

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 13 January 1993

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 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 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, O.B.E., 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 LAM KUI-CHUN

DR THE HONOURABLE CONRAD LAM KUI-SHING

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

THE HONOURABLE GILBERT LEUNG KAM-HO

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

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE 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

THE HONOURABLE ANNA WU HUNG-YUK

ABSENT

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

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

THE HONOURABLE STEVEN POON KWOK-LIM

IN ATTENDANCE

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

MR EDWARD BARRIE WIGGHAM, C.B.E., J.P.
SECRETARY FOR THE CIVIL SERVICE

THE HONOURABLE MRS ANSON CHAN, C.B.E., J.P.
SECRETARY FOR ECONOMIC SERVICES

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

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

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

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

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

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

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

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

Sessional Papers 1992-93

- No.47 — Report of changes to the approved Estimates of Expenditure approved during the second quarter of 1992-93
Public Finance Ordinance : Section 8
- No.48 — Hong Kong Productivity Council
Annual Report 1991-92

Address**Report of changes to the approved Estimates of Expenditure approved during the second quarter of 1992-93
Public Finance Ordinance : Section 8**

SECRETARY FOR THE TREASURY: Mr Deputy President, in accordance with section 8(8)(b) of the Public Finance Ordinance, I now table for Members' information a summary of all changes made to the approved Estimates of Expenditure for the second quarter of the financial year 1992-93.

Supplementary provision of \$181.9 million was approved. It was fully offset, either by savings under the same or other Heads of Expenditure, or by the deletion of funds under the Additional Commitments subheads.

During the period, non-recurrent commitments were increased by \$4.8 million, new non-recurrent commitments of \$69.1 million were approved, and approved non-recurrent commitments of \$67.6 million were revoked.

In the same period, a net decrease of 1 574 posts was approved. This was mainly attributable to the deletion of posts as a result of civil servants having opted for service with the Hospital Authority.

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

Oral answers to questions**Monitoring of the Legal Department**

1. MR MARVIN CHEUNG asked: *Will the Administration advise this Council whether the work of the Director of Audit includes reviewing the circumstances of cases handled by the Legal Department where substantial costs have been awarded against the Government so as to determine what were the principal reasons for the Government losing the case, whether such losses were*

due to human error in the Department and whether any appropriate action has been taken?

If such reviews are undertaken, what legal expertise does the Director of Audit or his staff possess to enable their work to be carried out properly?

If not, how is the work of the Legal Department being monitored to ensure that massive losses are not incurred by the Government at the expense of taxpayers due to human error in the Legal Department?

FINANCIAL SECRETARY: Mr Deputy President, I should like to begin my answer with some general remarks on the award of costs in legal cases, before turning to the specific issue of monitoring.

It is in the nature of an adversarial legal system such as ours that there will be winners and losers. Costs may be borne wholly by one party, or the other, or partly borne by both. The fact that costs have been awarded against the Government in a particular case does not necessarily imply error or negligence on anyone's part. It is simply a result of the Government having lost a contested case. We also win many cases, and get awards of costs in our favour.

It would be absurd to aim to win every case, and to regard every loss as a form of failure. For the Executive to do so would imply either an unhealthy relationship with the Judiciary, or an overly cautious approach in bringing prosecutions that could only result in large numbers of criminals never being brought before the court. Acquittal of the innocent is just as important a part of justice as conviction of the guilty. In relation to civil cases, it would lead to the Government conceding claims for millions of dollars, simply because it was not certain that the claims would fail.

The fact that costs might be substantial in a particular case is simply a reflection of its length and complexity, not a guide as to whether it was worth contesting.

Turning now to the question of monitoring, the Director of Audit conducts two kinds of government audit — regularity audit and value for money audit. Regularity audit is carried out under the Audit Ordinance and is concerned with providing this Council with an overall assurance that the Government's financial and accounting transactions are proper, and that they conform with accepted accounting standards. Value for money audit is an examination into the economy, efficiency and effectiveness with which a department has discharged its functions. As the audit field, which encompasses all public expenditure, is large and complex, value for money audit is currently still at the development stage.

To date, the audit of legal costs has been confined to regularity audit to see that payments were in order and properly authorized. No value for money audit has been conducted of such payments. If a value for money audit on legal costs were to be conducted by the Director of Audit, he would examine the procedures taken by the Legal Department to see whether they are adequate and whether there was any failure to comply with them. The Audit Department does not have the expertise to establish whether losses of court cases resulted from errors or failures of a legal nature.

Within the Legal Department, machinery is in place to monitor the way in which cases are handled. For example, if a major prosecution results in an acquittal, the case will be reviewed by a senior officer to ensure that it was properly brought and conducted. Any serious deficiencies in these areas would of course be liable to attract adverse comment from the Bench. The Director of Audit's job would be to ensure that such monitoring machinery is adequate for the purpose and is implemented effectively.

MR MARVIN CHEUNG: *Mr Deputy President, will the Administration advise this Council when was the last time the Director of Audit reviewed the monitoring machinery of the Legal Department referred to in the last part of the Financial Secretary's reply and what the result of his review was?*

FINANCIAL SECRETARY: Mr Deputy President, I am not aware that the Director of Audit has reviewed the particular monitoring machinery as opposed to carrying out a regularity audit. He has indeed carried out straightforward regularity audits, the last one of which was conducted in respect of the 1991-92 accounts. But I am not aware that that covered the monitoring machinery.

MR ERIC LI: *Mr Deputy President, it has been mentioned that there is an internal machinery within the Legal Department to monitor its own cases, but it does seem to me that this machinery completely lacks transparency, and it is very difficult to see how the machinery works when funds are sought from the Finance Committee of this Council on an almost fait accompli basis. Can the Government inform this Council whether it would consider, in a case where material loss is sought to be covered by public funds, providing proper legal opinion from perhaps senior officers of the Legal Department, or alternatively, independent legal opinion from outside counsel?*

ATTORNEY GENERAL: Mr Deputy President, perhaps I could, with your indulgence and that of the Council, enlarge a little bit on the internal monitoring machinery that exists within my department, before I attempt a specific answer to Mr Eric LI's question. Like any other department of the Government, the Legal Department tries to ensure that its work is undertaken efficiently and effectively, and we do this by a combination of measures. These include

ensuring that work is handled by an officer, a counsel, of the requisite experience and competence commensurate with the weight of the case that he has to handle, ensuring that more junior officers are supervised by senior officers by having, like all other government departments, a regular staff reporting system which covers professional competence, and establishing internal guidelines on the way in which work is to be handled. I have regular meetings with the Law Officers. I see the Law Officers once a week to discuss major matters within the department, and I see each Law Officer individually on a regular basis to review all major cases, and I see the Director of Public Prosecutions once a week on a regular basis to review progress of major prosecutions. At the end of every major prosecution, prosecuting counsel, whether from within my department or from the private Bar, is required to file a case report explaining the way in which the case progressed and dealing with the outcome. As has been mentioned, in the case of an acquittal in major cases, a review is carried out by a senior officer. Depending on the level of the case, the reviewing officer may be, in a major prosecution, the Director of Public Prosecutions and in some cases I have interested myself in the outcome and required a statement from prosecuting counsel as to the conduct of the prosecution.

I would like to pick up a point made in the main reply, and that is to re-emphasize that it is inherent in our legal system that there will be prosecutions that will result in acquittals and that there will be civil cases brought by or against the Government in which judgment is entered against the Government. I would be seriously worried, and I expect the Council would be too, if every time a prosecution was brought it was followed by a conviction; if there was a 100% conviction rate, you and I would both be extremely worried; indeed, it is not inherent in our system, an adversarial system.

Turning now specifically to Mr Eric LI's question, I think I have explained that at the end of major cases a report is prepared, and in the case of an acquittal a report is prepared by prosecuting counsel to explain what happened in that case, and that is reviewed by a senior officer, including, in some cases, myself. I do not, myself, see much profit in obtaining, after the event, the opinion of outside counsel as to why a case resulted in an acquittal. Of course, in some instances, we seek the advice of leading counsel before cases are brought, or in some rarer cases, leading counsel are briefed from outside to prosecute or to appear for the Government.

MR JAMES TO (in Cantonese): *Mr Deputy President, regarding the prosecutions conducted by the Legal Department in the past five years, has negligence or human error been found in the case reports just mentioned by the Attorney General and those which he himself has reviewed? During this period, how many cases have been established that negligence or human error is involved after the reviews by the Attorney General or other senior officers? What are the annual figures; and is the problem especially serious in any*

particular kind of cases? Will the Administration inform this Council that there has not been a single case of negligence or human error in the past five years?

ATTORNEY GENERAL: I have some difficulty, and it is not lawyer's sophistry, with the term "human error". This has been explained in the main answer and, as I have endeavoured to say already, it is inherent in our legal system that there will be cases that will result in acquittal or judgment against the Government, not because of incompetence or negligence but because, simply on the evidence, the judge or the jury was inclined to one view or another. If Mr TO means incompetence and negligence, then of course the systems that we have put in place are designed to ensure, first of all, that those do not occur, and that we have a monitoring system and guidelines sufficient to ensure that those, wherever possible, are eliminated.

MR PETER WONG: *Mr Deputy President, in the sixth paragraph of his reply the Financial Secretary pleaded lack of expertise in the Audit Department to do a value for money audit for the failure to establish whether loss of court cases resulted from errors or failures of a legal nature. It would appear that the department has taken on a job for which it is not competent. Should the Director subcontract that work to the private sector, which I am sure will ensure that it is equipped to do the work?*

FINANCIAL SECRETARY: Mr Deputy President, yes, the short answer is that if the Audit Department felt it necessary to obtain the services of private sector experts, then it could do so. What it does not do is, of course, try to actually have on its staff specialists in all the very many fields which are covered by public expenditure. But, yes, it has the chance of doing that if it so desires.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr Deputy President, although it is common for the Administration to sign contracts with private establishments, many are concluded without any prior consultation with the Legal Department. Some of them are subsequently found to be defective, placing the Administration in a disadvantageous position in case of dispute. Can the Administration inform this Council whether it has any mechanism to vet the legally enforceable documents signed by the various government departments with the private sector; and what is the role played by the Legal Department when it examines such documents?*

ATTORNEY GENERAL: Mr Deputy President, there is within my department a section devoted to advising the Government on contracts, the drafting of government contracts and the vetting of government contracts. That occupies a number of experienced lawyers full time. There are obviously some contracts of a regular routine nature that are not referred to my department for vetting,

but all contracts over a certain value are automatically referred to my department, either to be drafted or to be vetted.

MISS EMILY LAU: *Mr Deputy President, on the question of the monitoring of the way the Legal Department handles cases and the monitoring in general, I would like to ask the Attorney General how he proposes to enhance the transparency — which is the point that Mr Eric LI referred to and which I share very much — the public scrutiny of the process, and more specifically, the scrutiny by this Council. How would the Attorney General propose to help us?*

ATTORNEY GENERAL: I suppose, Mr Deputy President, the fact that Miss LAU has got me on my feet and can see the light shining through me is evidence of some transparency. I and my senior colleagues are constantly looking at the ways in which we can make the work of our department more efficient, more responsive, more cost effective. We have, for example, this year instituted a Strategic Information Technology Study designed to ensure that we have, subject to the availability of funds, state-of-the-art technology within the department to enable us to have an even better monitoring capability as regards the flow of information on the very large number of cases that comes to the department. The department, through me, of course remains answerable to this Council, answerable to the Finance Committee, and answerable to the Public Accounts Committee.

MR MOSES CHENG: *Mr Deputy President, I would like to seek further clarification to the seventh paragraph of the answer. It is stated there that part of the Director of Audit's job is to ensure that the internal monitoring machinery within the department is adequate for the purpose and is implemented effectively. Will the Administration please advise this Council whether such an exercise has been undertaken within the last five years? If not, when will one such exercise be undertaken in the future?*

FINANCIAL SECRETARY: Mr Deputy President, as far as I am aware, such an exercise has not been carried out by the Director of Audit, but of course it is entirely within his powers to decide to do so.

Traffic demand at border crossings

2. DR SAMUEL WONG asked: *In view of the opening of the Guangzhou-Shenzhen-Zhuhai Superhighway in the second half of 1993 which will be a major step forward in strengthening the economic tie between Hong Kong and the Pearl River Delta, will the Government inform this Council whether*

Hong Kong is prepared for the traffic demand of this economic growth at the border crossings at Lok Ma Chau, Man Kam To and Sha Tau Kok, including:

- (a) whether there are plans to simplify the existing permit system for vehicle access at the three border crossings, thus allowing less restrictive traffic flow;*
- (b) whether the Government would operate the three border crossings 24 hours a day so as to increase the throughput and to mitigate traffic congestions in the New Territories in general; and*
- (c) what other plans the Government has to increase the throughput of the three vehicle border crossings?*

SECRETARY FOR TRANSPORT: Mr Deputy President, as regards the first part of Dr WONG's question, the three vehicular crossing points are all situated within the frontier closed area. Vehicles entering this area need closed road permits. These are the only permits required by the Hong Kong Government. Amongst other things, the closed road permit system allows the Government to specify which crossing point should be used by a particular vehicle, thus helping to spread the traffic load. The present system is quite simple and there is no need to change it.

On the second part of the question, the opening hours of the border crossing points are adjusted to meet changing traffic demands, subject to agreement with the Chinese side and the availability of the necessary resources. On 1 July last year, the opening time of all border crossings was advanced to 7 am in the morning, and the closing time at Man Kam To was extended to 10 pm in the evening. The closing time of the Lok Ma Chau Crossing was also extended to 10 pm since 1 December last year. These arrangements have helped to spread traffic demand and to reduce congestion, particularly in the early morning.

As the crossing points are less used late in the evenings, there is no clear need to keep them open longer. However, traffic demands are kept under constant review and when the situation warrants it, for example before the opening of the Guangzhou-Shenzhen Highway, we will consider whether and how to extend further the opening hours.

On the last point of Dr WONG's question, the border crossing points at Man Kam To and Sha Tau Kok are operating at capacity. All new closed road permits are therefore issued only for the Lok Ma Chau crossing which will connect with the Guangzhou-Shenzhen Highway eventually. This crossing point has an average daily throughput of 7 500 vehicles, which is only about half of its present capacity. Subject to the availability of resources and agreement with the Chinese authorities, more processing kiosks can be brought into use at Lok Ma Chau to increase its throughput still further.

DR SAMUEL WONG: *Mr Deputy President, on the point that there is no clear need to keep the crossings open 24 hours a day because they are less used late in the evening, would it not be because the drivers know that they have to rush through during the day time? Would the situation change if they know they can cross any time of the day?*

SECRETARY FOR TRANSPORT: Mr Deputy President, our experience with the trade has indicated that their preference is really in the morning and in the early afternoon. The pattern of traffic at the three crossing points indicates that the bulk of traffic crosses in the morning, particularly for drivers who prefer more trips, that is to say, to start early in the morning, do more trips across and back from the border, and hence to make more income. This is the pattern used by drivers. The trade does not seem to favour any operation after the late evenings.

MR MARTIN BARROW: *Mr Deputy President, with regard to part (b) and the point just raised by Dr WONG, is the Secretary aware that the Chinese side are constantly telling all visitors from Hong Kong that it is the Hong Kong side who are being difficult over opening hours, whereas the Hong Kong side are arguing that it is the Chinese side, and would the Secretary not agree that he needs to get the two parties together at a senior level to resolve this once and for all, both in terms of the staffing on both sides as well as coming up with schemes which will push the load and the severe congestion out of those peak hours and into the off-peak periods?*

SECRETARY FOR TRANSPORT: Mr Deputy President, there is regular liaison between ourselves and the Chinese side and this has been working quite smoothly over the past years. We meet at least twice a year on traffic matters, and on general matters at least once a year. Clearly, on both sides there is the desire to extend the operating hours to facilitate traffic, but there are other considerations which both sides must take into account, one of which for our side is the staffing resources required.

If I could perhaps elaborate on the second part of my answer. Indeed the advancing of the opening hours to 7 am in the morning and the extension to 10 pm in the evening was in fact at our request, and after a lot of discussions we convinced the Chinese side that this was necessary and it proved to be helpful. Some time next week we will be meeting the Chinese side on these matters and I certainly hope to raise the matter of extending hours when the traffic situation warrants such a need.

MR ALBERT CHAN (in Cantonese): *Mr Deputy President, frequent congestions at the border crossings are partly attributable to disputes between container truckers and customs staff, thus resulting in serious congestions. Will*

the Administration inform this Council whether it will consider introducing remedial measures to forestall similar situations, and in turn relieve traffic congestions at the crossings?

SECRETARY FOR TRANSPORT: Mr Deputy President, I believe this is really a matter between the authorities concerned and the drivers themselves. The liaison meetings I have referred to also cover matters which the trade has raised with us and with the Chinese side. I would certainly hope that, with mutual co-operation, respect and trust from both sides, we could reflect the drivers' worries to the authorities concerned and resolve such differences wherever possible.

MR CHIM PUI-CHUNG (in Cantonese): *Mr Deputy President, the nearer we are approaching 1997, the greater the chance Hong Kong and Shenzhen will merge in the future. Has the Administration ever considered carrying out studies jointly with the Chinese Government immediately about setting up a joint customs terminal on a trial basis so as to save the clearance time of both sides?*

DEPUTY PRESIDENT: I do not think that really arises from the main question or answer, Mr CHIM.

MR TIK CHI-YUEN (in Cantonese): *Mr Deputy President, in the wake of the extension of opening hours at the crossing points, some border residents have complained about the consequential environmental pollution and noise nuisance. We understand that Sino-Hong Kong trade is growing steadily. In this connection, what measures will the Administration take to rectify the situation?*

SECRETARY FOR TRANSPORT: Mr Deputy President, I think our cautious approach towards lengthening the opening hours to late evening is precisely because of the worries that we share with Mr TIK, that is to say, the noise nuisance caused to neighbouring residents. We must therefore take into account the reactions of the local people before we extend these hours. As far as the crossing points are concerned, clearly the vehicle holding areas on either side have been helpful in containing traffic and in ensuring that large vehicles are all directed to one place away from the residential areas so as not to create any more noise nuisance. But I am afraid when it comes to heavy trucks or container trucks travelling along the road, it is inevitable that there will be some noise generated during the hours of operation but we hope that if they operate during the daytime this will be less disruptive to local residents.

MR LEE WING-TAT (in Cantonese): *Mr Deputy President, according to the information supplied to Members of this Council by the Transport Branch,*

in 1991, 15 300 container trucks used the crossing points every day, and the figures grew at an annual rate of 25%, which was higher than the 10% growth rate estimated by the Transport Department in the past. At present, the crossings are opened for 11 to 15 hours but many container truckers complain that they have to wait for three to four hours before the completion of the clearance, and the queue stretches two to six kilometres as revealed by information supplied by the Transport Department. So I would like to ask: Does the Transport Branch have any long-term planning on that score? What I mean is not just a scheme dealing with the long queue at a certain period of time, but to tackle the 25% annual increase of the number of container trucks travelling across the border in the long run.

SECRETARY FOR TRANSPORT: Mr Deputy President, I think we will certainly do our best to make our forecast jointly with the Chinese side, because it does require both sides to make the forecast. On present assumptions, traffic at Lok Ma Chau is rising all the time. The rise has been 49% over the past few years because of the facilities at Lok Ma Chau. The projection is that it is going to rise further upon the opening of more roads on the Chinese side. When we meet the Chinese officials at our regular liaison meetings, we will review this forecast together and ensure that as and when we see a noticeable increase in traffic we will see to it that the facilities required are provided in time to meet such demand.

MR HENRY TANG: *Mr Deputy President, would the Secretary advise whether he has thought about introducing more flexibility into the permit system by allowing holders of permits to Man Kam To to use Sha Tau Kok and Lok Ma Chau, so that if they see a traffic jam at one crossing it is possible for them to use another crossing rather than being restricted to that one?*

SECRETARY FOR TRANSPORT: Mr Deputy President, because the Man Kam To and Sha Tau Kok crossings are already saturated, the policy now is not to issue new permits for those two crossings but to issue all new permits for Lok Ma Chau only, which is meant precisely to divert traffic away from the over-used facilities to a new facility which is still only half-used. So the answer is that we would issue new permits for Lok Ma Chau only for the purpose of relieving traffic congestion.

MR JIMMY MCGREGOR: *Mr Deputy President, it seems very strange that there should be only two border crossing points which are operating at capacity against a very large demand for additional cross-border vehicular traffic. Could the Secretary say when the Guangzhou-Shenzhen Superhighway will finally open fully, since clearly this will increase substantially the number of vehicles coming into Hong Kong?*

SECRETARY FOR TRANSPORT: Mr Deputy President, I believe this is really a matter for the Chinese authorities. The highway is being built on the Chinese side. I can only rely on press reports to say that it is going to open probably in autumn this year.

MR WONG WAI-YIN (in Cantonese): *Mr Deputy President, I wish to follow up a question raised just now by Mr BARROW. We know that there are contacts between Hong Kong and China. Still, could the Secretary explain whether these contacts are discussions on a technical level or about policies? If they are about policies, then would the Secretary inform this Council what feasible improvement measures have come up from the past negotiations with the Chinese side?*

SECRETARY FOR TRANSPORT: As I said earlier, there are two levels of meetings on these matters. One is the working meeting on transport which meets once every three or four months and discusses practical transport matters. The other is the annual border liaison meeting which discusses policy issues. As far as transport is concerned, the extension of operating hours that I have mentioned was the outcome of several years of discussion with the Chinese side, and I am sure we will carry on such useful discussions to ensure that we can meet the traffic demand at these crossing points.

Chater Road pedestrian precinct

3. DR YEUNG SUM asked (in Cantonese): *Will the Government inform this Council of the plans in hand to improve the environmental and hygiene conditions in the Chater Road pedestrian precinct and its surrounding areas in the Central District on Sundays?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, the Urban Services Department, which I am sure most Members are aware is responsible for waste collection, cleansing services and hawker control, has taken steps to improve the conditions in the particular area referred to on Sundays. The measures taken include:

- (a) placement of a large number of 240 litre bulk litter containers throughout the area and two large skips for the temporary storage of waste;
- (b) deployment of a large force of cleansing and other staff in the area; and
- (c) increased enforcement against littering and other offences, such as illegal hawking.

There has been noticeable improvement over the past few months and the area is being kept as clean as possible having regard to its heavy use. Illegal hawking has also been significantly reduced. Further improvement depends on increasing public awareness of the problems and getting them to reduce them.

Different methods are being used to increase civic-mindedness. A broadcasting van has been deployed to deliver messages in several languages and anti-litter notice boards, also in different languages, have been erected in and around the area asking visitors to keep it clean. A number of voluntary groups have been mobilized to give out stickers and other publicity material with the same message.

DR YEUNG SUM (in Cantonese): *Mr Deputy President, Filipina women working as domestic helpers in Hong Kong have contributed greatly to our economic and social development. From a human rights point of view, they should be given a place to meet on holidays. Hong Kong people should not discriminate against them. Is the Administration prepared to accept the proposal by some organizations and cancel the pedestrian precinct? If not, will it set up an inter-departmental working group to deal with matters concerning the pedestrian precinct?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I am not certain in my own mind that a change in the habits of the present users of the area referred to would actually have the effect of reducing the problems which were the subject of the initial question.

MR MARTIN BARROW: *Mr Deputy President, I think we all realize in this Council that these people are major contributors to our economy and we should be doing something to help. Does the Government have any plans to identify appropriate sites to help disperse the crowd to alleviate both current and potential problems in that area on a Sunday?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I do not think that it would be appropriate for this Administration to introduce, or to be seen to contemplate introducing, any form of ethnic cleansing in this area on Sundays.

MR RONALD ARCULLI: *Mr Deputy President, in paragraph (c) of his reply the Secretary for Planning, Environment and Lands said that increased enforcement against littering and other offences, such as illegal hawking, was one of the measures taken. Would he be able to give us some figures, say, over the past 12 months, as to the number of people that were charged and the level of fines that were levied?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, nearly 400 offenders were prosecuted for littering on Sundays and public holidays in 1992. Joint operations have been carried out between the Urban Services Department and the police. The highest fine imposed in 1992 was \$400, while the average fine was \$303. In 1992 also, the Urban Services Department made 515 hawker-related arrests and 744 seizures. In addition, 195 summonses were issued to people found hawking within the pleasure grounds.

MR MARTIN BARROW: *Mr Deputy President, I rather resent the suggestion that I was talking about ethnic cleansing. I was not suggesting that. What I was hoping is that the Secretary might have some suggestions about some alternative sites around Hong Kong that could provide a necessary space for these people.*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I apologize if I misunderstood the implications. The point of two of my replies was to suggest that the removal of one type of user from a particular area such as this would not necessarily result in the area not being used by other people and would therefore not necessarily have an effect on the problems which were the subject of the main question. As regards other areas for the particular group of users that are being referred to, I think it is worth noting that there are approximately 80 000 of this particular group in the territory at the moment, and that it is estimated that approximately 20 000 of them use the Central area. It is clear, therefore, that a very large number of them are already using other areas and that there is no impediment placed upon those who use the Central area going to other places if they prefer to do so and wish to.

MR JIMMY MCGREGOR: *Mr Deputy President, would the Secretary note that in regard to the fact that the Filipina maids are part of our workforce they have the same rights as any other person to go where they please in Hong Kong, to the same degree as any other person in Hong Kong?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I duly note.

DR YEUNG SUM (in Cantonese): *Mr Deputy President, what social problems will ensue if the Government maintains the existing Chater Road pedestrian precinct?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I think the establishment of pedestrian precincts, either in the Central District or in other parts of the territory, should in fact provide improved

recreation facilities for those who use the pedestrian precincts and other related open space and recreational areas around them. I would therefore not expect additional social problems but I would think I would expect social problems to be mitigated.

Hong Kong's competition policy

4. MR FRED LI asked (in Cantonese): *Regarding the commitment made by the Governor in his policy address to the development of a comprehensive competition policy for Hong Kong, will the Government inform this Council:*

- (a) *of the framework and the scope of the competition policy being considered, and whether this Council and the public will be adequately consulted in the process of developing this policy;*
- (b) *whether the Governor's Business Council has carried out studies and discussions on this matter and set a specific work plan and time-table; and*
- (c) *of the role of the Consumer Council in the development and the implementation of this policy and the measures to be taken by Government to assist the Consumer Council in implementing this policy effectively?*

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, in the debate on the Governor's policy address, diametrically opposed views were expressed by Members of this Council on how the Government should approach the development of a comprehensive competition policy. At one end of the spectrum, we heard that governmental or legislative intervention which distorts markets and allocation of resources should not be pursued since it would stifle enterprise and retard economic growth. At the other end, we heard that anti-trust laws, legislation on consumer protection and fair contract laws should be introduced to give consumers a fair deal.

In the face of such opposing views, we consider it essential to gain a better and deeper understanding of the problems affecting competition in our economy. Given the broad and multi-faceted nature of our economy, we believe that the most effective way forward is to ascertain what anti-competitive trade practices exist in those major business sectors affecting the daily life of the general public. To this end, we have allocated additional funds to the Consumer Council for the purpose of conducting a series of sector-specific studies.

We have no doubt that in conducting these studies, the Consumer Council will have regard for any views expressed by the public, the concerned business sector and other relevant sectors of the economy. On the Government's part,

we shall co-operate with the Consumer Council and assist in these studies in any way we can.

The Governor's Business Council has discussed this subject. Our decision to accept the Consumer Council's request for funds to conduct sector-specific studies was taken after that discussion. When these studies have been completed, we will refer their findings to the Governor's Business Council for a further discussion.

We hope that the findings of these studies would help us to consider the most effective approach to promote competition in the major business sectors concerned. In this process, we shall ensure that the public and this Council are adequately consulted on any legislative proposals.

MR FRED LI (in Cantonese): *Mr Deputy President, we learn from the Secretary's reply just now that the Government intends to ascertain what anti-competitive trade practices exist in those major business sectors affecting the daily life of the general public. And the Consumer Council is to be allocated some \$800,000 to conduct studies on banking, supermarkets and telecommunications for that purpose. Is it because the Government has perceived monopolistic practices in these three sectors?*

SECRETARY FOR TRADE AND INDUSTRY: Actually, Mr Deputy President, the Consumer Council will be conducting studies in five areas: supermarkets, broadcasting, financial services, supply of energy and telecommunications. I would not wish to say at this stage whether or not the Government perceives that there are monopolistic practices in these sectors of the economy. The sectors were chosen by the Consumer Council and presumably the Consumer Council, which has a working group on competition policy, did come to a view that these sectors merit priority treatment and therefore decided to undertake studies on these sectors first.

MR MAN SAI-CHEONG (in Cantonese): *Mr Deputy President, apart from allocating funds to the Consumer Council for conducting studies to identify effective approaches to promote competition in the major business sectors, has the Government also given it sufficient powers to undertake in-depth and effective investigations and directed or appointed relevant officials to provide assistance to the Council, with a role similar to that played by officials with special responsibility for public transactions in other countries, such as the Director of Fair Trading in the United Kingdom and the commissioner for fair competition or fair trading in the United States? Has the Government ever done so? If not, why not?*

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, perhaps I will answer the last part of Mr MAN's question first. We do not have such an official who is in overall charge of the issues to which he referred. The reason that we do not have such an official is very simple, and that is that up till now the Government has not got an overall competition policy and therefore there is not one single official who is responsible for this subject.

As regards the powers of the Consumer Council, I think we should wait and see how much co-operation the Council is able to obtain from companies included in the Council's studies before considering whether or not it is necessary for the Council to be given additional powers.

DR LEONG CHE-HUNG: *Mr Deputy President, will the Administration inform this Council whether the Government will also consult this Council on the results of those studies by the Consumer Council?*

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, I can say that at an appropriate time, if we do decide to suggest or introduce new policies, we will consult this Council.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr Deputy President, the Administration indicated in its reply that the Governor's Business Council will study monopolistic practices in certain sectors. However, we know that all members of the Governor's Business Council are appointed by the Governor and that they are mainly prominent businessmen who may themselves have monopolistic control over certain businesses. Will the Administration inform this Council, where some highly monopolizing sectors such as banking and supermarkets are concerned, how the Government's Business Council would avoid or resolve any possible conflicts of interest between the public and those Council members who represent the relevant monopolistic concerns to assure the public that the Government has the sincerity to monitor market monopolization by enterprises in a fair manner?*

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, members of the Governor's Business Council are prominent businessmen whose business interests are well known to the Government. Thus views offered by individual members on competition can be seen in perspective and any conflict of interests can be taken into account in the policy formulation process. In addition, I would like to assure Members that we shall listen to views not only from the Governor's Business Council but also from the public and interested parties, including the Consumer Council and this Council.

Finally, Mr Deputy President, I would like to emphasize the fact that the Governor's Business Council is only an advisory body and not a decision making body, and that therefore the final decision on whether or not to act on particular views or proposals would remain with the Government and the Governor.

MR WONG WAI-YIN (in Cantonese): *Mr Deputy President, there is at present only one town gas supplier in Hong Kong and town gas accounts for half of the market share for fuel gas. Is the Government satisfied with the present situation? Does the Government have any plans to monitor the gas company in order to protect the interests of consumers?*

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, I think I would defer to my fair colleague, Mrs Anson CHAN.

SECRETARY FOR ECONOMIC SERVICES: Mr Deputy President, I will refer the Honourable Member to the reply that I made to the question posed by Mr LAU Chin-shek at the sitting of the Council on 16 December in which I dealt with the position of the Hong Kong and China Gas Company and the role that it plays in the supply of fuel gas in Hong Kong.

MR HENRY TANG: *Mr Deputy President, will the Secretary inform this Council whether there are any plans to extend this study undertaken by the Consumer Council to professional services as well?*

SECRETARY FOR TRADE AND INDUSTRY: Mr Deputy President, we have indeed suggested to the Consumer Council that after they have completed their present series of studies they might find it interesting to conduct studies on professional services such as the legal services and medical services.

Alleged discrimination against AIDS victims

5. DR CONRAD LAM asked (in Cantonese): *As certain establishments in the private sector such as private hospitals and funeral parlours have indicated that they will not provide services for AIDS victims, will the Government inform this Council whether any legislation or measures would be introduced to ensure that AIDS victims will not be discriminated against in the provision of such services?*

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, according to information given to me by the Director of Urban Services and the Director of Health, there has been no reported incident of licensed funeral parlours turning away requests for funeral service or, in respect of hospitals, people being turned away because they are patients who are AIDS victims.

As regards funeral parlours, I am informed that the Urban Services Department is ever ready to give necessary advice and assistance to the licensed funeral parlours and undertakers regarding the proper way and the required special procedure for dealing with the bodies of those who died of infectious diseases.

As regards private hospitals, guidelines on the proper handling of patients with HIV infection have been issued to all hospital management. The refusal by medical practitioners to treat such patients is a breach of the code of practice and could lead to disciplinary action.

To ensure that AIDS victims are not discriminated against, we need and we intend to strengthen our education and publicity programmes on AIDS. Public education is an effective tool to dispel misconception, to promote prevention, to remove prejudice and to awaken community conscience. Accordingly, we have designated AIDS as the focus of a major campaign in 1993 and will continue to step up our efforts in the years to come.

At the same time, we are considering how best to provide further assistance and support services for HIV-infected patients, having regard to special circumstances of individuals concerned and taking reference from overseas practices.

DR CONRAD LAM (in Cantonese): *Mr Deputy President, recently my assistant called three funeral parlours which indicated in no uncertain terms that they would not provide services for AIDS subjects. The Secretary's reply shows that some government departments are quite pessimistic and passive in the way they deal with this problem. Will the Secretary inform this Council whether the Urban Services Department has taken the initiative to approach these funeral parlours and persuade them not to discriminate against AIDS victims? If it has not, will the department take such action and when will it do so?*

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, I think it is a very good suggestion which I will refer to the Urban Services Department for consideration.

DR LAM KUI-CHUN: *Mr Deputy President, is the Government aware that denial of service to AIDS subjects, or even potential AIDS carriers, also applies to health and life insurance? And if the answer is yes, what is the Government's policy towards providing the relevant insurance coverage to this sector of the population?*

DEPUTY PRESIDENT: It is not strictly a question that arises from the main question or answer, Dr LAM.

DR TANG SIU-TONG (in Cantonese): *Mr Deputy President, will the Government inform this Council:*

- (a) *whether the Government keeps a record of all AIDS patients in Hong Kong;*
- (b) *whether any AIDS patients received treatment in private hospitals last year; and*
- (c) *whether medical practitioners who do not have adequate knowledge of AIDS can refuse to treat such patients and refer them to AIDS specialists since the Secretary, in the third paragraph of her answer, indicates that the refusal by medical practitioners in private hospitals to treat AIDS patients could lead to disciplinary action?*

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, yes, we do have statistics on AIDS cases. Indeed, from the cumulative figures collected since 1985, of the 332 reported cases of HIV infection, 72 cases have developed AIDS, and of that 47 have passed away.

I think, in answer to the second part of the question regarding whether there is a monitoring network between the public sector and the private sector, I should say that a surveillance network is in fact in place, involving hospitals, public clinics — including social hygiene and methadone clinics — the Red Cross Blood Transfusion Service, private medical practitioners, and medical laboratories. Confirmatory tests are often carried out, referred from the private sector, for HIV infections, and also conducted by the Director of Health's own Virus Unit. We feel that there is very good voluntary participation and co-operation of all those involved, and the system so far has worked well.

As regards the third part of the question, it is quite right to say that practitioners themselves need certain guidelines. I am happy to report that the Department of Health has promulgated guidelines for practitioners themselves and these include: *Information on AIDS for Doctor and Dentists* — a rather hefty document — and this book provides basic and necessary information on

AIDS and gives guidance on assessment and management of HIV infection and related diseases; also, *Prevention of AIDS Guidelines for Health Professionals and Health Personnel* and this pamphlet provides a simple guide on the cause and symptoms of AIDS and the appropriate measures for management of AIDS patients. Furthermore, there is another booklet *HIV and AIDS Information for Primary Care Doctors* which provides quick reference on the basics regarding AIDS, the cause, the clinical manifestations, HIV tests, prevention and management. In addition, the Department operates a hot-line — for those who are interested the number is 710 2429 — for providing expert advice to health care professionals in dealing with AIDS patients.

I think so long as practitioners observe the universal precautions against the infection of diseases, there will be very little risk involved all round. I also understand that a working group has been appointed by the Department of Health involving the Medical Council, the Medical Association, the Dental Council and the Dental Association, and they are working on more detailed guidelines for the professionals involved.

MR MICHAEL HO (in Cantonese): *Mr Deputy President, it is mentioned in the third paragraph of the Secretary's answer that the Administration has issued guidelines to some private hospitals. Will the Government inform this Council how it can ensure that private hospitals will not turn away AIDS patients or AIDS carriers? Will the Administration go further and take initiative to contact these private hospitals to ensure that they will not turn away those patients?*

SECRETARY FOR HEALTH AND WELFARE: Mr Deputy President, I think the way to ensure that there is no discrimination should be public participation and sharing of information. It is only through being open to each other, through an attitude of helping each other, that we can remove incidence of discrimination against AIDS patients.

MR LAU CHIN-SHEK (in Cantonese): *Mr Deputy President, will the Secretary inform this Council whether the Government has considered the fact that some AIDS carriers were infected when they received blood transfusions at public hospitals? Will the Government therefore provide them with any compensation or any compensative services? If yes, what kind of compensative services or compensation will be provided?*

DEPUTY PRESIDENT: That does not arise from the main question, Mr LAU.

Lan Kwai Fong tragedy

6. MR HOWARD YOUNG asked (in Cantonese): *Regarding the tragedy at Lan Kwai Fong on New Year's Day, will the Government inform this Council:*

- (a) *of the strength of police and other disciplinary services personnel deployed in the Lan Kwai Fong area on New Year's Eve up to the time of the incident;*
- (b) *whether the deployment plan had taken into account:*
 - (i) *any estimate of the pattern of the crowd turn-out; and*
 - (ii) *the presence of live radio and television broadcast at the site;*
- (c) *whether the crowd turn-out on that night was much different from that experienced on New Year's Eves and Christmas Eves in the previous two years; and*
- (d) *whether events held at Lan Kwai Fong require permission to be sought from the authorities concerned; if so, whether permission had been sought and granted for the event in question?*

SECRETARY FOR SECURITY: Mr Deputy President, a total of 146 police officers were deployed in the Lan Kwai Fong area and its vicinity prior to the occurrence of the tragedy. No other disciplined services personnel were deployed in the area before the tragedy occurred.

The police expected a crowd of up to 20 000 people and their planning took this into account. They also took into account the planned television and radio broadcasts from Lan Kwai Fong.

The crowd was larger than on New Year's Eve and Christmas Eve in 1990 and 1991. In 1990, only a few thousand people were present on New Year's Eve and Christmas Eve; in 1991, the crowd turnout on each occasion was estimated to be about 20% less than in 1992.

All entertainment performances or activities held in public places require a Places of Public Entertainment Licence, granted either by the Urban Council or the Regional Council; a permit is also required from the Television and Entertainment Licensing Authority. The live radio broadcast at Lan Kwai Fong on the night of the incident was organized by the Hong Kong Commercial Broadcasting Company Limited; a licence and a permit were granted by the Urban Council and the Television and Entertainment Licensing Authority respectively. The television companies did not organize any performances or activities, but had news teams reporting live from the scene; this does not require any licence or permit.

MR HOWARD YOUNG (in Cantonese): *Mr Deputy President, shortly after the incident that night when it was not yet known what had taken place, many people including myself who happened to be in the vicinity wanted to get into the area. At the time, the police were performing their duties. From my observations, they were quite firm in advising people to leave and forbidding people to go into the area but they were not equipped with loud-hailers. I therefore wish to ask: when the police were performing duties that night, how many of them had loud-hailers as planned? Would the deployment of policemen be revised according to the nature of the various duties and in particular crowd-controlling duties?*

SECRETARY FOR SECURITY: Mr Deputy President, I understand from the police that they had two loud-hailers for the use of the policemen at the scene, though they also have broadcasting equipment, I think, on some of the traffic motor-cycles. I understand that what happened after the incident was that the police cordoned the area and tried to keep additional people from coming in to join the crowd in the area, and they did also use the public address system which had been used at the entertainment there to broadcast to the crowd. Clearly, we are anxious to learn what lessons we can learn from this tragedy and that is why an independent inquiry has been ordered by the Governor. I would not, at this stage, like to pre-empt the findings of that inquiry or speculate as to what its recommendations might be.

MRS MIRIAM LAU: *Mr Deputy President, can the Administration inform this Council whether there are any guidelines available to help determine the closing-off of areas, whether private or public, if the crowd density in such areas exceeds certain limits?*

SECRETARY FOR SECURITY: Mr Deputy President, I believe that the police have adequate powers to disperse crowds if this is necessary in the interests of public order and public safety, and that there are police guidelines and instructions on this. In the final analysis, though, this has to be left to the judgment and good sense of the senior police officer on the scene.

MR GILBERT LEUNG (in Cantonese): *Mr Deputy President, can the Administration inform this Council whether the Auxiliary Medical Services or St John's Ambulance Brigade would be arranged to be on duty and to provide service in case of accidents when large crowds are expected to gather? Was the Auxiliary Medical Services or St John's Ambulance Brigade arranged to be on duty in the Lan Kwai Fong area on New Year's Eve in 1992?*

SECRETARY FOR SECURITY: Mr Deputy President, no, there were no Auxiliary Medical Services personnel on duty in that area prior to the tragedy. The Auxiliary Medical Services and other organizations, including the Fire Services Department and St John's Ambulance Brigade, do sometimes provide medical personnel and ambulances where large crowds are expected to gather.

MR ERIC LI (in Cantonese): *Mr Deputy President, can the Secretary for Security tell us whether a command centre was set up for co-ordination that night? If such a command centre was set up, where was it situated, given the fact that it had to be able to reach the police and members of the public scattered in different locations? When a permit was granted for the Hong Kong Commercial Broadcasting Company to carry out live broadcast, did the authorities make prior arrangements with the radio station so that their address system could be used temporarily at any time in case of accident to urge the public to keep calm or to direct the crowd to disperse along proper routes?*

SECRETARY FOR SECURITY: Mr Deputy President, perhaps I could take the second part of the question first though I am not sure whether I fully understand it. Certainly when application was made for a permit and a licence for the radio broadcast from the scene, that was referred to the police for their comments and they were fully aware that these events were taking place and they took that into account when they organized their deployment for the night. There was good co-ordination between the departments in ensuring that those who need to know about planned events such as this are kept fully informed.

On the first part of the question, the main co-ordination was of course carried out by the senior police officer on the scene, who was in contact, in the normal way, with his district and regional headquarters of the Police Force. When they arrived on scene, the Fire Services Department, in effecting the rescue of the people who had been injured in the incident, also established, in the normal way, their own co-ordination and command centre, and they liaised through that with the police and with the Hospital Authority. There are standing arrangements for this sort of incident and they are very frequently exercised.

DR YEUNG SUM (in Cantonese): *Mr Deputy President, we learn from newspapers that when the radio station applied for permission to broadcast live, it estimated that there would be 1 000 people in the area. And the police had given their approval on that understanding. Will the Administration inform this Council of the basis upon which the police approve live broadcast of entertainment programmes? Just now the Secretary said in his reply that it was estimated before the event took place that there would be 20 000 people in the area. Is the venue, being that narrow in space, really suitable for holding entertainment? By saying so, I do not mean that such an event was the catalyst that led to the accident.*

SECRETARY FOR SECURITY: Mr Deputy President, as I think I have made clear in my main reply, the police do not grant permits or licences; these are granted by other authorities although the police are consulted. I believe that there was an estimate that the radio broadcast would attract an audience of a thousand people. It is of course impossible to speculate whether the size of the crowd on the evening would have been a thousand less than it would otherwise have been without the radio broadcast. I do not think there is any purpose in going off on that sort of speculation. What I would say is that the police estimate for the overall turnout including the occurrence of the radio broadcast was for up to 20 000 people, and I believe that that estimate was actually fairly accurate.

DR LEONG CHE-HUNG: *Mr Deputy President, could the Administration inform this Council, in relation to the expected number and the actual number of the turnout at Lan Kwai Fong, whether there were any plans to control the flow, other than the number, of the crowd before the tragedy? If, yes, what were the plans? If not, why not?*

SECRETARY FOR SECURITY: Mr Deputy President, yes, there were a large number of police officers deployed on the scene and they would have taken whatever action they thought necessary to control, or if necessary, to disperse the crowd. They did plan beforehand and did take a number of measures to ensure that there was adequate room for the expected turnout, and indeed some of these measures they took were points that had come up when they had dealt with a previous large crowd turnout at Halloween, and some of them had been suggested and discussed with the Central and Western District Board. For example, they had pedestrianized virtually the whole area of Lan Kwai Fong, so that they did not have the problem of cars being parked in the street or vehicles moving in and out of the street. The whole area had been pedestrianized. So they had taken action to ensure that the crowd was able to gather there without being disrupted by vehicular traffic and they had been prepared to take other crowd control arrangements if they thought it necessary.

MR JAMES TO (in Cantonese): *Mr Deputy President, insofar as we understand, the police and the officials concerned had expressed that they were not sure whether they had the powers to cordon off a place or to restrict the number of people getting into that place. However, in his reply to Mrs Miriam LAU just now, the Secretary seemed to have mentioned that they had adequate powers to disperse a crowd. I would like the Administration to clarify one point, that is, whether the authorities concerned know the difference between their powers to restrict the number of people entering a place and their powers to disperse a crowd? Do the authorities have adequate powers to prevent the gathering of large crowds and to disperse a crowd to avoid possible occurrence of accidents?*

SECRETARY FOR SECURITY: Mr Deputy President, I believe that under the Public Order Ordinance there are adequate powers for the police to control all gatherings in the interests of public order and public safety. However, if we receive any further recommendations on this point from Mr Justice BOKHARY, we will of course seriously consider them.

Written answers to questions

Bilingual charge sheets

7. MR SIMON IP asked: *Given that Article 11(2)(a) of the Hong Kong Bill of Rights Ordinance provides that in any criminal proceedings everyone shall be entitled to be informed in a language which he understands of the nature and cause of the charge against him, will the Government inform this Council whether it has any plans to introduce bilingual charge sheets so that any accused person who does not know English can understand fully the matter with which he is charged?*

SECRETARY FOR SECURITY: Mr Deputy President, I agree that it is important that an accused person should understand fully the matter with which he is charged. At present, charge sheets are prepared by the police in English. However, for an accused person who does not understand English, an interpreter is always available to explain the charge to him in a language which he understands. The police have a duty to ensure that the accused understands the charge.

The Administration is considering the introduction of bilingual charge sheets. There are practical difficulties to be overcome, in particular the preparation of precise and accurate translation of charges in the absence of a Chinese version of all the laws of Hong Kong. However, the Attorney General's Chambers are progressing with the bilingual legislation programme and will continue to accord priority to this important task.

Hong Kong dollar loan to deposit ratio

8. MR DAVID LI asked: *In view of an increasing loan-to-Hong Kong dollar deposit ratio attributed to the low interest rates on Hong Kong dollar deposits and robust economic activities in the territory, will the Administration inform this Council whether the increasing ratio is creating any negative impact on the territory's economic growth and, specifically, on major local infrastructure projects?*

SECRETARY FOR MONETARY AFFAIRS: The increase in the Hong Kong dollar loan to deposit ratio is a reflection of the diversification by Hong Kong banking sector of its source of funding for additional loan business. This was made possible by an inflow of funds into Hong Kong dollars, particularly from China. Although there are no statistics to confirm this, it is believed that a significant part of the increase in loan business was for financing investment and economic activity of Hong Kong businesses in China.

This is a phenomenon reflecting the close economic links between Hong Kong and China. Hong Kong dollar banking business can no longer be seen in geographic isolation. It is not thought likely that the increasing Hong Kong dollar loan to deposit ratio will create any negative impact on Hong Kong's economic growth or on major local infrastructural projects.

Industrial accidents

9. MR LAU CHIN-SHEK asked (in Chinese): *Will the Government inform this Council of the respective numbers of the following industrial accidents in each of the past three years:*

- (a) *accidents involving the collapse of tower cranes;*
- (b) *accidents involving lift shafts on construction sites;*
- (c) *accidents involving bulldozers and excavators on construction sites; and*
- (d) *those caused by accidental cutting of cables and gas pipes during road works?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the numbers of accidents involving the collapse of tower cranes in the past three years were as follows:

<i>1990</i>	<i>1991</i>	<i>1992</i>
1	1	0

The accident in 1990 resulted in one worker being killed and three others being injured. The one in 1991 did not involve any injury.

As regards the numbers of accidents in the other three areas named in Mr LAU's question, the relevant statistics are subsumed under different headings in the records of the Labour Department. Thus, accidents involving lift shafts on construction sites may be reported under "fall of persons", "falling objects" or "striking against objects", depending on the nature of the

occurrence; accidents involving bulldozers and excavators on construction sites are reported as accidents "involving earth moving equipment"; and accidents caused by cutting of cables and gas pipes during road works are categorized under "electricity", "explosions or fire" or "gassing". The relevant statistics are annexed to this reply.

It would not be possible without extensive research to break down the statistics by the areas named in Mr LAU's question. However, we have examined the records relating to the fatalities involved in the accidents covered by the Annex and the numbers of fatal cases in those areas were as follows:

<i>Cause of fatality</i>	<i>Number of accidents involving fatalities</i>		
	<i>1990</i>	<i>1991</i>	<i>1992</i>
(a) Accidents involving workers falling through lift shafts on construction sites	5	5	3
(b) Accidents involving bulldozers and excavators on construction sites	1	1	1
(c) Accidents caused by accidental cutting of cables and gas pipes during road works	1	0	0

Annex

Accidents in Construction Industry by Selected Causes

	<i>1989</i>	<i>1990</i>	<i>1991</i>
Falls of persons } including accidents happening	3 195 (34)	3 571 (25)	3 362 (24)
Falling objects } on lift shafts	1 736 (7)	1 740 (8)	1 352 (6)
Striking against objects }	10 746 (0)	10 319 (2)	10 760 (2)
Involving earth moving equipment } including bulldozers and excavator	62 (1)	53 (1)	41 (1)

		1989	1990	1991
Electricity	} including	108 (2)	81 (6)	59 (3)
	} accidental			
	} cutting of			
Explosions or	} cables and	111 (4)	105 (0)	70 (6)
fire	} gas pipes			
	}			
Gassing	}	12 (0)	21 (1)	12 (0)

Notes: Figures in brackets denote fatalities
Statistics for 1992 are not yet available

Road reopenings

10. MR HENRY TANG asked: *Will the Government inform this Council of the number of road openings which were undertaken at the same location within three weeks from the last opening in the past three years, the reasons for the reopenings, and the measure which can be taken to improve such situation?*

SECRETARY FOR WORKS: Mr Deputy President, of a total of some 116 000 utility road openings carried out on public roads in the past three years, there were about 2 040 cases or less than 2% involving reopening at the same location within three weeks from the last opening.

The reasons for making these reopenings may be summarized as follows:

- (a) limited road space for trench excavation necessitated utility works to be undertaken in several phases to maintain traffic flow;
- (b) remedial works were required to rectify defects on newly laid services which failed to pass the performance tests;
- (c) emergency repairs were required as a result of faults developing in existing utilities.

Apart from the above, construction of road reinstatement by the Highways Department after completion of utility openings has often given the impression of road reopening. Such work is carried out separately by the Highways Department to replace the temporary reinstatement provided by utility companies and the cost is then recovered from them. On occasion, there is a gap of several days between temporary and permanent reinstatement.

This procedure is cumbersome and disruptive, and utility companies are being encouraged and assisted to provide permanent reinstatement themselves. Currently some utility companies and government utility departments have

already agreed to carry out permanent reinstatement in footways. This accounts for about 40% of all utility openings.

Discussions are continuing with utility companies with a view to handing over more responsibility to them in the future for permanent reinstatement in both footways and carriageways.

Directional signs at Kai Tak Airport

11. MRS PEGGY LAM asked (in Chinese): *Because of the lack of directional signs outside the Passenger Terminal Building of the Kai Tak Airport, departing passengers carrying their baggage are often unable to alight at the appropriate entrance nearest to the check-in counters of their airlines and have to walk all over the place after alighting. In this connection, will the Government inform this Council whether it will display clear signs at the area where departure passengers alight from their cars to indicate the most appropriate entrance leading to check-in counters of different airlines, thereby improving the existing situation? If so, when will such signs be displayed? If not, what are the reasons?*

SECRETARY FOR ECONOMIC SERVICES: Mr Deputy President, I am pleased to report that, following advice from the Transport and Architectural Services Departments, the Civil Aviation Department has now finalized arrangements for the installation of signs at the airport to guide departing passengers to their respective check-in areas.

These arrangements will comprise two elements:

- (a) the erection of signboards along the main approach road to the departure hall which will indicate which check-in areas are designated to which airline; and
- (b) the installation of signs along the frontage of the departure hall indicating the locations of the 12 check-in areas.

The new arrangements will be implemented in or around April this year after completion of the necessary renovation works.

Exchange Fund annual accounts

12. MR PETER WONG asked: *Will the Government consider publishing in the Director of Audit's reports the annual accounts of the Exchange Fund and tabling them in the Legislative Council?*

SECRETARY FOR MONETARY AFFAIRS: The annual accounts of the Exchange Fund are audited by the Director of Audit. Based on these audited accounts, a balance sheet of the Exchange Fund showing the overall size of the Fund, the amount of foreign currency reserves held, the liabilities and the accumulated earnings of the Fund is published annually. It is therefore not considered necessary for the annual accounts of the Exchange Fund to be included in the Director of Audit's report tabled in the Legislative Council.

Fare differentials between air-conditioned and ordinary buses

13. MR ALBERT CHAN asked (in Chinese): *Since the operation of air-conditioned buses by the franchised bus companies, there have been quite a number of complaints from members of the public on the exorbitant fares charged by these buses. Will the Government inform this Council:*

- (a) *of the highest and lowest fare differentials between air-conditioned buses and ordinary buses operating on similar routes run by the two franchised bus companies (that is KMB and CMB); the average differential; and*
- (b) *whether it is aware of the system by which the differentials in fares are determined by the two bus companies; and whether the Government will urge the bus companies to set a reasonable differential?*

SECRETARY FOR TRANSPORT: Mr Deputy President,

- (a) The range of fare differentials and the weighted average are as follows:

	<i>Range</i>	<i>Weighted average (by passengers)</i>
KMB	6% to 216%	61%
CMB	15% to 68%	44%

It should be noted that KMB now operates air-conditioned buses on 98 routes. Excluding the Airbus services, only one route has a fare differential above 200% and eight routes have a fare differential above 100%.

- (b) Fare scales for air-conditioned bus services operated by the franchised bus companies including the KMB and CMB are approved by the Governor in Council at levels aimed to achieve self-financing, without the need for cross subsidization from the

ordinary bus services. Within the approved fare scale, the Commissioner for Transport determines the actual fare point charged for a particular route, taking full account of the type of air-conditioned buses used, passenger expectations and affordability, available alternative air-conditioned public transport modes, forecast patronage and revenue, fares charged on ordinary bus service in the same route or comparable routes and other relevant transport considerations. On the average, the actual fare charged is 40% below the permitted ceiling.

Fares for air-conditioned bus services are reviewed regularly to ensure their reasonableness, having full regard to passenger feedback including complaints against high fares on certain routes. The most recent review completed in mid-1992 confirms that the practice of flexible pricing within the approved fare scales should be maintained. The conclusions are supported by the Transport Advisory Committee.

Hong Kong University of Science and Technology's proposed enterprise on technical and human resources

14. MR NGAI SHIU-KIT asked (in Chinese): *As the Hong Kong University of Science and Technology has planned to set up an enterprise to make use of the technical and human resources of the University in facilitating economic development in Hong Kong and its neighbouring areas such as Guangdong, Taiwan and South East Asia, will the Government inform this Council:*

- (a) *whether it is aware of the specific details of the operational plan of this enterprise;*
- (b) *how it would assist the proposed enterprise in the exchange of economic and technical information with corresponding institutes in other countries; and*
- (c) *how it would ensure that the proposed enterprise would closely liaise with similar undertakings set up by other local tertiary institutions so that any findings of their research programmes may be jointly and comprehensively applied in the territory to maximize the utilization of resources and to strengthen the industrial and commercial developments of Hong Kong?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, the Government is aware that, on 8 December 1992, the Hong Kong University of Science and Technology (HKUST) R and D Corporation Ltd was registered as a company limited by guarantee. The Government is also aware of the initial

organization and possible functions of the Corporation, but understands that these have yet to be developed into specific operational plans.

It is therefore too early to say whether, and if so how, the Government's assistance might be required.

We understand that the Corporation intends to co-operate with other educational, research, industrial, business and governmental organizations, both locally and overseas. The Government will encourage the Corporation to liaise closely with similar undertakings set up by the other local tertiary institutions. The Research Grants Council, which approves awards from funds made available by the Government for research undertaken by the UPGC-funded institutions of higher education, also encourages greater collaboration between those institutions and industry. In the case of contract research, the scope for collaboration will depend on whether it is acceptable to the companies commissioning the projects. Likewise, the possibility of joint exploitation of research results would depend on satisfactory arrangements being made with regard to the relevant intellectual property rights.

Weight of schoolbags

15. MR ERIC LI asked (in Chinese): *Further to the Government's written reply of 21 October 1992 to my Legislative Council question on the weight of schoolbags carried by primary school pupils, will the Government inform this Council:*

- (a) *whether the Education Department entertains complaints from parents concerning the excessively heavy schoolbags carried by their children; if so, how such complaints are handled;*
- (b) *whether the Government will consider conducting further regular surveys on the weight of schoolbags carried by pupils so as to ensure that schools will strictly comply with the current guidelines in that respect;*
- (c) *whether the Education Department has considered taking the following measures:*
 - (i) *to replace old school desks which are due for replacement with lock-up new desks so that pupils can lock their books in the desks;*
 - (ii) *to lock up the books of the whole class in school bookcases through the assistance of teachers; and*

(iii) *to negotiate with text-book publishers for thick text-books to be published in two volumes so as to reduce the weight of schoolbags carried by pupils?*

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

- (a) The Education Department entertains complaints of all kinds. However, it has so far not received any complaints from parents concerning excessively heavy schoolbags carried by their children. If it does receive complaints of this nature, the District Education Officer concerned will visit the school in question and investigate the complaint. If there are valid grounds to support the complaint, the head of the school would be advised to improve the situation, in accordance with the Education Department's guidelines on reducing the weight of schoolbags.
- (b) Given the very clear guidelines on the subject and in the absence of complaints, the Education Department considers it unnecessary to conduct further regular surveys at this stage.
- (c) Since primary school pupils are required to refer to their textbooks when working at home, the provision of lockable desks and bookcases in schools is not considered appropriate. In addition, there are practical difficulties in setting aside such private storage space in schools for individual students as the majority of primary school classes are run in two sessions and the schools are made available for other uses outside normal schooling hours.

Textbook publishers are aware of the need to avoid publication of thick textbooks as far as possible. Textbooks for primary schools are normally published in two volumes, one for the first term and another for the second term, at each level.

Lotteries Fund

16. MR HUI YIN-FAT asked (in Chinese): *The Royal Hong Kong Jockey Club has earlier proposed to the Government that the Club's present 7.5% share of the Mark Six lottery proceeds as operating fees should be reduced to 6%, so as to increase the Lotteries Fund's share of the Mark Six pool from 3.5% to 5%. In view of such a proposal, which has been accepted in principle by the Government, will the Administration inform this Council whether there is any plan to reduce with effect from the next financial year the tax on proceeds of Mark Six lotteries, so that the Government can discharge its responsibilities and ensure that social welfare development will not be affected as a result of insufficient Lotteries Fund allocations; if not, what the reasons are?*

SECRETARY FOR THE TREASURY: The injection of \$2.3 billion into the Lotteries Fund, which was approved by Finance Committee on 6 November 1992, means that the Fund should be able to meet its requirements up to 1996-97. Specifically, these additional funds will make it possible to achieve the key targets for 1996-97 set out in the White Paper on Social Welfare and the Green Paper on Rehabilitation. For this reason, we do not consider it necessary to reduce the level of betting duty on the proceeds of the Mark Six Lottery.

Accidents during extracurricular activities

17. MR TIK CHI-YUEN asked (in Chinese): *In recent years, a number of accidents had occurred while school children were participating in extra-curricular activities, such as outings and sports functions. Will the Government inform this Council:*

- (a) whether any safety guidelines have been issued for teachers' reference in organizing extra-curricular activities;*
- (b) of the legal rights and obligations of the school management committees, the school principals, the responsible teachers, and the parents in the provision of such extra-curricular activities; and*
- (c) of the number of cases in the past five years in which:*
 - (i) compensation was granted to students and staff of government and subsidized schools for accidents that occurred during extra-curricular activities organized inside and outside the school premises, and the amount of compensation in each case; and*
 - (ii) no offer of compensation was made for such accidents, and the reasons?*

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

- (a) The Education Department has issued a booklet to all schools to help them organize sporting and extracurricular events safely. Schools and teachers are further reminded through regular school circulars of the need to observe these safety precautions.
- (b) School management committees (and the Government in the case of government schools) are ultimately responsible for the provision of extracurricular activities. To the extent that they have been negligent, they are liable at common law for any personal injuries sustained by teachers, students and other

persons participating in extracurricular activities organized by the schools. As employers, they are also liable to pay compensation under the Employees' Compensation Ordinance to employees who suffer personal injuries by accident in the course of their employment. As the owners or occupiers of premises in which the extra-curricular activities are conducted, they are further subject to the Occupiers Liability Ordinance which requires them to take reasonable steps to see that all users will be reasonably safe in using the premises.

- (c) (i) In the case of government schools, compensation amounting to \$208,000 was paid to one student in the past five years in connection with an accident which arose during extra-curricular activities. There was no case involving staff.

In the case of aided schools, the position involving students only was:

	<i>1988-89*</i>	<i>1989-90</i>	<i>1990-91</i>	<i>1991-92</i>
Case involving compensation	0	4	1	3
Range of compensation paid	0	\$300 to \$28,081	\$1,550	\$68 to \$39,000

* Figures prior to 1988-89 are not readily available.

Cases involving staff are dealt with under the Employees' Compensation Ordinance and cannot be isolated readily. We believe that the number has been negligible.

- (ii) In the case of government schools, no claims for compensation further to the one mentioned above were made over the past five years.

In the case of aided schools, the Education Department recorded an additional 223 incidents where claims for compensation could have been made, as follows:

<i>1988-89</i>	<i>1989-90</i>	<i>1990-91</i>	<i>1991-92</i>
37	67	55	64

No compensation was paid for these potential claims, either because no claim was actually lodged or, where claims were lodged, they were found to be unjustified.

Mobile radio licence

18. MR TIMOTHY HA asked (in Chinese): *Cordless microphones are commonly used in primary and secondary schools in Hong Kong. In view of the inconvenience caused to schools by the requirement to renew annually the mobile radio licence, will the Government inform this Council whether it will consider exempting schools from this requirement; if not, what the reasons are?*

SECRETARY FOR ECONOMIC SERVICES: Mr Deputy President, the Administration agrees that it would be sensible to exempt low transmitting power devices, such as cordless microphones, from the current licensing requirement. Action to achieve this is already in hand.

To effect this change requires an Exemption from Licensing Order to be made by the Governor in Council under the Telecommunication Ordinance (Cap. 106). We are currently preparing such an order covering not only cordless microphones, which meet required specifications, but also other low power devices, such as certain types of wireless office communications equipment. We intend to submit this order to the Executive Council for consideration in the first half of 1993.

Foreign exchange reserve

19. DR PHILIP WONG asked: *Will the Government inform this Council under what circumstances, if any, the foreign exchange reserves can be used for the construction of the Chek Lap Kok Airport or its related projects?*

FINANCIAL SECRETARY: Hong Kong's foreign exchange reserves, or more specifically the Exchange Fund, is primarily for the purpose of stabilizing the exchange rate of the Hong Kong dollar. I can assure Members that we have no plans whatsoever to use the Exchange Fund for the purpose of building the Chek Lap Kok Airport or its related projects.

Attempted suicide or self-inflicted injury

20. DR LEONG CHE-HUNG asked: *Will the Administration inform this Council of the annual number of persons who:*

(a) *were admitted into hospitals as a result of attempted suicide or self-inflicted injury, and*

(b) *in this connection, subsequently died in hospitals,*

with breakdown by age groups, sex, reasons for attempted suicide or self-injury, and ways of hurting themselves for the years 1990, 1991 and 1992?

SECRETARY FOR HEALTH AND WELFARE: The annual number of persons admitted into hospitals as a result of attempted suicide or self-inflicted injuries and the number of subsequent deaths from 1989 to 1991 are provided at Annex I.

Breakdown of these cases by age groups and sex is only available from eight public hospitals (Queen Mary Hospital, Queen Elizabeth Hospital, Princess Margaret Hospital, Prince of Wales Hospital, Tung Wah Hospital, Tang Shiu Kin Hospital, Tsan Yuk Hospital, Kowloon Hospital) and is provided at Annex II. The reasons for attempted suicide or self-inflicted injuries are not known for persons admitted into hospitals. However, a breakdown of the causes of deaths arising from suicide or self-inflicted injuries in Hong Kong from 1989 to 1991 is provided at Annex III.

Annex I

Statistics on Admissions and Subsequent Deaths
relating to Attempted Suicide or Self-inflicted Injuries

	1989	1990	1991
Public hospitals	1 428 (46)	1 818 (39)	1 668 (33)
Private hospitals	12	11	13
	-----	-----	-----
Total	1 440	1 829	1 681
	=====	=====	=====

Note The number of subsequent deaths are shown in brackets. Figures for death cases in private hospitals and statistics for 1992 are not available.

Number of Admissions and Subsequent Deaths
Breakdown by Age and Sex (in Eight Public Hospitals)

<i>Age group</i>	<i>Female</i>	<i>Male</i>	<i>Total</i>
1989			
0-4	0 (0)	0 (0)	0 (0)
5-14	34 (0)	4 (0)	38 (0)
15-24	419 (0)	129 (5)	548 (5)
25-65	425 (9)	160 (7)	585 (16)
65+	37 (5)	22 (6)	59 (11)
	-----	-----	-----
Total	915 (14)	315 (18)	1 230 (32)
	=====	=====	=====
1990			
0-4	0 (0)	0 (0)	0 (0)
5-14	34 (0)	10 (1)	44 (1)
15-24	533 (0)	128 (3)	661 (3)
25-64	593 (4)	180 (9)	773 (13)
65+	36 (3)	23 (3)	59 (6)
	-----	-----	-----
Total	1 196 (7)	341 (16)	1 537 (23)
	=====	=====	=====
1991			
0-4	0 (0)	0 (0)	0 (0)
5-14	26 (0)	6 (0)	32 (0)
15-24	445 (0)	104 (0)	549 (0)
25-65	496 (7)	148 (7)	644 (14)
65+	38 (1)	28 (4)	66 (5)
	-----	-----	-----
Total	1 005 (8)	286 (11)	1 291 (19)
	=====	=====	=====

Note The number of subsequent deaths are shown in brackets.

Annex III

Causes of Deaths Arising from Attempted Suicide
or Self-inflicted Injuries in Hong Kong

	1989	1990	1991
by solid or liquid substances	38	28	42
by gases in domestic use	5	7	8
by other gases and vapours	-	3	2
by hanging, strangulation and suffocation	233	191	231
by submersion (drowning)	15	22	23
by firearms and explosives	6	1	1
by cutting and piercing instruments	5	12	11
by jumping from high places	284	397	412
by other and non-specific means	17	18	18
late effects of self-inflicted injury	1	-	-
	----	----	----
Total	604	679	748
	====	====	====

Source: Census and Statistics Department

Motions

OFFICIAL LANGUAGES ORDINANCE

THE ATTORNEY GENERAL moved the following motion:

"That the draft Official Languages (Authentic Chinese Text) (Weights and Measures Ordinance) Order, proposed to be made by the Governor in Council, be approved."

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

The authentic Chinese texts of the Weights and Measures Ordinance, the Marriage Reform Ordinance, the Marriage Ordinance and the Married Persons Status Ordinance have been carefully examined by the Bilingual Laws Advisory Committee and the Legislative Council ad hoc group and have their support. In accordance with subsection (4) of section 4B of the Official Languages Ordinance, draft authentication orders in respect of these texts have been prepared and are being put before this Council for approval this afternoon prior to being submitted to the Governor in Council for authentication. I now move that the first of these orders, that is the draft Official Languages (Authentic

Chinese Text) (Weights and Measures Ordinance) Order, proposed to be made by the Governor in Council, be approved.

Question on the motion proposed, put and agreed to.

OFFICIAL LANGUAGES ORDINANCE

THE ATTORNEY GENERAL moved the following motion:

"That the draft Official Languages (Authentic Chinese Text) (Marriage Reform Ordinance) Order, proposed to be made by the Governor in Council, be approved."

He said: Mr Deputy President, I move the resolution standing in my name on the Order Paper. This seeks approval of the draft Official Languages (Authentic Chinese Text) (Marriage Reform Ordinance) Order proposed to be made by the Governor in Council.

Question on the motion proposed, put and agreed to.

OFFICIAL LANGUAGES ORDINANCE

THE ATTORNEY GENERAL moved the following motion:

"That the draft Official Languages (Authentic Chinese Text) (Marriage Ordinance) Order, proposed to be made by the Governor in Council, be approved."

He said: Mr Deputy President, I move the resolution standing in my name on the Order Paper. This seeks approval of the draft Official Languages (Authentic Chinese Text) (Marriage Ordinance) Order proposed to be made by the Governor in Council.

Question on the motion proposed, put and agreed to.

OFFICIAL LANGUAGES ORDINANCE

THE ATTORNEY GENERAL moved the following motion:

"That the draft Official Languages (Authentic Chinese Text) (Married Persons Status Ordinance) Order, proposed to be made by the Governor in Council, be approved."

He said: Mr Deputy President, I move the resolution standing in my name on the Order Paper. This seeks approval of the draft Official Languages (Authentic Chinese Text) (Married Persons Status Ordinance) Order proposed to be made by the Governor in Council.

Question on the motion proposed, put and agreed to.

DRUG TRAFFICKING (RECOVERY OF PROCEEDS) ORDINANCE

THE SECRETARY FOR SECURITY moved the following motion:

"That the Drug Trafficking (Recovery of Proceeds) (Designated Countries and Territories) (Amendment) Order 1992, made by the Governor in Council on 8 December 1992, be approved."

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

The Drug Trafficking (Recovery of Proceeds) Ordinance has strengthened our ability to combat domestic and international drug trafficking, by providing us with the means to trace, restrain and confiscate the proceeds of drug trafficking. Section 28(1) of the Ordinance provides for the Governor in Council, with the approval of the Legislative Council, to designate countries and territories outside Hong Kong, so as to enable their confiscation and related orders to be enforced here; it also allows assistance to be provided in relation to their drug trafficking investigations.

Drug trafficking is an international problem and co-operation among governments in confiscating the proceeds of drug trafficking acts as a major deterrent. Hong Kong has already concluded 10 agreements and arrangements with other jurisdictions. These jurisdictions have been designated under the Drug Trafficking (Recovery of Proceeds) Ordinance. As a result of this bilateral co-operation, about \$280 million worth of assets have been seized in Hong Kong.

We have recently initialled a similar agreement with Malaysia, concerning mutual assistance in the suppression of drug trafficking. The agreement will come into effect when it is signed by both Governments after they have notified each other that they have complied with the requirements for its entry into force. Hong Kong therefore needs to designate Malaysia under the Ordinance.

This motion seeks this Council's approval of the Drug Trafficking (Recovery of Proceeds) (Designated Countries and Territories) (Amendment) Order 1992, made by the Governor in Council on 8 December 1992. The Order will add Malaysia to the list of designated territories, and so apply the provisions of the Ordinance to confiscation orders made by the courts in

Malaysia. Confiscation orders made by the Hong Kong courts will similarly be enforceable in Malaysia on a reciprocal basis.

Question on the motion proposed, put and agreed to.

First Reading of Bills

ROAD TRAFFIC (AMENDMENT) (NO. 4) BILL 1992

TELEVISION (AMENDMENT) BILL 1993

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

Second Reading of Bills

ROAD TRAFFIC (AMENDMENT) (NO. 4) BILL 1992

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

He said: Mr Deputy President, I move the Second Reading of the Road Traffic (Amendment) (No. 4) Bill 1992. The Bill seeks to amend the Road Traffic Ordinance in four respects.

Clause 2 empowers the Governor in Council to make regulations requiring the display of drivers' identity plates in public service vehicles, that is in public buses, public light buses and taxis. Initially, it is intended that only taxis should be subject to this requirement so as to help curb the rising trend of complaints against taxi driver malpractices and to encourage greater self-discipline in the taxi trade. The identity plates will be in a specified form, bearing the name and photograph of the taxi driver.

In recent years, the number of overloading offences involving goods vehicles has increased substantially, from an average of 1 820 a month in 1989 to 2 770 a month in the first half of last year. This is despite vigorous enforcement action by the police. Overloading poses a serious risk to road safety and severely damages road surfaces thus shortening their life span. Against this background, it is proposed that more stringent measures be taken to tackle the problem. So far only drivers have been prosecuted for overloading offences, but some drivers claim that they are forced by goods vehicle owners to commit the offence. Clause 3 of the Bill empowers the Governor in Council to make regulations imposing strict liability on owners of overloaded goods vehicles unless they can prove that the offence was committed without their consent and that they had taken reasonable measures to prevent the overloading.

In addition to imposing strict liability on owners, it is intended to increase the fixed penalty fine for vehicle overloading from \$450 to \$1,000 so as to increase the deterrent effect. This requires a Resolution of this Council, which I will move when the debate on the Bill is resumed.

Finally, the Bill includes two minor amendments. Clause 6 seeks to delegate from the Governor to the Secretary for Transport the authority to specify the age of vehicles which have to be examined before licensing. This is a matter of administrative convenience. Clauses 4, 5 and 7 of the Bill provide for the examination of vehicle trailers to ensure that these are roadworthy.

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

TELEVISION (AMENDMENT) BILL 1993

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

He said: Mr Deputy President, I move the Second Reading of the Television (Amendment) Bill 1993.

A basic aim of our broadcasting policy is to enable the people of Hong Kong to have the widest possible choice of high quality television services. Upon completion of a major review of the policy on television broadcasting in mid-1992, the Government drew up an overall regulatory framework to enable existing and new television services to co-exist and compete in a healthy and equitable environment.

One of the objectives of the Bill is to enshrine this regulatory framework in legislation and so provide for the introduction of subscription television into Hong Kong. The Bill seeks to amend the Television Ordinance to provide a general regulatory framework for subscription television. It also sets out the terms on which subscription television broadcasting licences may be granted. Among other things, these terms will include specific conditions which will require the licensee to deliver the essential elements of the service it has promised and to provide a performance bond to secure compliance by the licensee with any condition attached to a licence. It is our intention that the performance bond would only apply on certain conditions that specifically relate to the licensee's delivery of the essential elements of its service. However, these conditions are not rigid; instead, they provide sufficient flexibility to enable the licensee to respond promptly to the market. These enabling provisions are mainly set out in clauses 6 and 7.

Our review of the policy on television broadcasting last year concluded that initially, competing subscription television services might jeopardize the successful establishment of subscription television in Hong Kong. Clause 7 of the Bill therefore provides the first subscription television operator an exclusive

right to provide a subscription television broadcasting service for three years from the date of licence. The licensee, however, will be required under clause 20 to broadcast subscription television programmes supplied to it by Hutchvision Hong Kong Limited, otherwise known as STAR TV, during this exclusivity period. The detailed arrangements for this are to be negotiated by the two parties. If they fail to achieve agreement, there is provision in clause 20 for determination by the Governor in Council.

In order to facilitate early launch of a subscription television service, we might need to issue a "transitional" licence before the enactment of the Bill. Provision is therefore included in clause 7 of the Bill to give retrospective validation to any such licence granted as a "transitional" licence under the Telecommunication Ordinance. Amendments to the Telecommunication Ordinance are being proposed separately to provide for the power for the Telecommunication Authority to direct interconnection between the subscription television licensee's system and existing television distribution systems in a building to facilitate consumers' access to the new subscription TV service.

Another objective of the Bill, as reflected in clauses 23, 40 and 57, is to effect relaxation of certain programming and advertising requirements as well as a reduction in the royalty payable by the two wireless television licensees namely (ATV and TVB).

The Bill also effects relaxation of shareholding restrictions currently applied to television licensees. Clause 15 allows a licensee to own or control shares in any local or overseas company directly connected with broadcasting without the existing requirement that the licensee should have a controlling interest in those companies. The only restriction as regards investment in such companies will be on a licensee's holdings of over 15% of the share capital in the "major" Hong Kong broadcasters specified in the Bill. These broadcasters comprise TVB, ATV, STAR TV, Commercial Radio and Metro Broadcast. This is to prevent any one company from having too much influence in Hong Kong's broadcast media. Anti-avoidance provisions are also included in the Bill to target circumvention of the 15% limit by connected persons.

Restrictions on unqualified persons (essentially persons who are not ordinarily resident in Hong Kong) are relaxed by clause 17 so that, for example, with the prior approval of the Broadcasting Authority, an overseas resident partner of a licensee may hold, acquire or exercise more than 10% in aggregate of the total voting control of the licensee. The 49% ceiling on control by unqualified persons however remains untouched.

The final objective of the Bill is to remove or modify provisions in the Television Ordinance which are unnecessary or which give the Government discretionary powers, now regarded as perhaps being too wide, in the regulation of the television industry. These are provided for in clauses 12, 31, 33, 34, 47 and 58. The Bill seeks to clarify existing provisions. They also elaborate on the criteria to be used before certain specific decisions are reached so that the

amended provisions are more compatible with the Bill of Rights Ordinance in this respect.

I believe the Television Ordinance as amended by this Bill will enable us to license an operator to provide a subscription television service for Hong Kong as soon as possible. It will also serve Hong Kong well, by allowing the broadcast media to carry out their important role in a responsible and effective manner.

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

DISTRICT COURT (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).

SUPREME COURT (AMENDMENT) BILL 1992

Resumption of debate on Second Reading which was moved on 2 December 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).

PENSIONS MODIFICATION BILL 1992

Resumption of debate on Second Reading which was moved on 2 December 1992

Question on Second Reading proposed.

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, it is a good thing to provide protection to the spouses and children of civil servants in that upon the unfortunate death of a civil servant, his surviving dependants would be given

assistance in maintaining their livelihood. However, there are a lot of problems with the Government's present policy of assisting the surviving dependants of deceased civil servants. And this policy has been the subject of criticisms by civil service unions.

Since male civil servants, married or single, are all required by the Government to make contributions, therefore even if they have no spouses or children, they must contribute 3% to 4% of their monthly salary. Besides, no one will benefit from these contributions and from the accrued interest upon the death of a civil servant whose children have all passed 23 and whose spouse is already dead or divorced. Therefore, for those civil servants whose spouses are already dead or divorced and whose children have all passed 23, the monthly contribution is like "contributing to a fund with little prospect of recovery". Given that this form of protection is problematic, some civil servants feel that they might obtain better protection and return if the monthly contribution was used as premium to take out a private insurance policy.

For the above reasons, I raised a question in this Council on 6 July 1988, expressing the wish that the Government would consider revising the Widows' and Children's Pensions Scheme and asking for improvements in three areas, that is, reducing the contribution rate, including immediate family members as beneficiaries in the case of single civil servants, and giving civil servants an option as to whether or not to join the scheme. In reply, the then Chief Secretary said the scheme was being reviewed with a view to revising its provisions and removing some anomalies. But he also noted that it was then impossible to foresee what improvements would be brought about as a result of the review.

Several years have passed, and the question is still outstanding. As a result of repeated pleas by civil service unions, the Civil Service Branch announced in July 1991 that it would consult the central council of the four civil service staff associations in respect of revising the provisions relating to the surviving dependants' pensions and related benefits. In the end, support of the various amendment proposals was expressed by the council which also put forth proposals for further improvement. This amendment Bill has taken quite a long time to reach this Council. During the interim period, many civil servants have expressed fervent hope that the new proposals be implemented as soon as possible.

The amended proposals do have a greater degree of flexibility and rationality than the scheme used to have. Civil servants have now the option of whether or not to join the scheme. Existing contributors may opt out of the scheme and the unmarried ones refunded their past contributions with interest. I trust that this is definitely a piece of good news for those single civil servants who are eager to get back their contributions and those who are not willing to continue "contributing to a fund with little prospect of recovery".

With these remarks, Mr Deputy President, I support this amendment Bill.

SECRETARY FOR THE CIVIL SERVICE: Mr Deputy President, I am grateful to Mr TAM and Members for their expeditious examination of the Bill. Civil servants have been anxiously awaiting implementation of the changes contained in the Bill, in particular, the introduction of the voluntary Widows and Orphans Pension Scheme and the Surviving Spouses' and Children's Pensions Scheme.

Unfortunately, the review and implementation of the changes to dependant pensions and related benefits took longer than expected. The main reasons lay with the complexity of the subject, the extent of the consultation involved and the complicated legislative amendments required for implementation of the changes.

We certainly recognize the inflexibility of the old dependant pension schemes, which require single officers and married officers without dependants to contribute. The original intention to require single officers to contribute to the WCPS was to ensure that their wives and later their children would enjoy better protection because of the longer contributory service prior to marriage. However, we have now changed the provisions so that single officers can themselves decide to join the dependant pension scheme on marriage with a further option to buy back past contributory service, if they so wish. Also, a widowed or divorced officer can now opt to cease contributing to the scheme within six months from his divorce or the death of his wife.

Thank you, Mr Deputy President.

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

Bill read the Second time.

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

PENSIONS ORDINANCES AND REGULATIONS (MISCELLANEOUS AMENDMENTS) BILL 1992

Resumption of debate on Second Reading which was moved on 2 December 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).

MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 1992**Resumption of debate on Second Reading which was moved on 28 October 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).

HONG KONG EXAMINATIONS AUTHORITY (AMENDMENT) BILL 1992**Resumption of debate on Second Reading which was moved on 16 December 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).

THEFT (AMENDMENT) BILL 1992**Resumption of debate on Second Reading which was moved on 16 December 1992**

Question on Second Reading proposed.

MR HUI YIN-FAT (in Cantonese): Mr Deputy President, I wholly support the Administration's proposal to increase the maximum penalty of "taking a conveyance without authority" from three years' to seven years' imprisonment by seeking to amend the relevant section in the Theft Ordinance, in order to combat car theft. But I am really dissatisfied with the administrative efficiency of the authorities concerned and have to raise the matter in this Council as a collateral condition for approving this amendment Bill.

I believe that Members, especially those on the Security Panel, will know that the offence of "taking a conveyance without authority" was introduced in Hong Kong by the Administration by borrowing from a similar Act of the United Kingdom to prosecute those who have fun by stealing the cars of other people to "have a joy ride". So the penalty under this offence is naturally

lighter, and having regard to the future career prospects of the young offenders, most people would not criticize the judges for their lenient sentencing.

But the situation has now changed. As early as about two years ago, the Administration already noticed a complete change in the nature of car theft. First of all, the car thieves were no longer those who wanted to have fun; they were organized syndicates specialized in stealing expensive cars and selling them to Mainland China or countries in Southeast Asia for huge profits. Secondly, the surge in the figures of car theft reflected the demand in the black market. The figures rose drastically from 4 399 cases in 1989 to 6 372 cases in 1990, and there were 6 354 cases and around 7 000 cases respectively in 1991 and 1992. The increase recorded in these three years is as high as 60%.

What is also noteworthy is that besides a falling trend in the number of stolen cars that are subsequently recovered, the conviction rate of prosecution for this offence brought by the police was only slightly over 7% in the past two years, the lowest among the 65 types of offences for which prosecution was brought by the police.

What surprises and irks the public is that the police know only too well that it is difficult to convict the car thieves of this offence, and that even if there is sufficient and strong evidence for the court to convict them, the penalty will be too light to have a deterrent effect. According to the report of the authorities concerned, the offenders will generally be fined \$500 or \$1,000. A custodial sentence is rare, and even in that rare case, sentencing term of imprisonment will at most be one year. Given such leniency in punishment, many arrested culprits committed the same offence even when they were still on bail or shortly after coming off bail. However, the authorities concerned simply turned a blind eye to it, or even said helplessly that there was nothing that they could do.

In fact, many Members and I, including the ex-convenor of the OMELCO Security Panel Mrs Rita FAN, have urged the authorities concerned to amend the law in a panel meeting some two years ago in order to increase the penalty and the conviction rate. However, the officials concerned simply turned a deaf ear to our advice and disregarded it. So no action had been taken until very recently; such delay is really regrettable.

Members are well aware that car theft has caused inestimable economic loss to Hong Kong. Besides the loss suffered by owners of expensive cars, ordinary car owners, especially those who buy cars for business purposes, are also affected by the heavier economic burden imposed upon them through the hefty increase in premium charged by the insurance companies on their cars and the additional anti-theft installations. Some insurance companies may even refuse to write a policy against car theft. Such car owners can be said to be innocent victims under the out-dated policy of the Administration.

Mr Deputy President, for these reasons, I, in supporting the Second Reading of this Bill, would like to request the Administration to make the following two guarantees: (1) To review after one year the effectiveness of the amended Ordinance so as to make an early assessment of the necessity of further increasing the penalty in order to radically combat car theft; (2) to urge the car insurance companies to lower the premium once a falling trend is noticed in the number of car theft becomes evident, so as to relieve the heavy burden on car owners.

Thank you, Mr Deputy President.

SECRETARY FOR SECURITY: Mr Deputy President, I am grateful to Mr HUI for his support for this Bill. I must, however, say that the Government has not been indifferent to the problem of car theft. We have been tackling the problem on many fronts. For example, the police have established close liaison with car-park operators and building management companies to improve the security of their premises. Publicity has been stepped up to advise vehicle owners and the public of the need for adequate vehicle security measures. The police have also had regular discussions with vehicle manufacturers to improve anti-theft devices on new vehicles. The police and the Customs and Excise Department and other law enforcement authorities have devoted very considerable resources to obtaining intelligence and mounting operations against vehicle theft and vehicle smuggling syndicates. To stem the outflow of stolen vehicles into China, close liaison has also been established with the Chinese authorities. Raising the maximum penalty for the offence of taking a conveyance without authority needs to be seen in the context of the other measures we have been taking and which we shall be striving to make more effective. Raising the maximum penalty will not of itself solve the problem. It is part of our overall strategy. We shall continue to monitor the problem closely and to review the effectiveness of all measures including legislation. I shall shortly be bringing forward legislation to impose higher maximum penalties for smuggling generally and to impose more effective control on certain types of boats which are commonly used in the smuggling of vehicles.

As regards the question of insurance premium, as the Secretary for Monetary Affairs explained on 9 December last year, our policy is to allow market forces to determine insurance policy premiums. If the trend in vehicle theft changes, I would expect that this would be reflected in insurance premiums and that the Consumer Council would have a role in monitoring this.

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).

REGISTRAR GENERAL (ESTABLISHMENT) (TRANSFER OF FUNCTIONS AND REPEAL) BILL**Resumption of debate on Second Reading which was moved on 18 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).

TRUSTEE (AMENDMENT) BILL 1992**Resumption of debate on Second Reading which was moved on 2 December 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).

COMPANIES (AMENDMENT) BILL 1992**Resumption of debate on Second Reading which was moved on 15 July 1992**

Question on Second Reading proposed.

MR MARTIN BARROW: Mr Deputy President, this Bill introduces two main features: first, striking off companies for failure to meet the statutory requirement to file annual returns for two consecutive years; and secondly, relaxation of certain requirements for dormant companies.

A sub-committee was set up to study the Bill and held discussions with the Administration. A number of amendments have been agreed upon, and these will be moved by the Secretary for Monetary Affairs at the Committee stage. Some of these amendments are in response to the submissions received on the Bill and I wish to express my appreciation of the valuable views put forward by colleagues and other parties.

The Administration has also agreed to my suggestion to issue an information pamphlet to explain in simple terms the salient features of the Bill.

The sub-committee is of the view that dormant companies should only be exempted from the key requirements relating to the filing of annual returns, annual general meetings, and audit of accounts. Other exemptions are not considered necessary. In particular, the requirement to keep books of accounts under section 121 should not be exempted. Members feel that the keeping of accounts is essential for enforcing the provisions in the Ordinance, and the accounting work can be performed by staff of the companies without engaging outside professionals.

It has also been agreed that the payment of statutory fees, such as Business Registration Fees, should not affect the company's dormant status. Members have noted the Administration's suggestion that the payment of non-statutory fees can be met by directors personally so that it does not involve expenditure on the part of the company.

In the light of concerns expressed about the shareholders' liability, the Administration has explained that the dormant company provisions will apply to private companies which in most cases are run by shareholders. However, it has accepted that shareholders who are not aware of the transactions while the company is supposed to be dormant should not be liable for the debt incurred.

With these remarks, Mr Deputy President, and subject to the amendments to be moved by the Secretary for Monetary Affairs, I support the Bill.

MR PETER WONG: Mr Deputy President, I rise to support the resumption of the Second Reading of the Companies (Amendment) Bill 1992 and wish to make a point relating to the new Section 290A which gives the power to the Registrar to strike off companies for failure to file annual accounts. Some of my constituents have expressed concern over this as their firms look after the secretarial duties of these companies, many of which are owned and operated by individual clients. They may be away from Hong Kong, for business or emigration, and are feared to be derelict in their filing requirements. There is apprehension that the penalties involved in the original Bill could infer that the professionals have been deliberately failing in their duties and should be responsible for the penalties.

We must draw attention to the fact that the privilege of limited liability can only be enjoyed if a company director discharges the duties imposed by the Companies Ordinance; a most important duty is that of filing annual returns, giving fairly sparse details so that anyone who may have dealings with the company can search those records in the Registry.

By no means, can it be said that those duties imposed by the Companies Ordinance are over onerous. In fact, it is outright difficult for anyone going through the records of the Companies Registry to find out much about a private company. Apart from filing details of change of directors, secretary and registered office within 28 days, other details such as shareholders are only

included in the annual return which has to be filed after the holding of the Annual General Meeting.

The present amendment Bill gives the Registrar the power to act only after a company has failed to comply with the statutory duty for two consecutive years, and only after the Registrar has made enquiries by post with request to bring filings up to date.

There has been suggestions that the two years be extended to five. As a professional whose firm handles quite a few of the filings, I cannot accept this proposition. Directors and shareholders must appreciate that limited liability is a privilege that they enjoy only if they comply with legal requirements. Those requirements are necessary to give some measure of protection to the parties that may be dealing with them. There really is no excuse for not filing annual returns every year, let alone two years.

At the sub-committee's suggestion, the Administration has agreed to change the \$500 penalty under section 290A(2) to "an additional fee" which is a more accurate reflection of the nature of the transaction, since it seeks to recover the administrative cost of the action taken. It should prove less troublesome to recover this additional fee from clients.

SECRETARY FOR MONETARY AFFAIRS: Mr Deputy President, I am most grateful to Mr Martin BARROW, Mr Peter WONG and the other members of the sub-committee for their careful scrutiny of the Bill and for their very useful comments and suggestions. As a result of these deliberations, the Bill, with the amendments I shall move at the Committee stage, will, I believe, be a more precise and effective piece of legislation. I can confirm that the information pamphlet will be issued to explain the salient features of the Bill.

As Mr BARROW has mentioned, concern was expressed about the proposed liability arising when a company enters into a "significant accounting transaction" during a period when it is regarded as being dormant. The Standing Committee on Company Law Reform further considered this issue, and concluded that the personal liability of shareholders under such circumstances should be limited to those shareholders who knew, or ought to have known, about the transactions. Although the shareholders of private companies will not always be divorced from the day to day running of those companies, it is true to say that not all shareholders will be closely involved. I support this proposal and also the Standing Committee's recommendation to clarify that the liability of directors extends also to shadow directors. I will be proposing amendments to this effect.

During discussions on the Bill, our attention was drawn to the fact that, as companies are obliged to pay the statutory Business Registration Fee and may be liable for other statutory fees, provision needs to be made to exclude such fees from the definition of "significant accounting transaction". I agree that payment

of statutory fees, liability for which would otherwise prejudice a dormant company's status, should be so excluded.

We did not consider it to be prudent to go beyond the exclusion of statutory fees. The payment of other fees and charges may be discharged by third parties without a company necessarily incurring any liability. If, on the other hand, we were to allow other expenses, I believe that it would be extremely difficult to draw any line as to what should or should not be exempted, and that the scope for abuse of the provisions could be significantly and unnecessarily increased.

Thank you, Mr Deputy President.

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

Bill read the Second time.

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

Committee stage of Bills

Council went into Committee.

DISTRICT COURT (AMENDMENT) BILL 1992

Clauses 1 to 5 were agreed to.

SUPREME COURT (AMENDMENT) BILL 1992

Clauses 1 to 4 were agreed to.

PENSIONS MODIFICATION BILL 1992

Clauses 1 and 4

SECRETARY FOR THE CIVIL SERVICE: Mr Chairman, I move that clauses 1 and 4 be amended as set out in the paper circulated to Members.

These are technical and consequential amendments concerning the commencement of the Bill. It is our intention that the Pensions Ordinances and Regulations (Miscellaneous Amendments) Bill should commence before the Pensions Modification Bill. Clause 1 is amended by adding a commencement provision so that the Pensions Modification Bill will commence at a later date to

be gazetted. Consequently, as the definition of public officer is to be amended by the Pensions Ordinances and Regulations (Miscellaneous Amendments) Bill, the phrase "of or above the age of 18 years" should be deleted from clause 4(1)(f).

Proposed amendments

Clause 1

That clause 1 be amended —

(a) by renumbering it as clause 1(1).

(b) by adding -

"(2) This Ordinance shall come into operation on a day to be appointed by the Governor by notice in the Gazette."

Clause 4

That clause 4(1)(f) be amended in paragraph (a) of the proposed definition of "public officer", by deleting "of or above the age of 18 years".

Question on the amendments proposed, put and agreed to.

Question on clauses 1 and 4, as amended, proposed, put and agreed to.

Clauses 2, 3 and 5 to 66 were agreed to.

New clause 40A Exclusion from benefits

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

SECRETARY FOR THE CIVIL SERVICE: Mr Chairman, I move that a new clause 40A as set out in the paper circulated to Members be read the Second time.

The new clause 40A is needed in order to allow the Board of Directors of the Widows and Orphans Pension Scheme discretion to determine wives of post-retirement marriages as eligible for a widows pension. This provision mirrors a similar modification to the Widows' and Children's Pension Scheme and

should not have been omitted in the first place. This clause aims to rectify a technical omission.

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

Clause read the Second time.

SECRETARY FOR THE CIVIL SERVICE: Mr Chairman, I move that new clause 40A be added to the Bill.

Proposed addition

New clause 40A

That the Bill be amended, by adding after clause 40 —

"40A. Exclusion from benefits

Section 18(1) is amended by adding "unless the directors, in their absolute discretion and upon application in writing, decide otherwise" after "pension".

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

**PENSIONS ORDINANCES AND REGULATIONS
(MISCELLANEOUS AMENDMENTS) BILL 1992**

Clause 1

SECRETARY FOR THE CIVIL SERVICE: Mr Chairman, I move that clause 1(2) be deleted as set out in the paper circulated to Members. This is a technical amendment to delete the commencement provision of the Pensions Ordinances and Regulations (Miscellaneous Amendments) Bill which is no longer required. This Ordinance will come into effect when gazetted.

Proposed amendment

Clause 1

That clause 1 be amended, by deleting subclause (2).

Question on the amendment proposed, put and agreed to.

Question on clause 1, as amended, proposed, put and agreed to.

Clauses 2 to 46 were agreed to.

MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 1992

Clauses 1 to 8 were agreed to.

HONG KONG EXAMINATIONS AUTHORITY (AMENDMENT) BILL 1992

Clauses 1 to 6 were agreed to.

THEFT (AMENDMENT) BILL 1992

Clauses 1 and 2 were agreed to.

REGISTRAR GENERAL (ESTABLISHMENT) (TRANSFER OF FUNCTIONS AND REPEAL) BILL

Clauses 1, 4 to 20, 22 to 29, 31 and 32 were agreed to.

Clauses 2, 3, 21 and 30

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, I move that clauses 2, 3, 21 and 30 be amended as set out in the paper circulated to Members.

The Chinese translation of the terms "Land Registry" and "Land Registrar" in clauses 2, 3, and 30 of the Bill, although used widely previously, may give the impression that the Registry is mainly concerned with agricultural land. The amendments to these clauses seek to modernize the Chinese translation to reflect the meaning of "land" better and to be consistent with the Chinese short title of the Land Registration Ordinance, Chapter 128, which was agreed on the recommendation of the Legislative Council ad hoc group to study Chinese authentic texts last year.

The amendment to clause 21 would enable the Director of Buildings and Lands to only be a member of the Costs Committee under section 74 of the Legal Practitioners Ordinance for the purposes of the Solicitors (General) Costs Rules, which deal mainly with costs relating to conveyancing and property matters. The Director of Intellectual Property would only be a member of the Costs Committee for the purposes of the Solicitors (Trade Marks and Patents) Costs Rules. This would preserve the existing representation on the Costs Committee. Thank you.

*Proposed amendments***Clause 2**

That clause 2 be amended —

(a) by adding -

"(1A) The Chinese version of the following provisions is amended by repealing "田土註冊處" and substituting "土地註冊處" -

- (a) Schedule 5 to the Interpretation and General Clauses Ordinance (Cap. 1); and
- (b) the definition of "存放圖則" in section 2(1) of the Temporary Control of Density of Building Development (Kowloon and New Kowloon) Ordinance (Cap. 404)."

(b) In subclause (2) by deleting "田土註冊處" and substituting "土地註冊處".

Clause 3

That clause 3(1)(b) be amended, by deleting "田土註冊處處長" and substituting "土地註冊處處長".

Clause 21

That clause 21 be amended, by deleting the proposed paragraph (c) and substituting —

- "(c) for the purposes of the Solicitors (General) Costs Rules (Cap. 159 sub. leg.), the Director of Buildings and Lands, or his representative approved by the Chief Justice;
- (ca) for the purposes of the Solicitors (Trade Marks and Patents) Costs Rules (Cap. 159 sub. leg.), the Director of Intellectual Property, or his representative approved by the Chief Justice; and".

Clause 30

That clause 30(2) be amended, by deleting "田土註冊處" and substituting "土地註冊處".

That clause 30(4) be amended, by deleting "田土註冊處處長" and substituting "土地註冊處處長".

Question on the amendments proposed, put and agreed to.

Question on clauses 2, 3, 21 and 30, as amended, proposed, put and agreed to.

Schedule was agreed to.

TRUSTEE (AMENDMENT) BILL 1992

Clauses 1 to 7 were agreed to.

COMPANIES (AMENDMENT) BILL 1992

Clauses 1 to 3 and 6

SECRETARY FOR MONETARY AFFAIRS: Mr Chairman, I move that clauses 1 to 3 and 6 of the Bill be amended as set out in the paper circulated to Members.

Clause 1 is amended to include a commencement provision in the amendment Ordinance. This will allow greater flexibility in bringing into operation the various new arrangements.

Amendments to clauses 2 and 3 concern the striking off arrangements and are largely technical refinements suggested by Members of the sub-committee to study the Bill and by the Law Society of Hong Kong.

The proposed amendment to section 265(3A) and the new subsection 3AAA clarify the intent that the fee paid to the Registrar by a member or creditor for restoring a company's name to the register, under the proposed section 290A(6), shall be a debt due to the member or creditor by the company, and will be a priority debt due in the event of a winding up of the company.

Amendments to the proposed section 290A(1)(2) and (8) include the company secretary, in addition to directors, as a party to be notified by the Registrar should the company fail to file returns for two consecutive years.

Amendments to the proposed section 290A(2) and (3) redescribe the \$500 charge for overdue returns, as an "additional fee" instead of a "penalty", as the charge is intended to recover the administrative costs involved and does not contain any punitive element.

The amendment to the proposed section 290B(1) is a textual improvement suggested by the Law Society of Hong Kong. Amendments to the proposed section 290B extend to persons other than creditors of a company that has been struck off the right to make claims against the company's property, which would have become *bona vacantia*. Such persons may include, for example, persons who have contingent claims, chargees, or holders of warrants or options.

The proposed subsection (2) under section 290D clarifies the effect of a disclaimer by the Crown of its title to *bona vacantia*.

Amendments to clause 6 concern dormant companies. They comprise technical and other changes resulting from discussions with the Legislative Council sub-committee and representations to the sub-committee by the Hong Kong Society of Accountants and the Law Society.

We propose to replace the term "significant accounting transaction" with "relevant accounting transaction" so as to avoid any possibility of confusion that a dormant company might be permitted to engage in transactions of up to a certain size.

We agree also to amend the proposed section 344A(9)(b) to exclude statutory fees from the definition of "relevant accounting transaction".

Amendment to the proposed section 344A(6) narrows the scope of the exemptions available to dormant companies. Such companies will still be required to keep books of account, and file with the Registrar certain documentation. Members of the sub-committee considered that compliance with these requirements was desirable in order to minimize any possible abuse of dormant status.

The proposed section 344A(6) is deleted to remove any doubt that changes in issued capital would generally be deemed to be "relevant accounting transactions".

The amendment to section 344A(7)(b) limits the persons who may incur personal liability in respect of relevant accounting transactions entered into by a company while it is still dormant.

Amendments to the proposed section 344A(8) extend the range of companies which may not enjoy dormant status to include dealers and advisers registered under the Commodities Trading Ordinance, and their holding companies.

Mr Chairman, I beg to move.

Proposed amendments

Clause 1

That clause 1 be amended —

- (a) in the heading by adding "and commencement" after "title".
- (b) by renumbering it as clause 1(1).
- (c) by adding -

"(2) This Ordinance shall come into operation on a day to be appointed by the Governor by notice in the Gazette, and different days may be appointed for different provisions and different purposes."

Clause 2

That clause 2 be amended —

- (a) by renumbering it as clause 2(1).
- (b) by adding -

"(2) Section 265(3A) is amended by repealing "(1)(e)" and substituting "(1)(da), (e)".

- (3) The following is added after section 265(3A) -

"(3AAA) The debts specified in subsection (1)(da) shall have priority over the debts specified in subsection (1)(e), (ea) and (f)".

Clause 3

That clause 3 be amended —

- (a) in the proposed section 290A(1), by adding "and secretaries" after "directors".
- (b) in the proposed section 290A(2) -
 - (i) by deleting "a penalty" and substituting "and additional fee";
 - (ii) by adding "and secretaries" after "directors";
 - (iii) by deleting ", fee and penalty" and substituting "and fees";
 - (iv) by deleting "additional".
- (c) in the proposed section 290A(3) -
 - (i) by deleting ", fee and penalty" and substituting "and fees";
 - (ii) by deleting "an additional" and substituting "a".
- (d) in the proposed section 290A(8), by adding "or secretary" after "director".
- (e) in the proposed section 290B(1), by adding "the" after "held by".
- (f) in the proposed section 290B(2), by adding "or any other person who claims an interest in the bona vacantia" after "section 290A(3)".
- (g) in the proposed section 290B(3), by adding "or any other person who claims an interest in the bona vacantia" after "creditor".
- (h) in the proposed section 290B(5), by adding "or any other person who claims an interest in the bona vacantia" after "creditor".
- (i) in the proposed section 290B(6), by adding "or any other person who claims an interest in the bona vacantia" after "creditor".
- (j) in the proposed section 290B(7), by adding "or any other person who claims an interest in the bona vacantia" after "creditor".
- (k) in the proposed section 290B(8), by adding "or any other person who claims an interest in the bona vacantia" after "creditor".

- (1) in the proposed section 290D -
 - (i) by renumbering it as section 290D(1);
 - (ii) by adding -
 - "(2) A disclaimer under section 290C -
 - (a) operates so as to determine, as from the date of the disclaimer, the rights, interests and liabilities of the company in or in respect of the property disclaimed; but
 - (b) does not, except so far as is necessary for the purpose of releasing the company from any liability, affect the rights, interests or liabilities of any other person."

Clause 6

That clause 6 be amended —

- (a) in the proposed section 344A(1)(a)(ii), by deleting "significant" and substituting "relevant".
- (b) in the proposed section 344A(4), by deleting "57B(5), 64A, 107 to 111, 119A(2), 121" and substituting "107 to 111, 122".
- (c) by deleting the proposed section 344A(6).
- (d) in the proposed section 344A(7), by deleting "significant" wherever it occurs and substituting "relevant".
- (e) in the proposed section 344A(7)(b), by deleting "each director and shareholder" and substituting "any shareholder of the company who knew or ought to have known about the relevant accounting transaction and all directors".
- (f) in the proposed section 344A, by adding -
 - "(7A) In subsection (7), "director", in relation to a company, includes any person in accordance with whose directions or instructions the directors of the company have been accustomed to act."

- (g) in the proposed section 344A(8) -
- (i) in paragraph (i) by deleting "or" at the end;
 - (ii) by adding -
 - "(ia) a dealer registered under the Commodities Trading Ordinance (Cap. 250);
 - (ib) a company of which a dealer registered under the Commodities Trading Ordinance (Cap. 250) is a subsidiary;
 - (ic) a commodity trading adviser registered under the Commodities Trading Ordinance (Cap. 250);
 - (id) a company of which a commodity trading adviser registered under the Commodities Trading Ordinance (Cap. 250) is a subsidiary; or";
 - (iii) in paragraph (j), by deleting "(i)" and substituting "(id)".
- (h) in the proposed section 344A(9), by deleting "significant" where it twice occurs and substituting "relevant".
- (i) in the proposed section 344A(9)(b), by adding after "account" -
- "(disregarding any transaction which arises from the payment of any fee which the company is required to pay by any Ordinance)".

Question on the amendments proposed, put and agreed to.

Question on clauses 1 to 3 and 6, as amended, proposed, put and agreed to.

Clauses 4 and 5 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

DISTRICT COURT (AMENDMENT) BILL 1992

SUPREME COURT (AMENDMENT) BILL 1992**MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 1992****HONG KONG EXAMINATIONS AUTHORITY (AMENDMENT) BILL 1992****THEFT (AMENDMENT) BILL 1992** and**TRUSTEE (AMENDMENT) BILL 1992**

had passed through Committee without amendment and the

PENSIONS MODIFICATION BILL 1992**PENSIONS ORDINANCES AND REGULATIONS (MISCELLANEOUS AMENDMENTS) BILL 1992****REGISTRAR GENERAL (ESTABLISHMENT) (TRANSFER OF FUNCTIONS AND REPEAL) BILL** and**COMPANIES (AMENDMENT) BILL 1992**

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

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

Bills read the Third time and passed.

Member's motion**CONSTITUTIONAL PACKAGE**

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

DR PHILIP WONG moved the following motion:

"That this Council urges the Government not to introduce the constitutional package as outlined in the Governor's policy address made in the Legislative Council on 7 October 1992."

DR PHILIP WONG (in Cantonese): Mr Deputy President, I move the motion standing in my name on the Order Paper:

"That this Council urges the Government not to introduce the constitutional package as outlined in the Governor's policy address made in the Legislative Council on 7 October 1992."

First of all, I would like to report to my colleagues the reasons I moved this motion. In the wake of the introduction of the political reform proposals by the Governor Mr Chris PATTEN, Sino-British relationship has become strained and turned sour, putting the brakes on the steady pace of our social prosperity. Many people in Hong Kong are beginning to be worried that, if this situation should continue, our prosperity might be undermined and our stability threatened. From what I have seen and heard, many Hong Kong people, in particular those from the industry and commerce sectors, are increasingly staging their opposition in a louder and clearer voice. Up to the present, hundreds of industrial, commercial and social organizations have expressed their discontent through different means and channels. In the 150 years of British administration, it is rare for the people to come out so openly and courageously in opposition to the Government's proposals. This shows that their worry has already reached an intolerable level. They come to realize that every man has a share of responsibility for the fate of his native land. In view of this, it is imperative to find ways and channels to break the present deadlock.

It is my firm belief that my motion today provides a feasible way to resolve the Sino-British impasse and to revive swiftly our economic boom.

After I had given notice to move the motion, I received a letter from the legal advisor of the Legislative Council in which it was stated that the Deputy President might not allow my motion debate to go ahead since similar motion had already been moved and discussed in this Council in this session. I presume that it refers to Miss Christine LOH's motion which was amended by Mr McGREGOR and subsequently carried in this Council. I must point out that the motion in question and my motion today are poles apart.

My motion is not to discuss the substance of the Governor's political reform package; rather it is a debate on a procedural matter. As a matter of fact, we have not yet been informed of the details of the package. I am merely urging the Governor not to introduce to this Council for discussion his constitutional package which he has unilaterally introduced and met with fierce opposition and criticisms in no uncertain terms from the Chinese side.

In the latter half of the transition period, if we are really serious about and pray for a steady transition, we should support that any constitutional package introduced to this Council for debate or examination should be subject to prior discussions by the Chinese and British sides until a consensus is reached in one form or another. Only then should it be introduced to this Council for scrutiny. Otherwise, all our discussions will amount to nothing. Furthermore,

if our debate on political system reinforces the Government's determination to act arbitrarily, it will make the deadlock between Chinese and the United Kingdom even harder to resolve.

Local people in all walks of life who were buffeted by political uncertainty in early 1980's realized that an uncertain and insecure future is even more difficult to handle and more devastating than bad news. To introduce Governor PATTEN's package to this Council for discussion in the hope that it would be adopted will encourage the Government's resolve to go ahead with its political reform. This would inevitably prompt the Chinese side to start a new kitchen in 1997. In order to start a new kitchen, the Chinese side needs to make all sorts of preparatory arrangements. As a consequence, it will naturally add to the uncertainties about our future and undermine the smooth transition. A constitutional package with a 20 month life-span will not be able to gain international confidence and recognition, especially that of the investors. Moreover, these 20 months can be likened to the final months of a terminal patient with cancer as diagnosed by the doctor. He will find his health fails him in leading a healthy and normal life. And the people around him will find it difficult, helpless and ill at ease to wait on a dying patient. It can be inferred that in the period from 1993 to 1995, when overseas and local people realize that the Government insists on implementing a political package with only 20 months of life span, local people's morale would be dampened and investors would become hesitant about making investment in Hong Kong.

My motion is to put forward a sincere proposal which could serve to defuse the Sino-British political row and express this Council's support that the Chinese and British sides should in the first instance consult each other on matters concerning the territory.

Meanwhile, the motion, if carried, also shows that this Council is not held responsible for any political reform proposals put forward by the Hong Kong Government or indeed the British Government, the backstage manipulator. And this is a policy imposed on Hong Kong for the latter half of the transition period, not the wish of, and idea initiated by, Hong Kong people. "A man must take the consequence of his own conducts", as the Chinese saying goes. Not to confuse one's duty and not to shirk one's responsibility are equally responsible acts.

Moreover, I must point out sincerely that my motion is not directed against the Governor himself because it is apparent that Hong Kong affairs are not necessarily dictated by him. To make an effort to humiliate Governor PATTEN is a nonsensical act. It is because all of us, including Governor PATTEN himself, will agree that when the well-being of Hong Kong is at stake the interests of any individual, or that of the Government should come second.

My motion is an expression of trust to the Governor, the Hong Kong Government and even the British Government. The British Government's recent decision on the reversal of its decision on the closure of coal mines and

its move to increase sterling interest rates before adjusting them downward in the very same day are precedent incidents. This is the sort of decisiveness and determination that a caring and just government should have.

If colleagues really hope to see the Chinese and British sides going into dialogue and their relationship turning for the better in a constructive way, they should vote for my motion.

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

Question on the motion proposed.

DEPUTY PRESIDENT: It is perhaps timely that I remind Members of the rules as to when they can interrupt a Member who is speaking. They can raise a point of order on which I will rule. They can also seek elucidation from a Member who is speaking. It is for that Member to decide whether he will give way. The procedure on these interruptions was set out in a circular from the Clerk to Members on 28 April 1992. The Member should rise and say "point of order" or "point of elucidation" as the case may be.

Quite distinct from these interruptions is when a Member wishes to explain something in his speech which has been misunderstood. Under Standing Order 28 that Member needs my permission to explain. he should not interrupt the Member who is speaking, but wait until he has finished before asking for my permission.

MR HUI YIN-FAT (in Cantonese): Mr Deputy President, I think today's debate in this Council is neither logical in terms of procedural arrangements nor appropriate in timing. My reasons are as follows:

Firstly, according to the present constitutional structure, this Council, as the legislature of Hong Kong, is mainly responsible for examining and passing the bills submitted by the Government so as to perform its function of monitoring government policies. In other words, with the maintenance of the executive-led model and the emphasis on the separation of the Executive and Legislative Councils as our guiding principle, this Council neither has the power nor should spend the time to intervene in the working schedule of the Government. In this connection, even though Members of this Council have come to a consensus on certain social policy, they can, in accordance with the usual practice, only urge the Government to consider stepping up the process of formulating or amending legislation for the policy in question before submitting the Bill to this Council for examination and enactment. However, this Council has never moved a motion to urge the Government not to introduce any proposals. And today's motion to urge the Government not to introduce the constitutional package is indeed unprecedented. To put it in simple terms, the Government should have the initiative to decide whether and when it should

introduce the package to this Council. This serves as the full realization of the spirit of the separation of the two Councils and an executive-led government. And Members of this Council should not ruin this spirit on account of any individual preference or political interests.

Secondly, before the Government puts the finishing touches to the proposed constitutional package and introduces it to this Council, Members of this Council indeed are unable to tell the contents of the Bill which may turn out to be extremely controversial or acceptable to all parties concerned. Yet, if this motion is carried in this Council when Members still have no idea about the package in its final form, this will definitely paint those support the motion and other Members who are opposed to it into a corner. For this reason, it is utterly unrealistic if any colleagues in favour of this motion intend to make use of this debate to sound out other colleagues' stance on the Governor's constitutional reform package.

As regards myself, my office is conducting a questionnaire survey among local social service institutions and fellow social workers to collect their opinions and the deadline for returning the questionnaires is the end of this month. I, therefore, virtually cannot decide at the moment what stance to take on the Governor's constitutional reform package before the statistics and analysis concerning the survey are available, not to mention our lack of knowledge of the contents of the Bill to be introduced to this Council by the Government.

Finally, I would like to stress one point. I oppose Dr Philip WONG's motion simply for the two aforesaid reasons. It definitely does not represent my attitude to the Governor's constitutional proposals because my final stance on this policy, which bears on the well-being of all Hong Kong people, should be formulated on the advice of my constituency.

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

MR MARTIN LEE (in Cantonese): Mr Deputy President, many people think that the motion moved by Dr Philip WONG is in line with China's current basic position and policy towards Governor Chris PATTEN's proposals for political reform. Deducing from this, whoever opposes Dr WONG in today's debate is taking a stand against the Chinese side. There is a very famous Chinese saying: "苦口良藥", which means that the medicine which does the most good is always bitter to the taste, and the most unpleasant words to the ear are always the best piece of advice. Today, I should like to point out in good faith a fact and that is that to bring down completely Governor PATTEN's proposals for political reform would be against China's basic policies regarding Hong Kong and would be detrimental to the smooth transition. And people who advocate and participate in this anti-democracy scheme will end up being more of a hindrance than a help to China, compromising its interests.

First of all, we must understand that the controversy over the political reform proposals focuses not only on the composition of the Election Committee and the election arrangements for the nine additional functional constituencies, but also on the question of whether Hong Kong can establish a genuinely democratic legislature by 1997 in order to check and balance the executive. This in turn will bear on the question of whether or not Hong Kong can genuinely realize "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" after 1997. When China and Britain initialled the Sino-British Joint Declaration in 1984, the Hong Kong Legislative Council was fully appointed and totally incapable of monitoring the Government. The Chinese and British sides obviously intended to discontinue this colonial political system, so much so that principles such as that the Chief Executive shall be elected or selected through consultation in 1997, that the legislature shall be fully returned by election, and that the executive shall be accountable to the legislature were specifically laid down in the Joint Declaration. As long as the Chinese and British sides develop their policies in accordance with the above principles and in the above direction, Hong Kong will have established by 1997 a democratic political system by means of which genuine "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" will be achieved. Unprecedented was the vision and good will of China and Britain at the time; it was also worthy of our praise.

Unfortunately, the development of democracy in Hong Kong since 1984 has not been as smooth as one would imagine. In the final analysis, it can be summed up by the phrase "China lacks determination, and Britain the courage". How can Hong Kong's development of democracy be smooth under the combined influence of these two unfavorable factors? Why did Britain lack the courage to promote democracy? I believe it would not be difficult for one who has knowledge of the pragmatic and utilitarian political philosophy of Britain to understand the British position. But why then did China, as the long-term sovereign state over the post-1997 Hong Kong, lack the determination to honour its commitment to democracy as provided for in the Joint Declaration? It is really puzzling. The paramount Chinese leader once said, "With a good system, the bad guys cannot misbehave; but without a good system, the good guys cannot do good either or even feel compelled to misbehave." Given that the top Chinese leader has admitted the importance of having a system and commended the establishment of a good system, why is China all along afraid of Hong Kong building up a democratic political system, so much so that it has tried all means to obstruct democratic development and even putting in place in the Basic Law hurdles after hurdles to the future development of democracy in Hong Kong?

At last, Britain is putting forth a package of proposals which are definitely more progressive than the past, thanks to the untiring efforts of Hong Kong people. It is a mistake on the part of China, as the future sovereign of Hong Kong, to have failed to present democratization proposals beneficial to the long-term development of the territory but to let the British steal the limelight by putting forth the proposals first. Instead of going along with the proposals which were generally welcomed by the Hong Kong community and

helping secure their success when Britain presented them, China became infuriated and launched an omni-direction attack, vowing to block the implementation of these democratic reform proposals. This approach is a total mistake.

What big deal is there in the Patten proposals? What is in it that has triggered off China's opposition regardless of the consequences, when this package of proposals for political reform has not trespassed the principles laid down in the Joint Declaration, nor does the proposed pace of democratization come anywhere near that urged for under the 1989 OMELCO consensus which was to have increased the number of directly elected seats of the Legislative Council to 30 in 1995?

Some horrifying reasons for opposing the Patten proposals have filtered through to us from reports by the pro-China media over the last couple of months. It is reported that Chinese leaders think that the British package of political reform is part of a conspiracy by the West to topple China, an anti-China chorus of the international community. At the same time, the Chinese leaders have bought the idea that if democracy were promoted in Hong Kong before 1997, Hong Kong would become independent or semi-independent, which would be detrimental to the return of sovereignty to China. But I must point out that it would be irresponsible and at variance with the facts for one to depict the outcome of democratic development as Hong Kong turning into an independent or semi-independent entity. Escalating democratic reforms to the level of an international conspiracy to topple China would also be an unfounded speculation. Unfortunately, these two ideas, which may well stir up one's nationalistic sentiments and incite confrontation, are readily acceptable to the Chinese leaders who used to indulge in a drawn-out struggle against the West. I really would not wish to see China pushing the political reform issue to an ever higher plane of contention in parallel with the sovereignty of the state and the interest of the nation. The result would be stifling the democratic development which it is in Hong Kong's right to have. That could not but be detrimental to the realization of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy".

Mr JIANG Zemin, the General Secretary of the Chinese Communist Party, recently said that the Sino-British controversy would blow over one day just like a return to clear skies after rain. It will not rain of course forever and the sun must come out. The question is: In what state of mind are we to welcome the sunny days after the storm? I would not wish to see China doing stupid things to damage Hong Kong; that would only bring, when the sunny days do return, long lingering regrets the way one would feel upon waking up to realities from a dream. Nor would I wish to see colleagues of this Council, especially those who have been fighting long and hard in the past for democracy for Hong Kong, driven by a momentary lapse to adopt a tolerant and accommodating attitude now with the hope that it could solve the present

problems, but only to find in the end that they have pleased neither side and that they are adrift when the storm is over.

With these remarks, I oppose the motion on behalf of the 13 Legislative Council Members from the United Democrats of Hong Kong.

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, since October last year when the Governor delivered his policy address proposing a series of controversial political reforms, Sino-British relations have undergone a retrogression and co-operation between the two countries has been bogged down in an unprecedented crisis. A "smooth transition" suddenly seemed difficult to realize. Society has come under tremendous impact pressure. Political prospects have become uncertain; the stock market has been impacted on; foreign investors have started to become suspicious about the stability of Hong Kong's future; consumption by the public fell; and the businesses of various sectors have been affected in different degrees. Moreover, this political controversy has caused deep division in public opinion, which has in turn cast a shadow over the overall peace of society.

That the Governor's proposals on political reform should bring such serious consequences is entirely due to their deviation from the direction set down by the Basic Law on the political development of Hong Kong. Such deviation is detrimental to the smooth transition of the political system, and the proposals are therefore not accepted by the Chinese Government. If the Administration refuses to withdraw this package of political reforms which has brought about the current crisis, and cannot think of other feasible solutions, then I think it will be irresponsible of the Administration to rashly put the package to the Legislative Council.

In fact, this political controversy, which has caused the present crisis, is unnecessary and could have been completely avoided. Although the Administration has to make some concrete arrangements for the Legislative Council elections in 1995, yet it can refer to the report of the Select Committee on Legislative Council Elections which was set up last year by this Council, because that report is the result of about six months' extensive consultation undertaken by Members of this Council to collect opinions from the public concerning the substantial arrangements for the 1995 elections. Simply by reading that six-inch-thick report, the Administration will understand the opinions of the public. Moreover, the Administration should submit the proposals on the arrangements for the 1995 elections to the Sino-British Joint Liaison Group for discussion, because it is stated in Annex II to the Sino-British Joint Declaration that matters relating to the smooth transition of political power should be discussed by the British and Chinese Governments in the Joint Liaison Group. I believe that if the Administration had planned the 1995 Legislative Council elections in accordance with the recommendations of the Report of the Select Committee on Legislative Council Elections and discussed these recommendations with the Chinese Government, the controversy over the

political system, which has caused such a serious crisis, would not have emerged.

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

MR ALLEN LEE (in Cantonese): Mr Deputy President, Members of the Co-operative Resources Centre (CRC) unanimously agree that today's motion cannot be supported. We have studied the motion carefully and found that it is unacceptable from all perspectives. The motion is unreasonable because the constitutional reform package had already been presented to this Council by the Governor Mr Chris PATTEN on 7 October last year. Time never returns. So it is impossible for this Council to urge the Government not to introduce the package now. This is a reality we must accept whether we support the Governor's package or not.

The CRC urge the Government to adopt a receptive attitude. It should take the initiative to amend the proposals for the sake of smooth transition and convergence in the political system and on the basis of its established policies and the views expressed on the constitutional reform package after it was submitted to this Council. We make the appeal on the understanding that the package had already been presented to this Council. How can one ask the Government not to introduce the package now?

Since last October, this Council has twice conducted lengthy debates on the constitutional reform package. A war of words has also broken out between the Chinese and British Governments. Under such circumstances, Dr Philip WONG's motion is likely to create an unnecessary political crisis. It will not only do nothing to help the issue, but may also add fuel to the flames. On several occasions I have asked Dr WONG to drop the motion, but he has ignored my request. I think we should now remain calm, cautious, objective and impartial on the issue of constitutional reform. We should also try our best to persuade the Chinese and British Governments to return to the negotiation table and discuss the issue of constitutional reform for the sake of a smooth transition.

For the reasons mentioned above, Members of the CRC will refrain from voting on the motion today. We do not wish to complicate the issue.

MR JIMMY MCGREGOR: Mr Deputy President, before I comment on Dr WONG's motion I would like to respond to press reports that I have changed my original support for the Patten package because of pressure from within the group of companies with which I work. This group has close and expanding ties with Chinese financial and commercial organizations. No such pressure has been placed upon me although there are many other pressures from other directions. My attitude towards the Patten proposals is guided by my personal

experience, conviction, and conscience. I am conscious also of the need to maintain my personal honesty and moral integrity.

I support the Patten proposals in principle and in general. I support Mr PATTEN's initiative in trying his best to react to what he sees as the genuine desires of the people of Hong Kong. He is bound to put the proposals forward since we must decide on the arrangements for the 1995 elections. He has taken extensive advice in Hong Kong before putting these together. He has risked, I believe, his own political career in making some proposals that were sure to be resented and opposed by China even though they may be within the strict legal meaning of the Joint Declaration and the Basic Law. He may have tried to right a wrong by extending democratic reform beyond what many of us expected, given the puerile performance of the British authorities during the 10 years prior to his arrival. Mr PATTEN cannot be faulted for putting these proposals before us since it is here that they will be agreed or rejected, or modified. It is this Council which will decide whether and to what degree the Patten proposals will be passed into legislation.

I tried to have the Council vote today on each one of them. This would have provided the Government, the public, and China with a clear picture of the proposals likely to be accepted and those which might run into problems. After all, this Council has itself agreed to some of them and it seems unlikely that we will oppose the majority. The lower voting age, despite great argument and opposition a few short years ago from some of those still in this Council, seems likely to pass with ease. The establishment of an Electoral and Boundary Commission will surely be approved. The creation of 20 single-seat constituencies has already been accepted with the one man one vote principle prevailing. It should pass another vote in this Council. The abolition of appointed seats in the Municipal Councils and District Boards might well, in my view, get through unscathed.

It is also the case that the method of formation of the Election Committee has been agreed by this Council but, with China's serious objection, this will obviously come under further examination and possible revision.

The proposal to democratize and widen the electorate for the 21 existing functional constituencies is likely to be agreed, in my opinion. The proposal to introduce a community-wide electorate for the nine new functional constituencies is, however, going to have a rough ride.

But the point surely is that Mr Chris PATTEN has every right to put forward his proposals. Indeed, he has a duty to do so.

It is our duty to examine them, in good faith and with the Hong Kong interest at heart, to see what might be agreed and what might not. We must not enter upon this task with a view to placating China but rather with a view to doing what is right and what is best for Hong Kong.

I have no doubt whatsoever that Dr WONG's motion will be soundly defeated. It will then be up to China to recognize that the Patten proposals will not be withdrawn and will be fully debated and decided upon here in this Council. I hope China will understand that that is the democratic process at work. I am sure that in due course China will come to accept what we in this Council decide.

Mr Deputy President, I oppose Dr WONG's motion.

MRS ELSIE TU: Mr Deputy President, this motion calls on the Governor not to introduce his political package outlined in his policy speech. In fact I have already written to the Governor personally asking him if he would consider withdrawing it. To withdraw the package voluntarily would be an honourable and courageous thing to do since its repercussions have shaken and polarized our community.

No one should put his own dignity before the interests of the community, and I would still like to urge the Governor to consider the damage already done. The present British Government has recently made some drastic mistakes in its own country and should therefore be doubly careful not to make such errors here.

Neither China nor the Hong Kong people were fully consulted about the political package, and that was not only a departure from past procedures, but also undemocratic. The rift between Britain and Beijing has now reached crisis point on the issue, and this is creating widespread fear and uncertainty. It is good neither for the Hong Kong economy nor, for that matter, the economy of Britain.

Mr Deputy President, whichever way my colleagues may vote on this motion, I hope that they will, if they have to, examine the Governor's proposals with no other purpose in mind than to seek a smooth transition in 1997, which is our only hope that the Joint Declaration and the Basic Law will be fully implemented. If past agreements between Britain and China are broken, as appears to be the case, all hope of implementing the Joint Declaration and the Basic Law will be shattered. I would like to call upon the Governor to do the honourable thing and withdraw his proposals on those parts of the package that breach earlier agreements so that he, and we, may uphold our oath to serve the people of Hong Kong.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, I must first explain why I supported Dr Philip WONG in moving this motion. The reason is to have one more chance to put forward to the public our views on this matter. But I will abstain from voting at the end of this debate.

The package of political reforms outlined in the policy address delivered by the Governor on 7 October last year involves nine proposed points to revise the system, four of which, I personally believe, will encounter no objection. The first one is the separation of the Executive and Legislative Councils; the second is that the Governor will cease to be the President of the Legislative Council; the third is the lowering of voting age from 21 to 18; and the fourth is the implementation of the single vote, single seat system. It is believed that these four points will have the support of all the Members of this Council. The fifth proposed point, namely to set up a Government-LegCo Committee, has been withdrawn. The sixth and seventh points concern the appointment system of the district boards and the municipal councils. I read from the newspapers that 17 out of the 19 district boards have voted to oppose the removal of the appointment system. As regards the Urban Council, the result of its first voting on this matter is 12 votes to five votes. And a moment ago Mrs Elsie TU told me that yesterday the Urban Council unanimously passed a relevant motion without a single dissent (of course, Mr Frederick FUNG did make another proposal). In other words, most of the councillors concerned oppose these two points. Therefore, I personally think that the Governor should take the initiative to amend these two points when he puts the proposals to the Executive Council, because this is the view of most of the members of the two councils and to do so will also be a manifestation of the democratic spirit and observance of law and convention. If the Governor does not make any amendment nor do other Members of the Executive Council, then I can venture to say that the Executive Council is virtually useless.

The remaining two points concern the Election Committee and the nine new functional constituencies. My personal view is that the Governor should in due course bring these two points to the Legislative Council so that Members can put forward their views on and make amendments to the two points. The strongest reason for amendment is that the Prime Minister and Foreign Secretary of the United Kingdom have time and again emphasized (1) the respect for the Sino-British Joint Declaration and (2) the respect for the spirit of the Basic Law. I personally think that although these two documents are not so good, they, as a code for observance, as a law and as a document, have acknowledged and confirmed the rights of the people of Hong Kong. So how can we, without any good reasons, act against these two documents?

It is well known and I have also mentioned many times that the success of Hong Kong is based on four factors. First, the system of government of the United Kingdom and Hong Kong; secondly, the "smart" and diligent qualities of the people of Hong Kong; thirdly, the logistical base provided by China; and fourthly, the concerted endeavour by the people of Hong Kong and the foreigners who have business relations with Hong Kong. I have to emphasize once again that it is not the mere word "democracy" that gives Hong Kong its economic status of today. Among the Members of this Council, there are some liberals who think that it is imperative to speed up the pace of political development, and they have emphasized time and again that convergence is unnecessary. To do so is to disregard the Basic Law. If we thought that this

piece of legislation or code for observance was useless to the people of Hong Kong, we should have strongly opposed it before it was enacted. But today, to oppose it will not only be futile, it will also mislead the public.

We must understand that Hong Kong is not an independent entity or independent state. Before 1997, everything is run according to law which is sourced from the United Kingdom. For example, it is necessary for the United Kingdom to amend the relevant law to enable the Governor to resign the post of the President of the Legislative Council. And so the same goes for other things. After 1997, Hong Kong will become a special administrative region of China and not an independent state. To say that "we encourage the people of Hong Kong to stand out and speak their minds" is more or less to tell the people of Hong Kong that we have a chance of independence. I can boldly say that it is absolutely impossible now and in the future. Moreover, it will not be beneficial to the current and future development of Hong Kong. Why is it so? It is because Hong Kong will become a special administrative region of China after 1997, and if a politician (or group) who is really responsible to the people of Hong Kong wants to build his success through taking a confrontational stand against China, then his chance of success will, I can venture to say, be virtually zero. The reason is that such a political group is in fact building its success on the failure of China in the future, and given the well known fact that the economic developments of China and Hong Kong are symbiotic, how can such a political group command popular support when it is in fact trying to build its success indirectly on the failure of the people of Hong Kong? The development of democracy is inseparable from freedom. A lot of people in Hong Kong are enjoying freedom, but what about democracy? We cannot achieve democracy without going through a slow process for its evolution. Democracy is not something to be exploited by political bodies. Since most people do not have any deep understanding of politics, some political bodies are now exploiting democracy by alleging that they are fighting for it for the benefit of the public. I hope that the word "democracy" will bring a better future to Hong Kong.

Mr Deputy President, I so submit. Later on, I will abstain from voting.

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, before I delivered my prepared speech, I should like to make some clarifications in response to Mr CHIM's remarks. The Urban Council annual debate yesterday was not on the Governor's policy address; still less was it a debate on whether or not the appointed seats be abolished. The fact was that six Members threw weight behind the retention of appointed seats in their speeches whereas I proposed to abolish the appointed seats. They were personal opinions and did not represent the Urban Council's position. Furthermore, when this matter was first raised in the Urban Council for discussion, the ratio between the number of members in support of the proposal and those against it was worked out on the strength of the views as expressed in their speeches rather than voting by a show of hands. I hope that I have put the record straight with regard to the Urban Council annual debate.

Mr Deputy President, Dr WONG's motion today urges the Government not to introduce the constitutional package as outlined in the Governor's policy address to this Council. I can hardly agree to this idea. I even feel that the debate is indeed unnecessary. The Hong Kong Association for Democracy and People's Livelihood thinks that urging the Governor to withdraw his package is no resolution to the present impasse over the Sino-British row. It depends on whether or not the Chinese and British sides have the *bona fide* intention to listen to Hong Kong people's opinions (but I am not suggesting that Hong Kong should go independent). The Chinese and British sides should return to the negotiating table to come up with a set of democratic political package which can transcend 1997.

I agree with Governor PATTEN that the constitutional package as outlined in his policy address were merely proposals. And the proposals are amendable by the Hong Kong Government on its own initiative, by other people, or might even be shot down by motions moved by Members of this Council. In this connection, to respect people's right of expression, it is incumbent on the executive, and its responsibility as well, to submit Bills and Acts to the legislature. In order to have a clear demarcation between the functions of the Executive Council and the Legislative Council, I feel that it is not necessary for the Legislative Council to force the Governor to withdraw his proposals at this stage. If Members do not agree to the proposals in the package, they can propose amendments when the package is introduced to this Council or vote against the Governor's proposals. As to when the Government should introduce the package to the Legislative Council, whether amendments be made when it is put to this Council, what decision the executive should make after hearing the local public opinion and grasping the positions of both the Chinese side and the British side, I think that it is not necessary for the legislature to provide guidance to the executive. I also believe that only the executive is in the best position to size up the present situation, the public opinion and the real picture.

The Hong Kong Association for Democracy and People's Livelihood to which I belong has put forward our proposals on future political development. We hope that the proposals on our political system may develop into a one-man-one-vote system where the Chief Executive and all Members of the legislature are to be returned by popular election. I adopt this proposed model as my blueprint and principles. I hope that the local public will work for democracy. And I shall take it as a yardstick to measure the constitutional package when it is introduced to this Council in the future. If the package put forward by the Hong Kong Government does not comply with these principles, I am going to propose amendments or voice my opposition.

I hope that Members will at this stage earnestly encourage Hong Kong people to express their views on our political system so that both the Hong Kong and Chinese Governments can have more information to form a public opinion basis for the evaluation of the Governor's package in the future. I must stress that Mr CHIM and I indeed hold different views. If encouraging Hong Kong

people to speak up is tantamount to trying to turn Hong Kong into an independent state, then many people are now trying to turn Hong Kong into an independent state. Similarly, many communities are trying to become independent. Such kind of remarks is a bit too radical. It may effectively discourage Hong Kong people from voicing their opinions. Should this be the case, Hong Kong's future may be controlled in a few hands. I am sure Mr CHIM Pui-chung does not wish to see such a situation. He certainly knows that it will be advantageous to the stock market with more people participating in it. With more people having different opinions, their investment targets will be more diverse. Therefore, I hope Mr CHIM can reconsider such a view and join forces with us to encourage Hong Kong people to voice their opinions.

I suggest that when the Foreign Ministers of the two countries meet or when the Sino-British Joint Liaison Group meets to discuss Hong Kong's future political development, the political proposals put forward by Hong Kong people and local political groups should be considered and examined in conjunction with Governor PATTEN's political package.

In the light of the above-mentioned reasons, I shall vote against the motion. Thank you, Mr Deputy President.

MR FRED LI (in Cantonese): Mr Deputy President, I am speaking on behalf of Meeting Point. Firstly of all, I have to state our position that Meeting Point does not support Dr WONG's motion mainly for the following three major reasons:

- (1) As Legislative Council Members, we have the responsibility, and indeed are empowered, to propose amendment to or even vote down the Bills introduced to this Council by the Government for scrutiny. However, as a matter of procedure, we find it totally unacceptable to urge the Government to withdraw a Bill which is soon to be put to this Council. Naturally, what we are referring to is the Bill on political reform.
- (2) I believe that we all know it clearly that the so-called political reform legislation is actually composed of two parts, with matters concerning the Boundary and Election Commission as an independent part. The second part is a series of amendments to the 1994-95 electoral arrangements for different tiers of boards/councils. I guess Dr WONG will not oppose to the Bill in terms of the first part on the establishment of the Boundary and Election Commission. But why is the motion to urge the Governor to drop the whole package, including the part in connection with the Bill on the Boundary and Election Commission?

- (3) I feel that what is more important is that suppose Dr WONG's motion were carried today and the Governor did withdraw his political reform proposals, does it mean that everything will be all right as if nothing has happened? As a matter of fact, members of the public have carried out many discussions on the political reform over the past few months. Does it mean that the counter-proposals put forward by different sectors (including Members of this Council) after painstaking efforts will be gone with the wind? Meeting Point cannot help asking what would happen if the proposals are withdrawn. Is it that the Governor will again hold talks behind closed door with the Chinese side in Beijing and dismiss local opinions from his thoughts so that there would not be the so-called "three-legged stool" problem. And final decisions on the details of the 1994-95 electoral arrangements for different tiers of council/board are then made. Is this what one calls a convergence with the Basic Law? The latter half of the transition period still has four-odd years to go. Hong Kong will revert to China at the end of this period. Meanwhile, many issues on convergence and handover are required to be resolved. A good example is our new coins in which the two-dollar coin has adopted the bauhinia flower to replace the Queen's profile. And the Bank of China is going to issue banknotes. These are matters which have to be dealt with during the transition period. Members of the general public, who will become the future SAR citizens, feel that they have the absolute right to put forward their opinions on our future political system.

We, Meeting Point, are always in support of convergence. But such convergence must be achieved in Hong Kong's interests and built on local people's opinions. We have no idea what the arrangements would be if and when the proposals are withdrawn. As I see it, this is nothing more than an act to evade responsibility by merely urging the Governor to drop his proposals.

The hard fact is that details of the 1994-95 electoral arrangements should be ironed out but time is rather pressing. It cannot be accomplished merely by some sort of academic exchanges. What we really need to do is for Members to try our best to amend the Bill when it is introduced to this Council so as to make it a political reform package which is more equitable, democratic and acceptable to Hong Kong People.

Mr Deputy President, these are my remarks. We, the four Members from Meeting Point, cannot support Dr WONG's motion.

DR SAMUEL WONG: Mr Deputy president, we have to have a constitutional package in time for the 1995 elections. Because it is about democracy it should have the support of the Hong Kong people. It must be circumscribed by any binding agreements. What agreements are involved?

First is the Joint Declaration. This was widely discussed in Hong Kong over a period of years within the limitations of the constitution at that time. It is an international agreement, binding on both signatories, and lodged with the United Nations. It is binding on the people of Hong Kong. Most of it only applies after 1997. Paragraph 4, however, binds the signatories to certain policies during the transition period, 1984 to 1997.

Second is the Basic Law. It does not come into force until 1997. It is therefore not binding on anyone until then.

Third are various Sino-British bilateral agreements, not lodged with the United Nations, which may have been derived in secret and without the support of the people of Hong Kong. Some of these are relevant to the transition period. In particular they refer to convergence with the Basic Law. This is the only way the Basic Law can become involved during the transition period.

In order to formulate a constitutional package it is necessary to identify a policy objective. Since, as I have shown, the overriding agreement is the Joint Declaration paragraph 4, the policy must stem from that. In it the Government of the United Kingdom declares responsibility for the administration of Hong Kong with the object of maintaining and preserving its economic prosperity and social stability. The policy objective for constitutional development must be subordinate to the Joint Declaration and must be based on the object stated, in form something like this:

"to develop the constitution in order to optimise the economic prosperity and social stability of Hong Kong to the satisfaction of the people of Hong Kong and the Chinese Government."

Immediately, any isolated aim to develop democracy to an arbitrary extent is ruled out. No proposal will be viable without supporting evidence acceptable to the majority of the people of Hong Kong, or their representatives, and the Government of China that it will optimise the economic prosperity and social stability of Hong Kong.

Since the government proposals put forward on 7 October did not include such support, indeed was not accompanied by any policy objective, it must take its place with all other proposals to be scrutinized by this Council to test its compliance with the accepted policy objective, once that is formulated.

In these circumstances I can see no objection to the government package being used as the basis for discussion by this Council in committee. The committee would first formulate the policy objective. It would then test the compliance of the proposals available. It should during this process invite Chinese officials to attend the discussions, noting that such discussions would be with this Council, not with the Government or any British representative. They should be keen to attend, because by doing so they can comply with their

declared commitment in paragraph 4 of the Joint Declaration, being conscious of the fact that it is an international agreement lodged with the United Nations.

In this way all proposals would be given due weight and be fully discussed with the Chinese representatives, which is just what everyone wants. It will be as near as we can get to complying with the wishes of the people of Hong Kong since this Council contains representative of every person who voted in the last elections, in which the right to vote was open to everyone of voting age and residency.

I am of course fully aware that the major weakness in so representing the people of Hong Kong is that so few people voted, but at this point in time it is the best we can do.

For these reasons, Mr Deputy President, I oppose the motion. We have to start somewhere, and because of the democratic nature of this Council the result is likely to be the same wherever we start. So let us be positive, determined to make the best use of what we have, rather than be pusillanimous and negative by scrapping all the good work that has been done for no good reason.

MR HOWARD YOUNG (in Cantonese): Mr Deputy President, after the Governor proposed his constitutional package and before there was time to gather the views of the public fully, the Legislative Council hastily held a debate on some of the issues involved. Later, under almost identical circumstances, the Legislative Council held yet another debate. Actually, the public could be misled by all this, by the fact that even senior government officials voted against convergence in one of the debates. I hope that the same thing will not happen again. I feel that today's debate is of no practical help to resolving the row between China and the United Kingdom.

I would like to reflect here some of the views that people in the travel industry wish me to air. One member association said in a letter to me that "Governor Chris PATTEN's constitutional package is causing disquiet and division in Hong Kong and buffeting the economy. It would adversely affect the travel industry down the road." For these reasons, the same association asked me to express the concerns of the people in the travel industry and to urge Governor PATTEN to abandon his constitutional package. Lest it be thought that this association must be pro-China, I wish to note that it has more than 300 members accounting for roughly one-third of all travel agents in Hong Kong. As a matter of fact, there are many associations of travel agents — more than 10. I passed the letter to the other associations, to see if there was a consensus within the trade. Later, I received a letter from another association. Its letter said, referring to the letter mentioned earlier, "We feel that the various points mentioned are consistent with the wishes of the people in general, not only those in the travel industry. Therefore, our view is that the public wants the *status quo* of Hong Kong to be maintained through smooth transition." Is there anybody who suspects that this second association is pro-China? Let me

add, by way of explanation, that this association has the strongest ties to Taiwan among all the members of the Hong Kong Association of Travel Agents. However, among the more than 10 association members in the trade, six gave a "no comment" response, expressing their feeling that they should not take sides. Four did not respond or had nothing to say. Only one supported the statement of the first association, namely, the second association that I just described.

I feel that, at this time, our hope should be that China and the United Kingdom will resume talks and reach a consensus. The Co-operative Resources Centre (CRC) has asked the Governor to take the initiative and change some of the proposals in his constitutional package, particularly those concerning the Election Committee, the functional constituencies and the appointed membership. We feel that this is the only way to show that the Administration is sincere about resolving the various problems arising from the controversial constitutional package. It is precisely for this reason that many of our colleagues will be travelling to the United Kingdom later this week to lobby the British Government. We believe that the key to the controversy and the question of whether convergence is necessary as a result of a change in policy lies probably not in Hong Kong but in London. This is why we will also be asking the United Kingdom to show sincerity and take the initiative. I feel that, if possible, colleagues and I will be travelling to Beijing as our next step, to ask the Chinese Government to make a positive response. Only this is the constructive approach. And it is probably more constructive than being loquacious in this Chamber. Therefore, Mr Deputy President, this is my position. I fully support the views expressed a moment ago by the CRC and the Honourable Allen LEE.

DR TANG SIU-TONG (in Cantonese): Mr Deputy President, I believe that almost all people in Hong Kong have now realized that we are facing a very serious political row. This problem stemmed from the Governor's constitutional package, which is primarily a proposal to speed up the democratic development in Hong Kong. The proposal has given rise to serious disputes between the Chinese and the British Governments and among Hong Kong people over the past few months. China has responded that, in its opinion, the proposal is contrary to the Basic Law, contrary to the Sino-British Joint Declaration and contrary to the consensus reached in the diplomatic exchanges between China and the United Kingdom before the promulgation of the Basic Law.

The political reform issue has set off a chain reaction that is affecting Hong Kong's economy and people's livelihood. This has placed the local people in a very difficult position. The situation now is quite serious. I believe that many colleagues in this Council will agree with me when I say that it is our duty to explain to the public as best we can what the controversial political issue is all about and, in particular, what consequences and impact the constitutional package will have, and to encourage the public to express their opinions so that the authorities concerned could take reference from them. Therefore, I think that the motion moved by Dr Philip WONG is meaningful. He is making

available to the public a quite suitable opportunity to focus their attention on, and express their views about, the political reform issue. Undeniably, the most urgent business of the moment is to give the public their full say.

Democratic political development is the ideal of the overwhelming majority of the people in Hong Kong. But this ideal has to be realized gradually; it cannot become reality overnight. Since the signing of the Joint Declaration in 1984, the pace of democratic development has become the topic of public debate for a great number of times. Therefore, it can be said that the present controversy is harping on an old tune. Still, the present controversy is different in some respects. Firstly, with regard to timing, Hong Kong has already entered the latter half of the period of preparations for the smooth transfer of sovereignty. Secondly, with regard to the proposals *per se*, the Governor's constitutional package has a direct bearing on political convergence in, and smooth transition to, 1997. In this connection, the constitutional package has an impact on Hong Kong's political development and a vital effect on everything in the future of Hong Kong, on its future economy, people's livelihood, and particularly the fate of the next generation. In face of such a situation, I feel that the people of Hong Kong should not adhere to conventions, but taking a flexible and creative approach to the search for the best solution.

Like other people in Hong Kong, I have a great yearning for democracy. I hope that we will win the fullest amount of democracy compatible with Hong Kong's socio-economic conditions. However, I believe that the democratic ideal is a long-term goal. It must be supported by other objective conditions such as a universal civics education, a population taking an active interest in democratic participation and also a mature party system. Therefore, the goal of democracy is not something that can be achieved simply with the creation of more seats in the legislature filled by people returned through democratic elections. Nor can it be attained within a short period of time.

Apart from the long-term democratic goal, the people of Hong Kong have other goals as well, which are very pressing. And at this moment, the most important of them is smooth transition. I ran as a candidate several months ago in a by-election in New Territories West. My platform was "smooth transition", as I am deeply aware that most members of the public find it essential and most important to achieve smooth transition as 1997 draws close. To attain that goal, we must have the convergence of political institutions. At the same time, there must be closer co-operation between China and the United Kingdom. Smooth transition implies not only through-train transition for the Legislative Council but also the transition of the more than 60 government departments. It also entails actions to maintain Hong Kong's international ties in the economic and other fronts. In all of this, close Sino-British co-operation is needed in order that arrangements for smooth transition may be made.

The present political reform row is receiving full press coverage. For several months, it has been known that the controversy will reach a climax next month, at the Legislative Council's first reading of the Bill for the Governor's

political reform package. A lot of things may happen, such as a further deterioration of the Sino-British relations; the Administration's Bill tabled in the Legislative Council may be regarded by China as a breach of the Joint Declaration, that the Basic Law's provisions for convergence have been voided and that the Sino-British commitment to smooth transition has been scrapped. All this will undermine the confidence of investors and seriously affect the new airport project, all industries and trades as well as the territory's economy and people's livelihood. For these reasons, the people of Hong Kong must give careful thought to the political reform issue. If the pace of the democratic development is speeded up at this time in accordance with the Governor's constitutional package, Hong Kong will have to pay a very high, probably to an inordinately extent, price.

What we should do now is to try our best to encourage the public to express their views. Thus, public opinion will play its role. And it is hoped that a better solution, a compromise among different views, will be found. It is hoped that a way for putting an end to the political row will be identified. Thus, both sides will not take unilateral or extreme moves. I hope that today's debate will be conducive to the attainment of such a goal.

Mr Deputy President, I so submit.

MR GILBERT LEUNG (in Cantonese): Mr Deputy President, the political reform row has been going on for more than four months since last October, when the Governor delivered his policy address in this Council. People across the social spectrum have made many comments on his constitutional package. By now, the reform proposals have been thoroughly discussed. What needs to be done next is to make a comprehensive study of these views, before coming up with a plan that is reasonable and acceptable to the people of Hong Kong and then put it into practice. For this reason, I feel that merely asking the Government not to introduce the political reform package in the Legislative Council will not solve the problem.

What, in practical terms, should we do? Both the Chief Secretary and the Secretary for Constitutional Affairs recently told the media on separate occasions that the Government would not revise the 7 October constitutional package, which would be presented to the Legislative Council and the Executive Council intact. The two Councils would then decide what changes, if any, would be needed. In view of their remarks, I feel that the consultation process of the past four months is nothing more than a show, or a farce.

What is meant by "executive-led" government? After delivering his policy address, the Governor has repeatedly stressed in public that his constitutional package is just a proposal for comment and discussion, has he not? It is admittedly that the package was not made public in the form of a green paper; nor is there an official deadline for the consultation process. Still, the Governor attended several meetings to field questions from the public; and

many senior government officials have shown up at public forums and in radio and TV programmes to take questions. This is *de facto* consultation. Now the public has expressed many different kinds of views, and many groups have put forth many counter-proposals. I wonder if the Government would see the light that it should first of all, sum up the public's comments and, on this basis, put forth a revised proposal for study by all the Members of the Executive Council and the Legislative Council. Whether the Executive Council and the Legislative Council will be happy with the Government's summary of comments and revised package is not the point. If they are unhappy about it, they can consider making changes. Still, a responsible executive-led government should not shirk its responsibility for summing up the public's comments and putting forth a revised package.

One of the most important jobs of the Legislative Council is to supervise the Government and urge it to function effectively. Therefore, the Legislative Council is duty-bound to oppose such "responsibility shirking". Failure to do so will be a dereliction of duty on our part as legislators. What we should advise now is to urge the Government to provide a detailed official report on the comments received from the public since the publication of the constitutional package. The Government should consider the views of the public and other quarters and then decide what changes, if any, should be made in the constitutional package. Most importantly, the Government must explain clearly whether changes are needed and, if so, what changes are to be made. Now, before a clear explanation is given, the Government has already announced its conclusion that no change will be made. This is highly irresponsible. And I find it unacceptable.

After the Government gives a clear explanation, all Members of the Legislative Council will then be under obligation to make a judgment as to whether or not the Government's decision is in the long-term interest of the people of Hong Kong. Then, it will become the inescapable responsibility of all Legislative Councillors to decide what changes, if any, should be made to the final package presented by the Government.

Mr Deputy President, I so submit.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: On 7 October 1992 the Governor announced in this Council proposals for the arrangements for the Legislative Council, Municipal Council and District Board elections in 1994-95. These proposals represented the Administration's best judgement of the optimum balance between the clearly expressed desire of the community for a greater say in running their own affairs on the one hand, and on the other the wish to see arrangements being put in place which are within the terms of the Joint Declaration and the Basic Law, and thus capable of transcending 1997.

The Administration's proposals have attracted extensive discussion in the past few months. And I am pleased to see that there is continuing public support for the package, as reflected in the series of independent opinion surveys during this period. In two motion debates on 17 October and 11 November last year, this Council also gave its general support to the package as a whole, and to the proposed composition of the Election Committee in particular.

Despite this general support, some of our critics, including a few of the speakers today, have suggested that the Administration should now withdraw its proposals. Their argument is that the proposals somehow violated the Joint Declaration, the Basic Law, and the understanding reached between the British and the Chinese governments in early 1990. I do not wish to prolong this debate by rehearsing our well-known position except to say that none of the arguments in support of these accusations bear examination.

Mr Deputy President, it remains the Administration's firm and sincere belief that our proposals are in the overall long-term interest of Hong Kong, are within the terms of the Basic Law, and are conducive to Hong Kong's continued prosperity and stability. We cannot therefore see any reason why the proposals should not be introduced for consideration by this Council. Indeed, we would think that members of the public expect the proposals to be examined in a detailed manner and decided upon as soon as possible.

Accordingly, subject to the advice of the Executive Council, it is our plan to introduce into this Council, some time in February this year, draft legislation which seeks to give effect to the various proposals. To facilitate Members' consideration, we will publish, in parallel with or just before the introduction of the Bills, written submissions which we have received so far. Members will then be able to scrutinize the proposals in detail, along with the range of alternative proposals which have emerged from within the community in the past three months or so. The Bills, like any other Bills, will be open to amendments by Members. Ultimately, therefore, it will be this Council which will decide on the final shape of the electoral arrangements for 1994-95. I have every faith that Members will take into full account wishes of the public, and arrive at a final package which can command their confidence and support.

For these reasons, the three ex-officio Members will vote against Dr WONG's motion.

DR PHILIP WONG (in Cantonese): Mr Deputy President, the motion moved by me today basically does not go to the question of democracy. I urge my colleagues not to mistake me for an anti-democrat for in fact I am in full support of democracy. The spirit of democracy and the pace of democratic development as provided for in the Basic Law far exceeds the kind of democracy given to us by the Hong Kong British authorities during their 150-year administration of Hong Kong.

What has been set and laid down, we have to support as a matter of course. I would like to quote some comments made by Director LU Ping during an interview given to the Television Broadcasts Limited before the New Year's Day. He stressed saying "Mr PATTEN has to cancel his constitutional proposals. He must withdraw his package. If we were to talk, we would have to talk on the basis of the Basic Law. If we were to talk, we would have to talk on how to converge with the Basic Law. There is no other way. Any revamped proposals on the basis of the Patten package will be unacceptable to us. Such proposals will fail to converge with the Basic Law. They will not be on the through train in 1997."

I so submit.

Question on Dr Philip WONG's motion put.

Voice vote taken.

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

MR JIMMY MCGREGOR: Mr Deputy President, I claim a division.

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

DEPUTY PRESIDENT: Would Members now please proceed to vote?

DEPUTY PRESIDENT: Are there any queries before the results are displayed? If not, the results will be displayed.

Mr TAM Yiu-chung and Dr Philip WONG voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr HUI Yin-fat, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr Andrew WONG, Mr Martin BARROW, Dr LEONG Che-hung, Mr Jimmy MCGREGOR, Mr Albert CHAN, Mr Vincent CHENG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Timothy HA, Mr Michael HO, Dr HUANG Chen-ya, Mr Simon IP, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr Samuel WONG,

Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH, Mr Roger LUK and Miss Anna WU voted against the motion.

Mr Allen LEE, Mrs Selina CHOW, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr LAU Wah-sum, Mrs Elsie TU, Mr Peter WONG, Mr Moses CHENG, Mr CHIM Pui-chung, Dr LAM Kui-chun, Mr Gilbert LEUNG, Mr Howard YOUNG and Dr TANG Siu-tong abstained.

THE DEPUTY PRESIDENT announced that there were two votes in favour of the motion and 35 votes against it. He therefore declared that the motion was negated.

Adjournment

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

DEPUTY PRESIDENT: Mrs Elsie TU has given notice to raise a matter for reply by the Government. I would 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 I will call upon the Secretary for Planning, Environment and Lands to reply.

I would remind Members that the House Committee, on the basis of the number of Members who had indicated intention to speak, has recommended that the proposer of the adjournment debate will have five minutes for his speech and other Members will have three minutes.

In view of the time and with Members' forbearance, I propose to sit through until we conclude the debate.

Availability of rental public housing

6.05 pm

MRS ELSIE TU: Mr Deputy President, the Financial Secretary has promised to look into the housing needs of the sandwich class, and that is welcome. But I am even more concerned about those below the sandwich class. The Government misleadingly informs the public that a family earning less than \$18,000 a month is eligible for rented public housing. But the \$18,000 income limit applies only to families of 10 persons, while the average Hong Kong family is now only four persons, and they are excluded from public housing if they earn one dollar

above \$9,700. What can such a family do for housing? To rent a small old-type flat costs about \$5,000 to \$6,000, that is, two thirds of the family income. If they rent one small room, it will cost over one third of the income. If there are young children, the principal tenant is unlikely to rent the room to them. In all events, a family in private rented housing lives in fear of bullying and eviction or a steep increase in rent.

Surely this is the kind of family that public rented housing was intended for. In my estimation, any family of four earning less than \$18,000 is desperately in need of housing.

To say that families earning double the Waiting List income limit are wealthy is sheer nonsense.

Income limits are not the only problem for low-income families. The fact is that there is no housing available even for those within the income limits. The Waiting List is actually moving backwards. Every month until recently our ward offices have been given information on the letting situation on public housing estates. In July 1992, the number reached on the Waiting List was 740 000 for Sha Tin, 650 000 for Tseung Kwan O, and 690 000 for Tsuen Wan. But in September of the same year, the number reached in all three estates had dropped to 550 000. When I asked how the Waiting List could go backwards, I was told that the figures had been unrealistic, and that most flats were being allocated to redevelopment cases, while flats for Waiting List applicants were being refurbished. The public has therefore been misled, and nothing is being done for those most in need of housing. Redevelopment brings in higher rents and offers flats for sale, while Waiting List applicants wait in vain.

So applicants even within the income limits have no hope of being housed, and it appears that the department has stopped publishing the lists. The last one I received was for September last year and it tells a sad tale. There is no housing on public housing estates except for a few families of two or three persons in Tuen Mun, very few for single persons in Yuen Long, Fan Ling and Sheung Shui, and none at all in any other estates. Even remote Tin Shui Wai is almost fully occupied.

So where does that leave the rented housing programme for the lower income workers? I challenge the department to deny that the rented housing programme has come to a virtual standstill, and that its aim is now to sell and make money, or to double the rents for the same purpose.

May I remind the Government that the public housing programme was the foundation of our economy because it gave the incentive to workers to accept low incomes. But for the younger generation of workers nothing is being done and the housing problem is now critical.

I suspect that the Government no longer cares about the economy or the housing of the workers, but is only interested in expensive infrastructure

projects and the property market. There is an atmosphere of grab and run. I wonder what is the future for the low-income workers who cannot afford private rents or for whom no public housing is being built. Do we want to see our workers living in cardboard cities such as we see in western democracies that care for the rich but neglect the poor? Do we want to return to the squatter situation in Hong Kong 30 years ago? I urge the Government to return to its former housing programmes and provide rented public housing for our low-income workers.

DEPUTY PRESIDENT: Yes, Chief Secretary.

CHIEF SECRETARY: A point of elucidation, Mr Deputy President. I wonder if I could be helpful and ask Mrs TU whether the figures which she produced for the Waiting List of 650 000 were correct and whether there were not too many naughts on the figures she produced.

MRS ELSIE TU: Mr Deputy President, I have the figures here and I can show them to the Chief Secretary and he will see if they are correct.

MRS SELINA CHOW (in Cantonese): Mr Deputy President, on the issue of public rental housing, I have spoken many times in this Council that the Waiting List is too long, and I have called on the Government to find a solution for the problem. The figures cited a moment ago by the Mrs Elsie TU seem to be at variance with mine. According to the figures that I have, there are 170 000 applicants on the Waiting List; in other words, there are 170 000 families awaiting the allocation of flats, not as many as between 500 000 and 600 000 families. As far as I know, only 60 000-plus families are actually waiting to move into public housing, and the rest have been allocated public housing units through other channels. However, we feel that things are somewhat unfair to the families on the Waiting List. This is because on moving into public housing, the applicants will get many advantages. For instance, they may switch to a larger unit or purchase a Home Ownership Scheme flat. On the other hand, the Waiting List applicants have to wait for many years. Therefore, I think that the Housing Department, the Government or the Housing Authority should conduct a review to find out if it is taking too long to settle the allocation procedures.

I have heard many complaints about public housing units being left vacant for extended periods. I believe that this, too, needs looking into. Also, the size of the typical family has changed. There are and will be more single-person or two-person families. The Housing Authority needs to revise its housing construction plan to cope with this kind of demand and should do it expeditiously.

I find that the amount of rent is not the only matter of concern to public housing tenants. Many of the complaints that we have received are about services being incompatible with charges. Many of the complaints are about the management service. I suggest that the Housing Authority should use positive incentives to upgrade the quality of service. For instance, some kinds of contests can be held in the public housing estates, with tenants voting (as judges). This will enable tenants to oversee the management's performance in providing services. The Authority should also try its best to do away with its bureaucratic way of doing things.

MR HUI YIN-FAT (in Cantonese): Mr Deputy President, Hong Kong has scarce land relative to its large population. The provision of enough housing, especially low-rent public housing, is really a problem defying easy solutions. At present, there are 180 000 families on the public housing Waiting List. A family generally has to wait for five years or longer before being allocated even a non-urban public housing unit.

In fact, in its report for the third quarter of last year, the Housing Authority's Development Committee, which monitors progress in the "long-term housing strategy," noted that, based on supply and demand projections, there will be shortfalls of 15 000 units and 21 000 units respectively in the provision of Housing Authority's public rental housing units and Home Ownership Scheme flats by the year 2001. The combined shortfall will be 36 000 units. In other words, barring unforeseeable improvements, the goal of the "long-term housing strategy" will remain beyond reach by the early next century. The biggest obstacle is the serious shortage of land for development.

On the other hand, we cannot rashly ask the Government to diminish the supply of land for private sector housing as a means of speeding up the construction of public housing. Experience has taught that a sudden contraction of land supply will boost speculation in the private sector housing market.

I think that, hampered as it is by these objective conditions, the Housing Authority may find it a feasible policy to make better use of the resources that are already available, thus shortening waiting time. This should be additional to the Housing Authority's efforts to win more allocations of land from the Government for the construction of units for rent and for sale.

By making better use of available resources, I mean that the Housing Authority should, with computer-aided assignment, quickly reduce the number of occasionally vacant units in its hands, which is now more than 20 000. There should be only 3 000 or so vacant units and they should be reserved for emergency purposes. As to the problem of having "flat that are available but unoccupied," I am very glad to learn that the Housing Department has adopted my recent suggestion and will now consider setting up a telephone hot-line to encourage the public to report any cheating of the Housing Department by public housing tenants. One example of cheating is that a public housing tenant

has bought a private sector residential flat and yet continues to treat his public housing unit as personal property and either leaves it vacant or sub-lets it to a friend or a relative rather than surrenders it to the Housing Department. I hope that the authorities will quickly put this plan into practice. Then, the limited public housing resources will be put to full use.

On the other hand, the Housing Authority should reduce the financial assistance given to the well-off tenants by charging a higher rent where a tenant's income has increased substantially. This will increase the Authority's revenue and enable it to construct more public housing. Regrettably, during the Council's debate on 9 December, the motion to discontinue charging well-off tenants double rent was passed even though it did not offer a more feasible substitute. This will add to the Housing Authority's difficulty in dealing with the problem of the long public housing Waiting List. I sincerely hope that colleagues in this Council, as well as the general public, will consider the supply of public housing from the angle of the community's overall interests and that of better distribution of resources.

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, due to time constraint, I cannot go into an extensive discussion about the supply of public housing. Therefore, I will limit myself to the expression of concern about the availability of public housing for single persons.

As the Government is aware, 27 000 single persons are now on the public housing Waiting List and only 1 000 of them are accommodated annually. Even if the Housing Authority intends to increase the supply of one-person units and relax the eligibility requirements, demand still far exceeds supply. On the other hand, as the Government is also aware, the bedspace lodgers alone number more than 9 000. As we all know, the vast majority of them are single elderly people. Yet the Government says that there will only be 1 900 units for the elderly over the next five years. At the present rate, how many years will it take before all the elderly bedspace lodgers are accommodated? It must not be forgotten that our population is aging. No wonder we are witnessing the strange phenomenon of the growth of bedspace apartments simultaneous with the development of public rental housing and Home Ownership Scheme housing. As we all know, these bedspace lodgers are either middle-aged labourers or elderly people who have lost their capacity to labour. Many of them have long suffered from unemployment or semi-unemployment. When they wake up in the morning, they have no idea how they will last through the day. They live at the lowermost stratum of our society. Each of them has the space of a mere 14 sq ft. There, they survive from day to day, visited by no relative and having no living space of their own. Does the steady growth of bedspace apartments signify that the supply of public housing has never been concerned with the needs of these people? In fact, the bedspace apartments are just part of a bigger problem. There are similar single persons who live in roof-top sheds, cubicles, cocklofts or squatter huts and who are waiting for improvements in their living conditions. Here, I express the hope that the competent officials of the

Government, while congratulating themselves on the daily completion of 100 public housing units and Home Ownership Scheme flats and on the prospect that there will soon be thousands of housing units for the "sandwich class," will put their hands on their hearts and ask themselves if they have done enough for those living at the lowermost stratum who desperately need to be looked after by the community.

MR ALBERT CHAN (in Cantonese): Mr Deputy President, I feel that the Government's present overall housing development strategy is particularly harsh and unfair to crowded households living in public housing estates as well as single-person and two-person families. Though the Housing Department is aware of these problems, there is room for improvement in planning and in the measures taken to improve the living conditions.

The Government differs in its treatment of crowded households living in new public housing estates and that of old public housing estates. Overcrowding is now defined as less than 5.5 sq m of living space per person. Those living in public housing estates are forbidden to have rooms with permanent partitions. Let us take a four-person family as an example. If it is a young family living in a new public housing unit, these conditions may be barely tolerable though it is very inconvenient. This is because the children in this family are still small. However, if the family has been living in a public housing unit for 10 to 20 years, the children have grown up already. In most cases, they are teenagers or in their twenties. The crowded living conditions make it extremely inconvenient to all members of the family. An example is the Cheung Hong Estate in my constituency. There, a unit for a family of five has a floor area of only between 23.53 sq m and 24.35 sq m. The living space per person is less than five sq m. The tenants of this estate really need to be re-accommodated in larger units. According to the Housing Department, it has, for the 1992-93 year, only 500 units available for tenants applying for transfer to larger units. However, there are more than 29 000 crowded families in Hong Kong. The present policy is far from meeting the actual needs. Therefore, the Government should review its policy for crowded families so as to help public housing tenants, especially those living in cramped units, to improve their living environment and living conditions. The Government should redefine over crowding and speed up the processing of this kind of transfer applications.

Mr Deputy President, the Government should also do better to meet the demand for public housing for single-person and two-person families. With the changes in society, the demand for single-person and two-person public housing units is on the increase. However, the Government has been quite slow in this area and is unable to adjust to the changes. Take Sha Tin for instance. In the allocation of two-person public housing units there, the number reached on the Waiting List is 570 000. At the present rate of processing, if a person sends in the application now, he probably will not be allocated a unit by the year 2007. On the whole, I think a special effort should be made to find better ways of

coping with the needs of crowded families and one-person and two-person families.

Thank you, Mr Deputy President.

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, where housing supply is concerned, the Housing Authority is of the opinion that the demand for housing can basically be met if there is an ample supply of land. However, public groups generally hold that, even if the supply of land is plentiful so that the housing construction target of the Housing Authority's long-term housing strategy is met, the availability of rental public housing will still be far short of demand. Where then does the problem lie? I think that one explanation for the discrepancy between the official opinion and the public's opinion is the problematic method used by the Housing Department in assessing the demand for public housing.

Let me give an example. According to the Housing Department, 64 000 households meeting the income requirement of eligibility for public housing will still be living in inadequate private sector housing in the year 1993-94. But the Housing Department figures that only 28 000 of them will have an effective demand for rental public housing. And the other 36 000 households are determined to be not intending to live in rental public housing. This number of households which are alleged to have no *bona fide* intention to live in rental public housing is derived from the General Household Survey. But we should all understand that many respondents in the survey, when they indicated that they did not intend to live in rental public housing, said so because it would not be uncommon for them to wait eight or 10 years before they would have any chance to be offered public housing, but only if they were willing to move to public housing estates situated in the remote corners in the New Territories. The problem of single-person families is even more serious. It was found that only 17.9% of the single-person families living in inadequate private sector housing responded that they intended to live in public housing. This precisely shows how the serious shortage of rental public housing for single-person families has borne on their housing preference. It is therefore clear that many people, when they do not elect to live in rental public housing, say so because they know that rental public housing is in short supply and the Waiting List is too long. Yet the Housing Department uses their answers in the survey to claim that the effective demand for rental public housing is not great. The Housing Department is in fact clearly understating the demand for rental public housing. Indeed, the potential demand is much greater than the effective demand. I hope that the Housing Authority will quickly make a correction and stop making up excuses to reduce the supply of rental public housing.

The above example concerns only one of the 10 kinds of demand for public housing. The total demand for public housing, if we add up all these 10 kinds of demand, is even more grossly understated. If the effective demand for rental public housing is not worked out seriously, what is the point of

talking about meeting the housing target? I hope that the Housing Authority will realistically face up to the true demand.

I so submit.

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, public rental housing, I feel, is a structural problem. The shortage is caused by three structural constraints.

The first constraint is the completion total. For public sector housing, the completion total is now about 40 000 units a year. This total, if not increased, is a basic constraint.

The second is the fact that the central government has stopped funding the Housing Authority's housing construction. The Housing Authority, using proceeds from public rental housing, Home Ownership Scheme (HOS) flats and commercial units, can build 40 000 new units annually. The profit margin of HOS flats is 100%. This means that the proceeds from the sale of one HOS flat can be used to build exactly two housing units: one public rental housing unit and one HOS unit. The Housing Authority has no funds for building extra public housing. This is the second structural constraint.

The third structural constraint is the fact that only a limited number of sites can be redeveloped each year and some of the units completed in redeveloped sites are used for re-accommodating tenants affected by redevelopment. In fact, the number of units that are completed is basically a constraint. Between 12 000 and 13 000 units are needed annually to re-accommodate public housing tenants affected by redevelopment. In other words, out of the 20 000 public rental housing units completed each year, between 12 000 and 13 000 are for re-accommodating the sitting tenants from redeveloped public housing estates. This leaves only between 4 000 and 5 000 units for new tenants. In addition, roughly between 10 000 and 15 000 old units are available for re-allocation each year after their tenants have moved out. Unless these three structural problems are resolved, supply will never be able to meet demand.

According to the statistics for April 1992, there were 115 000 applicants on the public housing Waiting List. The inferred number of families qualified for public housing is 100 000. But this number is on the increase. The Waiting List will get longer and longer, but what about the supply? Let me cite a few figures for your consideration. From 1988 to 1991, the number of public rental housing units, HOS units and private sector housing units increased by 12%, 47% and 10% respectively. It is estimated that, from 1992 to 2001, the corresponding increases will be 3.3%, 105% and 30.9%. Such rate of increase makes no sense compared with the ever-increasing demand. If the structural problems remain unsolved, how can the shortage of public rental housing and housing for low-income people be resolved? In studying the issue, the

Government should begin with the structural problems and the supply and demand situation.

Thank you, Mr Deputy President.

DR CONRAD LAM (in Cantonese): Mr Deputy President, my speech will show how the Housing Authority is deliberately sidestepping the question of our housing demand and understating the magnitude of the problem. I will also show that its present policy is not in line with the principles of the Long Term Housing Strategy.

The income limits are currently set on the basis of two considerations:

The first is how much a family spends on non-housing items. The non-housing expenses of the bottom one third of the families living in private rental housing, as set out in the household spending survey of the Census and Statistics Department, are averaged and then adjusted to reflect increases in the Consumer Price Index (A). The finding is that a family of four spends \$5,500 (a month) on non-housing items. However, in setting the income limits for Home Ownership Scheme (HOS) units, the Housing Authority agrees that a family of four spends \$8,420 (a month) on non-housing items. The Housing Authority said in April 1992 that, if the income limits for public housing were to be set in the same way as it was for HOS units, then the number of families eligible for public housing would go up to 166 700. Therefore, the Housing Authority claims that its resources are limited in a bid to justify its refusal to lower the income limits to a reasonable level.

The second consideration in setting income limits is how much a family spends on housing. The present income limit for public housing in the case of a family of four is \$9,700 (a month), of which \$4,190 will be spent on housing. However, according to the Housing Authority, the monthly rent in new lease agreements is \$182 per square metre. Therefore, the spending of a family of four on housing should be reasonably set at \$6,920 ($\$182 \times 37 \text{ sq m}$) a month.

The above calculations show that, if the income limits for public housing are used to fathom the effective demand for public housing, its upper limit should be raised to \$15,320 per month. I hope that the Government will take a proper look at the housing problem of the marginal sandwich class, whose income denies them the eligibility for public housing but is too small to afford HOS units. The upper limit should be raised to give these neglected families a chance to improve their living conditions.

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy President, my speech will focus on the problem of availability of small public housing units, particularly units for single-person families. I am particularly concerned about this problem because elderly people account for nearly half of all single-person families.

Another reason is that most single-person families are financially worse off and desperately in need of government assistance. Very regrettably, however, the present housing policy is seriously flawed, both qualitatively and quantitatively, where the availability of housing for these vulnerable people is concerned.

I should like to talk about quantity first. The Housing Authority in 1991 published its supply and demand projections for public housing units for small families for the coming six years. These projectections showed that, under the original development plan, there would be a cumulative shortfall of nearly 10 000 single-person units over the six years from 1991-92 to 1996-97, taking into account no more than what would be needed to accommodate those affected by the redevelopment of squatter areas and the clearance of temporary housing areas. If we add the demand of those who are on the Waiting List for public housing, then, as far as I can tell at this point, there will be a total shortfall of more than 25 000 single-person units by 1997. In 1991, the Housing Authority suggested various ways of increasing the provision of single-person units, such as providing more single-person units in new public housing estates, refurbishing old rental public housing units and relaxing the space-per-person standard. Even so, supply of such units was expected to have increased by only 10 000 by 1997. That is to say, the majority of the single-person families on the Waiting List would still fail to be assigned public units. And in the year 1991-92, it is reported that there were fewer than 1 000 single-person families on the public housing Waiting List. In this connection, the Housing Authority indeed must conduct another review and substantially increase the supply of single-person units. It should not concern itself solely with helping people to buy their own homes while overlooking the needs of the vulnerable people at the lower social strata.

Lastly, I should like to talk briefly about quality. Most of the measures taken by the Housing Authority now to solve the problem of supply of single-person units are not satisfactory. For instance, the refurbishing of old public housing estates and the requirement for tenants to move once every few years are very unfair. Also, concentrating single-person and two-person units in the same block will not enable them to be better looked after by others in the same community. Instead, it will turn these blocks into those with elderly tenants only. This is really inappropriate. The design of the single-person unit in the new public housing estates is also very problematic. The elongated shape of the unit is totally impractical to the tenant. Tenants say that they are like being kept in prison. The authorities concerned must look into this.

Mr Deputy President, I so submit. I hope that the Housing Authority will soon adopt a market-oriented housing strategy.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, a paper prepared by the Housing Authority's Development Committee in 1992 shows that the Housing Authority would fail to meet the housing completion target of the Long Term Housing Strategy because of the reduced production of public housing and

the insufficient supply of land. For instance, there will be a shortfall of 9 255 units by the year 1996-97 and a shortfall of 13 245 units by the year 1997-98. Actually, there will be a cumulative shortfall of 36 635 rental public housing units and Home Ownership Scheme units over the period from 1993 to 2000. Roughly 140 000 people will be affected. However, the shortage of public sector housing is much more serious than the picture depicted above.

More than 180 000 households are on the public housing Waiting List. Each year, the number of households on the list will grow by 13 000. About 18 000 households a year are affected by public housing redevelopment and must be re-accommodated. Other urban redevelopment projects also create an inestimable demand for public housing. In the coming decade, about several hundred thousand people will be affected by the redevelopment of private buildings. Infrastructure projects and the physical changes in the urban areas will also affect a relatively large number of people. The total lifting of rent controls, if it takes place in 1996, will affect many people. At present, 290 000 people are still living in squatter huts or in inadequate flats. Despite the fact that the effects of the above four factors sometimes overlap, the total demand for public housing should not be regarded as the sum of these four sources of demands. There is no doubt at all that several hundred thousand rental public housing units will be needed. As a matter of fact, the above figures do not include the demand created by evictions from condemned buildings, resettlement on compassionate grounds, evictions from the clearing of temporary housing areas, housing for junior civil servants, natural disasters and over-crowding. The Housing Authority will produce an average of 35 000 public housing units a year over the next nine years. Only 14 000 of the 35 000 units will be made available for assignment to families on the Waiting List. It is thus clear that the supply of public housing will be far short of demand. I believe that, when the Government laid down the Long Term Housing Strategy in 1987, one of its targets was to satisfy the housing needs of all the families on the Waiting List after 1997. But one can be certain that this target will be a complete failure.

I so submit. I hope that the authorities will review the situation and substantially increase the supply of rental public housing.

MR FRED LI (in Cantonese): Mr Deputy President, the Government laid down a Long Term Housing Strategy five years ago, predicting that the housing problem would be resolved by 2001. The Government estimated that, by the mid-1990s, all urban squatter areas would have been cleared and most of the people living in temporary housing would have been re-accommodated. It further estimated that there would probably be an over-supply of rental public housing. Now let us look at the actual situation today. According to information supplied by the Housing Department to the Legislative Council, there are still 57 500 people now living in urban squatter areas. One can be certain that, by the middle of the 1990s, which is two years from now, most of them will not have been re-accommodated. An estimated 18 200 people will

still be living in temporary housing in 1995-96 because 19 of the temporary housing areas will still not have been cleared by then. There are more than 100 000 households on the public housing Waiting List. And the Housing Department will stop accepting applications for urban public housing because of the shortage of such units.

I represent Kowloon East, that is, Kwun Tong. Seventy per cent of the people of Kwun Tong are public housing residents. I would like to cite the example of Sau Mau Ping Housing Estate, which is now under redevelopment, to illustrate the shortage of rental public housing. The redevelopment of this estate spreads over 15 years from 1987 to 2001. The project involves the redevelopment of more than 40 blocks. After it is completed, the ratio between public housing and Home Ownership Scheme housing will be 52 to 48. In other words, there will be roughly half of each. A social group conducted a blanket survey of the tenants of the seven blocks earmarked for redevelopment in the next few years in the middle of last year, or to be exact, in April 1992. Fifty-three per cent of the tenants turned in completed questionnaires. The vast majority of them, 96% to be exact, said that they would prefer to live in rental public housing after the project was completed. Only 4% said that they would buy Home Ownership Scheme housing. From the case of Sau Mau Ping Housing Estate just mentioned, it is quite clear that the authorities would not be able to meet the demand for public housing. And even the supply of public housing in Kwun Tong as a whole will not be able to satisfy the demand. It is therefore no wonder that no date can be set in the foreseeable future for the clearing of some of the temporary housing areas in Kwun Tong which have been in existence for more than 16 years and become dilapidated. Many who live in these hazardous squatter areas are anxious to have their areas cleared soon. But they do not have the sympathy of the authorities.

In sum, the Housing Authority should abandon its strategy with the private sector as the thrust. It should replace it with a public housing-oriented housing strategy. This will truly be a strategy for resolving the housing problem of the people of Hong Kong.

Mr Deputy President, these are my remarks.

DR PHILIP WONG (in Cantonese): Mr Deputy President, as a member of the Housing Authority, I always pay close attention to the demand and distribution of Home Ownership Scheme (HOS) and public housing flats. As far as I know, the ratio between these two kinds of flats, as prescribed in the Long Term Housing Strategy, is adjusted annually according to prevalent circumstances. Recently, because of an increase in demand for public housing, the ratio between HOS and public housing flats was adjusted to 50:50 from 55:45. Thus, the supply of public housing flats will rise slightly. There are 180 000 applicants on the public housing Waiting List. Forty-one per cent of them are single-person or two-person families. On average, 38% of those on the Waiting List are qualified because some have already moved into public housing for

redevelopment-related and other reasons, and because some have been found unqualified and taken off the list. In other words, the real demand on the Waiting List is 68 400 units. The number of applicants for HOS units has doubled with each invitation of applications. This shows a strong and real demand for HOS units. We should strike a balance between the supply of these two kinds of flats.

Based on the present housing completion volume, plus the number of public housing units that are vacated yearly, such as by tenants who have bought HOS units, almost 39 000 rental public housing units are available each year for assignment. After taking care of the entitlement cases, that is, those who are entitled to public housing because they are affected by redevelopment or clearance, no fewer than 140 000 units, or 35% of the total, will be assigned to applicants on the Waiting List in the coming few years.

I think that the demand for public housing remains huge. The Housing Authority should maintain the present high level of supply of public housing units to the tune of 14 000 per year to applicants on the Waiting List, so that the clearing of the application backlog will be speeded up.

Given that people affected by redevelopment or clearance must be re-accommodated in the neighbourhood, it is difficult for applicants on the Waiting List to be assigned units in the urban areas. This is understandable. Units in the Tin Shui Wai public housing estate recently were accepted by 70% of the applicants to whom they were offered. This shows that public housing units in new towns are beginning to become generally acceptable to applicants on the Waiting List. If applicants on the Waiting List are willing to take public housing units in farther-away new towns, their waiting time will be only between one and two years. I consider that to be reasonable. Though urban public housing is in short supply, I still think that the Housing Authority should continue to make some urban units available to people in special cases, such as elderly people, disabled persons and people in need of public housing on compassionate grounds.

I so submit.

6.42 pm

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, in an earlier debate on housing policies, I think I remember making the point that whatever the deficiencies of the fine-tuning of arrangements for public rental and other public housing in Hong Kong, we should not lose sight of the fact that in Kong Kong we have for a long period in the past and a long period in the future been responsible for one of the major social housing programmes in the world and we have a programme which is the subject of study and a certain amount of envy by numerous communities around the world. So I do not think that as a community and as an administration, we have

a great deal to apologize for and I think that is a background comment that we should not forget.

Strategy review and supply

Prior to 1986, the public housing production target was 30 000 rental flats and 10 000 Home Ownership and Private Sector Participation Scheme flats a year. The emphasis was on rental housing not only because there was a large outstanding demand for rental housing, but also because the time was not seen to be ripe to provide assisted home ownership on a larger scale.

In 1987, following a strategic review, a decision to shift the emphasis was taken. The rationale is reflected in the Long Term Housing Strategy (LTHS). Briefly, a gradual reduction in rental demand by the mid-1990s has been expected to be matched by a progressive increase in sales production reflecting growing aspirations for home ownership. But the demands of those who cannot afford home ownership are not ignored. And there is no question of forcing eligible applicants to accept home ownership.

The LTHS is demand-led. Given the necessary lead time for housing production, the assessment of demand is based on past take-up and affordability trends. This is the most pragmatic way to deal with changes in the demand pattern sensibly and responsively, and to strike the right balance between the demands for rental housing and home ownership.

The LTHS production targets are reviewed each year. When the strategy was first formulated, certain assumptions were made on the rate of HOS take-up by sitting tenants and those affected by redevelopment and clearance. However, assumptions are not always fulfilled and only 9% of tenants affected by redevelopment have opted for home ownership as against the 25% originally assumed. Changes in the Waiting List situation have also affected the forecast of rental demand. As some Members have pointed out today, private sector housing has become less affordable to some end-users, particularly newly formed households with a modest income; and this too has generated additional demand for rental housing. In response, the production target has been increased by 77 000 flats, of which 34 000 flats are for rental for the remainder of the strategy period. The housing mix between rental and sales has also been adjusted from 45:55 to 50:50 for the next five years.

I should like to mention here the difference between land supply forecast and flat production. It has been a fact of life that since the housing programme was commenced it has always been a question of identifying sufficient sites towards the end of the supply period. But I think it is a fact of life also that target and land supply requirements have always been met in due time.

The demand for rental housing, as measured by the size of the Waiting List, was in decline until 1990 - from 180 000 in April 1985 to a low point of 149 000 in April 1990. But since then, the Waiting List has grown back to the

current 180 000. One factor is the increase of nearly 30% in Waiting List income limits in 1992, which expanded the eligibility net from 95 000 to 114 000 households. Other factors are also at work, such as the Housing Authority's publicity campaign to encourage households to apply for flats in Tuen Mun and Tin Shui Wai, and its continuing efforts to increase the supply of one and two-person flats, which have prompted many to apply. At present, 41% of those on the Waiting List are one and two-person households. Rehousing for small households has been slow due to a shortage of supply and previous efforts to give priority to rehousing larger families. The Waiting List for three-person plus families is now 24% shorter than it was in 1985. From experience, only 38% of the applicants will be able to meet the income and other criteria after vetting. The effective demand on the Waiting List is therefore likely to be about 68 000.

I should also point out that the supply of rental flats is not totally reliant on new production. In the next five years, the Housing Authority expects to produce about 21 000 new rental flats a year. In addition, it expects to recover about 13 000 flats from sitting tenants who move out of rental housing. The Authority's policy is to refurbish these flats to modern standards before allocating them to new tenants. On average, therefore, a total of about 34 000 rental flats should become available for allocation each year.

Quota allocation

Many Members are concerned as to how the housing cake should be cut. I shall deal in turn with the questions of priority, equity and locational preference. First, priority. The redevelopment programme displaces about 12 000 families a year, which takes up to at least 35% of new rental production. Similarly clearance of Temporary Housing Areas (THAs) and squatter areas takes up another 8 000 flats. After meeting the demand from other rehousing categories, the remaining flats are offered to eligible Waiting List applicants. I work this out to be about 14 000 per year, and if we compare that with the 68 000 effective Waiting List, we are talking about a requirement over a period of five years. It is not easy to strike a perfect balance between the many competing claims for subsidized housing resources and the allocation system applying at any particular time is unlikely to meet every pressing need as seen through the eyes of the individuals affected and those who monitor the housing programme. Nevertheless, the commitment to clear obsolete housing blocks, THAs and squatter areas will generally be seen as a reasonable setting of priorities by most. After all, the occupants of these areas are in substandard housing.

Second, the question of equity. Some Members have suggested that it is unfair to allocate only flats in the New Territories or "second-hand" flats in the urban area to Waiting List applicants who have been in the queue for many years. Unless redevelopment and clearance programmes are to be allowed to slip, however, this approach will need to continue. Authority tenants affected by redevelopment must be given preference in the allocation of new public

housing units in the same district. This of course raises the fundamental question of whether sitting tenants should be able to maintain an entrenched position and continue to enjoy the benefits of fully subsidized housing indefinitely and in preference to those who are more deserving of assistance. I have no doubt the Housing Authority would welcome suggestions which will enable it to adjust the system and at the same time be equitable and fair to all parties concerned.

Third, locational preference. Location is probably the most important consideration in rehousing and the popularity or otherwise of the new housing estates. On the supply side, it may not be fully realized by those who are most anxious about it that 54% of new rental production between now and 2001 will be located in the urban area, 29% in the extended urban area and only 17% in the New Territories. The locational spread of casual vacancies now is about the same: with a 50:29:21 division. While most people might prefer to live in the urban areas, for good planning reasons, we have nonetheless to encourage a more even spread of population. Many of our new towns have prospered after the initial teething problems. Indeed, within living memory, Wah Fu Estate and Kwun Tong were quite unpopular distant places in their early days. But those who have moved to new towns like Sha Tin and Tsuen Wan now enjoy improved transport, better employment opportunities and new community ties. Waiting List applicants are not banished to the new towns. New towns grow with population intake, and experience has shown that the private sector is equally encouraged by new town development, and has taken part in making them successful.

Waiting time

A common concern is the time a family has to wait before it can be rehoused. The size of the Waiting List is only part of the reason. Many families express very firm preferences about the district in which they are prepared to accept a rental flat. This is understandable, because of employment, schooling and social ties. The waiting time for an urban flat is now almost indefinite, mainly because of the Housing Authority's commitment to offer local rehousing to tenants affected by redevelopment. However, the waiting time can be substantially reduced if a family is prepared to move further afield. For example, they need wait only one or two years if they are prepared to move to the northwest New Territories. Under current policy, priority is given to rehousing elderly single people. If they are willing to move to a new town, they can expect to be rehoused in sheltered housing or a converted one-person flat about six months after registration. Compassionate cases on the recommendation of the Social Welfare Department can be given first priority, and rehoused within three months.

Conclusion

Mr Deputy President, the availability of rental housing, particularly to families on the Waiting List, is clearly a complex matter. The Government is aware of the problems faced by many families living in inadequate housing, including cagemen, squatters and THAs. The Housing Authority obviously cannot produce flats overnight for everyone who wants them and in a location of their choice. It must work within a defined programme and it must balance its use of resources to meet the competing demands for decent, low-cost accommodation. It is possible for different views on competing priorities to exist and I am sure the Authority will take into account those expressed in this Council when it reviews the LTHS and refines its thinking. The Government for its part will seek to ensure that our overall planning objectives and the housing preferences of those who are rehoused are within reason met.

MR LEE WING-TAT: Point of elucidation, Mr Deputy President.

DEPUTY PRESIDENT: Yes, Mr LEE.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, with your permission, I should like to ask Mr EASON to elucidate one point. In his response to our discussions, he indicated that there are currently 180 000 applicants on the Waiting List, with the effective demand being 68 000 and he expected the problem to be solved within five years. Could Mr EASON advise us how he would meet the 20 000 effective demand within five years with the Waiting List growing at a rate of 13 000 each year?

DEPUTY PRESIDENT: It is up to you, of course, Mr EASON, whether you elucidate or not.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Deputy President, I would like to elucidate very briefly. What I have tried to indicate, at least in part of my response, is that the question of public housing and public housing targets and meeting those targets is a question of moving targets and that it is not possible at one point in time to predict with absolute certainty that any particular programme will meet targets over an indefinite period. The point is that the targets have to be reviewed as it is done every year. And if you add additional eligible people into a programme, then you must expect to have to change that programme and you must generally expect to have to extend it over a longer period. This, I think, has been a feature of the housing programme since it began and I would expect it to continue.

Question on the adjournment proposed, put and agreed to.

Next sitting

DEPUTY PRESIDENT: Before I adjourn the Council may I extend to all Members my best wishes for the new lunar year. In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 3 February 1993.

Adjourned accordingly at Seven o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Official Languages Ordinance and Drug Trafficking (Recovery of Proceeds) Ordinance, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

