

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 9 December 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 LAU WONG-FAT, O.B.E., J.P.

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

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

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

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

THE HONOURABLE MRS MIRIAM LAU KIN-YEE, 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 PETER WONG HONG-YUEN, J.P.

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE VINCENT CHENG HOI-CHUEN

THE HONOURABLE MOSES CHENG MO-CHI

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

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

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

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

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

DR THE HONOURABLE CONRAD LAM KUI-SHING

THE HONOURABLE LAU CHIN-SHEK

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

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, 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

DR THE HONOURABLE LAM KUI-CHUN

THE HONOURABLE STEVEN POON KWOK-LIM

IN ATTENDANCE

MR DAVID ALAN CHALLONER NENDICK, C.B.E., J.P.
SECRETARY FOR MONETARY AFFAIRS

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 ANTHONY GORDON EASON, J.P.
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

THE CLERK TO THE LEGISLATIVE COUNCIL
MR CLETUS LAU KWOK-HONG

Papers

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Hong Kong Examinations Authority Ordinance (Amendment of Schedule) Order 1992.....	396/92
Public Order Curfew (Variation) (No. 4) Order 1992.....	397/92
Telecommunication (Hong Kong Telephone Company) (Exemption From Licensing) (Fees) (Amendment) (No. 2) Order 1992	398/92

Sessional Papers 1992-93

- No. 33 — Sir Murray MacLehose Trust Fund
Trustee's Report for the period
1 April 1991 to 31 March 1992
- No. 34 — General Chinese Charities Fund
Income and Expenditure Account with Balance Sheet and
Certificate of the Director of Audit
for the year ended 31 March 1992
- No. 35 — Report of the Brewin Trust Fund Committee
on the Administration of the Fund
for the year ended 30 June 1992
- No. 36 — Report by the Trustee of the
Police Children's Education Trust
Police Education and Welfare Trust
for the period 1 April 1991 - 31 March 1992

Oral answers to questions**Contracts, leases and agreements straddling 1997**

1. MR HENRY TANG asked: *In view of the statement made by the Chinese on lack of validity after 30 June 1997 of contracts, leases and agreements signed or ratified by the Hong Kong Government unless they have been approved by the Chinese Government, will the Government inform this Council:*

- (a) *of the number of contracts, leases and agreements straddling 30 June 1997 which have been signed or ratified without the explicit agreement of the Chinese Government, and what they are;*
- (b) *whether the Government would now seek the explicit agreement of the Chinese Government for the contracts mentioned in (a) above in the light of the statement; and*
- (c) *of the contracts, leases and agreements which the Government intends to sign or ratify between now and 30 June 1997?*

ATTORNEY GENERAL: Mr Deputy President, it is not clear from the Chinese Government's statement exactly what is meant by the expression "contracts, leases and agreements". It is thus not possible to give any figures in answer to parts (a) and (c) of the question.

As regards part (b) of the question, the Government's position is as follows:

- (a) Firstly, the Joint Declaration makes clear that after the establishment of the Hong Kong Special Administrative Region, the laws previously in force in Hong Kong, which include the law of contract, shall be maintained, save for any that contravene the Basic Law and subject to any amendment by the Hong Kong Special Administrative Region legislature.
- (b) Secondly, according to the Basic Law, contracts which are valid under Hong Kong's existing laws will continue to be valid and recognized and protected by the Hong Kong Special Administrative Region, provided that they do not contravene the Basic Law.
- (c) Thirdly, following an understanding reached at the 17th meeting of the Joint Liaison Group in December 1990, we have discussed major government franchises straddling 1997 in the Joint Liaison Group. These discussions have been productive and we are glad to note that the Chinese side intend in future to take a positive attitude to post-1997 investment in Hong Kong.

MR HENRY TANG: *Mr Deputy President, in the main reply the Attorney General states that the Joint Declaration, the Basic Law and the December 1990 Joint Liaison Group meeting have laid down sufficient provisions to ensure that contracts valid under Hong Kong's existing laws will continue to be valid and protected by the SAR Government. What will the Administration do to ensure that position with the Chinese Government in view of the recent statement referred to in the main question, and if not, considering that one of the parties who has been awarded the Container Terminal No. 9 contract is now having*

problems borrowing from banks in view of that recent statement, how can the Government simply ignore or do nothing to safeguard Hong Kong's interests?

ATTORNEY GENERAL: Mr Deputy President, the legal position is, I believe, quite clear. As I have stated in the second part of my answer, the Joint Declaration and the Basic Law make clear provision for the continuance in force of contracts existing before 1997, provided that they do not contravene the Basic Law. As regards the Container Terminal No. 9, the land allocation for that has been agreed with the Chinese side and that will be followed by a lease in the normal way.

MR HENRY TANG: *Mr Deputy President, I seek further elucidation.*

DEPUTY PRESIDENT: I do not think it strictly arises upon Question Time, Mr TANG. We have got a lot of supplementaries.

MR SIMON IP: *Mr Deputy President, in subparagraph (c) of the answer it is stated that: "we have discussed major government franchises straddling 1997 in the Joint Liaison Group". Can the Attorney General please tell us (1) what those major government franchises are; (2) whether the discussions were in relation to major franchises that are in existence now or those which the Government intends to grant between now and 1997; and (3) if the Hong Kong Government's position is that contracts that are entered into by the Hong Kong Government before 1997 are valid beyond 1997, then what the reason was for having these discussions in the JLG in the first place?*

ATTORNEY GENERAL: Mr Deputy President, as regards the first of Mr IP's questions, that is, the one on major franchises, each case is looked at individually and on its merits. I am afraid that Mr IP became indistinct thereafter; so could I ask him please to repeat the second question because it was not coming through very clearly?

MR SIMON IP: *Yes, the second part of my question was this: With regard to the statement that "we have discussed major government franchises straddling 1997", are these franchises already in existence which will straddle 1997, or are they franchises which the Government intends to grant between now and 1997?*

ATTORNEY GENERAL: Mr Deputy President, the position is, as has previously been announced, that the discussions held concern the renewal of China Light and Power's Scheme of Control Agreement and the grant of a franchise to Tradelink for the operation of the community exchange system. As

regards the third part of the supplementary, once again Mr IP was indistinct; so would he care to repeat it?

MR SIMON IP: *I was speaking louder than normal but perhaps I was speaking too loudly. The third part of my question was this: If the Hong Kong Government's position is that contracts which are granted or entered into by the Hong Kong Government before 1997 will continue to have effect after 1997, then what was the reason for agreeing in the 17th meeting of the JLG to discuss matters relating to franchises that straddle 1997?*

ATTORNEY GENERAL: Mr Deputy President, I am in some difficulty because I was not present, of course, at the 17th meeting and I can only surmise. But clearly as regards future agreements that straddle 1997, it would be regarded as sensible that the Chinese side should be aware of them.

DEPUTY PRESIDENT: Could Members keep their supplementaries to single questions please? We have a large number still to be raised.

MR MOSES CHENG: *Mr Deputy President, will the Administration be seeking clarification from the Chinese Government on the exact meaning of the expression "contracts, leases and agreements" as referred to in the first paragraph of the answer?*

ATTORNEY GENERAL: Mr Deputy President, I think, with respect, that rather misses the point. I think the point is — as we have made clear, I hope, this afternoon and in a statement issued earlier — that the legal position concerning existing contracts that straddle 1997 is made perfectly clear by the provisions of the Joint Declaration and the Basic Law.

MR ALBERT CHAN (in Cantonese): *Mr Deputy President, in his reply the Attorney General mentioned that in December 1990, an understanding was reached between China and Britain regarding the signing of contracts, leases and agreements. However, China made it clear in the recent statement that such contracts, agreements and leases would not be recognized after 1997. Could I be advised whether that statement is in breach of the understanding reached between China and Britain in December 1990? Will the Administration release the information on the understanding reached at that time?*

ATTORNEY GENERAL: Mr Deputy President, I do not think it is for me to comment on the Chinese Government's statement and get into any question of whether or not there has been breach. The Government's position remains as I

have described it this afternoon. As regards the second part of Mr CHAN's question, as has been made clear before in this Council, discussions within the Joint Liaison Group must remain confidential.

MR RONALD ARCULLI: *Mr Deputy President, the Hong Kong Government must know what contracts, leases or agreements the Hong Kong Government has signed. Likewise, the Hong Kong Government must know whether these straddle 1997 and whether these have had the explicit agreement of the Chinese Government. So, with respect to the Attorney General, the first paragraph of his answer that it is not clear as to what the Chinese Government meant when it referred to contracts, leases and agreements is no reason why Mr Henry TANG's question, as far as part (a) is concerned, cannot be answered. I just wonder whether the Attorney General agrees with what I have stated, and if so, could he perhaps list out the contracts, if not now, then in writing, and perhaps identify them in a suitable fashion?*

ATTORNEY GENERAL: Mr Deputy President, as I have said — and I do not intend any disrespect — it rather misses the point. I believe the real point is: what is the law that relates to such contracts? Our position on that is quite clear.

DR PHILIP WONG: *Mr Deputy President, irrespective of what the Chinese Government has said, does the Administration consider it proper to commit the future SAR Government in terms of contracts, leases and agreements?*

ATTORNEY GENERAL: Mr Deputy President, it is normal international practice that following any change in the government of a particular area the private law obligations undertaken by the previous government are inherited by the administration which has replaced it. That international practice was followed in the Joint Declaration which provided for the laws previously in force in Hong Kong, including the common law, to be maintained provided they do not contravene the Basic Law. Mr Deputy President, the continuation in force of the common law carries with it the continuation of contractual rights and obligations which derive from it and this was made explicit in Article 160 of the Basic Law which provides that:

"Documents, certificates and contracts, and rights and obligations valid under the laws previously in force in Hong Kong shall continue to be valid and recognized and protected by the Hong Kong Special Administrative Region provided that they do not contravene this Law".

DR LEONG CHE-HUNG: *Mr Deputy President, can the Administration inform this Council whether in their assessment such contracts, leases and agreements include those signed and ratified by independent bodies such as the Hospital Authority, and if so, what will the Administration do to clarify the issue with the Chinese Government to ensure that there will be a clear operation in the future for the Hospital Authority?*

ATTORNEY GENERAL: The statements in the Joint Declaration and the Basic Law would, in my view, clearly encompass private contractual arrangements.

Slow-drive

2. MR VINCENT CHENG asked: *There have been previous incidents in which drivers of goods vehicles and public vehicles have expressed their collective grievances by driving slowly or parking at prohibited areas in large numbers, causing traffic congestion and inconvenience to the public. Will the Government inform this Council:*

- (a) whether any drivers have been prosecuted in these incidents;*
- (b) whether the Government is reviewing current legislative provisions to ensure that they are effective in deterring drivers and any other persons from expressing their grievances through these means; and*
- (c) what measures the Government is taking to discourage drivers or any other persons from resorting to these means when they wish to express their discontent?*

SECRETARY FOR SECURITY: Mr Deputy President, the police do not keep separate statistics on the prosecution of drivers in such incidents, but I am not aware that there have been any recent prosecutions of persons for driving slowly or parking in prohibited areas during public demonstrations.

The Public Order Ordinance and the Road Traffic Ordinance contain powers to enable the police to deal with such situations effectively. As I have mentioned previously in answer to questions in this Council, Part III of the Public Order Ordinance, which deals with the control of meetings, processions and gatherings, is being reviewed to ensure that its provisions are effective and in line with present day circumstances.

When groups of drivers intend to air grievances or express their opinions by way of a slow-drive or parking in prohibited areas, the Administration would try to persuade the organizers to settle their problems through discussion and without inconveniencing the public.

If drivers take part in processions in the form of slow-drives, in large numbers, the police would make every effort to minimize the disruption caused. They will also ensure that the event does not pose a danger to other road users or to the public in general. They would do this by containing the number of vehicles involved, and by diverting them to localities where there will be less impact on traffic.

MR VINCENT CHENG: *Mr Deputy President, I refer to the second paragraph of the Secretary's answer. Could the Secretary remind this Council what is in Part III of the Public Order Ordinance that allows the Government to deal with such incidents and activities so that traffic would not be blocked?*

SECRETARY FOR SECURITY: Mr Deputy President, Part III of the Public Order Ordinance covers, amongst other things, processions for which a licence is required and it gives the police various powers to deal with processions. This includes processions by vehicles as much as it includes processions on foot, and all the powers in the Public Order Ordinance relating to processions would apply in such cases. And there are also several regulations under several parts of the Road Traffic Ordinance which might be applicable in such cases.

MR WONG WAI-YIN (in Cantonese): *Mr Deputy President, the Secretary mentioned some of the measures adopted by the Administration in the third and fourth paragraphs of his answer. Could the Secretary inform this Council whether the Administration considers such measures effective enough? If yes, why were there still incidents of slow-drive in the past? If no, does the Administration have any other measures to deal with them?*

SECRETARY FOR SECURITY: Mr Deputy President, we do not have any further measures in mind at present. We believe that the present provisions both in the Public Order Ordinance and in the Road Traffic Ordinance are adequate, although, as I have said, we are reviewing the provisions in the Public Order Ordinance. The point here, I think, is that in all these cases it is necessary to reconcile the right of the public to free association and free assembly and free expression with the requirement that they do not breach the law or unduly inconvenience the public. A balance has to be struck and it is in the final analysis, in our view, best left to the operational police on the ground to decide how that balance should be struck and how processions or demonstrations of this kind should be dealt with. And I believe they do so very effectively.

Public Sector Reform Programme

3. MR PETER WONG asked: *Will the Administration inform this Council of the progress in implementing the Public Sector Reform Programme, in particular the achievements so far in terms of savings in recurrent expenditure and improving the quality of service?*

CHIEF SECRETARY: Mr Deputy President, in May of this year we established the Efficiency Unit to give added impetus to the Public Sector Reform Programme. Since then the Unit has concentrated on the following three areas:

- (a) Firstly, the Performance Pledges initiative which was announced in the Governor's address to this Council on 7 October: as I explained in this Council last week, the first seven pledges by government departments will be made by the end of the year. These pledges will enable the public to understand more clearly the levels and quality of service they are entitled to expect and enable us to monitor that we are meeting these targets;
- (b) Secondly, the development of structured programmes, which will help to define clearly a department's activities and enable costs to be allocated to each activity making: the Unit is seeking to introduce these, with performance measures, across the main appropriate government departments by April 1993. This initiative will facilitate the further devolution of responsibility to Policy Secretaries and to departments thus enabling them to be more pro-active when examining the benefits obtained from a given level of resources;
- (c) Thirdly, the development of draft legislation to permit the introduction of trading funds into certain government departments: the Trading Funds Bill was introduced into this Council on 18 November. A trading fund, when implemented, will provide certain departments with greater flexibility to bring about the kind of efficiency improvements that we are seeking.

There is ample evidence that civil servants at all levels have served the community well over the years, using imagination, initiative and new technology to respond to increasing and changing demands. Essentially, the initiatives I have outlined are targeted at seeking a change in the attitude and approach to the spending of public money. The objective is to enable civil servants to continue to improve efficiency and give a better service to the public.

In addition, and this relates to the point of achieving specific savings on recurrent expenditure, the Management Services Grade will continue to carry out value for money and top-down reviews in departments. An information

paper on this work was recently issued to Members of the Establishment Sub-committee of the Finance Committee of this Council. In summary, over the last three years 73 value for money studies and 16 top-down reviews have led to savings of some 2 900 posts.

MR PETER WONG: *Mr Deputy President, the Chief Secretary has said that the initiatives are targeted at seeking a change in the attitude and approach to the spending of public money. What action has been taken to impress on all civil servants that procedures should be geared to the needs of the public and less to their own convenience?*

CHIEF SECRETARY: Mr Deputy President, the whole exercise of working on structured programmes for departments is with the view in mind of achieving a situation in which those programmes which are targeted towards the public, and other programmes as well, are analysed as to their effectiveness, their value for money, and also for the service they provide. I think in analysing these programmes we will achieve the very aim which Mr WONG is seeking.

MR LAU WAH-SUM: *Mr Deputy President, will the Chief Secretary inform this Council which departments are scheduled to be converted to trading fund departments over the next few years?*

CHIEF SECRETARY: Mr Deputy President, subject to the passage of the Trading Funds Bill, we plan to introduce the first funds into the Companies and Land Registries of the Registrar General's Department by 1 July 1993. Both provide an important service to the business community and we believe the introduction of trading funds will facilitate improvements in efficiency and the quality of the service to the public. We will consider a programme for other funds separately. Broadly speaking, potential trading fund departments fall into two types, those which provide services to other government departments, such as the Electrical and Mechanical Services Department, and those which, like the Companies and Land Registries, provide services to the public.

MRS MIRIAM LAU: *Mr Deputy President, the Chief Secretary in the last paragraph of his reply mentioned top-down reviews in departments to achieve savings. Can the Chief Secretary inform this Council what consideration has been or will be given to "bottom-up" suggestions by the staff for improvements?*

CHIEF SECRETARY: Mr Deputy President, we do of course have within the service a system where suggestions for improvements from the staff are welcome, and indeed we even have a reward system which enables those suggestions to be encouraged. Clearly, as part of the general management

review, we intend to engage the staff to make sure that they are totally in agreement with what we are trying to achieve.

MR EDWARD HO: *Mr Deputy President, will the Chief Secretary inform this Council whether, apart from the savings of 2 900 posts, there have been any other savings in costs achieved through the reviews that he has referred to?*

CHIEF SECRETARY: Mr Deputy President, it is very difficult to quantify in absolute terms the public savings which can result from these studies. Of course, by analysing the programmes in the way in which I have described, we hope that there will be a much greater degree of efficiency in that accounting officers and secretaries will be able to see the way in which public money is being spent and also how that can be more efficiently spent. And so it is a general approach rather than a specific approach. As far as top-down reviews are concerned, I can give an example, namely, that of the Immigration Department. This led to an implementation study which will be carried out in 1995-96, and through a fully integrated computer system the department now aims to improve efficiency with the savings of no less than 600 posts anticipated over that period. This is an example of the sort of savings which I hope we will be able to achieve.

MR PETER WONG: *Mr Deputy President, will the Chief Secretary inform this Council what performance pledges his own office and the efficiency unit, which comes under him, will be making?*

CHIEF SECRETARY: Mr Deputy President, in my answer to a question last week I referred to the various government departments which are giving performance pledges and we will certainly make known all the performance pledges in the course of next year.

MR CHIM PUI-CHUNG (in Cantonese): *Mr Deputy President, has this programme been affected by the present sour relationships between China and Britain and Hong Kong, or by other factors of uncertainty in such circumstances?*

CHIEF SECRETARY: No, Mr Deputy President.

Noise nuisance complaints

4. REV FUNG CHI-WOOD asked (in Cantonese): *Will the Government inform this Council of the number of complaints relating to noise nuisance received in the past two years; the number of cases in which the noise levels have exceeded the stipulated limits and those below them; and given that the public, in many cases, might still be seriously affected by the noise nuisance which is slightly below the statutory levels, such as those generated from air conditioning and ventilation systems in commercial complexes, whether the Administration would take steps to tighten the statutory limits?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, the answer to the first part of the question is that in the years 1990 and 1991 the Environmental Protection Department and the police received a total of 8 835 complaints relating to noise.

Mr Deputy President, in order to answer the second part of the question as to the number of cases in which the stipulated limits have been exceeded or not exceeded, I must point out that complaints are made about noise from a variety of sources. There are five main categories: noise from industrial or commercial premises, from construction sites, from domestic premises or public places, from traffic and the inevitable miscellaneous. In the two-year period the breakdown is as follows:

Industrial/commercial	4002 or 45.3%
Construction	837 or 9.5%
Domestic/public	3413 or 38.6%
Traffic	178 or 2.0%
Miscellaneous	405 or 4.6%

Furthermore, Mr Deputy President, there are different limits for different types of noise, and these limits are set down in various Ordinances. For example, noise emanating from industrial and commercial premises is dealt with by the Environmental Protection Department using objective noise level limits specified in the Technical Memorandum made under the Noise Control Ordinance. Neighbourhood noise is dealt with by the police using subjective judgement. There is at present no specific statutory control on traffic noise apart from the requirement to fix exhaust silencers under the Road Traffic (Construction and Maintenance of Vehicles) Regulation, although there is currently before this Council a Bill to amend the Road Traffic Ordinance to enable traffic to be controlled under certain circumstances to alleviate traffic noise in residential areas.

As can be seen from the figures I have quoted, the source attracting the most complaints is industrial/commercial noise, with just over 4 000 cases. I will therefore use this category to illustrate the position as regards noise exceeding or not exceeding the stipulated limits. Noise levels in this category

are controlled by objective standards known as acceptable noise levels, or ANLs specified in the Technical Memorandum under the Noise Control Ordinance. Action in the form of advice, warning or the service of Noise Abatement Notices was required in 1 515 or 38% of the 4 002 cases because the noise levels exceeded the stipulated limits. The remaining 2 487 or 62% were found to be within the noise limits.

The next part of the question, Mr Deputy President, asks whether steps will be taken to tighten the statutory limits on the assumption that there might be cases in which the public is still affected even though the noise, from air conditioning and ventilation systems for example, is below statutory levels. The extent to which this assumption is valid is of course open to question. The Environmental Protection Department considers that noise below the stipulated limits will generally be acceptable to the public. Inevitably, however, there will be people who find even low noises annoying since noise can be assessed subjectively as well as objectively. However, in anticipation of an increasing public expectation of a quieter environment, provisions have already been made to reduce the stipulated levels set down in the Technical Memorandum under the Noise Control Ordinance. The revised ANLs were introduced on 1 November this year.

REV FUNG CHI-WOOD (in Cantonese): *Mr Deputy President, I am glad to learn from the Administration's reply that it has tightened the statutory limits just when I draw attention to such a need. In view of the fact that most of the complaints are against industrial/commercial noise, how will the Government go about publicizing the revised ANLs among the industrial and commercial sectors and provide them with guidance on how to comply with the new statutory requirements?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I agree that it will be appropriate to renew some publicity on these revised ANLs. The point I should make is that the new ANLs introduced from 1 November this year were in fact predicted to be introduced three years ago when the original levels were introduced under the Technical Memorandum.

MR EDWARD HO: *Mr Deputy President, as regards the actions taken with respect to the 1 515 cases where the noise levels exceeded the stipulated limits, will the Secretary inform this Council whether prosecutions have been carried out, and if so, in how many of the cases?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I do not have the detail of the breakdown that Mr HO asks for, but I shall gladly provide it in writing. (Annex I)

MR HENRY TANG: *Mr Deputy President, some noise which may be acceptable in the day time may become much more intrusive in the evening when the ambient noise is generally lower. Will the Environmental Protection Department regard it as appropriate to consider setting a lower ANL in the evening for facilities such as pump rooms in residential buildings?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, the ANLs, under the Technical Memorandum, already vary according to time period and the difference is between the period of 7 am and 11 pm when the ANLs are for three different areas, (a), (b) (c): 60, 65, and 70 decibels, and the night period of 11 pm to 7 o'clock in the morning when they are 50, 55 and 60 decibels.

MR PETER WONG: *Mr Deputy President, as a follow-up on the Honourable Henry TANG's question, could I ask what action will be taken to minimize noise in the public cargo working areas of Hong Kong?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I believe this was the subject of a different question at a different time and I believe the answer given at that time was that those who are responsible for noise in cargo working areas will be advised, in the public interest, to reduce the amount of noise they make.

REV FUNG CHI-WOOD (in Cantonese): *Mr Deputy President, in the main reply, the Secretary did not indicate the number of noise complaints, apart from complaints of noise from industrial and commercial premises, which either exceeded or were below the statutory limits. Can the Secretary provide those figures to this Council?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I will provide the information. (Annex II)

Insurance premium for motor vehicles

5. DR TANG SIU-TONG asked (in Cantonese): *As the sharp increase in the insurance premium of motor vehicles far exceeds the current inflation rate, will the Government inform this Council whether a monitoring system has been established within the existing legislative framework to scrutinize the manner of operation of the motor vehicle insurance industry and its revision of the premium rate with a view to protecting the interest of the consumers and ensuring that the insurance companies are dealing fairly with their clients; if so, whether consideration would be given to reviewing the system?*

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, the Government's arrangements for the monitoring of insurance companies are directed at ensuring that such companies are controlled and managed by fit and proper persons and are financially capable of meeting their liabilities.

The statutory powers granted to the Commissioner of Insurance to obtain information and to impose requirements specifically prevent him from requiring an insurer to amend the premiums payable in respect of any policy or class of policy. This limitation has been stipulated because both the Government and this Council have felt that the proper level of insurance premiums should best be achieved through market forces. Motorists may compare the policies and terms offered by any of the 86 companies that are authorized to write motor vehicle insurance before choosing the one that is best suited to their needs. There are also many insurance brokers who can provide them with professional advice.

A consumer who feels that the general policy terms and levels of premia he or she is offered are too high can approach the Consumer Council. If the complaint relates to an insurance claim, the Insurance Claims Complaints Bureau, which, in the light of the industry's Codes of Practice, adjudicates complaints relating to motor vehicle claims of up to \$250,000 can be approached.

The Government will continue to monitor insurance companies, and continue to keep its arrangements for monitoring them under review.

DR TANG SIU-TONG (in Cantonese): *Mr Deputy President, will the Administration or the Consumer Council discuss the levels of increase with the Accident Insurance Association?*

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, I cannot, of course, speak for the Consumer Council. That would be a matter for them to decide for themselves. I think I should explain that the Accident Insurance Association is not a cartel as I think it has often been represented in the media. It serves to provide its members with statistical and other information which enables them to gauge the extent of risks, and the premium rates that it promulgates are only advisory and in practice many of the Association's members vary the recommended terms. And, indeed, of the insurers that are authorized to write motor car insurance, only some 86% are members.

DR HUANG CHEN-YA (in Cantonese): *Mr Deputy President, I may have to declare interest since I am a motorist. The Secretary said the Government felt that the proper level of insurance premiums should best be achieved through market forces. However, many people feel that basically the motor insurance industry lacks healthy competition as far as the rate of premiums is concerned.*

They charge motorists very high premiums under an unfair "cartel" agreement. Can the Administration inform this Council of the information available to support his claim that this is not the case?

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, as I have already indicated, the Accident Insurance Association is not a cartel and it recommends rates only — rates that are not necessarily followed — and certainly there are a number of motor insurance companies that do not follow its rates even if they are members. As far as the question of whether the charges are fair or not, I mean that is a matter which we leave to competition. But may I point out that in 1990 the insurance industry — and this is based on published figures — made a loss of some \$97 million on motor vehicle insurance and the preliminary returns for 1991 suggest that they made further losses although of a smaller amount.

MR JAMES TO (in Cantonese): *Mr Deputy President, I would refer to a very strange point mentioned in the Secretary's reply and that is, "A consumer who feels that the general policy terms and levels of premia he or she is offered are too high can approach the Consumer Council." As the Secretary has just indicated that the level of insurance premiums should be achieved through market forces, will he explain what is the point of approaching the Consumer Council?*

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, what may be regarded in general as fair terms may not be regarded as fair terms by an individual, and I think the answer to that question is a matter for consideration by the individual person who wishes to get insurance. If they feel that the terms are unfair, then they can approach the Consumer Council. It may be that their concerns are relieved when they find that the Consumer Council judges the terms to be not unfair.

MRS SELINA CHOW: *Mr Deputy President, in view of the atrociously high level of premiums that motorists have to pay as a result of rampant car theft plaguing this community in the last three years, the Government must accept that this is no longer a normal insurance market. What would the Government do to ensure that unethical insurers are not exploiting the opportunity to rip-off motorists to line their own pockets?*

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, I do not think I necessarily accept the assumption that because there has been a very large increase in premia this is a sign that there has been ripping-off by insurance companies of the general public. I have already identified that in 1990 the insurance industry made losses of some \$97 million on motor vehicle

insurance. They also made further losses in 1991. The Accident Insurance Association has estimated that losses attributable to motor car theft this year are likely to exceed \$450 million. It is clearly necessary for insurance companies to protect themselves against losses of this magnitude.

MR JIMMY MCGREGOR: *Mr Deputy President, can the Secretary indicate how many insurance companies have in fact given up motor car insurance as being too risky and too expensive, especially with the continued high rate of car theft all travelling in one direction?*

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, I do not have the figure. If it is available, I will provide the answer in writing.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr Deputy President, as every buyer of motor vehicles has to take out a third party policy, it would just be very easy in this circumstance for insurance companies to join hands to push up the premium rates. As such, the so-called "market forces" may merely be empty words. Can the Administration inform this Council whether it would set up a mechanism or draw up a profits guideline to check whether the levels of increase are too high so that consumers' interests can be protected?*

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, I think I have already indicated in my main answer that the Government does not believe that it would be right or proper to try and control the level of premiums, or to intervene in the market mechanism. I do know that in those economies where the government has sought to intervene, the tendency has been for insurance companies to withdraw from the particular market and therefore at the end of the day the person who wishes to get insurance is not better off.

MR HENRY TANG: *Mr Deputy President, the Secretary for Monetary Affairs claims that the insurance industry is not a cartel. However, I just heard recently that on a certain type of vehicle the loss coverage for theft has been reduced unilaterally by insurance companies from 90% to 70% which is different from the contractual agreement. How will the Secretary substantiate the claim to this Council that they are not a cartel?*

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, they are not a cartel; there are many insurance companies that offer discounts on the recommended rates or do not follow the recommended rates. The fact that you have a general reaction to a particular set of circumstances does not, to my mind, of itself, prove that it is a cartel.

MR PETER WONG: *Mr Deputy President, what is the existing average delay between notification of a claim for a stolen car and the actual settlement of the claim?*

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, I do not have an answer to that question. Again, if it is possible to obtain an answer, I will provide it in writing.

Patients' rights

6. MR TIK CHI-YUEN asked (in Cantonese): *Will the Government inform this Council:*

- (a) of the existing system for safeguarding patients' rights, including ways to monitor the quality of private medical services and to deal with complaints;*
- (b) of the role of the Consumer Council in safeguarding patients' rights; and*
- (c) whether there are plans to improve the existing system?*

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, in Hong Kong we have a fundamental principle that no person should be prevented, through lack of means, from obtaining adequate medical treatment. This is enshrined in the law under the Hospital Authority Ordinance. By this fundamental principle it is meant that services should be available on the basis of clinical need irrespective of one's ability to pay.

This is safeguarded by the Government's policy of providing heavily-subsidized health and hospital services, universally accessible and generally affordable. Additionally, in respect of the private sector, all private hospitals and clinics are subject to registration under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance and the Medical Clinics Ordinance.

To protect further the interest of patients, the quality and standard of health care professionals are set by their respective registration Ordinances and the relevant codes of practice. These are regulated and enforced by the relevant professional boards and councils, to whom the medical professionals are accountable as regards matters of ethics, good practice and discipline.

As regards part (b) of the question, under the Consumer Council Ordinance, the Consumer Council performs its function of protecting and promoting the interests of consumers of medical services in many ways. The Consumer Council collects and disseminates information. The Council answers

enquiries through its Consumer Advice Centres throughout the territory on the rights of patients and channels for patients to seek redress. It also publishes articles on general health and medical matters in its monthly magazine. Jointly with the relevant professional bodies and appropriate authorities, they advise on codes of practice and on ways to protect consumers. In handling complaints from consumers relating to medical services, when appropriate the Council refers cases to the relevant authorities for further action.

To further improve the existing system for better service to the community, providers in both public and private sectors are encouraged to develop a more patient-oriented culture. In the public sector, with the support of all concerned, the Governor in his October address has pledged to do this. We have made a start by undertaking to reduce waiting times at Accident and Emergency Units and at clinics. We are also taking the initiative to improve medical record-keeping and extend the labelling of prescribed drugs to all public hospitals and specialist clinics.

We further support the initiatives of the medical profession and other organizations in their proclamation of patients' rights and obligations. This is a significant step forward in safeguarding consumer interests in the use of medical services and consumers are encouraged to exercise their rights.

Mr Deputy President, the more people are aware of their rights, the better it is to ensure that their rights are protected.

MR TIK CHI-YUEN (in Cantonese): *Mr Deputy President, I agree very much with the last sentence of the Secretary's reply that "the more people are aware of their rights, the better it is to ensure that their rights are protected." Will the Administration inform this Council whether it will take the initiative in laying down a patients' charter in order to better protect the interests of patients?*

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, as I mentioned in my main reply, a patient's fundamental right in law, as we see it, is to adequate medical treatment at an affordable price. The other quoted rights are only part of a bigger picture. Whether we call this a patients' charter, or any other charter, or a patient-oriented culture of service, the aim is the same. The aim is to improve the service to the patients and therefore to the community. In the public sector, this will be achieved through steady improvement of performance and performance pledges which are made public, and these service targets are monitored all the time.

DR LEONG CHE-HUNG: *Mr Deputy President, with reference to private medical service, the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance and the Medical Clinics Ordinance, as mentioned by the Secretary, only provide for the Director of Health to examine the records of the*

private hospitals. Does the Administration consider this adequate to regulate the standards of private hospitals and will the Administration seek to improve the regulatory machinery of private hospitals to ensure that the patients they serve are given maximum care and protection?

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, indeed it is quite right to say that under the respective Ordinances (Cap. 165 and Cap. 343) the Registrar, who is the Director of Health, ensures that people serving in private institutions are fit to serve, that the premises are suitable, and that the functions of the various institutions are carried out in exactly the manner as prescribed under the law. At the present moment, the Director of Health, who is the Registrar of Hospitals and Clinics, finds that there is sufficient mechanism in place to enable him to check the performance of the private institutions.

MR MAN SAI-CHEONG (in Cantonese): *Mr Deputy President, as more and more people are aware of patient's rights, more complaints will be lodged. Does the Administration intend to set up independent complaints committees so as to follow up complaints more effectively; and if their allegations are found to be true, will the patients or their family members be given the right of claim?*

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, indeed it is quite often argued, and argued with great eloquence, that a committee, or a body of people, or what is often described as Medical Ombudsmen could either help with the medical services or the level of fees charged, or could either underline, or indeed undermine, the regulatory role of other professional boards and councils. As far as the Government is concerned, we are very conscious of the arguments for and against, and I think the positive and negative aspects of the proposals will have to be very carefully analysed. But I understand that the Consumer Council and the Medical Association are currently examining the feasibility of such a mechanism to investigate complaints of the kind referred to in the main question. I look forward to the outcome of their investigation.

MR MARTIN LEE: *Mr Deputy President, calling to mind a statement from the Secretary herself some time ago that she herself had to wait for a number of hours before she received attention in a government hospital, will the Administration, through the Secretary, inform this Council what steps have been taken by her to protect her rights as a consumer?*

DEPUTY PRESIDENT: That is not really a public matter, I think, for which the Government is responsible, Mr LEE.

DR CONRAD LAM (in Cantonese): *Mr Deputy President, will the Secretary inform this Council whether it is also a patient's right to end his suffering and leave this world so as to preserve his human dignity? If so, what has the Administration done in this regard?*

DEPUTY PRESIDENT: I think that raises a very fundamental question that is not fair to raise on a supplementary to the general question that was put, Dr Conrad LAM.

MISS EMILY LAU (in Cantonese): *Mr Deputy President, in the third paragraph of her reply, the Secretary mentioned that private medical professionals have their own professional boards to which they are accountable so as to ensure the maintenance of discipline and the quality and standard of their practice. Does the Administration intend to encourage these professional boards to increase their transparency, thereby convincing the public that their decisions are impartial and that their existence is not for protecting the interests of the medical professionals themselves? I ask this because sometimes in responding to complaints, the boards would say, "There is no problem as we have had an investigation and found that there was no problem." In this way, not even an explanation was given. Will the Administration encourage these boards to include members from outside the medical field, or to increase their transparency in some other ways in order to render themselves accountable to the public?*

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, I will refer the substance of the question, that the deliberations of certain councils and boards should be as open and fair as possible, to the relevant boards and committees for their action.

MR FRED LI (in Cantonese): *Mr Deputy President, in order to further protect the interests of the public as consumers, will the Administration look at the practices in Australia and some other Western countries, and set up an accreditation system under which private hospitals may register on a voluntary basis if they want to be recognized as having attained a certain standard and by which the public may know the standards of these private hospitals?*

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, I would take reference from the Australian study before I would venture a reply to the question. I would first of all obtain a copy of the report from Australia.

DEPUTY PRESIDENT: A written reply?

MR FRED LI (in Cantonese): *Mr Deputy President, that is not a study but a set of criteria laid down by the Government, and private hospitals may so register on a voluntary basis. If they meet the relevant requirements, they will be certified to have attained a certain standard. By this, the public may know the professional standards of different private hospitals. That is in fact not a report.*

SECRETARY FOR HEALTH AND WELFARE: I would take reference from the Australian Government and obtain certain details of their regulations and rules before I would venture a reply. I would have to see whether these regulations and rules are applicable to Hong Kong, because every country has its own system, and Hong Kong's system may not be susceptible to similar application of the rules and regulations.

MR JIMMY MCGREGOR: *Mr Deputy President, is the Administration aware that a body was set up by the now defunct Medical Development Advisory Committee to consider and set standards for public and private hospitals, and could the Administration inform this Council of the progress, if any, of this committee as it concerns the provision of standards in both public and private medical services?*

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, indeed, I was a member of the Medical Development Advisory Committee. These standards are being pursued by the current Registrar who is the Director of Health.

Written answers to questions

Thefts in southern Lantau

7. MR LAU WONG-FAT asked (in Chinese): *In view of the recent outbreak of thefts in various villages on southern Lantau Island which are suspected to have been committed by criminals coming by sea, and the threats of such incidents to the peaceful life and property of the residents, will the Government inform this Council of the progress of the investigation into these incidents and the measures to be taken by the police to combat such criminal activities?*

SECRETARY FOR SECURITY: Mr Deputy President, during the period from 1 July to 1 December 1992, two cases of theft, 14 burglaries and four robberies were reported in various villages in the southern part of the Lantau Island. These offences are suspected to have been committed by criminals who arrived by sea. The latest report of such an incident, a case of burglary, was made on 5 October 1992, although the police believe that the crime had occurred some

time before the victim reported to the police. The situation over the past two months has been relatively quiet.

The police conducted full investigations in all these reported cases. No arrests have yet been made but enquiries continue.

Police coverage on land and sea has been stepped up to prevent further occurrence of such incidents. A co-ordinated operational plan involving local police crime units, neighbouring divisions of Marine Police and the Police Tactical Unit has been formulated, the objective being to provide a prompt and effective response to any further outbreak of crime in the area.

Chlorine content in potable water

8. REV FUNG CHI-WOOD asked (in Chinese): *In view of the advice given by a number of experts that excessive chlorine in potable water may be hazardous to health and may even cause cancer, will the Government inform this Council:*

- (a) *of the chlorine content in potable water in Hong Kong; whether the level of chlorine content in potable water may vary in different districts and in different seasons; and what the maximum and minimum levels of such chlorine content are;*
- (b) *whether the Administration would compare the chlorine content of potable water in the territory with those in other countries such as Japan, the United States, Singapore, Canada, Australia, Taiwan, whether the chlorine content is on the high side or on the low side; and*
- (c) *whether the Administration has any plan to reduce the chlorine content in potable water; and whether measures would be taken to educate members of the public on ways to allay the effects of chlorine in potable water on their health?*

SECRETARY FOR WORKS: Mr Deputy President, the average free residual chlorine content of the final treated water upon leaving our treatment works is 0.9 mg/l. This chlorine content may vary to cater for variations in water quality, seasonal variations and other special situations. For example, during periods of water restrictions or cholera epidemics, the level of chlorine may be raised by about 20% to provide enhanced safeguard to the wholesomeness of the water.

Minimum and maximum values of 0.1 mg/l and 1.5 mg/l were occasionally recorded.

The chlorine content will decrease on its way through the distribution system and the average residual chlorine content at the tap level, as indicated by previous samples taken, is normally within 0.2 to 0.5 mg/l, the desirable chlorine concentration as recommended by the World Health Organization.

We do not have records of residual chlorine levels in treated water of the mentioned countries. It should be noted that the chlorine level adopted by different countries will vary depending on the local water quality, treatment practice, climatic factors and hygienic conditions.

There is no evidence to suggest that "excessive" chlorine in potable water directly causes cancer. Studies have been undertaken to correlate trihalomethanes, chemicals formed when chlorine reacts with organic matters in water, with cancer. As reported by the United States Environmental Protection Agency, the National Academy of Science Safe Drinking Water Committee in its review of 13 epidemiology studies concluded that a causal relationship between trihalomethanes and cancer had not been established.

There was a study carried out by the United States Environmental Protection Agency in which 150 persons at a military base consumed water with chlorine level of 50 mg/l, and it was reported that no adverse health effects were noted. According to another study cited by the United States Environmental Protection Agency, chlorine content of more than 90 mg/l in drinking water would result in constriction of the throat and irritation of the membrane of the throat and mouth.

As the chlorine content of our potable water is very much lower than that which will cause adverse effects to health, there is no plan to reduce the chlorine content, which is required to ensure the wholesomeness of our potable water. There is also no need to take any action at this stage to educate members of the public on ways to reduce the effects of chlorine in potable water on their health. This subject, however, will be kept under review, in light of the findings of latest researches.

Illegal radiocommunication equipment in taxis

9. MRS PEGGY LAM asked (in Chinese): *In view of recent reports on the use of illegal radiocommunication channels by some taxi drivers to communicate with one another, including passing on false traffic information to deceive passengers into using less direct routes so as to obtain higher fares, will the Government inform this Council:*

- (a) *of the number of cases detected involving illegal radiocommunication equipment installed in taxis, the related number of prosecutions and convictions respectively, and the average and maximum penalties imposed by the courts in each of the past three years; and*

- (b) *whether it will consider increasing the maximum penalty under the relevant legislation and stepping up spot checks by law enforcement officers to achieve a deterrent effect?*

SECRETARY FOR ECONOMIC SERVICES: Mr Deputy President,

- (a) In the past three years, 395 cases involving the installation of illegal radiocommunication equipment in taxis have been detected. To date there have been 295 prosecutions in respect of these cases, all of which have been successful. The average fine imposed by the courts for these offences during the past three years has been \$900-\$1,000 while the maximum fines imposed have risen from \$3,000 to \$5,000 over this period.

A detailed year-by-year breakdown of the relevant statistics is attached.

- (b) Section 20 of the Telecommunication Ordinance (Chapter 106) currently provides for a maximum fine of \$5,000 and imprisonment for two years for the illegal possession or use of radiocommunication apparatus. We are now reviewing the level of fines throughout the Ordinance, and intend to put forward draft legislation which will provide for an increase in fines of up to ten times. The statistics I have quoted indicate that law enforcement action in this area is already effective. The frequency of spot checks carried out by the Post Office in collaboration with the police will be stepped up further as resources permit.

Cases involving illegal installation of
radiocommunication equipment in taxis

<i>Year</i>	<i>No. of cases detected</i>	<i>No. of prosecutions</i>	<i>Average fine</i>	<i>Maximum fine</i>
1990	90	89	\$994	\$3,000
1991	130	105	\$996	\$3,500
1992 (to November)	175	101	\$934	\$5,000

Notes

1. All prosecutions since 1 January 1990 have resulted in convictions.

2. The number of prosecutions is lower than the number of cases detected simply because prosecutions often take place some time after the detection of cases.
3. No custodial sentences have yet been imposed by the courts for the cases prosecuted since 1 January 1990.

Loan sharks' dunning tactics

10. MR ERIC LI asked (in Chinese): *In view of the means employed by the loan sharks in demanding payment of debts from their borrowers, such as putting up dunning posters at various locations in the common areas of buildings where the debtors live, spraying paint, pouring water into the debtors' flat and even committing arson, which constitute a serious nuisance to the debtors as well as their neighbours, will the Government inform this Council of the measures it will take to curb such dunning practice so that the debtors and their neighbours will no longer be subject to such nuisance?*

SECRETARY FOR SECURITY: Mr Deputy President, loansharking, that is the lending of money at excessive interest rates, is an offence under section 24(1) of the Money Lenders Ordinance (Cap 163). Any person who uses unlawful means to demand payment from his debtors, such as putting up posters in common areas of buildings, spraying paint, pouring water into or setting fire to the debtors' residence, would be committing a criminal offence.

The police give high priority to the prevention and investigation of loansharking activities. Publicity emphasizes the advice to the public not to borrow money from loan sharks. The police also encourage the public to report suspected loansharking activities and to be willing to give evidence in court against offenders. The police investigate thoroughly all reports on associated criminal activities to demand debts.

Many loansharking activities are operated by organized crime syndicates. Thus section 24(1) of the Money Lenders Ordinance is included in Schedule I of the Organized and Serious Crimes Bill so that the enhanced special investigative powers proposed in the Bill can apply to this offence; so that a person convicted of this offence may have his proceeds of crime confiscated; and so that the prosecution can present information to the court to argue for a heavier sentence. We believe that the Bill, once enacted, will enhance police powers to curb loansharking activities and other associated criminal acts of debt collection.

Curriculum Development Institute

11. MR CHEUNG MAN-KWONG asked (in Chinese): *Since the Curriculum Development Institute has been in operation for more than six months after its establishment in April this year, will the Government inform this Council of the following:*

- (a) *the work schedule and objectives of the Institute for both this year and next year and the progress achieved so far;*
- (b) *whether the Institute will regularly submit annual reports to Legislative Council Members and educationists for their reference, so as to enable them to keep abreast of the progress on curriculum development; and*
- (c) *whether the Institute has drawn up priorities in reviewing and improving the existing curricula for primary and secondary schools; if so, how the priorities are drawn up and what consultative procedures have been adopted; if not, what the reasons for not drawing up priorities are?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the answers to Mr CHEUNG's questions are:

- (a) The objectives of the Curriculum Development Institute (CDI) are to draw up subject syllabuses and curriculum guides for schools and to support schools in implementing the recommended curriculum and other school-based curricula. The CDI seeks to develop a coherent, broad and balanced school curriculum for different levels, keep it under constant review, engage in research and evaluation, develop resource materials, train teachers and tender advice both generally and in specific cases.

In addition to its on-going tasks, the specific work schedules adopted by the CDI for 1992-93 are:

- (i) to set up the CDI;
- (ii) to conduct initial investigations into the four new curriculum projects recommended in Education Commission Report No. 4 (ECR4). These are the further integration of subjects at primary and junior secondary levels, the introduction of a modular curriculum at junior secondary level, the development of curricula for both ends of the ability range and the feasibility of introducing a Mastery Learning Programme;

- (iii) to develop learning targets, programmes of study and assessment guidelines for Chinese, English and Mathematics with a view to implementing the first Targets and Target Related Assessment (TTRA) for Primary IV and Primary V in 1993;
- (iv) to publish, for public consultation, draft curriculum guides for levels ranging from kindergarten to sixth-form;
- (v) to develop syllabus outlines and curriculum guides for Advanced level and Advanced Supplementary level subjects in collaboration with the Hong Kong Examinations Authority;
- (vi) to develop curriculum guides for the hearing-impaired and visually-impaired;
- (vii) to negotiate with tertiary institutions on mounting in-service training courses for teachers implementing AS-level subjects.

As of December 1992, (i), (iv), (vii) and the bulk of (v) and (vi) have been completed. Work on the others is continuing.

At this stage, the specific work schedules drawn up by the CDI for 1993-94 are:

- (i) to continue development of the four curriculum projects recommended in ECR4;
 - (ii) to finalize the curriculum guides for different levels of education in the light of comments from schools;
 - (iii) to review the Guide to the Curriculum for Mentally Handicapped Children;
 - (iv) to further develop, evaluate and review the TTRA learning targets, programmes of study and assessment guidelines and to extend them to Primary I to III;
 - (v) to broaden the expertise of the CDI by recruiting more non-civil servants.
- (b) The CDI will produce an annual report on its work for general information.
- (c) In drawing up its work schedules, the CDI has been guided by the Curriculum Development Council (CDC) and the priorities specified in ECR4. The particular recommendations on curriculum

development in ECR4 have undergone extensive public consultation and received unequivocal public support.

The CDC itself operates through a system of co-ordinating committees and subject committees. Besides expertise within the Education Department, they comprise heads of schools, practising teachers, academics from tertiary institutions, representatives from the Hong Kong Examinations Authority, parents and employers. About 1 000 persons are involved directly in this work.

Import and export of high-tech products

12. DR HUANG CHEN-YA asked (in Chinese): *In view of the recent policy changes of the international community in the export of high-tech products to China, will the Government inform this Council:*

- (a) *whether there is any plan to amend our legislation relating to import and export of such high-tech products so as to facilitate trade activities;*
- (b) *if so, when it will be effected and whether the procedures could be streamlined to cope with future changes expeditiously?*

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, the Government maintains export control on high-tech products through the Import and Export Ordinance (Cap 60). Control is exercised in line with various international security export control regimes, including that of the Co-ordinating Committee for Multilateral Export Controls (COCOM), and the list of controlled commodities is published as a Schedule to the Import and Export (Strategic Commodities) Regulations. The Schedule is regularly updated to take into account changes in international practice.

COCOM last year agreed on major revisions to its embargo lists. These involve significant liberalization in many areas, with the number of dual-use items (that is, items which have both civil and military applications) under control being much reduced. The Director-General of Trade has just completed a comprehensive review of the Schedule to the Import and Export (Strategic Commodities) Regulations with the aim of reflecting in Hong Kong legislation the changes agreed by COCOM. The necessary amendments to the Schedule, which will be promulgated shortly, will apply to China as well as other export destinations.

Major revisions to the Schedule necessarily take time because of the complexity and technical nature of the control lists. However, apart from major revisions, changes introduced in the international security export control regimes are implemented by the Government as quickly as possible. The legal

procedures are designed with this in mind. The Import and Export (Strategic Commodities) Regulations provide that the Director-General of Trade may, by order published in the Gazette, promulgate amendments to the list of controlled commodities.

Complaint mechanism in hospitals

13. MISS EMILY LAU asked (in Chinese): *In the briefing on the Governor's policy address held on 10 October 1992, the Secretary for Health and Welfare mentioned that the Administration will consider setting up a mechanism in hospitals to receive complaints lodged by patients and their families on matters concerning the hospitals and the doctors. Will the Government inform this Council when this mechanism will be in place and how it will operate?*

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, the mechanism in place comprises several levels as follows:

- (a) At the hospital level, public complaints are handled by the Hospital Chief Executive or Medical Superintendent assisted by a Patient Relations Officer.
- (b) At the head office level, appeal cases and referrals from OMELCO or the Commissioner for Administrative Complaints are handled by a Public Complaints Committee, chaired by a non-official and comprising mainly non-officials, set up under the Hospital Authority Board. The membership of this committee has recently been expanded to include two members outside the Hospital Authority Board to ensure that complaints are investigated in an open and objective manner.
- (c) Separately, the trends of complaints relating to individual hospitals or specialties will be monitored by the Patient and Community Relations Committee comprising a majority of non-officials so as to detect any underlying problems.
- (d) Additionally, the Health and Welfare Branch scrutinizes the quarterly reports prepared by the Hospital Authority on the incidence of complaints or expressions of appreciation, based on the statistics supplied by individual hospitals.
- (e) Finally, regular visits are made by Justices of the Peace to psychiatric hospitals at monthly intervals and to other hospitals at three-monthly intervals. Their comments and observations will be taken up by the Hospital Authority and monitored by the Health and Welfare Branch for necessary improvements.

Statistics on documentary credits for imports and exports

14. MR ROGER LUK asked: *Will the Government inform this Council whether there are any plans to request the authorized institutions to provide statistics on documentary credits for imports and exports with a view to complementing the orders-on-hand statistics now compiled on the basis of only a sample of manufacturing establishments?*

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, in so far such statistics can be regarded as indicators of Hong Kong's general economic and trade conditions, the authorized institutions are already supplying to the Government information on loans to finance Hong Kong's visible trade and to the manufacturing sector. Summary figures on these loans are published periodically. As these figures have a wider coverage than those on documentary credits for imports and exports, and as the reporting of the latter figures would mean additional work for the authorized institutions, collection of the latter is not intended at this stage.

Noise caused by vessels

15. MR ALBERT CHAN asked (in Chinese): *Over the past year, a number of complaints have been lodged by residents of Tsing Yi North and Tsuen Wan West about the noises caused by vessels using the waters near their residential areas at night. These include noises generated from the operation of machines and the use of loud-hailers. Will the Government inform this Council of:*

- (a) *the present control measures in respect of noises generated from vessels;*
- (b) *the number of complaint cases received in the past year;*
- (c) *the number of successful prosecutions and the penalties imposed;*
- (d) *the measures to be taken to rectify the present situation?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President,

- (a) Noise from vessels, including machine noise and the use of loud-hailers, is controlled under sections 4 and 5 of the Noise Control Ordinance (Cap. 400). The police are responsible for the enforcement of these provisions. The Director of Marine also ensures that the engine noise level of vessels is taken into account when annual licensing inspections of vessels are conducted.

- (b) In the past year, 44 complaints of noise from vessels have been received. These cases include complaints received by the Environmental Protection Department, District Offices, and the Marine Department. Of these 44 cases, six were from residents of North Tsing Yi and West Tsuen Wan. All cases are referred to the police for action.
- (c) Three summonses have been issued and one prosecution has been completed with a fine of \$5,000 being imposed. This is maximum fine for offences against sections 4 and 5 of the Noise Control Ordinance. The other two cases are pending.
- (d) The police issue warnings about such noise and, through Police Community Relations Officers, advise people involved in maritime trades on how to abate noise. They agree that more emphasis should be put on summons action. The Marine Department are also advising tug operators to avoid making unnecessary noise, especially at night. These measures were reviewed by the Kwai Tsing District Board at a meeting on 14 May 1992, and its Environment and Planning Committee on 22 May 1992, during which representatives of the Environmental Protection Department, the Royal Hong Kong Police Force, the Marine Department and District Lands Office/Kwai Tsing discussed the problem. The District Office/Kwai Tsing is now arranging a meeting with the Hong Kong Cargo Vessel Traders Association and the Hong Kong and Kowloon Motor Boats and Tug Boats Association, to urge self-discipline among their members when using loud-hailers, particularly in the waterways between North Tsing Yi and West Tsuen Wan. Consideration is also being given to tightening up control on the use of loud-hailers and loudspeakers at night, and to requiring that the owners of vessels install more sophisticated communication equipment that will enable the use of loud-hailers to be avoided.

Imported labour

16. MR HOWARD YOUNG asked: *Will the Government inform this Council:*

- (a) *of the procedures and the time taken in processing applications for imported labour and in renewing such applications; and*
- (b) *whether it will consider streamlining and simplifying existing procedures in the light of concerns expressed by some employers that their efforts in the training of imported workers would be wasted, and that a gap in production would result, if their applications for imported labour cannot be processed before the expiry of the contracts of existing imported workers?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, all employers, whether or not already holding quotas, are eligible to apply under the general labour importation scheme announced on 18 November 1992. They are allowed three weeks to submit their applications. These applications will be vetted by the Employment Visa Co-ordinating Committee before submission to the Steering Group on Importation of Labour, which I chair, for approval. Depending on the number of applications received, the analysis and vetting process will normally take five to six weeks. Successful applicants will be allowed four months in which to recruit workers. The recruited workers will normally submit formal visa applications to the Director of Immigration through the nearest British visa post. In the case of nationals of the People's Republic of China (PRC), however, the applications will be submitted via the Visa Office of the Ministry of Foreign Affairs, PRC in Hong Kong. It would take about a month to process a visa application counting from the time when the application is received at the Immigration Department.

These procedures have been simplified and streamlined wherever possible. For example, we have combined in one form the applications for quotas to import workers with the notification of vacancies which applicants are required, as a condition of the general labour importation scheme, to submit to the Local Employment Service of the Labour Department. We are studying the feasibility of allowing imported workers already working in Hong Kong, and who are re-employed by their existing employers who are allocated with fresh quotas, to complete their re-entry process in Hong Kong before taking their home leave. Whether or not these workers can do so would depend on the requirements of the respective countries from which they came to Hong Kong. A gap in production is unavoidable since employers are obliged to arrange for imported workers to return to their place of origin on the expiry of an employment contract. The opportunity to return home is stipulated in International Labour Convention No. 64 which Hong Kong has applied without modification since 1943.

Women's Commission

17. MR FREDERICK FUNG asked (in Chinese): *Will the Government inform this Council:*

- (a) *what progress has been made in respect of the proposal for the setting up of a Women's Commission by the Government, and which government department is responsible for taking follow-up action;*
- (b) *whether the terms of reference of this Commission have been drawn up?*
- (c) *what sort of membership the Government has in mind for this Commission?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, the Administration has been examining the proposal for a Women's Commission and a decision on this matter will be announced shortly.

Auxiliary police

18. MR TAM YIU-CHUNG asked (in Chinese): *In view of the unsatisfactory state of law and order in some public housing estates and the manpower constraints of the police force, will the Government inform this Council whether consideration will be given to deploying Auxiliary police officers to be stationed in the neighbourhood police units in housing estates on a regular basis and increase the frequency of their patrol duties; if so, what the current staffing and recruitment situation of the Auxiliary Police Force is?*

SECRETARY FOR SECURITY: Mr Deputy President, approximately half of the total population in Hong Kong resides in public housing. This ratio is not reflected in the number of crimes reported to the police. The total number of reported crime cases in public housing estates was 14 160 in 1990, 13 327 in 1991 and 5 867 in the first six months of 1992. These compare with the territorial totals of 88 300 in 1990, 88 659 in 1991 and 40 621 in the first half-year of 1992.

The manpower situation of the police has been improving steadily since August. The Force continues to be able to put extra policemen onto the streets. In line with this policy, a maximum of 850 auxiliary police officers each day are deployed to various police formations throughout the territory to complement regular police patrols and operations. Deployment is concentrated in areas more prone to crime.

In general, neighbourhood police units are not manned on a continual basis because we believe putting more policemen onto the streets is more effective to fight and prevent crime. Police officers, however, do frequently visit neighbourhood police units while on patrol duty.

The current strength of the auxiliary police is 5 700. It is almost at its full strength and does not have recruitment problems.

Revision of textbooks by publishers

19. MR MAN SAI-CHEONG asked (in Chinese): *In view of complaints about the unnecessary and indiscriminate revisions of textbooks by publishers and the possibility of publishers using illegal means, such as offering bribes, to persuade schools to use new editions of textbooks, will the Government inform this Council of:*

- (a) *the guidance given to schools for the selection of textbooks;*
- (b) *the measures taken to ensure that new textbooks, new editions and reprint of textbooks with minor amendments by publishers will not be selected without good educational reasons so as to avoid undue financial burden on the students' families; and*
- (c) *the measure which it will take to reduce the opportunities for corruption relating to the selection of textbooks for schools?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the answers to Mr MAN's question are:

- (a) The Education Department issues the following guidelines to schools on the selection of textbooks:
 - (i) textbooks should not be changed unnecessarily to avoid undue financial burden upon parents;
 - (ii) changes should be made only if the current textbooks are judged to be unsuitable. Where a series of graded books is to be replaced, the new series should be introduced progressively, beginning at the lowest level, and not simultaneously at all levels throughout the school, except in the event of implementating a new syllabus;
 - (iii) any proposal to replace a book on the Recommended Lists (see (b) below) by another book which is not on those lists should be supported by good educational reasons;
 - (iv) to help parents decide whether to buy new or second-hand books, schools should give full details of all textbooks required for the new term in their book lists;
 - (v) the selection of textbooks and instructional material is a matter requiring care and thought. The guiding principle should be the specific educational needs of the pupils. Workbooks, supplementary exercises and tests which bear little or no relevance to the curriculum and teaching programmes should not be recommended for use.
- (b) The Education Department issues Recommended Textbooks Lists regularly. Schools are advised to select textbooks from these lists. Those who choose books which are not on the lists may be required to justify their choice.

In response to a recent Education Department initiative, publishers have agreed to the following:

- (i) a title once put on the Recommended Lists will not normally be reviewed again for three years, except for justifiable reasons;
- (ii) revisions to and new editions of recommended textbooks must be submitted to the Education Department for review;
- (iii) any reprints involving minor amendments other than typographical errors must have the Department's prior agreement;
- (iv) titles involving unnecessary amendments will be removed from the Recommended Lists.

We believe that these measures, together with the guidelines described in (a) above, are sufficient to protect the interests of parents.

- (c) The Education Department reminds schools regularly of the need to minimize opportunities for corruption relating to the selection of textbooks. This advice was last updated in April 1992 after the ICAC's Corruption Prevention Department had conducted an in-depth review of textbook selection processes by schools. If these guidelines are adhered to, textbooks would be selected by collective decision, based on the assessment of individual teachers, with deviations backed up by documented reasons to protect against allegations of unfairness or impropriety. Headmasters consider these guidelines to be clear and helpful. Moreover, ICAC staff regularly visit schools to explain the Prevention of Bribery Ordinance and to offer advice as appropriate.

Statement

Commission of Inquiry

DEPUTY PRESIDENT: The Chief Secretary has a statement.

CHIEF SECRETARY: Mr Deputy President, the Administration understands that Members of this Council are concerned about the acquittal without trial of the defendant in a recent murder case. The specific concerns relate to the refusal of the key witness to testify in court and the decision to offer no evidence in that case. A main general concern is whether prosecution witnesses are given adequate protection where this is appropriate.

Mr Deputy President, in the light of these concerns, the Administration is prepared to recommend to the Governor in Council the establishment of a Commission of Inquiry under the Commissions of Inquiry Ordinance and to give any such Commission its full co-operation in the inquiry.

DEPUTY PRESIDENT: Mrs Miriam LAU, you have a question?

MRS MIRIAM LAU: Yes, Mr Deputy President. I wish to seek elucidation from the Chief Secretary. The statement from the Chief Secretary does not cover points like terms of reference and who the Commission should report to. Would the Chief Secretary inform this Council whether the terms of reference set out in my amendment to Mr TO's motion will be included in the appointment of the Commission, whether the Commission will be directed to report to the Executive Council and the Legislative Council, and whether the Government will give an assurance that this will be done?

CHIEF SECRETARY: Mr Deputy President, any such Commission of Inquiry is established under the instruction of the Governor with the advice of the Executive Council. I will certainly make sure that the points raised by Mrs LAU are taken into account in the consideration of the inquiry.

Motion

IMMIGRATION ORDINANCE

THE SECRETARY FOR SECURITY moved the following motion:

"That section 18(3) and parts VIIA and VIIB of the Immigration Ordinance shall expire on 31 December 1993."

He said: Mr Deputy President, I move the motion standing in my name on the Order Paper. It seeks to extend section 18(3) and parts VIIA and VIIB of the Immigration Ordinance for a further one year.

Section 18(3) of the Immigration Ordinance removes the limit of two months during which an immigration officer must remove a person refused permission to land in Hong Kong, if it appears to the Director of Immigration that person was previously resident in Vietnam. This subsection has been re-enacted annually and will expire on 31 December this year unless extended by resolution of this Council.

Parts VIIA and VIIB of the Ordinance were enacted in 1979 to provide more effective sanctions against the traffic in illegal immigrants. Under these provisions, any person who helps illegal immigrants to enter Hong Kong

commits an offence. Offenders are liable on conviction to a fine of up to \$5 million and imprisonment for life. The ships and other property involved are liable to forfeiture. These two parts have also been re-enacted annually and will expire on 31 December unless extended. I believe that these provisions are still necessary.

They are necessary despite progress in the repatriation of Vietnamese migrants over the last year, which I will take this opportunity to summarize for Members. In the first eleven months of this year, only 12 asylum-seekers from Vietnam have come to Hong Kong. Over the same period, the number returning to Vietnam under our Orderly Return Programme and the UNHCR's voluntary programme has averaged over 1 000 a month. But it will be some considerable time before all migrants (of whom there remain over 43 000) are repatriated. There is also the particular problem of what are called ECVIIs, Ex-China Vietnamese Illegal Immigrants. It is a particularly difficult and time consuming exercise to ascertain in each such case the fact of their previous residence and settlement in China which we must do before we can seek Chinese agreement to take them back. We need to retain section 18(3) to enable us to continue with our programme of repatriation in these cases.

Illegal immigration from China also remains a very serious problem. In the first eleven months of this year, there were 32 427 arrests of illegal immigrants: nearly 40% up on the same period last year. The main cause has been the illusion of jobs on the new airport site and other major projects, encouraged as always by deliberate misrepresentation and false rumours spread by the "snakeheads" who traffick in illegal immigrants. It is necessary to retain the strong sanctions provided by parts VIIA and VIIB of the Ordinance against those who engage in this trade. If we simply removed these sanctions, it would send quite the wrong message generally, and specifically it would mean that we could not prosecute effectively either couriers of minor illegal immigrants or crew members of snakeboats. Although there are other sections of the Ordinance that can be utilized against trafficking, none would be as effective as these provisions, which were designed to meet the serious problems of large-scale syndicated illegal immigration. That is still very much with us.

It is against this background that we need to retain these provisions in the Immigration Ordinance. As on previous occasions, we propose extending the provisions by one year.

Question on the motion proposed.

MR MARTIN LEE: Mr Deputy President, this resolution looks very innocuous. And since 1979, this Council has passed a similar resolution without debate at the end of every year.

But this year is different, because the number of illegal immigrants from Vietnam has dwindled to, I believe, only 12 so far this year.

Section 37B of the Immigration Ordinance provides that the Governor in Council may by order declare any class or description of persons to be unauthorized entrants. And by the Immigration (Unauthorized Entrants) Order dated 7 August 1979, the Governor in Council declared all persons resident or formerly resident in Vietnam and Macau and all persons who leave the PRC without exit permits to be unauthorized entrants. This section of the law, to say the least, is racist. And I ask whether such provisions of law are acceptable to Hong Kong at this date and age.

The relevant provisions under the Immigration Ordinance which the Administration seeks to extend for another year are extremely draconian; and I will give just one example to Members to show how objectionable some of these provisions are.

Section 37K(2) of the Immigration Ordinance provides (*inter alia*) that where a person is charged with an offence of being a member of the crew of a ship which had brought illegal immigrants into Hong Kong, all that the prosecution need do is to produce a certificate signed by a police superintendent certifying that the defendant was a member of the ship's crew, and the Court will presume that as a fact in the absence of any evidence to the contrary. And if convicted, this crew member may be fined the maximum of \$5,000,000 and imprisonment for life.

I would like to remind Members of Article 11 of the Bill of Rights which provides: "Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law."

Quite apart from BOR considerations, these provisions under the Immigration Ordinance, as evidenced by the penalty I mentioned above, are extremely draconian and this was known to this Council when they were first enacted in 1979. Thus, it is expressly provided that these parts would expire automatically at the end of the year unless extended for another year by positive resolution of this Council.

With the passage of the Hong Kong Bill of Rights Ordinance and with the sharp drop in boat people arriving from Vietnam, there is no justification for these parts to be extended for another year without modification.

But I have been assured by the Secretary for Security that it is his intention to conduct an overall review of the Immigration Ordinance in relation to the problem of illegal immigrants from Vietnam and the PRC. I welcome such a review, and I would suggest that it should include the policies of the Administration in relation to the different treatment given to different illegal immigrants from the PRC. For example, if three or more illegal immigrants from the PRC are found in a construction site, not only are they prosecuted but the prosecution expects an immediate custodial sentence of 15 months to be imposed on them even though they are first offenders and even though they are

as young as 14. But if only one or two are found, they would be repatriated to the PRC if they are first offenders.

I hope that when the Administration is conducting the review, they would work with the Security Panel of this Council so that we could bring back some respectability into our Immigration Ordinance.

On the promised undertaking of the Secretary for Security for a review, the UDHK will abstain from voting on this resolution rather than vote against it.

SECRETARY FOR SECURITY: Mr Deputy President, I have had the opportunity to discuss with Mr Martin LEE the points he has raised this afternoon. I accept that there is a need to look again at these provisions, particularly in the light of the recent much more favourable signs of a resolution of the long-standing problem of illegal immigration from Vietnam. I also agree that we should review the statutory presumptions of guilt in parts VIIA and VIIB of the Immigration Ordinance relating to trafficking in illegal immigrants generally. As I have said, we still have a serious problem of illegal immigration from China and we need to retain effective power to combat that problem. But it is our intention to retain only those powers which are justified and necessary and no more than necessary. I am therefore very willing to undertake that we will review these provisions and bring forward for the consideration of Members of this Council proposals on that basis. As regards the final point which Mr Martin LEE makes relating to prosecution, I do feel however that I must make it clear, as I have in the past, that prosecutions are a matter for the Attorney General.

Question on the motion put and agreed to.

First Reading of Bills

HOUSING (AMENDMENT) BILL 1992

WATER POLLUTION CONTROL (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

HOUSING (AMENDMENT) BILL 1992

THE SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS moved the Second Reading of: "A Bill to amend the Housing Ordinance."

He said: Mr Deputy President, I move the Second Reading of the Housing (Amendment) Bill 1992, the basic purpose of which is to improve the efficiency of public housing estate management and to tie up some loose ends in the existing legislation.

The Bill will empower the Housing Authority to make bylaws for the issue of fixed penalty parking tickets to control parking offences on estate roads. Under existing legislation, the Housing Authority has powers to impound or tow away vehicles illegally parked in its estates, or to prosecute the offending motorists by summons. The procedures are time-consuming, require considerable manpower and supporting resources and have little deterrent effect. There is thus a need to strengthen the Authority's powers. Under the Fixed Penalty (Traffic Contraventions) Ordinance, the fixed penalty ticket system has proved to be a very effective means to deter indiscriminate parking on public roads. The Authority proposes to introduce a similar system for more effective control over estate roads.

The Bill also seeks to enable the Authority to delegate certain of its powers and functions to other persons in relation to the control and management of commercial facilities and car parks. In recent years, the Authority has increased the private sector involvement in the management of its shopping centres and markets in order to take advantage of its expertise and better responsiveness to market needs. In line with private sector practice, there is a need to allow for greater flexibility in management contracts, to allow, for example, for granting a tenancy to a tenant with a proven track record who may then sublet or license parts of department store, food court, super store or market premises while retaining overall management responsibility. There is also a need to provide for this explicitly in the Housing Ordinance as proposed in the Bill. As regards car park management, the Bill will enable private operators under a management contract to exercise the powers available to the Housing Authority in connection with road and vehicle management in the estates except the powers to prosecute offending motorists and to issue fixed penalty tickets.

Another aspect of the Bill relates to the hearing of tenancy appeals. It has been the practice of the Housing Authority's Tenancy Appeals Committee to hear appeals in tribunals formed by selecting a few members by rotation for administrative convenience. For the avoidance of doubt, the Bill will give express power to the Housing Authority to appoint tribunals from a panel to hear these appeals.

Various other minor amendments of a technical nature are proposed on which I do not consider it necessary to elaborate at this stage.

Thank you, Mr Deputy President.

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

WATER POLLUTION CONTROL (AMENDMENT) BILL 1992

THE SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS moved the Second Reading of: "A Bill to amend the Water Pollution Control Ordinance."

He said: Mr Deputy President, I move the Second Reading of the Water Pollution Control (Amendment) Bill.

The 1989 White Paper *Pollution in Hong Kong — A time to act* indicated the need to review the Water Pollution Control Ordinance. The Water Pollution Control (Amendment) Ordinance 1990 replaced exemptions for existing discharges and deposits with an entitlement to a licence under specified conditions and provided for better control over discharges in water control zones. The latest Bill seeks to improve enforcement under and the effectiveness of the Ordinance further, and to add regulation-making powers necessary for the construction of sewerage and related works required to control water pollution.

Members are aware that we have embarked on a massive new sewerage programme for Hong Kong. At present, there is no statutory power to require private property owners to connect their wastewater to new public sewers when these are provided. This means that our intentions as regards improving water quality could be frustrated and some of our substantial investment in new sewerage facilities wasted. Clause 28 therefore proposes that, under regulations to be made under the Amendment Bill, the Authority, which is the Director of Environmental Protection, may serve notice and require property owners to convey their wastewater to a terminal manhole specified by the Authority and to complete the works within a time specified in the notice. The Government may then connect up the terminal manhole to new public sewerage.

Clauses 24 and 28 of the Bill also seek to enable the Governor in Council to make regulations to require owners of private wastewater treatment facilities to construct works, effect repairs or carry out operations to ensure the proper operation and maintenance of their facilities. This amendment is required because private wastewater treatment facilities in many existing residential developments are not working properly, and result in pollution to nearby streams and beaches. It is therefore proposed that where the works or repairs are not effected within the specified time, the Authority may construct the works or effect the repairs and recover the costs from the owners. If and when the situation warrants it, the Authority may also apply to a magistrate for an order empowering authorized officers to enter premises, and under the regulations to be made under the Bill, to take over the operation of a communal treatment facility and recover the costs from the owners. Management of the private treatment facility would be handed back to the owners when they can prove that the facility will be operated and maintained to the required standard.

As mentioned above, because domestic discharges from private treatment plants which are not operated properly can cause pollution to nearby streams and beaches, a new power to make regulations under the Ordinance is proposed in clause 28. These regulations will provide that only persons registered under the regulations may operate and maintain communal wastewater treatment facilities. This is to ensure the proper operation and maintenance of private wastewater treatment facilities, especially in large residential developments. However, the proposed regulations will not be brought into effect until sufficient trained personnel are available.

To bring the penalty provisions of the Ordinance into line with other environmental Ordinances, the penalties for making illegal discharges of waste and polluting matter in water control zones will be amended to include a maximum of six months' imprisonment to create a deterrent effect. To protect our sewerage infrastructure further, a separate offence will be created for discharging poisonous and noxious matters into communal sewers or drains. Such discharges are potentially damaging to a drainage or sewerage system and could endanger the health of any person engaged in the operation or maintenance of the system. The maximum penalties in clause 7 for discharges of such matter are a fine of \$200,000 and one year imprisonment for the first offence, a fine of \$500,000 and two years imprisonment for a second and subsequent offence, and in the case of a continuing offence, a fine of \$20,000 for each day the offence continues.

Finally, the Bill seeks to make amendments to improve the effectiveness of the Ordinance. These amendments include the removal of the requirement to publicize in a newspaper an application for a discharge which involves low volumes of water, the extension to the whole Ordinance of the offence of making false statements in an application, and the establishment of a term of office for the chairman and panel members of the Appeal Board that is consistent with similar provisions in other environmental Ordinances.

Thank you, Mr Deputy President.

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

EXCHANGE FUND (AMENDMENT) BILL 1992

Resumption of debate on Second Reading which was moved on 4 November 1992

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

Bill read the Second time.

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

ROAD TRAFFIC (AMENDMENT) (NO. 3) BILL 1992**Resumption of debate on Second Reading which was moved on 18 November 1992**

Question on Second Reading proposed.

MR ALBERT CHAN (in Cantonese): Mr Deputy President, I rise to support the Road Traffic (Amendment) (No. 3) Bill 1992. The enactment of the bill will enable to set the traffic management scheme in motion which could mitigate the impact of traffic noise.

Ever since the Tsing Yi North Bridge became operational in 1988, the residents of Tsing Yi North and Riviera Gardens have been complaining that the noises made by heavy goods vehicles are a great nuisance to them. The proposed piece of legislation, which prohibits a particular type of vehicles from using certain roads during a particular period of time on environmental grounds, is a reasonable and legitimate approach.

In the past, the Transport Department, the district boards and the residents concerned repeatedly put the request to the authorities that heavy vehicles should not be allowed to use Tsing Yi North Bridge between 11.00 pm and 7.00 am in the next morning to minimize the noise nuisance from heavy vehicles. With no appropriate law in place, however, not a single department was empowered to prohibit a particular type of vehicles from using certain road sections to reduce such noise nuisance. Furthermore, as a result of the present town planning policy, many residential complexes are situated in the vicinity of highways subject to the noise nuisance caused by passing heavy vehicles. After the enactment of the Road Traffic (Amendment) (No. 3) Bill 1992, I believe that the residents concerned can be relieved from the noise nuisance created by heavy vehicles.

Therefore, I support the Road Traffic (Amendment) (No. 3) Bill 1992.

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, I fully support the Bill before us because it empowers the Government to make regulations and formulate measures to restrict road use for the purpose of environmental protection. And the Bill was initiated by the serious traffic noise nuisance in Tsing Yi. I have to point out that the Government, while formulating transport policies and traffic measures, should keep in mind all environmental protection aspects instead of just focusing on noise pollution. Other environmental protection aspects include air pollution, energy conservation and so forth. Air pollution indeed deserves our attention. For instance, many drivers of diesel vehicles like buses, lorries and taxis tend to leave their engines idly on for quite some time when they are waiting for passengers or loading and unloading goods. They are not only wasting energy but also inadvertently polluting the air breathed by us.

Mr Deputy President, the air quality in Hong Kong is deteriorating and the amounts of the pollutants in air, namely nitrogen dioxide and suspended particulates, are higher than the acceptable levels of 10% to 15% and 30% to 40% respectively. It is a good start for the Government to keep environmental protection in mind while formulating transport policies and traffic measures.

Tsing Yi is not the only area affected by noise nuisance and other areas fall victim to it as well. Let me quote another example. Some heavy goods vehicles are often illegally parked overnight at housing estates or near residential areas and the drivers usually go to fetch them around 4.00 am to 5.00 am. Since it usually take five to 10 minutes to heat up the engine and start the vehicles, they tend to step hard on the accelerators. The noise would wake the residents living in the neighbourhood. Indeed, restrictions should be imposed on such inconsiderate behaviour.

The Bill also seeks to lay down measures to make it more convenient for disabled drivers to park their cars. I fully support this and hope that more measures will be introduced in the territory to assist these people so that they can integrate into the community more easily and lead a normal life.

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

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, I am very grateful for the comments made by the Honourable Albert CHAN and the Rev FUNG Chi-wood who spoke on this Bill and whose support for the Bill also focuses on the noise control aspect of the Bill as it has a bearing on the traffic flow in the Tsuen Wan and Kwai Tsing areas. I am sure the Secretary for Planning, Environment and Lands will join me in noting the comments made on the importance of the environment in deliberating the Bills in question.

Members will recall that this particular Bill is an enabling amendment to the main Ordinance. This part of the Bill provides for the implementation of individual schemes. They will be introduced on the basis of individual merits.

With these remarks, Mr Deputy President, I commend the Bill for Members' passage.

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.

EXCHANGE FUND (AMENDMENT) BILL 1992

Clauses 1 to 3 and 5 to 45 were agreed to.

Clause 4

SECRETARY FOR MONETARY AFFAIRS: Mr Chairman, I move that clause 4 of the Bill be amended as set out in the paper circulated to Members.

The amendment to the proposed section 5A(1) will make the appointment of the Monetary Authority mandatory. This is to address the theoretical, but highly unlikely, possibility that the Financial Secretary might fail to appoint a Monetary Authority, thereby creating a lacuna in banking supervision. The amendment to the proposed section 5B(2) will reinforce the intention that any delegation or subdelegation of powers and duties by the Financial Secretary will not preclude him from exercising such powers and duties himself.

Mr Chairman, I beg to move.

Proposed amendment

Clause 4

That clause 4 be amended —

- (a) in the proposed section 5A(1), delete "may" and substitute "shall".
- (b) in the proposed section 5B(2) add "or a subdelegation" after "delegation".

Question on the amendment proposed, put and agreed to.

Question on clause 4, as amended, proposed, put and agreed to.

ROAD TRAFFIC (AMENDMENT) (NO. 3) BILL 1992

Clauses 1 to 5 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

EXCHANGE FUND (AMENDMENT) BILL 1992

had passed through Committee with amendment and the

ROAD TRAFFIC (AMENDMENT) (NO. 3) BILL 1992

had passed through Committee without amendment. 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**HOUSING SUBSIDY POLICY**

DEPUTY PRESIDENT: I would just remind Members of the decision of the House Committee that the normal rule will apply to this debate, which is that movers of motions will have 15 minutes for their speech including reply and other Members will have seven minutes.

MR LEE WING-TAT moved the following motion:

"That this Council urges the Government to revoke the Housing Subsidy Policy (Double Rent Policy) of the Housing Authority."

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

Mr Deputy President, the core issue which we are debating today is how we are going to provide a definition for the term "public housing"; whether we are going to define it as a kind of commodity, or as a public service whose provision cost we have to recover, or as a form of social welfare. Different groups of Hong Kong society will come to vastly different conclusions on the policy regarding "well-off" tenants, depending on how they look at this basic issue.

The United Democrats of Hong Kong have always taken the view that, given the fact that Hong Kong is a small place with a large population, and also given the prevailing high land price policy, private property is not only something which the low income groups are not able to afford, but also more

importantly, something which even the middle income groups are not able to afford. If we take into account the great profits which the Government, the developers, the construction companies and also the property dealers are making out of the situation, it is becoming increasingly difficult for the man in the street to become the owner-occupier of a home no more than the size of a cubicle. We take the view that housing is not essentially different from basic education and medical and health service; it is a form of social welfare that the Government should provide to the low income groups so that their basic livelihood can be protected. With everybody living in appropriate housing, social stability can be enhanced and this will in turn result in the enhancement of a sense of belonging among Hong Kong people to the Government and society as a whole. It can therefore be said that the provision of a suitable living environment is a very important factor in terms of enhancing social stability.

If we are to define public housing as a form of social welfare, then the Government and the Housing Authority should not resort to demanding that the low income groups who are the recipients of this social welfare benefit should pay double rent, people who have been commonly labelled as "well-off" tenants just because their livelihood has become relatively more stable. Similarly, the Government will not stop providing nine-year free education to primary school children of multi-millionaires; nor will the Hospital Authority, for that matter, see fit to charge the multi-millionaire double medical fees who prefers to check into a public hospital and actually take up a third class ward bed.

The Government has always argued that it is appropriate to make people whose economic means has improved pay higher fees. But one wonders whether this policy of the Government is consistent and thorough in its application. Why, in terms of taxation, for example, is the profits tax set at an upper limit of 17.5%? Why is this philosophy of paying according to ability not reflected in the policy regarding taxation such that the school teacher and the multi-billionaire have to be taxed to the tune of the same 15% of their income, according to the standard rate?

All this talk about paying according to ability in matters of social welfare is a specious specimen of equity when one comes to think of the protection given to the genuinely rich in terms of the Government's taxation policy. The double rent policy will only result in low income groups of people subsidizing those who have still lower incomes; it is a horizontal kind of wealth redistribution and a retrogressive step to take.

To the extent that public housing falls within the sphere of social welfare, the proposed principle of paying according to ability has the implication that the Government is reducing its commitment to that particular form of social welfare. Indeed, public housing, medical and health services and tertiary education are areas to which there has been reduced government commitment in recent years.

What after all is the extent of the Government's commitment to public housing? Is it true that public housing involves only government spending and yields no revenue at all? The government input has been the free provision of land for the building of public housing. But it is debatable whether the value of such government land is as valuable as it is claimed to be. The value of the land allotted for public housing development is assessed only after the completion of the development project. It is obviously much higher than the value of the land before development, when it was just a remote and uninhabited piece of land. Furthermore, in the cases of Tseung Kwan O and Tin Shui Wai, people are encouraged to move into the housing development at these remote parts of the territory out of no other choice at all. As these areas begin to prosper, it is discovered that if the land is sold for private development, it would be even more valuable. The Government has never considered that the public housing tenants have actually contributed to the enhancement of the value of land in such areas, that they have indeed boosted its revenue from the land sales.

The second form of government investment in public housing is its capitalization of public housing, which was under the administration of various institutions, as a permanent capital fund which comes to a total of \$16.3 billion. That amount of money has been fully injected into the Housing Authority. The Government undertakes also to provide the Housing Authority with another capital injection of \$10 billion for the period going from 1989-90 to 1993-94. It is unfortunate, however, that this capital injection of \$10 billion has yet to fully materialize. The Government actually exacts a price for this capital injection into public housing development. The central government is to take 5% of that permanent capital annually as interest. Also, half of the profits from the management by the Housing Department of the shopping arcades at public housing estates have to be turned over to the central government. Insofar as the year 1991-92 is concerned, the two sums add up to a total of \$2 billion. It is estimated that from 1988 to 2001 the central government will be able to obtain a return of \$31.6 billion from public housing tenants, which will be \$5 billion over and above its investment of 26.3 billion.

On the issue of subsidy, the consultation paper mentions that a public housing unit going for a monthly rent of \$1,000 has a market rental value of \$3,500, which is to say that the tenant is subsidized to the tune of \$2,000 per month. This is not a reasonable argument in that the unreasonably high private property rent already includes the high land price and the profits due to the developers, the construction companies and the owners. Furthermore, the quality of public housing is inferior to that of most private property; there are also stringent constraints governing the use of public units. Seen in this light, the comparison is totally inappropriate.

In summing up my views on the issue of subsidy, I would like to quote the following remark of a senior lecturer of the City Polytechnic of Hong Kong: "The public housing programme has also elements of a form of social investment by the Government. The present practice of the Housing Authority to unilaterally stress that its policy represents a subsidy to public housing tenants

is actually to overlook the fact that the public housing programme, quite apart from benefiting the public housing tenants, has also the function of reducing the cost to the community as a whole in terms of extra-housing spending by the Government. It is in this regard that the investment brings benefits going beyond public housing."

As public housing tenants are able to enjoy a better standard of living with increased incomes, a better arrangement would be for them to choose, of their free will, to purchase private property or home ownership flats so that they will vacate their flats to other needy people waiting for public housing. The public housing tenants are not intent on refusing to let go of their flats. It is not true that they have not considered the above two options. They have the same wish to become home owners. However, the escalating private property prices are totally beyond their reach. Insofar as home ownership flats are concerned, there are over ten times more applicants than flats available for each sale. Indeed, with the home ownership flat prices being adjusted to private market level, they too have gradually become unaffordable by public housing tenants. If the Housing Authority would only come up with adequate provision of rental public housing and home ownership flats, if it would only fix the home ownership flat prices at a more reasonable level, I am sure that there would be many more so-called "well-off" tenants who would be willing to move out of public housing, of their own free will, in a bid to improve their living conditions.

Another cause for the strong objection to the Double Rent Policy is that there are no objective criteria for the definition of a "well-off" tenant. The definition could even be described to be rather arbitrary. Why has the Housing Authority seen fit to set the income limit for double rent at twice the Waiting List income ceiling? Why not three times or four times that income ceiling? The Housing Authority has never come up with a satisfactory answer. It will only stress the point that the well-off households in the public housing sector already account for one third of the highest income households of the territory. But that statistic does not reflect anything other than the fact that the distribution of wealth is extremely uneven in Hong Kong. Whereas 10% of the highest income households account for 37.3% of the gross income of all Hong Kong people, 20% of the highest income households account for 52.8% of that gross income. In this connection, it can be seen that households which are said to make up one third of the highest income households are after all households of modest means.

A household with four members will be classified as a well-off household if it has a total income of \$19,400. If all four members are working, then each one of them will only need to have a monthly income of \$5,000 in order for them to be collectively labelled as a well-off household. How rich is a person making \$5,000 a month? Indeed, the so-called well-off household living in public housing is in most cases one with more working members. The children have grown up into working adults and the household income apparently has risen significantly as a result. These working members find employment as

garment workers, helpers in fast-food joints or office assistants. Are they so rich after all?

The Housing Authority has always claimed that even after being made to pay double rent the affected household ends up paying a very low percentage of its income on rent. But the Housing Department has never given any consideration to the fact that most working youngsters like to live their own lives, that they will only give a small portion of their income to their parents, and that even though their parents have to pay double rent, they will probably give the same amount to them to pay for the monthly household expenses. In this connection, the greatest victims of the Double Rent Policy are the householders who have to pay anything from \$600 to \$1,000 extra in the way of monthly rent. The inflated rent which comes to an additional one fifth of the household income represents a heavy burden indeed. It is not surprising therefore that there are many public housing tenants who have actually been reduced to deleting their higher income earning children from their tenancy card in order to avoid being labelled as "well-off" and their children so deleted have to hang on as illegal lodgers.

Mr Deputy President, it is unfortunate that the consultation paper published by the Ad Hoc Committee to Review Public Housing Subsidy Policy of the Housing Authority makes no mention of the option of giving up the Double Rent Policy. It is in this regard not so much a comprehensive consultation exercise as a fake consultation exercise. The consultation paper represents no more than an effort to paper over the cracks of the Double Rent Policy, to protect it at all costs.

Whereas Singapore is a country which, like Hong Kong, is equally faced with scarcity of land and a large population, its government has a greater public housing commitment. It has 90% of its population living in public housing. Indeed, most of them are owner-occupiers and they need only devote 20% of their household income to paying for a housing unit of not less than 1 000 sq ft. In Hong Kong, the same proportion of the household income can only allow one to rent from the Housing Department a housing unit measuring 300 to 400 sq ft.

Lastly, I would like on behalf of the United Democrats of Hong Kong to ask the Government to put an end to the Double Rent Policy of the Housing Authority. With these remarks, I move the motion.

Question on the motion proposed.

MR HUI YIN-FAT (in Cantonese): Mr Deputy President, it is a well-known fact that the Hong Kong Government has never made the mistake of being over generous with taxpayers' money in terms of committing itself to social welfare spending. In this regard, whether it be medical and health services, education, public housing or social welfare, the long-standing policy of the Hong Kong Government has always been only to meet the basic needs of the public and to

give assistance to only those most in need of help. It is in line with this practice that it would appear almost unquestionably right that, when the low income groups have been able to enjoy a gradually better quality of life such that their incomes have actually exceeded the prescribed levels — thanks to the government subsidy which they have been receiving — they will have to make do with reduced levels of government subsidy.

It is for this reason, too, that, when the preliminary findings of the opinion survey conducted by the Applied Social Sciences Department of the Hong Kong Polytechnic on the Public Housing Tenant Subsidy Policy were released recently, the community at large have not been unduly surprised that actually 65% of the 3 000 respondents polled indicated their approval for the Housing Authority to reduce its subsidy to the so-called well-off tenants living in public housing estates. What is even more encouraging is the fact that over 50% of the public housing tenants themselves were in support of this policy. It would appear that there are a great many people in our community who are quite prepared to put aside their personal interests and who are perfectly capable of being fair-minded and appreciating the larger principles at stake.

If one looks at the issue from the perspective of public subsidy, if the affected tenants have to cut back on their other living expenses upon being made to pay double rent, or even decide to move out of their original flats because they are not able to cope with the double rent, then I would have a lot of reservations. However, according to the statistics provided by the Housing Department, the double rent actually accounts for 5% of the median income of the well-off household; it is even less than the percentage of the median income of the average public housing household to be spent on rent, which is 7%. Furthermore, according to the statistics under Category A of the Consumer Price Index, the non-housing expenses of the public housing household are 25% more than those of their counterpart in the private sector. Statistics from these two sources would be convincing evidence that not only do most of the affected tenants have the means to pay the double rent, but they also will not suffer any decline in terms of quality of life as a result of retrenchment on non-housing expenses.

As a matter of fact, according to my personal contact, most public housing tenants are not so much opposed to the spirit of the policy as to the practice of calculating children's incomes into the household income. It is also my belief that most children will not turn over all of their incomes to their parents for their disposal. In this regard, while I would agree with the new method of calculation mentioned in the consultation paper, I would also hope that the Housing Authority would introduce elements of a progressive taxation system into the calculation such that the difference of several hundred dollars would not have a totally disproportionate implication regarding who should be made to pay a great deal more rent. In addition, given that the criteria for the definition of a well-off household are based on the income ceiling applicable to the public housing applicants on the Waiting List, I would suggest that, to the extent that the financial position permits and that the public housing building

programme will not be consequently held up, the authorities concerned can actually exercise their discretion to raise the income limit so as to reduce the number of affected "well-off" tenants.

Mr Deputy President, within the framework of the existing public housing policy, it has become a basic principle which has the endorsement of the greatest number of people that the amount of public housing subsidy should be reduced for public housing tenants with better economic means. And the public housing subsidy policy is indeed the only policy instrument designed to accomplish this objective. However, the motion before this Council today is essentially for the retraction of this policy; the adoption of this motion would suggest that the principle for the better-off tenants to receive less subsidy from the Housing Authority should be abandoned as well. If the motion is carried in this Council, it may apparently please some of the public housing tenants who have a vested interest in this issue, but it will also quite obviously go against the wishes of the vast majority of Hong Kong society and be tantamount to the abandonment of the principle of a fair deal for all.

Over the past six years or so, I have always been a defender of social justice and the well-being of Hong Kong people. I have taken part in the formulation of the policies of the Housing Authority. For example, immediately after the authorities came up with measures to combat inflation, I took the lead in suggesting that the Housing Authority should freeze public rent increase as part of the anti-inflation effort. I can say, speaking from conscience and experience, that whereas the public housing subsidy policy may have its flaws in terms of implementation and there is certainly room for making improvement, the policy has nevertheless a worthy goal and spirit to which this Council and Hong Kong people should still lend their support. This is particularly so in view of the fact that neither the Housing Authority nor the opponents of the policy have any viable or reasonable alternative to offer. That is why we have to preserve this policy and make improvement to it in the meantime.

Mr Deputy President, with these remarks, and having regard to the above statistical evidence and the above mentioned arguments, I oppose the motion.

MR PANG CHUN-HOI (in Cantonese): Mr Deputy President, I recall a public statement made not so long ago by a government official. It was pointed out that notwithstanding the inadequate social security, Hong Kong still had a social relief system which was based mainly on public assistance, and social welfare in the form of medical services and public housing. The recently published consultation paper by the ad hoc committee on the review of the Housing Subsidy Policy considers that public housing is a social service rather than a form of social welfare. It can be seen therefore that the Government shifts its position at whim to suit its different needs, and that it has yet to classify housing as a right to which Hong Kong people should be entitled.

According to the statistics provided by the Housing Authority regarding the general Waiting List for public housing allocation, there are still 180 000 households in Hong Kong, or over 500 000 people, awaiting the allocation of public housing. Given that the Government is not able to come up with the resources required to meet the housing needs of Hong Kong people, the Housing Subsidy Policy has been introduced as an attempt to reduce the level of assistance meted out to those households whose livelihood has already been improved to a certain extent.

Two methods of calculating the highly controversial subsidized income limit are proposed in the consultation paper. The first option is for the household concerned to enter the gross income of all of its members or to enter one half of the earnings of the children of the householder. The second option is for the gross household income to be set at a certain multiple of the Waiting List income ceiling and the amount of rent payable is to be determined accordingly. I think that while flexibility should be exercised in terms of the calculating methods, the subsidized income limit should also be raised.

Whereas the household which has to pay double rent is supposed to have an income twice the income ceiling of the households on the Waiting List, the fact that the tenants have been living in the public housing flat for over 10 years means that the household head's children have already grown up and most of them have already had employment. The use of the subsidized income limit as a criterion to assess the average income of individual members of a given household will reveal that it is in fact lower than the median income of Hong Kong. In this regard, the well-off household label is not appropriate.

Indeed, the Housing Authority does not need to look farther than the property prices in the private sector to appreciate why most of the affected households have opted to put up with the double rent rather than move out of public housing. The going price for a flat under the Home Ownership Scheme is upwards of a million dollars. It is not easy at all for a lower or middle income family to save that amount to buy a home of their own.

The objective of the Housing Authority is to solve the housing problem of the needy families. It has set the standard of a minimum living space of 5.5 sq m per person. However, there were still as many as 45% of the public housing tenants who were not able to enjoy that standard living space. What is even more disappointing is that the Housing Department has drastically reduced the quota for overcrowding relief from 2 597 for 1990-1991 to 500 for 1991-1992. The available quota for overcrowding relief for this year is still standing at 500. This means that many public housing residents will still have to live in very cramped conditions. Whereas some of them have been made to pay double rent, they are not able to enjoy any improvement in terms of living conditions. Meanwhile, the number of vacant public housing units is now approaching a staggering 30 000. This unreasonable phenomenon is proof that there is a whole lot of room for improvement within the vast organization of the Housing Department, which has no transparency at all.

The Government has already taken the decision that beginning April next year the terms of reference of the Office of the Commissioner for Administrative Complaints will be expanded to cover the handling of complaints against statutory bodies such as the Housing Authority. I totally agree with this arrangement. I am hoping that this will go some way towards monitoring the work of the Housing Authority.

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

MR SZETO WAH (in Cantonese): Mr Deputy President, in the decades following the end of the Second World War, the Government has consistently pursued a policy of keeping the price of land, property and rent at a high level, which may as well be called a policy of three highs. Proceeds from land sales, and tax revenue related to the transaction of property, have become the most significant source of revenue for the Government. The multi-billionaires of Hong Kong are invariably linked to the real estate business. Meanwhile, the great majority of Hong Kong people have been made victims of this policy of three highs, being subject to ruthless exploitation. The heaviest burden for most families is finding the money to meet the rental or mortgage payment. The skyrocketing rental spiral has become the most important factor which fans inflation. Meanwhile, the high rental bill being footed by businessmen and factory operators is invariably passed on to the man in the street, adding further to his financial burden.

The public housing programme was launched by the Government in order to avert the intensification of the social tension caused by its policy of three highs which might otherwise easily have led to social crisis shaking Hong Kong to its foundations. The public housing programme represents an attempt as much to mitigate the growing social tensions, which can easily get out of control, as to pacify the wrath of the grassroots. It can even be said that the public housing programme is employed to ensure the success of the policy of three highs. Meanwhile, the public housing programme has succeeded in making the grassroots to spearhead the Government's efforts to build new towns and develop more land. This in turn has created a new source of wealth for both the Government and the real estate developers.

These facts speak to the nature of the public housing programme. From this perspective one is prone to ask the question of who is subsidizing whom after all. It is not that the Government is subsidizing the public housing residents; rather, it is the vast majority of our grassroot residents who have subsidized the Government and enriched the multi-billionaires who have prospered as a result of their engagement in real estate development.

Whereas the household income may have in most cases increased significantly over 10 years since a family settled down in public housing, the reason for this is almost invariably that its young members who have been raised at great parental sacrifice have grown up and found employment in

society. These young people will very soon get married and have their own family. With this in mind, their income should be considered to be income of a family which will soon come into being. In any case, it should not be regarded as the income of the old household which is required to pay double rent.

Progressive taxation is not implemented in Hong Kong. However high the profit level of the industrial and commercial corporations, no matter how many times their profit level has increased within a certain time span, all they have to do is to pay their profits tax according to the standard rate. That completely runs counter to the principle behind the Double Rent Policy. Why is it that the Government is so generous to the commercial and industrial sector but so mean to the grassroots of Hong Kong society?

Kowloon East, which is my constituency, has 65% of its population living in public housing. I have been to almost every housing estate to consult with my constituents but I have yet to hear anyone voicing their support for the Double Rent Policy. I have never seen a policy which has caused so much public resentment.

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

MR ANDREW WONG (in Cantonese): Mr Deputy President, I speak in support of Mr LEE Wing-tat's motion.

I consider that the present housing policy is riddled with problems and completely unable to address the needs of the present Hong Kong society. The Government has all along refused to conduct a comprehensive review of its housing policy. It is only concerned with finding cures to the symptoms as and when they occur. The Double Rent Policy is just another dose of the strange medicine prescribed in this spirit. It is up to us not only to abandon this strange medicine but more importantly, to conduct a comprehensive diagnosis of the patient, that is the existing housing policy. Or else, we will only be substituting one strange brand of medicine for another. It may very well cause the premature death of the patient who has been denied proper treatment. The victims will of course be the common people of Hong Kong.

Rental public housing forms the core of the housing policy but it is also an utter failure. Offered in the 1950s, the 1960s and the 1970s as a form of welfare, it did go a long way towards solving the problem of inadequate housing supply. With the advent of 1980s, the economy took off and there was a substantial improvement in terms of quality of life for the man in the street. It was then that the shortcomings of rental public housing began to surface. One of its many shortcomings is that once the applicant has been allocated a public housing unit he or she will be able to enjoy in perpetuity the rights of tenancy. In other words, whatever change may happen to his or her economic circumstances, the tenant, and his or her descendants, will be able to enjoy the housing welfare, which is paid for by the public at large. That is not only

against the principle of equitable allocation of welfare benefits; it will also result in the monopoly of public housing units such that those who are in genuine need will not be able to get any assistance.

The Double Rent Policy is an attempt to address this issue. It is unfortunate, however, that whereas the rationale behind the policy is right, the method used for its implementation is wrong. The Double Rent Policy has failed to achieve its goal of an equitable allocation of resources and it has become more like a public nuisance in practical terms. It is not feasible at all to define who is a well-off tenant and who is not by means of a simple mathematical formula which is supposed also to decide how much more rent one has to pay. The decision to set a 10 year time frame and limit the gross household income to no more than twice the income ceiling for applicants on the Waiting List for public housing is entirely a bureaucratic whim. The arbitrary way in which a public housing household is labelled as a well-off household, an average household, or even a poor household, as the case may be, will only give rise to cases of injustice and family dispute. The living standard of a family, very often, cannot be reflected by the level of its household income, let alone mere figures entered in the book. The most typical scenario is one in which, whereas the earnings of all of the tenant's children are included in the gross household income, only a small part of these earnings in fact contributes to the expenses of the household. And there are cases in which the income earning children do not bother to pay towards meeting the household expenses at all. Of course, the other alternative is for the high income earning children to be deleted from the tenancy card while they continue to live as illegal public housing residents.

The strange medicine which comes in the shape of the Double Rent Policy does not provide a solution to our problematic housing policy. In a debate on the housing strategy which took place in the last session of the Legislative Council, I already explained how an all-out sale of public housing will resolve all the shortcomings of our existing housing policy in one fell swoop. What I had in mind is certainly not quite what the Housing Authority is trying to do. I propose an all-out sale of public housing to be complemented by a form of housing subsidy for those who are in genuine need. My proposal has already gone to press and it will very soon be presented to the relevant organizations. I very much hope that the Government, colleagues of the Executive Council and this Council, will be able to give it their endorsement.

I consider that the right way forward for our future housing policy is for the Government to enable those public housing tenants who are interested in, and who are capable of, becoming owner-occupiers to do just that, by selling to them public housing units at attractive prices. Those who do not have the means to buy public housing units will be able to enjoy housing subsidy as part of the welfare policy. This arrangement will, first of all, help the Government to free itself from the present embarrassment of having to provide indefinitely welfare to those public housing tenants who have no genuine need for such welfare. Secondly, it will also allow private owners of public housing units to sell or rent

their property as they see fit. This will enliven the supply of public housing and enable the Government to acquire the resources with which to provide public housing to those who are in genuine need so that more people will be able to benefit. Thirdly, the encouragement for people who have the financial means to buy their own homes is in line with the common aspiration and life goal of Hong Kong people in the 1990s. Fourthly, it is up to the Government to provide those households who are genuinely in need with housing subsidy.

It is in this spirit that I would like to call upon the Government, and Members of the Executive Council and this Council, to have some consideration for the dying patient as they discard the strange medicine I am talking about. I hope that Members would study carefully the appeals and views expressed by the community as whole with regard to a comprehensive review of the housing strategy, including of course my proposal, so that we will be able to formulate, through our joint efforts, a good housing policy for the betterment of our living environment.

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

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, I read a couple of days ago an article published in a newspaper in which the issue of the very serious gap between the rich and the poor in Hong Kong was discussed. The author conducted a very serious analysis of the problems involved. He came up with the conclusion that the wealth gap which Hong Kong is faced with is not only aggravating and will persist for a long time to come but also, more importantly, the problem is extremely serious indeed, particularly if we compare Hong Kong with other cities with comparable *per capita* income. That article left me with a very uneasy feeling. We know very clearly from that article, and from our daily observation, that even though Hong Kong may have very impressive economic achievement, there are still many people in Hong Kong who are living from hand to mouth. They have to live with the anxiety which comes with a sense of economic insecurity. The continuing high inflation, combined with the economic transformation which comes as a result of the restructuring of our economy, means that the price of property far exceeds the purchasing power of the man in the street. Factors such as these have made life very difficult for the grassroots of Hong Kong. Of course, the economic development has also made it possible for some people to break the poverty trap. It therefore appears quite reasonable that these people should contribute more to society so that the people who are more needy will be able to benefit.

Over the past five years, the Government has certainly gone to great length to make sure that no "well-off" public housing tenant will be able to escape from paying the double rent. The result is that the Government ends up with a windfall of hundreds of millions of excess rent without, however, achieving its objective of persuading great numbers of "well-off" tenants to

move out of their units. I received a letter from a public housing tenant a couple of days ago. He said in his letter that the increase in household income and the decision to move out of public housing are separate issues. He certainly has a point there and I think his revealing observation enables one to see the ambiguity of the policy objective of getting the well-off to pay double rent. I cannot help wondering whether the Government has been too arbitrary in terms of its definition of a "well-off" tenant, whether the Government has in fact over-estimated the purchasing power of the "well-off" tenants, whether the Government has come up with this simplistic definition through its failure to consider the Double Rent Policy in the overall context of actual economic realities, or alternatively, whether the Government has some ulterior policy objective, whether the Government is actually hoping that this policy will develop into an instrument with which to boost its revenue. The consultation paper which the Government published in September is essentially consistent with its long-standing policy. I think that it is very dangerous to continue to implement this policy arbitrarily, without any serious attempt to review the principle which lies behind it. The reason is that the logic of the policy, that no one is spared or given the benefit of the doubt, means that just because the Government is intent on getting at the minority of truly "well-off" tenants, the interests of the vast majority of so-called "well-off" tenants will be sacrificed in the process. This kind of logic is neither rational nor reasonable. It cannot be supported in any case.

The Governor in his policy address stated that the Government will by the year 1997 enable 60% of the households in Hong Kong to have homes of their own. The Government, not very long ago, also stated that by the year 2001 the goal of enabling two thirds of Hong Kong's households to have privately owned homes will be achieved. That goal is of course a most worthy one. A decent home and a steady job is what everybody is hoping for. But how are we going to achieve this goal? It would appear that the Government is intent on selling public rental and home ownership flats with reference to private market prices. Public housing units are marked for sale. Home ownership flats figure more and more prominently in the provision of public sector housing. These trends, and even the new government concept of embarking on a home building project for the sandwich class, are all linked in spirit to the existing Double Rent Policy. The reality which we are faced with is that, following the implementation of the Double Rent Policy, there is an increasing number of people who have been caught up in a most embarrassing situation. According to a survey carried out by the Hong Kong Federation of Trade Unions in the middle of last year, the great majority of the public housing tenants who have been made to pay double rent considered that they were not able to afford home ownership flats or flats on the private market. It would seem therefore that on the one hand, the Government considers that the level of subsidy to the "well-off" tenants should be reduced such that they will eventually be persuaded to move out of the cheap public units; but on the other hand, the Government is shepherding them into the private property market whose exorbitant prices they can ill afford. The sure result of this is disillusionment among the would-be home buyers. How is the Government going to help those people caught up in such an embarrassing

situation? What purpose does the "double rent" policy serve other than adding to the financial burden of this unfortunate group while decimating their savings. According to the findings of an academic research, the households with income in the bottom 40% make up a mere 10% of the gross household income of the territory. I believe many of these people are public housing residents. That the Government has seen fit to attack this group, and on such a brutal scale, is certainly a sad joke on public justice which its policy has made such a big fuss about.

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

MRS PEGGY LAM (in Cantonese): Mr Deputy President, the Housing Subsidy Policy is intended to help members of the public who cannot afford private housing rentals to solve their housing problem. In this connection, the community will take the view that public housing is a kind of social service. If it is really a social service, then it should have as its target, people who are in genuine need of help. It is very unfortunate, however, that even now the provision of public housing is still inadequate. Unlike other social services, such as medical and health services and education, which are available to all who have a need for them, public housing is still not available to a large number of people. The latter still have to rent private flats and the rent which they are paying are many times that of public housing flats. They live in very cramped conditions and their lodgings have only the crudest facilities. They enjoy no government assistance in the way of housing. Over the last couple of years, the problem is getting more serious with the skyrocketing property prices and the spiralling rental cost.

Social resources are limited, it is up to us as legislators to see to it that the general public are properly looked after and that resources are allocated in an equitable way. To uphold the principle of equitable allocation, it is quite inevitable that we may hurt the vested interests of some people. However, Hong Kong people are well known for their fair-mindedness and their sense of justice. There are public housing tenants whose economic circumstances have improved and who have higher incomes than before. They understand that they should receive less subsidy from the Government in order that the limited resources can be more equitably allocated, so that people who are most in need can enjoy housing subsidy earlier, that is, moving into public housing.

Public housing tenants belong to a group of people who are receiving subsidy. That is to say, each and every taxpayer is providing, year in, year out, subsidy to this group of people. It goes without saying that taxpayers will be most reluctant to see the Government making use of their hard earned money to subsidize households who do not need the subsidy. This sentiment is particularly prevalent among the sandwich class. They are not eligible to apply for public housing. While they have no other alternative but to live in pricey apartments and to put up with the exorbitant rent, they find themselves actually

subsidizing the public housing tenants whose incomes have already significantly improved. Is it fair and just that this should be happening?

The motion of today's debate is: To revoke the Housing Subsidy Policy (Double Rent Policy). In considering this issue, we should listen to the views of the households affected by this policy as well as ascertain the reaction of the public at large. A recently conducted independent opinion survey, which covered a total of 3 000 households, found that 66% of the respondents approved of the Double Rent Policy while 22% disapproved and another 12% indicated that they did not have any comment on the issue. Households living in public housing as well as in the private sector were surveyed. It is worth noting that the approval rate among non-public housing households was 73%. The approval rate was 53% among public housing households not paying double rent, and a significant 35% even among public housing household paying double rent. I fail to understand why a policy which has the approval of over half of the number of the respondents should be revoked immediately. Are we implying that opinion of the people who have voiced their support for this policy is not worthy of our consideration?

It goes without saying that the Double Rent Policy still needs some fine tuning. The first thing we have to look at is the label of a "well-off" tenant, and how to define the term properly. Indeed, I think it is misleading to label those tenants who have slightly better income than before as "well-off tenants". Their living standard may have improved comparing to the time when they were allocated public housing. There is a Chinese saying which goes that unless names and references are used properly, there is no way we can make a convincing case. That explains why the Government has come under such criticism from various sectors of the community since it came up with this Double Rent Policy for "well-off" tenants. On the issue of definition, it has been suggested that the household income should be determined with reference to the prevailing median income in the labour market. I think that it is a suggestion which we can consider.

There are households whose income may have reached the level of a well-off household but some of these households may have special mitigating circumstances. For example, the household may consist of old folks who need looking after; it may have chronically ill members who need expensive medical care. The household may even have too many members all of whom have expenses of their own. It is my opinion that these problematic "well-off" households should be dealt with in a flexible way, each according to their special circumstances. The Double Rent Policy should not be implemented arbitrarily, but rather in keeping with the principle of fairness for all. We have no wish to see the affected households ending up in financial hardship as a result of paying double rent. But we have no wish either to see people who are perfectly capable of paying double rent continuing to enjoy the very cheap rent, thanks to the subsidy of other taxpayers.

In the adjournment debate in January this year on the Housing Subsidy Policy, I made the suggestion that the household who has been living in public housing for 10 years should be subject to a vigorous means test in order to make sure that only the most needy will be given the housing subsidy. This suggestion is one which is in keeping with the principle of fairness for all, for both taxpayers of Hong Kong and for those who are in genuine need. It is true that the suggestion may have a few problems in terms of administration. However, in order to avoid the wasting of social and housing resources, I would consider that it is still a suggestion which is worthy of consideration.

Of the many criticisms levelled against the Double Rent Policy, the most noteworthy is that which points to the fact that the policy has failed to induce the "well-off" tenants to move out. Indeed, we should all understand that there is a great discrepancy between the public housing rent and the market rent. The double rent, on average, is only half that of the going market rent. It is quite unrealistic for us to expect that a substantial number of double rent payers will opt to move out of public housing units. If the housing objective of the policy is to force more households to move out, then it might be necessary for the Housing Authority to collect a higher rent on the highest income groups among the public housing tenants. Alternatively, the Housing Authority may also consider my suggestion that the eligibility for public housing should be reviewed every 10 years.

Lastly, I believe that the Housing Subsidy Policy has a correct objective and that it should not be abolished totally just because some of the people who have vested interests have voiced their objection to it. However, the Housing Authority should at the same time come up with a more effective means of enabling public housing tenants to understand clearly the true meaning of this policy, in order to make them less resentful. Meanwhile, encouragement should be given to the households with higher income to move out so that the cheap housing units which they vacated can be allocated to households who are more in need of help.

Mr Deputy President, with these remarks and for the above reasons, I cannot support Mr LEE Wing-tat's motion.

MR LAU WAH-SUM (in Cantonese): Mr Deputy President, it has been 30 years since the Housing Authority was set up in 1962. Over the past 30 years, we have been able to provide subsidized housing for a great number of Hong Kong people. At present, over 40% of our population are living in subsidized housing provided by the Housing Authority. Flipping through the annual report of the Housing Authority, we can see that the Government has committed huge sums of taxpayers' money to the building of public housing. As a matter of fact, the achievement of the Housing Authority is something which we can all see for ourselves.

I wish to talk about origin of the double rent concept so that Members will know the background to the issue. In as far back as the late '60s, the far-sighted legislator Mrs Ellen LI had already pointed out that the tenancy right granted by the Housing Authority should not be enjoyed indefinitely. Under the present policy, the tenancy is not set within any limiting period and the tenant may go on living in the premises indefinitely. The suggestion made at the time was that the tenant should move out after a period of 10 years so that applicants on the Waiting List would be able to move in and enjoy the housing subsidy. It was unfortunate that her suggestion was not accepted.

Then came the '70s which saw the prosperity of the early settlers in the public housing estates. One could see many luxury cars parked at the public housing estates. Although the public housing tenants had significantly improved income, they were reluctant to move out of their units. So the Housing Authority conducted a very comprehensive survey and study of the situation in the mid-1980s. There were three options open for the Housing Authority. The first option was to request that tenants who had lived in public housing for 10 years to move out, if they happened to have an income which exceeded the set limit, in order that people on the Waiting List could move in. The second option was to encourage these people to buy House Ownership Scheme (HOS) flats so that they would vacate their public housing units. The third was to introduce a double rent policy which was geared to achieve the goal of reducing the level of subsidy so that more resources could be devoted to the building of public housing units. Public consultation was conducted on the choice of all of these options. Finally, since we did not wish to see some of the public housing tenants being forced to move out, we decided to give up the first option. We were then left with the second and third options. Insofar as the second option is concerned, since we did not have an adequate supply of HOS flats, we found that were we to sell them all to public housing tenants, other members of the public would have no chance of winning the lottery. In this regard, the present (double rent) policy has been the result of open public consultation and it has been adopted and implemented only after securing the agreement of all parties concerned.

The double rent policy has been implemented for five years. The implementation has been going very smoothly and the Housing Authority has had an additional income of \$400 million each year. We can see from its annual report that every part of the revenue of the Housing Authority has been used for the building of public housing estates. The result is that applicants on the Waiting List will be able to wait a shorter time for the allocation of public housing and that the people currently living in temporary housing areas due to clearance will also be able to move into public housing in a shorter time. With regard to the findings of a recent survey (some of which have been mentioned by Mrs Peggy LAM just now and I do not repeat), I would like to highlight one point: insofar as the people who are paying double rent are concerned, the double rent as it were, only accounts for 5% of their median income. We can compare this to the rent which tenants living on private premises have to pay. It

takes up to 25% of their income. We can see from this point that the double rent is affordable by the people who are paying it.

The present policy of the Housing Authority should not be one which continues to subsidize the above mentioned tenants on the basis of their income level over 10 years ago. We should have a fairer way to allocate our resources so that those who are in genuine need will be able to get what they need, hoping that those who are no longer in need of such subsidy will move out. Under the present circumstances, there is no way we could meet the public needs fully even if we go on building more public housing estates because there are still a lot of people on the Waiting List. I hope that Members will take a fair stand and fight for the interests of the people on the Waiting List as well as those living in temporary housing areas who are waiting for public housing. I cannot agree with the motion before us today. Thank you, Mr Deputy President.

MR ALBERT CHAN (in Cantonese): Mr Deputy President, I object as a matter of principle, and most strongly, to the implementation of the Housing Subsidy Policy which is also generally known as the Double Rent Policy. The reason is that the policy failed to achieve its desired goal and live up to its original spirit. According to the Green Paper on Housing Subsidy to Tenants of Public Housing published in 1985, the Double Rent Policy has as its stipulated goal the reduction of the level of subsidy to those public housing tenants whose financial circumstance has improved considerably. The idea is that the "well-off" tenants will be encouraged to move out so that more housing units vacated as a result can be allocated to needy applicants. However, the reality is that ever since the implementation of the Double Rent Policy in 1987, there have been only 4 500 households who have moved out because of having a income higher than the limit set for subsidy. That number represents only 7% of all the affected "well-off" households. The percentage of removals is approximately the same as that which existed before the policy has been implemented. It can be seen from these statistics that the policy has failed to achieve its stipulated goal. That stipulated goal is the creation of a larger pool of housing units for allocation to the needy. Given that the policy has not been able to achieve its stipulated goal, what is the use of keeping it?

Last Thursday, the Housing Authority suddenly released the findings of an opinion survey. Indeed, a number of Members have mentioned in their speeches just now that survey which is called Support for the Continued Implementation of the Double Rent Policy. It was suggested that 58.9% of the respondents polled indicated that the Double Rent Policy should be maintained. I was greatly amazed at the result of the survey because it differed dramatically from the views expressed by residents whom I contacted in my constituency. It actually reminds me of the report published by the Assessment Office in October 1987 which suggested that only a quarter of the Hong Kong population were in support of direct elections for 1988. I have grave misgivings about the objectivity of such a survey result and it would seem that the Government is again playing the public opinion card.

I find the sample of the survey highly problematic. I would like to share my observations with Members, particularly those who also happen to be members of the Housing Authority. I hope they will give ear to my observations.

It was originally suggested by the Ad Hoc Group on the Double Rent Policy towards the end of May that 50% of the sample of the survey should be public housing residents. But the published findings of the survey indicates that public housing residents only accounted for 38% of its sample. What is more, it makes no mention of the number of residents affected by the Double Rent Policy. Whereas permanent private housing residents accounted for 49.2% of the Hong Kong population, they made up only 28.8% of the sample. That is clearly an instance of under-representation. Meanwhile, the sample contained a great proportion of residents of temporary housing areas and residents living in private temporary housing, which was 300% to 100% more than their demographic strengths, respectively. That is another instance of selection bias and misrepresentation. Whereas the spokesman for the Housing Authority maintained that the survey had given appropriate weighting to the various categories of households, each according to their proportional strength in the population, it would appear from the methodology used in its sampling that it was a goal which had not been fulfilled. I would say as a graduate majoring in social policy and social studies that the composition of such a sample is not acceptable in scientific research. The survey findings, therefore, are not acceptable either. It is for this reason that I would consider the findings of this survey to be inaccurate reflection of the situation, and of public views for that matter.

After commenting on the findings of the survey, I would also like to talk about my feelings and observations as a directly elected Member, based on contacts with my constituents. For I can see that many Members expressed their views from a theoretical point of view or on the basis of some superficial phenomenon. I believe there are many Members among us who have never been to the public housing estates or have had any real contact with the residents to understand the views and feelings of these residents, and the plight of some of them in particular. I think there are many Members among us today, particularly those who will vote against the motion, who do not have the kind of understanding of the issue which could only have been gained through personal experience and direct contact. It is for this reason that I would like to share with them my views and I would also hope that they would in the future take time out to visit the public housing estates and really get in touch with some of the old folks affected, and listen to what they have to say.

Insofar as my constituency is concerned, the implications of, and the nuisance caused by, the Double Rent Policy are obvious. The Fuk Loi Estate in my constituency, for example, has a history of over 20 years. Many of the householders are old folks in their 60s and 70s. They moved into the estate 10 years ago, while their children were quite young. Now their children have grown up and many of them have even found employment. However, because

they have just started their careers, their income may not even cover the heavy expenses they have to incur. They are probably just making enough to keep themselves going. The implementation of the Double Rent Policy means that the householder has to pay double rent because of the inflated gross household income. But it is clear from their daily expenses and their basic needs that the double rent has constituted a heavy strain on the parents who have to meet the payment on their own incomes. In order to reduce the rent payable or to be exempt from paying the double rent altogether, some households have decided to delete their young and economically active members from the tenancy register. The result of this is the fragmentation of the family. Young people have been forced to move out of public housing so that the household income can be maintained within the limits set for subsidized housing. And the burden of rent on the old folks will be lightened. Some of the older public housing householders may actually have to live frugally. Some of the old folks whom I have contacted have been forced to give up their daily visit in the morning to the tea house in order that they can save enough money to pay the extra rent. The Double Rent Policy does not only have a negative effect on the daily lives of the public housing residents; it has also aggravated the problem of ageing of the public housing population. The old folks are not properly taken care of, with their children being forced to move out and leave them behind.

Given the fact that the Double Rent Policy for "well-off" public housing tenants has failed to achieve its original goal and that it has caused great nuisance to the public housing tenants, I would take the view that it should be abandoned without delay. I also hope that Mr HUI Yin-fat will, as a representative from the social welfare functional constituency, appreciate the problem faced by our senior citizens, and echo the views of the common people in the Housing Authority. And I hope that he will change his original stand and support the abandonment of the Double Rent Policy.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, Hong Kong is a free society. Generally speaking, it is in the last two decades that the economy of Hong Kong has really taken off. People who have currently been classified as "well-off" tenants were allocated public housing in the 1960s. But now they regret having lived in public housing. The going price for one square foot of residential space then was only a few dozen dollars. If the Government had not pursued its housing policy for their benefit, they would have been forced to buy their own homes. And the property which they would have bought may now translate into a substantial fortune. They would have had a house to their name.

In any case, the Hong Kong Government has never provided any assistance to any industry at all. Neither does it have any concrete policy in aid of the local industrial development. Any assistance the Government may give to industry is minimal at best. In this regard, it is clear that Hong Kong owes its present achievement not at all to the promotion of any social class; rather, our achievement is more the result of the concerted efforts of Hong Kong people.

Some Members were talking just now about some of our multi-billionaires making their fortunes from real estate development. I would like to offer another perspective on this issue. Over the past eight to 10 years, many Hong Kong businessmen and manufacturers have in fact benefited from the open door policy of China to achieve economic success on an international scale. Directly and indirectly, they have paid enormous amounts of tax to Hong Kong and the money in turn has been used to subsidize a wide cross section of the community.

I take the view that since people opted for public housing in the first place they should accept the arrangement that the amount of rent they have to pay be assessed according to their income. It is only fair that it should be so. We all know very well as legislators that the public housing estates have a large pool of voters. It is natural that legislators will be concerned about the need to establish better communication channel, with the elections of 1991 and 1995 in mind. At any rate, I quite agree personally that the Government should, as far as practicable, take care of all the people in our society. It is in this spirit that I would agree in principle with Mr LEE Wing-tat's motion, that the Double Rent Policy should be abandoned. But the point is that the amount of their rent should be increased to a reasonable level in the wider social context. (Meanwhile, special attention should be given to those who cannot afford the rent.) I will not stand for those tenants who can afford higher rent continuing to enjoy the extremely "unreasonable" rent. And by "unreasonable" I mean rent which is way below the reasonable level of rent in the marketplace. Put in another way, they have an obligation, indeed a moral obligation, to each and every taxpayer, in that they should help to achieve a rental level which is in a sense fairer to the community as a whole. They should not be allowed to continue to enjoy the "unreasonable" rent.

Mr Deputy President, it is understandable that the affected tenants find the label of "well-off" tenant unacceptable because they do not regard themselves as very well-off. But the reality is that they are considered "well-off" in view of the unreasonably low rent they have to pay. It is the dismally low rent which is unreasonable, and which constitutes an injustice to society as a whole. Mr Deputy President, we have to understand that to contribute our share to our economy, it is the obligation of everyone, whatever their social background and income level, to pay tax. That is to say, one should fulfil this obligation for as long as one is able to earn an income. I would consider that insofar as Hong Kong society is concerned, rent, on average, accounts for 25% and 40% of the household income. It is for this reason that people who have been labelled "well-off" tenants but who somehow do not like to be called that, should try putting aside 15% to 20% of their income for rent, which is a quite reasonable level. If rent is set at too low a level, it is not fair to the community as a whole.

Mr Deputy President, with these remarks, I express my reservations about the motion.

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, the opinion survey commissioned by the Housing Authority between August and November of 1992 was conducted by the Survey Research Hong Kong Limited, and it was co-ordinated by the Statistical Systems & Research Section of the Housing Department. Whilst the press release of the Housing Authority states that the survey was an independent assessment of public opinion, the fact that it was co-ordinated by the Housing Department would suggest that it was not so independent after all.

In terms of the design of the questionnaires, most of the questions are misleading. For example, one question reads as follows: "Do you consider that the Housing Authority has the responsibility of assisting those high income households?" That question does not make any sense at all. Ask anyone whether he considers the Hospital Authority, or the Education Department for that matter, has the responsibility of assisting "high income" households, and you will invariably get the same negative answer. And if you follow this up with the question, whether the Housing Authority should reduce its level of subsidy to the "high income" households, you will quite naturally get an affirmative answer. That is how the public have been misled into showing their support for the Double Rent Policy. The problem lies really with the term "high income". It makes people think that the tenants are so well-off that they do not deserve government subsidy. As a matter of fact, the point has already been very explicitly made by United Democrat legislators that most of the tenants who are required to pay double rent are not well-off at all.

What is worse, before asking each of these questions, the pollster provides the respondents with a leading, elaborative background. For example, before the question about whether the Housing Authority has the responsibility of subsidizing the high income households, the respondents are first provided with the background that the Housing Authority provides public housing for low income households in order to help them solve their housing problem. And before the question about whether the respondents agree that the level of subsidy should be reduced for the high income tenants, it is stressed that the Double Rent Policy is designed to get those tenants whose financial circumstance has improved and who in fact belong to the high income category to pay more rent. The press release of the Housing Authority makes no mention of the fact that the questions are raised in the context of leading background information. In addition, no sample of the questionnaire has been formally published. And it seems to be an attempt to mislead the public.

In terms of the questionnaire survey, there are a great number of options with regard to the reasons why the Double Rent Policy should not be implemented. But none of the major arguments advanced by the grassroots organizations against the Double Rent Policy is put forward for the respondents' consideration. For example, this whole business of public housing subsidy is superficial and misleading; most of the so-called well-off tenants are after all the more relatively well-off among the poor; the Double Rent Policy cannot achieve the objective of promoting social justice and will, on the contrary, widen the

gap between rich and poor; it will aggravate the problem of ageing of the public housing population; it runs counter to the goal of encouraging people to buy their own homes; it will lead to a decline of the quality of life of those affected tenants; its formulation as a policy has not been the result of a democratic process. The omission of the foregoing arguments means that the questionnaire is not quite convincing in the section analysing the proposal that the Double Rent Policy should not be kept. Meanwhile, whereas 56.5% of the respondents indicated, as the findings of the survey would have us believe, that they supported the continued implementation of the Double Rent Policy, one would have thought that if they had been given to understand that the Double Rent Policy would only result in even more inequitable distribution of social resources, they would have joined the ranks of the opponents to that policy.

The questionnaire consists of 20-odd questions, some of which are leading questions about whether the Government should reduce the level of subsidy to high income households. The way the order of questions is arranged is also problematic in that, immediately following a number of questions about categories of households being exempted from paying double rent, a question is asked about whether the implementation of the Double Rent Policy should be maintained. This kind of arrangement will surely have an implication on the findings of the survey. We cannot accept the survey because its findings are not truthful. I am greatly disappointed that the Housing Department has seen fit to deliberately fiddle the questionnaire in order to fabricate a public opinion which is in line with its own position. Hong Kong people invariably support democracy and respect public opinion. Public opinion should not be fabricated to deceive the man in the street. To do so is to commit a crime against the community. I would like to call on the Housing Department to conduct a truly independent opinion survey to enable us to see where the public stands on this issue. I believe that the public is genuinely against the Double Rent Policy. In this connection, the public sentiment will be reflected in the way how the directly elected Members of this Council would cast their votes later on.

With these remarks, I support Mr LEE Wing-tat's motion. I urge that the unreasonable, unfair Double Rent Policy be abandoned without delay.

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, before I deliver my prepared speech, I would first of all like to respond to a number of criticisms which Mr CHIM Pui-chung has made. He said that a lot of times Members who have spoken in support of the motion invariably did so for the sake of canvassing votes because their constituencies may have considerable public housing populations. But I can tell him that his point of view has not been reached after any careful analysis of the situation. It is completely wrong in my case. For example, in Sham Shui Po which falls within my constituency only 40% of the population are public housing tenants. In my constituency as a whole, which is Kowloon West, public housing tenants only account for 30% of the population. Why should I wish to oppose the views of 70% of my electorate only to try to win the votes of 30%? It can be seen that by Mr CHIM

Pui-chung's logic, there is no way I could hope to achieve the objective which he alleges me to have. His analysis is wrong. Whilst it is true that many legislators have spoken each according to their own motives and with different purposes in mind, one should refrain from making any attempt to employ label-banding tactic without grounds to support one's action. For otherwise there is no way the discussion can go on in a rational manner.

I would like to look at the motion from five different perspectives. What after all is the rationale of the Double Rent Policy for well-off tenants? I think it is much too hasty for us to jump to any conclusion before we get to know the rationale for the policy. According to my knowledge and understanding of the problem, there are three ways in which a public housing tenant may be classified as a well-off tenant.

The first scenario is one which I am sure we are all very familiar with. One third of the public housing tenants live in public housing as a result of clearance operations or land resumption. They did not have to satisfy any income criteria in order to qualify for public housing. Although there is a view that public housing is exclusively for low income groups, the reality is that in view of this scenario there is a possibility that some public housing tenants have always been high income earners from day one. Mr Deputy President, you may be aware that there are two possibilities in this scenario. One is that public housing is used as a compensation. The public housing unit is offered to compensate for the loss of the dwelling place of the person affected in a clearance operation or land resumption. From the government point of view, the compensation deal facilitates the clearance operation after which the land cleared will be put to new use or marked for sale to boost the coffers. The second possibility is that most of the affected residents or proprietors affected in a clearance operation may have a feeling that the public housing policy is a low-rent policy and that by opting for public housing they will solve their housing problem once and for all. But out of the blue came the Double Rent Policy. It breaches the terms of compensation offered to them. Supposing they could start all over again, and they had been informed that in 10 years' time they would have to pay double rent, chances are that they would have opted for cash compensation with which to buy a flat at the prevailing market price. That option might actually leave them better off than remaining as public housing tenants. It can be seen hence that the rationale for the Double Rent Policy is problematic in itself.

Another way in which a tenant may be classified as a well-off tenant is that after the applicant has been through the waiting process and found after careful screening to be eligible for public housing, his or her income has increased substantially over the years.

In the third scenario, the number of working members of the public housing household has actually increased. Whereas previously, the household consisted of a couple and three or four children, the children have all grown up over the past 10 to 20 years and they have found employment. The increase of

working members means that the household as a whole has a larger income. But we must bear in mind that the working members have also their expenses which tend to increase through the years. The increased gross household income may only marginally improve the economic well-being of its members, but it would appear superficially, from the absolute size of the gross income, that there has nevertheless been a substantial gain.

We may ask then, with regard to these three scenarios, who are the people which the Double Rent Policy has made its target? I think that first of all, we should not discriminate against those people who became public housing tenants as a result of clearance or land resumption because public housing was a form of compensation to which they were entitled. Secondly, I think that people whose circumstances fit into the third scenario, whose gross household income has increased relative to the increased number of working household members, should not be discriminated against either. The only group who might be considered to be the target of this Double Rent Policy would be people whose incomes have increased substantially in real terms because to them, public housing has ceased to be meaningful welfare or social service.

It is based on the above considerations that I would like to ask whether the Double Rent Policy considers as its target the millionaires, multi-millionaires living in public housing, or all of the public housing tenants, irrespective of how much money they actually have, such that they have to apply for remission of rent if they insist that they are not well-off at all. I think that the present practice of regarding all relevant tenants being well-off arbitrarily and giving the right of appeal to those who do not consider themselves to be well-off, has failed to address the issue properly.

The next question I would like to ask is, insofar as the public housing tenants whose incomes have increased substantially are concerned, whether we should use punitive rent or provide them with some incentive in order that they will vacate their units. Whereas on the one hand, the Government has declared its desire for Hong Kong people to become home owners, the question which we have to answer then is whether we should build more home ownership flats and encourage the well-off tenants to vacate their public housing units. It would appear that the present housing policy does not provide any special treatment or incentive for this group of well-off tenants. I can see from the way the problem is presently dealt with that it has failed to get to the core of the problem.

Some Members have commented on some of the problems relating to the Double Rent Policy; I have no intention of repeating their arguments at this point in very great detail. Their arguments may be summed up as follows. Incomes of the children of the householder are included in the calculation of the gross household income. The old folks do not realize that they are officially regarded as well-off tenants and that, after filling out the forms, they are entitled to remission of rent if their incomes are lower than the prescribed level. I have also come across cases in my constituency in which the householder does not realize that after filling out the forms, they do not have to pay the double

rent. It is unfortunate that they have already unwittingly paid the double rent for four years. And there are cases which involve the family cycle. Put in another way, the children have grown up and the gross household income has increased as a result of their paid employment. However, as they start dating and later get married and move out, the household income will subsequently be reduced. The household income, after all, has not significantly improved in real terms. It is problems such as these which will encourage the householder to remove his or her children's names from the tenancy card. The result of this is the ageing of the population of the housing estates. I will not elaborate on this argument further.

I would like to move on and approach the issue from the fourth perspective. I wish to talk about the definition of subsidy. The whole issue of subsidy is raised in the consultation paper in the context of the two arguments as follows. One is that public housing rent is only one third of the going rent on the private market. But I would like to remind Members that public housing rent is not comparable to private market rent at all. While private premises have their market value, public housing is subject to many restrictions. For example, public housing rent cannot be adjusted at random and public housing units cannot be put on sale. In this regard, how can it be compared with private market rent? Supposing we put the 640 000 public housing units on the market, I wonder whether the rent differential would still be 1:3 or 1:2, or even 1:1. It is anybody's guess.

The second reason why the Government is subsidizing the public housing tenant at a monthly rate of \$140 is because we have a deficit. But Members may be aware that before 1988, there was a perfect balance of income and expenditure insofar as category A public housing estates were concerned. There was no question of a deficit. The deficit occurred as a result of financial arrangement. The Government ended up with a deficit because, for instance, the dividends had to be divided. The fact is that the central government has taken away the money of the residents and that has caused the deficit. In this regard, I think the subsidy policy is totally problematic.

Lastly, my conclusion is that until a really good way has been found to evict people who could be millionaires and multi-millionaires among the public housing tenants, the Double Rent Policy should be suspended. These are my remarks. And I lend my support to Mr LEE Wing-tat's motion. Thank you, Mr Deputy President.

DR HUANG CHEN-YA (in Cantonese): Mr Deputy President, I should focus on the implications of the Double Rent Policy for the public housing tenants who have not gone through the Waiting List and for the single parent families.

Public housing tenants who have not gone through the Waiting List for allocation accounted for two thirds of the population living in public housing in 1991-92. As a matter of fact, over the years, close to 80% of the public housing

tenants have been allocated public housing either based on rather relaxed income criteria or at any rate, without the need to go through the means test altogether. Ten years into their tenancy, these public housing residents have been required to pay double rent on account of their income having exceeded the subsidy income limit. But is this requirement legitimate?

The ad hoc group on the Double Rent Policy takes the view that the exemption from means test already was a preferential treatment. And given that these households have at least enjoyed the preferential treatment for 10 years, there is no reason why they, having enjoyed the benefit for so long, should continue to receive special treatment. However, the whole issue of preferential treatment is based on the premise of public housing subsidy. The argument advanced by Mr LEE Wing-tat, that public housing is in fact a social investment, is actually more convincing than any theory about government subsidy.

Furthermore, quite a number of public housing tenants have been provided with public housing as a result of land resumption, as Mr Frederick FUNG has said just now. A typical case in point is, while the construction of the Mass Transit Railway was underway, many residents were forced to move their homes to make way for the construction works. Given that the Government could only offer limited cash compensation, it usually supplemented its compensation deal with the provision of public housing. It could hardly be said to be a preferential treatment for the affected residents, given the inadequate cash compensation, that they be allowed to move into public housing without having to satisfy the income criteria. In any case, I wonder if it ever occurs to the Government that how much the property value over the past ten years or so would have gone up, had there not been land resumption and consequently, the demolition of the buildings to make way for development. The residents have been denied the benefits resulting from the appreciation of their property. If we look at the issue from the perspective of the loss incurred by the residents in the land resumption process, then we can see that the Government has in fact owed them a great debt. It can even be said that, given the great contribution made by the residents to the Government, it is only fair and just that they should be exempt from paying the double rent for the rest of their lives.

While the ad hoc group on public housing subsidy policy takes the view that there is no reason why the single parent families should enjoy total exemption from double rent, it also says that some of the households concerned who have been classified as well-off may apply for special treatment if they have extenuating circumstances and it is up to the Housing Department to exercise its discretion to grant exemption to these households on a case by case basis. But are there any guidelines which the Housing department will adhere to in exercising its discretion? Will this in fact lead to abuse of power and further injustice? Does the fact that single parent families have to pay for child minding count as an extenuating circumstance?

The implementation of the Double Rent Policy marks an important departure in terms of the housing policy. Public housing is no longer something a tenant can enjoy for the rest of his life. It is a subsidy only spanning 10 years and one has to go through an income screening in order to prove his eligibility to remain as a public housing tenant at the end of this period. As a matter of fact, from the perspective of the United Democrats, all public housing tenants should be exempt from paying the double rent; and as far as families which have not gone through the Waiting List and most of the single parent families are concerned, the policy is particularly unfair to them. Mr Deputy President, it should be the responsibility of the Government to help members of the public to free themselves from poverty and become prosperous, to have sufficient income so they can have savings and become self-sufficient, so they have no need for government handouts. People should have enough savings so they can make investments and increase their wealth, to make sure that their children have good education and upward social mobility. The goal of the public housing policy should be one which will enable all public housing tenants to become truly well-off tenants. We should be pleased that they are able to achieve an improved standard of living; we should be pleased that more Hong Kong people are able to enjoy the prosperity of Hong Kong. We should not become jealous of their achievement and discriminate against them. However, the Double Rent Policy actually runs counter to this goal and will only serve to undo whatever good that our public housing policy has been able to achieve. According to the Double Rent Policy, we are practically seeking to add to the economic burden of the public housing tenants just when they are beginning to have a slightly better standard of living. This will only once again reduce them to poor supplicants and permanent dependants on government handouts. They will not be able to become self-sufficient, truly well-off tenants. At face value, the Double Rent Policy will reduce government spending, but the reality is that the Government may end up creating more poor people and aggravate the burden to society.

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

DR CONRAD LAM (in Cantonese): Mr Deputy President, I will discuss the legitimacy and effectiveness of the Double Rent Policy from the perspective of the objectives of the housing policy and the Double Rent Policy *per se*.

In September 1986, the Report of the Housing Authority Ad Hoc Committee to Review Public Housing Subsidy Policy made the point that the social objective of the public housing programme is to allocate, in keeping with the principle of answering the housing need, public housing units to people whose incomes are relatively low and who cannot afford appropriate accommodation in the private market. The overwhelming majority of the so-called "well-off" tenants are in fact people of the lower strata of society who do not have the means of buying their own homes. In this regard, as long as the public tenants can meet the criteria set by the Government in terms of the allocation of public housing units, the Housing Authority should not seek to add to the financial burden on the pretext of reducing the level of subsidy.

Another major objective of the housing policy is the encouragement of the tenants to buy their own homes. Encouragement of home ownership has always been the main focal point of the housing policy; it is the theme of the Long Term Housing Strategy promulgated in 1987 as well as the policy address delivered by the Governor two months ago. However, the Double Rent Policy will effectively weaken the tenants' saving capability. It will make it even more difficult for them to find the money to buy their own homes. It therefore contravenes the policy objective of encouraging home ownership.

As far as the Double Rent Policy is concerned, it has the dual objectives of, firstly, reducing the level of subsidy to public housing tenants who are economically better off, and of, secondly, making sure that more public housing units will be vacated.

The report on the Double Rent Policy released in September of 1986 made the point that the ad hoc group would encourage the economically better off tenants to move into home ownership flats or private flats. The vacating of public housing units so that those more in need can move in has been used as one of the main arguments of the Housing Authority in support of the Double Rent Policy. However, it has turned out that the policy is able to successfully encourage only 3% of the well-off tenants to move out, up 1% on the rate of removals involving tenants who are affected by the policy but who do not have to pay the double rent. That is why the removal rate of well-off tenants has been considered not to be a criterion for assessing the effectiveness of the policy, according to the consultation paper of September 1992. It is clear that the Housing Authority has been quite inconsistent, and overbearingly unreasonable, on this issue.

The assessment of the effectiveness of the policy should not be solely based on the removal rate, but the move-in rate is nevertheless still an important consideration. Given the fact that the quality, and state of repair, of public housing is not satisfactory, many public housing units which were completed nearly 10 years ago do not appeal to potential tenants. In terms of shortening the long queue of people waiting for allocation of public housing, it does not provide any significant relief at all.

The ad hoc group on the Double Rent Policy suggests that a tenant, upon paying double rent for five years, may enjoy a 50% discount and have priority in terms of buying home ownership flats. This measure is apparently not in line with the cause of making available more public housing units for re-allocation. For one thing, many of the so-called "well-off" tenants do not have the means to buy home ownership flats. If the sale price of the home ownership flats is raised, then this would inevitably dampen the desire, and hurt the ability, of the double rent paying tenants to buy them. Secondly, given the fact that the supply of home ownership flats is falling far behind demand, this proposal will not result in more public housing units being vacated. As a matter of fact, as the consultation paper states, the same effect can be achieved by the arrangement for other public housing tenants to apply for home ownership flats through

submitting the green forms. It can be seen hence that the suggestion of the ad hoc group is not based on sound reasoning at all. Meanwhile, the adoption of this measure effectively acknowledges in an indirect way the fact that the double rent is a form of punitive rent increase, which is why they have been allowed to buy home ownership flats on preferential terms.

The Double Rent Policy has brought a windfall of \$400 million to the Housing Authority. It will generate a revenue of \$240 million if the proposed assessment formula (I) is adopted, and a revenue of \$300 million if the proposed assessment formula (II) is adopted. One wonders why the Housing Authority would go to the extent of causing such indignation among public housing tenants merely for the sake of an extra 200 or 300 million dollars, which is after all the very hard-earned money of the lower-income group. We hope that the Government will see the wisdom of allowing the people to become affluent, that the Housing Authority will seriously weigh the pros and cons of the issue and scrap the Double Rent Policy.

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

MISS EMILY LAU (in Cantonese): Mr Deputy President, since the Double Rent Policy was implemented by the Housing Authority in 1987, many residents have considered that it is a policy designed for profiteering. Some residents have asked this question, "Why are we forced to turn our hard earned money over to the Housing Authority?" They added, "Whenever we approach the Housing Department for a solution to the problems relating to both management and maintenance of our estate, they would play the delaying tactics. They are only concerned with collecting money from us. And the Housing Authority is itself made up of members who have vested interests. They do not represent the interests of the grassroots. There is no question of the Housing Authority striking a balance between the interests of different sectors." Mr Deputy President, that is a very common sentiment among public housing residents. I think this line of thinking is a reflection of the extent of residents' mistrust of the Housing Authority. Given that the residents are sceptical of the make-up of the Housing Authority, I think it is the responsibility of the Government to first of all consider how the Housing Authority is to be re-organized in order that it will adequately serve the interests of all sectors of Hong Kong society, including residents living in private housing, public housing and temporary housing, and last but not least, the 500 000 people who are currently on the Waiting List for allocation of public housing.

Mr Deputy President, the membership of the Housing Authority should have a degree of public recognition for its policy to be widely accepted by the people. As long as this problem remains unresolved, all important policies, such as the policy to put public housing flats on sale, the rental policies, or the Double Rent Policy for well-off tenants which we are discussing today, will quite inevitably be widely questioned by the public, particularly by public housing residents.

Recently, there has been a report about members of the Housing Authority and the committees under its auspices being required to declare their interests. This is a most welcome move. As a matter of fact, the Government should have made that a requirement for the Housing Authority a long time ago. A couple of months ago, I made the point in a motion debate in this Council that the Housing Authority and its committees are mostly made up of professionals who come from the real estate sector or who are closely connected with it. Mr Deputy President, insofar as these people are concerned, the public housing policy has a direct bearing on their personal business interests. Given the serious conflict of interest, even if these people are required to declare interests, one would still be very doubtful whether that is quite enough to pacify the public outcry. I am convinced that this problem will not be solved so easily.

Mr Deputy President, in keeping with the principle of social justice, it behoves the Government to subsidize the households who do not have the means to pay the exorbitant rent whilst those people who are truly well-off tenants should be made to pay more rent. Some colleagues said just now that they never heard public housing tenants voicing support for this. I come from New Territories East and I have some voluntary helpers who too are living in public housing. They told me they were supportive of some form of a double rent policy, but they were very disappointed in the way in which the present policy was being implemented, because they felt that the criteria for the definition of a well-off tenant were set too low. A colleague said just now that a four-member household could easily be classified as a well-off household if each member was making \$5,000 a month. It is cases such as these which even people who are inclined to uphold the principle of fairness for all will find it unacceptable. They think that the policy has some serious problems in terms of implementation. I would like to remind Members that the public housing residents in Sha Tin where I come from are in support of the spirit of the policy. But they find its implementation replete with problems.

Mr Deputy President, when the Double Rent Policy was just introduced, the consultation paper published at the time stated that it was the intention of the Housing Authority to encourage residents who had become more economically well-off to move out and opt for home ownership flats, so that more public housing units would become available for re-allocation for the more needy. But we can see that, through the years, only 3 000-odd people have moved into home ownership flats. On average, only 3% of the public housing tenants have made the move each year. In this regard, our conclusion is that the Double Rent Policy has not achieved its original purpose. At any rate, the consultation paper released in September this year states that this is the main objective of the Housing Authority. However, that objective originally had the support of many people. In this regard, we hope that the Housing Authority would give it some re-consideration and identify means of encouraging the truly well-off tenants to move out, or even further increase their rent. But the Housing Authority should not persecute those who are not so well-off by arbitrarily tacking on them the label of well-off tenants.

Mr Deputy President, to solve the problem of tens of thousands of people on the Waiting List for allocation of public housing, I believe that the Government should consider expediting the public housing building programme and make alterations to the existing long term housing strategy which is mainly orientated towards private housing. It should instead use public housing as the main thrust. Adjustments should also be made to the pricing of the home ownership flats so that they become truly affordable by the public. The economically better off among the public housing tenants will then be encouraged to move into the home ownership flats and vacate their housing units as a result.

Mr Deputy President, the Double Rent Policy may be described as a product of compromise in the 1980s. Its implementation has now been called into question in all quarters. It appears that, quite apart from boosting the revenue of the Housing Authority, it is not able to achieve its originally desired effect. In this regard, I would like to once again appeal to the Government to consider the re-organization of the Housing Authority so as to restore public confidence. Only a new Housing Authority is capable of formulating fair policies which are acceptable to the public as a whole.

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

MR GILBERT LEUNG (in Cantonese): Mr Deputy President, I met with representatives of a Kwai Chung residents' group at my Tseung Kwan O Office last night. I exchanged views with them about the Double Rent Policy. The residents are extremely dissatisfied with the policy which is being implemented by the Housing Authority. They take the view that, given that private residential flats are prohibitively priced and in view of the short supply of home ownership flats, there is no way that the Double Rent Policy can achieve its objective of making the double rent paying tenants move out and of enabling the Housing Authority to re-allocate the subsequently vacated public housing units to the applicants on the Waiting List. What the residents resent most is the fact that many of those who have been classified as well-off tenants are not well-off at all. The imposition of the double rent means that the households affected will forgo whatever improvement they have managed to achieve through their hard work over the years. That runs counter to the original purpose of the public housing policy, which should be one of improving the quality of life for the residents. I can fully understand the residents' dissatisfaction on this issue.

However, by the residents' own admission, the fact cannot be dismissed that there is a small minority of quite rich people among the tenants of the public housing estates. The residents are most concerned about the criteria with which the Housing Authority uses to define a well-off household. The fact is that the present criteria used have the effect of victimizing many not-well-off tenants. Indeed, representatives of the United Democrats who brought the case to the OMELCO Office on 1 December 1992 were fully aware of the existence of rich people within the ranks of the public housing tenants. We all agreed that

the limited resources of society should be allocated equitably to the needy in order that more needy people would be appropriately taken care of.

The matter after all boils down to the definition of a well-off tenant. How are we going to define the term in an equitable and reasonable manner so that no innocent tenants will be unduly penalized?

In order that the purpose of an effective allocation of social resources is to be achieved, the definition of a well-off household should be arrived at in the context of income and affluence level of society as a whole. The present practice of setting the income of a well-off household at twice the income limit for applicants on the Waiting List for public housing is one which effectively pits the interests of public housing tenants against those of the people on the public housing Waiting List. It pays no regard to the fact that the resources committed by the Government to public housing is after all only part of our overall social resources. This kind of definition, and the argument built upon it, does not stand on firm ground. I think the fairest way is for a well-off household to be so defined taking into account the average gross domestic product (GDP) of Hong Kong, or the median income level of the territory. What I am trying to say is that I have, as a matter of fact, submitted my views to the Housing Authority, to elaborate on my preferred definition. If we divide the gross household income by the number of its members, then we will arrive at the average income of each member of that household. If the figure is more than the *per capita* income based on our GDP, or the median income level for that matter, then the household concerned will have to pay double rent. According to the latest statistics, the *per capita* income of Hong Kong is \$9,200 and the median monthly income is \$6,500. That is to say, as far as a four-member household is concerned, public housing subsidy should be provided for people whose household incomes range between \$36,800 and \$26,000, which are 3.8 times and 2.6 times respectively the income limit currently set for applicants on the public housing Waiting List. This definition has the advantage of significantly reducing the number of well-off households. What is more, the victimization of innocent parties will not arise at all. Most importantly, this definition of a well-off household, which is made within the context of the different income levels of Hong Kong society as a whole, is in keeping with the principle of fairness and reasonableness.

After the definition of the term "well-off" has been clarified, there is still a need for the various housing policies to be closely co-ordinated in order to make sure that the policy objective can be achieved. In the long term, the Housing Authority should increase the provision of home ownership flats, or alternatively, make a success of its sale of public housing flats scheme, before the objective can be achieved, of getting the financially better-off to pay for what they can afford. These people may not necessarily be limited to the well-off groups rigorously defined above; they may also include the middle income families now living in improved conditions. For as long as property prices stay beyond the reach of the man in the street, it is up to the Housing Authority to consider his plight and see if he has the option of suitable and affordable

accommodation. We have to make sure that there is a way out for public housing tenants whose financial circumstance has improved to find alternative accommodation, so that public housing units vacated can be re-allocated to benefit the needy.

Mr Deputy President, although there are many shortcomings associated with the Double Rent Policy and many political groups and residents' groups have called for its abandonment, I do not think that abandonment is the right thing to do. As I have said just now, we all agree on the point that the limited social resources should be effectively and equitably allocated. Given that there are indeed rich people among the ranks of the public housing tenants, and that we cannot force them to give up their rental units, there is no reason why the Housing Authority should continue to provide subsidy to them. That, incidentally, is the fundamental aim of the Double Rent Policy. Like the other relevant organizations, I am not entirely happy with the specific way in which the Housing Authority is implementing this policy. That is why I have come up with the above suggestions. Unless the Housing Authority steadfastly refused to revise its present policy, I would not go along with the appeal for the whole policy to be abandoned.

Mr Deputy President, these are my remarks.

MR MAN SAI-CHEONG (in Cantonese): Mr Deputy President, the Double Rent Policy, which is actually a discriminatory policy against the "well-off" public housing tenants, has been the subject of much criticism since its implementation in 1987. I would like to take the opportunity of today's debate to take stock of this discriminatory policy.

First of all, it is apparent that the definition of the term "well-off" tenant is itself very problematic indeed, as many colleagues have observed just now. Let us look at the case of a five-member household living in public housing. According to the income limit which has applied since April 1992, that household will be classified as a "well-off" household, and have to pay double rent, if its gross income doubles the amount of \$11,000. Put in another way, a household will be considered to be "well-off" if each of its five members has an income of \$4,400 or more. However, this level of income is even less than the median income of an imported garment worker, which is \$4,690. If even someone earning less than that median income is considered to be "well-off", it goes without saying that the criteria used for definition are hardly acceptable. What is more, the imported workers may as well be considered to be "well-off" people, if we go by the same definition.

The Double Rent Policy has resulted in the gradual erosion of the quality of life for the public housing tenants, and the elderly among them in particular. Their children may not wish to report their incomes in the first place; it may also happen that their "excessive" incomes actually result in their elderly parents being made to pay double rent despite the fact that the actual contribution of

these large income earners towards the maintenance of their parents has been minimal. As far as the elderly retirees are concerned, the double rent certainly and significantly erodes their quality of life. The existing policy which uses the ratio between the median income and household income as a criterion for defining a "well-off" household, and the assumption that such a "well-off" household must be able to afford the expensive rent, is itself a generalization which does not take particular circumstances into account at all. In the present situation, the typical household which is required to pay double rent is one in which the householder is 60 years old, and 43% of these householders and their spouses are not income earners. In this regard, the adoption of the prevailing income level to define a well-off household does not accurately reflect the real financial circumstance of the so-called "well-off" tenants. No wonder then that the pitiable old folks figure so prominently in every demonstration against the Double Rent Policy. Furthermore, the Double Rent Policy encourages the young and economically active members of a household to move out of public housing, in order that the level of household income would remain within the limits set for warranting subsidy. This will indirectly worsen the problem of ageing of the public housing population. How fair then is the Double Rent Policy to the old folks who have contributed so much to Hong Kong society over the past several decades?

The Double Rent Policy also diminishes the ability of the low income groups to live a respectable life in retirement, to meet urgent unexpected needs and to improve their quality of life. The Government frequently makes the point that the well-off tenants can well afford the double rent. It indeed turns a blind eye to the rapidly widening gap between wage growth and the rental spiral, which is evident if we will only look at the following statistics. With the rental increase of public housing rising at a rate of 22.8% every two years, the rental increase for the public housing tenants will come to 279% of the current rent in 10 years. For the double rent paying tenants, the rental increase will be a staggering 558%. Given that the current wage increase is merely at a rate of 9.5% each year, it will add up to no more than 248% over 10 years. The apparent discrepancy of wage increase and rental increase leaves one in no doubt that the implementation of the Double Rent Policy will result in the continued deterioration of quality of life for our grassroots.

It is for the above reasons that I consider that the Double Rent Policy should be suspended.

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

MR TIK CHI-YUEN (in Cantonese): Mr Deputy President, over the years, I have attended a great many gatherings of public housing residents. Regarding the issue of a discriminatory policy for "well-off" tenants, or the Double Rent Policy, they would typically react in the following ways. The first reaction is one of strong support. What they support is the attempt to get the truly "well-off" householders (and I wish to stress the word, "truly"), who are themselves

landlords of private property, to voluntarily give up their public housing units which they are not in need of, so that more vacant units will become available for re-allocation to the more needy.

The second reaction is one of strong opposition. They feel that they would like to save some money, having worked very hard for the past 10 years or so to find the means of raising their children. They wish to improve their economic well-being. However, the Double Rent Policy which dictates that they pay double rent will have an impact on their quality of life.

The third reaction is one of mixed feelings. On the one hand, they feel that those who are more resourceful economically should pay more rent; but on the other hand, they have a feeling that the Housing Authority is in fact profiteering with the yearly rent increase and the implementation of the Double Rent Policy, given the fact that it is apparently enjoying a surplus. Their scepticism is all the more justified, given also the fact that the truly well-off tenants will not necessarily be forced to move out simply because they are made to pay slightly more rent. The problem remains unsolved.

Mr Deputy President, Meeting Point is not opposed to the argument that the people who have the means to afford the extra rent should do that, but the extra rent should be a reasonable amount. And at the same time, those without the means should be provided with assistance, in terms of an enlarged rental subsidy. We cannot go along with the practice of making the residents pay more rent than they should reasonably pay in the light of their actual incomes because that would amount to a profiteering. Whereas the Double Rent Policy is said to be targeted at the well-off households, its result in practice is that most public housing residents have been made to pay extra rent. It is a sinister policy despite the innocent arguments used to justify it.

Mr Deputy President, many colleagues have just now put forward arguments for the Double Rent Policy to be abandoned. I would like to supplement those arguments with two more points of my own.

1. The different reactions which I have quoted above reflect very clearly indeed that members of the public find that the Government and the Housing Authority have failed to live up to their expectations. There is a rift between the Government and the public. However, since the implementation of the Double Rent Policy, the Government has seen fit to turn that rift into a horizontal conflict between different sectors of the community; between the residents of old housing estates and the residents of new housing estates; between public housing tenants and applicants on the Waiting List for public housing allocation; between public housing tenants and residents living in private housing. The fact is that whether we are talking about public housing tenants, or applicants on the public housing Waiting List, or residents living in private housing, they are invariably victims of a misconceived housing

policy, or at best, limited beneficiaries of that policy. I wish to make it clear that if the Government should continue to pursue this policy, it will jeopardize social stability, and the public credibility of its own policy.

2. I would like to stress that, despite the fact that the consultation paper published by the Housing Authority in September 1992 has repeatedly argued in its conclusion for the reasonableness of Double Rent Policy, that the policy has in fact critically taken into account, in a fair and reasonable manner, all the different opinions expressed by the community at large, it has nevertheless failed to convince us on one very important point, that is, why the argument that the basic spirit of the policy has the support of the community at large should be taken to mean that the existing policy should therefore be preserved. It has also failed to convince us why the objective of the review is only limited to making recommendations to the Housing Authority with regard to possible areas of improvement to the way in which the policy is being implemented. And why it cannot be extended to include recommendation for the Housing Authority to scrap it.

I am very disappointed about this limitation of scope. This kind of review may be likened to a review conducted within the confines of a bird cage. It does not allow room for critical reflection. A review exercise which has so much built-in restriction is totally unconvincing from the start. All this talk about fairness and reasonableness has no public credibility whatsoever.

Mr Deputy President, with these remarks, I support the abolition of the Double Rent Policy.

MR JAMES TO (in Cantonese): Mr Deputy President, first of all, I should like to comment on the question of principle. Members mentioned just now that taxpayers are in fact subsidizing many well-off tenants. What they referred to is a kind of horizontal equity. However, I would like to point out that if the well-off tenants policy is to continue, it would become basically a policy in which the not-so-poor subsidize the poorest, that is, public housing tenants subsidizing those people who qualify for public housing but are now living in private housing waiting to be allocated public housing units. It is quite obvious that we have not paid attention to the question of vertical equity. This well-off tenants policy of the Government is meant to impact on some public housing tenants, creating confrontation between the tenants and people who have yet to be allocated public housing units. This is detrimental to social integration.

Secondly, I think that this policy cannot lead to abundant wealth among the people. Come to think of it. Given that we have now so little social security and so little retirement protection and given the worsening unemployment situation from the mass importation of labour, how could we expect the people

to lead a more peaceful and happier life now that even this last protection for public housing tenants is being threatened? If the Government cannot make use of this policy to bring about abundant wealth among the people to enable them to keep as much savings and money for contingency use as possible, how could we expect them to have greater aspirations for the future?

Thirdly, I have to point out that, practically speaking, the really rich ones, in my experience, are no misers and are more than willing to pay \$1,000 or \$2,000 in rent in order to retain their public housing units. There are many reasons for this:

- (1) The old members of the so called rich families who have removed to private housing are afraid that their children might one day turn them away and so they would rather pay \$1,000 or \$2,000 in rent to "buy" this security against the probable loss of a dwelling place in the future.
- (2) Having become rich, some tenants would think that their public housing units offer good "fung shui" and would not hesitate to pay the \$1,000 or \$2,000 worth of rent. I believe the Government should target this group of really rich tenants who are abusing their eligibility for public housing.

Mr Deputy President, I should like to point out some questionable aspects of a recent survey conducted by the Housing Authority (HA) to support its well-off tenants policy.

First, the design of the questionnaire. It is really puzzling that the respondent had to give reasons if he did not support the proposed reduction of subsidy to high-income tenants, but no reasons were required to be given if he supported the idea. Another questionable aspect is that the HA did not officially publish the sample of the questionnaire. Why was it afraid to publish the sample if the survey was credible, scientific and statistically logical? Besides, only part of the findings of just six of the 90 questions in the 29-page questionnaire have been made public. Why did the HA not publish all findings of the survey?

The HA only made public what the respondents regarded as the most reasonable method of calculating family income. It did not make public the reasons for its choosing other options. At the same time, the HA made public only the respondents' opinion as to the appropriateness of \$19,400 as the income ceiling for a four-member family; it did not indicate why the respondents opined that the ceiling was too high, too low or appropriate. Given that only part of the findings have been published in respect of the very same question, it is difficult for us to get to grips with the genuine wish of the respondents. On the other hand, answers obviously varied as to whether respondents think that the HA has a responsibility to help those high-income families, probably due to the respondents' varied understanding of how high is high-income or how low is low-income. Unfortunately, the HA's press release did not make public the

respondents' views as to what constitutes high income; nor did the press release give any corresponding analysis of the findings in respect of the two questions mentioned above.

The HA declined to publish in full the findings of the questionnaire survey, claiming that they were only preliminary findings. If so, why did it hasten to publish them last Thursday? It is irresponsible of the HA to use some of the findings to counter voices against the double-rent policy while keeping the public from learning the whole truth. Who actually decided to publish part of the survey findings?

Limited though the information available to us may be, we have already managed to challenge the credibility of the survey. We hope in future if the HA genuinely believes such surveys to be credible, scientific, fair and open, it will refrain from assigning to the Housing Department's Statistics Section the work of co-ordinating these surveys on grounds of efficiency, cost-saving and keeping the respondent's personal data confidential. Otherwise, it would just be a waste of public housing tenants' money if the survey findings were found to be not at all convincing, or in the worst case scenario, these findings were used as reference for the formulation of unreasonable housing policies.

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

DR PHILIP WONG (in Cantonese): Mr Deputy President, first of all, I have to declare that I am a member of the Housing Authority and also the chairman of the Home Ownership Committee. I am sure all colleagues know that any rent increase, however mild, would never be welcomed by tenants, not to mention a double increase. It is therefore not in the least surprising when public housing tenants strongly oppose the Double Rent Policy. As families paying double rent make up one third of the families with the highest income in Hong Kong, I do not think the general public would be too sympathetic with tenants who have to pay double rent. If public housing tenants consider that they do not enjoy any subsidy as claimed by some of the concerned groups, I think other non-public housing tenants could hardly agree.

The main theme of the current debate is whether tenants whose household income exceeds twice the Waiting List Income Limit should accept less subsidy. The Waiting List Income Limit serves the purpose of ascertaining the income eligibility of public housing applicants. It is therefore inconsistent and unfair if, on the one hand, we do not object to the setting of a Waiting List Income Limit while, on the other, we oppose the reduction of subsidy given to families which exceed this limit.

The objective of the Housing Authority in reviewing the Housing Subsidy Policy is not to meet the demand of the affected tenants. If the said review is merely to satisfy the expectation of tenants paying double rent to have the policy revoked, then the current debate would become meaningless. The Housing

Authority has to be accountable to the public — including those on the Waiting List for a public housing unit as well as those not eligible to enjoy housing subsidy — over the allocation of housing resources.

Mr Deputy President, I so submit.

DR YEUNG SUM (in Cantonese): Mr Deputy President, there has been much dispute on the Housing Subsidy Policy (Double Rent Policy) ever since its implementation. It is now the right time for a review. I would like to comment on two aspects of the policy, namely the principle and the technical problems involved. Regarding the principle of the policy, the Housing Authority is of the view that housing subsidy should be offered to those who need it most, and public housing tenants with a higher income should receive less subsidy. Therefore it is justified to require "well-off tenants" to pay double rent. But the problem is: how are "well-off tenants" defined? Take a four-person family as an example. It will be regarded as a "well-off household" if it has a family income exceeding \$19,400 per month. In calculating the family income, the total income of the children, irrespective of their expenditure, is also taken into account. Given the existing standard of living, is it reasonable to classify a four-person family with each member earning an average income of \$4,000-odd as a "well-off household" and require the family to pay double rent? Besides, it is natural for public housing tenants to have an increase in household income when their children have grown up. But this income will drop automatically when their children get married and establish their own families. Thus the timing of the calculation of household income also has an important bearing.

I maintain that the Government should adopt an active approach to encourage the affluent tenants to move out so that their units may be reallocated to applicants on the Waiting List. For instance, the Government should construct more Home Ownership Scheme (HOS) flats and sell them to tenants at reasonable prices. This measure will make both sides happy, because it will not only increase the turn-over rate of public housing units and improve the living environment, but will allow those on the Waiting List to move into public housing earlier. It will also put an end to the argument about the Double Rent Policy.

Mr Deputy President, in principle, I think public housing is a kind of social service. Public housing units are built with public funds on land allocated by the Government. They are then rented to the general public at a cheaper price with the aim of improving their living environment. The people should be able to enjoy a better life when they have brought up their children and the household income is increased. It is wrong to force them to pay double rent, or else they would be back to square one. It can be said that charging double rent from public housing tenants with a higher income is intended as a distribution of resources. But such distribution only occurs among families on the same socio-economic level. It is a horizontal pattern of distribution. Mr Deputy President, from the angle of social equity, I would advocate a vertical pattern of

distribution. In other words, the Government should consider introducing progressive rates, thus collecting higher tax from those very wealthy families. The additional revenue generated may be distributed to the general public through the provision of social welfare resources. The vertical pattern is more in line with the spirit of social equity than the horizontal one.

Now I come to the technical aspect of the policy. The Housing Authority assumes that those who have lived in public housing for 10 years or more are all "well-off tenants". Tenants who disagree with this have to declare their income every two years. Such requirement is obviously a great nuisance to the tenants insofar as its technical aspect is concerned.

Lastly, the original purpose of the Double Rent Policy is to induce the so-called "better-off tenants" to vacate their public housing units. However, as pointed out by many Members earlier, the policy is a total failure. The Housing Authority has also admitted that the policy had not achieved the goal of removing the better-off tenants from the public housing units.

Mr Deputy President, the United Democrats of Hong Kong are opposed to the Double Rent Policy for the following three reasons:

- (1) it has completely failed to achieve the intended purpose;
- (2) its principle is conservative and unreasonable; and
- (3) it has caused nuisances to the tenants as far as its technical aspect is concerned.

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

MR WONG WAI-YIN (in Cantonese): Mr Deputy President, housing is both people's basic need and basic right. The Government's housing policy should be such formulated that people in Hong Kong would all be provided with housing. As I see it, public housing which caters for the middle and lower classes is one of the government arrangements for achieving the aforesaid objective. For this reason, the Government should take on the ultimate responsibility for the public housing programme. When everyone has a roof over his head, we are certain to have a stable society. If all the tenants are treated fairly and free from any monopolistic exploitation or penalty regarding the rent they have to pay, it will boost investments, consumption and savings and thus be conducive to Hong Kong's economy and prosperity.

At present the Hong Kong Housing Authority is solely responsible for the development and management of our public housing. Yet, the Government should still make proper arrangements for funding and land supply so as to realize its ultimate responsibility for public housing.

The Housing Authority on the one hand should meet Hong Kong people's demand for public housing and on the other hand safeguard the interests of the public housing tenants and refrain from depriving them of their own rights by, for instance, imposing certain penalties on the slightly better-off tenants. Despite the fact that the Housing Authority has been requested to be self-financing since 1973, it should not achieve this aim at the expense of the interests of the public housing tenants. Otherwise, it is practically putting the cart before the horse!

Mr Deputy President, regarding the controversy over the current subsidy policy, Meeting Point thinks that we should no longer indulge in quibbling over technicalities and specious arguments about the question of subsidy but concentrate on a more fundamental and comprehensive deliberation. The reasons are as follows:

- (1) Public housing is a means by which the Government tries to achieve the objective of providing accommodation for everyone. For this reason, it is incumbent upon the Government to invest certain amount of resources, be it in the form of land or fund, in the public housing programme. In fact, this is, to a certain extent, a redistribution of public fund. The Government should not treat the resources as if money in its own pocket and regard itself as a creditor and the public housing tenants as debtors and charge interest on the latter.
- (2) Whether the public housing programme is operating in the red or not, it is mainly a matter of financial arrangements between the Housing Authority and the Government or, as aforesaid, a show put up by them. After all, it is a question of resources distribution by the Housing Authority or merely a numbers game. We can never regard the deficit as government subsidy.

Meeting Point holds the view that the existing Housing Subsidy Policy (Double Rent Policy) should be revoked with immediate effect. The reason are as follows:

- (1) Be it an across-the-board or multi-pronged Double Rent Policy, it would invariably penalize the well-off tenants whose standard of living will then come to a standstill or even be eroded because they have to pay double rent.

- (2) The classification of the public housing tenants according to an across-the-board or multi-pronged approach will breed ill feelings among the tenants. Such a tactic is employed to cover up the Housing Authority's improper financial measures and its financial arrangements with the Government, and to turn the focal point of the whole issue to a who-is-subsidizing-whom question.
- (3) The policy should be scrapped even if we measure the existing housing subsidy policy against the principle of "well-off people pay more". Ever since the policy was implemented, the means test, the assessment of the tenants in hardship and the exemption procedures have caused considerable inconvenience for the tenants. The policy is definitely not at all an appropriate one and Meeting Point thus supports its immediate abolition.

Mr Deputy President, Meeting Point is not against the concept of "well-off people pay more". In fact, Meeting Point recommends the method of progressive reduction of rent, or on a sliding scale, in accordance with tenants' different levels of affordability. Still, where the level of rental is concerned, the baseline should be that it should be within the tenants' means and determined with reference to a revenue allocation policy so that tenants in need can be subsidized. The Housing Authority should have sufficient money to subsidize them in the light of the surplus from its proceeds in real term.

Even so, Meeting Point thinks that the financial arrangements, be them made by the Housing Authority itself or made between the Housing Authority and the Government, should be dealt with properly first before the current rent policy is replaced. In calculating tenants' income level, the Government should take into account factors regarding the composition of public housing families and the distribution of these families at different stages in the family cycle.

Finally, the make-up of the Housing Authority which has long been criticized by the public should be reorganized. Otherwise, the Authority will never have credibility. And the public will not believe that its policies are fair and reasonable. Moreover, the Government should re-establish the Housing Branch so that there is a policy branch with clear-cut portfolio to take full charge of matters such as resources distribution, formulation of overall policies and the co-ordination between departments and quasi-public bodies. Only by doing so does it suffice to claim that we have a branch accountable to our housing matters.

Mr Deputy President, these are my remarks. The four Meeting Point legislators, namely Dr LEONG Che-hung, Mr Fred LI, Mr TIK Chi-yuen and myself, will support Mr LEE Wing-tat's motion.

DR TANG SIU-TONG (in Cantonese): Mr Deputy President, former Governor Lord MacLEHOSE had once pointed out in one of his policy addresses that the Housing Authority was established to construct good quality housing in an efficient and ongoing manner and to suppress the market rents so that everyone could enjoy living in a self-contained, permanent and independent accommodation with a decent living environment either in the private sector housing or the public housing estates. Such a benevolent policy was well received by the people. And it was another brilliant achievement to go with the MacLEHOSE Trail which provides leisure activities to us. Regrettably, as a Chinese saying goes, "once the great general has gone, everything fades and withers away."

The Housing Authority introduced the "well-off tenant" policy in 1987. It was, in fact, a modified form of rent increase and money-grabbing tactic under the pretext of reducing the subsidies. The Authority claimed that, with the implementation of the policy, more housing units would subsequently be vacated and made available for public housing applicants or that tenants paying double rents would be forced to move out so that the objectives of the Long Term Housing Strategy might be achieved. However, the policy has produced no impressive results. The loss indeed outweighs the gain. And it has tarnished the image of the Authority as well.

The underlying principle of the "well-off tenant" policy is not right. It is because of the 12 eligible categories, only those on the Waiting List category, the overcrowding transfer category and the compassionate rehousing category are required to undergo means test. Two thirds of the public housing tenants were allocated flats without going through the above-mentioned procedures. Most of them were forced to move because of land resumption and clearance. These people were willing to give up their houses in the interests of the public at large and for the development of Hong Kong. Public housing should be regarded as a form of compensation to them, not a kind of subsidy. On the contrary, they were compelled to move into remote rural areas to spearhead the development of the local community. And when the rural public estates were well established, the Government was posed to obtain huge proceeds from land sales in the bullish property market at a time of economic boom. As a matter of fact, these people might have already become well-off before moving into the public housing. It is unreasonable to ask them to pay double rent 10 years later because of their above-average household income. We should bear in mind that the Government has not advised these tenants in advance that they have to be subject to means test or to pay double rent 10 years later.

Public housing is a kind of social service. It is the Government's responsibility to tackle the housing problem of low-income families. Public housing is also a long-term investment to achieve a stable society. With comfortable housing and a decent job, one is willing to work for the Government to create wealth and to work for their own prosperous future. However, the well-off tenant policy is, on the contrary, a penalty to those who work hard to improve their livelihood.

The drawbacks of the well-off tenant policy are countless. For one thing, it weakens the saving power of the tenants. As they are required to pay double rents, those who work hard to improve their financial situation are unable to save more for themselves and their children's future needs. Under the policy, the household head's children tend to move out early so that the household income would not reach the level where double rents are requested. When the young people move out, it will quicken the ageing of housing estates' population. In addition, the consumption power of housing estates decreases and the elderly have no one to look after them.

The introduction of means test is a nuisance to the tenants because the majority of them were not required to meet the income criterion before they were offered public housing. It is unjustified to require them to go through the means test afterwards. Moreover, under the existing policy, only one fifth of the sitting tenants are regarded as well-off tenants but the Housing Authority requires the other 200 000 or so tenants also to take all the trouble to submit income declaration forms once every two years. This is utterly an unnecessary nuisance to the tenants and is encroaching upon their privacy. Needless to say, this requirement will also lead to problems such as family disputes and difficulties surrounding the report of their children's income.

The well off tenant policy has been in force for five years and it has been drawing adverse comments from various organizations and public housing tenants. It has aroused people's resentment and grievance. Moreover, it has deviated from the aim of setting up the Housing Authority and cannot achieve the objectives of the Long Term Housing Strategy. The consultation paper on the review of housing subsidy policy does not recommend the abolition of the well-off tenant policy. One wonders whether it is an intentional arrangement or an unintentional omission but one thing is sure that the authorities concerned do not have the *bona fide* intention to give the policy a serious review. I hope that the Government will consider other alternatives such as reducing the selling price of Home Ownership Scheme flats or making available more Home Ownership Scheme flats to attract tenants who are paying double rent to move out. Only these measures can effectively tackle the problem.

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

MR ROGER LUK: Mr Deputy President, a young man came to Hong Kong from Shanghai during the Chinese civil war in 1949. He found a job, settled down, met a girl, got married and had children. In the mid 1960s, this was one of the lucky families who were able to move into one of the flats in the new public housing estates.

Twenty-five years have passed and the children have all grown up. The eldest child became a solicitor and was not living with the family. One child got married. The youngest child was about to enter university and the two other

children are pursuing their own careers. The family surrendered the flat and bought an Home Ownership Scheme flat.

This is a true story and it is typical of the mere 5% of the families affected by the policy we are debating today, who voluntarily move out of the public housing estate each year.

Mr Deputy President, the question of public housing is basically the question of what and who. Over the last 30 years Hong Kong has gone a long way in public housing from providing shelters for the most needy at nominal rent to providing homes with essential amenities for the lower income families at an affordable rent.

The basic principle of housing subsidy policy is indeed very straight forward: to reduce the housing subsidy enjoyed by well-off public housing tenants. We should not complicate it.

The question today is whether it is justified to continue to ask the well-off families to contribute more to the costs involved in providing public housing thereby reducing the subsidies. In this light, we must not forget the improving standard of living as provided by the public housing today.

Let us look at some facts. Public housing rent now, on the average, constitutes only 30% of its market value. The average subsidy per flat is \$140 per month, excluding land cost. Tenants whose income exceeds the Subsidy Income Limit (SIL) already fall in the top one-third income household in Hong Kong. The SIL is twice the latest Waiting List Income Limit. The medium rent income ratio of double rent tenants is only 5% as against 7% for all public housing tenants and 25% for private housing tenants.

It has been argued that public housing is a kind of social service as applicants must satisfy the means tests or prove a genuine and urgent need. As such, there is no reason why it should be a life long welfare provision irrespective of actual needs and affordabilities. The analogy of public housing to other social services, like medical and education, is a fallacy. We must be aware that there is no such means test for being eligible for subsidized hospital services and schooling. Admittedly, there are drawbacks in the implementation of a policy. For example the one line cut approach is not equitable. The SIL may be too low. However, all these drawbacks do not defeat the underlying principle of the policy.

Earlier this afternoon, the Housing (Amendment) Bill 1992 was introduced and read the Second time in this Council. The Bill seeks to empower the Housing Authority to make by-laws to control the parking offences on estate roads. The background against which this Bill has been introduced reflects, among other things, at least the income level and affordability of many of the families living in public housing.

Critics have cited many shortcomings of the policy but they are operational in nature. Critics have also cited many social characteristics of the affected families but these equally apply to families on the Waiting List as well as those living in private housing. One example is the fact that the children do not give all their income to their parents.

The housing subsidy policy is not satisfactory in many respects. There is plenty of room for improvement. However, it is wrong to scrap the right policy simply because of the drawbacks in its implementation. We should rectify them.

With these remarks, Mr Deputy President, I cannot support the motion.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, the Housing Subsidy Policy was the subject of an adjournment debate in this Council in January this year. In his concluding speech in that debate, my predecessor informed the Council that the Housing Authority had decided in July last year to reaffirm the principle behind the policy and set up an ad hoc committee to review implementation. The principle behind the Housing Subsidy Policy is simple: housing subsidy should be reduced for public housing tenants who are no longer in need of it. This has the additional effect of allowing a degree of benefit to be passed on to others who need it.

The motion before today's Council puts forward the proposition that the Government should direct the Housing Authority to change a policy decided upon and reaffirmed by the Authority after careful study and debate and which has been applied successfully for more than four years. There is no doubt that the ultimate responsibility for housing policy in general rests with the Government. But it would defeat the purpose of appointing an Authority and vesting it with wide-ranging powers if the Government were to bring Authority policies into question without good reason. I would suggest the test should be whether either the policy works against the general public interest or is having an adverse effect on a particular group towards whom it is directed. In the present case, the policy appears to pass the test in both aspects.

Implementation

In examining the policy, we should look at the issue in perspective. About 260 000 households are affected, of whom 60 000 — or 23% — are actually paying double rent. A change along the lines proposed in the motion would affect about 12% of households living in the Authority's estates.

In the adjournment debate earlier this year, my predecessor made two points regarding the implementation of this policy since 1988. First, the subsidy income limits then covered Housing Authority tenants included within the 30% of households having the highest incomes in Hong Kong. Second, there had been no difficulty in collecting double rent — not a single appeal had been received

in the preceding four years. Now, 11 months later, a review of the position indicates there has been little change. The current subsidy income limits for four-person and five-person households are \$19,400 and \$22,000 a month, embracing the top 22% and 24% of household incomes respectively. These income limits are deliberately generous, given that the median income for all Hong Kong households is \$11,000, and for all public housing tenants is \$9,000. Over 80% of double rent payers have household incomes above \$20,000 a month.

These figures illustrate that there has been no dramatic change in the ability of tenants required to pay double rent to afford it, which should be one of our primary concerns today.

The median rent to income ratio for double rent payers is about 5%, as opposed to 7% for all public housing tenants and 22% for tenants in the private sector. If we were to do away with the housing subsidy policy, rent would represent less than 3% of the incomes of those tenants now paying double rent.

Public views

Mr Deputy President, some have raised doubts about not only the validity of the policy and the necessity of continuing with it, but also the level of general support for it. In the January debate, my predecessor cited some survey results. For example, a general attitude survey on housing revealed that in 1990, 42% of the respondents from public housing and 65% from private housing supported the policy.

In September this year, as part of the public consultation on the proposals published this summer, the Housing Authority commissioned an independent survey on the policy. Independent in the sense that it was conducted by a non-government agent using tertiary students. The survey covered a total of about 3 300 sample households, and attracted a response rate of 85%. It represented the full spectrum of households in Hong Kong, including double rent payers, non-double rent payers, Home Ownership Scheme (HOS) residents and those in private housing. The major findings of the survey were released to the public last week, and are reassuring. The full report will be ready in about a month. There is no intention of withholding the result.

First, 66% of the respondents overall agreed with the objective of the policy; only 22% disagreed. Among those not living in public rental housing, 73% agreed. Among those living in public rental housing, 51% agreed while 23% did not.

On whether the policy should continue to be implemented, 70% of those not living in public rental housing said "yes", 15% said "no". Among public housing tenants, 39% of those not paying double rent favoured abolition. Among double rent payers — perhaps not surprisingly — 58% favoured

abolition. In overall terms, however, there is a clear majority of 59% for continuing the policy.

The figures speak for themselves. Public views are, as might be expected, not unanimous, but they give a clear indication of support for the policy. Even among public housing tenants, the number of those who support the policy exceeds the number of those who do not and the majority of all respondents favour continuing with the policy.

Subsidy or no subsidy

It has been suggested that by asking better-off tenants to pay double rent, the Government is somehow shirking its responsibility for housing provision. This argument is difficult to understand. Double rent still only meets a small proportion of the Housing Authority's operating costs, and equates to a very small proportion of the market rent. Allowing better-off tenants to stay in public housing at ordinary rents when some of them can well afford private housing involves an economic cost to the community. All public housing rents are subsidized. The simple fact is that those paying double rent would not remain Housing Authority tenants if they were not better off by doing so, that is if they were really penalized by the policy.

Move-out rate

Some Members have referred to the low move-out rate of better-off tenants as a measure of the success or otherwise of the current policy and criticize it for failing to induce these families to move out of public housing. Because the policy does not encourage people to move out, the argument runs that it is merely a nuisance or even punitive and should be abolished. It is a fact that double rent payers only pay on average \$550 a month more rent than other tenants. Nevertheless, some 2 300 flats were recovered from double-rent payers in the financial year 1991-92. This represents a recovery rate of 3.6%, which is much better than the overall recovery rate of 2% from other tenants. The flats recovered will help meet the demand from clearance and Waiting List categories. In other words, it will definitely have a beneficial social effect by passing a social benefit down the chain.

With or without the Housing Subsidy Policy, it has long been the Authority's aim to encourage tenants whose incomes have risen to the point where they no longer really need public housing to move out. Public housing tenants are not subject to any income limit or property ownership restriction when they apply for HOS flats. They have priority over applicants in the private sector, who are subject to a means test and other restrictions. Sitting tenants can also move out under the Home Purchase Loan Scheme if they opt to buy a private sector flat. Over the years, the Authority has given public housing tenants a number of incentives to move out of public housing. What it does not do — and does not wish to do — is to force double-rent payers to move out. This would justifiably attract criticism.

Other arguments

Some describe the policy as a nuisance to tenants because it involves a great deal of administrative cost for little financial benefit to the Authority. The Authority does not believe — and the Government agrees — that the completion of a simple, one-page income declaration once every two years is too much of a nuisance for most tenants. Other countries do much more frequent income vetting to re-establish a tenant's continued eligibility for subsidized housing. In Hong Kong no documentary evidence is required in the income declaration, except in cases where the Authority believes the information provided may not be completely accurate. Such cases currently account for only about 3% of total submissions. Those who are willing to pay double rent are not required to submit any papers. Indeed, about 80% of the better-off tenants have not bothered to declare their income at all and simply accept a higher rent bill. There is little evidence to suggest that the present procedure is either cumbersome or ineffective.

As regards cost-effectiveness, the administrative cost of the policy is less than 5% of the additional revenue of \$400 million the Authority will receive through this policy in 1992-93. Although raising revenue has never been an objective of the policy, the additional income is ploughed back into the public housing programme; once again, I stress, to benefit others more in need.

Policy review

The ad hoc committee set up by the Authority has made proposals on how aspects of the current policy might be modified. These proposals aim to address most of the concerns which have been expressed by tenants by adopting different methods of calculation to determine liability for double rent payment. It is notable in this connection that a number of Members this afternoon have said they support the principle behind the policy but for various reasons they also support the motion, because they are concerned about definitions or implementation. This can be regarded as the baby with the bath water syndrome. The public consultation period for the committee's proposals ended about a week ago. Understandably, public views too are mixed. Both the views reflected in the public opinion survey I mentioned earlier and those expressed in this debate will have some bearing on the future of the policy.

Concluding remarks

Most of the arguments put forward for doing away with the Housing Subsidy Policy take a narrow view that the entitlement of people once subsidized should never change, no matter how much the subsidy has enabled them to move out of the range which qualified them for it initially. I believe that the policy is sensible and fair and its maintenance a matter of equity, not just between less well-off and better-off Housing Authority tenants, but also between better-off Housing Authority tenants and those paying rent in the private sector. It ensures that better-off tenants in the Housing Authority's estates do not continue to

receive a level of subsidy which their incomes no longer justify and at the same time raises revenue for the Authority which is put to good use in providing subsidized housing for those in greater need of it. Notwithstanding the reservation expressed today therefore I commend the Authority's policy to the Members for their support.

Thank you, Mr Deputy President.

DEPUTY PRESIDENT: Mr LEE Wing-tat, do you wish to reply? According to the House rule, you have two and a half minutes.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, although I am given only two and a half minutes to speak, I should not take so long. My remarks are mainly in response to several points just raised. The first point is about the survey. Mr EASON said that the survey covered many people. But I wonder whether Mr EASON has seen the questionnaire of the survey himself. I only need to read out one question to find out the answer. A(1) in the questionnaire goes like this: "The Housing Authority provides public housing to low-income families to help relieving their housing problem. Do you think whether the Housing Authority is obliged to help the high-income families?" The last phrase is "high-income families". But, in fact, the term "high" was not elaborated. I have asked Dr LAW Chi-kwong, Senior Lecturer, Department of Social Work and Social Administration, University of Hong Kong about his view of this particular question. He was of the opinion that the wording of this question is not too fair and it is a leading question. Therefore it is pointless to quote this question to show whether the respondents are supporting the policy.

Secondly, many colleagues feel that when the Housing Authority collects more revenue, it will have more financial resources to construct more public housing thus benefiting applicants on the Waiting List. Such a point of view is wrong. I believe Mr EASON will agree that the volume of public housing to be built is laid down in the Long Term Housing Strategy. And the supply will not be changed or increased as a result of the \$0.3 billion or \$0.2 billion windfall generated from this well-off tenant policy.

Thirdly, some colleagues expressed that they were in support of the principle of this policy but were against setting the income limit at too low a level. If the limit is to be raised to a level they consider as appropriate, like what Mr Gilbert LEUNG has proposed, I am afraid the revenue generated will be so low that even the Housing Authority would not bother to implement such a policy. Therefore, what we are discussing is not merely a matter of principle. As a matter of fact, if the income limit for the Double Rent Policy is to be set at a reasonable level, the revenue is going to be very low.

Fourthly, I would like to repeat once again that although the policy has undergone review and consultation, it still has to be debated and endorsed by the

Housing Authority at the end of the day. I concur with the view of some colleagues that the existing composition of the Housing Authority is basically not fully representative of all interested parties. The social strata and interests represented in it are very small in scope. I support their view that in due course, the Government should reorganize the Housing Authority. Meanwhile, the Housing Authority which is responsible for the housing policy aside, other advisory boards or committees on important social policies should also be represented on a well balanced basis.

Mr Deputy President, having heard many colleagues' speeches and Mr EASON's reply, I feel that the principle of this policy, its implementation and the Government's reallocation of the new resources generated do not serve the interests of the community at large. In view of this, I am still of the view that this policy should be abolished.

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

Voice votes taken.

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: Would Members now please proceed to vote?

DEPUTY PRESIDENT: Do Members have any queries before the results are displayed? The results will now be displayed.

Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Andrew WONG, Mr Jimmy McGREGOR, Mrs Elsie TU, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr Samuel WONG, Dr YEUNG Sum, Mr WONG Wai-yin and Dr TANG Siu-tong voted for the motion.

The Chief Secretary, The Attorney General, The Financial Secretary, Mr Allen LEE, Mr HUI Yin-fat, Mr NGAI Shiu-kit, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Vincent CHENG, Mr Moses CHENG, Mr Marvin CHEUNG, Mr Timothy HA, Mr Simon IP, Mr Gilbert LEUNG, Mr Eric LI, Dr Philip WONG, Miss Christine LOH and Mr Roger LUK voted against the motion.

THE DEPUTY PRESIDENT announced that there were 26 votes in favour of the motion and 22 votes against it. He therefore declared that the motion was carried.

6.34 pm

DEPUTY PRESIDENT: I will suspend the sitting for half an hour.

7.10 pm

DEPUTY PRESIDENT: Council will resume.

APPOINTMENT OF SELECT COMMITTEE

MR JAMES TO (in Cantonese): Mr Deputy President, the general public, the judicial sector and the Legislative Council Members have been very concerned about the case of *R v Nguyen Van-bau* (High Court Criminal Case No. 291 of 1991) in respect of the protection of the witness and the handling of the witness who refused to testify. The Administration, however, did not give any positive response regarding this case and, even after the Security Panel and the House Committee of this Council met to discuss this problem, it still did not change such an attitude. We, as responsible Legislative Council Members, have the obligation to bring up any matter of public concern in this Council and exercise our statutory power to keep an eye on the Administration. For this reason, I propose that this Council set up an ad hoc group to handle this matter.

Yet, the Administration obviously has changed its tone today as the Chief Secretary said in the statement that the Administration was prepared to establish a Commission of Inquiry under the relevant ordinance. Because of the Administration's shift of position, I have decided to withdraw my original motion to avoid any duplication of too many preliminary procedures so that manpower will not be wasted.

Nevertheless, I believe our colleagues in this Council and the public will, after the completion of the inquiry report, examine whether the report can fully remove their disquiet and contains sensible proposals to remedy the situation. And I would like to stress that I reserve the right to move another motion that the Legislative Council should set up an ad hoc committee to carry out further inquiries and take follow-up actions so as to give full play to legislators' roles relating to legislation enactment and monitoring the Administration if the inquiry report cannot live up to our expectation. Thank you, Mr Deputy President.

MRS MIRIAM LAU: Mr Deputy President, I wish to apply to you for leave to move my proposed amendment to the Honourable James TO's motion as a substantive motion without notice under Standing Order 21(1). I wish to do so despite the Chief Secretary's statement to this Council earlier on today.

With your permission, I shall briefly explain the reasons for my application. On the one hand, I am pleased that the Administration has now seen fit to agree to the setting up of a Commission of Inquiry under the Commissions of Inquiry Ordinance to investigate into the circumstances surrounding the case of *R v Nguyen Van-bau*. On the other hand, I am unhappy about the fact that the Administration seems to have pre-empted the decision of this Council as to what this Council feels should be the way forward on this matter of public importance, which decision could be taken if the Honourable James TO's motion had gone ahead. I also regret that no assurance is being given by the Administration that the specific terms of reference proposed in my amendment motion will be adopted for the proposed Commission. The Chief Secretary said that the terms of reference are matters for the Governor in Council to determine though he has kindly agreed to put forward my suggestions for consideration.

I can understand why the Chief Secretary is unable to go further than that. However, that is not good enough as the proposals would remain my proposals only as a sole individual legislator.

In my view, the Commission of Inquiry must have the right composition and the right terms of reference in order that proper investigation may be carried out into the matter. I also believe that, in view of this being a matter of great public importance, this Council should be allowed to put its weight behind such terms of reference as it feels the Commission ought properly to have. Hence my original proposed amendment to the Honourable James TO's motion.

My amendment is not now possible since the Honourable James TO has withdrawn his motion. I therefore wish to put forward my amendment as a substantive motion so that Members would have the chance of indicating their support or otherwise thereto.

If my motion is carried, it would indicate the support of this Council for the proposed terms of reference. It would also be a strong message to the Governor in Council as to what this Council expects of the Commission.

Mr Deputy President, I hope you will grant me my application.

DEPUTY PRESIDENT: Under Standing Order 21, as you pointed out, Mrs LAU, I have the power to dispense with the requisite notice. In the House of Commons in England, the power resides in the House itself. According to Erskine May at page 324, the rule there is that the House can waive the requirement of notice for a substantive motion if the motion is moved under the

sanction of the Chair and with the concurrence of the House. And further down the same page, it is said that the objection of any Member is enough to prevent the waiver of notice.

So the question of dispensation or waiver of notice is an extremely important one. In this case, I am not prepared to grant a dispensation for the reason that, in light of the Chief Secretary's statement this afternoon, Members may wish to reconsider their position before proceeding to the consideration of the matters raised in your amendment. And I do not think it would be right to proceed without proper notice to a full debate of the matters contained in your amendment as a full motion, bearing in mind that the Chief Secretary made a statement this afternoon. I regret I have to turn your application down, Mrs LAU.

We proceed to the adjournment debate.

Adjournment

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

DEPUTY PRESIDENT: Mr Martin LEE has given notice to raise a matter for reply by the Government. Could I remind Members that in an adjournment debate there are 45 minutes for Members to speak. At that point or after all the Members wishing to speak have spoken, whichever is the earlier, I will call upon the Financial Secretary to reply.

Nineteen Members are listed to speak and, as a matter of arithmetic, that gives each Member less than two and a half minutes to speak. The House Committee, on the basis of the number of Members who had then indicated intention to speak, has recommended that each Member be limited to two minutes.

I think I shall be prepared to extend the speaking time per Member to two and a half minutes, bearing in mind that 19 members are now down to speak. But the position is that at the end of 45 minutes, or within a few minutes after the 45 minutes, I will bring the guillotine down.

MR MARTIN LEE: Mr Deputy President, would that apply to me, the mover? It is because I will find it very difficult if it does.

DEPUTY PRESIDENT: I think conventionally the principal speaker is given more time. Bearing in mind that other Members will have two and a half minutes or thereabouts, I think you could speak for three minutes, Mr LEE.

That is my view. But, as you all know, under Standing Orders each of you is entitled to speak for 15 minutes. So, technically, three Members could each take 15 minutes and exhaust the full 45. So it is very much a matter of abiding by the House rule. It is a matter for each Member.

Hong Kong's economic stability and democratic development

7.22 pm

MR MARTIN LEE (in Cantonese): Mr Deputy President, the Chinese Government has recently been escalating its criticisms against Hong Kong. As a result, the stock market plunged and people's confidence was shaken. Many people cannot help wondering: Will the Chinese side still abide by the Sino-British Joint Declaration? Will it take over Hong Kong before 1997? In these circumstances and being a Chinese in Hong Kong, what should we do to maintain economic stability and at the same time promote democratic development?

Concerning the development of a democratic political system, although the political reforms proposed by the Governor are regarded by the liberals as being too conservative, the proposals are nevertheless in compliance with the Joint Declaration and the Basic Law, and have the support of the public and this Council. Despite strong opposition from China, many people in Hong Kong still support the political reforms proposed by the Governor.

As a matter of fact, the political reforms are an unavoidable objective reality, because it is clearly stated in the Sino-British Joint Declaration that the wholly appointed Legislative Council in 1984 will have to become a fully elected legislature in 1997. However, China has been unable to accept this hard fact. So when Hong Kong is trying to make preparations for implementing this promise, it runs into difficulties at every turn. China even tried by various means to force Mr PATTEN to withdraw his proposal. But how can a proposal which is supported by the Legislative Council and the general public be so easily withdrawn?

Not only has China not accepted the reality that Hong Kong needs political reforms, it has even resorted to undermining Hong Kong's economy and the people's confidence in order to attain its objective.

How should we respond to all these pressures from China? I think that at this very important moment the people of Hong Kong should remain calm and sensible, and identify clearly what they really want. I understand the conflicts now existing in the mind of the people of Hong Kong. On the one hand, we want more democracy and would not like to see the Hong Kong Government kowtowing to the Chinese Government on every matter, but on the other hand, we want to live and work in peace, and avoid getting involved in the political and economic disputes and sustaining unnecessary loss therefrom. However, I

truly hope that the public can understand the objective reality that there is no perfect solution. Whichever road we choose, we have to pay a certain price. The problem is not which road is easier but which will lead us to a more democratic and more ideal destination.

The experience of the past eight years tells us that if we give up the rights conferred upon us by the Joint Declaration as a token to appease China, that will only encourage it to want more and to further violate the commitments enshrined in the Joint Declaration. We must now let China know clearly that their recent words and deeds are not reasonable and will have an adverse effect on the economies of Hong Kong and the mainland. The most obvious example is the statement made earlier by the Chinese Government that it will not recognize after 1997 the contracts signed by the Hong Kong Government. These words are clearly in breach of the Basic Law.

I therefore appeal to the leaders of the commercial and industrial sectors to reflect, when they have the occasion to go to Beijing to present their views, the true situation of Hong Kong and not just say things that the officials in Beijing would like to hear. Furthermore, I hope that the Chinese Government can resume negotiation with the British Government as soon as possible, and rationally look for a solution that is in accordance with the will of and in the interests of the people of Hong Kong. The people of Hong Kong should for their part look further ahead and not just concentrate on the short-term ups and downs of the Hang Seng Index. They should be concerned about how to protect human rights, the rule of law and freedoms in Hong Kong, because we can in fact have economic stability and continued development of democracy in our political system at the same time, and that is in the long-term interests of Hong Kong.

I so make my submission, and I have in fact cut my speech into many chunks!
(Laughter)

MR ALLEN LEE (in Cantonese): Mr Deputy President, the predicament that Hong Kong is now confronted with is one which I have never experienced during my years of political life. The dispute over political reforms between the Chinese and British Governments has become white-hot and the people of Hong Kong, sandwiched in between, feel extremely helpless. Actually, the people of Hong Kong are not asking too much. All we want is to be able to lead the same peaceful life and to enjoy the kind of democracy which can ensure the free lifestyles that we are long accustomed to during the transfer of sovereignty.

Members of the Co-operative Resources Centre (CRC) hold the view that the people of Hong Kong are enthusiastic and pragmatic. We would endeavour to safeguard our lifestyles though we accept the fact that Hong Kong is to be returned to China in 1997. The Basic Law has already laid down the course of democratic development in Hong Kong after 1997. In pursuing the goal of smooth transition to which the Joint Declaration is committed, the Chinese and

the British Governments have to strengthen their co-operation to ensure that the political system before 1997 would be carried through and continued after 1997.

Since the presentation of the Governor's policy address on 7 October we have seen an escalating contradiction between the Chinese and the British Governments. The row is sufficiently fierce to make Hong Kong people both resentful and frightened. Both sides now refuse to give way resulting in an impasse. Those who suffer most are the people of Hong Kong who have no right to interfere. In view of this, the CRC has decided to seek meetings with the British Prime Minister and the Chinese Premier respectively to reflect the concerns and anxieties of Hong Kong people and, in particular, to strongly urge both governments to fulfil their commitment to the people of Hong Kong in the Joint Declaration which is to achieve smooth transition and smooth transfer of sovereignty in a friendly and co-operative manner.

DEPUTY PRESIDENT: Dr Samuel WONG, I gather you wish to speak out of turn because you have a commitment.

DR SAMUEL WONG: Thank you, Mr Deputy President. I shall not take more than two minutes. Links between economic stability and democratic development are difficult to quantify. As an engineer, I can illustrate the point with a quantifiable example showing the extent of risk to which we are exposed.

Hong Kong has still now an impeccable reputation in honouring contracts. This position changed just over a week ago. The suggestion was made that certain franchises might not be honoured by the SAR Government despite guarantees in the Basic Law. People are now saying, could this apply to other contracts?

Let us consider airport core projects. Though the airport is due to open in June 1997 there may be finishing touches outstanding in various projects which will delay the release of up to 15% of the payment which is likely to become the responsibility of the SAR Government. Since the cost of the airport core project runs into hundreds of billions of dollars, the post-1997 payments could run into tens of billions. If the integrity of the SAR Government to make this payment is in any doubt at all, contractors interested in taking part in such projects face considerable financial risk which they will have to cover in some way. So the Hong Kong Government may have to pay billions more for no other reason than the politics seeking democratic development has cast doubt on the integrity of the SAR government. We must act immediately to put this right by formulating a policy objective, notably absent in the constitutional package presented on 7 October which took no account of any possible reaction from China. I suggest we temper our pace of democratization to come within bounds agreeable to China, in particular, the objectives to include substantially increasing the voter turnout from its present miserable figure of less than 20%.

We could then proceed with China's co-operation rather than opposition. Would that not be much better for the economy?

In short, an over-zealous drive for greater democracy could have a dramatic effect on Hong Kong's economic stability and the risk is substantial. It may pay us not to be too greedy.

MR STEPHEN CHEONG (in Cantonese): Mr Deputy President, in the 10 years or so since Britain and China first held talks over the future of Hong Kong, the people of Hong Kong have faced every political and economic shock in a practical manner and have stood fast to their station. Hong Kong people's pragmatic approach towards problem solving has remained unchanged. What have been changing are the various external factors that bear on the people of Hong Kong. Such unforeseeable external factors affect the atmosphere in which society goes about its multifarious ways.

Regarding the deadlock between Britain and China arising out of the Governor's constitutional reform package, a more impulsive attitude tends to prevail among Members of this Council and people outside of this Council. This has turned the calm atmosphere that hitherto prevailed in society into one of irritability and edginess.

"We learn by experience". Through the war of words over the past two months and by observing the political gimmicks employed by certain people, Hong Kong, a society which has all along been unwilling to get involved in politics, has learned a lot. Being caught in the row between Britain and China, it is only natural that the people of Hong Kong are deeply disturbed. However, from a positive point of view, it is not necessarily a bad thing for the public, who is pragmatic, to experience as early as possible such shocks in the latter part of the transition period, and to learn to observe the political situation as well as to cope with it in a rational manner.

It has always been my belief that Hong Kong is a blessed place and that the people of Hong Kong always manage to keep themselves out of dangers. Therefore political and social personalities who are in a position to affect the atmosphere of Hong Kong must be careful with what they say and must not add fuel to fire. They should remain unperturbed, summon up all their rationality and themselves set a good example for others.

MR NGAI SHIU-KIT (in Cantonese): Mr Deputy President, I hope that pragmatic Hong Kong people should remain calm and rational no matter what comes our way. Furthermore, we should be clear-headed and not to be fooled by the politicians' sweet-talk.

I feel that while we are pushing on with the democratization of our political system, we should keep in view the possible impact of too hasty the

pace on our economic development. Since the Basic Law has already spelt out the blueprint of Hong Kong Special Administrative Region Government's future democratic development of the political system, Hong Kong people, to be sensible and realistic, should work for the realization of the Basic Law, not to repudiate it and replace it with a so-called "reform" package which gives rise to political and social disturbances, unsettled feelings and economic ups-and-downs.

Mr Deputy President, I cannot help but wondering what have those who cried at the top of their voices that Hong Kong's economic prosperity should be maintained really done to realize this aim? It reminds one that these politicians once shamelessly enlisted the support of foreign countries to hurt China which has a close economic link with Hong Kong. They were even strongly against this Council to express its support to the unconditioned renewal of the Most Favoured Nation status to China by the United States. To one's bewilderment, today the self-same people are advocating the maintenance of Hong Kong's economic development. What exactly are their purposes? What are their priority: the interests of Hong Kong people or their own political ambitions?

Recently, some "liberals" try to organize a demonstration in support of Governor PATTEN's political reform package. To deliberately incite people's emotion at a time when social strife has become increasing acute, is it a calm and rational move? Recent public forums have witnessed that participants' heated debates have led to emotionally charged scenes. A demonstration will inevitably whip up the emotion of the public which is already running high. If a commotion should break out, Hong Kong is to suffer the most.

Mr Deputy President, I would like to urge the public, including those from the political circles, in particular those so-called "liberals", to be cognizant of the fact that our overriding interests should be to maintain Hong Kong's economic prosperity and political stability. Any words and deeds that do not facilitate smooth convergence and steady transition will only seriously undermine the interests of Hong Kong.

MR SZETO WAH (in Cantonese): Mr Deputy President, when the 300 000-strong army marched into Beijing between Spring and Summer in 1989, someone stated that the army was not targeted on the students. But eventually the June 4 Incident broke out. When the controversy surrounding the new airport project and the constitutional reforms just flared up not long ago, someone publicly announced that the new airport project and the political reforms were separate issues which would not affect each other. However, as it turned out, the row over the constitutional reforms not only did jeopardize the new airport project but also adversely affect the construction of Container Terminal No. 9, contracts, deeds, franchises striding over 1997 and so forth. Both incidents led to plunges in the stock market and undermine the territory's economy.

Upon learning that LIN Biao's coup had been foiled and he tried to flee, MAO Zedong gave no order to intercept him and simply said, "It will rain as naturally as the widow will get married." What does it mean?

Both untimely rain, a natural phenomenon, and a widow to quit her widowhood and remarry, a not-uncommon human nature, are things some people would not like to see but feel powerless to stop them. Under such circumstances, they should, instead of feeling helplessly and resignedly, face the reality and patiently wait and see how things unfold. To be more positive in attitude, they may take their umbrellas and go out as usual; respect the widow's choice and pray for the new family.

Given the present political situation, Hong Kong people should be more positive rather than adopting such a resigned attitude as one finds powerless to deal with things such as the untimely rain and the widow to get married again. In other words, we should judge the situation from a historical point of view in a coolheaded, calm, sensible and farsighted manner. Meanwhile, one should not forget that members of the financial sector are also among those who propose to organize the demonstration!

MR ANDREW WONG (in Cantonese): Mr Deputy President, what I wish to say had already been stated clearly on 11 November. It is unfortunate that it still could not prevent the cold war between the Chinese and British Governments and among Members of this Council from escalating. I therefore have doubts about the mentality of the Chinese and British Governments and that of Members of this Council. When will the cold war stop intensifying? In contrast, people outside this Council, except a few who have placed their bets, generally remain calm and rational.

I cannot recall who said this: He who plays with politics will ultimately be destroyed by politics. I hope our colleagues in this Council will behave less like politicians and play with politics less. Instead, they should behave more like statesmen and show more regard for the interests and wishes of Hong Kong people.

MR JIMMY MCGREGOR: Mr Deputy President, we all want to resolve the present political problem. I think we all recognize that it will be resolved by and in this Council. Many of us are in discussion to determine how best to take Hong Kong's interests forward and some of us believe that we cannot wait until draft legislation is put before us. The damage to our economy may be too great.

I therefore propose that the Government bring a motion or permit a motion to be brought before this Council, before mid-January 1993, seeking Council endorsement for the seven major proposals in Mr PATTEN's package. A separate vote should be taken on each one and there should be some relaxation

on the speaking time for each Councillor. That will allow the Government to determine the exact level of support each will enjoy and will allow this Council to modify any of them by amendment. The Government can then proceed to present realistic draft legislation in February and we can, I hope, all settle down to an agreed pace of constitutional reform.

MRS ELSIE TU: I am glad that Mr Martin LEE put economic stability and democratic development together, because they are inseparable. Democratic development is essential, but if it goes too fast it can be hostile to economic stability.

It is unfortunate that the British have left Hong Kong with little democratic legacy; yet in spite of that the past seven years compare well with earlier days when all Legislative Councillors were ex-officio or appointed, and the word NO was seldom heard in this Chamber.

Article 68 of the Basic Law promises democracy "in accordance with the principle of gradual and orderly progress", and the ultimate goal is election of all Members by universal suffrage.

I personally believe that the vast majority of Hong Kong people want a smooth passage through 1997, and that our only hope for that is to keep within the principles of the Basic Law, even though they may be less than ideal.

I regret that the Governor failed to consult this Council, failed to consult other elected bodies, and failed to discuss his proposals with China, before painting himself into a corner with his blueprint on 7 October. Having failed to consult us, he now tells this Council to take responsibility for what he has decided. If we say YES to him we shall upset China. If we say NO, he will say that he tried to give us democracy and we rejected it. We therefore have no alternative but to be courageous and say NO if we believe that stability is now in danger. We have no right to turn the public into economic martyrs for our personal views on democracy.

The signals I get from the man in the street are that, given the choice between quicker democracy and economic stability, the vast majority would opt for stability with more gradual democratic progress.

MR PETER WONG: Mr Deputy President, whether there is any connection between our economic stability and democratic development is a moot question. All I will say is this — we have to watch out that in whatever we do, we need to keep a balance so that we do not sacrifice one for the other. We also have to look at the present controversy from a realistic point of view, bearing in mind the long-term interests of Hong Kong.

It is also very clear that the present collision courses adopted by both the British and Chinese sides are not conducive to the economic stability of Hong Kong. I therefore call upon both the British and Chinese governments to return to the negotiating table to arrive at a political reform proposal that is acceptable to both governments as well as the people of Hong Kong.

MR VINCENT CHENG: Mr Deputy President, it is unfortunate that the current debate on constitutional development has unsettled the stock market and affected people's confidence in Hong Kong. A couple of credit agencies are reconsidering Hong Kong's credit worthiness, which has always been extremely good. There is no reason that Hong Kong's economic vitality should be called into question because of arguments over political development. One must not overlook the economic fundamentals. The economy today is just as strong as it was three weeks ago when the stock market reached record high. Our exports are still booming. Retail sales are increasing at double digit rates and investment in plant and machinery is robust. And there is no sign that these are affected by the current debate over political developments in Hong Kong.

Looking ahead, there is no reason to believe also that our economic momentum is slowing. Unless the industrial world goes into a recession in 1993, I expect economic growth to be maintained at about 5% to 6%. The recent volatilities in the stock market underline the strength of our exchange rate system. It has successfully insulated the Hong Kong dollar from the damaging effects of the row between the Hong Kong Government and China. Had we abandoned our link exchange rate, as some people have suggested, the horrifying experience in 1983 when the Hong Kong dollar fell to an all-time low of HK\$9.6 per US dollar might have been repeated. I hope this has once and for all settled the debate over whether we should have a new exchange rate system.

So far the heated debates on political development have not done any real damage but we should not be complacent. If the war of words between the Hong Kong Government and the Chinese Government escalates, it would create more uncertainties and would ultimately discourage investment. This is neither in China's nor in Hong Kong's interest. I sincerely hope the debate on political development will be confined to politics and that both the Chinese and the Hong Kong Governments would tone down the rhetorics and conduct their dialogues in a rational and sensible manner.

MR CHEUNG MAN-KWONG (in Cantonese): Mr Deputy President, the people of Hong Kong, caught in the middle between China and Britain, look like a flock of sheep forced to keep silent and placed at the mercy of the slaughterer.

We cannot choose history. The colonial system imposed on us for more than a century was not chosen by us. Now that the colonial rule is about to end, the people of Hong Kong still cannot master their destiny. They are but a flock

of sheep put under the care of a different shepherd only, a different ruler. How sad it is for the people of Hong Kong!

We cannot choose the present. Even the so-called democratic reforms proposed by Mr Christopher PATTEN are still far from true democracy. The present attempt by Hong Kong people to voice their support for the reform proposals is met with vicious intimidation and economic tanks to blast us economically to smithereens, all for the purpose of stemming our quest for democracy.

Hong Kong people have waken up to this nightmarish reality and realize in stark clarity that if we do not stand up to defend our right to decide on our own destiny, we shall not be able to choose a future for ourselves. Today, the people of Hong Kong are already reeling from such a heavy blow when we are making no more than some frail sound over this question of the political system. What would be our fate if we were to hold opinions different from that of China over other questions in the next 55 years? Therefore, today's debate over the democratization of the political system is not for five years only, but for 55 years, 55 years of a high degree of autonomy and "one country, two systems".

Mr Deputy President, in times of turmoil, I would think of a piece of prose by the Jin Dynasty poet TAO Yuanming — the *Tao Fa Yuan Ji*. It depicted a self-contained, peaceful and happy world immune from interference by outside forces. This world of course cannot possibly become a reality. But it is a dream for generations of Chinese people. I wish the people of Hong Kong would not need to migrate or pay a heavy price in pursuing this dream and in building what we cherish as our Tao Fa Yuan.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, the current political system of Hong Kong is still not democratic enough in the opinion of some people. But the general public is very satisfied with the territory's present economic and financial situation. Hong Kong is undoubtedly inferior to Britain, the United States, Canada and Australia in terms of democracy. But how is their economy? How are the Philippines and India in the Asian region? Had we, people of Hong Kong, single-mindedly put all of our efforts into seeking democracy, we would not have made such outstanding achievements in our economy and other aspects.

In the present context of Hong Kong, democracy is being used by political organizations to canvass votes for the 1995 election. We must realize that 39 Members of the 59 Members of the Legislative Council have been returned by various forms of election. As I have said before, of these 39 Members, the 25 Members representing the democrats and the grassroots already account for 64.1%. If they are devout believers in democracy and are supported by the public, I believe that the democrats would at least win half of the seats in 1995 when we conduct the election for another 21 seats. In other words, the

membership share would then be still maintained at 59% to 60%. Is this percentage still inadequate under these circumstances? Do they really want all the seats? Please do not attempt to monopolize the Legislative Council with the magic word "democracy" in order to achieve the objective of ruling and administering Hong Kong. As a representative of Hong Kong people, I owe it to them to present these figures clearly for their reference. Undeniably, the June 4 incident had won support for the United Democrats of Hong Kong in the territory. But I sincerely hope that comrades of the United Democrats and fellow Members will set their aim at serving the people of Hong Kong, rather than harbouring the wish of using democracy to obtain greater benefit for themselves in the future. For to serve the people, thus winning their genuine support, is more meaningful than making use of democracy.

I firmly believe that the post-1997 economy of Hong Kong will be better than the present. Undoubtedly, the latest disputes have arisen from China's responses triggered off by the Governor, Mr Chris PATTEN (I do not know if he has ulterior motives in this). Both sides are of course to blame. I hope that Hong Kong people will work and progress together in achieving the objective of using politics as a backup force to economy.

MR SIMON IP: Mr Deputy President, recent statements made by Chinese officials on the Container Terminal No. 9 land grant and the possible effect after 1997 of other contracts made by the Hong Kong Government have rocked the Hong Kong stock market. However, I believe that serious as those statements undoubtedly were, the stock market has overreacted. Mature reflection would reassure us that the Joint Declaration and the Basic Law protect, after 1997, the commitments entered into by the Hong Kong Government provided they do not contravene the Basic Law. We should not allow groundless statements to undermine our economy or our own confidence in it. We should have faith in the rule of law to uphold the Joint Declaration and the Basic Law.

During this period of tension, the people of Hong Kong should remain calm and react to situations objectively and rationally. Ultimately it must be the hope of all of us that China and Britain will resume a dialogue based on mutual trust and co-operation to resolve the present impasse and all other matters relating to the transition. They should now co-operate on the future economic and democratic developments in the best interests of Hong Kong.

DR CONRAD LAM (in Cantonese): Mr Deputy President, both economic stability and democratic development are important to Hong Kong. The former is our body whereas the latter is our soul. They complement each other, not mutually exclusive. To throttle democratic development will turn Hong Kong into a lifeless, passionless and nothing-more-than-good-looking beauty even we may still enjoy a momentary economic stability. Without democracy, what is the difference between living in Hong Kong after 1997 and living in China

under the dictatorship of one-party rule? Without democracy, our 6 million people will soon fade in the huge population of 1.1 billion compatriots in China. It is true that being Chinese, we should be proud of being integrated in the large family of 1.1 billion people. However, we would have second thoughts about this idea when looking back upon the relationship between Hong Kong people and our compatriots in the motherland over the years. Many of us still recollected the days when we had to mail tins of cooking oil and sugar as well as parcels to our relatives in the motherland to help them to tide over the difficulties. We are also well aware of the connotations and mockery when we nickname the Chinese across the border as "Ah Chan", "Uncle", "Cousin" and so on. With the Chinese economy gradually opening up and showing improvements, the days when Hong Kong has the upper hand in terms of economic matters are numbered.

We can see the authoritative attitude of some Chinese officials on the media reports. Although 1997 is yet to come, they are already behaving as if they were rulers of Hong Kong. In view of this, some say that without democracy, Hong Kong after 1997 is going to remain a colony and the only difference is that it will no longer be under a democratic sovereign state but under a dictatorial sovereign state. An opinion poll conducted several weeks ago revealed that many people in Guangzhou and Shenzhen supported Hong Kong's political reform proposals. In China, a quip has it that some so-called "three smiles comrades" recently enter the picture: they sneer when hearing the Marxism-Leninism, produce a forced smile when mentioning communism and laugh heartily when talking of capitalism. The above-mentioned example shows that if Hong Kong people were to give up democracy, we shall become a group of "Hong Kong Ah Chan", "Hong Kong Uncle" and "Hong Kong Ah Fook" in the eyes of our mainland compatriots.

Our future is in our own hands. To enjoy both economic stability and democratic development, Hong Kong is bound to go from strength to strength and become a lustrous Pearl of the Orient. If our democratic development is curbed, Hong Kong will turn into a dirty "swine of the Orient", a swine waiting to be slaughtered.

MR GILBERT LEUNG (in Cantonese): Mr Deputy President, calmly and sensibly I propose to use a Chinese proverb as a guiding principle for both the Governor and myself. The proverb is: "There is nothing wrong under the sky originally; the mediocre person worries about troubles of his own imagination".

MR FRED LI (in Cantonese): Mr Deputy President, does democratic development contradict with economic stability? The answer is simple — no. Last week, the stock market was rocked by steep fluctuations, but this had nothing to do with democratic development at all. The reason for such market volatility was the dispute between China and Britain. Faced with the duelling between the Chinese and British Governments, Hong Kong people's response has

generally been one of helplessness, anxiety and unease. Although there are very few things that we can do, it does not mean that we should resign ourselves to our fate and place ourselves at the mercy of others. I believe that we can at least do the following three things:

- (1) Remain calm and unperturbed. In the early 1980s when the Sino-British negotiations on Hong Kong's future were in progress and during the June 4 incident in 1989, many investors withdrew their capital from Hong Kong. What they did was of course a loss to Hong Kong, but eventually it turned out that they suffered even greater loss. If the people of Hong Kong would stand fast to their station, they should be able to overcome this temporary difficulty.
- (2) We should not add any more oil to the flame of dispute between the Chinese and British Governments, but should instead call for a more rational discussion between the two. The problem of Hong Kong is not a game of zero. If the economy of Hong Kong is damaged, neither the Chinese side nor the British side nor anybody else will benefit. So it is in the interests of all parties concerned that the dispute on the political system should not intensify to a level that would affect economic development.
- (3) We should state clearly our views on the development of the political system. The drive for democracy is a protracted one. The aspirations of the people of Hong Kong for democracy will not vanish simply because of the constraints of the Basic Law. We should fight hard for democracy during the remaining days of colonial rule in order that we can build an even more democratic political system when Hong Kong is returned to China.

During the last few weeks, Meeting Point has been endeavouring to perform the above. As early as 10 years ago and before the Sino-British Joint Declaration was signed, Meeting Point had already been supportive of the democratization of the political system. And our stance has never changed. Meeting Point also believes that there is no conflict between democratic development and smooth transition. Meeting Point will fully support the proposal on political system which is beneficial to democratic development.

Mr Deputy President, I so make my submission.

MISS CHRISTINE LOH: Mr Deputy President, at this time we must remain calm and we must stand firm on principles. We must be clear about what our aim is. There is nothing more important at this moment to Hong Kong and to the prosperity of Hong Kong than establishing the right relationship with China. Of course, China is our future sovereign power and of course, ultimately, China has the power to do whatever it wants to Hong Kong. Nevertheless, our aim must be to establish with China a relationship in which Hong Kong's views can

be heard and respected. The relationship must be one in which Hong Kong is given some credit for knowing how its own system works and how its own decisions are taken, a system which honours, in short, that high degree of autonomy which China so wisely and generously promised in the Joint Declaration.

7.57 pm

FINANCIAL SECRETARY: Mr Deputy President, the performance of the local stock market over the past week or so, and the deterioration in relations with China which underlies the market's drop, has understandably sparked nervousness and concern.

But the fall should be seen against a rise of some 40% in the Hang Seng Index over the last year. The index had been growing rapidly this year and hit an all-time high of 6 447 points on 12 November. The market is still well ahead of its January-February level this year. Our Index has always been fairly volatile. Investors should be calm and maintain a sense of proportion.

It is important more generally that we keep matters in perspective. As a speaker has already said, the fundamentals underlying our economy continue to be strong and sound. Our continuing growth is firmly based, bringing increasing prosperity to our community. Whilst much of the rest of the world suffers the miseries and personal hardships of recession and unemployment, we in Hong Kong are thriving. We are confident of achieving a 5% growth in real terms for our economy this year, and indeed, an average of 5% growth right up to 1997. This assessment of future growth is shared by many economists and other experts. Indeed, the Asian Development Bank forecasts our growth to be somewhat higher, at 6%, for this and the following year.

This growth is increasing the well-being of our community. Our per capita Gross Domestic Product is now over US\$16,000 — the third highest in Asia after Japan and the oil state of Brunei. Our total exports have continued to grow strongly. And prospects are generally bright, with rising intra-regional trade, and more hope too of an economic recovery in the United States. China of course continues to be a key factor both as a growing market and as an expanding production base for Hong Kong investors. There has also been a marked increase in our retained imports, reflecting buoyant domestic demand.

We have much to be proud of. Let us not forget that this small place is the tenth largest trading entity and number one container port in the world. Our airport is the fourth busiest international airport on earth. And we even use more mobile telephones per head than, I believe, anywhere else! We have enjoyed spectacular economic growth over the years — growth which has in turn greatly benefitted Hong Kong people.

Mr Deputy President, Hong Kong's prosperity is rooted in a stable community whose people identify themselves with its way of life and who participate actively in the conduct of its affairs. We are investing heavily in our community, our people and our future — from upgrading our infrastructure (the Airport Core Programme being a case in point), to improving health care, wider education opportunities, more support for the disadvantaged and cleaning up our environment. The proposals for constitutional development announced by the Governor in this Council on 7 October form a distinct part of this long-term investment — an investment that will enable more Hong Kong people to participate in public life and have a greater say in managing their own affairs. And to have confidence that "one country, two systems" can really be made to work.

These are modest constitutional proposals. They are designed to take a modest further step towards more democracy whilst being fully compatible with the Joint Declaration and the Basic Law. We are not seeking confrontation. On the contrary, we are trying to ensure a stable and prosperous transition.

Some criticize our proposals as running counter to the Basic Law — or the spirit of the Basic Law — and therefore as being not conducive to stability and prosperity. The facts, however, speak for themselves. What we have proposed is entirely within the terms of the Basic Law. It is a fact that the Basic Law does not provide all the answers on how the 1995 elections are to be conducted. For example, it is silent on how the nine additional functional constituencies are to be delineated. It has not specified the composition of the first Election Committee. So such points have to be fleshed out, and our proposals seek to do precisely that. In formulating the proposals, we have taken care to follow the principles of gradual and orderly progress, and of openness and democracy enshrined in the Basic Law.

Let me reiterate what the Governor has said repeatedly: our proposals are proposals, not decisions. They are intended for discussion both within the community and with China. We welcome specific alternatives which can meet the three criteria of openness, fairness, and acceptability to the people of Hong Kong. I am pleased to see that alternative proposals are now emerging, including some by Members of this Council. I would assure you that they will be studied with the greatest care — by this Administration, but hopefully also by the wider community too — leading to rational debate.

It is only natural that on a matter as important as this, there should be different opinions in the community. But it is important that we should seek to reconcile these divergent views through discussions conducted in a calm, responsible and rational manner. I very much hope that increasing numbers of people will come to realize that the people of Hong Kong are sophisticated, mature and sensible enough to look after a rather greater share of their own destiny. And that they will do so in a way which threatens no one, but that does ensure that Hong Kong becomes more stable, more prosperous, and more

capable of making a significant contribution to developments in China and in the region.

Mr Deputy President, economic growth and political development are vital to our future well-being. New and constructive energies are unleashed in a society where the legitimate aspirations of the public to have a greater say in the conduct of their affairs can be met. And confidence in the future increased. I hope Members, the community at large, and indeed all those involved will look at the constitutional proposals dispassionately and with a long-term vision, and work together calmly and rationally.

Question on the adjournment proposed, put and agreed to.

Next sitting

DEPUTY PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 16 December 1992.

Adjourned accordingly at five minutes past Eight o'clock.

Note: The short titles of the Bills/motion listed in the Hansard 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 Planning, Environment and Lands to Mr Edward HO's supplementary question to Question 4**

Most of the noise producers in these 1 515 cases were able to reduce their noise emissions after advice and warnings given by EPD staff. 403 cases required the issue of Noise Abatement Notices and 81 cases required prosecution action.

Annex II**Written answer by the Secretary for Planning, Environment and Lands to Rev FUNG Chi-wood's supplementary question to Question 4**

As the other categories of noise complaints are not controlled by specific noise limits but by other control strategies, mainly because the nature of these problems are different, it is not possible to give a short answer that covers all the other categories of noise. However, in summary, the situation is that:

- (a) Construction noise is controlled by EPD permits, not by specific noise criteria. Thus percussive piling is restricted to weekdays and the operating hours can be reduced from 12 to five or three hours depending on the proximity of noise sensitive receivers. General construction work can be carried out on weekdays between 7 am to 7 pm. Between 7 pm to 7 am and all day during holidays, except in emergencies, the use of powered mechanical equipment is controlled by permits to reduce noise disturbance. The police and EPD are responsible for enforcement.
- (b) Noise from domestic premises and public places, generally known as neighbourhood noise, is controlled by police using subjective annoyance means and there is no need to measure noise levels.
- (c) With respect to noise generated from traffic, there is no specific statutory control on vehicle noise apart from the requirement to fit exhaust silencers under the Road Traffic (Construction and Maintenance of Vehicles) Regulations, Cap. 374. Traffic noise problems are more effectively reduced through land use planning. There are planning guideline levels for new roads and noise sensitive developments under the Hong Kong Planning Standards and Guidelines (HKPSG). These provide for such measures as better road alignment, the use of noise barriers, and quiet road

WRITTEN ANSWERS — *Continued*

surfacing for new road projects in the vicinity of new residential developments. For existing roads, regular road maintenance and resurfacing of some suitable road sections by noise reducing materials is being carried out to reduce existing traffic noise problems. Furthermore, the Administration is introducing traffic management schemes to reduce excessive traffic noise in certain residential areas and is working on new noise control regulations on individual motor vehicles.

- (d) Miscellaneous noise complaints are usually complaints about industrial noise affecting other industries; the Noise Control Ordinance does not seek to control this sort of noise because industrial buildings are not noise sensitive receivers. Some measures of relief for noise complaints under these circumstances may be found under the Factories and Industrial Undertakings Ordinance.

