes clear the responsibility of the agent to pay charges due in respect of a communal service, and the amendment to section 20 will provide consistency between section 7(2)(c)(ii) and section 20 to include the agent where charges pertain to the communal service.

Fourth, section 29 of the Ordinance states that any person who contravenes the section by unlawfully taking water shall be guilty of an offence. The amendment provides that the unlawful taking of water shall not only be an offence but that the person shall also be liable to pay a charge for the water so taken.

I strongly commend the amendments to this Bill to this Council.

*Bill referred to the House Committee pursuant to Standing Order 42(3A).*

## **TRAVEL AGENTS (AMENDMENT) BILL 1992**

THE SECRETARY FOR TRADE AND INDUSTRY moved the Second Reading of: "A Bill to amend the Travel Agents Ordinance."

He said: Mr Deputy President, I move the Second reading of the Travel Agents (Amendment) Bill 1992.

The purpose of this Bill is to implement a package of reforms which will, on the one hand, enhance the regulatory regime for the outbound travel industry and, on the other, offer increased protection to consumers.

The present two-tier regulatory regime for the outbound travel industry was first introduced in 1988. Under this regime, the Travel Industry Council regulates its members, with the Registrar of Travel Agents keeping a regulatory oversight on the self-regulator. In addition, the Travel Industry Council collects a levy based on the outbound package tour fares from travel agents, on behalf of its subsidiary, the Travel Industry Council Reserve Fund. In return, the Council receives from the Reserve Fund part of the revenue collected to finance the Council's operations.

A review of the regulatory regime was completed in 1991. It concluded that self-regulation had worked well, though there was room for further improvement in certain areas. After much negotiation and consultation with concerned parties, a package of reforms, endorsed by the Advisory Committee on Travel Agents, was agreed with the Travel Industry Council and the Travel Industry Council Reserve Fund last June. Some of these reforms have since been implemented. They include increasing the rate of *ex gratia* compensation to outbound travellers from 70% to 80% of the package tour fares paid, and reducing the levy payable by travel agents from 1% to 0.5% of the outbound package tour fares. Other features of the reform package, which are described below, await the enactment of this Bill.

First of all, the subsidiary status of the Travel Industry Council Reserve Fund to the Travel Industry Council, which has hampered the accountability and transparency of the Fund and has given rise to arguments on the ownership and on the use of the Fund, will be rectified. Under the Bill, a statutory compensation fund, to be called the Travel Industry Compensation Fund, will be established for outbound travellers. It will take over the assets and liabilities of the Travel Industry Council Reserve Fund. It will be managed by an independent Board to be appointed by the Governor. The Board will be empowered to make rules governing the disbursement of *ex gratia* compensation to aggrieved outbound travellers. One such rule will be to specify the rate of compensation payable as a percentage of outbound package tour fares paid by the travellers, after consulting the Financial Secretary. All the rules made will form subsidiary legislation to the Bill and will be laid before this Council.

Secondly, the Bill provides for the splitting of the present levy on outbound package tour fares into two discrete levies : a Fund Levy and a Council Levy, both to be paid by licensed travel agents on the basis of the outbound package tour fares. The Fund Levy will go to the new Travel Industry Compensation Fund for the compensation of travellers, while the Council Levy will go to the Travel Industry Council to help finance its self-regulatory efforts. With income from the Council Levy, the Travel Industry Council would have a secure and stable source of finance for the further development of a durable self-regulatory structure. To ensure the proper use of the Council Levy, a set of rules have been agreed with the Travel Industry Council. They include: first, the Travel Industry Council may only retain reserves up to a limit; secondly, the Council must submit its annual estimates to the Financial Secretary; thirdly, the Council will be subject to independent value-for-money audits and finally, the Financial Secretary may require the Council to contribute towards a certain percentage of its annual recurrent expenditure with income from membership fees and other non-levy sources. Initially we propose this should be set at 20%.

The Bill also provides that the rates of the two levies may be specified by the Financial Secretary from time to time. If this Bill is enacted, we propose to recommend to the Financial Secretary to set the Fund Levy at 0.35% and the Council Levy at 0.15%.

We have come a long way since the days when some travel agents defaulted and left thousands of holiday-makers unprotected. Since 1988 no travel agent has absconded and the number of complaints against travel agents has dropped. This could not have been achieved without the efforts of the Travel Industry Council in regulating its members. The Bill will help consolidate these efforts.

*Bill referred to the House Committee pursuant to Standing Order 42(3A).*

**EMPLOYEES RETRAINING BILL****Resumption of debate on Second Reading which was moved on 24 June 1992**

*Question on Second Reading proposed.*

MR PANG CHUN-HOI (in Cantonese): Mr Deputy President, our manufacturing industry certainly made immense contributions to our economic growth in its heyday in the 60s and 70s. Nowadays, although the manufacturing industry still plays a vital role, it becomes less and less important. The following figures can bear this out: the share of products from the manufacturing industry in the GDP decreased from 22.3% in 1986 to 17.2% in 1990 while the number of workers engaged in the manufacturing sector also declined from 875 000 in 1987 to 655 000 in 1991. Fortunately, there has been rapid development in the service sector which not only makes up for the loss in the manufacturing industry but also brings about further economic growth.

We have every reason to be proud of Hong Kong's outstanding achievements and its resilience to cope with the economic structural changes. However, we must not turn a blind eye to the predicament those workers easily falling victim to economic restructure are in. Labour representatives have all along requested the Government's recognition of the need to provide training or retraining for workers forced to change employment so as to help them find other new jobs. Moreover, in view of the unbalance between labour supply and demand as a result of our economic restructure, it is generally believed that the provision of retraining opportunities to workers forced to change employment will go a long way towards the filling of newly created vacancies.

Mr Deputy President, I am pleased to learn that the Government has acknowledged the need and merits of running retraining courses. The Bill before us today is indeed introduced for the establishment of an Employees Retraining Board which serves to monitor the running of the retraining courses for those workers forced to change employment and an Employees Retraining Fund to finance the courses.

The ad hoc group established by this Council to study the Bill had convened three meetings, one of which was held with the Administration. Although Members threw weight behind the establishment of the Employees Retraining Fund and the Employees Retraining Board, they were concerned about the fact that the Government obviously failed to make any financial commitment to the fund. Members generally thought that the levy collected from employers of imported labour was not a reliable source of income for the fund because any change in the supply and demand of our local labour may reduce or even remove the need of imported labour. Members also believed that no matter whether there is any need of imported labour, the Government still has to continue providing workers with retraining to help them seek other employment. In this connection, Members are of the opinion that we should

look to the needs of the local labour and the commercial and industrial sector in our organizing of retraining courses instead of whether the fund can meet the expenditure required. In order to ensure this significant principle can be followed, Members proposed to amend Clause 6(3)(e) of the Bill to demonstrate the Government's substantial financial commitment.

In consideration of the Members' concerns, the Government accepted a proposal, that is, to add under the relevant provisions in the Bill a clause stating that the fund shall include the Government's financial support. I am going to move the amendment in the committee stage. During his policy address made at the opening of the current session of the Legislative Council, the Governor informed this Council that \$300 million will be allocated to the fund. This announcement was made at an opportune time. I hope that the foregoing amendment can serve as an ever-present reminder that the Government has its commitment to the fund.

In view of the fact that the retraining of the local workers would be beneficial to the whole community, Members opined that the Government should not charge fees on the services provided by the Board in accordance with Clause 30 of the Bill. The Government explained that this provision must be retained as similar provisions had been included in other Ordinances concerning the establishment of other independent boards. Yet, the Government guaranteed that such fees would be kept as low as possible.

In our discussion with the Administration, Members also proposed that some technical amendments be made to the provisions with regard to the Employees Retraining Board's power to write off debts and to the Chinese version of the Bill. The Administration has accepted the proposals and I will put forward the necessary amendments when the Council goes into committee.

Mr Deputy President, this Bill has been a step in the right direction towards the assistance of those local workers employed in the declining manufacturing industry who deserve the Government's attention. The retraining programme, which is designed for the workers, can help them find other jobs and allow them to continue their contribution to the further development of our economy. For this reason, I hope Members will support this Bill and the amendments to be proposed later in the committee stage.

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

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, I support the Employees Retraining Bill before this Council today. As the representative of the labour sector, I am resentful that with economic restructure having been foreseen well in advance, the Administration should have failed to take precautions a few years ago when the problem first emerged and to make appropriate arrangements for a large number of workers who would be affected. I think that in the process of economic structural transformation, the

affected employees have the right to continue to take part in economic activities in order to make a living for themselves and their families. They should by no means be sacrificed for economic development. In conducting the retraining programme, the Administration should pay attention to the following points: (1) Those who need retraining are not young people, as relevant figures show that most of them are 30 to 40 years old; (2) they are not of a high level of education as their average education level is below Secondary III; (3) as they have long been engaged in production work, they may not be psychologically prepared to undertake work of another nature, and so they need to be assisted in adjusting themselves to a new working environment; (4) their enthusiasm for retraining has been dampened by the lack of guarantee for employment. A survey has shown that the salaries of some retrained workers can be as low as about \$3,000 a month, and the percentage of retrained worker getting employment in another trade is also low, only some 40%. With such a dim prospect, it is only natural that they will baulk at retraining; (5) the pressing need to make a living has prevented them from spending too much time in full-time retraining or in awaiting their turn for retraining; (6) workers who are under-employed and those engaged in "sunset" industries obviously need retraining.

Mr Deputy President, the experience of the Provisional Retraining Fund Board in the past six months has borne out that the retraining programme has attached too much importance to the demands of the market, is not comprehensive enough, and has failed to take into consideration the trainees' education background, their working experiences, as well as the information and basic knowledge required by the new jobs, the lack of which will fail to equip the trainees with the ability and confidence required in a new working environment. According to the findings of a survey conducted by the Hong Kong Productivity Council on the situation of workers in the electronics industry switching to jobs in the service sector, most who failed to find jobs in the service sector were female persons over the age of 35. The Productivity Council also conducted an experiment by finding eight persons who were looking for employment in the service sector and providing them with training for working in convenience stores. The training consisted of 20 sessions on interviewing, communication, interpersonal and self-management techniques. Employers were also invited to attend the training course, so that they and the trainees could understand the expectations of each other. The result of this training course was excellent with all the eight trainees successfully getting employment at the end of the course. Although some other factors need to be considered before a full explanation of the result of this experiment could be attempted, there is an obvious and important message from the experiment: Besides the technical requirements of particular occupations, self confidence, interpersonal skills and active attitude should also be taken into account in setting a retraining programme. Moreover, the participation of and communication between the employers, employees and trade unions will help to set a clear and specific objective for the retraining course, so that it will not become an endeavour serving no useful purpose.

The implementation of the labour importation policy and the principle of retraining are in fact running at opposite directions. Sectors with quota of imported labour are most often the target sectors of the retraining programme. As there is no employment guarantee for local workers, the prospect of retrained workers finding jobs will naturally be affected. Therefore, I have to point out that the retraining programme is not a decorative piece to adorn the labour importation policy. The policy itself should be reviewed, otherwise the programme, no matter how well it is designed, will just be form without substance. Moreover, the Administration, before planning the programme, has not carefully evaluated the situation nor conducted any in-depth study. It has failed to promptly grasp in detail the information concerning relocation or closure of factories, and what kind of factories would need what kind of workers and how many. This has resulted in passivity and inflexibility in setting the programme and offering employment services. Therefore the Employees Retraining Board to be set up soon should make more efforts to peg employment to training by finding out for the workers to be laid off soon factories or companies which are short of manpower, and then designing for these employers tailor-made programmes which will be suitable for these workers. In order to actually help these workers who have to shoulder a heavy burden of livelihood and are therefore in urgent need of finding employment in a new sector, further improvements should be made to the training programme in terms of skills and course content, such that the trainees can see a better prospect and will not be discriminated against in the new sector, and that their pay will not fall drastically. Importance should also be attached to training courses offered after working hours and training of a longer duration. Furthermore, we should not just encourage employers applying for imported labour to employ retrained workers; we should set up some feasible mechanisms under which the employers will be bound to employ the retrained workers if they comply with the conditions set out in the application for imported labour of the same category, and in such circumstances, any employers who choose to employ imported labour instead of the local retrained workers shall be liable to punishment. Currently, the skills acquired from the retraining programme are not generally recognized. Will the Administration therefore consider giving the trainees a graded assessment regarding their acquired skills by referring to the practice of the British National Professional Qualifications Committee? Finally, I think that the waiting time for receiving retraining should be significantly shortened.

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

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy President, the labour sector has been pressing the Government to take up the responsibility of retraining for many years. Regrettably, the implementation of a retraining scheme has all along been rejected by the Government until now when the Government has to cool down the anger of the labour sector for the expansion of the labour importation scheme. Although I fully support the retraining scheme, if the Government attempts to divert people's attention from the labour importation

scheme by means of this instead of genuinely and sincerely assisting workers who have been weeded out to find a new job, then I am duty-bound to expose the Government's hypocrisy.

Mr Deputy President, part of the funding for the retraining scheme, in fact, comes from the hard-earned wages of the imported workers. I strongly oppose to such a move. To deduct \$400 from the wages of the imported workers to finance the retraining scheme is a policy which exploits the imported workers and protects the employers. I think the employers should shoulder the responsibility as the objective of the retraining scheme is to provide an appropriate labour force to the employers.

The success of the retraining scheme is dependent on whether the retrained workers can change their jobs successfully. Yet, the labour importation scheme runs exactly contrary to this objective. Among the workers who need to be retrained, many of them are workers in the manufacturing industry who have education standards of Form III or below and are above 30 years of age. Their chances of switching jobs, to a very great extent, are blocked by the imported workers. Two obvious examples are the retail industry and the hotel catering industry. The importation of foreign workers gives great advantages to the employers of these industries, offering them choices, enabling them to reject middle-aged workers, thus depriving the retrained workers of the job opportunities. So the Government should cancel all quotas relating to occupations which are the targets of the retraining scheme.

Moreover, the retraining allowance \$2,800 is low and discourages those in need of retraining from joining the scheme, thus making the scheme difficult to succeed. At present, a great majority of workers who have joined the scheme are female workers (which accounts for about 70% to 80% of the participants), while the number of male workers is disproportionately low. I have asked several tens of male workers whether they were interested in joining the scheme. Most of them responded by making the remark: "How will my family survive with \$2,800?" If we are serious in assisting the workers to switch their jobs, we have to increase the retraining allowance so that the livelihood of the workers and their families would not be badly affected and the workers would not find the scheme unrealistic.

The Governor undertook in his policy address to inject \$300 million to retrain 15 000 workers over the next two to three years. The Hong Kong Confederation of Trade Unions has made a request to the Secretary for Education and Manpower, asking the Government to inject \$450 million annually so that 20 000 workers can be retrained each year. According to the *Report on Manpower Outlook in the 1990s* published by the Education and Manpower Branch, by 1996, 84 000 workers with educational standards below junior secondary level would encounter employment difficulties. In order to assist those workers who might encounter employment difficulties to switch jobs, 20 000 workers have to be retrained each year. Based on these

projections, the Government's one-off injection of \$300 million to retrain 15 000 workers over the next two to three years is obviously insufficient.

Mr Deputy President, on behalf of the Hong Kong Confederation of Trade Unions, I would like to make the following suggestions to the Government:

- (1) To do away with the policy of importation of foreign labour while the retraining scheme is implemented;
- (2) To inject \$450 million annually so as to retrain 20 000 workers each year; and
- (3) To increase the retraining allowance to \$4,000 a month (that is, 2/3 of the median income in the manufacturing industry).

Thank you.

MISS EMILY LAU (in Cantonese): Mr Deputy President, I support the Employees Retraining Bill. Like my colleagues who have just spoken, I feel that the scheme comes too late. The Administration has paid no attention in recent years to problems caused by the restructuring of the economy. Its failure to introduce the scheme earlier results in many workers aged between 40 and 50 being unemployed or unable to find a job for a living due to the re-structuring of the economy. Now that the Administration introduces the scheme, I believe it is better to have it late than never. I entirely agree with the points raised by Mr LAU Chin-shek and I am not going to repeat them here. Nevertheless, I wish to tell the Administration that this "late" scheme is of no help to some workers. I have heard some officials remark that some cases were "incurable". Once again, I urge the Administration to think of ways to look after those who cannot switch jobs even after receiving help from the Administration. How would the Administration care for them when they have reached a dead end? I hope the Administration will draw a lesson from this matter and formulate as soon as possible a comprehensive policy on industry and employment. The manpower resources of Hong Kong should not be wasted any more.

Mr Deputy President, regarding this retraining scheme, I would like to raise two points:

Firstly, I hope courses introduced by the Administration will meet actual needs. Enterprises in Hong Kong are mainly companies of medium and small size and factories. There is no subtle division regarding the requirements for skills. Take an operator of a Chinese typewriter as an example. Besides operating a Chinese typewriter, he may have to take up other duties like proofreading. Therefore a person having been trained in operating a Chinese typewriter may not be able to find a job if his Chinese standard has not reached a certain level. In this regard, the Administration's response is that it will set up

a curriculum development committee and invite people from the relevant sectors to sit on it. In the Administration's view, that would be a solution to the problem. Apart from such a move, can the Administration consider making a research on companies or factories in which vacancies have long existed to find out why they have vacancies, what kind of staff they require and what the salaries are. With such scientific information, the Administration will be able to plan the courses and some workers may be given assistance in finding work. Furthermore, the Administration can have more information to help it understand the needs of the manpower market of Hong Kong.

Secondly, Mr Deputy President, if the Administration wants the retraining scheme to be successful and benefit more needy workers, I believe besides considering the curriculum and the number of places, the Administration should have regard to some practical issues such as the venue where courses are conducted. I heard that some workers living in Tuen Mun have to go to Aberdeen to attend courses. To them, the travelling expenses incurred are very great. They may also feel inconvenient. Could the Administration cater for the needs of workers in this regard?

Lastly, Mr Deputy President, I am very pleased to hear the Governor mention in his policy address that there will be an injection of \$300 million into the Fund. Members of the ad hoc group have earlier urged the Administration to make such a move when they discussed this Bill. At the time, the Administration replied that it would not do that. We also asked the Administration to make some amendments to the Bill to include certain words to that effect and the Administration agreed to that only after long deliberation. Now that strong man Mr Chris PATTEN comes to Hong Kong, the Administration performs a *volte-face*. Is it that because a strong man is in power, things that could not be done in the past can be done now? The public may feel that the Administration has no policy at all. Now a strong man comes, everything changes. We will certainly be happy if the strong man performs well. But, Mr Deputy President, we do hope that the Administration will have a set of carefully-planned policies and let Hong Kong people know that our welfare does not hinge on one person. Finally, Mr Deputy President, I hope the Administration will make long-term and positive commitments to workers of Hong Kong and the retraining scheme. I support the motion.

MR HOWARD YOUNG (in Cantonese): Mr Deputy President, I support the Employees Retraining Bill. During the discussion of the Bill, many Members of the ad hoc group were aware that Hong Kong was undergoing an economic restructure. This is a reality and the development is inevitable. The commercial and industrial sectors of Hong Kong are indeed not alone in facing economic restructure, which also takes place in many other economies around the world. If the enterprises in Hong Kong are to maintain their viability, to continue their contribution to the well being of Hong Kong, and to sustain their competitive edge in the international market, there are, I think, only three ways forward:

First of all, the source of resources has to be increased in order to tackle the shortage of resources including that of labour. The best way would be to equip the local workforce for the change, and the retraining programme will be an excellent way of increasing our human resources. If this does not work, there is indeed another way, which we have already put into practice, and that is the labour importation, a policy which has come under criticism by some people. I do not quite agree with some Members that the importation of labour and the employees retraining programme are running at opposite directions. On the contrary, I think that the two measures share the same objective, and if they can attain the same objective, they can be taken at the same time. But when both measures fail to boost the labour resources, factory operators, in a bid to maintain their competitive edge, can only resort to a third alternative, which is to transfer certain manufacturing processes to places where they can churn out products at more competitive cost. This is not the best solution although this may enable our industries to retain some of their businesses in Hong Kong. I therefore think that retraining for serving workers and training for those who have newly joined the relevant industries are definitely the best solutions.

During the discussion of this Bill, many Members of the ad hoc group thought that we should not rely solely on the levies imposed by the labour importation scheme for the funding of the retraining programme. The reason is that if the economy of Hong Kong is at a low ebb and unemployment rate rises, there will be no more need for imported labour. In that case, problems will arise as regards the source of the fund which relies solely on the levies on the imported workers or their employers. During the discussion, we unanimously requested the Administration to make a commitment not to rely solely on the levies on labour importation scheme for the funding of the retraining programme. In response, the Administration only made a half commitment by saying that the retraining fund can accept other sources of revenue. Like Miss Emily LAU, I was very pleased to note last week that the Governor made a commitment in paragraphs 21 and 22 of his policy address of injecting \$300 million into the Employees Retraining Fund. I hope that the Administration, in implementing the retraining programme, will see to it that the programme must have a certain flexibility. Firstly, it must be realized that the operations of the manufacturing workers in Hong Kong are becoming more and more specialized, changing from multi-step operation to single-step operation. The retraining programme, however, is designed for the purpose of adapting workers to the service sector, which, exactly opposite to the manufacturing sector, is moving from single-skill work towards multi-skill work. That is to say, it is not enough for a staff to have knowledge in a certain aspect, for an employer may expect all his employees to undertake various kinds of duties. For example, an office clerk, besides being able to input data into computer, may also be required to be able to handle incoming and outgoing correspondence, operate typewriter, or even undertake executive duties. So I hope that in running the retraining programme, the Administration will not just concentrate on the acquisition of a certain skill, but will also offer the trainees a more comprehensive knowledge including the handling of interpersonal relationship and general office practices. Only with such knowledge can they find a better job.

Another aspect which deserves attention is the target of the retraining programme. The programme should not be too mechanical and the schedule set for the programme should not be rigid. We should not assume that it is enough to help the trainees to attain only the most basic skills, because in recruiting a staff, employers will have in mind the competitive standards of the labour force available on the market. If a person acquires only the basic skills for a certain job, he will be in a disadvantageous position as against other experienced workers available on the market in terms of finding a job. Therefore, I hope that the Administration, in conducting the training programmes, especially those for the service sector, shall set the target at the level of experienced workers, instead of merely teaching the most basic skills. Otherwise, I am afraid such a programme cannot achieve much.

Mr Deputy President, I support the Bill.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): In his policy address to this Council a week ago, the Governor made it clear that the Government is determined to make a success of the Employees Retraining Scheme. As Hong Kong continues to undergo economic restructuring, most local workers have adjusted successfully and moved to new jobs, but there are some who are less able to adapt to technological and structural changes and who need help. Our plan is to retrain about 30 000 displaced workers in the next two to three years. The additional \$300 million to be injected by the Government, together with the income generated by the levy paid by employers importing labour, will enable us to meet this target. The injection of \$300 million by the Government is a direct and positive response to Members' request for a clear demonstration of the Government's commitment to the Retraining Scheme. Some Members have queried whether this injection is adequate and whether there would be further injections in future. Our response is a pragmatic one. We have made a good start on retraining through the tripartite effort of the Provisional Retraining Fund Board. Much further work remains to be done by the Employees Retraining Board which will be set up as soon as possible after passage of this Bill. In this connection, I am grateful to the Honourable Members who have just spoken for the many helpful suggestions they have put forward. These will be followed up. We shall have a stable Employees Retraining Fund of over \$500 million for the next two to three years to fund relevant retraining courses. As regards the possibility of future funding over and above the \$300 million we have decided to put in, the question can be considered in the light of actual needs and competing priorities when the time comes. I should like to thank Members who spoke just now for their invaluable opinions on our work in future. We would continue to work in accordance with these opinions.

Mr LAU Chin-shek has suggested that the rate of the retraining allowance is insufficient. The power of adjusting the rate of allowance will rest with the tripartite Employees Retraining Board once the Bill is enacted. Mr LAU's views will be forwarded to the Board for consideration. But I should like to

say this: it is important to avoid the retraining allowance being seen as an unemployment benefit. It would certainly be problematic if the retraining allowance were to be pitched at too high a level.

Finally, I wish to take this opportunity to thank Members of the ad hoc group set up to study this Bill. They have devoted a lot of their time and energy to the detailed examination of both the English and Chinese versions of the Bill. Mr PANG Chun-hoi has given notice that he will move certain amendments at the committee stage to improve the clarity of the Bill. I am pleased to confirm that the amendments have the Administration's support.

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).*

## **BUILDINGS (AMENDMENT) (NO. 2) BILL 1992**

### **Resumption of debate on Second Reading which was moved on 27 May 1992**

*Question on Second Reading proposed.*

MR EDWARD HO: Mr Deputy President, I believe many of us still remember the incidents which took place two years ago involving the collapse of buildings. The incidents have aroused concern over building maintenance and safety in Hong Kong, and prompted the Administration to carry out an enhanced survey of buildings with the objective of categorizing the buildings for priority of action. As a result of that survey, about 17 000 buildings were noted as requiring further investigation. According to the Government's assessment, it would take the Buildings Ordinance Office five years to have all of them inspected. A number of ways to speed up the process were suggested then, and the proposal in the Bill before us today is one of them.

The basic purpose of this Bill is therefore to improve building safety in Hong Kong and to make the owners more directly responsible for the maintenance and repair of their buildings. It seeks to give the Building Authority the power to require the investigation of buildings found to have defects and the submission of proposal for work to be done to remedy such defects. It also seeks to give similar power to the Building Authority to deal with defective building drainage works.

The Legislative Council ad hoc group set up to study the Bill supports the principle of the Bill. Members of the group are however concerned about its likely impact. They have been advised by the Administration that, of the 17 000 buildings referred to earlier, action has been undertaken on 5 000 of them, leaving about 12 000 that require detailed inspection. The Bill is targeted at this group of buildings which would pose a threat to safety. The Administration has advised the group that although it is within the ambit of the Bill, it is not the intention to cover dilapidated buildings at this stage because of limited resources.

The ad hoc group has also received representation from the Sham Shui Po Private Buildings Residents' Mutual Aid Team. The group's concerns are mainly on administrative arrangements for implementing the proposals in the Bill. The group has made a number of suggestions, such as organizing more publicity and educational activities on building safety, especially for those involved in building maintenance and management, simplifying the procedures of obtaining copies of building plans, providing information on authorized persons and contractors, publicizing the appeal procedures, allowing for payment of works carried out on owners' behalf by instalments if necessary, assisting in the formation of residents organizations to oversee remedial work, and so on. The suggestions are all constructive and have been submitted to the Administration for consideration. I understand that the Administration has accepted them and some have already been implemented.

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

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, in discussing this Bill, we understand that the people of Hong Kong, especially residents' organizations which the ad hoc group has met, see the importance of and feel the need of building maintenance. The ad hoc group therefore supports the Bill. Representatives of residents' organizations whom we have met consent to the amendments to the legislation and wish to see that their buildings will be better maintained in future. However, there is some restriction on the implementation of the Bill. This concerns the 12 000 buildings which require repairs. Most of these buildings are old buildings which were built 20 to 40 years ago. Residents in these buildings are mostly elderly and less well-off people living as tenants. They are worried about the implementation of the Bill. What is worrying to them is not the legislation itself but the execution of the policy. Now, I would like to state their anxieties in the hope that the government departments will be aware of their worries in the process of law enactment and will render some assistance to the tenants and residents when the relevant legislation is enforced.

Most of the proposals have been put forward by Mr Edward HO just now and I will not repeat them here. I only wish to say something which Mr HO has not mentioned. Firstly, I would like to refer to the plan of a building. Under the existing legislation, an application for the plan of a building by individual

residents will not be entertained. We hope the Administration will relax this restriction so that apart from some professionals or companies, landlords and tenants may apply for plans of buildings for the carrying out of maintenance work. This will help to save them money and reduce the expenses of elderly residents. Secondly, when the law is referred to, elderly people will usually feel concerned over whether they have violated the law and the consequences of such a violation. Could the Administration publicize such consequences when conducting publicity work? Thirdly, the Administration has all along been putting emphasis on maintaining a small growth rate, even zero growth for the Civil Service. During a meeting with members of the ad hoc group, government officials made a suggestion that the authorities would send staff to organize residents of buildings requiring repairs. It was thought to be desirable if the residents could form an owners' corporation or a mutual aid committee or to discuss with tenants about the repair works. The suggestion, if implemented, will naturally lead to an increase in manpower. The arrangement will take immediate effect on the passing of the Bill. But will government staff be increased at the same time so that there will be sufficient resources for such work, especially organizing residents, to be carried out smoothly? I support the proposals put forward by Mr Edward HO and the amendments to the Bill. Thank you, Mr Deputy President.

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Mr Deputy President, I am grateful to Mr HO and other members of the ad hoc group for their very careful consideration of the Bill. The Committee stage amendments which I shall move later will address the drafting aspect of the Bill. I shall now respond to the other points raised by Members on the implementation of its provisions.

Concern has been expressed at the potentially large number of buildings which will be affected by the Bill and its effect on building owners. I would like to emphasize that the proposed section 26A will initially be applied selectively to complement the on-going survey activities by the Buildings Ordinance Office. Priority will be given to buildings that pose a potential threat to safety. The particular concern of the Building Authority will be made known to building owners under the terms of an investigation order. Dilapidation which only affects the appearance of the building will therefore not be on the top of his priority list. However I should add that it is in the building owners' interest to ensure that any dilapidation is attended to promptly, lest it deteriorates to structural danger.

Members have suggested that appropriate publicity be given to facilitate the implementation of the Bill. I agree fully with their views. A fresh publicity campaign on building safety has been launched since last month. A press conference will be held after the Bill is passed into law to explain its provisions further. In addition, the provisions of the Bill will be included in the information pamphlets prepared by the Buildings Ordinance Office, which can be obtained from District Offices. Finally, a new 24-hour Building Safety

Hotline has been established to further improve our enquiry service and disseminate information to the public.

Members have also suggested that the affected building owners should be given as much assistance as possible.

As regards financial assistance, the prime responsibility for ensuring the proper maintenance and repair of buildings lies with their owners. Nonetheless, the Buildings Ordinance Office will give due regard to the ability of building owners in organizing and paying for the professional services required. In the case of orders which go into default, sympathetic consideration will be given to request for payment by instalments when financial hardship is proven.

Moreover, the Buildings Ordinance Office will provide as much administrative assistance as possible to building owners to carry out the required work. For instance, an explanatory letter will accompany the orders issued. A list of authorized persons and registered structural engineers, as well as a list of registered contractors who are prepared to provide services in respect of building safety, are available for public inspection in all District Offices as well as the Buildings Ordinance Office. In addition, the Administration is discussing with the relevant professional organizations on whether sample contracts and a scale of fees can be made available for the reference of building owners.

Finally, the Administration is always prepared and willing to discuss with building owners and tenants concerned in cases where they find difficulty in complying with the orders. 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**

Council went into Committee.

### **EMPLOYEES RETRAINING BILL**

Clauses 1 to 4, 7 to 9, 11, 13 to 16, 18 to 31 and 33 were agreed to.

Clauses 5, 6, 10, 12, 17 and 32

MR PANG CHUN-HOI (in Cantonese): Mr Chairman, I move that the clauses specified be amended as set out in the paper circulated to Members.

*Proposed amendments*

**Clause 5**

That clause 5(2) be amended, by deleting "適用性" and substituting "一般性".

That clause 5(2)(1) be amended, by adding "subject to section 10," at the beginning.

**Clause 6**

That clause 6(3)(e) be amended, by adding "including any moneys provided by the Government for the purposes of the Fund" after "Board".

**Clause 10**

That clause 10 be amended, by adding —

"(3) For the purposes of this section the Board may write off the whole or any part of any debt due to the Board which it reasonably considers irrecoverable.

(4) Any write off under subsection (3) shall not extinguish any right of the Board to recover the debt which has been written off.".

**Clause 12**

That clause 12(1) be amended, by deleting "效用" and substituting "效驗".

**Clause 17**

That clause 17(1) be amended, by deleting "批准" and substituting "認可".

**Clause 32**

That clause 32(1) be amended, by deleing "誠意" and substituting "真誠".

*Question on the amendments proposed, put and agreed to.*

*Question on clauses 5, 6, 10, 12, 17 and 32 as amended, proposed, put and agreed to.*

Schedules 1 to 4 were agreed to.

**BUILDINGS (AMENDMENT) (NO. 2) BILL 1992**

Clauses 1, 2 and 4 were agreed to.

**Clause 3**

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, I move that clause 3 be amended as set out in the paper circulated to Members.

The Buildings (Amendment) Ordinance No. 42 of 1992 was enacted on 22 May 1992. The present Amendment No. 2 Bill has to be amended now to reflect the changes put in place by the previous amendments. However, no substantive changes are involved. Clause 3 is aimed at preventing numbering anomalies only.

*Proposed amendment*

**Clause 3**

That clause 3 be amended, by deleting the clause and substituting —

**"3. Drainage**

(1) Section 28(3) is amended by repealing everything after "condition" and substituting -

"he may by an order in writing served on the owner of such building require -

- (a) such drainage works as may be specified in the order to be carried out;

- (b) an authorized person to be appointed to carry out such investigation in relation to the drains or sewers of such building as may be so specified; and
- (c) the submission for approval by the Building Authority of proposals for drainage works to be carried out to remedy the inadequacy or the defective or insanitary condition, being proposals based on the findings of the investigation, within such time or times as may be specified in the order.".

(2) Section 28(4) is repealed and the following substituted -

"(4) Where proposals for drainage works are submitted pursuant to an order under subsection (3), the Building Authority may -

- (a) approve the proposals;
- (b) require amendments to or substitution of the proposals; or
- (c) refuse to approve the proposals.

(5) On approving any proposal for drainage works required to be submitted under subsection (3), the Building Authority may by an order in writing served on the owner referred to in that subsection require the carrying out of such approved works within such time as may be specified in the order.

(6) All investigations specified in an order under this section shall be carried out to such standard acceptable to the Building Authority and in compliance with the regulations.

(7) Where the owner referred to in subsection (3) cannot be found or fails to comply with any requirements of an order served under this section or where there is a failure to comply with any requirement in subsection (1) or (6) or where approval is refused for proposals submitted under this section, the Building Authority may, without further notice, carry out or cause to be carried out -

- (a) all or any part of the drainage works or investigation specified in the order;

- (b) such other investigation as he considers to be necessary or expedient; and
- (c) such drainage works as he considers to be necessary or expedient to remedy the inadequacy or the defective or insanitary condition, having had regard to the findings of the investigation in relation to the drains or sewers of the building, whether such investigation is done by the owner referred to in subsection (3) or by the Building Authority,

and the Building Authority may recover the costs thereof from that owner.

(8) In cases of emergency the Building Authority may carry out or cause to be carried out such drainage works as may appear to him to be necessary by reason of the emergency either with or without notice to the owner referred to in subsection (3) and the costs thereof shall be recoverable from that owner.

(9) The decision of the Building Authority that a particular case is one of emergency shall be final and binding on all persons."."

*Question on the amendment proposed, put and agreed to.*

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

New clause 5      Validation

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

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, I move that new clause 5 as set out in the paper circulated to Members be read the Second time.

The new clause 5 is needed to preserve the original intent of the validation clause introduced by the Buildings (Amendment) Ordinance No. 42 of 1992 enacted on 22 May 1992.

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

Clause read the Second time.

**New clause 5 Validation**

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: I move that clause 5 be added to the Bill.

*Proposed addition*

**New clause 5 Validation**

That the Bill be amended, by adding —

**"5. Validation**

Section 55 is amended -

(a) in subsection (2) by repealing "section 3" and substituting "section 3(a)"; and

(b) by adding -

"(2A) Every act or thing done by the Building Authority or by any public officer authorized by him in writing in that behalf, before the commencement of the Buildings (Amendment) (No. 2) Ordinance 1992 ( of 1992) that would have been lawful if -

(a) section 28(7)(a); and

(b) section 28(7)(c) (in so far as it related to the power to carry out or cause to be carried out such drainage works as the Building Authority considers necessary or expedient but as if there was no requirement to have regard to the findings of an investigation),

had been in force at the time when it was done is hereby validated and declared to have been lawfully done by him."".

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

Council then resumed.

**Third Reading of Bills**

THE ATTORNEY GENERAL reported that the

**EMPLOYEES RETRAINING BILL** and the

**BUILDINGS (AMENDMENT) (NO. 2) BILL 1992**

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

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

Bills read the Third time and passed.

**Members' motions****SUSPENSION OF STANDING ORDERS 21, 22 AND 69**

DEPUTY PRESIDENT: Mr Jimmy McGREGOR, the President has given consent for you to move a motion under Standing Order 68 to suspend the applicable Standing Orders to enable you to move a motion on the composition of the proposed 1995 election committee. You may move your motion now.

MR JIMMY McGREGOR moved the following motion:

"That Standing Orders 21, 22 and 69 be suspended in order to enable a Member to move without notice at this Sitting a motion in the following terms -

In the light of the public support for the continued democratization of Hong Kong's political system, this Council agrees with the Governor that if it is necessary to form an election committee for the 1995 elections, it should be composed of the democratically elected members of the District Boards, thereby providing the greatest possible degree of democracy in the circumstances and the widest possible participation by the people of Hong Kong."

MR JIMMY McGREGOR: Mr Deputy President, last week the Governor spoke to this Council on many matters of great concern to us all. These included the proposed arrangements for the further democratization of the system of government in Hong Kong. This far-reaching package of proposals, which will be discussed in Beijing during the Governor's visit next week, contains one proposal of very special significance. This proposal is at the heart of the package of measures to secure deeper and wider representation for the people of Hong Kong on this Council. I refer of course to the proposal to ensure that all

members of the Election Committee which will elect 10 Councillors to the Legislative Council in 1995 are themselves elected and that therefore all District Board members will be directly elected in 1994 and will form all or most of the membership of the Election Committee. I believe that a majority of the Members of this Council, regardless of their political affiliations or convictions, will support this simple formula, and that the people of Hong Kong will also strongly support it. I am glad to say that it has been wholeheartedly endorsed by the Hong Kong Democratic Foundation. I have no doubt that it will be supported by a large majority of the members of the Hong Kong General Chamber of Commerce.

Mr Deputy President, I put together a similar proposal some time before the Governor's speech and submitted it on 13 September to the Members of this Council for consideration by the Constitutional Development Panel. That discussion was held on 23 September and as far as I can recall a majority of members of the panel supported the principle involved. I had therefore intended to ask the Council to debate this very special and significant issue in a motion debate. The time was agreed by the Council Secretariat. The Governor subsequently delivered his speech and views on this issue. These were close to my own and to those of a number of my colleagues on this Council. I believe that the support of the Council for this most constructive and democratic proposal will be very helpful indeed to the Governor if it can be given prior to his visit to Beijing. It would then add strength to the proposal and greater weight and credibility to the overall package of political reforms which the Governor will present to the Chinese authorities on our behalf. I do not ask this Council to discuss any other matters referred to in the Governor's address last week. I realize that there will be differing views on other aspects of the political package and that these will be aired next week in this Council. The Governor will be in Beijing at that time, however, and I feel that the result of that debate will not be as useful to him as the one I propose today due to the timing.

Mr Deputy President, I hope my colleagues will forgive me for choosing what seems to be a rather convoluted method of seeking debate in this Council. I am only doing so because I believe strongly that the Governor will carry with him to Beijing the hopes and aspirations of the people of Hong Kong whose best interests we are in this Council wedded to. I will seek approval for my motion at a later stage this afternoon. I therefore ask the Council to agree that Standing Orders 21, 22 and 69 be suspended to allow my motion debate on this important issue to proceed.

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

*Question on the motion proposed.*

DEPUTY PRESIDENT: Members will appreciate of course that they are being asked to consider whether the relevant Standing Orders should be suspended so as to enable Mr McGREGOR's substantive motion to be debated. This, of course, is not the debate on the substantive motion. On the question of length of speeches, I would remind Members of the decision of the House Committee that generally speaking Members should limit their speeches to seven minutes each. For the assistance of Members, it will be noted that we have clocks on both sides which will register the time that a Member takes and at six minutes there will be three beeps and at seven minutes a continuous beep, at which time I hope Members will respect the views of their House Committee and conclude their speeches.

MR MARTIN LEE: Mr Deputy President, in deciding whether we wish to debate today the motion put forward by the Honourable Jimmy McGREGOR, we must ask ourselves one central question: do we wish to stand up and decide our future for ourselves or do we wish to sit down passively and let others decide for us?

Mr Deputy President, we should debate this motion today in order to make clear to both the British and Chinese Governments what kind of election committee we in Hong Kong wish to have. The composition of the election committee is not a matter related to defence or foreign affairs. It is an internal affair, and according to the Joint Declaration, Hong Kong should have the autonomy to decide its internal affairs for itself. What the debate today will do is to let both governments know in advance the wishes of the people of Hong Kong expressed through their representatives in this Council. Then, surely, both governments will have a duty to respect our view.

The course advocated by those who do not wish to debate this motion today is tantamount to abandoning our fate to the British and Chinese Governments. We should sit silently, they say, and let Britain and China decide what is best for us. How many times in the past have we seen such a strategy backfire? How many times in the past have we waited silently for Britain and China to negotiate, only to find out they have backed down from the clear commitments in the Joint Declaration and forsaken Hong Kong's interest? Think of the Court of Final Appeal. Would it not have been much better for this Council to have expressed its view clearly to both governments on that issue before the terrible agreement was reached to limit the court's independence and flexibility in deciding on how many judges should be invited from overseas jurisdictions to hear particular appeals?

Public opinion polls have already indicated a wide degree of support for the electoral proposals put forward by the Governor. Surely, this Council should similarly express our views on this very important subject. In the past we have seen Britain back away too many times from its commitments under pressure from Beijing on the pretext that it was acting in Hong Kong's best interest. Given such a history, it would be irresponsible for this Council to

allow the Governor to go to Beijing without letting him have the benefit of our views. And if this Council should, certainly I hope it will, support Mr Jimmy McGREGOR's substantive motion in due course, then the Governor must not climb down from his own proposal.

I should stress that the composition of the election committee is in no way a new issue. The Constitutional Development Panel has already publicly supported Mr McGREGOR's proposal. When we discussed the issue a few weeks ago, no one said then that we should wait until after the Governor's trip before stating our position.

In conclusion, the composition of the election committee should be entirely up to Hong Kong to decide. Let us go forward now and decide this issue so that Britain and China will be absolutely clear as to the wishes of the people of Hong Kong. Only then will we take a step towards realizing the promise of Hong Kong people ruling Hong Kong with a high degree of autonomy.

Mr Deputy President, as usual, I take great pleasure in supporting Mr McGREGOR's motion.

MR ANDREW WONG (in Cantonese): Mr Deputy President, I speak in support of the motion to suspend the relevant Standing Orders, that is, Standing Orders 21, 22 and 69, so that Mr Jimmy McGREGOR may move a motion on matters related to the formation of an election committee in 1995. I do not intend to make a lengthy speech here; I shall just state two simple reasons. Mr Martin LEE has made too strong a point; that perhaps is why I shall be focussing on the technical side of the question in my speech.

Firstly, we agreed to move forward with this debate at the House Committee meeting on 7 October. It was held in the morning on the same day of the Governor's address. So, why are we in two minds about this? Of course, if we made a mistake then, we may correct it now as we need to correct each and every mistake we made. But have we made any mistake? I do not see any. If we should decide to suspend certain Standing Orders for technical reasons, then it is something which we have been doing regularly. Today's arrangement, for example, is completely identical with the one on 29 April 1992 when the Honourable Mrs Elsie TU moved a motion to suspend Standing Order 11. Under Standing Order 68 the President or the Deputy President may move, without notice, a motion to suspend certain Standing Orders in order to proceed with some business of this Council. You may refer to the Chinese version of the 1991-92 Legislative Council Hansard (pages 1969 to 1970).

Secondly, I should like to point out that the existing Standing Orders in respect of the arrangement for debate on the policy address are somewhat obsolete and far from being perfect. It is evident that most Members will express their opinions immediately after the address. Fourteen days are indeed

too long a period to wait. Although there will be a two-day debate after 14 days, it lacks a clear focus and bearing in addition to the absence of an appropriate atmosphere as Members will only be expressing their opinions on the wide-ranging contents of the address. Besides, it will be another seven days before the officials will reply, thus rendering the debate meaningless.

Mr Jimmy McGREGOR's motion is definitely a refreshing breeze to lift us from the doldrums. Maybe we can consider if we could make better arrangements for policy debates in future? Why can we not hold a more meaningful and effective debate on the policy address? For example, we may hold a three-day debate seven days after the address and separate the debate into three or even six themes, that is, assigning two themes to each day of the debate totalling six themes, during which officials will reply immediately after presentation by Members. I believe this kind of debate will be more meaningful and effective. If we should adopt this arrangement, Members will no longer have to "jockey for positions" to move so-called motion debates.

Mr Deputy President, I wish my respectable colleagues could consider adopting my proposal for the policy debate next year (I do not intend to overturn the existing house rules), so as to improve the efficiency and effectiveness of our proceedings in the future.

Mr Deputy President, today's debate on the election committee is within our original plan. It is again very meaningful. However, the notion whether individual Members intend to "raise the stake" for the Governor's negotiations in Beijing, or whether this "stake raising" is beneficial to the negotiations, or whether the impact of this is beneficial or harmful to the long-term prosperity and stability of Hong Kong is all unrelated to the central objective. It is because we are an assembly the purpose of which is for us to give our views. Should we cancel this debate which we have already agreed to have simply because of a technicality? Even if this debate is stalled today it will return on 21 October when the confrontation among all sides will be all the more intensified.

Mr Deputy President, I support the motion.

DR LEONG CHE-HUNG: Mr Deputy President, I rise to support Mr McGREGOR's motion to suspend the three Standing Orders so that we can move forward to debate a very important issue by Members of this very high law-making body which carries the mandate of the people of Hong Kong. Some may argue that my honourable colleague's motion is jumping the queue, pre-empting the Governor's impending visit to Beijing. But so it is exactly for this same reason that I feel that the motion is very well timed. Should the motion be carried it would provide support for Mr PATTEN to negotiate with China that this is the wish of the people of Hong Kong and that he has the mandate of our fellow citizens. So to those of us who believe that the future of Hong Kong lies in a faster pace of democracy and even for those who believe otherwise, this

debate should move forward today where we can show our commitment to Hong Kong by standing up and be counted. I support the motion.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, in the first place, we have to understand why we have such a motion debate today. As a Legislative Councillor, I thank you for safeguarding the Standing Orders of the Legislative Council. The Governor delivered his policy address last Wednesday (7 October) and in my view, what Mr McGREGOR has moved simply contravenes the game rules of the Legislative Council. One of the responsibilities of Legislative Councillors is to make and amend laws which should be observed by the public. However, we now unwittingly ignore our own rules. Would colleagues sitting here think about whether there is negligence on our part? Let us examine ourselves. If we render our support, we are in breach of the rules.

Mr Deputy President, I sent you a letter on 9 October and your reply was received yesterday. Thank you for that. You indicate clearly that Mr McGREGOR violates the Standing Orders and you invoke Standing Order 69 to explain your views. In my opinion, it is already sufficient to cite Standing Orders 6(3) and 6(5).

Many people do not understand what this Council is now discussing and why we "make so much fuss". I would like to take this opportunity to give them an explanation because they have a right to know. It is stipulated in the Standing Orders of the Legislative Council that a debate on the Governor's policy address can only be held two weeks after the delivery of the address. In the present case, it will be on the 21st and 22nd of this month. During these two weeks, member's motions have to be cancelled. Even if the motion relates to the content of the Governor's address, it should not be moved. These are clearly stated in the Standing Orders. I do this because I respect the Governor. But the Governor invokes Standing Order 68 to exempt Mr McGREGOR from complying with Standing Orders 21, 22 and 69 so that he can do what he wants to!

DEPUTY PRESIDENT: Is it a point of objection or a point of elucidation, Mr WONG?

MR ANDREW WONG (in Cantonese): I should like Mr CHIM to elucidate what he meant by the exemption given by the Governor in the capacity of the President. What exemption is he referring to?

MR CHIM PUI-CHUNG (in Cantonese): The Governor in the capacity as the President has given consent for Mr McGREGOR to move under Standing Order 68.....

DEPUTY PRESIDENT: Mr McGREGOR?

MR JIMMY McGREGOR: Mr Deputy President, a point of elucidation. I should like to know where I am in breach of Standing Orders. I am seeking a proper procedure to go round the Standing Order; I am not in breach of it.

DEPUTY PRESIDENT: It is a point of elucidation. Do you want to explain, Mr CHIM?

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, you should explain it, because you are the one who has turned down his original motion. You may explain to him if you care to. I would say I am only acting in accordance with the Standing Orders. Although I am not as experienced and senior as Professor WONG, I have learned a lot in the past year. I would therefore hope that my honourable colleagues would learn more as well. Mr Deputy President, I would like to have the time marked clearly to ensure that the time I spent just now is not counted and that I would have seven full minutes to deliver my speech. That being the case, the question raised by Mr McGREGOR should be answered by you and you can answer it if you wish to. I am not in a position to answer it because you have turned down the first motion.

DEPUTY PRESIDENT: It is entirely up to you whether you explain or not, Mr CHIM?

MR CHIM PUI-CHUNG (in Cantonese): He is not entitled to move his first motion because it has been cancelled. All right, I now proceed with my remarks. I think it is not good for the Governor to be involved in this matter, no matter what his motive is. My subject today is about safeguarding the Standing Orders of the Legislative Council. No matter what we will discuss later, we have to observe this spirit. I think he — as the Governor, the President of this Council and the one who brings about an important debate — should not intervene in matters involving himself. It is very unfortunate that he did so. Yesterday, when I was interviewed by a television station, I expressed regret over this. Also, on behalf of some members of the public, I pointed out that it was not a good thing for the Governor to do that.

Regarding Mr McGREGOR's motion, we have to understand that the Governor may, in the capacity of the President, grant any exemptions or allow Mr McGREGOR not to comply with the relevant provisions. But we should also be aware that in respect of international competitions, an athlete joining a 100 m race will be disqualified if he breaks the rules twice. Mr McGREGOR violates the rules deliberately. He is not negligent. He is conversant with the

Standing Orders but he asked the Governor to grant him a privilege. I hope Mr McGREGOR will comply with our Standing Orders. He should know what game he is playing and should observe the spirit of our Standing Orders voluntarily. No matter whether the motion is well-intentioned or how much support there is for it, he does violate the rules intentionally.

I wonder why the Governor exercises his special power to approve something which concerns a technical issue and has nothing to do with negligence. Is it because Mr McGREGOR is a foreigner (commonly known as "gweilo")? Another question is that last Friday, Members.....

MR JIMMY McGREGOR: Mr Deputy President, what Mr CHIM said just now is racial and ethnic discrimination. I object most strongly to being called "gweilo" or something from outer space, as it were. I am a Councillor exactly like Mr CHIM. So I should like an apology from Mr CHIM otherwise I may call him a name or two myself.

DEPUTY PRESIDENT: Mr CHIM, you must not use expressions which are insulting or offensive. I trust you did not intend your expression to be insulting or offensive.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, you know that I called him a foreigner and then indicated within brackets that it is commonly known in Hong Kong as "gweilo". The expression "gweilo" is not insulting. This is a fact. I will absolutely not accept that it is insulting. Last Friday, at our In-House meeting, we unanimously agreed that a Member could move only one motion or one adjournment debate during each sitting or even each season or each Legislative Council session. Unfortunately, Mr McGREGOR has already moved two motions today. He told the convenor of the In-House meeting earlier that he thought that was only a motion on procedures. But it was not stated clearly at the meeting that a motion did not cover one on procedures. Therefore, Mr Deputy President, I request you to adjourn this sitting so that we can call a special In-House meeting to discuss and decide on the technical issues. We have to comply with paragraph 2A of Legislative Council Paper No. 145/92-93, which states explicitly that "normally a member can move only one motion or one adjournment debate in the Legislative Council within a Legislative Council session." Paragraph 2 of Annex A also contains a clear statement on this. Doesn't what our honourable Members say count? If you do not admit this fact, what will be the meaning of holding future In-House meetings? Will the public have confidence in us? Therefore, Mr Deputy President, I request that this sitting be adjourned so that we can call a special In-House meeting to discuss whether to endorse an exemption (another exemption) from complying with our wishes. An oral agreement is virtually an agreement. If some Members feel that some other members do not observe this agreement

or a so-called spiritual agreement, they may take legal action. Of course, this is my personal opinion. Mr Deputy President, will you consider my request?

DEPUTY PRESIDENT: Mr McGREGOR's motion is within Standing Orders and therefore he is entitled to proceed and this debate should proceed. Please confine your remarks to what is relevant, Mr CHIM.

MR CHIM PUI-CHUNG (in Cantonese): All right, I proceed to other matters. Even if MR McGREGOR has the chance to move his motion, (I have just raised my queries), Members should consider the agreement reached last Friday. Can we forget that so quickly? How are we going to explain to the public? How can we ask them to observe the legislation that we will enact in future? What I have said is not directed against the remarks which Mr McGREGOR is going to make. No one can predict what the result will be. But at least we should comply with the rules we have endorsed. Please give careful consideration to this.

Furthermore, I feel that the motion moved by Mr McGREGOR today will lead to Members being set up. Why? The Governor has indicated that he will report to us when he returns from Beijing following discussions with the Chinese authorities. In fact, we can express our views then. Why should we let people know this Council's hand so early (it may be that this Council only gets a weak "hole card"). I think Members should analyse things calmly and make a study of all the facts. We should not debate too early and mislead the public. We may not be able to help whatever our conclusion is. Therefore (I thank you Deputy President for giving me three more minutes), today, I only urge my colleagues to comply with the Standing Orders. In fact, I have not touched on the substance of any debate.

Mr Deputy President, with these remarks, I oppose the motion which contravenes the Standing Orders. As for how the discussion is to be held, this is another matter.

DR HUANG CHEN-YA (in Cantonese): Mr Deputy President, I feel that when Mr CHIM Pui-chung used the expressions "westerner" commonly called "gweilo", he is being insulting. I hope he would withdraw those words. If someone calls a Chinese by the name "chink" in the Canadian or the United States Parliaments, I would object most strongly likewise because I feel the use of such names is insulting and therefore unsuitable for our Council. I request that Mr CHIM withdraw those words.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, Dr HUANG Chen-ya may perhaps regard himself as half a "gweilo" because he possesses an

Australian passport. A lot of "gweilo" friends of mine say to me, "I am gweilo". Therefore how you feel is none of my business.

DEPUTY PRESIDENT: This has got out of control. I think I did have implicitly Mr CHIM's earlier assurance that he did not intend his remarks to be offensive. I think we had better get on with the debate.

MR JIMMY McGREGOR: Mr Deputy President, I forgive Mr CHIM. I sometimes call myself a "gweilo".

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, I think today's debate involves three aspects. Firstly, it is about the question of legal system, or a matter of legal principle. It is stipulated in the Standing Orders that except in case of emergency and with the President's permission, the Standing Orders shall not be suspended. We may suspend the Orders, but should not suspend or amend the Orders too often. As they are Standing Orders, they should be observed. Given that we have already made it a rule not to debate the Governor's policy address until 14 days after it is delivered, so we should not hold the debate within 14 days. This is a Standing Order. I do agree with my teacher that this Standing Order is not indisputable. However, before amended, it is still Standing Order. What purposes do these 14 days serve? I think we can do two things during this period. For one thing, Members may make use of the time to digest the policy address. Secondly, it will enable Members to consult public views or the bodies they belong to.

The political reform in the policy address covers 11 points. In fact, these 11 points indeed form a package, or in my opinion, a complete set of inter-related reform. For instance, Mr McGREGOR moved in his motion today that the Election Committee should be composed of elected district board members. As a matter of fact, this also involves the abolition of the appointment system. Therefore, we should look at the reform as a whole package instead of considering each item separately.

As regards the suspension of three Standing Orders to make way for Mr McGREGOR's motion debate, I think, in terms of legal principle, I am going to support it if and when someone gives me a very strong reason to convince me that we must have the debate today. However, what I have heard up to now only gives me the impression that it is proposed out of a political motive, that is, something to do with the Governor's visit to Beijing next week. Should we debate the motion today just because the Governor is scheduled to go to Beijing? Will it really be inappropriate in the timing if we debate the motion one week, two weeks, or one month later? The Governor has mentioned in some public seminars that the constitutional package would be finalized at the end of this year, or perhaps in December. This being the case, is it necessary for us to debate the motion today? Unless someone explains to me why the debate has to

be held today, I still think that it is out of a political motive rather than a stemming from time constraint.

Secondly, I wish to talk about the motion from a political perspective. My view is very different from my teacher's. As Councillors, we do produce some political pressure apart from discussing political matters. Of course, we often exert such political pressure on our Government, that is, the Hong Kong Government. Yet, when this debate is held one week before the Governor goes to Beijing, I think such political pressure is targeted at the Chinese Government instead of the Hong Kong Government. Is the timing appropriate? We may discuss this point and I think opinions will differ. But this is certainly a political issue and a political discussion.

Yet, I have also emphasized time and again that apart from enacting legislation and approving public funds, the most significant function of the Legislative Council is to monitor the Hong Kong Government's performance. This debate may not be directly relevant to the monitoring of the Hong Kong Government's performance.

Mr McGREGOR mentioned just now that the debate today would be helpful for the Governor's visit to Beijing. When someone gives support to others in their strife for their cause, I certainly and fully agree that this may be of help. However, some so-called support, or even the support often given by our pressure groups, may not necessarily produce positive effects in the context of other political cultures and governments. I am not sure whether our support will produce positive effects or backfire this time. But as Councillors, we have to consider this point. After all, I still consider that today's discussion on this issue is politically motivated, and has nothing to do with time factor.

Furthermore, if we really wish to help the Governor by reflecting our opinions to him before he goes to Beijing, I think we should not focus our attention only on one particular item but give our views on the whole package. As the political reform in the Governor's policy address consisted of 11 items, I wonder why we do not give the Governor our support for all the 11 items so that he can reflect the whole package or all the proposals to the Chinese side, thus the opinions of the Legislative Council voiced can be put forward to the Chinese officials through the Governor! If this motion were moved to debate the whole constitutional package in the Governor's policy address, I will support it unreservedly and it will be also, in my view, more meaningful. For this reason, I will not support that we should, for the sole purpose of helping the Governor, try to persuade China to accept one particular aspect of the reform.

What will be the outcome of this debate? Now the debate has not yet begun but I think there are three possibilities. If today's motion of suspending the Standing Orders is carried and Mr McGREGOR's motion is to be debated subsequently, it may lead to three scenarios. One scenario is that the proposal concerning the grand electoral college is not accepted by this Council. In other words, there will be a missing part in the Governor's whole set of political

reform, with 10 item having the blessing of the Governor and the public but one item without the Legislative Council's support.

The second scenario is that if Mr McGREGOR's motion is carried, then the item pertaining to the grand electoral college to be composed of elected district board members may look more important than the other 10 items because it is officially endorsed by the 60 Members of the Legislative Council in addition to the citizens' and the Governor's consent. Then are the other 10 items less important? To me and the Association for Democracy and People's Livelihood, the functional constituency elections are far more important than the grand electoral college in the sense that the former will return 30 seats. Another point is the abolition of the appointment system. This is also very important because there will be no more appointed Members in future. The third point is that while it is indeed more essential to support the whole set of reforms, why should we focus only on one particular aspect?

There is also a third scenario. I think if the debate is not held today, it is in fact more helpful to the Government. In this way, the Government will reflect its own opinions as well as some public opinions, especially the message as indicated in some recent opinion polls that over 60% of the citizens support the Hong Kong Government's proposed political reform. This message is loud and clear enough. In my own opinion, it fully demonstrates Hong Kong people's demand for democracy with the hope of setting up the system of a democratic society. This is more important than Legislative council Members' support for a democratically formed grand electoral college. In this connection, I think there are something amiss in today's debate.

I share one view with my teacher. I have written down the following point well beforehand, so it is not something I copied from him just now. The point is that we think there is something wrong in this council's arrangement for the Motion of Thanks with regard to the policy address. In fact, I hope future policy addresses can be divided into chapters and sections. For instance, this policy address could be divided into two main parts, namely policies concerning people's livelihood and policies concerning political reform. The address could be further sub-divided into four parts for four debates, such that policies concerning political reforms may consist of the parts relating to the council system and the electoral system, while policies concerning people's livelihood may be sub-divided into the parts relating to principles and policies. This can make more fruitful debate.

Mr Deputy President, in view of the aforesaid situation and local people's enthusiastic support for political reforms, I think I should not vote against today's motion of suspending the Standing Orders. But in view of what I said just now, I do not fully support this motion of suspending the Standing Orders. For these reasons, I will abstain from voting. Thank you, Mr Deputy President.

DEPUTY PRESIDENT: The beeps do not seem to be very loud. Would Members please look at the clock and be attentive to the beeps.

MISS EMILY LAU (in Cantonese): Mr Deputy President, I speak to support Mr Jimmy McGREGOR's motion. In fact, during the course of moving the motion, there have been some convolutions but, Mr Deputy President, we have confidence in your handling of the matter. As Mr Jimmy McGREGOR also mentioned that he had gone to a great deal of trouble to make this motion debate before a motion debate this afternoon possible and Mr Deputy President, I believe that you have handled the matter appropriately.

Mr CHIM Pui-chung mentioned in his speech that the Governor should neither take part in nor decide on the matter because he had his own share of interests in it. But I believe this matter means much more than what Mr CHIM Pui-chung has said because it is concerned with the well-being of six million Hong Kong people. When the Governor put forward some proposals in his address, would his reform package win public support? Of course, he was full of confidence when he gave the address but he had no idea how his proposals would be received. Now he asks the Hong Kong people if they would support him. He has also come to this Council to field our questions. Therefore, I think it is justified for the Governor to make this decision of allowing the six million Hong Kong citizens, including Members in this Council, to voice opinions. The Governor is not doing so to protect his own interests.

As a matter of fact, Mr Deputy President, the Governor will not be here on 1 July, 1997. At that time what kind of democratic government shall we have or will there be no democratic government in place at all? I think our primary concern is the well-being of our six million people who cannot leave, do not want to leave or are unwilling to leave the territory. Therefore, it is far from the truth to say that we would place ourselves in an awkward position and be exploited by the Governor as a betting chip or that we would show our hand. I would like to ask, Mr Deputy President, what is meant by showing our hand. Now we are not using the future of six million Hong Kong people as stake. We have our clearly-defined principles regarding this matter. I myself have said for years that no matter whether the Governor will go to Beijing to discuss the matter and when he will discuss the matter with China, I can always voice my opinions and I believe I should make my views known.

Mr Deputy President, some people may take their cue from changing conditions. They will adjust their stance in the light of China's policy. Such kind of persons indeed have to wait. They will only show their hand at the appropriate moment and also we have to see whether the card is a "deuce" or an "ace". Mr Deputy President, I think such words are an insult to our colleagues in this Council because I believe the majority of our colleagues have their own principles and will not trim their sails in accordance with Beijing's response.

Just now Mr Frederick FUNG mentioned that we should discuss the Governor's policy address as a whole. I very much agree with this point. Having said that, I would like to point out that in last week's House Committee meeting, Mr McGREGOR proposed that we should discuss this very essential part of the policy address. At that time most of us were present and endorsed his proposal. For this reason, I think it is completely all right for us to discuss this matter a few days before the Governor's visit to Beijing.

Furthermore, Mr Deputy President, our full debate on the policy address next Wednesday and Thursday will coincide with the Governor's visit to Beijing on Wednesday. I believe the Hong Kong Legislative Council Members' opinions will be fully brought to Beijing's attention. I would like to talk about one important point raised, that is, whether this debate can be of any help to the Governor. Mr CHIM Pui-chung and Mr Frederick FUNG have repeatedly stated that we should help the Governor. They seemed to imply that our words had to be those the Governor would like to hear if we wished to help him and that if we criticized him all the time, we could not help him at all. The question is whether all the Members will support him. Some Members' speeches revealed that they would not support the proposals in the policy address. Then how can we help him? I think we should stop talking about "helping the Governor" again. Actually we should help ourselves. Mr Deputy President, there is no saviour for Hong Kong. If Hong Kong people do not save themselves, I believe they will regret for it very much in future. Although the Governor said he supported Mr McGREGOR to move his motion, yet he also said that the proposal had to be brought to this Council so that Members would vote on it and that the debate could only go ahead with our Members' consent. Therefore, if we obtain Members' consent today (this point has also not been covered in Mr CHIM Pui-chung's speech), I hope that we can freely voice our opinions about the composition of the Election Committee which will elect 10 legislators. Yet, I cherish no illusion myself. Mr Deputy President, when we discuss the 1988 direct elections in 1987, the public wish was clearly stated. However, the Hong Kong Government twisted our opinions, saying that Hong Kong people would not like to have direct election in 1988. Shortly before the Basic Law was published in 1990, the public also clearly expressed their objection to some major provisions in the Basic Law. But on these two occasions and many others (I do not bother to make a count), our people's voices fell on deaf ears. This time we put forward our opinions again at the moment when it is only more than four years before China resumes its sovereignty over Hong Kong. I hope both China and the United Kingdom would attach importance to Hong Kong people's opinions during this very difficult period.

With these remarks, I support Mr Jimmy McGREGOR's motion.

MR FRED LI (in Cantonese): Mr Deputy President, first of all I declare my support for Mr McGREGOR's motion to suspend the relevant Standing Orders. Having listened to the speeches of Mr CHIM Pui-chung and other Members, I

would like to say something as well. For example, I would like to respond to the question of "spirit" raised by Mr CHIM. Recently there have been frequent talks about "spirit", for example the violation of the spirit of the Basic Law and the Sino-British Joint Declaration and so on. The spirit of a lot of things seems to have been violated. What exactly is this spirit? Standing Order 68 has explicitly stated that certain parts of the Standing Orders can be suspended to enable a motion to be moved. Such flexibility is provided by the Standing Orders. I think the purpose of formulating the Standing Orders is to facilitate the discussion of issues in a practical manner so that things are done according to the accepted rules and procedures. Now the motion moved by Mr McGREGOR is truly different from past practices both in terms of the spirit and the tradition of the Legislative Council. In the past, a motion on the policy address could only be moved 14 days after the Governor had delivered his policy address. Mr CHIM is absolutely correct on this point. However, it is also stipulated in Standing Order 68 that certain parts of the Standing Orders can be suspended to enable a motion to be moved. This is a right conferred by the Standing Orders to every Member. Though Mr McGREGOR was granted an exemption by the Governor, I do not think he is on particularly friendly terms with him. What I wish to point out is that every Member has the right to vote. We can vote against him so that his motion cannot be debated. This is something even outside the control of the Governor. So, it is not with the special permission of the Governor that he is allowed to move such a motion. This must be made abundantly clear.

As regards the motion moved by Mr McGREGOR, it would, of course, be best if we can discuss in full the 11 proposals on constitutional reforms. But I think that the point raised by Mr McGREGOR just now is worth discussing too. However, there is one point I disagree. The Governor will visit Beijing on the 20th of this month. I hope that Members would not look upon the date as a deadline and feel obligated to declare our positions before the Governor's visit to Beijing. It is not necessary for everybody to state his/her position, he/she can abstain from voting. As for the formation of the Election Committee, if a Member has not consulted the public or does not wish to show his/her hand, he/she may abstain from voting. In my view, Members are absolutely free to do so. To make known our positions does not mean standing on the side of the Governor, because we can oppose him. This is a fair game.

Regarding the Governor's visit to Beijing, I consider that this is not the only opportunity which he can discuss the political system of Hong Kong with China. I absolutely believe this because we just saw him yesterday. He should continue the discussions with the Chinese Government because I think all of us are aware that his visit to Beijing may not bear any fruits. It may even end up unhappily. There must be further communications after the visit so that there is still hope of reaching an agreement. As such, I feel that we should not regard the first meeting between the Governor and the Chinese officials on the 20th of this month as the final discussion on the most controversial parts of the constitutional reforms. We must make full use of this opportunity to state our stands here. It is perfectly all right if Members do not have the time to voice

their opinions, but we should not oppose the motion on the pretext of procedures.

In the light of the views set out above, I support the holding of a debate (on the motion). But, I think the final decision should be made by Members themselves. Mr Deputy President these are my remarks.

MR HOWARD YOUNG (in Cantonese): Mr Deputy President, I do not support Mr McGREGOR because I cannot support him seeking to suspend the rules to enable today's debate to take place. My reason for this is not that I am sceptical about his motives, but that I feel if the debate is to take place today, it may not be of any help to the Governor in his pursuit of what we want.

Yesterday, I, together with my colleagues of the Co-operative Resources Centre, met the Governor. Like other CRC members, I support the Governor's effort in bringing to the people of Hong Kong a whole package of constitutional reforms. I also support the Governor's effort in seeking a smooth transition. We sincerely wish him success. I myself also hope that he will succeed.

During yesterday's meeting, I expressed some views. I have taken part in at least some of the consultative work in relation to the Basic Law, but I have yet to convince myself whether some of the contents of the constitutional reform package are completely in line with the spirit of the Basic Law. I feel that any restraint on my part from rashly voicing my views in this regard would instead be of help to the Governor because if I fail to convince even myself, then how can be convince China to accept his proposals? I have some experience in negotiating with China. I think sometimes we need to consider in what way we should negotiate in order to achieve the most effective result.

We all hope that by paying this visit to Beijing, the Governor will be able to achieve a very satisfactory result and a decision can be made in relation to our constitutional reforms. I however feel that he will not achieve that by paying just one visit. I expect he might have to have at least one more round of talks. It is therefore open to question whether we must express all our views before next week; particularly if the views which I express in the debate may not totally be in favour of his proposals, then I may be doing something counter productive. I would rather not express my views and in that case, he might instead be in a better position to convince Beijing.

However I applaud the motives stated by Mr McGREGOR and I do not think he has any particular political objectives because he had intended to move this motion even before the policy address was delivered. I also think that this issue should be debated. I am only worried that the debate may not enable us to accomplish our (also my) wish that the Governor would succeed.

MR JIMMY McGREGOR: Mr Deputy President, I only have a few remarks. One is that the Standing Orders have been many times set aside for one reason or another, very often during the course of debates and discussion when we have to stand down for one reason or another. Mrs Elsie TU has asked for one Standing Order to be disregarded in order to allow the work of this Council to proceed. I think it is in fact a normal procedure. I have not done anything illegal or improper by seeking to find a way by which we can debate this rather important subject. That is the first point. The second point is that the issue is, I think, very relevant and very important to the Governor's visit to Beijing. It seems to me that we are discussing here irrelevancies, we are discussing procedural matters in a rather petty way when the issue we are looking at is whether or not we can take a view that might be of assistance, not only to the Governor, but to the Government of Hong Kong and therefore to the people of Hong Kong.

It seems to me really rather ridiculous that we are talking about Standing Orders in that respect when a perfectly normal and legitimate and legal procedure has been used to set the Standing Orders aside. So what I am really doing is to ask my colleagues in this Council if they are willing to consider this as an issue of importance that the Governor — I hope anyway — can be supported when he goes to Beijing. At least he would have the support of this Council. He realizes already he has the support of many people in Hong Kong and that has come in from various organizations, from various people but it is this Council which will decide eventually where we stand on these issues. And I realize another thing, I realize perfectly well that there are many changes in the electoral system which the Governor has suggested, which are going to be very fiercely debated in this Council and which he may not be able to get through in terms of legislation or even in terms of the proposals which he has before us at the present time. I realize all of that. But this is one proposal which, frankly speaking, I cannot see any real reason for anyone in this Council to disagree with. I can see arguments building up but I have not heard a solid argument against it. I have not heard a single Member of this Council really say, "I am against it, I do not like it, it is no good." So what I am really suggesting here is that I am trying to cut across party lines. I do not think there should be an argument between CRC and UDHK or Meeting Point and the Association for Democracy and People's Livelihood and so forth. I do not think there should be a political argument with any of us. I think that we should be standing on the issue itself. Do we or do we not assist the Governor in taking a message to Beijing with which we agree? We support him. I listened to Mr Howard YOUNG just now who said that the CRC supports the Governor. Well then, how much easier is it for us to give him formal support through this Council without division and without difficulty? So I call on Mr Allen LEE perhaps to seek concurrence from his group, the CRC, to give us in this discussion the full weight of the CRC's very considerable experience in this Council, and, of course their political views. There are many things to follow with which we will disagree, no doubt. But this is one time when people should stand up, be counted and put their views forward in support of the Government, not on petty

issues like Standing Orders, frankly speaking. So I ask my fellow Councillors to vote in favour of this debate continuing. Thank you.

*Question on Mr Jimmy McGREGOR's motion put.*

*Voice vote taken*

THE DEPUTY PRESIDENT said he thought the "Ayes" had it.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, I clam a division.

DEPUTY PRESIDENT: Council will proceed to a division. The division bell will ring for three minutes and the division will be held immediately afterwards.

DEPUTY PRESIDENT: Could I just remind Members as to how the system works? First of all, you register your presence by pressing the "Present" indicator, then you register your vote by pressing either "Yes", "No" or "Abstain". I will of course check with Members before the results are displayed.

DEPUTY PRESIDENT: Does any Member have any query before the results are displayed? If not, the results will be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr Andrew WONG, Mr Edward HO, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Dr LEONG Che-hung, Mr Jimmy McGREGOR, Mr Albert CHAN, Mr Vincent CHENG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Michael HO, Dr HUANG Chen-ya, Mr Simon IP, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr Henry TANG, Mr TIK Chi-yuen, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH and Mr Roger LUK voted for the motion.

Mr CHIM Pui-chung, Mr Eric LI and Dr Samuel WONG voted against the motion.

The Attorney General, The Financial Secretary, Mr NGAI Shiu-kit, Mrs Elsie TU, Mr Frederick FUNG, Dr LAM Kui-chun, Mr Steven POON, Mr Howard YOUNG and Dr TANG Siu-tong abstained.

THE DEPUTY PRESIDENT announced that there were 31 votes for the motion and three votes against it. He therefore declared that the motion to suspend the relevant Standing Orders was carried.

DEPUTY PRESIDENT: As Mr McGREGOR's motion on the suspension of Standing Orders has been agreed, he may now move a substantive motion on the composition of the 1995 Election Committee.

MR JIMMY McGREGOR: Mr Deputy President, do I have to read out again the terms of the substantive motion?

DEPUTY PRESIDENT: For form's sake, you had better, Mr McGREGOR.

#### **SUBSTANTIVE MOTION ON ELECTION COMMITTEE**

MR JIMMY McGREGOR: Thank you, Mr Deputy President, I move the following motion:

"In the light of the public support for the continued democratization of Hong Kong's political system, this Council agrees with the Governor that if it is necessary to form an Election Committee for the 1995 elections, it should be composed of the democratically elected members of the District Boards, thereby providing the greatest possible degree of democracy in the circumstances and the widest possible participation by the people of Hong Kong."

Mr Deputy President, I have already provided some information on the reasons for my seeking this motion debate. I am very grateful to Council Members for permitting me to proceed with it. I will not waste time by going over the ground I have already covered. We are all participants in a great drama that is slowly unfolding. We are moving inexorably towards a new era in our colourful and exciting constitutional development. Our destiny has been decided. We have solemn and legal assurances on our way of life and in regard to the society in which we live. Six million Chinese people in Hong Kong will make a peaceful transition from British colonial rule to that of their motherland, China. Two governments, different in almost every respect, have found a way in which Hong Kong can continue to prosper as a special administrative region of China, enjoying human rights and a standard of living not yet achieved in full by their Chinese brothers and sisters. It does not need a

genius to work out that the "one country, two systems" formula means exactly what it says. And the two systems are hugely different in character and in performance. It is also not difficult to see that, in order that the second system shall continue to function effectively, Hong Kong people must run Hong Kong to the greatest extent permissible and possible. This can only mean that the system by which Hong Kong achieves this objective is one which will provide the kind of representative government that Hong Kong people will strongly support. That in turn means that they must participate in the construction and operation of their own government. The best way of achieving this is actually by direct elections to the legislature. It has been clear however for some years that China will only accept a careful, some would say very slow, process of democratization. And the Basic Law spells out what will be done from 1997. The British Government has agreed to try to align political development before 1997 with the Basic Law formula after 1997.

We have been told many times by the British Government and British Government Ministers at the most senior level that there is no secret agenda regarding the 1995 elections beyond the undertaking on the "through train" principle. We have debated political development many times in this Council. Members have expressed widely different views on the pace of democratic reform. I have never heard any Councillor say that Hong Kong should not be given democratic government, should not enjoy the very real advantages of a democratic political system. I have never heard it said in this Council that we should try to align with the socialist political system which governs China. Indeed, the Joint Declaration and the Basic Law make it clear that there has never been any such intention. We are only therefore concerned with the pace of democratic reform and a system which will bring this about, allowing a smooth transition of sovereignty and authority to China. We all want this process to succeed. China need not fear our motives nor our objectives in pressing for greater participation by Hong Kong people in their own destiny. China seeks the continuation of a successful and happy Hong Kong. So do we. China seeks to continue to enjoy the huge economic advantages that we provide. We are happy to provide them. China is sometimes anxious about our motives in doing things. We are just as anxious that China should be reassured. We are embarked upon a strange but rather wonderful enterprise and one with much promise. We must find the best way to govern and administer Hong Kong now and in the future. In all these circumstances, the simple formula for the construction and operation of the Election Committee to elect 10 Councillors in 1995 proposed by the Governor has great merit. It is clearly within the spirit and intention of the Basic Law in that it provides for a wide spectrum of Hong Kong people from all walks of life who have enjoyed the confidence of the people of Hong Kong in being elected to the District Boards to exercise their judgment in electing the 10 Members. It is simple, fair, democratic and not easily manipulated. It will not allow any particular political party, nor those of any particular political persuasion, to dominate the election. It therefore crosses party lines and deserves all party support. It is my impression that this proposal has received a great deal of public support already. I do not believe that there should be any serious division of opinion in this Council. I therefore ask my

fellow Councillors to put aside any feeling of political rivalry and to vote for this motion in order to show substantial support for what is, after all, only a small step in the right direction. Mr Deputy President, I beg to move.

*Question on the motion proposed.*

DEPUTY PRESIDENT: I would remind Members that the seven minutes directive of the House Committee does also apply in this motion.

MR ALLEN LEE (in Cantonese): Mr Deputy President, in his policy address on 7 October, the Governor proposed a series of constitutional reforms. Today this Council is going to debate Mr McGREGOR's motion on the composition of the 1995 Election Committee, which forms part of the Governor's constitutional reform package. Members at the Co-operative Resources Centre consider that Hong Kong must have progress in democracy. At the same time, we demand a smooth transition through 1997. In order to achieve this objective, there must be convergence in the political system. In paragraph 128 of the policy address, the Governor remarked: "a majority wants constitutional reforms to be compatible, as far as possible, with the Basic Law and, accordingly, to transcend 1997." On the basis of this principle, we agree with the spirit of Mr McGREGOR's motion. However, we think that the composition of the Election Committee as suggested by the motion today may not be the best available option. If any proposal comes up in future, which is in line with the spirit and principle of democracy, we will be pleased to consider it.

Mr Deputy President, this Council will discuss in detail the Governor's policy address next week. I shall give a full account of my views on the constitutional reform package then.

MR HUI YIN-FAT (in Cantonese): Mr Deputy President, today's debate on Mr Jimmy McGREGOR's motion in this Council is indeed an advance voting on the proposals in the Governor's policy address concerning the strengthening of the administration of Hong Kong and the establishment of an Election Committee. Although I am not associated with any political party or faction, I have all along advocated that starting from the elections for the next term, all the seats in district boards and the two municipal councils should be returned by elections. And the Government should eventually combine the district boards and the municipal councils into a large local council so that the original three-tier system of the representative government will become a simplified two-tier system with only the central and the local councils.

Recently I carried out a questionnaire survey among the social workers. According to the preliminary findings, over 90% of the respondents support the above-mentioned view. In fact, I already spelled out the relevant theoretical basis, arguments and reasons in the debate held in this Council in June, so I am

not going to repeat them here. Yet, since I still hold fast to this view, it seems to me that both the Governor's proposals and the content of the motion do not go far enough. My reasons are as follows:

- (1) Given that starting from the next term, all the seats in the two municipal councils will be in theory returned by elections, only that the modes of election are different, it is indeed only too natural that we should have the 10 indirectly elected seats in the 1995 Legislative Council filled by those elected by an Election Committee composed of the members of the district boards and the municipal councils. This is after all a viable interim measure before the OMELOCO Consensus Model is adopted.
- (2) In any democratic election, the more people take part in it the results will be more satisfactory. Therefore, I definitely support the proposal of extending the franchise in all the functional constituencies so as to enhance the popular base of such seats. At the same time, I also cannot find any reason of not supporting the proposal that the membership of the Election Committee should be expanded to include the members of the municipal councils.
- (3) Recently three by-elections were held in Tuen Mun within a period of less than a month and a half. This is plain to us that people are really tired of the successive elections, thus causing the drastic fall in the turn-out rate. As I see it, the combination of district boards and the municipal councils will not only get rid of the trouble of holding one election after another but also establish in the voters' mind a clear identity of the two councils at central and local levels. The most essential point is that the elections to be held will be on a territory-wide basis. The publicity drive for this purpose will certainly achieve better results than that of any district board or municipal council election because the representatives elected can indirectly decide the choice of persons to sit on the Legislative Council. This being the case, smart voters will certainly know that each time they go out to vote, their votes do matter. I believe this will go a long way towards improving the overall turn-out rate.
- (4) According to the Governor's proposals in his policy address, the future functional constituencies would be entirely determined in terms of profession, thus giving each person in our 2.7 million working population an equal voting right. In comparison, the present two seats representing the municipal councils, which are returned by the functional constituency elections, will seem neither fish nor fowl. To rectify this improper arrangement, I think that it will be more appropriate for these two seats to be elected by the Election Committee. In this connection, it would be all the more necessary to combine the district boards and the municipal councils.

Mr Deputy President, although the Election Committee established in 1995 can only arrange one election before it is dissolved, we should not miss any opportunity of bringing the municipal councils and the district boards together to wield their influence and make contribution to the development of our representative government. I regard the election of the Election Committee as a stepping stone for the future combination of the district boards and the municipal councils. Only by doing so can we correctly respond to today's motion, that is, "providing the greatest possible degree of democracy in the circumstances and the widest possible participation by the people of Hong Kong".

Mr Deputy President, I hope the Administration will take the aforesaid points into serious consideration. In the present circumstances, I support Mr Jimmy McGREGOR's motion.

MR MARTIN LEE (in Cantonese): Mr Deputy President, recently the Chinese Government's spokesman in Hong Kong said that if Hong Kong people wished to practise democracy, it was their own business. And he added that democracy was no grace from anybody. As a matter of fact, the purpose of his saying so is to discourage the democracy movement in Hong Kong. I feel very sorry about it. Nowadays many Asian countries have already begun to embark on a course which will turn their countries into a democracy and even the Mongolian people can now have a representative government. But Hong Kong people just cannot practise democracy. It is not because Hong Kong does not have the necessary social conditions to practise democracy. On the contrary, be it in terms of the degree of economic development, the level of people's education, the pace of mass media development or the sense of civic rights and responsibilities, Hong Kong is well ahead of many Southeast Asian countries and certainly has the conditions to practise democracy. Up to now Hong Kong still has not got any democracy just because Hong Kong people have no right to decide whether to practise democracy. Both the United Kingdom, Hong Kong's past and current sovereign state, and China, Hong Kong's future sovereign state, are not willing to see a representative government to be established in Hong Kong, so they have tried hard to slow down the pace of our democratic development. Even though there is now a favourable turn that the British suddenly come round to good advice and are willing to introduce some democratic elements into our political system in 1995, China voices its opposition and makes it clear that it will not give way. As a Hong Kong Chinese, I am saddened and feel exasperated to see that my motherland is as conservative and backward-looking as a foreign colonial ruler, if not more, over the issue of democracy. I very much agree with part of the statement made by the Chinese spokesman in Hong Kong, that is, "If Hong Kong people wish to practise democracy, it is their own business." In this connection, I call upon all the democracy-loving people in Hong Kong to come forward bravely and strive for democracy to the end for ourselves and our children.

There should be 30 directly elected seats in the new session of Legislative Council in 1995. It has all along been the stance of the United Democrats of Hong Kong (UDHK) that we would vehemently fight for democracy. And our commitment to this cause has never wavered. As we all know, district-based direct election is the most effective system to return most representative candidates and the Councillors thus elected will be most accountable to the people. Through such a system, the candidates can maintain direct communication with the people while the voters would be in a better position to have closer monitor of the performance of their representatives. Only in this way can the people be sure that those who have really worked for them can be re-elected and those who have made no efforts to advance people's interests must make way for others. In fact, this is actually the OMELCO Consensus Model that we agreed on in 1989. During that debate, the Legislative Council had already thrown its weight behind the model but the Basic Law finally did not accept the proposal. Yet on the very day when the Basic Law was published, an overwhelming majority of the Legislative Council Members supported my motion which urged China to make substantial amendment to the Basic Law, including the implementation of the principle of the OMELCO Consensus Model. Furthermore, in May this year 18 directly elected Members of this Council wrote to Mr John MAJOR, the British Prime Minister, asking him to put the OMELCO Consensus Model into practice in 1995.

As regards Mr McGREGOR's motion, the UDHK's position is that if it is necessary for Hong Kong to establish an Election Committee in future, its members must be returned through democratic elections. For this reason, we support the motion.

In fact, the idea of a grand electoral college was floated as early as the drafting stage of the Basic Law. At that time I already said that it was acceptable if the members of the grand electoral college were returned through democratic elections.

Mr Deputy President, some people said the proposal regarding the Election Committee in the policy address is a breach of the Basic Law. I think this is not a valid point. Actually the Basic Law is silent on the composition of the Election Committee for the first legislature. It did specify the arrangements for the composition of the Election Committee for the second legislature. And it is up to the legislature of the Special Administration Region to arrange the election of these members or stipulate the relevant principle through legislation. In Annex I of the Basic Law, it is stated that such provisions shall be enacted in accordance with "the principles of democracy and openness". Therefore, no matter how the Election Committee of the first legislature is formed, the Basic Law would be observed. However, if the spirit of the Basic Law has to be conformed with, the Election Committee must be formed in accordance with "the principles of democracy and openness".

The way the Election Committee is formed as proposed by the Governor falls exactly in line with the spirit of the Basic Law and also wins wide public

support. I hope those people who said the proposed method was in breach of the Basic Law would come forward and make their counterproposals. But I wonder why nobody cares to do so. Does it mean that they remain silent because they would not like Hong Kong to have democracy? Do they try to help the Chinese Communist Government to control Hong Kong? If my judgement is correct, any proposal that can satisfy China must be in breach of the spirit of democracy and openness put forward in the Basic Law and against the wish of Hong Kong people.

Mr Deputy President, with these remarks, the UDHK will support Mr McGREGOR's motion.

MR SZETO WAH (in Cantonese): Mr Deputy President, during the direct elections in September last year and the recent three by-elections of New Territories West, I was greeted, in front of the polling stations, with barrages of scathing, verbal attack from the campaigning personnel belonging to a certain political faction. They called me names such as "traitor", "running dog" and "trouble-maker in Hong Kong". I was not the least exasperated. I only felt it was laughable and lamentable behaviour.

I did not shake hands or exchange pleasantries calling each other old friends with the Japanese war criminals soaked with the blood of the Chinese people. I did not sell out or cede any land of my country. Nor did I suggest that the question of China's indisputable sovereignty over Diaoyutai be shelved. I did not give the order that compatriots preparing to demand an apology and compensation from the Japanese Emperor during his visit to China be suppressed. I did not place in streets "pineapples" (home-made bombs) labelled "compatriots stay clear". I have not the power or ability to become "traitor", "running dog" and "subverter of peace in Hong Kong". They called me names simply because I fight for democracy in Hong Kong, I support the patriotic movement for democracy in China and I do not "change tack".

I find that those who hurled these invectives are not human. They are birds — parrots learning the human tongue. They do not know what they are doing. They are only walking cassette recorders set in play mode. I therefore felt it laughable and lamentable.

A couple of days ago, someone said "democracy is no grace from anybody". At hearing this, I thought could it be FANG Li-zhi who had come to town? This remark is correct irrespective of who makes it. Democracy is not a grace granted by anybody. The people of Hong Kong have been striving for a democratic government. Any progress, however small, has been the fruit of their struggle. Only he who pays no heed to the masses and who is accustomed to listening to voices from the "heavenly court" will think that someone is posing as the saviour. He is in fact the one in favour of grace and bounty, but believing that it should come only from the Jade Emperor rather than the saviour.

Mr Jimmy McGREGOR's motion does not contravene the Basic Law in either spirit or letter. What is the fundamental spirit of the Basic Law? It is "one country, two systems and a high degree of autonomy". Which parts of the proposal put forth in the motion in respect of the election committee contravene these 10 words? Please would anybody point it out? Is the fundamental spirit of "one country, two systems" not the fundamental spirit of the Basic Law? How does the proposal contravene the fundamental spirit? Will they please point it out?

The "Decision of the National People's Congress on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region" provided only for the composition of the Selection Committee to select the Chief Executive and the method of selection. But it carries no provisions for the formation of the election committee which will elect 10 Legislative Council Members and the manner in which these 10 Members shall be elected. Annex II of the Basic Law, that is, "Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures" stipulated very clearly that the method is applicable only to the second and third legislatures. It is expressly provided in writing in such terms: "Except in the case of the first Legislative Council.....". The above decision of the National People's Congress further expressly provides in writing that the Preparatory Committee, as the inspector of the through train, will confirm Legislative Council Members elected in 1995 as Members of the first Legislative Council of the SAR on the basis of three requirements, that is, the Members should (1) "uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, (2) "pledge allegiance to the Hong Kong Special Administrative Region of the People's Republic of China, and (3) "meet the requirements set forth in the Basic Law of the Region". But are there provisions on how these 10 Members are to be returned by what sort of an election committee?

Why are there not any provisions in the Basic Law on the election committee which is to return 10 Legislative Council members? It is because the Chinese and British Governments have agreed to the "through train" concept and since these 10 members will be returned in 1995, China has no authority to make provisions for and interfere with the 1995 elections and has therefore to make way. Having made way, China is now going back on its own words and is trying to get in the way. Is China qualified to criticize others for contravening the Basic Law when it itself seems to have little respect for the Basic Law?

With these remarks, Mr Deputy President, I support the motion! And if people should censure me for supporting this motion, I wish they could refrain from hurling invectives like "traitor, running dog or subverter of peace in Hong Kong". Could they not think of something smarter to say?

MR ANDREW WONG (in Cantonese): Mr Deputy President, as mentioned by the Honourable Jimmy McGREGOR in the last debate, the Constitutional Development Panel had indeed discussed a proposal on 23 September which is by and large similar to the proposal on the election committee put forth by the Governor, Mr Christopher Francis PATTEN, in his policy address. The panel came to the view then that all elected members of the three-tier political structure be grouped together to form an election committee. They would then hold an election among themselves. This was the original opinion of Mr Jimmy McGREGOR. After discussions within the panel, it was agreed that the composition of the election committee be retained but the 10 Legislative Council seats would not necessarily be filled by members of this election committee. This view of the panel members was relayed by me on that day to the press and the public.

The majority of panel members came to the view that there would not be any problem if the election committee were to be composed of district board members or other elected members. We scrutinized the provisions of the Basic Law and found that there is this lacuna. Therefore, the proposal cannot be regarded as contravening the provisions of the Basic Law. However, some very strong views were expressed during the panel discussions to the effect that the proposal might contravene the spirit of the Basic Law. What is this spirit? The Basic Law (including the NPC decision and Annexes I and II) has provided specifically for the formation of a Preparatory Committee in 1996-97 which will then establish a Selection Committee to select a Chief Executive. This particular committee will be composed of four groups of people, namely political figures who will account for 25% of the membership, members of the industrial and commercial sectors, professionals and lastly social services groups and the grass-roots. The election committee to be formed in 1999 will be composed of 800 members (the one to be formed in 1995 will be composed of 400 members). It is again to be composed of four groups of people similar to those mentioned above. Hence, it can be deduced that if 10 seats were to be returned in 1995 or 1997 (better in 1995 if talks succeed and bring about an agreement; if otherwise, then in 1997) by the election committee, then the composition of the election committee should be more or less the same as that of the 1999 election committee. As a result, some panel members expressed the concern that the proposal might contravene the spirit of the Basic Law. But obviously it does not violate any provisions of the Basic Law. Here I must say my personal view is that this arrangement seems to have violated the spirit of the Basic Law.

However I must point out that the spirit of the Basic Law violates the spirit of the Sino-British Joint Declaration. The Joint Declaration has stipulated that the legislature shall be constituted by election. And the election referred to therein must conform to the principle of election by universal and equitable suffrage. Direct election is of course the most desirable, but indirect election is equally acceptable. The election of 10 Legislative Council Members by an election committee comprising directly elected district board members is an indirect election system that conforms to the principle of election by universal

and equitable suffrage. This is in conformity with the spirit of the Joint Declaration while, on the contrary, the method for the formation of the election committee spelt out in Basic law is a total violation of the spirit of the Joint Declaration.

Some have argued that it would be "direct election in disguise" if the election committee was formed by district board members. I think this is not at all a disguised form of direct election, but a form of indirect election in conformity with the principle of election by universal and equitable suffrage. If this was regarded as a disguised form of direct election, then the functional constituency election proposed by me would indeed be a disguised form of direct election. In my proposal, all the 30 functional constituencies of Hong Kong would in future be grouped into four or five major categories to which a varying number of Legislative Council seats will be allocated in accordance with the number of employees in each category. The candidate must be connected with his particular category, but the suffrage will be extended to all voters in Hong Kong. Under these circumstances, functional constituency election will become general election.

In fact the existing functional constituency elections, irrespective of the number and capacity of voters — that is to say, whether they are corporate voters or individuals — are basically a form of direct election. According to the Governor's proposal, reform will be made to the existing 21 seats by converting the corporate votes into personal votes in order to provide against disguised control of more than one vote. It is still direct election whether by corporate or personal votes. If the nine new seats were open to voting by workers and employees, it would again be direct election. Yet all this does not conform to the principle of election by universal and equitable suffrage, thus violating the spirit of the Joint Declaration. Therefore, I have come to the view that the proposed reforms to the functional constituency elections are not that desirable after all. Hence I am somewhat disappointed with the Governor's policy address. If functional group elections were conducted in accordance with my proposal, by 1995 we would have 20 seats returned by direct election — geographically-based general election; 30 seats by direct functional constituency election — functional group-based general election conforming to the principle of election by universal and equitable suffrage; and 10 seats by indirect election again conforming to the same principle.

The importance of the 10 seats returned by the election committee will be reduced considerably if there are only 10 out of 60 seats returned by the committee. Besides, these 10 seats will have been abolished by 2003, that is to say, these seats will be phased out beginning from 1997 until total abolition in 2003. Although I do not like negotiations or hard bargaining, yet if we have to engage in negotiations or bargaining, I would rather insist on 30 seats returned by functional group-based general election than 10 seats returned by indirect election which is in conformity with the principle of election by universal and equitable suffrage.

Mr Deputy President, in the light of the views set out above, I cannot say that I support the Governor's proposal. It could be said that the proposal is acceptable to me or that I raise no objection to it. It is because his proposal basically lacks thoroughness. Here I should like to urge him to review his proposal and incorporate my views into it and then bring it to the negotiation table.

Mr Deputy President, I support Mr Jimmy McGREGOR's motion.

DR LEONG CHE-HUNG: Mr Deputy President, I rise to support Mr McGREGOR's motion. In so doing, I have the mandates of the medical and dental professions that I represent. I have for some time been very deeply concerned with the composition of the first Election Committee. Back in July this year, I urged the Government to look into the issue when this Council debated the multi-seat, single-vote system. The Basic Law does not spell out who should be in the committee in 1995. So this implies that it is something the Hong Kong Government can decide on. Some people have hinted that the reason why the 1995 Election Committee line-up is not specified in the Basic Law is because there is a hidden agreement between China and Britain, and that this understanding is in stark contrast to the one suggested by this motion. We in Hong Kong have no means of confirming whether there is indeed such an agreement, for we were denied the chance to participate in the discussion of our own future. What we can do then is to set our eyes on the two gospels, the Joint Declaration and the Basic Law. But as long as the Governor's proposal, which is set out in paragraph 1.45 of his policy address, does not contravene the Basic Law, I do not see why we cannot move in this direction. Hong Kong people have long been deprived of democracy. With the prospect of more directly elected seats looking somewhat bleak, many have thought the chance of more democracy a dead issue. But now, these new proposals have set ablaze again our optimism. We simply cannot let this chance slip through our fingers. The golden chance, Mr Deputy President, is there. Members of this Council can show their unity, join their collective power to support these constitutional changes for the benefit of Hong Kong. The people of Hong Kong must be encouraged to find strength through this unity. Having come so far in supporting this proposals, Meeting Point, however, does have certain reservations. Firstly, our bottom line — and we feel that this reflects the sentiment of most people in Hong Kong — is to have more directly elected seats. We question the efforts of the British Government that it has made so far in negotiating with China on this matter which it has promised us to do. Secondly, we are opposed to the retention of ex-officio members in the District Boards. For to obtain full democracy at grassroot levels such seats should be and must be replaced by directly elected seats.

The Governor has said he will go ahead with his constitutional reform package unless someone else comes up with a better idea. Some have said his proposals diverge from the "through train" concept. My response to this is that unless the Governor's proposals are proven to be in violation of the Basic Law,

Legislative Councillors returned under this proposal should be able to retain their seats and remain on the "through train" until their term expires in 1999.

Furthermore, the composition of the second Election Committee for the Legislative Council election in 1999 should really follow the first if these proposals are shown workable. So the Basic Law should not be a brick wall that will never allow any alteration. If it is to serve the Hong Kong people, of course changes can be and must be made if a strong case can be made of it.

I fully support the Governor that China should not be given the right to veto all his proposals for greater democracy. The promotion of democracy is not to embarrass China or to prolong British interest. This point the Governor will no doubt explain when he visits Beijing. Let us lay the ghosts of mistrust to rest and get down to the practical task. In making the above remarks, I am also speaking on behalf of Meeting Point members in this legislature, Mr Fred LI, Mr TIK Chi-yuen and Mr WONG Wai-Yin. Mr Deputy President, I support Mr McGREGOR's motion.

MRS ELSIE TU: Mr Deputy President, today I speak on behalf of the Urban Council. I am the representative and many of the members are also District Board members.

Uncertainty about the wording of the motion and doubts about its being debated today have created some difficulty in getting responses from all the 39 members in a survey done by fax. To date only 56% have responded to the survey; so it is not entirely satisfactory. At the latest count, two members of the Urban Council advised me to abstain from voting on the motion. Eight members have asked me to vote against the motion and their reasons were: One, that a smooth transition in 1997 is more important than pushing for democracy. And two, that it is premature to define the composition for the Election Committee before we know the details. And the third reason given is the Election Committee should not be confined to District Boards only, and that there are other ways to involve more participation from the people of Hong Kong. The remainder of the 56% who replied to the survey, that is, 12 members, advised me to vote in favour of the motion. Though one of those considered that elected members of the Municipal Councils should also be included. I believe there is merit in the reasons given by those who were against the motion that those who take part in District Board elections form a very small number in relation to the whole population. I also agree that a smooth transition could preserve what democracy we have while a rough passage in 1997 could destroy what we have. However, being a democrat in the ordinary sense of the word, and as representative of the Urban Council, I abide by the majority vote of my constituents which supports the motion.

MR CHEUNG MAN-KWONG (in Cantonese): Mr Deputy President, Mr McGREGOR's motion supports the Governor's proposal, that is, the 1995 Election Committee, which will return 10 Legislative Councillors, should be composed of the democratically elected members of the District Boards. This motion is another attempt by Mr McGREGOR to promote democratization of the political system subsequent to his objection to the multi-seat, single-vote system. Being someone who has fought for democracy for a long time, I believe that this motion is a step forward. Of course, it would be more in keeping with the principle of democracy if we could turn the 10 seats in question into directly-elected seats.

However, I would like to take this opportunity to remind those who support democracy, including Mr McGREGOR whom I hold in high esteem that we must be vigilant and careful. We must not think the well-meaning aspirations would turn into reality. It is because the composition of the Election Committee, as set out in the Governor's policy address, will be somewhat different from that expected by Mr McGREGOR. The major difference lies in the fact that some members of the Election Committee may not be elected District Board members. But we have no idea about the number of such members. This is a loophole and a grey area. As a result, in the future Election Committee, there may be a non-democratically elected political force which may balance or influence the results of the elections. Besides, a Legislative Councillor returned by the Election Committee, as proposed by the policy address, may not necessarily be an elected District Board member. He may be any "qualified candidate". The definition of "qualified candidate" will give rise to another loophole and grey area. We must be alert and cautious that the pace of democratization of our political system will not go backwards or even change course because of external pressure.

Mr Deputy President, the Governor will negotiate with the Chinese Government about the electoral package for the 1995 Legislative Council elections later on. Before the Governor visits Beijing, I have read in the newspaper the remarks made by Mr Michael SZE, the Secretary for Constitutional Affairs, in a radio interview concerning the composition of the 1995 Election Committee. What he said, more or less is that, apart from the proposal set out in the policy address, which suggests that the Committee will be basically made up of elected members of the District Boards, there were other proposals as well. He could not disclose those proposals, for they would be used as bargaining chips during the Governor's negotiations with the Chinese Government on his trip to Beijing.

Mr Deputy President, I am shocked by and dissatisfied with Mr SZE's remarks. I request Mr SZE to clarify whether the Governor has a secret package for the Election Committee. As the information provided by Mr SZE is different from that contained in the policy address, is there another base-line in this area? If yes, why have members of the public not been informed beforehand? I recall on the first day of his arrival in Hong Kong, the Governor told the people of Hong Kong that he had no secret agenda. Such words, which

won him our applause, is still fresh in our memory. Did the Governor mean what he said? If yes, I request that the Governor make public this secret package. He should not keep us in the dark and let the Chinese and the British Governments decide our fate and the future of democracy through secret talks.

Mr Deputy President, I differ with Mr ZHANG Junsheng, the Deputy Director of New China News Agency, Hong Kong Branch, on a lot of issues. However, today I must say that I fully agree with what he said: "Democracy is not a gift from anyone." This is particularly true when we talk about the democratization of the political system of Hong Kong. The democrats all share the same view. Naturally, we do not expect those in power to bestow democracy on us. Neither do we believe that the promises made in the policy address will be fulfilled easily. Nevertheless, being an elected member, I have to remain vigilant and guard against any attempt to use the kind-hearted Hong Kong people as bargaining chips during negotiations, instead of allowing them to be the masters of their own fate.

Mr Deputy President, with these remarks, I support the motion of Mr McGREGOR whom I respect.

6.28 pm

DEPUTY PRESIDENT: We will take a supper break and will resume at 7 o'clock.

6.53 pm

DEPUTY PRESIDENT: Council will resume.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, the Governor made unequivocal statements on many issues concerning our next five years in his policy address delivered on 7 October, which aroused widespread debates throughout our society. As a politician, he has achieved his objective. As legislators, we have to understand that besides the proposed political reform there are many other issues in the address or his future plan that deserve our attention. In other words, on behalf of the people of Hong Kong, we have to take into account matters other than the political development and democracy. As regards the constitutional package, we all know that the Legislative Council will have 60 seats in 1995. Insofar as the 1995 Legislative Council and the 1997 issue are concerned, we must understand clearly that the most important thing is smooth transition. I remember that more than three months ago on 9 July when the Governor Mr Chris PATTEN arrived in Hong Kong, he said in the City Hall that his first duty was to ensure a smooth transition for Hong Kong. This I remember very clearly. In other words, what we should achieve in respect of the 1995 Legislative Council and the 1997 issue are: 1) smooth transition; 2)

through-train arrangement; and 3) convergence. And to achieve convergence, we must pay heed to the historical fact. The historical fact, as I understand it, is that the British Government has the duty and obligation to hand over to China the sovereignty and right of administration of Hong Kong on 30 June 1997 to the effect that China will replace the United Kingdom as the sovereign state and delegate the right of administration to the people of Hong Kong, who comply with the conditions of the Basic Law, in order to implement the idea of "Hong Kong people ruling Hong Kong". This is my personal understanding, and whether it is right or wrong I would leave it to history to do the judgement.

We have to understand that in the fifties the living standard in Hong Kong was very low and the life of the people who came to the territory then was very difficult. But in the last 10 odd years, some people have made quite a lot of money thanks to the open-door policy of China, and our international standing has also been elevated. Of course, the achievement has also been attributed to the administration and leadership of the Hong Kong Government. In addition, we should also understand that overseas Chinese around the world have regarded Hong Kong as their second homeland and done a lot for Hong Kong. This is an indisputable fact. Now it is our hope to improve local people's living standard, but the issue of 1997 has undeniably put them under a great psychological pressure. Why do we not give them some good guidance but have to make them fear? I think that it is necessary for us, as Members of the Legislative Council, to do some serious soul-searching to see whether it is the right thing to promote the interests of one's political party and individual political ambitions.

Personally, I think the top concerns of the people of Hong Kong must be: Firstly, to find a way of smooth transition in a stable society; secondly, to join efforts to make Hong Kong even more prosperous with the support from China; thirdly, to be able to enjoy various kinds of freedom like, among others, freedom of entry into and departure from the territory, freedom of vote and so on; and fourthly it is my personal opinion, to have democracy. The other day, many political parties argued for a referendum. I consider that a referendum on the constitutional package is not feasible, but I think, it will be feasible to have a referendum on the priority of the four points I have just mentioned, that is, to let the people of Hong Kong decide what they would like to have first: democracy, freedom, prosperity or stability. As politicians, we should appreciate what is the reality. Being too sentimental will only make me feel uncomfortable sitting here. Hong Kong is a multi-facet society, and a more prosperous Hong Kong depends on our co-operation.

Many Members claimed themselves as "democrats". In fact, who would not like democracy in Hong Kong? I may be regarded as a capitalist. And I admit that I am an enlightened capitalist and I am also a supporter of democracy, only that our view of what form democracy should take and our understanding of democracy may not be the same. Take Mr LEE Kuan-yew as an example, can you say that he is not a democrat? The Singaporeans may not say that he is definitely not, though there may of course be disagreement.

The most important thing Members of this Council need to understand is, as I have just said, whether we need through-train arrangement, convergence and smooth transition. I think the sensible way is to leave it to the British and Chinese Governments to identify a model most suitable to Hong Kong through discussions. It will be pointless to put too much pressure on the Governor or the Chinese Government.

I have reservation about the election for the 10 Legislative Council seats, to be filled by district board members, because essentially they only represent their fellow district board members. If we can afford not to have convergence and through-train arrangement, I personally will propose that the 60 Legislative Council seats should all be returned through direct elections in 1995. Only that can be said to be the fairest way. What the Chinese Government will do after 1997 is its own business. However, we must not lose sight of the fact that Hong Kong will not become an independent state after 1997. The sovereignty of Hong Kong will be returned to China. It will be totally unrealistic to expect China to give up the sovereignty and sacrifice everything for the people of Hong Kong. So please do not mislead the public. This is totally impossible. We should bear it clearly in our mind. For this reason, Members of this Council, besides taking care of their own interests, should, above all, act in line with the thinking of the public outside this Council.

Mr Deputy President, these are my remarks. I have reservation about Mr McGREGOR's motion.

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, I am surprised by the holding of such a debate today. What surprises me, among others, is that this Council is now requested to consider supporting some of the proposals of the constitutional reform set out in the policy address, although it is only one week since the Governor delivered his policy address, and Members of this Council have yet to formally make their views nor has a debate been held in this Council on the content of the address at large. What is the hurry for this Council to accept the Governor's proposals that even the conventions of this Council have to be changed? I also find it interesting that throughout the course of events, Mr McGREGOR and the Governor seem to have a tacit agreement. Their co-operation has been so good that it can be taken as an excellent example of the "partnership" type of relationship.

I find that many aspects of the Governor's proposed constitutional package have not been thoroughly deliberated and are formulated without sufficient respect for public opinion. For example, it was without sufficient prior public consultation and discussion that a decision was rashly made to hold the debate we have today on the formation of the Election Committee to be composed of elected members in 1995. As a matter of fact, these reform

proposals indeed may affect Hong Kong's smooth transition before and after 1997. I have repeatedly pointed out in this Council that any review and reform proposals concerning the political system of Hong Kong have to be considered in the context of their convergence with the model enshrined in the Basic Law. However, it is obvious that the Governor has not given enough thought to the Basic Law's blueprint for the Election Committee after 1997, as he now proposes that the Election Committee be composed of elected district board members. It is clearly set out in Annex I of the Basic Law that the future Chief Executive shall be elected by an Election Committee composed of 800 members, and it is also provided in Annex II that the Election Committee to take part in the election of the second Legislative Council after 1997 refers to the one provided for in Annex I. It is therefore obvious that the Basic Law has already provided for the future Election Committee, so I think that the election of the Legislative Council in 1995 and the Election Committee for the first legislative Council in 1997 should best comply with the mode provided for in the Basic Law in order to ensure a smooth convergence.

Mr Deputy President, if we are to attain a higher level of democracy and allow extensive participation by the people of Hong Kong, the composition of the Election Committee in 1995 should not be confined to elected district board members, because I am afraid that such composition may not adequately represent the interests of different sectors in society. The ideal therefore is to have an Election Committee which can encompass the voices of as many sectors as possible in society and can therefore be broadly representative. The Election Committee provided in the Basic Law for the election of the Legislative Council of the Special Administration Region is the second term, which is the one to elect the Chief Executive, shall be composed of 800 members who are elected in accordance with the principles of democracy and openness from, among others, the industrial, commercial and financial sectors, the professions, Members of the Legislative Council and regional organizations. These 800 members will in turn elect the Chief Executive and six Legislative Council Members. I think such an Election Committee can better demonstrate democracy, because its members are democratically elected from different sectors in society, instead of representing only the opinion of the district board members. In this light, the Election Committee is like a miniature of society, and the Legislative Council Members elected by this Committee can therefore represent people from all walks of life. This Election Committee allows a more extensive participation by different sectors of society and realizes the spirit of democracy. The Administration should indeed give it a serious thought.

For these reasons, I propose that the Administration consider forming a similar Election Committee in 1995 on the basis of the form of the Grand Electoral College mentioned above and in accordance with the principles of democracy and openness for the purpose of electing 10 Legislative Council members. If the Administration should be obstinate to have its own way and

form an Election Committee with only elected district board members, not only will such a committee fail to attain a higher level of democracy and more extensive participation, but I am afraid that the Election Committee where its form is concerned cannot survive beyond mid-1997. So what is the point of setting up such a committee? I hope that the Administration may think twice about it.

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

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, the number of Legislative Council Members to be returned by direction election in 1995 should be increased from 18 to 30. This is a goal that the people of Hong Kong should continue to strive for, in order to make the Legislative Council more democratic and representative of the people's wishes. Failing this, in other words, if the number of directly elected seats can be increased to no more than 20, the United Democrats of Hong Kong (UDHK) fervently hope that the election committee which is to return 10 Legislative Council Members will be composed entirely of directly elected district board members. This election arrangement, though not as desirable as having the Legislative Council Members directly elected by the people, will be barely acceptable as it can fulfill the principle of "universal participation". However, it is very important that measures must be taken to ensure that only directly elected district members are eligible to become members of the election committee.

UDHK raise this point because of the following:

Firstly, the Governor's policy address proposes that the appointed seats of the district boards be abolished while retaining 27 ex-officio seats automatically filled by the chairmen of rural committees. Why should these ex-officio Members be retained when, for one thing, they are not elected by residents of their districts and, for another, there are already elections of district board members in the areas represented by these rural committees? Besides, a significant number of directly elected members are representing these villages and rural areas already as the Government has taken particular account of the demographic profile of these rural areas in the demarcation of constituencies. As a result, the number of voters in each of the constituencies in these rural areas is usually significantly less than that of its urban counterparts. Hence there is a sufficient number of members on the district boards representing various constituencies, including the villages. The UDHK very much hope that the district boards will be a 100% democratic institution from 1994 onwards. The UDHK therefore demand that all district board members should be directly elected and at the same time that appointed and ex-officio membership be abolished. If ex-officio district board members are retained in 1995, they must be made ineligible for membership of the election committee.

Secondly, the Governor's address says that all or most of the members of the election committee will be drawn from directly elected district board members. The UDHK find the term "most" intriguing. What then will the remaining "minority" be if "most" members of the election committee will be drawn from directly elected district board members? Will it be the privileged class who have no public representative base? Moreover, how many seats will amount to "most" when indeed it can be a small number or a substantial number. This is couched in the vaguest terms. Would it mean that the Governor has an alternative proposal up his sleeve to fall back and compromise on when pressure builds? The UDHK hope Mr PATTEN will explain this to the public in clear terms.

Finally, UDHK believe that the proposal that the election committee be composed of directly elected district board members is acceptable and there is no need to include elected members from the two municipal councils each of which already has a representative on the Legislative Council returned by election among members.

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

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, China and Britain and the Hong Kong Government have occasionally mentioned the sort of Legislative Council we will have after the 1995 election; that is to say the Council will be one without appointed Members. Of course, putting it in another way, all Members of the Legislative Council will have been returned by election at that time. I believe the major point of argument or discussion relates to the phrase "constituted by election". To the people of Hong Kong, democratic election means one which is conducted in "universality", "fairness" and "equality". Therefore, if a grand electoral college is formed in order to have the future Legislative Council returned by election, I feel that the above principle should be, need be and must be followed. The best method is of course the formation of an electoral college of electors returned by general election according to geographical constituencies, for this method will conform entirely to the principle above as well as letting voters know of the candidate for whom they are casting their votes.

As to the Honourable Jimmy McGREGOR's motion, the Hong Kong Association for Democracy and people's Livelihood and I feel that it is the grand electoral college approach, one which is the barest acceptable minimum. The biggest advantage of this arrangement lies in dispensing with the need to conduct a one-man one-vote direct election by the people of Hong Kong, as the district board members or rather the elected district board members returned by general election have democratic backing. Some people may probably find that the three-tier elections are becoming much too frequent to their liking. A deficiency of these elections is that voters may have cast their votes to support a certain candidate to become an elected district board member on the basis of his performance and his concern for the district. But if they were asked to elect

one of the members as a Legislative Council Member, they might find the choice difficult or even refuse to support any particular candidate. This election method is therefore defective. I think that the election committee is a transitional arrangement which will be abolished when the third legislature of Special Administration Region is constituted. We therefore hope that the pace be quickened with a view to having the existing election arrangements replaced by direct elections on a geographical constituency basis as soon as possible, so that a universal, fair and equitable election system be put in place for Hong Kong.

Riding a taxi on Monday, I heard some remarks made by the Secretary for Constitutional Affairs, Mr Michael SZE, in a radio interview. He said, "We visit Beijing for talks of course. What shall we be doing in Beijing if not for the talks?" I wonder if this remarks of "talks" implies there is room for change or compromise. We are very worried lest it should turn out that way. We hope the Secretary can explain to us Members of this Council what he meant exactly by "talks". Maybe the Governor has a second address right up his sleeve in less than a year or three months after his first address? Is the writing of the second address already finished? If yes, or if it is still being drafted, could we be informed of its outline?

At the concluding session of the Tory party conference this year, the British Prime Minister, Mr John MAJOR, said two things about our Governor. First, he said "Mr PATTEN will have a place in the next British Government"; and second, "Mr PATTEN puts and will put the interest of Britain at the forefront". I was very much worried on hearing these remarks. Does Mr PATTEN's "heart stay in Britain when he is physically in Hong Kong"? What place does the interest of Hong Kong have in Mr PATTEN's mind? I really would not wish to see Mr PATTEN create an illusion to the people of Hong Kong with his speech, his posture and his high profile and negotiate with China only for his own interest and that of Britain in the years ahead. I hope my perception is wrong, for being a new political figure I believe I may have got it wrong. But I would like to give the Governor a piece of advice (I wish the Governor could hear this though he refused to meet us). "The people of Hong Kong and I will be keeping an eye on you, monitoring your every move. If one day we should find that you have betrayed the people of Hong Kong, what you have painstakingly built up in Hong Kong today would all disappear."

Finally, I should like to appeal to the people of Hong Kong in these terms: If you cherish an ideal for yourself and a dream for Hong Kong after 1997, and if you want to have a democratic system in place in Hong Kong, act now and speak out and fight for it yourself; strive for it and get it from China direct. With the above remarks, I support the motion. Thank you, Mr Deputy President.

MR SIMON IP: Mr Deputy President, the spirit behind this motion is to ensure the democratic element of the 1995 Election Committee. The same proposal was made by the Governor in his policy speech. He correctly pointed out that the composition of the Election Committee for 1995 is not laid down in the Basic Law. He recognized that if there is to be a "through train" in 1997, China's agreement to the proposal will need to be obtained and he intends to discuss it with the Chinese Government. I am less sure of the correctness of the Governor's assertion that the Basic Law makes clear that the Committee's composition will not be that prescribed for 1999. The fact that the composition is not laid down in the Basic Law must surely mean that the issue of composition is left entirely open.

The Basic Law has laid down the broad political structure of the future SAR, including of course the number of directly elected seats to this Council. I take comfort in the assurances given by the Governor that the case for more directly elected seats will continue to be made with vigour. But I agree that we should endeavour to explore parallel means of furthering democracy. As I have said on past occasions, the number of directly elected seats is not the only issue or the only available means of promoting democracy. To persist in concentrating only on this runs the risk of ignoring the wider opportunity of broadening representative government. The composition of the Election Committee is a case in point. By drawing from the elected members of the District Boards who have a mandate from the voters, we can ensure that the views of the general public are represented in the Committee. This may not be a perfect substitute for direct elections. But it is worthy of serious consideration if it is not possible to have more directly elected seats and if there are no better proposals on the table. I therefore support the Governor raising it when he visits Beijing in the hope of securing China's agreement. Of course we need to iron out some of the details. For instance, should we include the elected members of the Municipal Councils in the Election Committee as well? If so, would there be any overlap in the membership between these bodies? But I regard these as details which should not dilute our support for the main principle that the Election Committee should have the greatest possible degree of democracy and representation. Mr Deputy President, with these words, I support the motion.

DR CONRAD LAM (in Cantonese): Mr Deputy President, a characteristic of the development of democracy in Hong Kong is that it takes one step forward and then two steps backwards, wavering along the way. There are three main obstacles on the road to democracy in the local context. The first one is the colonial government, the second one the restraints imposed by the Basic Law, and the third one the group of so-called "learned" people, who try to deceive others only to end in deceiving themselves, among us.

I have all along held the view that the Basic Law is not the absolute truth, definitely not sacrosanct. The Basic Law should allow for proper amendments in accordance with the change of time and circumstances. What is the spirit of

the Basic Law? As mentioned by Mr SZETO Wah just now, it is to put into practice the concepts of "one country, two systems" and "a high degree of autonomy". Of course some people may have different ideas about the spirit of the Basic law and thus different interpretations. But if their interpretations run counter to the wishes and interests of the public at large, what should the people of Hong Kong do? Should they grin and bear it, or should they argue for their interests vigorously?

The status and role of district boards have diminished with the phasing out of the current government. In the past, the Government, through the appointment system, tried to turn the district boards into a venue where public opinion could be manipulated. The 1991 direct elections told us how much public support the district board chairmen enjoyed under the existing system. How many of these chairmen were as confident as Mr LEE Wing-tat to stand for direct election? In fact district board chairmen and certain indirectly-elected Urban Councillors are beneficiaries of the existing appointment system. It is therefore understandable that some of them object to the proposal that the Election Committee is to be formed by elected district board members. An Election Committee set up as proposed has one merit. It can forestall any attempt by the Governor to appoint at whim conservatives or democrats to the establishment in order to influence the decisions of the District Boards, that is, appointing more conservatives if he wishes to have more conservative decisions or appointing more democrats if he is in favour of more democracy. A study by Robert DULL, a political science guru, shows that the degree of people's participation in politics depends very much on their feeling about the influence they can exert. The fact that the turn-out rate for the 1991 Legislative Council direct elections was higher than that for district boards and much higher than that for the Urban Council attests somewhat to this finding. If the Election Committee is made up of elected district board members, it will not only increase the clout of the district boards but also enhance the public's interest in taking part in district affairs. The arrangement under which the Election Committee is to be composed of elected district board members will help to establish a more democratic political system without having to amend the Basic Law. Although it will not bring us a full democracy, this arrangement is acceptable to us, though with reluctance, as an interim measure. The Election Committee, a monster in my eyes, must be removed eventually. What Hong Kong people are striving for is genuine, full direct elections, not an appointment system, nor semi-direct elections.

Mr Deputy President, I support this "gweilo" or "foreign devil" whom I respect. He looks a little bit like a "devil", but he is humane and righteous. Some people, on the contrary, are brutish in nature.

With these remarks, I support the motion.

MISS EMILY LAU (in Cantonese): Mr Deputy President, I have been fully supporting complete direct elections of the Legislative Council for years. I am opposed to any form of indirect elections. Of course, I am against the appointment system. I very much hope that the Legislative Council will introduce complete direct elections in the next few years. Therefore, I have much reservation about the motion of Mr McGREGOR.

Now, I am pleased to see that local groups, including women's groups, also demand complete direct elections. This situation makes me feel that I am not too idealistic or unrealistic. Mr Deputy President, it may be that some colleagues are behind the times. I very much hope that they will catch up as soon as possible, especially those claiming to support democracy. Mr Deputy President, I believe you understand that there is no half democracy. Either there is democracy or there is no democracy. We do not have democracy now. We do not have it even if we have got the 10 seats mentioned by Mr McGREGOR. Hong Kong will not enjoy democracy until all members of this Council are elected by Hong Kong people on a one-man-one-vote basis. We should not cheat ourselves.

Some colleagues want to compromise in order to gain votes. Mr Deputy President, I was elected by voters in New Territories East. I know very clearly that the voters have never asked me to sacrifice their democratic rights for a compromise. The message they give me is simple and clear: to fight for full democracy for Hong Kong and people living in New Territories East. Surely, I am not to fight for just half of the seats or 10 seats. Therefore, I will certainly not support the electoral college which is "neither fish nor howl". I feel that electoral college election is an insult to the intelligence of Hong Kong people. Mr Deputy President, at this stage, I believe everybody knows that it is entirely possible for Hong Kong to introduce full democracy and adopt a western-style multi-party system. We all understand that the only hindrance is opposition from Communist China. I hope the Governor will have the support of the general public and will fight for us when negotiating with China. I also hope that as Mr Frederick FUNG just said, we Hong Kong people can also fight for what we want ourselves. But, Mr Deputy President, as you know, the Chinese Government refuses to have a dialogue with some members of this Council. I hope this ridiculous situation will come to an end very soon.

Mr Deputy President, if it is really not possible to introduce full democracy and electoral college has to be set up, I think the motion moved by Mr McGREGOR is a minimum requirement. However, though the Governor states in his policy address that the appointment system of district boards will be scrapped, he also declares the retention of 27 rural ex-officio seats. Just like Rev FUNG Chi-wood, I think this is totally unacceptable. Lastly, Mr Deputy President, I believe I am speaking on behalf of many Hong Kong people. What they hope for is full democracy for Hong Kong.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, the person who was mentioned most often by speakers today was not our Governor but Mr ZHANG Junsheng. I would also like to refer to Mr ZHANG's remarks. Speaking to the press about the political system proposed by the Governor's policy address, Mr ZHANG said the implementation of a democratic political system in Hong Kong was the business of Hong Kong people and not a gift from any person. His statement is absolutely correct. I give strong support to it and this is the first time I discover that I am in full agreement with the views of senior officials of the New China News Agency.

How can the statement of Mr ZHANG Junsheng be implemented? The answer is simple. That is to decide the future political system according to the views of the majority of Hong Kong people.

Firstly, the issue of Hong Kong's political system has nothing to do with national defence and foreign affairs. It is an internal affair of Hong Kong. Hong Kong people should have the right to speak and decide.

Secondly, a political system established on the basis of public opinion must be a stable, lasting and widely-supported system. Do the Chinese government and the Hong Kong Branch of the New China News Agency not know that the heated debates by the community on democratic political system over the years are due to the stipulation of an undemocratic system in the Basic Law to suppress the demand of the public for democracy? So long as the demand for democracy is not met, the public will continue to voice their discontent through various channels and there will be endless heated and antagonistic debates in the community.

Thirdly, public opinion is virtually the best, the most stable and the most open bridge that links the political system before 1997 with that beyond 1997. Unfortunately, the Chinese Government has not accepted public opinion. It even selected by way of appointment in a disguised form people holding similar views to its but not opposing public opinion as members of the Drafting Committee for the Basic law to draw up a package on political structure not accepted by the public. This package on political structure in the Basic law is not consented to or supported by the people of Hong Kong. It reflects only the views of the Chinese Government and members of the Drafting Committee but not those of the public. I am sure that if the public supports a democratic political system before 1997, it will also support the development of democracy after 1997. There will not be any problem of convergence. Those who claim that there exists a problem of convergence are people who have accepted the Basic Law's package on political structure which is undemocratic and not in line with public opinion.

If political leaders of different groups can give up their prejudices and join forces with the public, we will certainly have a chance to break through the frame of the Basic Law and establish a more democratic system for Hong Kong.

Lastly, I would like to make a suggestion to Mr ZHANG and wish he would consider it. If he can openly and persistently support the principle that Hong Kong people should have full powers to decide on the system concerning their livelihood, I hope he will join our democratic camp and support the introduction of universal suffrage in Hong Kong. What does Mr ZHANG think of it?

With these remarks, I support the motion.

DR YEUNG SUM (in Cantonese): Mr Deputy President, the United Democrats of Hong Kong (UDHK) fully support Mr Jimmy McGREGOR's motion mainly for two reasons:

Firstly, an electoral college composed of directly elected district board members is in line with the principle of democracy. Although it is a kind of indirect election, basically all the directly elected members are returned through universal and fair elections.

Secondly, since the Basic Law is silent on the first Election Committee, it is totally out of the question to say that there is any breaching of the spirit of the Basic law.

Yet, I wish to raise two points with the Governor in respect of the Election Committee on behalf of the United Democrats of Hong Kong. As a matter of fact, the more appropriate arrangement is to have 10 more directly elected seats in 1995. According to the findings of many opinion polls, the majority of the people hope that there will be 10 more directly elected seats in 1995 even though they know that China is not in favour of such an arrangement. If both China and the United Kingdom respect the local people's opinion, there certainly will not be any problem of convergence in respect of the political system. Basically there are some loopholes in the Governor's proposed Election Committee. In his policy address, he mentioned that all or most of the Election Committee members should be drawn from directly elected district board members. Then who will be the rest of the members? The Governor will shortly go to Beijing to discuss the political system of Hong Kong with China. Mr Deputy President, I now solemnly urge on behalf of the UDHK that the Governor should not use our democracy to bargain with China. Democracy is no grace from anybody; it is actually the basic right of Hong Kong people and the cornerstone of the concept of Hong Kong people ruling Hong Kong with a high degree of autonomy. I think the Governor must respect Hong Kong people's opinion and should not use their yearn for democracy as a bargaining chip in the political negotiation.

Mr Deputy President, this Government will only rule Hong Kong for five more years. This Government is under obligation to lay a foundation for the establishment of a high degree of autonomy before 1997.

Mr Deputy President, when 1997 is approaching, many Hong Kong people will take the initiative to organize themselves and people in different sectors will also be concerned about their well being. To strive for and set up a democratic government for Hong Kong will not only mean much to Hong Kong people but also produce significant effects on China's long-term development. For these reasons, we request the Governor, Mr PATTEN, to establish a democratic government in Hong Kong before 1997 in accordance with the Sino-British Joint Declaration so that Hong Kong people can have a bigger role to play in tackling the challenges after 1997. With the end of the British rule, it is all of us, the Hong Kong people, who would be left to confront the future development and challenges after 1997.

Mr Deputy President, UDHK members on this Council fully support Mr Jimmy McGREGOR's motion.

MR HOWARD YOUNG (in Cantonese): Mr Deputy President, just now when we decided on whether we should go ahead with the debate on this subject, I mentioned that what I had to say might not help the Governor in his efforts to fight for Hong Kong people's interests and instead it might even backfire. I originally intended to give my views in next week's Motion of Thanks but, because of today's debate, I have to comment on the section about the Election Committee earlier than scheduled. For this reason, my speech is not so well prepared. However, I believe even though I deliver my speech, it will not do much in helping the Governor in his fight for our well-being.

Firstly, according to my experience as a member of the consultative committee for the Basic Law, up to now I still cannot convince myself that the proposed composition of the Election Committee falls in line with the spirit of the Basic Law. The Governor is admirably able to do an exhaustive study and cleverly locate the sections not stipulated in the Basic Law, that is, the so-called grey areas or the gaps. However, I think the Basic Law is China's law rather than Hong Kong's law. Who is vested with the power to interpret it? It is clearly stated in the Basic Law that the Law shall be interpreted by the Standing Committee of the National People's Congress instead of our Legislative Council. Furthermore, I am not a lawyer myself. As my knowledge of law is scarce and my knowledge of the law of China is even scarcer, I am not in a position to interpret the Basic Law. Some Councillors who were former or once Basic Law Drafting Committee members just now have given their interpretations probably because they must have thought that they are in a position to do so and I dare not say that they are not. Yet, as I see it, there are two committees to be set up according to the Basic Law, namely, the Selection Committee and the Election Committee. The thinking with regard to the composition of such committees is that the industrial, commercial and financial sectors take up 25% of the seats, the professions 25%, the labour and social services and other sectors 25% and Members of the legislature, representatives of district-based organizations, Hong Kong deputies to the National People's Congress and representatives of Hong Kong members of the National Committee of the

Chinese People's Political Consultative Conference 25%. Of course, the Basic Law is applicable neither to the 1995 nor to the 1997 elections but to the selection of the chief executive in 1999. But I think the Basic Law must certainly be drafted on the basis of a certain notion. Why should it be so stipulated? There must have certain idea behind it. I can only infer that the drafters of the Basic Law might think such arrangements would be conducive to the maintenance of Hong Kong's stability and prosperity, and the one country two systems concept. I think this is their intention. But I cannot see how the proposal of having the future Election Committee composed of elected district board members as stated in Mr McGREGOR's motion can achieve the aforesaid quarterly divided composition. I think it is very difficult to achieve that target. Unless there is a certain way enabling district board members to conform to such an arrangement, it will be very easy to give rise to a situation where we have to design a model for 1995 elections and then another model for riding on the "through train" to 1997. This scenario will be a far cry from the original arrangement laid down in the Basic Law. We can certainly be bent on having our own way but we may thus run the risk of having some Members unable to ride on the "through train". This is not what I would like to see. In fact, I do not object to some underlying principles such as the elections to be carried out in a democratic manner. I think it will go a long way towards achieving a smooth convergence and transition if we can work out a method enabling 25% of the seats representing the industrial, commercial and financial sectors, and 25% of the seats representing the professions to be elected democratically whereas the Hong Kong deputies to the National People's Congress, Members of the legislature or district board members can also be elected in certain mode of democratic elections so that the composition will conform to the related provisions.

Secondly, I would like to talk about the importance of democracy. Recently I carried out a survey in my functional constituency to seek the views of the constituents. Although the size of my functional constituency is not large, we had the highest turn-out rate among other functional constituencies in the last Legislative Council elections. I set out in the questionnaire a number of items concerning people's livelihood and asked them in what direction we should move ahead and which items should be given priority. I asked them to put (1) against the item they thought top priority should be accorded, (2) against the second most important item and (5) against the not-so-important one. Items not given any number at all are regarded as accorded very low priority. According to the questionnaires collected up to now (the response rate is roughly 10%), one of the 27 items is: "we should strive for more directly elected seats in the Legislative Council and a democratic government". That item came the 25th among the 27 items. One respondent attached importance to the democracy guaranteed by the "one country, two systems" promise. He expressed hope that we could ensure the implementation of the "one country, two systems" model and strive for a genuine capitalistic system in Hong Kong. He would not like to see a Hong Kong showing no tolerance to opposition views or where one person alone has the final say. Nor did he support the so-called capitalistic system with Chinese socialist characteristics. Although he had such views, he only gave a

"zero" to this item. Under such circumstances, it is really difficult for me to say for sure that the constituents in my functional constituencies regard democracy as so indispensable that they would rather run the risk of having the "through train" derailed by designing a model which differs substantially from the one laid down in the Basic Law. I cannot bring myself to support Mr Jimmy McGREGOR's motion.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Mr Deputy President, we have heard this afternoon the views and persuasive arguments of Members of this Council on the Governor's proposal relating to the composition of the Election Committee in 1995. On behalf of the Government, I would like to thank all Members who have spoken in this debate. I would also like to assure them that their valuable views will be fully taken into account in our deliberations.

I should like to take this opportunity to respond firstly to questions put to me by several Members in their speeches just now. Mr TAM Yiu-chung said in his speech that the Governor appeared to have a tacit agreement with Mr Jimmy McGREGOR, or acting "in collusion" or "in collaboration" with him. This is all unfounded. The whole process of moving this motion today....

DEPUTY PRESIDENT: Is that a point of clarification, Mr TAM?

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, I think there are some points which need to be clarified.

DEPUTY PRESIDENT: Point of elucidation or point of order, Mr TAM?

MR TAM YIU-CHUNG: Point of clarification, Mr Deputy President.

DEPUTY PRESIDENT: Point of clarification. Do you wish to give way, Secretary.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Can I finish first, Mr Deputy President?

DEPUTY PRESIDENT: If you wish to give way, Mr TAM will ask the question. Then you can decide whether you wish to give way.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr TAM can ask the question, Mr Deputy President.

MR TAM YIU-CHUNG (in Cantonese): I am very surprised. I did not mention anything about "acting in collusion with each other" or "mutual collaboration". If he is not clear about what I have said, I can let the Secretary have a look at my speech. I only said, "Mr McGREGOR and the Governor seem to have a tacit agreement. Their co-operation has been so good that it can be taken as an excellent example of the "partnership" type of relationship." I never said anything about "acting in collusion with each other" or "mutual collaboration". I wish the Secretary would clarify."

DEPUTY PRESIDENT: On a point of order, Mr TAM is actually not raising a point of elucidation. He is asking to explain something which he has said which appears to have been misunderstood, which is his right to do.

DEPUTY PRESIDENT: Yes, Mr McGREGOR?

MR JIMMY McGREGOR: I think it is also my right to ask what Mr TAM means by "partnership"; a partnership in the corporate sense, or a partnership in the friendly sense or a partnership in a political sense?

DEPUTY PRESIDENT: I think, on a point of order, Mr TAM was not making a speech which you are entitled to ask to elucidate. He was asking Mr SZE for elucidation; now he is clarifying something he has said. I think we had better stop at that point. Mr SZE, do continue.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): This is all unfounded. The whole process of moving this motion today, as Mr McGREGOR had indicated in his speech, is a procedure set off by Mr McGREGOR's request and governed by Standing Orders of this Council. The so-called "tacit agreement" is indeed non-existent.

Moreover, Mr CHEUNG Man-kwong and Mr Frederick FUNG both mentioned comments made by me on a number of occasions recently. I understand that it has been difficult for the media to report on the many public explanations and remarks made by me on the many parts of the government proposal on constitutional development. They have failed to report clearly my meaning on certain important details. I am therefore grateful to have this opportunity to make several points of clarification, as well as repeating my meaning in clear and precise terms.

First of all, I should like to assure Members of this Council that the Governor absolutely has no secret agenda whatsoever. Just as the Governor said, the current package is still a proposal. Given this fact, how could we possibly be now described as extremely inflexible? Next week, the Governor will bring along his proposal and with it his greatest sincerity to Beijing and carry out serious discussions with the Chinese Government. Given that this is a process of discussion, how can I say that there is no room for alteration? Of course, as we all know, the Governor has made it clearly on a number of occasions that it is the best proposal to his mind and that it represents the wish of people in Hong Kong or the mainstream of public opinion. However, he is equally prepared and willing to listen to the other better opinions. If friends of the Chinese Government have better opinions and do put them forth, he will certainly listen to them carefully. Then there is the question: What people are there other than members elected by district boards? I should like to say here that we do not have in mind a clearly identified group of people. But I can say that if there are people who are returned by way of an open, fair and democratic election process, we will be prepared to consider them.

Do we have a bottom line? Yes, we do. And it has been made public at the early stage. The Governor has also mentioned it, that is, by 1995 the Election Committee must have its foundation built upon a fair and open election. However, assuming that someone should put forth a better proposal on basis of this bottom line, we will of course consider it.

As today's debate has been based on the constitutional package presented in the Governor's address to this Council last week, I think it would be opportune for me to explain a bit further our thinking behind it. Assuming that the Basic Law will not be changed to allow an increase in the number of directly elected seats, we would obviously need to set up in 1995 an Election Committee to return 10 members to the Legislative Council. In this connection, we consider that since this Council will be fully elected in 1995, the Election Committee should obviously be constituted through a fair and open election process, that is, without any element of appointment by proxy. Under our present proposal, the two Municipal Councils and Heung Yee Kuk will retain their respective functional constituency seats. It is for these reasons that we have come to the view that all or most of the members of the Election Committee should come from the elected District Boards. And for the sake of opening up the election process, we also propose that any registered voter should be eligible to stand for election in this Committee.

We have given considerable thought to the 27 members on the District Boards in the New Territories. Since these ex-officio members have been returned by way of election, they stand as representatives of the indigenous population in that part of Hong Kong. We therefore find the inclusion of such elected representatives in the Election Committee acceptable.

I have noticed that in the course of today's debate Members have expressed different views on the detailed composition of the Election Committee. Nevertheless, I can also observe that there is consensus among all those Members who have spoken on the matter and that all members of the Election Committee should themselves have been democratically elected. This is most encouraging. Naturally, as the Governor has emphasized in his address, the present formulation concerning the Election Committee is a proposal and not a decision. The door of consultation remains wide open. It is therefore my sincere wish that members of the community will continue to tell us their views on these important questions. Our common aim is, and must be, to find an arrangement that will serve the long-term interest of Hong Kong.

In formulating our proposal on the Election Committee, we have given detailed thought to the very important question of whether such an arrangement would be compatible with the Basic Law. Manifestly, this is the concern of all Members of this Council as well as the people of Hong Kong. The reason is very simple. If the arrangement finally decided is contrary to the Basic Law, it would be just reasonable for the Chinese government to refuse to accept it. Then, there will be no convergence with the Basic Law. However, as the Governor repeatedly pointed out on various occasions last week, our present proposal is clearly within the terms of the Basic Law. I will not attempt again to labour on the concise and correct argument in the Governor's address in this respect. But I would like to take this opportunity to respond to several comments on our current proposal.

Firstly, it has been suggested that the Election Committee composed of members from District Boards would politicize the latter and would therefore adversely affect their effective operation. I must say that I disagree with this contention. When in 1995 an element of election was first introduced into this Council, the District Boards were grouped into 10 electoral colleges to elect amongst the Board members themselves the same number of members to the legislature. Despite the heated contests, the elections did not produce any negative effect on the work of District Boards. Indeed, as of now, the two Municipal Councils hold elections to return their functional constituency members to this Council. And yet, their operations have remained effective and the community remains highly complementary towards their services. Judging from these facts, the argument of politicization affecting the effective operation of District Boards simply does not have a foot to stand on.

Secondly, there are others who take the view that the composition of the Election Committee in 1995 (the Honourable Howard YOUNG raised this argument as well) should be based on that of the Election Committee of the first HKSAR (cf. Annex I, Basic Law). In this connection, I should point out that the Basic Law has made it clear that Election Committee of the first SAR Legislative Council will not be that prescribed for the SAR Legislative Council in 1999 (cf. Annex II, Basic Law). In fact, the Basic Law states that the composition of the latter should be "prescribed by the electoral law enacted by the Hong Kong SAR in accordance with the principle of the democracy and

openness". This is precisely the guiding principles of our proposal which, I therefore say, fully complies with the spirit of the Basic Law. Furthermore, if one looks at the composition of the Election Committee for the second SAR Legislative Council, one will find that it also includes members of District Boards.

It has also been suggested that the pace of development under the present proposal is too fast and goes against the principle of gradual development. I find it difficult to agree with this argument. Our present proposal is to strike a balance among various considerations, and it accords with the spirit of an evolutionary approach. For example, one-third of the members of District Boards in 1982 were directly elected. Three years later, this proportion was increased to two-thirds. We are now proposing that 12 years after the inception of District Boards, that is, in 1994 the remaining one-third appointed District Board seats should be abolished. So, let us ask: how more gradual can this be?

Mr Deputy President, it is the firm belief of Government that our current proposal on the Election Committee to be set up in 1995 falls within the terms of the Basic Law. Its implementation will result in convergence. It embodies the spirit of democratic elections. In spite of the differences in the composition of the Election Committee under the Government's proposal and that mentioned in the motion under debate, the spirit and purpose behind the two are the same. For this reason, we consider that Mr McGREGOR's motion is, in principle, worthy of our support, even though we have certain reservations with regard to the details. The three ex-officio members of this Council will therefore vote in support of the motion. Finally, I look forward to another opportunity for discussing the detailed composition of the Election Committee in the not too distant future before a decision is taken on this important matter.

Thank you, Mr Deputy President.

MR JIMMY McGREGOR: Mr Deputy President, the clock has already started so I will stay within the seven minutes, unlike some of my colleagues.

I want to make a few points in response to some of those which my colleagues have made. If I stutter and stammer a little bit it is because my notes are rather poor. I started out here with good intentions, with the intention of trying to ensure that this Council across the board would support what is, after all, a most reasonable and most democratic procedure. In going to Beijing to place that before the Chinese Government, the Governor is in fact seeking to promote and protect our own interests. And I had thought that would be fairly clear. When we disagree with some of the other points he has made in his package, as I have said before, no doubt that will come in for discussion in this Council next week. But however, by that time he will be in Beijing. By that time he will need to know, and it will be very reassuring to him to know that he has the support in one of the principal points of the package of political reform which he is proposing for Hong Kong. Therefore he will speak for Hong Kong

and for Hong Kong people. He will speak because this Council does in fact represent Hong Kong people to an extensive degree. And I include everybody here no matter how they reach this Council, whether they are elected, fully elected, half elected, quarter elected or whatever. I would say also the Co-operative Resources Centre; I hope, and I see, that Mr Allen LEE agrees with me that he is going to support this motion wholeheartedly when we come to the end of it.

In supporting the Governor, we are supporting the Government, we are supporting the people of Hong Kong in seeking what is, as I have mentioned, a modest and reasonable degree of democratization which in all the circumstances does not meet any of our specific requirements but does in fact cut across and cut through all of them and provide something for all of us. I have to tell Mr CHIM Pui-chung I am not a great fan of the Governor, not yet anyway, but I do surely admire his style and his willingness to go out and see what is best for Hong Kong and take it to Beijing and do his best to carry it through. And I think we should be very friendly towards that process. I think a much better friend is Mr John MAJOR and that is one of the reasons why he will be able to go to Beijing possibly and be listened to to an extent which perhaps previous Governors have not been able to. As regards the question of convergence, I agree entirely with the CRC, the United Democrats of Hong Kong and everybody else here, including my good friend Dr LEONG Che-hung, that convergence is a very important point in what we must do in regard to China. However, the question of convergence is a policy, a principle if you like, a promise. There are various ways of interpreting convergence. Convergence does not simply mean that you run the rail track through into China and we have got a "through train" and everything. The same train runs on into the track into the future. We might have a different railway. We might have different carriages and we might have them in different colours. And I would ask people to remember too that the process that is going on in China is something we all have great regard for. There is a process of moderation going on right now, a process of reform. That process will continue down through the next few years so that what we are asking now — these very moderate proposals that we have — may not seem too much. China's attitude towards Hong Kong may change really quite substantially by the time we reach 1997. We may find the things we think of now as so daring, so provocative, are in fact nothing of the kind.

In the final analysis, Mr Deputy President, we have to speak for what is best as we see it for Hong Kong. We will try our best to avoid difficulty with China. The Governor will have tremendous difficulty in any event and China has made that clear. So he may not come back with exactly what he took up for discussion. He may have to modify some of these arrangements in any event.

However, I would point out to Mr TAM that the Election Committee for the Chief Executive is not really the same thing as the Election Committee for the 10 seats. Mr TAM and I have different political philosophies but we are still good friends and I do respect what he has said about the 800. But I would

suggest it is 400 to 500 composed of District Board members. And I hope in a few minutes we will all agree.

Mr Deputy President, when taking on such difficult discussions in Beijing, how much better it would be if the Governor should know he has our support, freely given, in free discussion. We all have different political views, we all have different backgrounds and we all do our very best in this Council to represent what we are supposed to represent — the interests of the people of Hong Kong. How much better it would be for our chief executive to go to Beijing on our behalf and have in his hands and in his mind a piece of paper which says that he has our support in this very important issue.

Mr Hamish MacLEOD and I have had some experience, he more than I, in negotiating textile restraints. How could we go to another country which was taking a hostile attitude — let us say, towards the numbers that we were discussing which that country would try to reduce very severely — and take a position without knowing what the Textiles Advisory Board would agree to do? We would have to carry with us abroad and into these negotiations the authority of the Textiles Advisory Board in seeking particular numbers. What is their starting position, what is their final position, what can we work within? How much better it is when you are negotiating when you know you have the support of those you are seeking to assist. That is all I am saying in this case. In every case we have the same situation. We have the Governor going to Beijing; he must be supported by this, his, Council. This is what we are here for. If we fully and totally disagree with something which he says then by all means let us say so. But as regards those who have disagreed with me, frankly, I lost them halfway through because some of the arguments was really convoluted, to say the very least. So I would say to those who are now about to vote: I ask you, genuinely, sincerely, as a Hong Kong person, not as a gweilo, to vote for my motion, vote for yourselves and vote for Hong Kong. Thank you very much.

*Question on the motion put and agreed to.*

### **Valedictory**

DEPUTY PRESIDENT: This is the last occasion that Mr K S LAW, Clerk to the Legislative Council, will be attending in this Chamber. Mr LAW will be reposted within Government after serving this Council for six years. He had already served under three Governors when I became Deputy President, and holds a fine record of dedication and service. I know Members will miss his wise counsel and professionalism as I will. I think I speak for all Members in wishing him every success in his new posting. (*clapping*)

**Adjournment and next sitting**

DEPUTY PRESIDENT: Before I adjourn the Council, I would remind Members that there is a meeting of the Hong Kong Branch of the Commonwealth Parliamentary Association to follow shortly after we adjourn. And I would request Members who can to stay behind.

DEPUTY PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 21 October 1992.

*Adjourned accordingly at six minutes past Eight o'clock.*

*Note:* The short titles of the Bills/motions listed in the Hansard, with the exception of the Amusement Game Centres Bill and the Employees Retraining Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

**WRITTEN ANSWERS****Annex I****Written answer by the Secretary for the Treasury to Mr CHIM Pui-chung's supplementary question to Question 1**

The figure of \$78 billion mentioned in paragraph 32 of the Governor's Legislative Council Address is not comparable with the figure for total capital expenditure in the next five years of \$240.8 billion.

As set out in a supplementary appendix of the Financial Secretary's 1992-3 Budget speech, the Government's Medium Range Forecast of total capital expenditure for the coming five-year period, in money of the day, amounts to \$240.8 billion. This figure comprises capital and non-recurrent expenditure from the General Revenue Account, the Capital Works Reserve Fund, and the Loan Fund.

The figure of \$78 billion mentioned in the Governor's Legislative Council Address is at constant March 1992 prices and only covers capital expenditure in the next five years on non-airport core programme Category A and B projects contained in the Public Works Programme. Funding for these projects falls under the Capital Works Reserve Fund and does not include expenditure on land acquisition, block allocations, capital subventions and major systems and equipment, and computerization.

Given that the two totals do not arise from the same items of expenditure, and are derived using a different price basis, it is not possible to compare one directly with the other.

**Annex II****Written answer by the Secretary for the Civil Service to Mr Frederick FUNG's supplementary question to Question 3**

Article 92 of the Basic Law provides that Judges and other members of the Judiciary of the Hong Kong Special Administrative Region shall be chosen on the basis of their judicial and professional qualities and may be recruited from other common law jurisdictions. This means that the Judges and others may be local but may also be expatriate.

An exception to that general rule is contained in Article 90 which provides that two posts, that of the Chief Justice of the Court of Final Appeal and that of the Chief Judge of the High Court, shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country. These two posts, therefore, may not be filled by expatriate appointees.

**WRITTEN ANSWERS — *Continued***

There is an additional provision in Article 90 that in the case of appointment or removal of Judges of the Court of Final Appeal and the Chief Judge of the High Court, the Chief Executive is required to obtain the endorsement of the Legislative Council and to report such appointment or removal to the Standing Committee of the National People's Congress for the record.

Article 88 lays down that Judges shall be appointed by the Chief Executive on the recommendation of an independent commission composed of local Judges, persons from the legal profession and eminent persons from other sectors.

From these Articles Mr FUNG will see that any holder of judicial office is appointed to it rather than promoted in the Civil Service sense.

The present statistics show that there are, apart from the Chief Justice, seven local officers serving in the Supreme Court and seven in the District Court. Among the Magistrates, and other judicial officers other than judges, there are 45 serving on local terms. The total number of local officers equates to just over 35% of the entire Judiciary, although it is true to say that the greatest number are still serving at the lower levels. However, outside appointments at senior levels are becoming more common and, to this extent, localization of the top judicial posts is not entirely dependant upon localization at lower levels.

As the Chief Secretary said during the debate on the Motion of Thanks, steady progress is being made to recruit local lawyers to the Judiciary as Magistrates but the situation is less satisfactory at the District Court and Supreme Court. There is no easy solution and the Administration is exploring various measures to speed up the pace of localization at these levels.

