

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 10 November 1993

The Council met at half-past Two o'clock

PRESENT

THE PRESIDENT

THE HONOURABLE JOHN JOSEPH SWAINE, C.B.E., LL.D., Q.C., 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.

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

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, J.P.

THE HONOURABLE MOSES CHENG MO-CHI

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

DR THE HONOURABLE LAM KUI-CHUN

DR THE HONOURABLE CONRAD LAM KUI-SHING, J.P.

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

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

THE HONOURABLE TIK CHI-YUEN

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

THE HONOURABLE JAMES TIEN PEI-CHUN, O.B.E., J.P.

THE HONOURABLE ALFRED TSO SHIU-WAI

ABSENT

THE CHIEF SECRETARY

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

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

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

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

IN ATTENDANCE

MR MICHAEL SUEN MING-YEUNG, J.P.

SECRETARY FOR HOME AFFAIRS

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

SECRETARY FOR SECURITY

MRS ELIZABETH WONG CHIEN CHI-LIEN, I.S.O., J.P.

SECRETARY FOR HEALTH AND WELFARE

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

MR HAIDER HATIM TYEBJEE BARMA, I.S.O., J.P.
SECRETARY FOR TRANSPORT

MR DONALD TSANG YAM-KUEN, O.B.E., J.P.
SECRETARY FOR THE TREASURY

MR MICHAEL DAVID CARTLAND, J.P.
SECRETARY FOR FINANCIAL SERVICES

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

MR LAM WOON-KWONG, J.P.
SECRETARY FOR EDUCATION AND MANPOWER

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

THE DEPUTY CLERK TO THE LEGISLATIVE COUNCIL
MR PATRICK CHAN NIM-TAK

Papers

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Amusement Game Centres (Appeal Board) Regulation	435/93
Amusement Game Centres (Fees) Regulation.....	436/93
Travel Agents (Amendment) Regulation 1993.....	437/93
Statutes of the Chinese University of Hong Kong (Amendment) (No. 3) Statute 1993	438/93

Sessional Papers 1993-94

- No. 23 — Revisions of the 1993-94 Estimates
Approved by the Urban Council
During the Second Quarter of the 1993-94 Financial Year
- No. 24 — The Prince Philip Dental Hospital Hong Kong Report
by the Board of Governors
for the Period 1 April 1992 - 31 March 1993
- No. 25 — Regional Council Revised Estimates of
Revenue and Expenditure 1993-94
- No. 26 — Regional Council Annual Report 1992-93
- No. 27 — Regional Council, Hong Kong
Accounts for the Year ended 31 March 1993
with Report and Certificate of the Director of Audit

Oral answers to questions**Domestic violence**

1. MRS SELINA CHOW asked: *Will the Government inform this Council what interdepartmental strategy has been adopted for handling of cases of domestic violence?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, domestic violence can take many forms, including spouse battering, child abuse and fights between family members. We have now in place a well-established system of co-operation and referrals between government departments and hospitals for handling cases of domestic violence. The police, the Hospital Authority, the Department of Health and the Social Welfare Department have standard procedures for dealing with spouse battering and child abuse cases.

When a case of domestic violence is reported to the police, they will liaise with the Social Welfare Department to provide counselling for the victim and will immediately make arrangements for him or her to be sent to a hospital for medical examination and treatment. Upon referral, the Social Welfare Department will provide counselling and assistance. Financial assistance, child care service, temporary refuge or accommodation, referrals for legal aid and compassionate rehousing are provided to the victims. Where necessary, court proceedings will be initiated for the care of the abused child. Similarly, the hospitals and the Social Welfare Department will liaise with the police and each other if they come across cases of domestic violence.

Through close co-operation and well-defined referral procedures, the relevant departments and the hospitals have a clear understanding of their respective responsibilities and prompt action is taken to help victims of domestic violence and their families.

MRS SELINA CHOW (in Cantonese): *Mr President, we all know wife abuse cases are on the increase now and an interdepartmental working group has been set up to tackle effectively, especially in preventive and remedial work, the problem of child abuse. Then why has there been no similar working group on wife abuse to deal with this mounting social problem?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, our strategy has always been to establish close integrated co-operation between departments and to put in place a well-defined and streamlined referral system, so that victims of domestic violence will be assisted immediately.

MRS SELINA CHOW (in Cantonese): *Mr President, I think the Secretary has not answered my question. My question is: Why has the Administration not set up an interdepartmental working group on wife abuse similar to the one on child abuse?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, abuse of any kind is a serious matter in that it endangers or impairs one's physical and mental well-being. Any abuse — be it child abuse or wife abuse or, indeed, husband abuse — causes tremendous pain and suffering not only to those abused but also

to others around them. Our strategy has always been to concentrate on prevention rather than cure because prevention is always better than cure, as I explained in the adjournment debate on wife abuse on 10 March this year. I have also explained the reason why we feel that in any system to help victims of domestic violence the actual procedure adopted should have much more effect in terms of help to the individuals concerned than would any committees which talk about policy in the vacuum.

MRS MIRIAM LAU (in Cantonese): *Mr President, I understand that the Administration is not willing to fund a hotline for wife abuse cases. May I ask the Secretary why the Administration is unwilling to do so? Does the Administration have any effective measures to prevent or minimize wife abuse cases?*

PRESIDENT: There are two questions, Secretary.

SECRETARY FOR HEALTH AND WELFARE: Mr President, on the first question regarding a hotline for wife abuse cases, we would certainly welcome calls to the Social Welfare Department's hotline which is manned by staff who handle all types of abuses and respond immediately to questions. The hotline is of course for cases which involve, among others, spouse abuse. So I would suggest that people who want assistance should call the Social Welfare Department's well understood hotline. If there is a case for a separate hotline, then, certainly, I am sure the Social Welfare Department will consider it.

As regards the second question, could I ask Mrs Miriam LAU to repeat it because I have quite forgotten it?

PRESIDENT: I think we had better go to another question and see if there is time for your long supplementary, Mrs LAU.

MR FREDERICK FUNG (in Cantonese): *Mr President, recently the Complaints Division of the Legislative Council received a number of complaints and requests for help from women who were victims of abuse. They had applied to the Social Welfare Department for "compassionate housing" so that they could be given temporary accommodation in public housing estates in the interim, and pending court order on their divorce, they could then decide whether they would stay on or move out. Their complaints were that when they made their enquiries with the Social Welfare Department, the staff there were blunt or did not understand their problem, and normally it was very unlikely that they got the so-called "compassionate housing". Will the Secretary review the whole*

administrative procedure for "compassionate housing" to see if there were women who were victims of abuse but did not get this benefit?

SECRETARY FOR HEALTH AND WELFARE: Mr President, as I said earlier, there has already been close co-operation between departments — the Social Welfare Department and the Housing Department — and various other organizations to handle spouse abuse cases. Close departmental co-ordination is already reflected in the introduction of the Public Housing Conditional Tenancy Scheme in 1991. The scheme was worked out by the Social Welfare Department, the Housing Department and the Legal Aid Department to provide conditional tenancy on compassionate grounds for eligible spouses who are undergoing divorce proceedings. And indeed, as at 30 October, a total of 318 cases had been recommended by the Social Welfare Department to the Housing Department for consideration for compassionate housing, and of those, 238 have already been successful and have been duly advised. I feel that if there are areas of complaint, obviously we have to look into the procedure to see if we can expedite things or to see if we can better help the individual.

MS ANNA WU: *Mr President, can the Government inform us what resources have been employed to specifically train policewomen and policemen to handle domestic violence cases? And do we have a specific number regarding those who are so trained and currently working in the Police Force?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, may I defer to the Secretary for Security on police matters?

SECRETARY FOR SECURITY: Mr President, I do not know. I will give an answer in writing. (Annex I)

PRESIDENT: An answer in writing, Ms WU.

MS ANNA WU: *Thank you, Mr President.*

MR TIK CHI-YUEN (in Cantonese): *Mr President, the Secretary attached great importance to prevention when she talked about the handling of domestic violence cases just now. The existing family services, however, only focus on remedial services such as the setting up of family services centres and the provision of counselling services. Does the Administration have any plans to introduce, or subvent other voluntary agencies to provide, more services in this respect, especially more on the side of prevention and with a more pro-active approach than merely providing remedial services?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, I think it is necessary to improve family services generally — not only the services provided by the Social Welfare Department but also services provided by the subvented sector — in order to enable caseworkers to spend more time with their clients and also to devote more resources to preventive work. We intend to enhance this in the 1994-95 financial year.

MR EDWARD HO: *Mr President, I refer to the response the Secretary gave to Mrs Selina CHOW. It is all very well for her to say prevention is better than cure, but if the incidence of wife abuse has continued to go up in number, will the Secretary not agree that something more has to be done and that a cross-department working group to look into the problem is not, as she says, "talking in a vacuum"?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, when we talk about spouse abuse we are talking not only about wife abuse but also husband abuse; any form of abuse is a tragedy. I would appeal, first of all, to those who abuse their wives to stop abusing their wives. I think prevention should start with society through education first, before we talk about interdepartment working groups.

MR HENRY TANG: *Mr President, domestic violence, including, say, spouse battering, child abuse and severe fights between family members, many times go unreported by the family members for fear of embarrassment to the family. In those cases where they are not reported to the police — as mentioned in the second paragraph of the Secretary's main reply — it seems to me that no action can be taken. So as regards those cases which are not reported, how will the Secretary address, shall we say, this "vacuum"?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, I think it is true to say that domestic violence tends to be a much under-reported crime and that it can happen to wives, husbands and children — and particularly children because, being unable to protect themselves, they are the primary object of protection by the Director of Social Welfare. In the case of fights between husbands and wives which are not reported, I think the best way to prevent the rising incidence of abuse is still through family life education, because that would encourage people to come forward to seek help, as was done with child abuse cases. I think Members will recall that 10 years ago even child abuse cases were not readily reported because people were very reluctant to expose what they called "family business" in public. But I think family life education can encourage many more people to come forward to use the hotline of the Social Welfare Department to report cases, and through that we can encourage more people to seek help. And other than that, I think we would probably rely very much on the common sense of society and also on preventive work.

Deposits in dormant accounts

2. MR CHIM PUI-CHUNG asked (in Cantonese): *Will the Government inform this Council:*

- (a) *whether it is aware of the amount of money involving deposits in dormant accounts in the banking system of Hong Kong which has been treated as "unclaimed"; and*
- (b) *of the policy to deal with those deposits and whether consideration will be given to requiring the banks to hand over the deposits concerned to the Government for disposal?*

SECRETARY FOR FINANCIAL SERVICES: Mr President

- (a) In the absence of industry-wide or international definitions, classification of dormant accounts and unclaimed deposits varies from bank to bank. It is not possible therefore to have an accurate figure for unclaimed deposits in the banking system.
- (b) Individual banks have their own internal guidelines and policies for the classification of dormant accounts and for the treatment of unclaimed deposits. According to a survey of the leading local banks, while many of the institutions do classify some of their deposits as unclaimed if the accounts concerned have been inactive for a certain period, it is a general practice that they do not discharge their obligations on such deposits. In other words, if and when the deposits in question are eventually claimed, the banks will still repay the amount in full, save for any charges which may be applicable to the transaction.

The Government does not intend to require banks to hand over unclaimed deposits for disposal. We are not aware that the present situation causes any major practical difficulties and we believe that this is a matter best handled in the context of the normal banker-customer relationship.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, the Administration's reply indicated that there was no past record, and seemed to show no concern in this respect and also no intention to amend the relevant policy in future. In fact, there were indications that a very large amount of money was involved before and after the Japanese occupation period, but the Administration simply showed no concern. Nowadays, many people of Hong Kong have emigrated to other countries. Some of them do not want to let their family know how much money they have, nor do they want other people to use their money after they die. So the Administration should consider following the practice of other countries and*

introduce legislation so that for deposits which have not been used for over seven years and where the depositor cannot be found, the Government can put them into a fund for practical use. Moreover, the Administration should require the existing banks to provide a service that the banks have to notify a depositor's family or his trustee if he cannot be found and has not been in touch with the bank for a period of time. Will the Administration consider introducing legislation in these two respects?

SECRETARY FOR FINANCIAL SERVICES: Yes, Mr President. First of all, I did not say there was no record. The banks of course do keep records and they do have their own classifications of what they mean, for their own internal administrative purposes, by dormant or unclaimed deposits. But because these records are different from one bank to another there is no meaningful figure that can be derived for the whole banking sector. That is very different from saying that there is no record.

Secondly, I did not say that the Government was not concerned about this issue. Of course the Government is concerned. What we are concerned about is to ensure that there is an adequate system and we believe that there is. There are perfectly reasonable legal principles and banking practice principles that apply in this area which cover the points made by Mr CHIM. Let me just recount what those principles are because I think it would be helpful to the understanding of the subject if I were to just run over what I am advised are the legal principles applying here.

First of all, Mr President, a bank deposit has the legal character of a loan; money paid in becomes a part of the general assets of the bank and the relationship of the banker and customer is that of a debtor and creditor, together with the super-added obligation arising out of the custom of bankers to honour the customers' cheques. However, the ordinary rule that a debtor must seek out his creditor, which is the point to which Mr CHIM was referring, does not apply in the case of banks. Rather, the banker's duty is to repay money or any part of it upon demand being made by the customer. The customer would have a right of action at law only after a demand has been made. There is of course a six-year statutory limitation on bringing an action founded on simple contract but that only starts to run after a demand has been made, and, in any event, bankers have not been in the habit, as a matter of business, of setting up the statute of limitation against their customers.

Mr President, against that background, it does seem to us that the important point is that debts will be honoured despite the lapse of time; they can be claimed either by the depositor or by his estate and it is simply a matter of establishing the *bona fides* of the claim. And therefore there would be no difference in that situation if the Government were to take it over, since the money would still have to be held on trust for payment at the end of the day. As long as the banking system is secure, as long as these well established

principles of law and practice are followed, there seems to be no justification for the Government to be involved.

MR PETER WONG: *Mr President, will the Secretary inform us whether he is aware of any other jurisdiction which does require banks to hand over unclaimed or dormant accounts?*

SECRETARY FOR FINANCIAL SERVICES: Yes, Mr President. In Hong Kong we generally follow the British system and the system in the United Kingdom is the same as that which I have outlined here. Japan also follows the same system. I am aware, though, that the United States has a system where the Federal Reserve will take over unclaimed bank deposits after a certain lapse of time. That may well be because of different legal provisions applying — different from those which I have outlined. It may also be relevant to note that the American banking sector is comparatively unstable. The bank failures during the 1980s reached over 200 per annum in 1988 and 1989, and were still running at over 100 per annum last year. That is very far from being the case here in Hong Kong.

DR PHILIP WONG (in Cantonese): *Mr President, many banknotes were lost over the years. Some were burned, some were dropped into the sea, and some became collectors' items. They therefore were out of circulation. Did the Administration have any estimate on the situation and how will it handle the problem?*

SECRETARY FOR FINANCIAL SERVICES: No, Mr President, we have no record of that. And, obviously from the nature of the subject as described, I would have thought it unlikely that such records would exist. It seems to be somewhat removed from the broad subject of the question which asks of the normal policy for dealing with unclaimed deposits inside the banking system.

PRESIDENT: Is your question directed to unclaimed accounts, Dr Philip WONG?

DR PHILIP WONG (in Cantonese): *Mr President, my question concerns mainly the banknotes that were out of circulation. I believe the people of Hong Kong do not know how much that will amount to, but I guess the amount will be enormous. Does the Administration have any means to estimate the sum concerned and how will it handle these monies?*

PRESIDENT: That does not really come under the answer as regards unclaimed accounts.

DR HUANG CHEN-YA (in Cantonese): *Mr President, we do not know indeed how serious the problem is, so it seems that the Administration should collect more information in this regard for our reference. Will the Administration consider requiring banks to submit data on these dormant accounts such that the Administration can know what the current position is? Besides, we know that the holders of some of these accounts may have passed away and their relatives may not know of the deposits and will have no way of finding out these deposits. But if the Administration has kept a clear record of such deposits, the relatives will then be able to recover these deposits. In a recent court case, an American found that some Hong Kong stocks of his grandfather were missing. After some inquiries, it has been found that the stocks are now worth some \$5 million. So if the relatives can discover these accounts, they will be able to recover a large sum of money which will be very helpful to them. Will the Administration consider requiring banks to provide this kind of record?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, the Administration does not follow the habit of requiring banks to report information that the Administration itself does not feel that it needs to know about. And the reason I say that is because we take the view that, if the principles applying and the system applying is satisfactory, then that in itself should be sufficient. There is no indication that there is indeed any problem at all here. It is not a question of how serious the problem is. There is no indication that there is a problem at all. The system does seem to be operating. And for the reasons I explained when I outlined the legal principles, the normal practice that a debtor should seek out the creditor does not apply in the case of the relationship between a banker and a customer. If indeed it did apply, it could well result in a situation where monies might be repaid to the creditor and then outstanding cheques would not be honoured and that would be a very serious situation because the honouring of cheques is one of the most important duties of a banker. We have no indication, as I say, Mr President, that there is a problem. But if Dr HUANG or any other Members interested in this subject have information that would help, we would be happy to consider it.

Safety standards of homes for the aged

3. MR HUI YIN-FAT asked (in Cantonese): *After a recent inspection of homes for the aged throughout the territory, the Fire Services Department pointed out that the safety standards of five of these institutions were so worrying that the joint efforts of the government departments concerned were urgently needed to tackle the situation. Furthermore, 305 homes for the aged have not installed automatic sprinklers and smoke detectors as required by the relevant Codes of Practice. In view of the above situation, will the Government*

inform this Council, pending the completion of the legislative process to impose regulatory control on private homes for the aged, what measures are in place to ensure that operators will comply with the existing Codes of Practice and what arrangements will be made to cope with the likely effects which the proposed legislation will have on services to be provided by homes for the aged?

SECRETARY FOR HEALTH AND WELFARE: Mr President, the Administration attaches great importance to the safety and quality of service of residential care homes for the elderly people. Subvented homes run by non-governmental organizations are generally providing a high standard of service for elderly persons. The quality of service in some private homes has, however, been a cause of concern.

To help private homes maintain a high standard of service, a Code of Practice for Private Homes for the Elderly has been published to provide service guidelines for home operators. One chapter of the Code is devoted entirely to safety and fire precautions. At present, we have no legislative powers to require private homes to provide a sprinkler system or an automatic fire detection system as recommended in the Code.

Homes are referred to the Fire Services Department for inspections on fire safety by the Social Welfare Department. Subsequent to the fire bomb attack in June this year on a home at Boundary Street, the Fire Services Department has indeed stepped up visits to these homes. Since then, a total of 530 visits have been conducted. All homes have been visited at least once. Staff of the Social Welfare Department also pay regular visits to private homes to urge home operators to comply with the Code. After each visit, a letter will be issued to the operator to point out areas for improvement, including safety measures if these are found not to be adequate. The department also issues letters from time to time to all home operators to remind them of the importance to observe safety precautions.

The most effective means to control the standards of residential care homes is by legislative control. The Residential Care Homes (Elderly Persons) Bill was introduced into this Council last week. The main purpose of the Bill is to ensure that residential care homes for the elderly are of a standard acceptable to the community of Hong Kong. I wish to take this opportunity to urge Honourable Members to accord priority to the examination of this Bill. We hope that the legislation can be enacted early to ensure that homes will be able to improve their service according to the conditions imposed under the Bill.

MR HUI YIN-FAT (in Cantonese): *Mr President, I am grateful to the Secretary for informing this Council that after each visit to a private home, a letter will be issued to the operator to point out areas for improvement if inadequacies are found. But our concern is that should these operators refuse or fail to make any improvement, and there are in reality high potential risks, what measures will*

the Administration take, especially in the interim pending the completion of the legislative process, to prevent these homes from posing any threats to the lives of the residents?

SECRETARY FOR HEALTH AND WELFARE: Mr President, according to the current code of practice for minimum fire service installations and equipment, the fire safety requirements for the homes for the aged and residential homes are the same as those for other institutional buildings. The major fire service installations required include the sprinkler system. Operators of existing homes should find no major difficulty in complying with the requirements, except for those homes situated in buildings without fire service water tanks. Homes in this latter group may find it more difficult to install the sprinkler system. In that case, we will do our best to arrange with the Water Supplies Department to obtain sprinkler water directly from the town mains to overcome the water supply problem.

In respect of the five homes referred to in the main question, the major problem with these five homes is that they are situated in premises considered unsuitable for use as homes for the aged. Additional fire safety requirements would not help because they would not be sufficient to mitigate the inherent risk of these premises. Of these five homes, two have closed and two are actively looking for suitable premises to relocate; and as regards the remaining one which occupies the basement and the ground floor of one building, the operator has closed the basement portion which is considered unsuitable for the purpose.

MR FRED LI (in Cantonese): *Mr President, once the legislation to bring residential care homes under control is put into operation, a considerable number of private homes may have to close down owing to failure to comply with the requirements (some may not be able to reach certain standard even after a grace period). Does the Administration have any contingency measures to deal with those old people currently residing in private homes who need rehousing?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, we do not consider that the enactment of the Bill will give rise to problems as described in the supplementary question. However, we do have plans for alternative arrangements to meet such a situation should such a situation arise.

DR YEUNG SUM (in Cantonese): *Mr President, the Residential Care Homes (Elderly Persons) Bill will go before this Council for discussion, and upon the enactment of the Bill, I believe that the fees of these private homes will definitely increase. Will the Administration do its best to help out those old people who need residential care but are in financial hardship?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, should such cases arise, we would help out those eligible who require help.

MR WONG WAI-YIN (in Cantonese): *Mr President, the Secretary said in the second paragraph of her reply that the Administration had at present no legislative powers to require private homes to provide a sprinkler system or an automatic fire detection system. But it is learned that among 305 homes without such facilities, more than 10 are subvented ones. Will the Secretary explain why there is a lack of such facilities in government subvented homes and will she also inform this Council whether the Administration has any plans for early installation of these facilities?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, I need to look at the details of the cases referred to in the question. Indeed, where it is necessary to install sprinklers and fire service facilities, we will do it immediately.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, will the Administration, in conformity with the spirit of this legislation, ensure that there is an adequate supply of manpower, including qualified nurses and social workers? If the staff needed are not readily available, will the Administration delay bringing the Ordinance into operation or extend the grace period so as to give private homes more time to make adequate preparation?*

PRESIDENT: Secretary, two questions there.

SECRETARY FOR HEALTH AND WELFARE: Mr President, on the second part of the question, I really cannot tell because the Bill has yet to be enacted. As regards the first part of the question whether we are going to adopt procedures which will make it better to accommodate both the staff of the homes and the people in the homes, the answer is yes.

DR TANG SIU-TONG (in Cantonese): *Mr President, will the Administration inform this Council whether there is, apart from fire prevention, any control over hygiene and accommodation of these residential homes? Is there any legislative control in this respect? If no, what action will the Administration take?*

PRESIDENT: I think you are going beyond elucidation of the main answer, Dr TANG.

Potentially hazardous installations (PHI)

4. MR MAN SAI-CHEONG asked (in Cantonese): *With regard to the potentially hazardous installations (PHI) in Hong Kong, will the Government inform this Council:*

- (a) of the current number of PHI;*
- (b) of the policy and strategy in handling PHI and the contingency plans, if any, to deal with emergency situations;*
- (c) whether the Administration, in response to increasing public awareness and concern on the matter, will release the risk assessment reports on PHI and their contingency plans to the members of the public for information; and*
- (d) whether the Administration would consult public views and involve community participation such as through district boards in the planning of PHI and contingency measures?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, it may help if I define the term potentially hazardous installation first. A PHI is an installation at which hazardous materials are stored in quantities equal to or greater than a specified quantity. The specified quantity varies with different substances but generally follows the specification in the United Kingdom Notification of Installations Handling Hazardous Substances Regulations 1982, but with some variation to take into account local circumstances. In addition, explosives factories and depots are classified as PHIs.

On point (a) of the question, there are only 34 PHIs in Hong Kong. They include the larger LPG storage facilities, gas works, chlorine stores at water treatment works and explosives factories and depots.

On point (b), the policy is to reduce the risks associated with a PHI to levels which are as low as is reasonably practicable. This is done by controlling the siting of PHIs and land use in their vicinity, and by requiring the installation to be constructed and operated to specified standards. Since December 1986, an interdepartmental committee, the Co-ordinating Committee on the Land Use Planning and Control Relating to Potentially Hazardous Installations, or CCPHI for short, has co-ordinated action on PHIs.

For each PHI the surrounding population is established by a planning study and the risk levels are evaluated by a hazard assessment of the plant. The overall risk levels posed are then judged against a set of guidelines formulated by CCPHI taking into consideration international practice. New PHIs will not normally be approved unless they comply with the risk guidelines. For existing

PHIs which do not initially meet the risk guidelines, CCPHI will determine what risk mitigation measures are necessary to bring the risk levels down. Such measures may include the provision of improved safety systems and the reduction in the amounts of hazardous materials at the plant. If necessary, relocation will be considered. Other measures can include withholding the granting of a licence or formal design approval for an increased inventory level at the PHI.

As regards contingency plans, emergency response procedures are drawn up in respect of each PHI by the Fire Services Department in consultation with other departments and agencies concerned, including the police, the Environmental Protection Department, the Electrical and Mechanical Services Department, the Government Laboratory and the Government Flying Services. These emergency procedures take full account of the nature and location of the installation and are set out in the form of an emergency plan. The plan is distributed to all government departments and agencies involved in emergency operations, and will be activated when required. I should stress, however, that the whole concept of risk management is to minimize the chance of incidents occurring from the outset.

As regards points (c) and (d), the local district board is normally informed of the main hazard assessment findings, proposed risk mitigation measures and contingency plans in respect of individual PHIs. We will continue to follow this practice. In addition, we intend to incorporate the risk guidelines in the Hong Kong Planning Standards and Guidelines early next year. This will make the relevant information more readily available to the professionals concerned and the general public alike.

MR MAN SAI-CHEONG (in Cantonese): *Mr President, as potentially hazardous installations may cause fire, explosion and poisonous chemical leakage and very often are located near densely populated areas, will the Administration introduce legislation to provide for early submission of risk assessment reports and public consultation during the planning stage instead of after the plan has been finalized and made public and which already has the blessing of the Government?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I think what I tried to say in my main answer — which unfortunately seems to have been lost between that and the first supplementary question — is that PHIs are not likely to cause explosions or the release of toxic gases. The whole emphasis of the process of laying down standards for the planning of and the mitigation measures for PHIs is to reduce to the absolute minimum the possibility of explosion or the release of toxic gases or other similar occurrences. It would, of course, be quite possible to introduce legislation for the control of PHIs. But given that there are so far only 34 of them and very few additional ones appearing, given also that for the most part

they are subject to control under other legislation, for example the Fire Services Ordinance and other regulations governing the use of hazardous materials, and given that we have now very, very thoroughly codified under the Hong Kong Planning Standards and Guidelines the means of controlling the establishment and the planning around PHIs, I myself doubt whether this is worth the exercise of legislation.

REV FUNG CHI-WOOD (in Cantonese): *Mr President, the Secretary mentioned in the fourth paragraph of his reply that some existing PHIs did not meet the risk guidelines. Will the Secretary point out what these PHIs are that fail to meet the guidelines? Furthermore, it was said that the Co-ordinating Committee on the Land Use Planning and Control Relating to Potentially Hazardous Installations would take action to mitigate risks; when will it complete its work?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, of the 34 PHIs that I have referred to, the information I have is that action on hazard assessment, planning study and mitigation measures is complete on 24. The action in relation to the other 10 involves, in some cases, relocation which of course can take some time in terms of finding alternative sites. But I can assure Members that great importance and urgency is attached to completing the implementation of measures to mitigate all risks as far as is reasonably practicable. As regards the details on individual items, I should be prepared to provide that in writing. (Annex II)

MR LEE WING-TAT (in Cantonese): *Mr President, it was mentioned in the first paragraph of the reply that the specification regarding potentially hazardous installations generally followed the specification in the United Kingdom Notification of Installations Handling Hazardous Substances Regulations 1982, with some variation to take into account local circumstances. My question is: Has the United Kingdom Government ever made amendments to the specification between 1982 and 1993? If so, did Hong Kong make amendments accordingly? Furthermore, when referring to the specification, it was said that some variation was made to take into account local circumstances. By "variation", does it mean that control has been relaxed to the point that water treatment works and oil depots are not classified as PHIs though they may be located near densely populated areas?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, as far as the first part of the question is concerned, I cannot give Mr LEE an immediate answer on that but I will provide an answer in writing. (Annex III) I think it is true to say that regulations of this kind are subject to fairly regular updating given changes in technology and scientific standards. But as I say, I will provide that part of the answer in writing.

As regards the second part of the question, I believe that the effect of what we are doing in Hong Kong to take account of local circumstances is in fact to apply more stringent standards.

PRESIDENT: Has your question not been answered, Mr LEE?

MR LEE WING-TAT (in Cantonese): *Mr President, Mr EASON says that the standards must be more stringent when it is said that standards are updated with regard to local circumstances. Will Mr EASON be able to answer whether an LPG installation with explosion risk is defined as a "potentially hazardous" or a "hazardous" installation under the British system?*

PRESIDENT: That, I think, goes beyond the follow-up, Mr LEE.

DR SAMUEL WONG (in Cantonese): *Mr President, referring to the 10 installations which had not met the risk guidelines, as mentioned by the Secretary in answer to Rev FUNG's question, will the information be made public in the near future and a time limit be set for their relocation?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, to answer the second part first, the intention is that some of these installations should be relocated. As far as the information on the 10 installations is concerned, I will be glad to provide the information in writing.

Post-retirement or post-resignation employment of civil servants

5. MISS CHRISTINE LOH asked: *With regard to the policy governing private sector employment by senior civil servants after their resignation or retirement from service, will the Government inform this Council of:*

- (a) the reason for the difference in the policy governing post-retirement and post-resignation private sector employment;*
- (b) the longest sanitization period advised by the Advisory Committee on individual applications for post-retirement employment;*
- (c) the number of cases where a retired officer's pension was suspended on account of his employment in the private sector; and*

- (d) *the criteria adopted by the Secretary for the Civil Service in exercising discretion in granting approval for a resigned officer to take up private sector employment?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, the answers to these questions are as follows:

- (a) In general terms, we do not believe that it would be considered reasonable, or would be very practicable, to attempt to control the future employment of those who have resigned and severed their links with the Government. I would add however that we can and do exert control, if appropriate, during any period of final leave (which can be a matter of months). Furthermore all former civil servants, whether retired or resigned, remain subject to the provisions of the Official Secrets Act (1989), as extended to Hong Kong.
- (b) The longest sanitization period advised by the Advisory Committee on an individual application for post-retirement employment is two years.
- (c) The short answer is none. This is because those officers whose applications were turned down did not take up the post-retirement employment concerned. If they had, their pensions would have been suspended.
- (d) The criteria adopted with respect to an officer who resigns and wishes to take up private sector employment during pre-resignation leave are the same as those for officers seeking post-retirement employment. Essentially these concern whether there is a conflict with the public interest.

MISS CHRISTINE LOH: *Mr President, I do not feel either question (a) or question (d) has been answered. In question (a) I simply wanted to ask what is the reason for the difference in the policy governing post-retirement and post-resignation. I am then told that it is not practical or reasonable to attempt to control future employment of those who have resigned. Would one not say therefore that those who have retired have nevertheless severed their links with the Government? And in answer to (d), the Government says that in fact the criteria for the exercise of the discretion are the same as those for post-retirement. So can the Government confirm that there is a difference in policy and try not to evade the question?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, there is a difference in policy. I think the difference arises from the fact that in the case of someone who resigns he is taking a unilateral act, if I may so put it, to sever his links with the Government. He gives up his benefits of course and he gets no pension or any of the other post-retirement benefits. And so, we feel that it would be unreasonable to stipulate any general restrictions on such a person. After all, he has to make a living, he has something to offer to the community and provided he does not infringe the Official Secrets Act, then I think it is reasonable that he should be able to take up post-resignation employment.

MS ANNA WU: *Mr President, will the Government indicate the number of applications made and the approvals given in the last 10 years with regard to resigned or retired officers in the senior civil service taking up private sector employment in Hong Kong?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, it follows, I think, from what we have said that we do not maintain statistics on people who have resigned because we are not maintaining control in that respect. As regards those who have retired, I do have some statistics relating to the last six years, which is the period since the Advisory Committee which advises the Governor on this matter was established. In those six years, a total of 163 applications from ex-directorate officers were submitted for post-retirement employment. Three of those were rejected, 37 were approved with various conditions, usually relating to a sanitization period, and 123 were approved without conditions. I would add, perhaps, that the majority of the applications relate to those involved in the professional field, such as doctors, lawyers, engineers, accountants and others.

PRESIDENT: Has your question not been answered, Ms WU?

MS ANNA WU: *I wonder if I am entitled to follow up on the matter, Mr President?*

PRESIDENT: Well, strictly, because there is a queue, only if your question has not been answered.

MS ANNA WU: *It has been answered. Thank you, Mr President.*

MR STEVEN POON (in Cantonese): *Mr President, a number of statutory bodies like the Hospital Authority and the Securities and Futures Commission have wide powers, and their officials, strictly speaking, are not public officers.*

Can the Administration inform this Council if "the Official Secrets Acts" and the "the sanitization period of not more than two years" are applicable to senior officials of these statutory bodies, taking into account that many of them are employed on contract terms?

PRESIDENT: Do you have the answer, Secretary?

SECRETARY FOR THE CIVIL SERVICE: I think, Mr President, the answer to that is that they should not be covered by the Official Secrets Act. But I think it would be wise if I were to check that and inform the Member directly. (Annex IV)

MR JAMES TIEN: *Mr President, in paragraph (d) of his reply, the Secretary mentioned a criterion based mainly on whether there is a conflict with the public interest. Could the Secretary please inform us whether this broad statement of conflict with the public interest covers also a retired civil servant having information which, if released, would be embarrassing to the Government and would have nothing to do with the public interest?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, the basic question that is considered is whether there is any conflict with the public interest. But in this respect account is taken of a number of factors, for example, whether the officer had been involved in policy formulation or policy decisions the effects of which could have benefited a prospective employer, that is to say, whether the prospective employer might gain an unfair advantage over competitors because of the officer's previous knowledge and experience, and also the public perception of the officer taking up the proposed appointment. These are the main factors which are considered under the heading of public interest.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, the Advisory Committee, as referred to by the Secretary, that deals with post-retirement employment applications only rejected three of the 163 applications. Does this indicate that the Committee is, in fact, just a rubber stamp which endorses virtually any application? Will the Administration review this screening mechanism to make it accountable to the public, and require that staff at directorate levels or above seeking to take up immediately post-retirement employment in the private sector must have their applications considered and approved by the Legislative Council?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, I think it could certainly not be said that there is any rubber stamp procedure here. The general guidelines for post-retirement employment are set out very clearly in

civil service circulars and they are well known to civil servants. And I think civil servants who have retired, being responsible people, are careful to try to avoid conflicts with the public interest and that is the reason for the low number of rejections. I think it would be quite wrong to draw the conclusion that there is any form of rubber stamp mechanism here. The mechanism involved is that for directorate officers there is an Advisory Committee. The Advisory Committee considers applications individually and it makes a recommendation to the Governor or to the Secretary for the Civil Service, depending upon the seniority of the person concerned, and then either the Governor or the Secretary for the Civil Service will make a decision. I think this is a perfectly acceptable mechanism and I do not believe it would be at all appropriate for the Members of the Legislative Council to decide on these matters.

MR MICHAEL HO (in Cantonese): *Mr President, at present, applications for post-retirement private sector employment are examined by a Committee and approved by the Governor. But according to the statistics provided by the Secretary just now, it is obvious that the vast majority of applications were approved. Many of these officers were joining the professional field in the private sector, but the percentage of approved applications nevertheless was high and only three applications were rejected so far. In the light of these, is it that the control within the Civil Service over private sector employment exists in name only and does not have any real meaning at all? Will the Administration review and tighten the existing screening mechanism and how will it deal with the matter? If no review is contemplated, what are the reasons?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, I would say the figures that I gave were actually remarkably low. I think I mentioned 163 cases in six years. This is really not a great number and I think it indicates that there is quite a lot of restraint being exercised in this area. Furthermore, I think I would have to add that civil servants who retire have a great deal of experience, skill and dedication to the community. They have got something to offer, and I see no reason why we should take too austere a line in this respect although of course we must be very careful about safeguarding the public interest. So I think the answer to the question, Mr President, is that we feel that we are imposing enough restrictions and we do not propose to further review our procedures.

Localization of the Civil Service

6. MR FRED LI asked (in Cantonese): *Regarding the localization of the civil service hitherto pursued by the Government, will the Administration inform this Council:*

(a) *what "localization" means, and*

- (b) *whether this is in conflict with the recently introduced policy allowing contract officers appointed on overseas terms to apply for transfer to local terms of employment; if so, where the conflict lies; if not, why the original policy is not continued?*

SECRETARY FOR THE CIVIL SERVICE: Mr President,

- (a) In the context of civil service employment, "localization" means the policy under which an overseas person is appointed only if a fully qualified and suitable local person is unavailable and the qualifications for appointment cannot be modified to enable a local, in preference to an overseas, appointment. An "overseas person" is simply someone who meets the relevant criteria for appointment on overseas conditions of service. A "local person" means someone who does not qualify for overseas conditions of service.
- (b) There is no inherent conflict between the localization policy — as defined — and the recently introduced measure to which the Honourable Member refers. However it used to be the practice that we would not entertain an application from a contract officer already serving on overseas conditions for a new contract on local conditions. We will now consider such an application, but only in respect of a permanent resident of Hong Kong, subject to certain conditions being met, and on an interim basis of one contract only. With this one change, which is expected to involve limited numbers, the localization policy continues to be implemented firmly and fairly.

As Honourable Members may know, we have recently announced that we wish to move towards abolishing overseas and local conditions of service for future appointments. We envisage that "localization" would still be a key feature of our future employment policy. But with the phasing out of differential conditions of service we would need to devise a new and positive definition of who is "local". This is a very important aspect of a wide-ranging consultative exercise on which we have now embarked.

MR FRED LI (in Cantonese): *Mr President, the Administration has stated clearly in the reply just now that an overseas person is appointed only if a fully qualified and suitable local person is unavailable. But obviously the Police Force has been recruiting junior police officers from the United Kingdom to fill the posts of inspectors in Hong Kong on overseas terms. Is it very difficult to recruit inspectors from among locals, and why is recruitment confined to the United Kingdom and not the United States, Canada or Australia?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, perhaps I should have made it clear in my main reply that there is an exception to the localization policy. The policy which I have outlined in my reply is the overall policy but there is an exception in the Police Force. The Commissioner of Police considers that it is desirable to continue with the traditional practice of recruiting a small number of inspectors from overseas and this is done as a matter of policy. But apart from that exception, the policy which I have outlined applies across the board.

PRESIDENT: Was your question not answered?

MR FRED LI (in Cantonese): *Elucidation, Mr President. The Secretary has not answered the second part of my question. That being the exceptional case, why is recruitment confined to the United Kingdom and not the United States?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, I think this really is a matter for the Commissioner of Police. There is no policy reason as to why these particular officers should be recruited from a particular place, as far as I am concerned. The traditional source of recruitment has been the United Kingdom. And the Commissioner clearly feels that it is advantageous to continue with that on a small scale.

MR ALBERT CHAN (in Cantonese): *Mr President, the Administration has a well-defined "localization policy" for the Civil Service, but not quite so for statutory bodies wholly-owned by the Government. While there is no distinction between local and expatriate officers for some of these bodies, others like the Provisional Airport Authority, the Mass Transit Railway Corporation and the Kowloon-Canton Railway Corporation have marked difference in the conditions of service between locals and expatriates. This has seriously affected the morale of locals in these statutory bodies because they may feel being racially discriminated against. Will the Administration formulate, in the near future, a clear and well-defined localization policy for statutory bodies wholly-owned by the Government?*

PRESIDENT: Your question, Mr CHAN, should go towards elucidation of the answer. You are really asking a different question, I am afraid.

MR NGAI SHIU-KIT (in Cantonese): *Mr President, the issue of localization of the Civil Service and transfer to local terms touched upon the question of applicants' proficiency in the Chinese language. Will the Secretary inform this Council whether there were, and if so how many, local officers being assessed by their expatriate superiors for their Chinese language proficiency; whether*

Cantonese or Putonghua was used when making these assessments; and what criteria were used to assess their results?

SECRETARY FOR THE CIVIL SERVICE: Mr President, I must admit I am not too clear as to the exact question. I think the question could be that we are requiring a certain degree of language proficiency for applicants who seek to transfer to local terms and the Member would like to ask who is assessing that proficiency.

MR NGAI SHIU-KIT: *May I repeat the question?*

PRESIDENT: Yes.

MR NGAI SHIU-KIT (in Cantonese): *Mr President, what I was saying was: There is a Chinese language assessment test in the Civil Service, and promotion, to a large extent, is dependent on the result of this test. In other words, it is an important aspect as far as the "localization policy" is concerned. But the assessment is normally conducted by the superiors of the officer. If the superior happened to be an expatriate, how was the assessment being carried out, and whether Cantonese, Putonghua or English was used when making the assessment, and what were the criteria used to assess their results?*

PRESIDENT: Is your question, Mr NGAI, directed towards an officer on overseas terms seeking to transfer to local terms? Because that really is the answer which, if you want to elucidate that side of it, you may seek to elucidate. But you seem to be going beyond the scope of the question and answer.

MR NGAI SHIU-KIT: *It is up to you to rule one way or the other, Mr President.*

MR SIMON IP: *Mr President, it would seem that the Government has been pursuing a localization policy for years without a satisfactory definition of a "local" and is now searching for a definition. What are the Government's suggestions for a satisfactory definition of a "local"?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, essentially I could say that the Government took a position on this issue in July when it announced an interim measure allowing certain contract officers on overseas terms who are permanent residents to apply for local terms. The position we took was that if the applicant is a permanent resident of Hong Kong then we would consider his

or her application for a contract on local terms. So we have started the ball rolling in this respect by equating local with permanent resident. We have also invited other views and indeed we would welcome other views on this rather tricky issue.

MR TAM YIU-CHUNG (in Cantonese): *Mr President, according to the Administration, allowing overseas contract officers to transfer to local terms is an interim arrangement and for one contract only. If their contracts happen to expire in 1997, how will the Administration ensure that there are experienced locals to fill these vacancies?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, it is an integral part of the process of localization that we should be trying constantly to identify local people to fill vacancies available. But I think the Honourable Member's question really rather tends to jump to a conclusion. It is because, according to the interim arrangement, these former overseas officers ought to be considered as locals themselves as they are permanent residents. Therefore I am not quite sure, if that interim arrangement were to be put into practice on a long-term basis, how one would replace a local with a local. It does not seem to make sense.

MRS ELSIE TU: *Mr President, in paragraph (b) of the Secretary's main reply, the expression "permanent resident of Hong Kong" is used. Could we have the term "permanent resident" defined because, for example, I have been living here for 42 years and I only have the "right to land"? Would that be tantamount to a "permanent resident"?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, I think I might ask my colleague, the Secretary for Security, to say a few words on this. But I will say that in the context of the subject under discussion here, that is to say, the interim arrangements under which overseas contract officers who are permanent residents could apply for a local contract, we have simply adopted the definition of "permanent resident" in the current Immigration Ordinance. We do not wish to muddy the waters at this stage by bringing forward a completely new definition of "permanent resident". Yet we have said that we will align our policy in this respect with whatever new definition of "permanent resident" that might be agreed as a result of the discussions which are taking place, I believe, in the Joint Liaison Group, to bring the Immigration Ordinance into line with the Basic Law. I am sure my colleague, the Secretary for Security, can add a few words of elucidation.

SECRETARY FOR SECURITY: Mr President, the term "permanent resident" is, I think, clearly defined in one of the schedules to the Immigration Ordinance. The essential thing about those who have permanent resident status is that they do have the right of abode in Hong Kong. And the categories of persons who are permanent residents are clearly defined in the schedule to the Immigration Ordinance.

Written answers to questions

Visa requirements for BDTC passport holders

7. MR JAMES TIEN asked (in Chinese): *In view of the change in visa requirements imposed by some European countries on the Hong Kong British Dependent Territories Citizen (BDTC) Passport, many Hong Kong people were unable to gain smooth entry into those countries, particularly Spain. The time consuming process of visa application has also caused much trouble and inconvenience to those Hong Kong people in the commercial, industrial and professional sectors who have to make frequent business trips abroad. Will the Government inform this Council:*

- (a) *whether the Hong Kong or British Government has any plan and measures to secure a shorter visa processing time or even visa exemption for Hong Kong citizens travelling to those European countries; and whether consulates of European or other countries in Hong Kong will be urged to issue a visa within 24 hours of receiving an application, so as to facilitate people going abroad on urgent business trips;*
- (b) *has the Administration any, and if so what, facilities to assess the opinion of Hong Kong people on these visa difficulties;*
- (c) *given its inability to ensure that the BDTC passport is a convenient travel document, how the Administration would convince the people of Hong Kong that they will have a reliable travel document both during the transition period and beyond 1997?*

SECRETARY FOR SECURITY: Mr President,

- (a) There has been only one recent change in visa requirements affecting BDTCs and BN(O)s. One country, Spain, introduced changes, with effect from 1 October 1993, which affected a number of countries and territories, including Hong Kong. As with all visa requirements, there is an element of inconvenience. The Hong Kong and the British Governments lobbied hard but unsuccessfully against the recent Spanish move. Our emphasis will now be to encourage

the Spanish Consulate General here to make the processing time for the issue of visas as quick and as simple as possible.

- (b) We have not heard of any unusual difficulties with this, but we will be monitoring the situation closely. In this respect, the Administration assesses public opinion on this matter, as on others, in many different ways. We gather views expressed through and by the media; we take into account also views and experiences passed to us directly by members of the public through letters. The Nationality Subcommittee of this Council is another important source through which we learn of the views and experiences of the public in this area.
- (c) As a result of the efforts of the Hong Kong and British Governments, the BN(O) passport, which is valid both before and after 30 June 1997, is recognized worldwide; its holders are able to enter 71 countries and territories visa free. The BDTC passport is equally well accepted. We will continue to work for the continuation of visa-free privileges for all those with Hong Kong travel documents. We have put proposals to this end to the Chinese Government through the Joint Liaison Group.

Transport arrangements in airport during typhoon

8. MR VINCENT CHENG asked: *Will the Government inform this Council what arrangements there are to ensure that sufficient land transport is available to passengers during the time when the airport remains open while typhoon signal No. 8 is hoisted?*

SECRETARY FOR TRANSPORT: Mr President, direct public transport services to and from the airport are provided by airport buses and taxis.

Airport buses

At present, the Kowloon Motor Bus Company Limited operates four airport routes to and from Central, Causeway Bay, Taikoo Shing and Tsim Sha Tsui. Past records show that KMB has been able to maintain its airport bus services during Typhoon Signal No. 8. Under a longstanding arrangement, the Civil Aviation Department keeps the bus company informed of the number of passengers waiting at the airport and, when necessary, extra buses are deployed to meet demand.

Taxis

Taxi availability, whilst the No. 8 signal is hoisted, may well be reduced since it is up to individual drivers to decide whether or not they wish to

continue to operate. Nevertheless, the Civil Aviation Department directly contacts taxi associations and taxi radio service centres to inform them of passenger demand at the airport.

Property dealing files for the purpose of tax assessment

9. MR LEE WING-TAT asked (in Chinese): *In response to the Public Accounts Committee's enquiry in July 1993 regarding the assessment of tax on profits from property dealing transactions, the Commissioner of Inland Revenue said that the existing criteria in selecting cases for the opening of property dealing files would be reviewed. Will the Government inform this Council:*

- (a) *what the progress of the review is;*
- (b) *whether the Administration will consider tightening the existing criteria for the opening of property dealing files (that is, the same person who effects four or more property transactions within six years, or the sale consideration is more than \$1.5 million and the holding period of the property concerned is less than two years) with a view to curbing property speculative activities; and*
- (c) *whether different sets of criteria would be introduced with a view to bringing in more potential taxpayers?*

SECRETARY FOR THE TREASURY: Mr President, the Commissioner of Inland Revenue completed the review on the selection criteria for the opening of property dealing files in July 1993. As a result of the review, Inland Revenue Department has adopted new selection criteria, whereby a property dealing file is opened and a questionnaire issued if a person, other than a "confirmor" (that is, a person who enters into a sale and purchase agreement to acquire a property and then re-sells prior to assignment), has had:

- (a) three or more property transactions within a six-year period from 1 April 1987; or
- (b) a single sale of property held for less than two years with gross profit arising from the sale exceeding \$200,000.

Under the new criteria, a property dealing file will be opened after three transactions in a six-year period instead of four transactions as under the old criteria. This means that more potential taxpayers will be subject to examination. The previous practice of examining all cases involving confirmors to ascertain their tax liability will continue.

Construction site accidents

10. MR LAU CHIN-SHEK asked (in Chinese): *Will the Government inform this Council of the following:*

- (a) *the respective numbers of construction site accidents, classified by their causes, in each of the past three year; of these, how many took place on construction sites engaged in government projects; and*
- (b) *whether construction sites engaged in government projects are now subject to more stringent industrial safety requirements than those engaged in private sector projects? Please give details.*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) The breakdown of the construction accidents by their causes is at Annex. The number of construction accidents which took place on construction sites engaged in Government projects in 1990, 1991 and 1992 were 4 943 (19.7%), 4 169 (18%) and 3 221 (17.1%) respectively.
- (b) Both government and private sector construction projects are subject to the same industrial safety standards under the law. Government departments do, however, impose stringent safety requirements on their contractors. For example, the Works Group of Departments monitor the safety performance of their contractors as part of their assessment on whether government contracts should be awarded to them in future. A set of compliance standards is being developed and will be introduced next year. The Housing Department already has a compliance schedule against which their contractors' performance on safety is monitored. For Airport Core Projects (ACP) contracts, an ACP Safety Manual which requires contractors to produce and comply with comprehensive safety plans has been introduced. All ACP contracts tendered since July 1992 have to comply with the main requirements of the Manual. Under the terms of the contract, the engineer of an ACP contract awarded after July 1992 has the power to stop work if the safety plan is not being implemented properly. For the rest of the Public Works Programme, similar requirements are being introduced incrementally starting with the largest and most complex contracts.

Annex

Industrial Accidents in Construction Industry
in the Years 1990 to 1992 analysed by cause

<i>Cause of accident</i>	<i>1990</i>		<i>1991</i>		<i>1992</i>	
Machinery	1 604	(13)	1 160	(9)	805	(5)
Transport	196	(1)	132	(3)	74	(1)
Explosion or fire	105		70	(6)	88	(3)
Hot or corrosive substance	373		333		250	
Gassing, poisoning and other toxic substances	21	(1)	12		13	(3)
Electricity	81	(6)	59	(3)	35	(3)
Fall of person	3 571	(25)	3 362	(24)	3 036	(24)
Stepping on, striking against or struck by objects	10 319	(2)	10 760	(2)	7 702	(4)
Falling objects	1 740	(8)	1 352	(6)	1 109	(3)
Fall of ground	21	(1)	14	(1)	15	
Handling without machinery	4 468		3 895		3 694	
Hand tools	1 181		842		818	
Miscellaneous	1 458	(1)	1 124		1 176	(2)
TOTAL	25 138	(58)	23 115	(54)	18 815	(48)

Figures in brackets give the number of fatalities, and figures not in brackets give the total number of industrial accidents.

Building conversions for the purpose of user change

11. DR CONRAD LAM asked (in Chinese): *Will the Government inform this Council:*

- (a) *what criteria are being used by the Government in considering and approving applications by developers for modifications in the use of certain parts of a building, such as converting car parks into entertainment centres and restaurants into shopping centres; and*
- (b) *what measures are in place to protect individual flat owners of the buildings from being disturbed by nuisance caused as a result of such conversions?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) It may be possible to control changes in the use of a building under the lease conditions, the Town Planning Ordinance or the Buildings Ordinance. But because of the wide variety of situations that exist, it is impossible to generalize as regards the likelihood of the change being permissible, the criteria to be applied in considering applications and the possibility of conditions being imposed to control or prevent different uses. Each case therefore has to be considered on its merits.

Where a proposed change of use does not comply with the lease conditions of the lot in question but can be permitted, a modification will be required. Under the planning legislation, a section 16 application may or may not be required depending on the statutory zoning. In either case, when applications are considered, regard will be had to compatibility with the planning intention for the area and surrounding uses, adequacy of infrastructural support and other local factors, and conditions may be imposed upon approval.

Any material change in the use of a building or any part of a building is subject to control under the Buildings Ordinance, which is principally concerned with the health and safety of the users. The criteria for considering an application for a change of use under the Ordinance include, for example, whether the structural loading and the means of escape provisions of the building are suitable for the proposed change of use. Any proposed building works relating to a change of use will have to comply with the provisions of the Ordinance and its regulations.

Some uses require licensing, for example, restaurants and games centres, and will therefore have to comply with licensing conditions.

- (b) Depending on the individual circumstances, it may be possible for flat owners and residents to be protected from nuisances caused by the conversion of buildings by the controls available under the various means described in (a) above. For example, lease modifications to enable car parks to be converted into entertainment centres are not normally granted.

Noise, health and other nuisances may be referred to the police, the municipal councils or the relevant licensing authority for possible enforcement action.

Apart from the controls referred to above, a flat owner affected by a nuisance may be able to take action against the person causing the nuisance, either by himself or through the Owners Corporation, under the terms of the Deed of Mutual Covenant governing the use and management of the building. Legal advice may be needed to establish whether this is possible in the particular case.

Air freight services

12. DR HUANG CHEN-YA asked (in Chinese): *In view of the increase in the amount of cargoes being transported by air between Hong Kong and other countries, will the Government inform this Council:*

- (a) *what measures are being taken to ensure that Hong Kong's air freight services are able to cope with existing and future demands; and*
- (b) *whether air freight services and air passenger services are dealt with separately in Air Services Agreements made with other countries; if not, whether there are plans to ensure that air freight services have a fair chance to develop in the face of competition with air passenger services?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, air freight services to and from Hong Kong's major trading partners are provided, on both a scheduled and a non-scheduled basis, by Hong Kong-based and foreign airlines. The capacity and frequency of scheduled operations are regulated under Hong Kong's various Air Services Agreements (ASAs) and arrangements. Non-scheduled operations are subject to the Director of Civil Aviation's approval. Although a number of airlines operate all-cargo services using aircraft configured exclusively for freight, a significant proportion of Hong Kong's cargo traffic is shipped in the belly-hold of aircraft on passenger services, and is

an important component of such operations. In periods of peak demand, approval is given for additional non-scheduled all-cargo services to operate.

Current load factors indicate that there is adequate capacity in the market to meet foreseeable year round demand. During the five-year period from 1987-88 to 1992-93, the total volume of commercial air cargo loaded and unloaded at Hong Kong increased by 58.5%. Of the volume handled in 1992-93, all but 2% of total cargo unloaded and 5% of total cargo loaded was carried by scheduled carriers. This indicates that the cargo capacity provided for under Hong Kong's air services agreements and arrangement is adequate to cater for market demand and growth.

At the same time, non-scheduled services play an important role in coping with seasonal peaks in demand, such as pre-Christmas shipments to Europe and the United States. Nevertheless, the situation is kept under constant review; should circumstances change, we would seek to negotiate additional capacity and frequency provisions with the partners concerned.

Given the large amount of cargo carried aboard passenger aircraft, it is impractical to distinguish between provisions for the carriage of passengers and cargo in air services agreements. However, where a need has been identified for all-cargo services to be operated to a particular destination, in addition to combined passenger and cargo services, we will normally seek to obtain the agreement of the partner concerned either to a separate provision for all-cargo services, or to a formula that will permit a proportion of capacity on passenger services to be converted to all-cargo services.

Employee retraining

13. MR PANG CHUN-HOI asked (in Chinese): *Will the Government inform this Council of the following:*

- (a) *the number of employees who have attended and completed employees retraining courses; and the respective numbers of those who have received training on job skills and attended the On-the-Job Training Induction Course, as well as their employment situation;*
- (b) *the number of those who have participated in the On-the-Job Training Scheme and the progress of the scheme made so far; and*
- (c) *a breakdown of the Employees Retraining Board's expenditure items, such as course fees, publicity and administrative expenses and so on?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the answers to Mr PANG's three-part question in the order they are asked are:

- (a) As at the end of October 1993, the Employees Retraining Scheme has enrolled 5 945 persons, including 4 638 who had completed retraining and 1 307 undergoing retraining. Of the 4 638 retrainees who had completed retraining, 1 581 had received training on specific vocational skills and 3 057 on job search skills and orientation to work in new environment.

We do not have comprehensive information on the employment situation of individual retrainees because there is no obligation on the part of retrainees to report back to the Employees Retraining Board and Labour Department on their employment situation. However, the general feedback indicates that in general retrainees have had no difficulty in finding jobs. For example, in the case of the 1 581 retrainees who had received vocational skills training, only about 10% require the assistance of the Labour Department's Local Employment Service to find jobs.

- (b) Since its inception in June 1993, 320 firms have joined the On-the-Job Training Scheme and 589 employees have been placed with some of these employers.
- (c) For the financial year 1993-94, the Employees Retraining Board's budgeted expenditure is \$146 million. Of this, \$3.3 million has been earmarked for publicity purposes, \$14 million for administrative expenses (including capital items for setting up a new office) and the remaining \$128.7 million for the various retraining programmes. The breakdown of the actual expenditure will be available when the Board submits its first annual report, together with the audited statement of accounts, to the Governor. The report will be tabled at the Legislative Council in accordance with the Employees Retraining Ordinance.

Stolen vehicles

14. MR ALLEN LEE asked: *Will the Government inform this Council of the respective numbers of vehicles reported to be stolen during the past two years, compared to the number of such vehicles returned by China in the same period?*

SECRETARY FOR SECURITY: Mr President, in 1991, 6 354 vehicles were reported stolen; in 1992, 6 916; and in the first nine months of this year, 3 649.

In 1991, 4 309 vehicles which had been reported stolen were recovered; this included 34 vehicles returned to Hong Kong from China. In 1992, 3 771 vehicles were recovered, including six returned from China. And so far this year, 1 722 vehicles have been recovered, including 24 returned from China.

Repatriation of Vietnamese migrants

15. MR ALLEN LEE asked: *Will the Government inform this Council of the plans to repatriate all the Vietnamese migrants stranded in Hong Kong?*

SECRETARY FOR SECURITY: Mr President, we are proceeding with the repatriation and resettlement of Vietnamese migrants in Hong Kong in accordance with the Comprehensive Plan of Action (CPA), an agreement endorsed by the international community in 1989.

The CPA provided that all Vietnamese migrants arriving in first asylum countries should be screened to determine whether or not they are refugees; the CPA also provided that those determined not to be refugees should return home.

Since 1989, almost 35 000 Vietnamese migrants have returned to Vietnam from Hong Kong; during the same period 24 500 Vietnamese refugees have also left Hong Kong. The remaining population now stands at 35 000, including about 2 000 refugees.

Only 12 Vietnamese migrants arrived in 1992; and 55 so far this year. If the current arrival and departure trends are maintained, it should be possible to empty all our camps by early 1996.

Subsidence of foundation at airport

16. MR CHIM PUI-CHUNG asked (in Chinese): *As subsidence of foundation detected at some airports built on reclaimed land in other places has resulted in repeated delays in their dates of commissioning, will the Government inform this Council:*

- (a) *whether reference has been made to such experience in assessing the conditions of the Chek Lap Kok Airport in Hong Kong;*
- (b) *if so, what the findings are and whether additional engineering works, time and expenditure will be involved; and*
- (c) *if not, what the reasons are?*

SECRETARY FOR WORKS: Mr President,

- (a) Yes, in the design of the reclamation work for the replacement airport at Chek Lap Kok, reference has been made to experience on major reclamation works both in Hong Kong and overseas countries. To evaluate the characteristics of the soils at the site of the future airport, a test embankment was also constructed at Chek Lap Kok as long ago as 1982. From close observation of the test embankment between 1982 and 1990 soil design parameters were obtained. This information together with the results of site investigations have been used for the evaluation of the behaviour of the airport reclamation when completed. The unique experience at the new Kansai Airport in Japan is not applicable to Chek Lap Kok. Many international airports have been built on reclaimed land, for example Schipol, San Francisco and of course Kai Tak. There is also the accumulated experience in Hong Kong of reclamation for new towns, container terminals and urban redevelopment.
- (b) Based on the studies of other major reclamation works and observations on the test embankment, we decided to adopt for the reclamation work in Chek Lap Kok the technique which involves the removal of the upper layers of soft marine mud. With marine mud removed, it is estimated that the average settlement of the reclamation areas at the replacement airport site will be 40-50 cm over a long period. To provide sufficient material to allow for this settlement, the site will be filled to half a metre above the formation level and civil works designed to allow for these conditions. Provision has been made to accelerate settlement by mechanical means or surcharge which is normal practice in Hong Kong. Instrumentation has been installed to monitor settlement.

Because of these measures, soil settlement at the new airport will be controlled and any related engineering works, time or expenditure have been provided for within the estimates. Up to date, there is no evidence of any major problem in regard to settlement which is likely to incur significant increase in funding.

Nursing staff on duty during typhoons

17. MR MICHAEL HO asked (in Chinese): *When some nurses of the United Christian Hospital in Kwun Tong reported for duty at the hospital while typhoon signal No. 8 was hoisted, they were told to leave their place of work as they need not report for duty. As such a practice might affect the operation of the hospital and the safety of the staff, will the Government inform this Council whether it is aware of:*

- (a) *the Hospital Authority's policy and guidelines on the discharge of duty by nursing staff upon the hoisting of typhoon signal No. 8;*
- (b) *why the above-mentioned situation occurred; and*
- (c) *what measures are to be adopted by the Hospital Authority to ensure that such a situation will not recur?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, in accordance with the general guidelines of the Hospital Authority, essential services such as inpatient and accident and emergency services are maintained at all times. Other services such as out-patient clinics are normally closed when typhoon signal No. 8 is hoisted. Based on this principle, each hospital is responsible for drawing up its own staffing requirements during a typhoon situation. Core staff, including nursing staff are required to report for duty according to the scheduled roster.

During the time when the said typhoon signal was hoisted, some nurses were advised that they could go off duty because the staff remaining would be adequate to meet operational requirements. It should be noted that all these nurses lived in nurse quarters which were within the hospital compound. This arrangement affected neither the operation of the hospital nor the safety of the staff concerned.

Meanwhile, the hospital management has held liaison meetings with staff to improve communication particularly during emergency situation.

Bus shelters containing asbestos material

18. DR LAM KUI-CHUN asked: *Will the Government inform this Council?*

- (a) *among the existing bus shelters, how many are constructed with materials containing asbestos;*
- (b) *whether these shelters would cause a health hazard to the public; and*
- (c) *what measures will be taken by the Government to expedite their replacement?*

SECRETARY FOR TRANSPORT: Mr President,

- (a) The four franchised bus companies provide and maintain a total of 1 543 bus shelters. Of this number 374 contain asbestos. Details are given in the Appendix;

- (b) In all these 374 cases, asbestos is only found in the corrugated roof sheets. The Environmental Protection Department has advised that under normal daily conditions, these bus shelters do not pose any health hazard because the asbestos content is locked in a matrix of cement. Asbestos fibres would only be released if the sheets are damaged.
- (c) At the behest of the Government, bus shelters constructed since 1987 contain no asbestos. As for those older bus shelters which still contain asbestos, Kowloon Motor Bus and Citybus each have a two-year replacement programme whilst China Motor Bus and New Lantao Bus's approach is to replace shelters, when damaged, with non asbestos material. In all cases, the bus companies will seek advice from the Environmental Protection Department on the safeguards that are necessary when replacing these shelters. The Administration will liaise with the four franchised bus operators to see whether this process can be expedited.

Appendix

Provision of Passenger Shelters by Franchised Bus Companies
(Position as at 1.11.93)

	<i>Kowloon Motor Bus</i>	<i>China Motor CMB</i>	<i>Citybus</i>	<i>New Lantao Bus</i>	<i>Total</i>
Number provided	1 221	218	25	79	1 543
Number containing asbestos material	200	146	13	15	374

Metered water supply

19. MR FREDERICK FUNG asked (in Chinese): *Will the Government inform this Council of the following in respect of each of the past three years:*

- (a) *the respective number of non-domestic and domestic consumers provided with metered water supply; and*
- (b) *the total amount of water charges (excluding the deposits) collected from each of these two categories of consumers?*

SECRETARY FOR WORKS: Mr President,

- (a) In the past three years, the number of non-domestic and domestic consumers with metered water supply are:

	<i>Domestic</i>	<i>Non-domestic</i>
1992-93	1 727 000	219 000
1991-92	1 695 000	214 000
1990-91	1 641 000	208 000

- (b) The total amount of water charges (excluding the deposits) collected from these consumers are:

	<i>Domestic</i>	<i>Non-domestic</i>
1992-93	748 434 000	1 193 487 000
1991-92	663 939 000	1 144 526 000
1990-91	566 570 000	1 038 469 000

Misuse of fire hoses

20. MR WONG WAI-YIN asked (in Chinese): *As the fire hoses installed in public housing estates (including their car parks) are subject to misuse for floor cleaning and car washing, will the Government inform this Council:*

- (a) *whether prosecutions have been instituted against persons misusing the fire hoses; if so, what the number of prosecutions during the past year was and what the penalties generally imposed upon conviction were; if not, what the reasons are;*
- (b) *what effective measures are being taken to prevent fire hoses from being misused?*

SECRETARY FOR WORKS: Mr President,

- (a) In the year from October 1992 to September 1993, the number of prosecutions instituted by Water Supplies Department and Housing Department against persons misusing the fire hoses were six and one respectively. All these persons were convicted. The penalty imposed upon conviction ranged from \$700 to \$5000.
- (b) To prevent unauthorized uses, fire hoses in housing estates are normally installed in glass-fronted cabinet under lock and key. However, to ensure that the fire hoses can be used in the first instance in the event of the fire, it would be inappropriate to institute any measure which may make access to the fire hose difficult.

In the circumstances, the most practical way of dealing with this problem is through public education. Warning notices are put up near the installations and widely publicized in estate newsletters and so on to remind tenants of proper use of fire hoses. Any misuse detected will be stopped and appropriate actions, including warnings and prosecutions will be taken. As part of the on going publicity campaign, the Fire Services Department has included educating the public not to misuse fire hoses and other fire service installations.

In addition, the government has also encouraged developers to install more convenient draw-off taps to provide metered water for floor cleansing or car washing, thus discouraging people from abusing fire hoses for these purposes.

First Reading of Bills

SECURITY AND GUARDING SERVICES BILL

QUARANTINE AND PREVENTION OF DISEASE (AMENDMENT) BILL 1993

FIXED PENALTY (TRAFFIC CONTRAVENTIONS) (AMENDMENT) (NO. 2) BILL 1993

FIXED PENALTY (CRIMINAL PROCEEDINGS) (AMENDMENT) BILL 1993

INDUSTRIAL TRAINING (CLOTHING INDUSTRY) (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

SECURITY AND GUARDING SERVICES BILL

THE SECRETARY FOR SECURITY moved the Second Reading of: "A Bill to provide for the establishment of a Security and Guarding Services Industry Authority, the issuing of permits to individuals doing security work, the licensing of security companies, and for connected matters."

He said: Mr President, I move that the Security and Guarding Services Bill be read a Second time. This Bill seeks to improve the standard of service provided by the security and guarding services industry.

Security and guarding services have now developed into a large and sophisticated industry, offering a wide range of services. The only existing legislation on the subject, the Watchmen Ordinance, which was enacted in 1956 to deal with the problem of protection rackets, is now obsolete and there is a need to provide a better means of regulating the industry.

At present, only companies and individuals engaged in guarding and security transport activities are regulated. They are required, under the Watchmen Ordinance, to apply to the Commissioner of Police for permission to supply watchmen and for watchmen's permits. This requirement does not apply to companies or employees providing other security services.

Companies engaged in the supply and installation of security equipment and, in particular, companies and employees engaged in the installation of alarm systems may become privy to sensitive information. There is a need to ensure that these people are of good character and are fit and proper persons to be entrusted with this information. Companies and employees engaged in designing systems which incorporate security devices for premises are also privy to detailed security information and should be similarly regulated.

To ensure that the public receives reasonable and reliable standards of service, control of the industry in a wider sense is also necessary. We propose to regulate the industry by means of a licensing system, which will govern the type of person who can undertake security work for others, and the companies who can supply individuals to undertake security work for others. The licensing system will be run on two levels, the granting of permits to security personnel and the licensing of security companies. These proposals have the support of the Security Association, which represents more than 75% of all companies engaging in guarding and security transport activities in Hong Kong.

Under the Bill, activities classified as security work will include guarding any property; preventing or detecting the occurrence of any offence; installing, maintaining or repairing a security device; and designing for any particular premises or place a system incorporating a security device.

We propose that it will be an offence for a company to undertake security work without a valid licence or to supply security personnel who do not have valid permits. It will also be an offence for a person to engage in security work without a valid permit.

At present, applications for permits by watchmen are made to the Commissioner of Police. We propose that applications for permits and renewal of permits by security personnel should continue to be made to the Commissioner of Police. Applications for licences by security companies should be made to a Security and Guarding Services Industry Authority to be established under the Bill.

The Authority will consist of a Chairman, appointed by the Governor, a representative of the Secretary for Security, and three other persons appointed by the Governor.

To enable a smooth transition from the Watchmen Ordinance, it is proposed that existing watchmen's permits will initially be regarded as valid. The Security and Guarding Services Industry Authority will, over a period, notify permit holders to apply for a new permit under the Bill. Existing security companies will be given 12 months in which to apply for licences.

An Appeal Board will also be established to consider and determine appeals against the decisions arising from the provisions of the Bill. The Appeal Board will consist of a Chairman and a panel of persons appointed by the Governor.

Mr President, I believe that the proposals I have outlined will improve the control over the security and guarding services industry and improve the standards of service of the industry.

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

QUARANTINE AND PREVENTION OF DISEASE (AMENDMENT) BILL 1993

THE SECRETARY FOR HEALTH AND WELFARE moved the Second Reading of: "A Bill to amend the Quarantine and Prevention of Disease Ordinance."

She said: Mr President, I move the Second Reading of the Quarantine and Prevention of Disease (Amendment) Bill 1993.

The proposals in this Bill seek to update the main Ordinance in the light of the changing pattern of communicable diseases and to bring it into line with the International Health Regulations promulgated by the World Health Organization, which are adopted worldwide.

In particular, with the success in international control of relapsing fever and typhus and the global eradication of smallpox, it is no longer realistic or necessary to retain these diseases within the definition of quarantinable diseases. It is therefore proposed to remove references to these diseases wherever they appear in the Ordinance. It is further proposed to update the list of infectious diseases prescribed in the First Schedule of the Ordinance in accordance with the international regulations and worldwide practice.

The Bill also proposes to update the maximum level of fines for various offences under the Ordinance. The existing provision for fines were made in 1955 and has not been amended since. It is necessary to increase the level of penalty in order to maintain an effective deterrent against offences.

Opportunity is also taken to transfer certain powers presently vested with the Governor in Council to either the Director of Health or the Secretary for Health and Welfare. These relate, respectively, to the power for amending the statutory forms for notification of diseases and to the power for adjusting the prescribed fees in line with changes in operating cost. The intention of this transfer is to streamline procedures and to make for more efficient administration.

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

FIXED PENALTY (TRAFFIC CONTRAVENTIONS) (AMENDMENT) (NO. 2) BILL 1993

THE SECRETARY FOR TRANSPORT moved the Second Reading of: "A Bill to amend the Fixed Penalty (Traffic Contraventions) Ordinance."

He said: Mr President, I move that the Fixed Penalty (Traffic Contraventions) (Amendment) (No. 2) Bill be read the Second time.

Under section 25 of the Fixed Penalty (Traffic Contraventions) Ordinance, the Governor in Council may make regulations on a variety of technical and operational matters, for example, pertaining to fixed penalty forms and payment procedures. To relieve the Executive Council of such routine functions, this Bill seeks to transfer these powers to the Secretary for Transport.

The proposed amendment does not impinge on the Legislative Council's powers since Honourable Members will continue to have the opportunity to vet and, if necessary, amend any subsidiary legislation that is made under this Ordinance, when it is tabled in Council.

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

FIXED PENALTY (CRIMINAL PROCEEDINGS) (AMENDMENT) BILL 1993

THE SECRETARY FOR TRANSPORT moved the Second Reading of: "A Bill to amend the Fixed Penalty (Criminal Proceedings) Ordinance."

He said: Mr President, I move that the Fixed Penalty (Criminal Proceedings) (Amendment) Bill 1993 be read the Second time.

This Bill provides that regulation making powers presently vested in the Governor in Council under section 11 of the principal Ordinance be transferred to the Secretary for Transport. The reasons for the transfer, and the safeguards, are identical to those for the Fixed Penalty (Traffic Contraventions) (Amendment) (No. 2) Bill 1993 which I have just introduced.

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

INDUSTRIAL TRAINING (CLOTHING INDUSTRY) (AMENDMENT) BILL 1993

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to amend the Industrial Training (Clothing Industry) Ordinance."

He said: Mr President, I move the Second Reading of the Industrial Training (Clothing Industry) (Amendment) Bill 1993.

The Bill seeks to increase the membership of the Clothing Industry Training Authority by including one representative each from the Labour Department and the Hong Kong Knitwear Exporters and Manufacturers Association Limited. The purpose is to enable the Authority to have more direct input from the Labour Department on the Government's labour policy, and to benefit from expert opinions on the knitwear industry. Consequential increase to the quorum for the meetings of the Authority is necessary.

To facilitate future amendments, we also propose that the provisions of the Ordinance specifying the membership and quorum for meetings of the Authority be transferred to a new Schedule, and that the Governor be empowered to amend this Schedule. This proposal would enable swift updating of the membership of the Authority in response to changing needs.

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

INLAND REVENUE (AMENDMENT) (NO. 4) BILL 1993

Resumption of debate on Second Reading which was moved on 2 June 1993

Question on Second Reading proposed.

MR PETER WONG: Mr President, the Inland Revenue (Amendment) (No. 4) Bill 1993, introduced into the Legislative Council on 2 June 1993, provides for deductions in relation to tax liabilities as regards employers' contributions made to an occupational retirement scheme registered or exempted from registration under the Occupational Retirement Scheme Ordinance (ORSO).

Presently, to be entitled to claim any such deduction an employer operating a retirement scheme has to obtain the approval of the Commissioner of Inland Revenue to the scheme. The Bill proposes to replace this approval mechanism with a registration or exemption mechanism under the ORSO.

A Bills Committee of which the Honourable Marvin CHEUNG is the chairman was set up in June to study the Bill. The Bills Committee had held four meetings, three of which were attended by the Administration. The Bills Committee deliberated at some length the definition of a recognized occupational retirement scheme under the ORSO and occupational retirement schemes recognized for the purpose of the Ordinance, *inter alia*, when the scheme is contained or otherwise established under any Ordinance. In this regard the Inland Revenue Ordinance (IRO) definition, as drafted, specifically covers only the Subsidized Schools Provident Fund and the Grant Schools Provident Fund which were established under subsidiary legislation to the Education Ordinance (Cap. 279).

Whilst, taken as a whole, the legislation on retirement schemes is comprehensive, if at some future date a new retirement scheme is established under an Ordinance, amendment to the IRO by way of consequential amendment through the Ordinance establishing the new scheme would be needed. To avoid this necessity the Administration has agreed to add an amendment to the Bill to echo the same definition as that contained in the ORSO. It was, however, pointed out by members that the phrase contained in section 3 of the ORSO, that is, "new schemes established under any Ordinance" would have a much wider ambit than "new schemes established by any Ordinance", this latter phrase reflecting the original legislative intention. The Administration agreed with the views of the members to adopt the word "by" and will introduce a similar consequential amendment to the ORSO.

For the purpose of the definition of "recognized occupational retirement scheme", the effective date would be the date of application for registration. Members were concerned that in setting up a new scheme the employer would need a few months to finalize the preparation of the necessary documents for registration. If backdating was not allowed, it would deprive the scheme of the tax deduction benefits for the few months when the scheme had started but not yet registered. The Administration noted the concern of members and agreed to put in a provision in the Bill so that the effective date can also be an earlier date on which the terms of the scheme came into effect.

Members accepted the Administration's proposal to introduce a new provision to the Bill to include similar conditions as those listed in the Inland Revenue Rules governing retirement and termination of service such as the minimum number of years of service and old age attained at retirement and so on. In order to plug a possible tax avoidance loophole, members also agreed to the introduction of similar provisions as those contained in the existing Inland Revenue Rules on proportionate or reduced benefits. Such provisions will ensure that any benefit paid from the scheme exceeding that permitted will be

subject to salaries tax. For payments on termination of service, salaries tax will only be charged on that part of the sum in excess of the proportionate benefit as represents the employer's contributions. Salaries tax will not be imposed on any part of the payment attributable to the employee's contribution to the scheme.

As an employee's accrued rights are his rights as reduced by any applicable vesting scale and, from a tax perspective, this will work to the disadvantage of the employee, on the advice of the Commissioner of Insurance the reference to accrued rights in the new section 8(4)(b) had been changed to accrued benefit and the new definition of "accrued benefit" was introduced in the Bill. The practical effect of the change is that the proportion of the termination of service payment to be received free of salaries tax will be calculated by reference to the employee's gross entitlement in the scheme which is more advantageous to salaries taxpayers.

The most obvious change that members of the public might notice after the enactment of this Ordinance is the substitution of service of notices of assessment by registered post with service by ordinary post. Members were concerned that if that notice of assessment was not received after having been served by ordinary mail the taxpayer would not be able to lodge an objection against an assessment in time. The Administration explained that personal delivery of a registered item to a taxpayer's postal address was not always possible and the taxpayer was unable or unwilling to call at the post office to collect it. This resulted in a very substantial number of notices of assessment being returned to the Inland Revenue Department (IRD) as unclaimed. The proposal was necessary for IRD's efficiency of operations and for taxpayers who had to call at the post office; an inconvenience would be saved.

The Administration also drew comparison with practices from other countries, such as the United Kingdom, Singapore and Australia and also the District Court Rules adopted in Hong Kong when notices and writs were served by the ordinary post to the addressee's usual or last known address. Such notices were deemed to have been delivered unless the contrary is proved or shown. After lengthy discussion and reconsideration the Administration proposed, and the Committee agreed to support, a Committee stage amendment to section 58(3) to allow notices to be sent by ordinary post and such notices would be deemed, unless the contrary is shown, to have been served.

Members further suggested, and the Administration agreed, to make a public statement on this change in the Administration's speech on the resumption of the Second Reading debate.

The last area which the Bills Committee had deliberated in detail was the transitional arrangement provided for under schedule 8 of the Bill. Twenty-four months is provided for applications for registration or exemption under the ORSO to be made. During the transitional period, the retirement schemes can retain their approved status, and the approval will be deemed to have been withdrawn as applications are dealt with under the ORSO. Members were

concerned that the transitional arrangement did not cover cases where applications were put in before the relevant section of the Inland Revenue Ordinance or section 87A, was repealed and the Commissioner's power to approve replaced, but the cases had not been fully disposed of at the time when section 87A was repealed.

The Administration agreed to introduce a Committee stage amendment to allow the Commissioner to approve such applications, notwithstanding the repealing of section 87A, and such approval, if given, would be deemed to have been approved by the Commissioner under the section immediately prior to its repeal by the amending Ordinance. The transitional provisions were also silent on the status of an existing approved retirement scheme that was refused registration or exemption under the ORSO under the transitional period.

An amendment would be introduced where the Commissioner's approval would be deemed to be withdrawn on the expiry of the transitional period. The ORSO which provides a legislative framework for the prudential regulation of private sector retirement schemes in Hong Kong came into operation on 15 October 1993. The Bill now being debated is to make consequential amendments to the IRO which are necessary to ensure that recognized occupational retirement schemes will continue to enjoy the same tax benefits and exemptions to which they are currently entitled.

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

SECRETARY FOR THE TREASURY: Mr President, as the Honourable Peter WONG clearly points out, the Inland Revenue (Amendment) (No. 4) Bill 1993 deals with the consequences of the Occupational Retirement Schemes Ordinance which came into force on 15 October 1993. This is a technical piece of legislation. The Administration's work has been made much less onerous by the fact that it has received valuable and constructive advice and suggestions from the Bills Committee and interested parties. I would like to thank, in particular, the Honourable Marvin CHEUNG and other Members of the Bills Committee for their meticulous scrutiny of the Bill. Their detailed comments on the Bill have helped us to refine it for greater clarity.

The Committee stage amendments which I am going to move are the agreed outcome of detailed discussions at the Bills Committee. I would like to highlight two main points. First, the amendments will clarify the conditions under which benefits paid by recognized retirement schemes may be received by the beneficiaries free of salaries tax. These conditions were previously embodied in the Inland Revenue (Retirement Scheme) Rules.

The second point, which is unrelated to occupational retirement schemes, deals with the postal delivery of notices of tax assessments under the Inland Revenue Ordinance. At present, such notices, except for those for property tax, are sent by registered mail, whereby delivery is acknowledged by receipts. But

nowadays, with members of most households away from home either in fulltime employment or attending school during the day, registered letters often cannot be delivered at the taxpayers' postal address and they have to be collected from the post office instead. Higher postal costs apart, this causes inconvenience to taxpayers. With the reliable and efficient postal service in Hong Kong, ordinary mail is now commonly regarded as an acceptable and reliable mode of delivery. The Bill therefore seeks to enable the Commissioner of Inland Revenue to issue notices of assessments in respect of salaries tax, profits tax and personal assessments by ordinary mail.

Following the advice of the Bills Committee, the amendments now provide that a taxpayer who has not received the notice will have the opportunity to prove this is so to the Commissioner of Inland Revenue. The amendments would thus preserve the taxpayer's legitimate right of objection against the assessment within the statutory time limit. This has been achieved by adding the phrase "unless the contrary is shown" to section 58 of the Inland Revenue Ordinance.

Mr President, I commend this Bill to the Council, subject to the amendments which I shall move in Committee.

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).

PROTECTION OF INVESTORS (AMENDMENT) BILL 1993

Resumption of debate on Second Reading which was moved on 30 June 1993

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

Bill read the Second time.

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

Committee stage of Bills

Council went into Committee.

INLAND REVENUE (AMENDMENT) (NO. 4) BILL 1993

Clauses 1 to 4, 8 to 10, 12 and 13

SECRETARY FOR THE TREASURY: Mr Chairman, I move that clauses 1, 2, 3, 4, 9, 12 and 13 be amended, and clauses 8 and 10 be deleted as set out in the paper circulated to Members.

The proposed amendments to clauses 1 and 2 clarify the commencement of the amending Ordinance, the definition of "recognized occupational retirement schemes" and the date on which such schemes are excepted for profits tax purpose. Clause 3 incorporates requirements previously contained in the Inland Revenue (Retirement Scheme) Rules into the Ordinance, thus making it clear the conditions under which benefits paid by recognized schemes may be received by the beneficiaries free of salaries tax. Clause 4 provides that any amounts received by employees from recognized schemes in respect of their own contributions are not chargeable to salaries tax.

Clause 8 has been deleted on the advice of the Bills Committee. Clause 9 provides that, unless the contrary is shown, a notice of assessment is deemed to have been served on the day after it would have been received in the ordinary course of the post. The deletion of clause 10 is consequential to the deletion of clause 8. Clause 13 provides that the approval given by the Commissioner of Inland Revenue to any retirement scheme under the repealed section 87A will be deemed to have been withdrawn once section 3 of the Occupational Retirement Schemes Ordinance comes into force, if by that date an application for registration or an exemption certificate in respect of such scheme under the Occupational Retirement Schemes Ordinance is rejected and an appeal (if any) dismissed.

Mr Chairman, I beg to move.

*Proposed amendments***Clause 1**

That clause 1 be amended, by deleting subclause (2) and substituting —

"(2) This Ordinance shall, subject to subsection (3), come into operation on a day to be appointed by the Governor by notice in the Gazette and shall apply to the year of assessment in which this Ordinance comes into operation and all subsequent years of assessment."

That clause 1(3) be amended, by deleting "(88 of 1992)" wherever it appears and substituting" (Cap. 426)".

Clause 2

That clause 2(a)(ii) be amended, in the proposed definition of "recognized occupational retirement scheme" —

- (a) in paragraph (d) by deleting the comma at the end and substituting "; and"; and
- (b) by deleting everything after paragraph (d) and substituting -
 - "(e) contained in or otherwise established by any Ordinance;".

That clause 2(b) be amended, in the proposed section 2(2A) —

- (a) in paragraph (a) by deleting everything after "scheme as" and substituting -
 - "from -
 - (i) the date on which the application for such registration was made;
or
 - (ii) the date on which the terms of the scheme came into effect,
- whichever is the earlier; and"; and
- (b) in paragraph (b) by deleting everything after "scheme as" and substituting -
 - "from -
 - (i) the date on which the application for the certificate was
made; or
 - (ii) the date on which the terms of the scheme came into
effect,
- whichever is the earlier:

Provided that if such date is earlier than the first commencement date of the Occupational Retirement Schemes Ordinance (Cap. 426), the scheme shall be regarded as a recognized occupational retirement scheme as from such commencement date."

That clause 2 be amended, by deleting "(88 of 1992)" wherever it appears and substituting "(Cap. 426)".

Clause 3

That clause 3 be amended —

- (a) by deleting "8(2)" and substituting "8".
- (b) in paragraph (a) by deleting "paragraph (c)" and substituting "subsection (2)(c)".
- (c) in paragraph (a), in the proposed section 8(2)(c), by adding "subject to subsection (4)" before "any sum".
- (d) by deleting paragraph (b) and substituting -

"(b) in subsection (2)(cb) -

- (i) by adding "subject to subsection (4)" before "any sum"; and
- (ii) by repealing "an approved retirement scheme, but, if the approved retirement" and substituting -

"a recognized occupational retirement scheme upon termination of service, death, incapacity or retirement, but, if the"; and

- (c) by adding -

"(3) For the purposes of subsection (2)(c) and (cb) -
"retirement" means -

- (a) a retirement from the service of the employer at some specified age of not less than 45 years; or
- (b) a retirement after some specified period of service with the employer of not less than 10 years; or

- (c) the attainment of the age of 60 years or some specified age of retirement, whichever is the later;

"termination of service" means a termination of employment with the employer other than upon retirement, death or incapacity.

- (4) (a) Any amount received on termination of service from a recognized occupational retirement scheme as represents the employer's contributions under the scheme may only be excluded under subsection (2)(c) and (cb), as the case may be, to the extent that the amount does not exceed the proportionate benefit calculated in accordance with paragraph (b).
- (b) The proportionate benefit is the sum not exceeding the amount bearing the same ratio to the accrued benefit of the relevant person as represents the employer's contributions under the scheme as the number of completed months of service with the employer bears to 120 months:

Provided that in the case of a recognized occupational retirement scheme approved by the Commissioner under section 87A at any time prior to its repeal by the Inland Revenue (Amendment) (No. 5) Ordinance 1993 (of 1993), where any amount payable upon termination of service in accordance with the rules of the scheme, as approved by the Commissioner prior to the

repeal of the section, exceeds the proportionate benefit calculated in accordance with this paragraph, that amount shall be taken to be the proportionate benefit.

(c) For the purpose of paragraph (b) -

"accrued benefit" means the maximum benefit a person would have been entitled to receive under an occupational retirement scheme in respect of his service recognized for the purposes of the scheme if, at the date of termination of the person's employment, retirement (as defined in subsection (3)) has instead taken place."."

Clause 4

That clause 4 be amended —

(a) by renumbering it as clause 4(1).

(b) by deleting subclause (1)(a) and substituting -

"(a) in paragraph (aa) by repealing "an approved retirement scheme, as represents his" and substituting "a recognized occupational retirement scheme, as represents the"; and".

(c) in subclause (1)(b), in the proposed section 9(1)(ab) by repealing everything after "occupational retirement" and substituting -

"scheme -

- (i) by reason other than termination of service, death, incapacity or retirement of the employee as represents the employer's contributions under the scheme in respect of the employee;
 - (ii) by reason of termination of service as represents such part of the employer's contributions under the scheme in respect of the employee that exceeds the proportionate benefit calculated in accordance with section 8(4)(b),."
- (d) in subclause (1)(b), in the proposed section 9(1)(ac) -
- (i) by adding "by an employee" after "received"; and
 - (ii) by deleting "(88 of 1992)" and substituting "(Cap. 426) that is attributable to his employer's contributions to the occupational retirement scheme in respect of which the judgment was given".
- (e) by adding -
- "(2) Section 9(6) is amended -
- (a) in the definition of "place of residence" by repealing the full stop and substituting a semicolon; and
 - (b) by adding -

""retirement" and "termination of service" have the same meaning as in section 8(3).".

Clause 8

That clause 8 be amended, by deleting the clause.

Clause 9

That clause 9 be amended, by deleting the clause and substituting —

"9. Signature and service of notices

Section 58 is amended -

- (a) in subsection (2) by repealing the proviso; and
- (b) in subsection (3) by adding ", unless the contrary is shown," after "deemed".

Clause 10

That clause 10 be amended, by deleting the clause.

Clause 12

That clause 12 be amended, in the proposed section 89(3) by deleting "Schedule 8" and substituting "Schedule 9".

Clause 13

That clause 13 be amended, in the proposed Schedule 8 —

- (a) by deleting "SCHEDULE 8" and substituting "SCHEDULE 9";
- (b) by adding -

"1A. Notwithstanding the repeal of section 87A by the amending Ordinance, where an application for approval of a retirement scheme under that section was received by the Commissioner before such repeal, the Commissioner may approve the scheme as if that section has not been repealed, and where such approval has been given the scheme shall be deemed to have been approved by the Commissioner under that section immediately prior to its repeal by the amending Ordinance.";

- (c) in paragraph 2(b)(ii), by deleting "or" at the end; and

- (d) in paragraph 2(b), by adding -

"(iiA) where an application made under section 7 or 15 of the Occupational Retirement Schemes Ordinance (Cap. 426) in respect of the scheme is rejected and an appeal (if any) against such rejection is dismissed before the commencement of section 3 of that Ordinance, on that date of commencement; or".

That clause 13 be amended, by deleting "(88 of 1992)" wherever it appears and substituting "(Cap. 426)".

Question on the amendments proposed, put and agreed to.

Question on clauses 1 to 4, 8 to 10, 12 and 13, as amended, proposed, put and agreed to.

Clauses 5 to 7, 11 and 14 were agreed to.

New clause 13A Exceptions for transactions for
money consideration, property
situate outside Hong Kong, shares
on local registers and certain land
in the New Territories

New clause 15 Restriction on operation of
occupational retirement schemes

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

SECRETARY FOR THE TREASURY: Mr Chairman, I move that new clauses 13A and 15 be added as set out in the paper circulated to Members.

The new clause 13A aligns the terminology in the present Estate Duty Ordinance with that in the Inland Revenue Ordinance. Clause 15 implements a recommendation of the Bills Committee to make a minor amendment to the Occupational Retirement Schemes Ordinance.

Mr Chairman, I beg to move.

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

Clauses read the Second time.

SECRETARY FOR THE TREASURY: Mr Chairman, I move that new clauses 13A and 15 be added to the Bill.

*Proposed additions***New clause 13A**

That the Bill be amended, by adding before clause 14 —

"Estate Duty Ordinance

- 13A. Exceptions for transactions for money consideration, property situate outside Hong Kong, shares on local registers and certain land in the New Territories**

Section 10(h) of the Estate Duty Ordinance (Cap. 111) is amended by repealing "an approved" and substituting "a recognized occupational".

New clause 15

That the Bill be amended, by adding —

"Occupational Retirement Schemes Ordinance

- 15. Restriction on operation of occupational retirement schemes**

Section 3(1)(b) of the Occupational Retirement Schemes Ordinance (Cap. 426) is amended -

- (a) by repealing "under" and substituting "by"; and
- (b) in the Chinese text by repealing "根據" and substituting "由".

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

PROTECTION OF INVESTORS (AMENDMENT) BILL 1993

Clauses 1 to 9 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

INLAND REVENUE (AMENDMENT) (NO. 4) BILL 1993

had passed through Committee with amendments and the

PROTECTION OF INVESTORS (AMENDMENT) BILL 1993

had passed through Committee without amendment. He moved the Third Reading of the Bills.

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

Bills read the Third time and passed.

Member's motions

PRESIDENT: I have accepted the recommendations of the House Committee as to time limits on speeches for the motion debates and Members were informed by circular on 5 November. The mover of the motion will have 15 minutes for his speech including his reply and another five minutes to reply to proposed amendments. Other Members, including movers of amendments, will have seven minutes for their speeches. Under Standing Order 27A, I am required to direct any Member speaking in excess of the specified time to discontinue his speech.

FREEDOM OF MOVEMENT

MISS EMILY LAU moved the following motion:

"That this Council urges the British Government -

- (a) to secure a firm undertaking from the People's Republic of China on Hong Kong people's freedom of movement after 30 June 1997, in particular that Hong Kong people will neither be denied the right to re-enter the Special Administrative Region nor have their passports cancelled; and
- (b) to confirm that if holders of British National (Overseas) passports are expelled from Hong Kong after 30 June 1997 they will be accepted for settlement in the United Kingdom."

MISS EMILY LAU (in Cantonese): Mr President, I move the motion standing in my name in the Order Paper. Under British rule, the people of Hong Kong enjoy many freedoms. Some even say that Hong Kong is one of the freest places in Asia. Our freedom to enter and leave the territory makes Hong Kong an international metropolis. Such freedom of movement for the people of Hong Kong in the future is expressly provided for in the Sino-British Joint Declaration and the Basic Law. Why then am I moving this motion?

Mr President, in August this year, China's labour movement leader HAN Dongfang was expelled from China by the Chinese Government, which also cancelled his passport. He is now stranded in Hong Kong. In Hong Kong, the HAN Dongfang case has caused general concern. In a public opinion survey conducted by the University of Hong Kong in August, nearly half of the respondents said that they were worried because, after 30 June 1997, people might be denied the right to re-enter Hong Kong for criticizing the Chinese Government. True, Article 31 of the Basic Law provides for Hong Kong people's freedom to enter and leave the territory. But this, I feel, is not enough. There are grey areas in the text that must be clarified. This is why I am moving this motion today to urge the British Government to secure a firm undertaking from the People's Republic of China on Hong Kong people's freedom to enter and leave the SAR after 30 June 1997. The same motion also urges the British Government to confirm that, if holders of British National (Overseas) passports are expelled from Hong Kong after 30 June 1997, they will be accepted for settlement in the United Kingdom.

Mr President, Article 31 of the Basic Law provides that Hong Kong residents shall have freedom of movement within the Special Administrative Region and freedom of emigration to other countries and regions; they shall have freedom to travel and to enter or leave the SAR; unless restrained by law, holders of valid travel documents shall be free to leave the SAR without special authorization. Article 154 of the same Basic Law provides that the Central Government shall authorize the SAR Government to issue SAR passports to Chinese citizens who are permanent residents of Hong Kong and to issue travel documents to all other persons lawfully residing in the SAR and that such passports and documents shall specify the holder's right to return to the SAR. However, the Basic Law fails to specify whether it is the Central Government or the SAR Government that shall have the power to cancel a passport issued to a Hong Kong person. Should the cancellation of a passport be an act under Hong Kong law or under national law? What avenues of appeal will be open to the holder of the cancelled passport? More importantly, will Hong Kong people's freedom to enter and leave the SAR be subject to restrictions under Chinese law? Article 31 of the Basic Law provides that any holder of a valid travel document shall be free to leave the territory without special authorization. However, the Basic Law fails to specify whether it is the SAR Government or the Central Government that shall be responsible for giving the authorization where such is required. When the Chinese Government expelled HAN Dongfang and cancelled his passport, this was done allegedly under the terms of China's National Security Law and Citizens' Departure and Re-entry

Control Law. So the question is: Will these laws apply to Hong Kong after 1997? I hope that the British Government will find for us the answers to all of the above questions.

Mr President, Annex III to the Basic Law enumerates six national laws that shall apply to SAR. However, Article 18 of the Basic Law provides that the Standing Committee of the Chinese National People's Congress shall have the power to add to or delete from the list of laws in Annex III. The laws named in the list supposedly deal with national defence and foreign policy matters and matters not within the scope of SAR's autonomy. But, because the Basic Law fails to define the scope of SAR's autonomy, we feel compelled to ask: Will the issuance and cancellation of passports and the control of Hong Kong people's exit from and entry to the SAR fall within the scope of the SAR's autonomy? The Basic Law vests in the SAR Government various powers to control the entry into Hong Kong of persons who are residents of other parts of China. Article 22 of the Basic Law provides that a resident of another part of China wishing to enter Hong Kong shall be required to apply for approval. However, the Basic Law fails to specify whether such application shall be processed by the Central Government or the SAR Government. The number of people from other parts of China entering the SAR to live there permanently shall be determined by the Central Government after consultation with the SAR Government. But Article 154 of the Basic Law provides that the SAR Government may apply immigration controls on persons from countries or regions other than China. Mr President, closely related to the freedom of movement is the concept of a permanent resident with the right of abode. Article 24 of the Basic Law provides that Chinese citizens born in Hong Kong or have ordinarily resided in Hong Kong for not less than seven years shall, together with their children, be eligible to become permanent residents with the right of abode. If a non-Chinese person has ordinarily resided in Hong Kong for a continuous period of not less than seven years and has taken Hong Kong as his place of permanent residence, he, too, may become a permanent resident with the right of abode. My colleague, Mrs Elsie TU, asked a moment ago: How come that, after living in Hong Kong for so many years, she is still not a permanent resident and still does not have the right of abode? We know that the Chinese and the British Governments have been discussing this question for many years and still have not found the answer. Until an answer is found, one will worry a great deal about these non-Chinese persons' right of abode and freedom of exit from and entry to the territory.

Mr President, the Chinese constitution contains no article that protects Chinese citizens' freedom to enter and leave China. Hong Kong's Basic Law contains articles protecting Hong Kong people's freedom to enter and leave the territory. Some may point to these articles and say that the Basic Law represents an improvement. However, because the particular articles are not clearly written and because the powers are but amorphously defined, there may be confusion over implementation and this, again, may impact on people's confidence.

Mr President, also of concern to the people of Hong Kong is the fact that the spirit of the rule of law is missing from the Chinese Government. Some therefore doubt that the Chinese Government will abide by the Basic Law and respect the spirit of the rule of law such as now exists in Hong Kong. The HAN Dongfang affair is a case in point. In July last year, HAN received approval from the Chinese Government to go abroad for medical treatment. In August this year, he returned to China via Hong Kong. On 14 August, he was expelled by the public security authorities of Guangzhou. At Lo Wu, he made another attempt to enter China. The border guards said to him, "You are not qualified to say that China is your country. This country does not welcome you." After two weeks of approaches to various other authorities by HAN, the Chinese Ministry of Public Security finally announced that HAN had violated China's National Security Law and Citizens' Departure and Re-entry Control Law. It was further announced that HAN, since leaving China, had done deeds detrimental to the motherland's security, good name and interests and that therefore his passport was cancelled. Yet, Mr President, according to Rule 22 of China's Citizens' Departure and Re-entry Control Law, the authorities can cancel a citizen's passport only under two sets of circumstances: Firstly, the passport holder has illegally entered another country to establish unlawful abode and has been deported back to China; secondly, the passport holder is a trickster. HAN is guilty of neither. Therefore, we want to ask: Under what law did the Chinese Government cancel HAN's passport and forbid him to return to China? Of course, HAN is not the only Chinese citizen whom Beijing has kept out of China in recent years. In June last year, former *Guangming Ribao* reporter DAI Qing passed through Hong Kong on her way back to Beijing from the United States, holding a Chinese passport. In Hong Kong, Chinese officials forbade her to board her plane. A few days later, Chinese Premier LI Peng personally intervened in her behalf. This enabled her to re-enter China. Another Chinese citizen, student GONG Xiaoxia, was returning to China at the same time as DAI. She did not have DAI's good luck. After arriving at Guangzhou, she was expelled back to Hong Kong. She failed to receive help from Premier LI, and so in the end she had to go back to the United States. In the course of these two incidents, the Chinese Government never explained why DAI and GONG were refused entry into China. We are especially puzzled as to why DAI could re-enter China upon Premier LI's intervention. Was it because a leader could overturn a lawful decision, assuming that it was a lawful decision, just because it pleased him to do so? If such was the case, where would this leave the spirit of the rule of law?

Mr President, some have pointed out that HAN, DAI and GONG are all Chinese citizens; that Hong Kong after 30 June 1997 will be part of "one country with two systems"; and that the Chinese Government will not treat Hong Kong people in the same way. We are now less than four years away from 30 June 1997, but we have already seen Hong Kong people refused entry into China by the Chinese Government. Some Hong Kong people holding Home Visit Permits issued to them as compatriots in Hong Kong/Macau, have had these permits cancelled in like manner without lawful justification. One of them is CHOY Yiu-cheong. In August, he accompanied HAN Dongfang back to

China. His permit was suspended for three years by the border check-point, on the ground that that CHOY had allegedly engaged in activities against the Chinese Government. The Chinese public security authorities said that, if he behaved himself well after returning to Hong Kong, he might be able to get his permit back in less than three years. The public security authorities said to him, "After you go back to Hong Kong, don't say unruly words and don't do deeds harmful to the Chinese Government. Do more of such deeds as are good for the Chinese Government." They then warned him that there would be people in Hong Kong watching his activities. Mr President, under section 25 of China's Provisional Regulations on Private Travels of Chinese Citizens between China and Hong Kong/Macau, the authorities can revoke a Home Visit Permit only under three sets of circumstances. Firstly, it is thought the holder may commit robbery, theft or narcotics trafficking; secondly, the holder uses forged papers; thirdly, the holder is mentally ill. Clearly, none of these sets of circumstances existed in the CHOY case. We therefore feel compelled to ask one more question: On what legal ground did the Chinese Government cancel CHOY's Home Visit Permit? Some time ago, *Express* correspondent LEUNG Wai-man got into trouble in Beijing and was then released. She, too, was warned not to return to China within two years. More recently, TSANG Kin-shing and TO Kwan-hang, members of the Hong Kong Alliance in support of the Pro-Democracy Movement in China, were refused entry into China when they tried to visit the Daya Bay Nuclear Power Plant by joining a visiting group of district board members. This series of incidents compel us to ask: Under what circumstances will the Chinese Government refuse Hong Kong people entry into China?

Mr President, some people wanted to enter China but were denied approval. Some people wanted to leave China but were also denied approval. At a recent seminar in Princeton University in the United States, which I attended, I learnt that three Chinese scholars — TONG Dalin, WU Mingyu and ZHENG Zhongbing — could not be present because they failed to receive approval from the Chinese Government. Under China's Citizens' Departure and Re-entry Control Law, the Chinese Government can in fact refuse to let a person leave the country if it thinks that, after leaving the country, he will do harm to national security or cause serious damage to national interests. The question is: After 30 June 1997, will the Chinese Government use the same clauses to curtail Hong Kong people's freedom to enter and leave the territory?

Mr President, if it should really happen after 30 June 1997 that a Hong Kong person is unreasonably expelled or deported by the Chinese Government from the territory, what would the British Government do in such a case? For years, I have been strongly critical of the British Government's nationality policy, which will turn Hong Kong people into second class citizens. In 1985, when the British Government started issuing the British National (Overseas) Passport, it promised that it would be sympathetic to British Nationals (Overseas) if, after 30 June 1997, they should be forced to leave Hong Kong and unable to find settlement anywhere else. It said that it would consider accepting such people on a case by case basis. However, after the

4 June 1989 Beijing massacre, the British Government changed its tone. The changed message was that, should a catastrophic tragedy befall Hong Kong, the British Government would mobilize the international community to help the people of Hong Kong. As to the 1985 promise, the officials concerned said that it was a promise made to the several thousand non-Chinese residents of Hong Kong and not to the several million BN(O)s. I am ashamed of, and outraged by, such British irresponsibility.

Judging by the current trend of events, we are worried that there will very probably be problems affecting Hong Kong people's freedom to leave and enter the territory. Therefore, the British Government has the obligation to seek a clarification and a firm undertaking from the Chinese Government. I also urge the British Government to give an undertaking that it will accept those Hong Kong people — especially those with British passports — who will be expelled from the territory. I hope that the British Government will also be sympathetic to, and take care of, those without such passports.

Mr President, with these remarks, I move the motion.

Question on the motion proposed.

MRS SELINA CHOW (in Cantonese): Mr President, with regard to the motion moved by Miss Emily LAU, the Liberal Party has stated in our party platform that we shall strive for the continuation of the freedoms that Hong Kong now enjoys in all areas. So we support the spirit of the motion. However, there are matters that we must study and analyze more deeply, so as to determine what we specifically strive for and in whose favour.

As we all know, the expulsion of HAN Dongfang and the subsequent cancellation of his passport by the Chinese Government have produced major repercussions among the public in Hong Kong. HAN, a Chinese citizen, was expelled from China. Insofar as the "one country, two systems" principle will apply to Hong Kong after 30 June 1997, his case is really not relevant to Hong Kong residents' freedom of movement, including their right to leave and enter the territory freely, under the Special Administrative Region Government. Such freedom, according to the explicit text of the Joint Declaration and the Basic Law, will be protected. Still, the case has made Hong Kong people wonder if their freedom of movement will really be protected after 30 June 1997. HAN is a Chinese citizen; yet he was refused entry into China, his own country. One really has to wonder if the future Hong Kong SAR Government will not treat SAR residents similarly.

Section XIV of the Joint Declaration and Article 31 of the Basic Law provide that "Hong Kong residents shall have the freedom of movement within the Hong Kong Special Administrative Region and freedom of emigration to other countries and regions. They shall have freedom to travel and to enter or leave the Region. Unless restrained by law, holders of valid travel documents

shall be free to leave the Hong Kong Special Administrative Region without special authorization." These words make it clear that the residents of Hong Kong will have the freedom of movement and will be free to leave and enter the territory. However, up to now, no policy or law says specifically how these words should be put into effect. Nor has any general direction been set.

Firstly, we need to have a clear definition for the term "Hong Kong people" in the context of the motion. Article 24 of the Basic Law divides "residents of Hong Kong" into two kinds: "permanent residents" with the right of abode and "non-permanent residents" with Hong Kong identity cards but without the right of abode. As far as I know, the term "Hong Kong people" in the context of the motion refers to "permanent residents" with the right of abode and with passports. However, even though permanent residents have the right of abode, some of them will be holding passports or travel documents not necessarily issued by the future Hong Kong SAR Government or the present Hong Kong Government. They will probably be holding passports issued by other countries, passports which say that their holders have the right of abode in the passport-issuing countries and the right to leave and enter those countries. In other words, the freedom of movement of these "permanent residents" with foreign passports, including their right to leave and enter Hong Kong freely, will be guaranteed by the Joint Declaration and the Basic Law. Even supposing that some of them will be refused entry into Hong Kong by the future SAR Government, they will still be able to return to their passport-issuing countries in exercise of their right of abode and right of entry. However, there are "permanent residents of Hong Kong" who do not hold foreign passports. They are the ones who worry greatly about whether their freedom of movement, including their right to leave and enter the territory freely, will be protected after 30 June 1997. To put it simply, we need to urge the British Government to secure a firm undertaking from its Chinese counterpart that the latter will make practical arrangements for the protection of these people's freedom of movement, including their right to leave and enter the territory freely.

Article 154 of the Basic Law already provides specifically that holders of passports or valid travel documents issued by the SAR Government shall have the right to return to Hong Kong. Since the Basic Law already provides specifically that passport holders shall have the right to return to Hong Kong, it is all the more necessary for the British Government to secure a undertaking from its Chinese counterpart before 30 June 1997 that the freedom of movement of Hong Kong residents, including their right to leave and enter the territory freely, will be protected and that neither the Chinese Government nor the SAR Government will haphazardly cancel their passports and refuse to let their holders enter the territory.

From the above provisions of the Basic Law, there emerges another question that deserves our attention. It is the question of whether the definition of "permanent residents of Hong Kong" as defined by the present British administration in Hong Kong is consistent with the definition of the same term as defined in the Basic Law. This question involves the issues of nationalities

and rights that will arise with the transfer of sovereignty. Therefore, both definitions must be specific and capable of consistent interpretation.

Lastly, we agree that, if a holder of a BN(O) passport is expelled from Hong Kong by the SAR Government after 30 June 1997, the British Government should accept him lest he should become a "human ball" that is kicked back and forth. Since Britain has ruled Hong Kong for over a hundred years and the BN(O) passports are issued by the present British administration in Hong Kong, the British Government must assume moral responsibility for their holders and accept those who may one day be refused entry into Hong Kong, lest they would become stateless and have nowhere to go.

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

MR SZETO WAH (in Cantonese): Mr President, Article 31 of the Basic Law provides that "Hong Kong residents shall have freedom of movement within the Hong Kong Special Administrative Region and freedom of emigration to other countries or regions. They shall have freedom to travel and to enter or leave the Region. Unless restrained by law, holders of valid travel documents shall be free to leave the Region without special authorization."

Some may ask: Since the text is so clear, why need any "undertaking"? Is the present motion not superfluous? If it indeed is, then we must thank Heaven because everything will be all right. But let us see how the Basic Law is being interpreted.

Somebody said: Suppose that the Sino-British talks on Hong Kong's political system fail to reach an agreement, then not only will the Legislative Councillors elected in 1995 have to get off the train, but so will the members of the two municipal councils and district boards. A reporter asked: The Basic Law does not say that the members of the two municipal councils and district boards will need approval to remain on the through train. Why must they, too, get off? The answer is: While the Basic Law does not say that approval will be needed, neither does it say that approval will not be required.

By the same logic, the Basic Law does not say that Hong Kong people will need approval to eat rice after 30 June 1997, but neither does it say that approval will not be needed. So, when the time comes, approval to eat rice may be withheld.

The above answer is given by a person in authority. (He was so disappointed with the Chinese Government that) he amended the wording of his comment from "I have nothing to say" to "I am anguished and bitter" Now, his authoritative answer really makes us want to say, "We have nothing to say" and "We are anguished and bitter".

Such has been the inconsistent record of interpretation of the Basic Law. How can Hong Kong people not have doubts and worries? How can they thank Heaven because everything will be all right? How can they say that the present motion is superfluous?

Recently, district board members TSANG Kin-shing and TO Kwan-hang wanted to join a visiting group to the Daya Bay Nuclear Power Plant. Their applications were rejected. I understand that this was not because the Plant did not welcome them but rather the Chinese authorities refused to let them enter China. Both of them had valid Chinese travel documents — Home Visiting Permits. Nor were these Permits declared invalid. Why, then, were they denied entry into China?

After 30 June 1997, Hong Kong will be part of China upon China's resumption of the exercise of sovereignty over the territory. With the exception of those who will be holding foreign passports, all Hong Kong people, including those holding BN(O) passports, will become Chinese citizens. When the time comes, will they suddenly find that they have become HAN Donfangs upon their return to Hong Kong from abroad? Will their SAR passports be cancelled? Will they be deprived of their citizenship and become stateless "human balls" kicked back and forth between nations?

I do not know if there is any Member who wants to oppose the motion. If there is, I want him to answer the above questions.

The second part of the motion is: If holders of BN(O) passports are expelled from Hong Kong after 30 June 1997, they should be guaranteed acceptance by Britain. This part of the motion is enough to sadden every Chinese with a feeling for his nation. Why must a citizen of China ask for acceptance by a foreign country? Many Hong Kong people were born and have grown up here. It is the place where they enjoy their pleasures and suffer their sorrows. Why can they not remain here until they die?

Please do not blame the person who moved the motion. More to blame is the cause, the reason why the motion had to be moved.

Mr President, despite my own sadness, I can understand the doubts and worries of many, many people. So I support the motion.

MR VINCENT CHENG: Mr President, I do not think anyone in this Council would argue against freedom of movement, nor would we disagree with the principle that no government should deny the right of its citizens to re-enter the country where they have the right to reside permanently. These are universal principles and basic human rights which no civilized government should violate. Sadly, throughout history, and even today, there are people exiled by their political opponents because of different political convictions. While this may actually be better than getting locked up in prison, nonetheless, such act is a

violation of basic human rights which should be condemned. I certainly hope that no one in Hong Kong would face any such threat in the years to come.

The right of Hong Kong people to leave and re-enter Hong Kong is guaranteed in the Basic Law. As mentioned before Article 31 states categorically that Hong Kong residents shall have freedom of movement within the Hong Kong Special Administrative Region and freedom of emigration to other countries and regions. They shall have freedom to travel and to enter or leave the Region. Unless restrained by law, holders of valid travel documents shall be free to leave the Region without special authorization. This right is also clearly stated in the Sino-British Joint Declaration. I, as a permanent resident of Hong Kong, expect the future SAR Government to uphold the Basic Law and that I will continue to have the right to obtain a valid travel document which is a document to exercise such right. The travel document, if lawfully obtained, cannot be revoked by the SAR Government because this would be tantamount to depriving the holder of the right of freedom of travel, a violation of the Basic Law.

Since the freedom of travel is already guaranteed by the Basic Law and the Sino-British Joint Declaration, I do not see the need to urge the British Government to secure an undertaking from the Chinese Government to affirm what they have jointly accepted and written into law. I accept that there are many technical details yet to be worked out. The details should not contradict the provisions of the Basic Law.

In view of the difficulties in the Sino-British negotiation on the 1994-95 electoral arrangements, and the lack of progress in the JLG meetings, I would think it unwise to put one more item, which is already signed and sealed, on the already crowded agenda in a charged atmosphere.

Nevertheless, since there are people in Hong Kong who feel they need the comfort of reaffirmation of the relevant clauses in the Basic Law, the Chinese and British Governments should consider this request favourably. I personally feel it unnecessary. If we do not accept the Basic Law in good faith, no amount of reaffirmation would erase the skepticism.

I support the motion's second part. Britain has the constitutional and moral obligation to accept BN(O) passport holders who, for political reasons, could not live in Hong Kong after 1997. I hope this will never happen. History will judge the United Kingdom harshly on the subject of British nationality for Hong Kong people. I do not want to waste Members' time on this sickening subject by repeating what have been said many times in this Chamber.

Mr President, I support the motion.

MR CHEUNG MAN-KWONG (in Cantonese): Mr President, I suppose I have to declare interests before participating in this debate. Since the stripping of HAN Dongfang, the democratic movement activist, the right to return to China, those of us who are staunch supporter of the pro-democracy movement feel particularly sorry for him. However, on second thought, I am all the more upset and feel absurd when I have to declare interests in a debate on Chinese national's legal right to return to China.

Someone may say: Has Article 31 of the Basic Law not specified that Hong Kong residents have freedom to enter or leave the territory? Mr President, I am not sure whether the Basic Law, like the Chinese constitution, would not be as grand as its wording when it is put into practice. Yet, I would like to cite Article 14 of the Basic Law which provides that the Central People's Government shall be responsible for the defence of the Hong Kong Special Administrative Region as an example to refute this argument. Will it occur one day that the Chinese Government may prohibit the re-entry of anyone to Hong Kong whom it regards as posing threat to China's national security on the grounds of national defence? Likewise, Article 23 of the Basic Law which is modelled on Article 4 of the Chinese National Security Law may be invoked to prohibit any Hong Kong residents from their re-entry to Hong Kong for any act of treason, sedition, subversion and so on. Mr President, I am not an alarmist. This is the fact. HAN Dongfang was refused entry for allegedly having violated Article 4 of the National Security Law. Mr President, when is the long list of names such as HAN Dongfang, DAI Qing, GONG Xiaoxia, CHOY Yiu-cheong, TSANG Kin-shing, TO Kwan-hang, going to end? Is it before or after 1997? Are we going to meet the same destiny?

Mr President, Hong Kong people's major concern about 1997 is that the Chinese Government may deliberately misinterpret the law or even circumvent the law in order to achieve its political aims. What further worries Hong Kong people is that the Chinese Government's rule of man tradition and totalitarian culture will invade Hong Kong after 1997 and undermine our foundation of the rule of law. Our debate today on the freedom of movement as promised in the Basic Law is not at all expendable. We have a definite objective in mind and the debate deals with something out of the deepest concern from our hearts.

As a matter of fact, the real reason behind HAN Dongfang's denial of entry is due to his having said something when he was on overseas trip, which irritated the Chinese Government. Put it another way, HAN Dongfang loses his freedom of entry because he has exercised his freedom of speech. Mr President, in my view, there are things we treasure only after we have lost them. Freedom is one and economic and political systems with freedom as their underlying force are another. Freedom is one of the factors contributing to Hong Kong's success. The Chinese Government, on the one hand, wishes that Hong Kong will practise free economy but on the other, fears that Hong Kong to would uphold freedom of speech. It is in fact very self-contradictory. Freedom is as indivisible as one's head and limbs. It is impossible to allow Hong Kong to enjoy economic freedom but not freedom of speech while

expecting that Hong Kong will continue with its success and prosperity. A democratic system is exactly what we need to ensure that Hong Kong can enjoy freedom and prosperity in the many years to come.

However, Mr President, I already have the feeling that the freedom we have long cherished is fading away and dwindling day by day. Take the recent talk of the town, "subversion", as an example. What is subversion? It seems that the speeches we made before or after the June 4 incident and today at rallies and demonstrations that we are against the Chinese Government's massacre of its people precisely amount to subversion. What we have said are all facts and our remarks which reflect the true picture can stand the test of history. However, even if — I must repeat — even if it is a matter of different interpretations of the incident, one must not lose sight of the fact that we have freedom of speech. It is most unfortunate that such legitimate acts in a free society have already been regarded as subversive activities. In the days when the Chinese Government reigns over Hong Kong after 1997 and Article 23 of the Basic Law is put into effect, our freedoms may be curtailed substantially, including certainly what we are debating today, that is, the freedom of movement as induced by the freedom of speech.

Mr President, there were many cities in the past which had once prospered and then declined gradually. Their decline may be due to natural disasters or man-made calamities. Shanghai half a century ago is a case in point. It had declined from a glittering international metropolitan to a drab bygone city. What triggered the decline, natural or man-made calamities? I believe that everyone should know the answer well. Should the same happen to Hong Kong, we cannot expect to enjoy never-ending prosperity. If we do not fully safeguard the freedom that makes Hong Kong so successful, the territory's future will be like a lacklustre Pearl of the Orient which declines and vanishes in history, maybe in 50 years' time.

Mr President, in view of the reason mentioned just now, I support Miss Emily LAU's motion.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, today's debate looks like more an accusation rally against the Chinese Government without the presence of any Chinese representative. I thought I must have entered the conference room of the Hong Kong alliance in support of Patriotic Democratic Movement of China. Of course, we enjoy the freedom of speech in this Council. Yet, everyone's speech can only represent his own view.

Before anything else, I have to say that I vehemently oppose this motion. The first reason is that Hong Kong people's rights are all stated very clearly in the Basic Law and the Sino-British Joint Declaration. Miss Emily LAU raised a good deal of queries in this respect. We have to realize who has the power to interpret the Basic Law. After the implementation of the Basic Law in 1997, anyone who has queries about any provision in the Basic Law and wishes or asks

for any amendments to it shall have their proposed amendments confirmed by the Standing Committee of the National People's Congress of the People's Republic of China. If anyone attacks such stipulation or arrangement, I venture to point out that he has already breached the Basic Law. It is also doubtful whether he is eligible to ride on the "through train", if any, in 1997. Many people are certainly not afraid of such uncertainty because they know pretty well what they are doing. Let me say clearly once again. With regard to the power of interpretation, it has been stated very explicitly in the Basic Law.

Here is my second reason. I have in fact made it clear in the Motion of Thanks on the Governor's policy address. I pointed out then that if one had no confidence in the Sino-British Joint Declaration, the Basic Law and indeed everything about Hong Kong, one had better ask the British Government to offer him a full British passport. This debate will not do the public any good except making available a forum for some people to express groundless fears.

We have to make a coolheaded analysis of the situation to see whether it will serve any purpose for us to do so. In respect of the existing law of Hong Kong, we sometimes can, of course, make different interpretations. With full confidence, one would think that it would be advantageous to one no matter how the law is interpreted at the end of the day. If one has done something wrong and feels misgivings, one will naturally find that the reasons put forward by others and the interests they represent are not on one's side. This is certainly the case. In this connection, when many Members mentioned some particular events, they are actually making different interpretations on different grounds from different viewpoints. As a matter of fact, the Chinese Government also has its own right to solve problems and handle matters in its own way. How far do we, in fact, understand the Chinese Government? I think, until knowing all the facts, Members of the Hong Kong Legislative Council, especially in the face of the transfer of sovereignty in 1997, should be more sensible and reasonable, and should look at matters from different perspectives.

As for the HAN Dongfang incident, I believe that people are aware of his reasons for going overseas as well as his deeds and behaviour on such trips. If he was sick, how could he attend so many conferences? And what are the objectives of these conferences? As legislators, we should not take a one-sided approach to an issue but try to get the whole picture. We should ask ourselves whether we will run the risk of being exploited by some foreign political bodies or countries. In this respect, we should also get the picture. I am not the Chinese Government's spokesman, nor am I in a position to speak on behalf of the Chinese Government. However, I have the obligation to let some Hong Kong people know the truth of the whole matter and part of the true picture. For this reason, I think Hong Kong people may, before knowing the whole truth, show their care and concern. But they should not become emotional, nor should they play up the issue and look at it with prejudice. Personally I firmly believe that Hong Kong people who want to understand the truth will forget the whole thing in the near future.

We have to understand what "one country, two systems" means. It does not mean that Hong Kong is one country with two systems. We firmly believe that Hong Kong has put into practice the principle of "one country, one system" at all times. Where "one country" is concerned, Hong Kong is under British rule before 1997 and its sovereignty will be reverted to China after 1997. With regard to "one system", Hong Kong has been all along practising capitalism. "One country, two systems" refers to the two systems to be concurrently operating in China. We have to understand that up to now China's ruling party is still the Communist Party. How far do we understand the policies of the Communist Party? The Chinese Communist Party introduced the concept of "one country, two systems" because they think that the majority of Hong Kong people will have difficulty to adapt themselves to the life style under communist rule and cannot get accustomed to the other relevant changes after Hong Kong's sovereignty is reverted to China in 1997. By introducing the "one country, two system" concept, China hopes that Hong Kong people will be able to retain their own life style and institutions. As legislators, we should promote this idea among those who are willing to stay in Hong Kong instead of expressing alarmist views or spreading the 1997 doomsday message. As China has its own system, why should we interfere with its system? We cannot do anything about it, can we? Are we in a position to do so? I earnestly hope that responsible Members will ponder these points. To the representatives of the Hong Kong Alliance in support of Patriotic Democratic Movement of China or Members with certain political persuasion, this debate is merely an opportunity for them to publicize their views. We should indeed give full play to the "one country, two systems" concept.

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

MR FREDERICK FUNG (in Cantonese): Mr President, Miss Emily LAU's motion today is very clearly occasioned by the Chinese Government's handling of the HAN Dongfang case. The wording of the motion reflects what have been on the minds of Hong Kong people for years with regard to China and Britain: The Chinese Government is untrustworthy while the British Government is unreliable. Such thoughts have not been formed overnight. I quite understand the rationale behind the motion. Based on distrust for both China and Britain, the motion yet expresses a hope that China will give a new undertaking about Hong Kong people's right to leave and enter the territory freely, and makes a request to Britain to give the right of abode to those people who are expelled from Hong Kong. However, some parts of the motion are, in my opinion, not entirely comprehensible, in particular, the first half of the motion which urges the British Government to secure a firm undertaking from the People's Republic of China on Hong Kong people's freedom of movement after 30 June 1997.

Actually, such an undertaking has already been given by the Chinese Government in Section XIV of Annex I to the Sino-British Joint Declaration. Annex I is about the basic policy of the Government of the People's Republic of

China towards Hong Kong. Section XIV is very important and I quote: "... and issue travel documents of the Hong Kong Special Administrative Region of the People's Republic of China to all other persons lawfully residing in the Hong Kong Special Administrative Region. The above passports and documents shall be valid for all states and regions and shall record the holder's right to return to the Hong Kong Special Administrative Region." The last words "shall record the holder's right to return to the Hong Kong Special Administrative Region" are very important. They amount to an undertaking. Article 31 of the Basic Law, too, provides that "Hong Kong residents shall have the freedom of movement within the Hong Kong Special Administrative Region and freedom of emigration to other countries and regions. They shall have freedom to travel and to enter or leave the Region. Unless restrained by law, holders of valid travel documents shall be free to leave the Hong Kong Special Administrative Region without special authorization." I feel that this is already an undertaking. For the British Government to urge its Chinese counterpart to give a new undertaking on Hong Kong people's freedom of movement will signify that it does not trust the undertakings previously given by the Chinese Government and therefore needs a new undertaking.

I would like to ask Miss LAU: Since she does not trust an undertaking that has been given by the Chinese Government in two constitutional documents (the mini-constitution for the Hong Kong SAR Government and the internationally recognized Joint Declaration), will she trust a similar undertaking if given anew? Since she thinks that the two constitutional documents cannot be trusted, what good will it do for the British Government to talk to China and secure a new undertaking? Therefore, my feeling is that a new undertaking under the circumstances will do some good just for her own peace of mind. There are still a lot of issues to be discussed between China and Britain concerning Hong Kong's transition to 1997. Urging the British Government to talk to China about this additional issue at this time will, I am afraid, further complicate things instead of doing any good for our peace of mind. I feel that the Joint Declaration is an undertaking in itself. The task in front of us is to study ways to give practical effect to this undertaking. So I have reservations about the first half of Miss LAU's motion.

The second half of the motion says in effect that, if Hong Kong people holding BN(O) passports are expelled from Hong Kong, they should be accepted by Britain. I feel that this is necessary. The British Government has a moral and legal obligation to accept such people. Insofar as nationality issue is concerned, the British Government has more than once pushed Hong Kong's British citizens outside the scope of so-called "first class" British citizens and deprived Hong Kong people of their right of abode in Britain. The issuance of BN(O) passports to Hong Kong people now will only turn them into "third class" residents. The Association for Democracy and People's Livelihood and I think that the British Government should stop being evasive about this issue. It should give an undertaking, an undertaking unqualified by technicalities. It is because up till now, no legal constraint exists in Britain to make such an undertaking difficult to give if the British Government wishes to give it.

Lastly, I would like to make use of this opportunity to talk about the HAN Dongfang case. Today's motion is occasioned entirely by the Chinese Government's mishandling of the case of a Chinese citizen who wished to return to China. The mishandled case has given Hong Kong people cause to worry that, if they want to be free to leave and enter Hong Kong after 30 June 1997, they must then "behave properly." China's refusal to accept even a single dissident, who is kept out of the country, is indeed a cause for concern to us. True, China has said repeatedly that Hong Kong people's freedom of movement has been set out clearly in black and white in the documents. Still, how can its undertaking reassure us if China continues to handle things in the same old way?

I feel that, as usual, China's handling of the HAN Dongfang case was secretive and lacking in transparency and exemplified the rule of man more than the rule of law. As far as I know, the public security authorities in China have never signed any paper ordering the cancellation of HAN's passport. I therefore feel that an administrative body cancelled HAN's passport and did so on no legally justifiable ground. The impression one gets is that, when China at first refused to let HAN return to China, its consideration was a political one more than anything else; it was only later that China found some explanations to rationalize HAN's expulsion. I hope that China will learn a lesson from the case and conduct a full review of the legal basis of the case and allow HAN to return to China. If HAN has indeed violated Chinese law, he should be taken to court and given a fair and open hearing and a chance to defend himself. This will restore in Hong Kong people some of their confidence in the Chinese legal system.

These are my remarks. I have some reservations about the first half of the motion, but I support the motion in principle.

MR SIMON IP: Mr President, there was a time when a passport meant something. It meant that you were entitled to live in the country which issued it, that that country would come to your aid if you should find yourself in trouble abroad. It also meant that you belonged somewhere and that you had a nationality.

But that was then, and this is now. Now, a passport seems to be no more than a travel document. It grants a nationality that cannot be enjoyed. For to enjoy the benefits of belonging to a nation, one must be able to enjoy the rights and protections given under that nation's laws. But those obtaining BN(O) and BOC passports will find that their nationality is a mere shadow of what it was formerly. And that shadow is none other than that left by the setting of the sun on Britain's last important colonial outpost. And after the sun sets and we wake up the next morning in the Hong Kong Special Administrative Region of the People's Republic of China, what will it mean to be a British national who carries the tag "overseas" on his passport?

We might find the answer to this question by first asking another one. If for some reason a BN(O) passport holder were no longer welcome in Hong Kong after 1997, where would he or she go? It is considered a violation of international law for a state to refuse admission to its own nationals who are not welcome by the state which is hosting them. Britain would, thus, be violating the territorial supremacy of China by refusing to grant entry to British nationals who are stripped of their right of abode in the SAR. But a BN(O) passport holder will be given no right of abode in the United Kingdom and no diplomatic protection in the SAR.

I submit that the nationality offered by Britain to the majority of the citizens of Hong Kong does not truly fulfill her obligations under the Convention on the Reduction of Statelessness. What has been created, rather, is a paradoxical category of people whom we might call "stateless nationals", to whom Britain cannot offer any of the rights which nationality ought to confer.

To prevent this purely formal nationality from being utterly illusive, there is one assurance Britain must offer — an assurance given by the modern concept of the passport. According to that concept, the issuing country agrees to accept the bearer if he is repatriated by another state. So, if Chinese authorities revoke a BN(O) or a BOC's right of abode in the SAR, Britain ought to grant him entry to the United Kingdom.

Unfortunately, though, promises are not forthcoming. Indeed, we have seen mostly backtracking by the British Government on nationality issues, evidenced by their refusal to admit BN(O) passport holders of Chinese origin a refuge should they come under pressure to leave the SAR.

Then again, perhaps we might dismiss the possibility of Hong Kong people losing their Chinese national status and their right of abode in the SAR. Before we make such a bold assumption, we should take a look at Chinese nationality laws. The Chinese Memorandum to the Joint Declaration stipulates that "under the Nationality Law of the People's Republic of China, all Hong Kong Chinese compatriots, whether they are holders of the British Dependent Territories Citizens' passport or not are Chinese nationals." So, Hong Kong people of Chinese ancestry remain Chinese nationals, no matter what other nationality they may adopt.

Chinese "compatriots" holding BN(O) passports or BOC passports are effectively dual nationals, even if they do not obtain any kind of Chinese or SAR travel document. Yet China, as we know, does not recognize dual nationality. Under current Chinese law, one must both settle abroad and freely choose a foreign nationality in order to automatically lose one's Chinese nationality. In consequence, Hong Kong holders of BN(O) passports and BOC passports who stay in Hong Kong will remain Chinese nationals.

Then again, Chinese nationality may turn out to be somewhat more selective. Indeed, several legal commentators have noted that the vague definition of a Chinese national as a "compatriot" might give Chinese authorities power to exclude dissidents. Article 23 of the Basic Law would conceivably grant the SAR Government broad powers with regard to punishing subversion, possibly including the denial of the right of abode in Hong Kong.

If the SAR Government is given powers to strip people of their nationality and right of abode, while Chinese nationality laws refuse to recognize their second nationality, we must wonder what, then, will become of the BN(O) passport holder.

China must take account of the fact that Hong Kong people are hanging on her every word in deciding whether their future lies here in the territory or in a new homeland. Every provision or statement on nationality, right of abode, or right of participation in the SAR Government serves either to give hope or to cast doubt on the desirability of remaining here. Bewildering contradictions and ill-defined policies serve only to stifle confidence in the future of Hong Kong.

What is needed is clarity and commitment. Clarity will generate understanding while commitment will bring faith in the future. These will, in turn, promote the continued stability and viability of Hong Kong both before and after 1997. Negotiations between Britain and China are largely carried out by people with only indirect stakes in the future of the territory. Hong Kong people, however, are the ones who risk getting caught in the nationality trap that awaits them, unless both sides review their own laws and come to the negotiating table ready to set up special provisions for the special case that is Hong Kong. Firm undertakings are indeed required so that we might avoid the situation of "stateless nationals", who technically possess two nationalities, but who may stand to enjoy the rights and privileges of neither.

With that, Mr President, I support the motion.

MR FRED LI (in Cantonese): Mr President, we appreciate and admire Miss LAU's motion. The spirit of the motion is commendable as it addresses the worry of the people of Hong Kong about the future. From the results of the opinion polls conducted by the City and New Territories Administration, we can see that the future prospects of the territory has always been foremost among the subjects of concern to the people of Hong Kong.

The recent incident of HAN Dongfang, the cancellation of the home visit permit of a Hong Kong citizen CHOY Yiu-cheong, and the refusal to let certain district board members to visit Daya Bay have made the people of Hong Kong lose much of their confidence in their future sovereign state China. Many Members before me also mentioned these points.

Meeting Point has in fact expressed discontent with the way the Chinese Government handled the incidents of HAN Dongfang and the cancellation of CHOY Yiu-cheong's home visit permit. When I listened to Mr CHIM Pui-chung's speech just now, I thought we would soon get the lowdown on these incidents, but what he was telling us was in fact to forget these incidents. I hope that the Chinese Government can deal with the dissidents through due process of law on the basis of the spirit of the rule of law.

If we examine the wording of this motion, we will find that there are certain problems. The permanent resident's right to leave and enter the Special Administrative Region in the future has been clearly provided for in the Sino-British Joint Declaration and the Basic Law. The Joint Declaration is an international treaty that is binding on the two sovereign signatory states under international law, and the Basic Law is the future constitution of Hong Kong. So I cannot see how the Chinese and British Governments can give any further guarantee. What is more important is that the controls and legislation as to entry into and exit from the Region are matters within the jurisdictional autonomy of the future SAR. Neither the Hong Kong Government, which is currently responsible for Hong Kong, nor the future sovereign state China should transgress the SAR's turf by laying down substantive laws or administrative measures for the future SAR Government. That will only affect the future SAR's ability or right to regulate the entry to and exit from the Region. It will not be conducive to the realization of "Hong Kong people ruling Hong Kong" and "one country, two systems" if we look to the British Government for assistance on every matter, or seek Beijing's guarantee on every matter without first examining whether the matter concerned is within the scope of our autonomy.

Recently, certain publishers have gone so far as to consult the Chinese Government on whether Chinese characters should in the future be printed in horizontal or vertical order and whether the simplified or the original complex characters should be used. And some professional bodies have visited Beijing to see whether their status will be acknowledged and whether they will be able to represent Hong Kong at an international level. All these are in fact unnecessary. Such practices will only go towards curtailing the extent of our autonomy in the future.

Basically, Miss LAU's motion does not have any substantive effect, because the Chinese and British Governments have already given the guarantee in the Joint Declaration and the Basic Law. We really cannot see what further guarantee the British Government can ask the Chinese Government to give. If we were to repudiate the Basic Law, it would be very difficult to ask the Chinese Government to give any further guarantee.

Concerning the problem of travel document, one should not be deprived of one's right of entry simply because one has lost one's travel document or passport. This is the current position of Hong Kong. Given that the person concerned is a permanent resident of Hong Kong, he will have the right to

return to Hong Kong even if he has lost his passport or certificate of identity abroad, though he has to complete all the necessary procedures afterwards which will take quite some time. But the important point is, I think, that he will not lose his right to return to Hong Kong.

The second part of the motion urges the British Government to confirm that if holders of British National (Overseas) passports are expelled from Hong Kong after 30 June 1997 they will be accepted for settlement in the United Kingdom. We will of course not oppose such a proposal, but how about the citizens of Hong Kong who are holders of Certificate of Identity (CI)? There are still quite a vast number of Hong Kong people who are CI holders. In the future they will be holders of SAR passport. If they are then expelled from Hong Kong, should the British Government accept them for settlement? I think that if the British Government is to fulfil its moral obligation, it should accept these Hong Kong people who are CI holders.

We cannot find in the motion the points raised above but we do not want to oppose the motion. So we will abstain from voting.

THE PRESIDENT'S DEPUTY, MRS ELSIE TU, took the Chair.

MR HENRY TANG (in Cantonese): Madam deputy, I very much approve of the spirit of today's motion moved by Miss Emily LAU, because freedom to enter and leave the territory is truly very important to the people of Hong Kong. Nevertheless, Article 31 of the Basic Law has provided unequivocally in the following terms: "Hong Kong residents shall have the freedom of movement within the Hong Kong Special Administrative Region and the freedom of emigration to other countries and regions. They shall have the freedom to travel and the freedom of entry and exit. Unless restrained by law, Hong Kong residents who hold valid travel documents shall be free to leave the Region without special authorization." As the Chinese Government has already given an undertaking on "freedom of entry and exit" by way of legislation, there is not much sense in demanding of the British Government again to seek a "firm undertaking" from China. The fresh undertaking, if given, will be no more than repeating the provisions that have long since been laid down in law.

In paragraph (a) of the motion, Miss LAU mentioned about "passport" but did not specify which country it is who issued the passport. In the first place, "British National (Overseas) passports" ("BN(O)" passports in short) are issued by the British Government. China has no right at all to cancel these passports. It is therefore illogical to demand an undertaking from China in respect of something which does not fall within its jurisdiction. As for the "Hong Kong Special Administrative Region passports" issued to Chinese nationals in Hong Kong by the SAR Government on the authorization of the Central People's Government, Article 153 of the Basic Law has similarly provided in the following terms: "The above passports and documents shall be valid for all

states and regions and shall record the holder's right to return to Hong Kong". Therefore, obviously, be it a BN(O) passport or a SAR passport, in either case the passport is safeguarded by the Sino-British Joint Declaration and the Basic Law, which are internationally recognized. If we have no confidence even in these two international agreements, then I have nothing more to say.

Madam deputy, paragraph (b) of the motion calls on the British Government to confirm that if holders of British National (Overseas) passports are expelled from Hong Kong after 1997, they will be accepted for settlement in the United Kingdom. I agree with this request in principle. I remember that shortly after he came to Hong Kong, Mr Chris PATTEN, the Governor, indicated more than once that after 1997 Britain still had a "moral obligation" towards the people of Hong Kong. The Chief Secretary, Sir David FORD, also indicated to the Legislative Council on 21 July this year to the effect that, "If the people of Hong Kong are subjected to persecution, it is the responsibility of Britain to protect them." I believe that since the British colonial government has ruled Hong Kong for nearly 150 years, its "moral obligation" towards Hong Kong should not only be confined to some 3 million holders of BN(O) passports. We have every reason to demand of Britain to fulfill its responsibility towards all of the 5.9 million people of Hong Kong.

Madam deputy, with these remarks, I support the motion.

MR JAMES TO (in Cantonese): Madam deputy, I have prepared a long speech, but, after listening to what Miss Emily LAU has said in moving her motion, I feel that I have only a few additional points to make. Miss LAU's analysis of the technicalities and the principles has great depth. Her points are well researched with which I fully agree.

- (1) Nearly all of the Members who spoke a moment ago cited Article 31 of the Basic Law: "Hong Kong residents shall have freedom to travel and to enter or leave the Region. Unless restrained by law, holders of valid travel documents shall be free to leave the Region without special authorization." So holders of valid travel documents will be free to leave and enter Hong Kong. "Valid travel documents", by inference, refer presumably to passports issued by the Hong Kong SAR. Mr Henry TANG asked a moment ago: What specific passport does Miss LAU refer to in her motion? Objectively speaking, I think she refers to the kind of passports issued by the future Hong Kong SAR. Well then, what law should be applied? China's Departure and Entry Law or the long-established Hong Kong law?
- (2) The Basic Law further provides that "... unless restrained by law, holders of valid travel documents shall be free to leave the Region without special authorization." In fact, as Mr Simon IP has pointed out just now, the problem is that Hong Kong law is rather vague on

who may not leave the territory. Very often, where a person is prohibited from leaving Hong Kong, the prohibition is an administrative act. We recently amended the Inland Revenue Ordinance to provide that, under certain circumstances, the Commissioner of Inland Revenue may apply to the court for an order to prohibit people who owe taxes from leaving Hong Kong. Such prohibition has a legal basis. But the Government at present does resort to administrative acts to prohibit citizens from leaving the territory. For instance, when a prohibited person goes through the immigration control point at the airport or at the border, he will be intercepted by an immigration officer upon checking against the data stored in the computer. He will not be allowed to leave the territory for reasons even unknown to himself. Therefore, I hope that the Government will, beginning right now, enact legislation on how citizens of Hong Kong may be prohibited by due process of law from leaving the territory. Such legislation may then remain in effect after 1997 which will enable Hong Kong to have a smooth transition.

- (3) I am very concerned about Article 23 of the Basic Law which provides that "The Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government and theft of state secrets." The Basic Law also prohibits political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies. Of course no law in this area yet exists, for it is all to be enacted in the future. In the opinion of Mr Fred LI, any law to be enacted in the future will be within the scope of our autonomous power, so there is no need for us at this time to urge the Chinese Government to give an undertaking that any law enacted under Article 23 of the Basic Law will not deprive us of our freedom to leave and enter the territory as provided by Article 31 of the Basic Law. Such a view makes some sense. However, if we are to believe in the rule of law and talk about reason and the Basic Law, then we must also talk about what we know and what we have experienced. From the most recent incident, we have learnt with certainty that the Chinese Government's actions in this area are far from satisfactory and are somewhat irregular. Therefore, we hope that one will not take an evasive attitude and refrain from talking about the issue or from asking the competent authorities to resolve the issue simply because it is a future issue. If one is pragmatic, then one should hope that the Chinese Government will in the meantime let the Preliminary Working Committee or Chinese officials talk more about those ideas with which we have doubts, which are not clear to us or which are given unusual interpretations by the Chinese side. This will help us, help our citizens, to understand these ideas better, to understand better what our future rights, freedoms and limits will be. Of

course, to be frank, in the worst-case scenario, the Chinese Government's interpretation of Article 23 of the Basic Law may be very disturbing and frightening. If that should be the case, the people of Hong Kong should be told so sooner. They will then have more time to make a choice between remaining in Hong Kong and getting ready to emigrate. Article 39 of the Basic Law provides that the provisions of the two international covenants, as applied in Hong Kong shall remain in force to protect Hong Kong people's rights and freedoms. If the Chinese Government now thinks that such an act was against its own wish and it was a mistake to let these covenants receive mentions in the Joint Declaration and the Basic Law and never intended to let the rights under these covenants exist in Hong Kong, then it should say so and tell the people of Hong Kong. Such information is quite important to Hong Kong people, who are making decisions about their future. It will enable a choice to be made by the people now living in Hong Kong.

Another matter is what Article 18 of the Basic Law has to say. As Miss LAU pointed out just now, national defence and foreign policy are areas within the scope of the national laws, hence, they should be applied to Hong Kong. But for areas within the scope of Hong Kong's autonomy, no national law should apply. I very much agree with this. Meanwhile, if legal experts or officials of the Chinese Government can give an undertaking about this, I believe that it will further reassure the people of Hong Kong.

Lastly, many Members said a moment ago that former citizens of Hong Kong who had emigrated to foreign countries and obtained foreign passports, if they continued to qualify as permanent residents of Hong Kong, should have the right of abode in Hong Kong. Well then, should their travels to and from Hong Kong be subject to Article 31 of the Basic Law or should they simply be treated differently from other permanent residents? This is a very important question. There has been a massive brain drain from Hong Kong. We are now talking about the definition of permanent residents. I believe that, if they can be told that they will be able to travel freely to and from Hong Kong, they will want to return to Hong Kong and develop their careers here. This will enable them to make contributions to Hong Kong's prosperity and stability. We hope that they will not have to go to the embassies in their respective foreign countries for assistance every time they want to return to Hong Kong.

With these remarks, I support the motion.

DR SAMUEL WONG: Madam deputy, the motion calls for undertakings from China, on freedom of movement; and from Britain, on honouring its responsibilities. The response to be expected from China is that the Basic Law Article 31 guarantees freedom of movement and therefore we already have the undertaking we seek. However, this may not be enough because the Basic Law

does not define "freedom", and at present such interpretation is vested, under Article 158, in the Standing Committee of the National People's Congress. It is worth noting, however, that freedom of movement is also guaranteed in Article 5 of the Joint Declaration and the interpretation of that rests with the United Nations.

Now different countries define or circumscribe freedom in different ways. None allows their citizens unlimited freedom. Take freedom of speech for example. Defamation or sedition is never allowed, even in countries which pride themselves on their freedom of speech, while in some countries criticism of the government or officials is not allowed either. In Hong Kong, we are fairly free. We may not defame, but we are allowed to criticize the Government and officials — and we do, don't we!

As for freedom of movement, all countries allow the authority to put "No Entry" signs on streets, and private individuals to deny access to their property. Some countries prevent free passage across provincial or other internal boundaries. In Hong Kong, we allow free movement internally in the public domain except into the Mai Po Marshes. Externally, we allow fairly free movement in and out of Hong Kong, though we have been known to indulge in racial discrimination. We are more liberal than Australia, but not so free as the Seychelles.

Freedom then is something that is subject to interpretation and limitation in all countries, but to different extents. Hence what we really want in Hong Kong is not reiteration of Article 31 of the Basic Law but a firm undertaking from China that, after 1997, the SAR Government will have complete autonomy and absolute authority to define freedom within its own jurisdiction. As a last resort, such an interpretation could probably be obtained from the United Nations. Either way, it would cover the first part of the motion and much else besides.

As far as British passports are concerned, the problem has arisen because of the alleged fear, and I quote, "of three and a half million people flooding into Britain". Now, any Form V student with a calculator can tell you that the transfer of three and a half million people using the spare capacity of the flights to Britain, even bolstered by all the charter flights and ships available, would take well over 50 years. These silly and rather puerile pronouncements came from blinkered politicians with no concept of reality. Now I am aware that the motion is only concerned with relatively small numbers, but I stress that the undertaking is being sought from the same sort of blinkered politicians with no greater concept of reality. They have been immune to pleading in the past and are likely to remain so.

However, Hong Kong is the ninth largest trading nation in the world. After 1997, we will be independent of Britain and able to bargain with them from a position of strength. With this in mind, we should be negotiating now. We should no longer be pleading or begging or grovelling to Britain. We

should take up a posture of hard bargaining, with forthrightness, openness and courage. "Give us the guarantees we want, or else...". I suggest that is the only way to get undertakings from blinkered politicians with no concept of reality.

It should be clear from these remarks, Madam deputy, that I whole-heartedly support the motion in principle. As for implementation, however, I recommend we consider if this should be done more broadly and fundamentally rather than confine ourselves to the specific freedom of movement. Furthermore, we are coming of age. We must now tell Britain what guarantees we expect for our people and insist on their being provided.... or else!

MR HOWARD YOUNG (in Cantonese): Madam deputy, the principal cause triggering this debate on "right of re-entry" is obviously the incident where Chinese citizen HAN Dongfang finds himself stranded in Hong Kong after being refused re-entry into China. I think that it is difficult to make a comprehensive evaluation of this incident for it involves China's internal affairs as well as its laws. But as the representative of the tourism functional constituency, I am aware of the tourism industry's concern and anxieties about this matter. And the incident also indirectly makes people associate it with Hong Kong people's right to re-enter the territory after a trip overseas in future. All these worries have been reflected in the wording of the motion which earnestly urges China and Britain to guarantee Hong Kong people's right of re-entry.

Each year there are as many as 2 million overseas trips made by Hong Kong people. This, together with the number of travellers to China, adds up to some 30 million passenger trips. But it appears there has never been any incident of Hong Kong resident being refused re-entry. A Member just now enumerated six Chinese citizens and Hong Kong residents who have been refused entry into China. Compared with over 30 million passenger trips, it is less than one in 5 million. In fact cases of refused entry and refusal to grant right of abode are not restricted to China. Recent press reports had it that a local showbiz celebrity came close to being refused entry into Canada for unknown reasons. It was also reported that her right of abode had been removed as well.

I think we need not over-worry about this kind of incident. But we have to realize that Hong Kong people are extremely sensitive and they would feel anxious and uneasy even if it was a one out of 5 million case. In order to restore Hong Kong people's confidence and sense of stability, we have to strive for the continuation of the present freedom of travel. "While democracy is indeed invaluable, freedom is more practical". I believe full freedom includes freedom of travel, which is a shot in the arm as far as Hong Kong people's confidence is concerned.

During its recent visit to Beijing, the Liberal Party expressed to the Public Security Ministry its concern over the HAN Dongfang case and reflected Hong Kong people's worries in this connection. I visited many tourism industry colleagues during the summer recess of this Council. I learnt from their response that the industry is generally of the opinion that the case should be dealt with through due process of law after HAN Dongfang has returned to China. By so doing, the national prestige of China would not have been damaged and the case would not have been made use of by politicians who politicized it. Developments of the case so far have given the impression that China lacks magnanimity, or perhaps even behaves like a niggard. This is something that the people of Hong Kong do not wish to see.

When we raised the HAN Dongfang case with the Public Security Ministry, they also gave us a "briefing". (It is reported that some other people have been "let in" on this as well). It could be said to be the lowdown on the case. They said the case is not as simple as it looks. Speaking in this Chamber today, I shall be immune against any prosecution arising out of my comments in relation to this case for I am protected under the Legislative Council (Powers and Privileges) Ordinance. I might even hit the headlines for what I could have said and then reported by the media. But I do not think it appropriate for me to do so. Therefore, we suggested to the Public Security Ministry at the time that they should explain directly their position and the circumstances of the case. I believe the Hong Kong press hope to learn about the truth of the case from them directly.

The Basic Law has spelt out clearly Hong Kong people's right of re-entry. And I am confident that this very right will be protected by law after 1997. Any further protection and undertaking by the Chinese and British Governments would of course be welcomed in order to strengthen Hong Kong people's confidence. I therefore support this debate. However, I feel that urging China here in this Council to give an undertaking is not the only solution. I think if we wish to understand what sort of protection we have in the future, then we would have to understand the letter of the Basic Law and China's policy towards Hong Kong, including its policy on freedom of travel. The people of Hong Kong should also open direct dialogue with all sectors of society in China, communicate with them direct, frankly discuss with them all sorts of questions and offer opinions. I think this will be far more effective than hurling invectives or making indiscreet remarks across the street.

I hope both governments will make early and proper arrangements for Hong Kong people's freedom of travel. I have registered to move later this Session a motion for a full debate on Hong Kong people's freedom of travel and travel documents and related matters, including the continuity of travel documents and visas issued by third countries. I hope Members will enthusiastically make comments then because freedom of travel is not a matter of concern to the tourism industry only, but something all the people of Hong Kong treasure.

THE PRESIDENT resumed the Chair.

DR TANG SIU-TONG (in Cantonese): Mr President, I think the question of whether Hong Kong people should have freedom of movement into and out of the Hong Kong Special Administrative Region after 1997 is absolutely beyond argument. We would have no future to look forward to as Hong Kong would have already plunged into a state of chaos if people of the territory had been deprived of this most fundamental civil right.

In fact, this very right is already provided for in clear terms in Annex I to the Sino-British Joint Declaration and respective provisions of the Basic Law. The public therefore need not worry. Unfortunately, work has come to a standstill in the Sino-British Joint Liaison Group, which is specifically responsible for convergence arrangements during the transition, as a result of Sino-British relations having been at their nadir lately. The two sides have failed to reach agreement smoothly on issues such as the definition of permanent Hong Kong residents, issuance of special administrative region passports and non-ethnic Chinese resident's right of abode in Hong Kong. Meanwhile, the Hong Kong Government's inciting remarks about the HAN Dongfang case, the public's lack of understanding about Basic Law provisions and some grey areas in the Basic Law have together given rise to anxieties among Hong Kong people about their future. In order to allay the public's fears, I think the Chinese Government should take two courses of action.

Firstly, the Chinese Government should, through the National People's Congress, give clear interpretations of such terms as Hong Kong permanent resident's right of abode, persons lawfully residing, non-permanent residents and Chinese citizens mentioned in Articles 24, 31 and 154 of the Basic Law.

Secondly, the Joint Liaison Group's work in respect of arrangements during the transition should be resumed as quickly as possible. And particularly issues such as the interpretation of what constitutes Hong Kong permanent resident status and issuance of SAR passports should be dealt with as quickly as possible. It is because a clear definition of residency status is far more realistic than any speculation as to what it is.

With 1997 looming ahead at this historic moment, any sign of trouble will likely make the public waver in their confidence to a certain degree. For the sake of a smooth transition in Hong Kong, China should patiently give explanations on some important issues and implement its policies in a practical manner, with a view to stabilizing public confidence.

The second part of the motion demands that an undertaking be given by the British Government to accept any expelled BN(O) passport holders for settlement in the United Kingdom. I think this is "asking a tiger for its skin". Had the British Government been willing to honour its moral responsibilities as a colonial government, it would not have passed the Nationality Act. The

Honourable Emily LAU, in moving this motion — whether it be carried or not — will appear to have slapped Britain on the face. I believe the British Government would prefer being slapped by her on the other cheek as well and being accused of going back on its words rather than accepting one single Chinese or Hong Kong inhabitant for settlement.

Ever since the 1960s, the British Government has been amending its nationality legislation, gradually degrading the status of its dependent territory citizens. In the early 1980s when the question of Hong Kong reverting to China in 1997 began to surface, the British Government even sped up amendment of the respective nationality Acts, thereby rendering Hong Kong British nationals second-class citizens who lost their fundamental right of abode in the United Kingdom. Although the British Foreign Office had given an undertaking in 1985 that the British Government would consider accepting any Hong Kong British nationals forced to leave the territory in 1997 and finding no settlement in other countries, the tone had already changed when the Foreign Secretary, Sir Geoffrey HOWE, said in 1989 that the British Government would mobilize the widest possible international help to accept people expelled out of Hong Kong. High-sounding these remarks may be, he was obviously beating a retreat because the reference to "acceptance by Britain" had been removed altogether.

In July this year, the Chief Secretary, Sir David FORD, offered yet a further interpretation of the 1985 Foreign Office undertaking. He said to the effect that the sort of Hong Kong people whom the British Government would consider for admission are only those non-Chinese ethnic minorities. Hence the ugly face of the British Government with its "ever retreating stance" is now shown in every detail.

The findings of an opinion poll conducted in the United Kingdom in August this year revealed that 60% of the respondents are of the opinion that Hong Kong British passport holders should have the right to enter the United Kingdom if instability should arise in Hong Kong after 1997. This polling result runs counter to the British Government's attitude of shirking its moral obligations. How can the British Government face its own people and how can it account itself to the people of Hong Kong?

Hong Kong is indeed an auspicious place. Hong Kong people are unwilling to leave if only the *status quo* can be maintained. Bumpy though the road of reversion to China may be now, I do not believe the territory's prosperity and stability will be affected in the future. Hong Kong people will not be falling over one another to resettle in the United Kingdom just because the United Kingdom Government has given an undertaking to accept them. The British Government, in shirking its responsibilities, is only playing the villain while gaining nothing.

There is little substantive meaning in the motion moved by the Honourable Emily LAU. But the spirit of her demand for freedom of movement is hard to oppose.

I so submit, Mr President.

MISS CHRISTINE LOH: Mr President, it is extraordinary that we should have today's debate at all. The people of Hong Kong had thought that it was beyond the realms of possibility that a national could be denied the right to re-enter his own country. But this was what happened to Mr HAN Dongfang, a Chinese national, who now languishes in Hong Kong.

While Mr HAN might still have a formal Chinese national status, his expulsion and the subsequent cancellation of his travel documents by the Chinese Government have effectively rendered him stateless. It would appear therefore that Article 13 of the Universal Declaration of Human Rights, which provides that citizens cannot be banished from their own countries, had been violated.

As he cannot re-enter his own country, he cannot exercise any of his citizenship rights there. Outside his own country, he can neither re-enter it nor receive consular protection from his government. Mr HAN is forced to depend on the generosity of third party countries for refuge.

Almost as an afterthought, it seemed, the Chinese Public Security Ministry said that Mr HAN was expelled because he had violated Article 54 of the Chinese Constitution and other Chinese laws.

Very well. Then why not arrest Mr HAN and try him when he was on Chinese territory? Article 54 of the Chinese Constitution states that Chinese citizens "must not commit acts detrimental to the security, honour and interests of the motherland." It would appear that the contravention of such vague notions is administrative expulsion without the due process of law.

Chinese officials have said that Mr HAN might be able to return to China if he "repented". If Mr HAN had indeed violated Chinese law, then is repentance to the Chinese Government a substitute for the judicial process? The Chinese Government is then also the sole arbiter of the form and the substance of the repentance.

And, practically, what does the Chinese Government expect Mr HAN to do if he should be so inclined as to "repent"? Would he have to take himself to the New China News Agency in Hong Kong, or to a Chinese embassy elsewhere, to try out his "repentance" to see if it would satisfy Peking? This is quite absurd.

Mr President, if you will remember, a vice-foreign minister told the World Conference on Human Rights in June that "each and every Chinese citizen enjoys genuine democracy and freedom, (and) civil and political rights." If the Chinese Government believes what every Chinese citizen enjoys amounts to "genuine democracy and freedom" then Hong Kong has every reason to fear for the future of its own rights and freedoms after 1997.

Hong Kong people are extremely concerned about the implication of Mr HAN's case because, on 1 July 1997, we will become a class of Chinese nationals — those of the Hong Kong Special Administrative Region. Annex III of the Basic Law states that China's Nationality Law "shall be applied" to the SAR. That could well mean that the freedom of movement of SAR citizens will be determined by China, in spite of Article 31 of the Basic Law which provides for the "freedom to travel and to enter or leave" the SAR. It is intolerable that citizens could be treated in the way Mr HAN was.

With recent threats from Chinese officials that "subversives" — whoever they are — will not be allowed to serve the future SAR Government, it is not unreasonable for many of us to wonder what may be in store for us. Will it be ejection or arrest? Or will repentance buy Chinese magnanimity? Mr President, those threats are just as intolerable, and Chinese officials cannot expect Members of this Council to remain polite about them.

Hong Kong is about to pass from the values of one system which respects the rights of the individual and the rule of law to the dictatorial values of another. The gulf between what passes for law in China, and the legal system now operating in Hong Kong, is correspondingly vast. So much so that China may have real difficulty accommodating a true rule of law in Hong Kong.

China's concept of "socialist legality" effectively makes the Communist Party the sole interpreter of the people's interest. The Party stands above the Government. The Party can interpret, misinterpret or simply ignore the law. The law is regarded and used as an instrument of the state.

Some China advisers comforted Hong Kong people by pointing out that we did not need to worry about the case of HAN Dongfang because we will be blessed by the Basic Law on 1 July 1997.

But what they did not say is that the final right of interpretation of the formal guarantees of rights in the Chinese Constitution and the Basic Law rests with the National People's Congress, a political organ under the control of the Chinese Communist Party.

It is instructive to note that when Mr HAN attempted to take his case, through a friend, to a Peking court, the court opined that it did not think that Mr HAN had a case because in its view, Mr HAN had not suffered any injury. The Chinese Government's view of the law as an instrument of the state means that not only is there no promise of remedy to ensure the citizen's enjoyment of

his or her rights, but also that the rights themselves could be cancelled by the state. Hence, we have the extraordinary case of labour activist, HAN Dongfang.

In Hong Kong, we believe that civil liberties must be safeguarded against the abuse of state power by the law and by the legal process. We believe in an authentic rule of law and inherent individual rights.

If the gulf between China's and Hong Kong's understanding of law cannot be bridged, then one may conclude that "one country, two systems", the fundamental principle behind the Sino-British Joint Declaration, cannot work.

The least the British Government can do is to ensure that any BN(O) passport holders who are expelled from Hong Kong after 1997 will be accepted for settlement in Britain. Better still, would be for the British Government to grant full British citizenship to all Hong Kong British subjects.

Mr President, I support the motion.

MS ANNA WU: Mr President, as a firm believer in the right of all people to freedom of movement, I am happy to support the motion.

I am aware that the Chinese Government, in the Basic Law, has already provided assurances that Hong Kong people after 1997 will have freedom of movement within Hong Kong as well as the right to leave and re-enter Hong Kong. However, the current motion debate was occasioned by the HAN Dongfang case, which is perhaps more political than legal.

The Appendix at the back of the Basic Law provides that after 1997 China's nationality law will apply in Hong Kong. As a result, there is fear that Hong Kong people may be treated in the same arbitrary fashion as HAN Dongfang, with their passports or travel documents cancelled without a hearing, perhaps with their nationality revoked without due process.

For that reason, people in Hong Kong are looking for assurances, legal as well as political. It would be helpful, therefore, if the Chinese Government could be persuaded to make a firm undertaking that it would not deny anyone the right to re-enter the Special Administrative Region nor have their passports or travel documents cancelled. The Chinese Government can certainly make clear that, in matters relating to the issuance or cancellation of the SAR passports and travel documents, only the SAR Government and the courts of Hong Kong will have jurisdiction.

Many Hong Kong people will be able to travel on British National (Overseas) passports after 1997. Such passports will stipulate that the holder possesses a Hong Kong identity card that states he or she has the right of abode in Hong Kong.

As for those using passports issued by the Special Administrative Region, the Basic Law says in Article 154 that the passports "shall record the holder's right to return to the Region."

In ordinary circumstances, therefore, it would appear that the right of Hong Kong people to re-enter Hong Kong has been provided for by both Britain and China. However, the present motion debate was triggered off by an exceptional case: the decision by the Chinese Government to bar one of its own nationals from entering and returning to his own country. The question naturally arises: Could a similar fate befall a Hong Kong person who incurs China's displeasure after 1997?

From a legal standpoint, the Basic Law appears to provide adequate assurances. Article 154 says, "The Central Government shall authorize the Government of the Hong Kong Special Administrative Region to issue, in accordance with law, passports of the Hong Kong Special Administrative Region of the People's Republic of China to all Chinese citizens who hold permanent identity cards of the Region, and travel documents of the Hong Kong Special Administrative Region of the People's Republic of China to all other persons lawfully residing in the Region. The above passports and documents shall be valid for all states and regions and shall record the holder's right to return to the Region."

However, we must recognize that if the Central Government can confer authorization on the SAR Government, it may, if it chooses, withhold such authority. It would certainly be contrary to the spirit of the Basic Law for the Central Government to entirely revoke the SAR Government's authority to issue passports and travel documents. But who is to say that the Central Government will not, in certain circumstances, decide to override the SAR Government's decision to issue a particular passport or, if need be, to order the cancellation of a passport once it has been issued?

Lawyers may differ as to the extent to which the Chinese Government has committed itself to honour the right of Hong Kong people to travel in and out of the territory after 1997. But the issue is not only a legal one. It is also a political issue. And because it is a political issue, it calls for a political response. Chinese willingness to give a firm undertaking to respect Hong Kong people's freedom to leave and re-enter the territory would do much to allay concern. I hope that the Chinese Government will be willing to make such a gesture.

As for the second part of the motion, I believe that, in the unlikely event that a holder of the British National (Overseas) passport should be expelled from Hong Kong, the British Government must be willing to accept that person for settlement in the United Kingdom. An undertaking to do so can be made unilaterally by Britain. I trust that the British Government will not let down the people of Hong Kong.

The record shows that the British Administration in the past did not respect the right of Hong Kong people to live in Hong Kong. This was true during the seamen's strike of 1922, when Hong Kong strikers were deported to China. It happened again during the riots of 1967, when again the British Administration deported Hong Kong people into China, without allowing them the right to re-enter the territory.

In view of this British attitude towards Hong Kong people in the past, it is even more important that the British Government make a public undertaking that it will accept British Nationals (Overseas) for resettlement in Britain if they should ever lose their right to live in Hong Kong.

Thank you, Mr President.

DR PHILIP WONG (in Cantonese): Mr President, Miss Emily LAU moved a motion to urge Britain to secure a firm undertaking from China on Hong Kong people's freedom of movement after 1997 and ask Britain to accept BN(O) passport holders who are expelled from Hong Kong after 1997.

I do not intend to comment on the second part of the motion since obviously that is purely British internal affairs or a matter of conscience on the part of the British Government. However as far as we understand it now, it seems that many Britons would like to come to settle in Hong Kong as Hong Kong does have its appeal but, on the other hand, we seldom hear people — including BN(O) passport holders — say that they wish to settle in Britain. One wonders whether some people are afraid that they may not have the chance to enjoy living in the big house they have bought in Britain.

Regarding the first part of the motion, I believe Members of this Council all support freedom of movement which is the provision explicitly set out in Article 31 of the Basic Law. They would also understand that the action taken pursuant to the law of China to deal with violations of the law by citizens of the Mainland and the freedom of movement to be enjoyed by the people of Hong Kong after 1997 under the Basic Law are two totally different matters. One can just ask anybody in the street. Most of them would probably disagree with the alarming view being spread that people of Hong Kong will lose freedom of this or that sort after 1997. I always support freedom of movement. This freedom is a significant element in maintaining commercial and industrial prosperity in Hong Kong. However we should also understand clearly that freedom of movement is not something so absolute that it can override the laws. By the same token, freedom of speech and freedom of the press do not mean that one can defame others at will. For years, the Hong Kong Administration has a set of laws limiting the entry into or exit from the territory of individuals who have violated the law of Hong Kong or of those people who the Administration considers would jeopardize the public interest or the good relation between Britain and other countries. This set of laws has also been invoked to expel or deport some people.

In the Convention on the Reduction of Statelessness endorsed by the United Nations, it was mentioned that if people concerned fail to discharge the obligation of loyalty towards the signatory state, the signatory state reserves the right to strip these people of their nationality. I think both the present Hong Kong Administration and the future SAR Government must maintain the right to enforce the law concerned so as to safeguard the prosperity and stability of Hong Kong as well as to ensure that people can live peacefully and happily. This is the duty of a responsible government. If we take a look at the world, we would not find any country or any place which would give up its right to limit the entry into or exit from the country of certain people or to deport them on the basis of irrefutable evidence or sound legal justifications. It is widely known that the British Government had sent a considerable number of prisoners abroad and forced them to settle in a place far away. Even the United States which flaunts their respect for democracy and human rights has since this century had numerous cases of expelling or disguised cases of expelling citizens who had been to communist countries or who were suspected to be in the service of enemy countries. Here in Hong Kong, even those who are eligible for a BN(O) or BDTC passport may not be guaranteed one. For those who are given one, many have experienced difficulties at ports of entry overseas. Some may even have been denied entry. Regarding this, countries concerned (including the United Kingdom) are not obliged to offer any explanations. Likewise, the Hong Kong Administration would prevent as far as possible *persona non grata* from entering Hong Kong as well as prohibit people who are suspected to have committed crimes or jeopardized public order from leaving the territory. The law says that nobody can enter Hong Kong without the consent of the Immigration Department and explanations for any denial of entry are usually not necessary. This shows that immigration control is an internal affair of a sovereign state or a local administrative region. We, on our part, would certainly wish to perfect our law. Any abuse of power and unjustified limitation should be criticized. Anybody who really cares for and loves Hong Kong would agree that whether it is now or in the future, when necessary, the Administration should exercise the power conferred by the law to exert control on the entry into or exit from the territory of the black sheep so as to safeguard the power that the people of Hong Kong are entitled to exercise. Should anybody worry about the freedom of entry and exit after 1997, the best way is for him or her to exert his or her influence to advise and exhort certain people to abide by the law and not to upset Hong Kong for otherwise they would be unable to escape the long arm of justice. A Chinese saying goes, "If one has done nothing wrong, one need not panic at the tap on the door in the middle of the night".

These are my remarks.

DR CONRAD LAM (in Cantonese): I have to firstly thank you for allowing me to speak in short notice. I have not intended to speak. However, Mr CHIM Pui-chung's words are so irritating to my ears that I will feel very uncomfortable if I do not rise to say something. (It is nice to see Mr CHIM

back to the Chamber as I just now thought he had become "a deserter" with no courage to face challenges.) Although Mr CHIM Pui-chung stressed time and again that he did not speak on behalf of China — a clumsy denial indeed — his remarks make me feel that we seem to have a Chinese official making a speech among us. Mr CHIM said that the HAN Dongfang case was a political incident. In fact, the whole episode began when HAN Dongfang contracted a lung disease in prison. He could not fully recover from it and had to seek treatment overseas. And he eventually had one of his lungs removed. When fully recovered, he wanted to return to China but was denied entry and forbidden from returning to his country. Since then, this has developed into a political issue, that is to say, political considerations transcended the rule of law. This is what we, the Chinese people in Hong Kong, are most concerned about. If political considerations can override the rule of law, how can Hong Kong maintain its stability and prosperity?

Just now Mr CHIM Pui-chung made some subjective but inaccurate comments on the Hong Kong Alliance in support of Patriotic Democratic Movement of China. Some people have tried to fawn on their masters with flattering words in the hope that they can gain some advantages in future. I would like to remind them the fate of Mr LIN Biao, former Vice-Chairman of the Chinese Communist Party, and Mr XU Jiatun, former director of the New China News Agency. Then they will see what is in store for them.

In response to Dr Philip WONG's remarks, I would like to put these questions to him: How can the man in the street have his mind at ease when he witnessed that HAN Dongfang was denied the right to enter China and that Mr TSANG Kin-shing was refused entry to China? How can we ask the public to forget those incidents?

Finally, I think the recent incidents will inevitably make Hong Kong people feel worried about whether the "one country, two systems" concept can be realized. We should support any action that can boost Hong Kong people's confidence in the "one country, two systems" concept. It is improper for us to say that we should not seek any more undertaking as we already have those in the Sino-British Joint Declaration and the Basic Law. Here is an analogy. If one's wife is pleased to hear one say to her "I love you", why not say it more frequently? One indeed should not raise objection on such grounds.

Mr President, with these remarks, I support Miss Emily LAU's motion.

SECRETARY FOR SECURITY: Mr President, I recognize the importance which Hong Kong people attach to freedom of movement. Both the Hong Kong and the British Governments have long realized the importance of this freedom and have taken steps, in the negotiations leading to the signing of the Joint Declaration, to ensure that it is secured in Hong Kong after 1997. The result is that we now have the assurance sought in the first part of the motion in both the Joint Declaration and the Basic Law. There is no better starting point for

matters of such fundamental importance to Hong Kong than the Joint Declaration, which is a binding agreement setting out the guarantees for the future of Hong Kong, and ratified by both the British and Chinese Governments.

Annex I to the Joint Declaration states that the existing rights and freedoms, including freedoms of travel and of movement, will be maintained and protected by law. This means the domestic law of the Hong Kong Special Administrative Region. The Annex also sets out the categories of persons who will have right of abode in the Hong Kong Special Administrative Region and who will be qualified to obtain permanent identity cards.

This right of abode by definition includes the right to enter the Hong Kong SAR without restriction and freedom from deportation or expulsion. On the subject of travel documents, the Annex provides for the issue of passports by the Government of the HKSAR to all Chinese nationals who hold permanent identity cards, and travel documents of the HKSAR to all other lawful residents. These passports and documents will be valid for travel to all states and regions and should record the holders' right to return to the Hong Kong SAR. Holders of permanent identity cards of the HKSAR may also have this fact stated in their travel documents as evidence that they have the right of abode. To ensure ease of travel for the people of Hong Kong, the Annex also states that the Central People's Government shall assist or authorize the HKSAR to conclude visa abolition agreements.

I shall take the opportunity to describe, as far as I am able within the rules of confidentiality of the Joint Liaison Group (JLG), what we have been doing to give practical effect to these assurances.

First, right of abode. The concept of right of abode is central to the guarantee of freedom of movement, in particular the freedom to re-enter Hong Kong without limitations or conditions and freedom from deportation or expulsion. The Basic Law has already set out the categories of people who will have right of abode in the HKSAR. We have formulated proposals on how our local immigration legislation should be amended to give effect to these provisions of the Basic Law. Our proposals are currently being studied by the Chinese side in the JLG.

Secondly, we realize the importance of making early arrangements for the issue of HKSAR passports and travel documents, and also of ensuring convenience of travel for Hong Kong people in the future by securing or maintaining as far as possible visa-free access to other countries for holders of Hong Kong travel documents. Again, we have put forward proposals on these two subjects in the JLG.

Our objective is that each person should be clear, well before 1997, of his or her position regarding right of abode in the HKSAR; and that all persons will be able to apply for the appropriate HKSAR travel document, with, where

applicable, a right of abode endorsement, from 1 July 1997 onwards, so as to ensure convenient travel into and out of Hong Kong.

The Administration agrees with the sentiments expressed by Members on the need to ensure and give practical effect to freedom of movement for Hong Kong people after 1997. We are doing, and will continue to do, all we can to that end. We do, however, believe that the best way to do this is to follow through on the guarantees already provided in the Joint Declaration. I trust that when we are able to conclude our discussion on these issues in the JLG and are able to announce the arrangements for the future, we should be able to allay many of the concerns raised in this debate. It is neither necessary nor helpful to press for new assurances, which could go no further than those already provided in the Joint Declaration, and which might indeed serve only to call into question the guarantees already given.

As regards the second part of the motion, BN(O)s who are Chinese citizens, and, in addition, BN(O)s with no right of abode elsewhere, will have the right of abode in the HKSAR. This is provided for in the Joint Declaration and will be implemented in Hong Kong by Article 24 of the Basic Law. If any of these were expelled from, or denied entry into, the HKSAR, that would be a very serious matter amounting to a breach of the Joint Declaration. In such circumstances, the British Government would of course have a responsibility to raise the matter with the Chinese Government.

The Hong Kong Government has raised with the British Government on a number of occasions the need for a reassurance for Hong Kong people on this issue.

The British Government has repeated the undertaking made by the Foreign Secretary, Sir Geoffrey HOWE, in 1989 that if, against all expectations, the worst were to happen in Hong Kong after 1997, the special responsibility of the United Kingdom for the people of Hong Kong would be inescapable. In response to further representations made by the Hong Kong Government and by Members of this Council, the British Government has also now given a more specific assurance that, if the situation was such that an individual BN(O) were expelled, it would consider his or her position in the light of all the circumstances. These circumstances would have to include, for example, consideration of whether the individual concerned was a national of another country, and whether he had a right of abode outside Hong Kong. For not all BN(O)s will, after 1997, necessarily have the right of abode in Hong Kong or the right of abode only in Hong Kong. A larger number of BN(O)s or potential BN(O)s have settled abroad and acquired a foreign nationality. It would not be realistic to expect the British Government to provide advance guarantees about the future settlement of third country nationals. In this respect, the second part of the motion is, I believe, too broadly drawn.

Mr President, as I have said, the Administration attaches the same importance, as do Members of this Council, to the future freedom of movement of Hong Kong people. However, I believe that no useful purpose would be served by seeking the further undertaking sought in the first part of the motion. Rather, we should build on, and give practical effect to, the assurances already provided in the Joint Declaration. The Administration, in conclusion, supports the sentiments of this motion, but not all of its specific proposals; the official Members intend to abstain.

PRESIDENT: Miss LAU, do you wish to reply. You have 1 minute 34 seconds.

MISS EMILY LAU (in Cantonese): Mr President, firstly, I am very happy to hear the Secretary for Security stating on behalf of the British Government that, if, in the future, holders of British National (Overseas) passports (are expelled from Hong Kong) and do not have the right of abode in other country, Britain will consider to accept them. We hope that he will not eat his own words.

The Secretary for Security and other Members have repeatedly mentioned the "new guarantees". I have indicated clearly in my speech that there are some grey areas in the Basic Law which must be clarified. I have quoted the relevant provisions and elaborated on them. I am not "hurling invectives" or "speaking ill about others behind them" as described by some Members. I hope the Secretary for Security would examine in detail the issues that I raise, and clarify them with the Chinese Government. I also hope that they will be included in the JLG discussions. And the Government should let us know the results as soon as possible.

Mr President, I am astonished to hear several Members saying that my motion today is meaningless and useless. The purpose of the motion is indeed to show our concern for the freedom of movement of the people of Hong Kong. I think the most important thing is to find out whether the freedom of movement is within the control of the future SAR Government. Mr Fred LI said "Yes" but Dr Philip WONG said "No". These answers alone will make people feel frightened.

Mr Howard YOUNG just now said I was "hurling invectives across the street, and making indiscreet remarks." Nobody wants to hurl invectives at the Chinese Government. We only want to enter into dialogue with the Chinese Government. However, it refuses to talk with us, so we are compelled to look to the British Government for assistance. If the Chinese Government is willing to have dialogue with this Council, we are prepared to talk with it at any time. Therefore, I hope that today's message can be passed on effectively. Thank you, Mr President.

The digital timer showed 1.34

PRESIDENT: Miss LAU, you have to discontinue.

Question on the motion put.

Voice vote taken.

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

MISS EMILY LAU: Mr President, I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Would Members please proceed to vote?

PRESIDENT: Are there any queries?

MR HENRY TANG: Mr President, I think my "Yes" light has a problem. It does not light up. (*Laughter*) My "No" light is all right.

PRESIDENT: We've got the correct numbers.

PRESIDENT: If there are no other queries the results will now be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr Andrew WONG, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Jimmy McGREGOR, Mr Peter WONG, Mr Albert CHAN, Mr Vincent CHENG, Mr Moses CHENG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Timothy HA, Mr Michael HO, Mr Simon IP, Dr LAM Kui-chun, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr MAN Sai-cheong, Mr Steven POON, Mr Henry TANG, Mr James TO, Dr Samuel WONG, Dr YEUNG Sum, Mr Howard YOUNG, Dr TANG Siu-tong, Miss Christine LOH, Ms Anna WU and Mr Alfred TSO voted for the motion.

Mr TAM Yiu-chung and Mr CHIM Pui-chung voted against the motion.

The Attorney General, the Financial Secretary, Mrs Elsie TU, Mr Fred LI, Mr TIK Chi-yuen, Mr WONG Wai-yin abstained.

THE PRESIDENT announced that there were 36 votes in favour of the motion and two votes against it. He therefore declared that the motion was carried.

PREFERENTIAL SCHEME FOR THE SENIOR CITIZENS

MR HUI YIN-FAT moved the following motion:

"That this Council notes that the Government will issue next year "senior citizens cards" to eligible elderly persons as identification to enable them to enjoy such preferential treatment as is now available to the elderly. In order that such a scheme can have wider application and achieve better results in the future, this Council urges the Government to make it a rule that the relevant public and statutory bodies must participate in the scheme; and, also, to encourage participation of private organizations, so as to ensure that the elderly can enjoy preferential treatment in such necessities of life as housing, transport, medical care, shopping, food and drink, and cultural and recreational activities; and to dispense with unnecessary and repetitive application procedures, to make it convenient for them to enjoy the preferential treatment; and to promote respect for the elderly among members of the public."

MR HUI YIN-FAT (in Cantonese): Mr President, I move the motion standing in my name. Because you, Mr President, have already read out the text of the motion, I do not intend to waste time by reading it again.

As Members are aware, the Government allocated but limited resources to welfare programmes. Despite this, part of the services for the elderly in Hong Kong are up to advanced global standards. This is a hard-won result. Services for the elderly have, in fact, been given priority by the Governor in his two policy addresses. In the Budget for the present financial year, spending on services for the elderly shows an increase by a significant 15% in real terms. Added to this, in answer to an oral question from me, the Secretary for Health and Welfare has told the Legislative Council that, in acknowledgment of voluntary agencies' celebration of the "senior citizens festival" on the third Sunday of November in each of the past 14 years, this date will now be named the "Senior Citizens Day" of Hong Kong. All this is evidence of the Government's attention to services for the elderly in recent years.

However, if Members take a close look at services for the elderly today, they will find a variety of services that cater to different needy cases but they will still have the overall impression that services are lacking in certain areas. The present policy stresses the quantity of services at the expense of quality and

there is no central co-ordination of services. These are the problems most complained about by the welfare sectors.

In my opinion, the cause of the problems is insufficient respect for the elderly in the community. The Government is just taking the first step to improve matters in this area. Faster progress is needed. The Government's recognition of the Senior Citizens Day and its plan to issue senior citizen cards next year are undoubtedly steps forward that should be welcomed and supported by the public. Since becoming Vice President of the International Federation on Aging, I have had more opportunities to study the good examples of western societies. I think that more resource input is not an essential ingredient of more efficient services to the elderly. The most important ingredient is education. Heads of government departments, business leaders and members of the public should be given education until the social ethos of honouring and caring for senior citizens has been cultivated and become entrenched. One essential education method is the preferential treatment of senior citizens in all aspects of everyday life. Society thereby acknowledges the past contributions made by the elderly. At the same time, the cost of living is made less stressful for senior citizens in retirement.

Let us take a positive look at the problem. The whole world, in providing services for the elderly, is focussing attention, as a matter of foremost importance, on helping the elderly to live independent lives. Senior citizens are to have their own circles and their own communities. They are to be encouraged to use their free time to do simple gainful jobs or to do voluntary mutual aid work in their own communities. The ultimate aim is to make senior citizens less dependent on government and community dole-outs.

In Hong Kong, the policy on services for the elderly is rather more conservative and the service recipients are rather more passive. I think that this is mostly because the objectively necessary conditions are not fully present. Firstly, Hong Kong has never had a compulsory contributory retirement protection system. There are now 500 000 elderly people who are 65 or older. It is estimated that most of them are subsisting on support from their children, on public assistance or on old age allowance. The average elderly person does not want to become a burden on his children. So he is forced to give up certain activities. It is certain that he is socially less active after retirement. Secondly, even if an elderly person has his own savings, he has to worry about the rest of his days because he still has a long post-retirement life to live in a high inflation environment. His only viable choice is to cut back on expenditure on what he considers to be non-essential aspects of his social life.

Another problem is that the Government has never promoted any senior citizens preferential scheme. Up to now, in the public transport area, senior citizens are offered preferential fares only by three railways, three bus companies and two ferry companies. They receive no preferential rates for other things that are basic to life, such as water, electricity and fuel. In the area of health care, some district boards and local voluntary agencies sponsor senior

citizens preferential schemes but the benefits are limited to visits to clinics. I think that the Hospital Authority should play a greater role and make a greater contribution. In addition, because of the lack of central co-ordination and the lack of communications between institutions, senior citizens have to go through repetitive and complicated application processes in order to receive privileges. Their having to produce and show their identity cards every time indirectly inhibits them from exercising their entitlement to benefits.

The Government has now made a plan to issue senior citizen cards beginning next April. In view of this, I hope that this Council's debate today will achieve the following immediate results:

- The Government will be made to take appropriate steps to encourage public and statutory bodies, such as the Housing Authority and the Hospital Authority, as well as private sector companies, to implement a uniform senior citizens preferential scheme.
- The Government will take up responsibility for co-ordinating and standardizing senior citizens preferential schemes. This will end the present chaotic situation in which each institution is following a different policy of its own in determining what the minimum age requirement should be and what the benefits should be.
- A qualified senior citizen will need to make only one application and then he will receive a senior citizen card. With this card, he may, and should be encouraged to, enjoy his privileges in housing, health care, transport, communication, shopping, food and entertainment. He will then worry less about how expensive things are. His mental stress will be less.
- Lastly, it is hoped that a climate of respect for senior citizens will be fostered all over Hong Kong, among members of the public and in all corners of society.

Mr President, I would like to stress one point. It is that the Government must quickly do something about the senior citizens preferential scheme. It is objectively necessary and the public has been looking forward to it for a long time. As Members can clearly see from the wording, my spirit in moving the motion is a pragmatic one. I want to show the Government the clear position of this Council. I hope that, while we strive for the above-mentioned results, the entire effort will not be bogged down or aborted by side issues. I have great reservations about Mr WONG Wai-yin's amendment to seek to lower the minimum age requirement to 60, my reasons being as follows:

- (1) As has been disclosed by the Government Secretariat's Health and Welfare Branch, the scope of next year's preferential scheme will be limited (that is, beneficiaries will be limited to people aged 65 or

older). More importantly, what has also been revealed is the Government's usual conservative attitude. The explanations for such an attitude are probably two.

Firstly, while Hong Kong does not have a uniform retirement age, the law does set 65 as the "retirement age" for purposes of receiving long service payment, and as the minimum qualifying age for old age allowance. The consultation paper *Employment-Related Retirement Protection System* published by Government last year also used 65 as the reference age in its studies and discussions. What I mean to say is that the Government is concerned that, if the minimum qualifying age for the full-privilege senior citizen card is lowered to 60, many members of the public will be given false hopes that will not come true in the foreseeable future and then there will be more disputes about "age and seniority".

Secondly, in most cases by far, where public bodies are sponsoring senior citizens preferential schemes, 65 is the basic age. Even that is the hard-won result after many years of efforts on the part of the Government, voluntary agencies and members of the public. If the minimum qualifying age is now lowered to 60, the Government is not confident that it will have enough time before next April to win over the institutions concerned. This is one important consideration. An even more important consideration, where this Council is concerned, is whether, as a result, the scheme will have to be put on hold for months and years. In fact, if this government sponsored scheme does not have the support of the relevant institutions, putting it into effect will only result in those aged 60 to 64 receiving useless senior citizen cards, cards that will not be honoured. The resultant chaos will be unimaginable.

- (2) I absolutely have no intention to defend the Government's policy. But I do have the obligation to tell the truth to my colleagues and members of the public. I believe that, because of the Government's reservations, if this Council insists on not accepting the scheme unless the minimum qualifying age is lowered to 60, then the Government will have only two choices: putting the scheme on hold or dropping it altogether. What will this Council then say to all the elderly in Hong Kong, who have been waiting for such a scheme for a long time? Is it our intention to curry favour with the 240 000 people aged 60 to 64 while keeping the more than 500 000 people aged 65 or older waiting indefinitely?
- (3) In the phrasing of my motion, I already did my best to strike a balance between the public's wishes and the Government's real concerns. Still, to avoid a split in this Council that would give the Government an excuse to delay or drop the scheme (a clear analogy being the Central Provident Fund case), and to enable Councillors

to make comments within a broader scope, I did the only thing that I could, by not highlighting the minimum age issue. Speaking for myself, I of course welcome the idea of a lower minimum qualifying age at 60. In fact, in promoting respect for the elderly, the Hong Kong Council of Social Service (HKCSS) and the voluntary agencies have been more active and more successful than the Government. They all set 60 as the minimum qualifying age for elderly services. For instance, last year, the HKCSS and the Telephone Company worked together to donate telephone sets to old people living alone and to promote a preferential telephone charges scheme for the elderly. Right now, the HKCSS is discussing with Hong Kong Electric Company a scheme of preferential electricity charges for old people living alone. In all of these programmes, 60 is the basic age. However, I believe that it will take a long time, and the Government must take an active part, before all institutions can be made to accept 60 as the minimum qualifying age.

- (4) Past experience provides a guide. In the past, when members of the public or voluntary agencies wanted improvements to welfare service programmes, they invariably began by accepting a service item that was offered; then they would try to improve it. For instance, 70 was accepted at the beginning as the minimum qualifying age for old age allowance; efforts were then made to lower it gradually to 65. This is one of the special things about Hong Kong's social culture. It also reflects Hong Kong people's usual pragmatism. Therefore, I really do not see any strong reason for insisting that, in the matter at hand, the minimum qualifying age should be 60 from the start.

In sum, after the minimum qualifying age for senior citizen privileges is standardized, it will be this Council's long-term objective to have it lowered to 60. This long-term objective should not become an obstacle to our immediate effort to speed up the Government's scheme for senior citizen cards. My only thought is to work pragmatically to have the scheme launched soon. Some of my colleagues may be thinking that they should vote for the amendment first and then, if the amendment is defeated, they will vote for my motion. That will be all right. I well understand it. But I must remind Members that, when they vote for the amendment, they must consider that it may be passed, with the result that the Government will put the scheme on hold or drop it altogether. Therefore, though I understand and appreciate Mr WONG's reason for moving his amendment, I must deny myself the pleasure of voting for it, otherwise I will not know what to say to the general public should things go wrong.

Mr President, with these remarks, I move the motion. I call on all colleagues to support it.

Question on the motion proposed.

PRESIDENT: Mr WONG Wai-yin has given notice to move an amendment to the motion. His amendment has been printed in the Order Paper and circulated to Members. I propose to call on him to speak and to move his amendment now so that Members may debate the motion and the amendment together.

MR WONG WAI-YIN moved the following amendment to Mr HUI Yin-fat's motion:

"To delete the words "the elderly" after the words "so as to ensure that" and to substitute the words "elderly persons aged 60 and above""

MR WONG WAI-YIN (in Cantonese): Mr President, I move that the Honourable HUI Yin-fat's motion be amended as set out under my name in the Order Paper.

As the Chinese saying goes, "Honour other aged people as we honour our own." Respecting the elderly is a traditional Chinese virtue. In Hong Kong, which is a Chinese community, "respect for the elderly and the wise" was at one time much promoted. But things have since changed with social development. People generally want to get rich quickly. Investors think only in terms of how to squeeze more profit out of the community. The family structure, too, has changed. Families are gradually getting smaller. Extended families, which prevailed during the agricultural age, have been replaced by small families. The tradition of honouring and supporting the elderly in one's family has gradually declined. Homes for the aged, nursing homes and privately operated old people's homes are increasing in number. Most of the elderly people are living in solitude. Some are sharing a housing unit with other old folk while others are living in temporary housing areas or bedspace apartments. Some even have to sleep in streets. Elderly people are no longer supported even by their own children, let alone being honoured by the community.

Mr President, Hong Kong's ageing population is becoming an increasingly serious problem. There are now about 790 000 people who are aged 60 or over, accounting for 14% of the total population. There are all kinds of indications that elderly people in retirement are facing increasing difficulties in their everyday life.

Up to now, Hong Kong does not have a sound retirement protection system. We have been pursuing a Central Provident Fund for over 25 years. A decision is still pending; the prospect is yet unclear (but apparently the omen is more bad than good). The vast majority of the elderly retirees are subsisting either on public assistance or on their own resources. Some have to live on their meagre savings while others have to continue working to earn a modest income, and some are living by collecting scraps.

For those elderly people who are not supported by their children, they need the community to take better care of them. Without the contribution of

these elderly people, Hong Kong may not have become so prosperous today. So the community, as a whole, should honour and repay this group of people who have devoted their energy and youth to the territory

I am glad that various public transport companies have started in recent years to offer concessionary fares to senior citizens. But each company has a different concessionary scheme of its own. There are no uniform standards for the companies to conform with. In some cases, the concessionary fares are good during all hours; in other cases, they are good only during non-rush hours. In some cases, senior citizens can travel free; in other cases, they are charged half fares. In some cases, the special fares are available to everybody aged 65 and above; in other cases, they are available to everybody aged 60 and above. Old people have difficulty in keeping track of the different rules, and this has attracted much criticisms from the public. So the community hopes that a set of uniform standards will be drawn up for these concessionary schemes.

Nowadays, senior citizens have to produce their identity cards when they use such kind of concessions. This has caused much inconvenience to them and it has often led to quarrels with bus drivers. To deal with the problem, the Government is planning to issue "senior citizen cards" from April next year. This card will be good in all parts of the territory. We understand that it will be issued only to people aged 65 and above. Today, on the eve of the Senior Citizens Day, Mr HUI is moving a motion promoting the interests of the elderly. His timing is good. However, his motion fails to include a request to lower the eligibility age to 60. One gets the impression that Mr HUI is taking the Government's side and helping the Government's case. Before deciding to move my amendment, I contacted Mr HUI several times about letting his motion include a request to lower the eligibility age to 60. Unfortunately, he declined to do so. In fact, Mr HUI did not mean to withhold his support from the idea of lowering the eligibility age to 60. His concern was that, if the amended motion was passed and the Government refused to act on it, then we would not have senior citizen cards even for those aged 65 and above. Of course, I absolutely refuse to believe that we have such an irresponsible government. I hope that the Secretary for Health and Welfare will give an undertaking to this Council when delivering her speech later on. Mr HUI can then rest assured that it will be all right for him to support my amendment.

Mr President, I am moving the amendment at the request of two major organizations of old people in Hong Kong, that is, the Hong Kong Elderly Rights League and the Association for the Rights of the Elderly. The main reason for the amendment, as I said earlier, is that big families are breaking up into smaller families and Hong Kong does not have a sound retirement protection system. Those old people who are on their own are facing increasing difficulties in their everyday life. Let us look at some statistics. At the end of June this year, there were 84 868 public assistance cases, including 54 782 cases, or 64.5% of the total, in which the applicants were aged 60 and above. The number of cases in which the applicants were aged 60 and above was up 12% from last year's number, which was 48 985. The upward trend is continuing.

According to the 1991 Public Assistance Index, transportation allowance accounted for only 3.19% of the public assistance and amounted to just over \$1 a day. Mr President, how often can an elder person use public transport services with just over \$30 a month?

Some oppose the lowering of the eligibility age to 60 on the ground that a 60-year-old person is still young enough to work. They go on to argue that 65 should be the minimum qualifying age for the senior citizen cards. Is their case supported by the facts? According to statistics compiled by the Census and Statistics Department, in 1992, there were 154 200 people aged 60 and above who were still working. 99 200 of them were in the 60-64 age group, accounting for just over 30% of the total population in this age group. This year, the number of the elderly employed has declined by about 9 000 but the elderly population has increased by 30 000. This shows that it is becoming increasingly difficult for elderly people to find jobs. According to the 1991 statistics, the average monthly salary was just over \$3,000 for employees aged between 55 and 64, and 24 015 elderly people were each earning under \$2,000 a month and struggling to stay above the poverty line. Evidently, to an elderly person, a job does not equal a decent living standard.

My greater concern is that, if we agree to set the eligibility age at 65, the Government may use this as an excuse for reducing its future commitment to services for the elderly.

In fact, Hong Kong at present offers various concessions to people who are 60 or over. They include the tax allowance for dependent parents, preferential telephone charges, concessionary fares/rates offered by the Ocean Park, the two municipal councils, the district boards and some voluntary agencies. An elderly person may already be holding more than one privilege card. If he cannot be issued a central senior citizen card to replace these cards until he is 65, he will be holding as many privilege cards as there are credit cards in Members' wallets.

Mr President, a senior citizen card or a privilege card does not really give the elderly any substantial benefit. Such a card merely shows the community's recognition of the contributions made by them in the prime of their life. In other words, it is just a gesture to show our respect to these people. Mr HUI, who never stopped pursuing the Senior Citizens Day idea, wants respect to be shown also to everybody in Hong Kong who is aged 60 and above. Therefore, I hope that Members will support my amendment in order to promote respect for the elderly in the community and let the elder receive a greater degree of respect.

With these remarks, I move the amended motion.

Question on the amendment proposed.

MR MARTIN LEE (in Cantonese): Mr President, I would like to thank Mr HUI Yin-fat for moving a motion urging the Government to take active steps to promote concessionary schemes for senior citizens in all areas.

In March this year, independent scholar Mr TANG Lung-wai suggested to me that Hong Kong should learn from foreign countries and introduce concessionary schemes for senior citizens and that the Government or voluntary agencies should issue senior citizen cards to save the elderly the trouble of showing their identity cards when they are using public transport services or other services provided by the public or private sector at concessionary rates.

During the past six months, I have actively tried to persuade the Health and Welfare Branch and some organizations to adopt the idea of a senior citizen card. I am happy to note that they have all responded positively. On 12 July this year, five Members from the United Democrats of Hong Kong (UDHK) kept an appointment with Secretary for Health and Welfare, Mrs Elizabeth WONG, who promised that the Senior Citizen Card Scheme would be implemented in April 1994. UDHK are very appreciative of the Government's positive and co-operative attitude. Very regrettably, however, the Secretary said that the senior citizen cards would be issued only to people aged 65 and above. She said that if the eligibility age is lowered to 60, it would delay the implementation of the Scheme. However, she did not mention that the Scheme would be dropped if such was the case.

Mr President, on 8 October, Mrs WONG officially announced that the Senior Citizen Card Scheme would be implemented in April 1994. Mr HUI's motion today is very opportune. It is true that this Council has to press the Government to make a greater commitment, to the extent of not only assuming responsibility for co-ordination among disparate bodies but also taking initiatives to promote a senior citizens policy in government departments and to encourage all public and private organizations in Hong Kong to participate in the Scheme. However, Mr HUI's motion does not include any request to the Government about gradually lowering the eligibility age to 60. Thus, even if his motion is passed, the Government can continue to ignore the voices in this Council and in the community calling for a lower eligibility age. UDHK's position is such that it will continue to strive for the lowering of the eligibility age from 65 to 60. Therefore, we will support Mr WONG Wai-yin's amended motion. If the amended motion is adopted today, it will be incumbent upon the Government to make a further study of the Scheme and to issue senior citizen cards to everybody aged 60 and above in April, next year. If there are administrative or other difficulties necessitating a delay in implementing the Scheme, the Government has a responsibility to explain to us what the specific difficulties are. This Council will then ask the Government to draw up a timetable which shows clearly when the eligibility age will be lowered to 60.

Mr President, in his letter to Members dated 5 November, Mr HUI said that the Government had reservations about lowering the eligibility age to 60 and that, if this Council pushed through the amendment, the Government would

have "only two choices: shelving the Scheme for the time being or dropping it altogether."

Mr HUI seems to think that the Government is so irresponsible and so unreasonable that it may, out of "spite" for this Council, keep 500 000 people aged 65 or older waiting in vain, perhaps indefinitely. However, this Council's responsibility is to reflect the wishes of the public, to monitor the operations of the Government on behalf of the public and to fight for the public the rights they are entitled. Members must not recoil from putting forth a better scheme and fighting for it simply because the Government has reservations about it. If Members think the Government should set the eligibility age at 60, then they must join forces to press the Government to go ahead with the Scheme. Only then will Members be really discharging their duties. In fact, it is hard for me to imagine that the Government would behave like a temperamental child. I do not believe that a kind and principled lady like Mrs Elizabeth WONG will say in her speech that, if this Council passes the amended motion, the Government will withdraw this Scheme and no senior citizen cards will be issued next April.

Mr President, some Members do not like the present Chinese name of the senior citizen card, which is "敬老咭". They suggest that the name should be changed to "長者優惠咭". I hope that Members of this Council and the general public will continue their discussions of the Scheme and make suggestions concerning the card's Chinese name. However, I would like to stress one point, that is, the original idea behind the Scheme is to uphold the Chinese tradition of honouring the elderly and to encourage young people to show respect for them, who spent the best part of their lives making contributions to the Hong Kong community. Since everybody agrees that the purpose of the card is to honour the elderly, then why do we not simply and clearly call it the "敬老咭", so that anybody who sees the card will be reminded of traditional Chinese respect for the elderly? Mr President, as the saying goes, "Honour other aged people as we honour our own." I am getting old myself. I hope that, when I reach the age of 60, I will also get this Card. When I hold it, it will make me feel that I am being honoured by the community. I will be honoured not because I made contributions to this Council (I believe some Members have different thoughts about this), but rather because I have grown old in this Council and have become an old man. Mr President, I very much like to see all government departments, public bodies and private institutions take an active part in the Scheme. But I am a bit worried that, if we call this card "長者優惠咭", then, in this commercial society like Hong Kong, it may degenerate into a discount card useful to product promoters. It will then lose its meaning of "honouring the elderly."

Mr President, these are my remarks. UDHK will support Mr WONG's amended motion.

MR PANG CHUN-HOI (in Cantonese): Mr President, the Government has repeatedly rejected the setting up of a central provident fund, and the proposed mandatory retirement protection scheme is still a subject of controversy. Most elderly people have to face the burden of life immediately after their retirement. Some may have to rely on their families for financial support. Some may have to apply for public assistance and some may even have to continue working in order to earn a living.

As the Chinese saying goes, "Having an elderly member in a family is like having a treasure." This shows that the elderly people are greatly respected and venerated by their families. However, are elderly people in Hong Kong really so well treated in real life?

It seems that the public housing units and the Home Ownership Scheme (HOS) flats are mainly designed to accommodate small families. At present, the average household size has dwindled to 3.5 persons. Our community has changed from the days when the extended family lived together. And the practice of rearing children against old age has also become outmoded. With the population aging rapidly, the Government and the community, undoubtedly, have an escapable responsibility to ensure that the elderly will lead a dignified and comfortable life after their retirement.

The Government intends to issue a senior citizen card to eligible elderly people next year to facilitate them to enjoy certain concessions. I think the most important and meaningful part of this Scheme is to promote respect for the elderly in the community and to give recognition to their lifelong contributions to our society. This kind of concessions is offered in requital of their contributions to the territory and is a gesture of respect for the elderly. Under no circumstances should they be regarded as a "handout" to the elderly. Therefore, I hope public organizations should remove all unnecessary restrictions in offering concessions to them.

Of course, it is the wish of the elderly that they would not have to worry about their living expenses. What they need most is financial security. Recently, the Taiwanese authority has introduced measures to accord priority to look after those who are alone and helpless by giving monthly allowances of 6 000 and 3 000 Taiwanese dollars per person to those in the low income group and the middle income group respectively. The number of recipients under this scheme has increased from the original 30 000 plus to 220 000. I urge the Government to attach greater importance and make further improvements to the protection of the livelihood of the elderly people.

Mr WONG's amended motion proposes lowering the eligibility age to 60. Though the intention is good, the implications are too wide. I am afraid that it would be cumbersome and time-consuming to implement. If the age eligibility age is lowered, the Government will have to conduct fresh consultations with all the organizations which offer concessions. In fact, the greatest significance of offering concessions to the elderly lies not in the concessions themselves. It is to

promote the community's respect for the elderly that counts. It should also be noted that most private organizations in Hong Kong adopt 65 as the actual retirement age. Some employment ordinances also take this age as a norm. Moreover, Old Age Allowance is only available to those aged 65 or above. In 1986, the life expectancy of people was 74 for men and 80 for women. With the advancement in medical science, it is anticipated that people would have a longer life expectancy by 2006. In order not to delay the implementation of the scheme, I support the original motion.

Mr President, these are my remarks.

MR LAU WONG-FAT (in Cantonese): Mr President, respecting and caring for the elderly is a traditional virtue in Chinese society. Our ancient philosophers and worthies advocated that we should treat the elderly well. "Honour other aged people as we honour our own", as the saying goes. It means that we should take good care of the elderly in one's family first and then extend the same care to the aged in general.

Hong Kong is an affluent and modern community. Yet we have apparently not done enough in the promotion of respect and care for the elderly. Hong Kong's success today actually owes much to people's unfailing industry in the past. In other words, without the contribution of our elderly, Hong Kong may not have become so prosperous today. Against this background, it is only too natural for the community to show our gratitude to them so that they may enjoy the kind of respect and care they deserved.

Extended family is very common in traditional Chinese society and it is a custom that people of the same surname dwell together to form a clan. Therefore, being filial to one's parents and caring for the elderly is simply a matter of course. At present, such a good practice and traditional custom is still preserved in the same strain in the New Territories rural communities. And the elderly in the rural areas are generally being offered basic care and attention.

However, the situation is different in densely populated urban areas and new towns. Residents there or their older generations are mostly migrants from other places to settle in Hong Kong and they may no longer hold traditional values dear. Furthermore, under the influence of Western ideologies, many have regarded it as a burden to support their parents. The ageing of our population, the emergence of nuclear family and the emigration of many young people with their elderly being left behind in Hong Kong are some of the factors which render it more necessary for the community to look after the elderly.

In addition, Hong Kong does not have any retirement protection scheme in force. The spiralling inflation over the recent years has made life more difficult for the elderly who have to live on their meagre savings.

Mr President, I feel that the Government should adopt a more positive attitude to tackle the problem. The issue of senior citizen cards is only the first step. To make the scheme a success, we cannot merely rely on the efforts to enlist the support of the private sector. We should take a multi-barrelled approach. First of all, government departments and statutory bodies should take the initiative and offer preferential treatment to the elderly. Secondly, fee concession for the elderly should be made a compulsory requirement when franchise companies apply for renewal of their franchise. Thirdly, private sector's full participation should be encouraged.

In the long term, it is imperative for the Government to formulate a comprehensive policy for the elderly so that our senior citizens may live in a truly caring and supportive community.

Mr President, with these remarks, I support Mr HUI Yin-fat's motion.

MRS MIRIAM LAU (in Cantonese): Mr President, in May 1991, this Council held an adjournment debate on "concessionary fares for senior citizens." At that time, only the Kowloon-Canton Railway Corporation, the Citybus and some green minibus operators were offering concessionary fares to senior citizen. During the debate, Members spoke with one voice to call on all public transport operators to take up their social responsibility and give preferential treatment to senior citizens.

Just two years ago, very few public transport operators offered concessionary fares to senior citizens. Today, the vast majority of public transport operators are providing some kinds of preferential treatment to them. This is indeed a big step forward that our community has taken. However, we still have some distance to cover before reaching a situation that may be considered ideal. The primary problem is the absence of a set of uniform standards for the public transport operators to conform with in introducing these concessionary schemes. Nor is there a centralized programme. Each operator is doing things its own way. The situation is very chaotic indeed. The Hong Kong Tramway Limited, the Hong Kong Peak Tram Company and the vast majority of minibus operators have yet to introduce any concessionary fares for the elderly. Though special fares are being offered by the Hong Kong and Yaumati Ferry Company and the China Motor Bus Company (CMB), they are valid only during non-rush hours. The CMB's offer, besides, is good only for certain routes. The standards are so varied and numerous that many elderly people find them bothersome when they use the concessions. Problems of misunderstanding or clashes with rule-enforcers have occurred where the elderly were unable to tell under what circumstances they were eligible for preferential fares. When required to produce their identity cards to prove their age and eligibility for preferential fares, they would rather not produce them for fear that they may lose this important document. No wonder they find the preferential fare schemes to be a pain in the neck.

I am very glad that the Government is planning to issue senior citizen cards next year to facilitate the elderly to prove their age when they use these concessions. I think that, in addition to being handy, the cards will help to prevent abuse of senior citizen privileges by making sure that they are available only to the eligible. Mr President, while it is a good thing to provide senior citizens with a uniform identification document, the more important thing is to improve quickly the public transport operators' preferential fare schemes. I think that the Government should make an effort to co-ordinate the confusingly disparate schemes and set uniform standards for all public transport operators to conform with, in order that all public organization will shoulder jointly this social responsibility. As a rule, public transport operators should keep their schemes simple for the elderly and refrain from laying down restrictions limiting concessionary fares to specific hours and routes. This is really the only way to encourage and help the elderly to remain socially involved. It is the only way that will do them any good. In this connection, I hope that the Government will quickly urge the Hong Kong Tramway Limited and the green minibus operators to join the others who are offering concessionary fares to senior citizens. The Government should also encourage red minibus operators to participate in these schemes. I further hope that the CMB and the Hong Kong and Yaumati Ferry Company will quickly launch schemes offering full concessionary fares to the elderly and enable them to enjoy the privileges without restrictions.

Mr President, almost all public transport operators have set the eligibility age for such concessionary schemes at 65. I think that this age requirement is reasonable enough. Some suggest that the eligibility age should be lowered to 60. In this regard, I think that the following points should be considered:

Firstly, 65 is the qualifying age for a person eligible to receive Old Age Allowance and for a private sector retiree to receive his/her long service gratuity. A hard and fast rule lowering the eligibility age to 60 will have wide implications. It will directly affect the Government's social security programmes for the elderly. The Government will have to make a full review and evaluation before deciding whether a lower eligibility age is feasible. Such review and evaluation will take time. There will be complications and they will surely slow down the Senior Citizen Card Scheme.

Secondly, in adopting 65 as the qualifying age for senior citizen privileges, Hong Kong is basically already on a par with other advanced countries. Both the United States and Canada set the qualifying age at 65 while Britain and Australia set it at 65 for men and 60 for women. Clearly, Hong Kong's criterion is roughly in line with international practices.

Lastly and most importantly, who should pay for the senior citizen privileges? Should the Government, meaning taxpayers, pay? Should the shareholders of the public transport companies pick up the bill? Should the general passengers pay more to make good the difference? In fact, to some extent, the Government's readiness to put up some money is the reason why

Hong Kong now has rather comprehensive senior citizen privilege programmes. The Government has this year waived licensing fees and rental charges for public transport companies as an incentive for them to provide or improve their concessionary schemes for the elderly. I have learnt that the Government will consequently sustain an income loss of \$65 million in 1993. In other words, the taxpayers are already indirectly subsidizing the concessionary schemes. The public transport companies have responded to the Government's initiative and said that they, too, will take an income loss of about \$30 million. However, they have also made it clear that this will be the limit of their commitment. Therefore, if they find that their actual income loss exceeds this limit, the excess portion of income loss will surely become a ground for a new round of increases in general fares. In the end, the general passengers will have to pay more to make good the difference. Judging from available information, this may very well happen.

The problem will be bigger still if the eligibility age is lowered to 60, making everybody in the 60-64 age group also eligible for the concessionary fares. The Kowloon Motor Bus Company estimates that its excess income loss due to this factor will be about \$100 million in 1994. The corresponding excess income loss will be \$50 million for the Mass Transit Railway Corporation and \$12 million for the Kowloon-Canton Railway Corporation. The total for all public transport companies will be \$200 million or more. The CMB points out that, if its excess income loss is passed to the general passengers, then, when fares are raised, a compensatory four percentage points will have to be added on top of the normal margin. I think that the normal margin of increase will already be a heavy enough burden on the general passengers and it will be unfair to make them pay even more to subsidize senior citizen privileges.

Another point that we must not overlook is that, as the population ages with the general lengthening of life expectancy, more and more people will come within the scope of senior citizens eligible for concessions. Even without a lowering of the eligibility age to 60, more and more resources will have to be found for funding these schemes. While such schemes are necessary and while the public is quite supportive of them, we have a responsibility to keep them at levels that are considered fair and affordable by the community as a whole. I think that the most important step before expanding the scheme is to make a realistic study of the feasibility of the proposed expansion. Before any proposal can be found feasible, the question of where the money will come from must be answered. Until this question is answered, I cannot support this proposal.

Mr President, with these remarks, the Liberal Party supports Mr HUI Yin-fat's motion.

DR LEONG CHE-HUNG (in Cantonese): Mr President, I believe that no one will raise objection to the view that we should respect the elderly and provide them with the kind of care and concern they deserve. Therefore, no matter which Member's motion is passed at the end of today's debate, I sincerely hope

that Members could exert concerted efforts to urge the Government to work for the elderly's well-being expeditiously. Our elderly can no longer wait for another eight or 10 years before they receive the welfare they deserve.

I am very happy to learn that in the wake of the Governor's policy address last month, the Secretary for Health and Welfare gave a definite assurance that a Senior Citizen Card would be issued to the elderly to make them accessible to concessionary services provided by both the public and private sector. The scheme intends well but if the current situation remains unchanged whereby only a few concessions are available to the elderly, the effectiveness of the Senior Citizen Card will be undermined significantly.

At face value, an organization which provides concessionary fares or even free services to the elderly may have its profit-margin reduced. However, from the perspective of the overall community, it is a means to achieve better utilization of resources.

The reason is simple. With concessionary services, the elderly may be engaged in more outdoors activities, visit their friends and relatives more frequently and participate in more cultural and recreational activities. A full participation into the community will naturally be beneficial to their mental and physical health. In the long run, their demand for medical services will be reduced accordingly. In case they fall ill or meet an accident, the community support network they build up through their social contacts with their relatives and friends and participation in community activities may make it possible for them to remain in their familiar community and to receive proper care and attention.

The Government must do more than persuading public and statutory organizations to participate in the elderly preference scheme or doing so by cries of encouragement. It is necessary to motivate these organizations. For instance, the Government may specify concessions to the elderly as one of the conditions in the bidding of certain traffic routes.

To provide comprehensive care for the elderly, we should cater for their different needs, including clothing, food, shelter, transportation, medical care, recreation, employment and so on.

Two years ago, I moved a motion in this Council "to urge the Government to give immediate consideration to the formulation of an overall and comprehensive policy on the care of the elderly". At that time, many Members spoke in support of the motion and also urged the Government to establish a co-ordinating body with real power. It should be charged with the task of mapping out the policy direction for elderly services and co-ordinating the efforts of government departments and other organizations in the implementation of the policy. The membership of the co-ordinating body should include representatives of the elderly and those others drawn from the professionals engaged in elderly services.

It was not until last month that the Government mentioned in his policy address the setting up of a special Working Group to review and formulate programmes on the care for the elderly. I certainly welcome this proposal and hope that this Working Group will be set up as early as possible and be widely represented. But what will the Working Group's terms of reference be? How is it different from the dissolved Central Committee on Services for the Elderly? All these questions still remain unanswered.

I am afraid that the setting up of this special Working Group is merely an old delaying measure employed by the Government.

Come to think of it: Five years ago, the Central Committee on Services for the Elderly published a comprehensive report. But up till today, many of its recommendations are still being shelved by the authorities and have not yet been accepted.

In the same vein, the Working Party on Primary Health Care published a report in 1991, putting forward a series of recommendations on preventive and primary health care for the elderly. Now two-odd years have lapsed. Still the recommendations, such as physical check-up for the elderly, are under consideration or on trial. No one knows when the recommendations will be accepted and put into practice so that all the 800 000 elderly in the territory would be benefited.

Some other recommendations in the report, however, are yet to be accepted and translated into some pilot scheme. The authorities concerned, for example, have not explored the possibility of providing dental treatment and oral health services to the elderly who have financial hardship but not eligible for public assistance.

I hold that if the Government has the *bona fide* intention to give the people a secure old age, it should set up a special division headed by a commissioner at the policy branch level to co-ordinate and oversee the policy on elderly and its implementation. Given that the Government is willing to appoint a Commissioner for Rehabilitation for the 300 000 disabled persons, I can see no reason why a commissioner and a special division cannot be set up for the 800 000 elderly over 60 years of age to co-ordinate inter-departmental efforts.

Mr President, I will lend my strong support to any recommendations which will help the elderly to enjoy as early as possible the rights they deserve.

MRS ELSIE TU: Mr President, in the background information given to us for this debate, the mover of the motion gave us a list of the existing preferential schemes on railways, buses and ferries as well as the telephones. But nothing was mentioned about the long existing schemes for recreational activities offered by the municipal councils. This is probably due to the fact that the

municipal councils' policies are not brought before this Council, and quite rightly so, since the two councils are autonomous.

As the functional constituency Member for the Urban Council, I should like to draw attention to the concessions already being made by the Council which was, in fact, the first body in Hong Kong to introduce a concessionary scheme for senior citizens.

In 1985 the Urban Council began to provide cultural activities, free of charge, for the elderly. These took the form of entertainment and special programmes and in 1992-93, 18 000 senior citizens took part at a subsidy of \$750,000. This year, a similar number are expected to take part.

In 1988 the Urban Council began to allocate a quota of 20% seats in each price category in our cultural presentations to senior citizens at 50% of the price of the tickets. Subsequently, as each venue opened, quotas of 20% of the tickets were earmarked for the elderly at half price in all venues, such as the Cultural Centre and the Art, History and Space Museums. While the price concession at the Science Museum is 40%, there is no fixed quota for museums. At swimming pools the price concession is slightly over 50%. For all ball games and holiday camps, the price concession is 50% but, because of the high demand for those venues, the concessions are only at off peak periods. A list of these concessions is tabled for Members' information.

The age set for all these concessions is 60 or over. The total cost to the Urban Council for the concessions in 1992-93 was \$5.4 million and in the current year it is estimated to be \$6 million. Because of the high usage of most Urban Council venues it is necessary to put a quota on tickets allocated to senior citizens, except in the case of museums or programmes specifically organized for the elderly.

The Urban Services Department is at present reviewing the situation to see whether there are any inconsistencies in the preferential schemes for the elderly and whether the quota for presentations may be further relaxed.

This motion has highlighted the need to pay more attention to the needs of senior citizens and I am grateful to Mr HUI for raising it. I have reported to the Urban Council that the motion is being debated and they have already agreed that the schemes we already offer will be reviewed by the relevant select committees to see what improvements can be made.

Our senior citizens are the ones who laid the foundations of our present sound economy by their hard work, often underpaid. Most of them did not earn enough money to save for old age and those who were able to save now find their savings eroded by inflation. I am sure that that is the reason why our colleague, Mr Jimmy McGREGOR, has proposed an old age pension for the elderly. Payments from a provident fund may sound good but we need to remember that while a provident fund puts a sum of money into the hands of the

worker when he retires, that sum does not grow with inflation as a pension would. The senior citizen, therefore, even if he did benefit from a provident fund, will still be afraid to spend money on anything but the bare necessities of life in case he ends up with nothing due to inflation.

I therefore strongly support the motion to offer concessionary schemes to lighten the burden of our senior citizens. But this should not blind us to the fact that more than anything else senior citizens need a feeling of security and that is the purpose of a pension. Today's motion is a step forward in caring for senior citizens but it is just that, a step in the right direction. The ultimate aim should be to remove anxiety and the feeling of insecurity for the future from those who may have no one on whom to depend when they retire.

Mr President, I support the motion, with or without the amendment.

DR LAM KUI-CHUN (in Cantonese): Mr President, upon its inception, the Liberal Party consulted the public on a few questions. One of the conclusions reached from these consultations is that the great majority of Hong Kong people espouse the concept of "respect for the elderly".

I support the debate by this Council today on "senior citizen cards" for it is a manifestation of "respect for the elderly". My comments will probe "how old is old?"

To consider "old" from the point of view of physical development during a life span, one would consider it in terms of the growth and decline of the functions of the human body. Functions of the human body, after maturity, can normally maintain until 65 years of age. Better nutrition, improved hygiene and advances in medicine have not only extended the life expectancy of human beings, but also pushed back the onset of decline. This physiological phenomenon is reflected by the fact that many countries of the world have been gradually raising the retirement age in response to workers' spontaneous request. The latest medical definition of middle age is 40 to 65 years while the United Nations have defined elderly people as those above 65 years of age.

Looking at countries all over the world, be them countries of free enterprise (such as the United States, Germany, France and Japan) or near-socialist countries (such as Sweden, New Zealand and the United Kingdom), the great majority of them have targetted their policy of preferential treatment for the elderly at people over 65 years of age. They also use this same age as a demarcation line for eligibility for old age allowance and even compulsory retirement. The general world trend is that the lower age limit for the elderly is being readjusted upwards as a result of improved vitality and extended life expectancy of human beings. In the future, the definition of elderly people may be 68 or 70 years of age.

Therefore, in view of physiology, medicine and the social trend, "old" at the present stage should start at 65 years of age. The proposed amendment, which seeks to extend the preferential treatment to middle aged people of 60 to 64 years, therefore evidently has no physiological or medical basis. Just now when the Honourable WONG Wai-yin moved his amendment, I heard no evidence of any sort being adduced by him in support of his identifying 60 years as the starting age for the elderly.

Mr President, to advocate redefining old age as 60 years instead of 65 will serve no useful purpose for society other than as a political slogan. It may even create more problems with the elderly people. I should like to point out specifically that medical findings have revealed that once a person is issued with a senior citizen card, hence labelled as an elderly person, his frame of mind will be apt to change accordingly, leading to a reduced capacity for work, a drop in vitality and a recession in physiological functions — an accelerated decrepitude. A number of medical studies have revealed that the key to delaying the onset of decrepitude among old people lies in their keeping up with their normal activities. To give a person a senior citizen card may on the face of it be an act of compassion. But it is in fact promoting premature senility. The Chinese observed long ago that "a door hinge is never worm-eaten, and running water is never stale". In order to keep old people healthy both physically and psychologically, we must keep as small a gap as possible between old people and their relatively younger counterparts in terms of living habits, thinking and frame of mind. There are three places in the world (the Caucasus, the Andes being two of them) where inhabitants are renowned for longevity and their senior inhabitants can live on average well past 130 years of age. Their lifestyle bears little difference from that of the young people in their community. Would they have wasted the greater part of their life had they been forced to stay away from normal social life at the age of 60 irrespective of their physiological conditions? Undoubtedly, Mr President, a person's vitality is far more important than any sympathy or compassion he may have been given.

One may ask: What is wrong with relaxing the standard a bit and extending the eligibility for "senior citizen card" to benefit the "middle-aged"?

Traditional Chinese morals have it that one should work hard to earn one's living. One should not accept alms or food handed out in contempt. Though old one may be, one has to uphold an old man's dignity. And this dignity comes from his long-standing contribution towards society. The contribution made by old people to the Hong Kong community is by no means less than that of their counterparts in overseas countries. Their effort is worthy of general recognition and spontaneous respect by society, rather than almsgiving out of sympathy.

The amendment to the motion will not only label the middle-aged people as elderly but will also add suddenly to society a group of discount-enjoying consumers. It will only transfer unnecessary financial burdens onto other citizens. I guess the Honourable WONG Wai-yin, who is moving the

amendment, is not convinced with what I have just said. But he would understand when he thought about what to say in response to my new definition of old age if only I should move a further amendment to his amendment to the effect that "senior citizen cards" be issued to people over the age of 50 or even 45 years.

Mr President, I have reservations about one particular point in the original motion. I have to emphasize that any show of respect for the elderly must come from the bottom of our heart. The Ordinances in accordance with which the statutory corporations have been set up have already made these corporations independent of the Government. They have to operate according to prudent commercial principles. Firstly, in terms of principle, it is wrong of the motion to require them to provide preferential treatment to the elderly for it violates the spirit of giving these corporations operational independence. Secondly, it turns a spontaneous show of respect for the elderly into a matter of routine, reducing one lofty deed into a statutory obligation — a classic example of aiming for an exalted goal but eventually falling far short of it.

However, the original motion's suggestion about the "senior citizen cards" is worthy of our support. I therefore support the motion and oppose the amendment which has no physiological basis.

MR MOSES CHENG: Mr President, in many of the addresses I have delivered to this Council, I have dedicated a large portion of time reaffirming the need of our society to assure "a dignified and comfortable old age" for the elderly. Several methods and means have been recommended recently to achieve that end, but not all of these ideas are able to achieve the two goals of dignity and security in equal proportion. The "senior citizen card" is, however, one such means that most Members should agree can serve as an effective sign of respect to offer preferential services to the elderly.

This motion is less about the issuance of the cards than it is about the function of them. The wording calls for mandating statutory public organizations to participate in the programme and promoting the private sector to do likewise. To achieve the optimum results and pursue the greatest amount of privileges, I believe that the business community should be most actively encouraged to provide their support. The card itself amounts to little more than an empty piece of plastic, if the Government and business community fail to cooperate in providing senior citizens with several significant savings. Yet, at the same time, the automatic advantages, triggered by the age of eligible card recipients, should not be confused as a welfare scheme, or as a substitute for other benefits. Amongst the greatest advantages of a card for the elderly is its simplicity and uniformity which will inevitably facilitate seniors' ability to register and receive available benefits. Likewise, it should make it easier for those companies and public agencies offering benefits and preferences to provide their concessions smoothly and efficiently.

Hong Kong has a reputation for its private sector participation in community services, and to match our commitment to this form of respect for the elderly, the Government should devise coherent ways to effectively promote and harness greater community participation from the outset. By contacting and co-operating with institutions like the Chambers of Commerce and voluntary organizations like the Rotary Clubs, for example, the issuers of the card could go a long way toward establishing the type of caring community for the elderly that offers economic concessions, than if they used this programme as another burden of bureaucratic inefficiency.

There are some who would compel seniors to retire at a fixed age, so that they may collect early benefits, whatever their abilities. Such proposals are problematic to the extent that they are based on foreign models, and an essentially European premise of the "welfare state". They are fundamentally flawed in their reliance on short-term thinking, which does not account for the long-term macroeconomic concerns of keeping benefits for the expanding elderly population replenished for succeeding generations. That is to say, it is all too apparent that there are those in the Council who are prepared to gamble away the security of future generations of the elderly for the sake of immediate popular appeal and political expediency. It occurs to me that sound planning for elderly care is simply much more important than rash impulses to regain the media spotlight. Most developed countries that have followed similar paths of popular appeal in their welfare policies for the elderly now find themselves struggling to keep their social security and retirement schemes afloat. This is not the way forward for Hong Kong.

In our society, virtually no one desires to live as a dependent of the Government, if they can ably work for themselves. It should be obvious to understand how easily such a proposition can undermine both the pride and dignity of our people. The preferential card programme, which we are discussing today, is designed to affirm those values by venerating our seniors, not patronizing them with petty politicking. In allowing seniors to keep their "body, minds, and spirits" active and full of life, there is no government programme or payment that can substitute for their self-esteem.

Beyond the effort I have called for to encourage and offer incentives for broader community support, there are still the necessity to evaluate the benefits to be provided with the needs of the elderly and plenty of enhancements for the elderly that the Government should legitimately emphasize. Transport concessions should be made uniform to all cardholders, and all forms of transport should continue to be discounted for seniors. Of course, medical care, attention, and services must top the list of both concerns and potential service benefits. Few things can do more to lift the spirits of the elderly than the assurance of continued vitality, so the card must be integrated with medical services in a way that reflects the imminent concerns of aging.

Insofar as housing policy is concerned, we should not attempt to repair that which remains unbroken. I believe that it may be sociologically unhealthy and economically counterproductive to essentially legislate new incentives to separate the elderly from the family ties, and move them towards scarce housing. There is also the potential of backlash amongst young people vying for their own space. Enough outlets of assistance are also provided for the single elderly under the current housing policy to make further change questionable in its value.

Finally, let us not forget that being "elderly" is increasingly a state of mind, more than a definite physical condition defined by one's age. People want to express their usefulness and contribution to family and community for as long as possible, making useful lives longer. Medical sciences and new technology are allowing people to live longer with higher and higher standards of living. Where politicians draw the line on age is consequently increasingly arbitrary in its definition of seniors. If these trends continue, and mortality rates decline further, then we must assume that we will have to sustain our elderly programmes with reasonable growth for the coming years, and not be tempted to sell out for political gain in the short term. Supporting the card, and supporting the right elements of a caring community to breathe life and value into the card, is an important step in facilitating an elderly preferential scheme to endure in the future.

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

THE PRESIDENT'S DEPUTY, MRS ELSIE TU, took the Chair.

MR CHEUNG MAN-KWONG (in Cantonese): Madam deputy, it is easy for us to pay lip service to "honouring the old," as we are doing today. But please consider the following fact: At four or five every morning, when most of us are still sleeping soundly and dreaming pleasant dreams, a number of elderly sick people can be seen queueing up outside the general out-patient ward of the Kwai Chung Hospital. They are waiting in the moonlight and it is going to be a long wait lasting several hours. Each is waiting to receive a disc specially reserved for the elderly. If they come late, the quota will have been filled up and they will have to come back next morning at an even earlier hour. Kwai Tsing is in fact not the only district where such things happen. Madam deputy, bright Christmas lights are already lit and the cold winter is about to begin. We are again about to see a number of elderly sick people braving the chilly wind of early morning as they stand in dark street corners, waiting to receive what are rightfully theirs.

Madam deputy, I would like to ask: When is this community ever going to let these old people receive with dignity what are rightfully theirs, what are owed them by the community? The question that concerns me is not simply what privileges and attention the elderly should get, as highlighted by some

Members. What concerns me most is whether the elderly are getting these privileges and attention fully, satisfactorily and in a dignified way, and whether the elderly are entitled to precedence in receiving services. Madam deputy, I saw an elderly woman the other day. Because she could not read the signs on the MTR platform, she did not stand in line properly as instructed. The others, who were standing in line, accused her of "trying to jump the queue." When the train came, instead of letting her enter the train first, they gave her a dirty look. If the people were patient and considerate, they should not have behaved like this. Then, I would have had a different story to tell and the old lady would not have been treated with such unjustifiable meanness.

As the saying goes "One would rather be poor and happy than become rich and anxious." Material things are not all that matter. There is dignity to worry about besides material things. I know some of the elderly people who sleep under flyovers. They refuse to move into the shelters for street sleepers because, if they do, they will have to pack and leave in the morning and will have no privacy at all. The shelters make them feel more like vagrants than if they sleep under the flyovers. Arrangements have been made, too, for moving them into the public housing estates in the New Territories. But these housing estates are so far away that, if they move there, they will lose their friends and their jobs. They will then have to subsist on public assistance and live in solitude until they die. This will deprive them of the opportunity of earning their own livelihood. So they have chosen to continue sleeping under the flyovers, exposed to the elements.

Madam deputy, it is clear that the community up to now has generally failed to feel for the unfortunate elderly and to look at their real problems and needs from their point of view. Let me dwell on the meaning of the words: "Do unto others what you want others to do unto you." What these words mean is that we must put ourselves in the place of others and look at services from the point of view of the service recipients. We will then know what they really need. A day will come when both you and I will be elderly people. The giver today may be the taker tomorrow. We must never look at somebody else's problem and tell ourselves that it is "his business." We all live under the same sun.

There is a misconception in the community. It is thought that, if we give food and shelter to the unfortunate elderly, we have fulfilled our duties and obligations. To ask for more is to ask for a luxury. Because the community thinks only in terms of misfortune relief, the elderly have become more and more neglected. The elderly have to live with the facts of life: They have grown old; their physical faculties have degenerated; they are beginning to be unable to keep up with the pace of the rest of the community. How much attention do we pay to their psychological needs? How much spiritual support are we giving the elderly? The truth is that we do not even bother to keep ourselves informed about how many elderly people are experiencing different degrees of neglect. The suicide rate among elderly people is on the increase

during the past five years. This sounds a serious alarm. We must face up to the problem and do some serious thinking about it.

Therefore, our first order of business is to organize and increase the resources that the community can provide to encourage elderly people to continue living meaningful lives and to help them to take the first step properly as they enter the next important phase of life. This will help them to lead a happy life in their twilight years.

Elderly people should be able to enjoy with dignity the rights they are entitled and to get the rewards they deserve. Until the day comes when the community recognizes and protects their rights and rewards, senior citizen cards are nothing more than adornments. Of course I support the spirit of the senior citizen card. This spirit should be promoted until we finally attain the ideal situation where "this single card serves as a universal pass." My greatest wish is that a day will come when the elderly, even without senior citizen cards, will have the community's love and respect; when senior citizen cards will be a firmly entrenched idea in our minds; when, in the words of a Member who spoke a moment ago, "we will honour the elderly in other families as we honour our own."

I think that, however Members may decide to vote on the motion today, we should not politicize the issue or impugn other's motive. Mr HUI Yin-fat said that to lower the eligibility age for senior citizen cards to 60 was to curry favour with elderly people. Dr LAM Kui-chun said that "age 60" was a political slogan. Mr WONG Wai-yin said that to keep the minimum age requirement at 65 was to take the Government's side. In my opinion, all such comments are improper. I think that we should look at the issue while keeping a normal frame of mind. Even if we vote differently, we should all vote in good faith. We should not speculate unnecessarily on political motivation. Such should be our correct attitude in dealing with social welfare matters. It will be good for the elderly. It will be good for the community.

These are my remarks.

DR CONRAD LAM (in Cantonese): Madam deputy, after listening to Dr LAM Kui-chun's analysis about the mentality of the elderly, I cannot help but think that if what Dr LAM said is absolutely correct, then there will be more and more elderly people becoming womanizers and recovering their youthful vigour.

Leaving aside the question of age, I would like to examine the problem concerning elderly people between 60 and 65 years old from another perspective, and that is, as Mr CHEUNG Man-kwong has said, from the perspective of their way of life. The relevant data as available have caused us some unease with regard to the situation of the elderly people in Hong Kong. According to the by-census conducted in 1986, half of the elderly in Hong Kong

worked until 65 years old, one third worked until 70, one fifth worked until 75 and one tenth worked until 80. As regards the weekly working hours of these gainfully employed elderly people, 66.4% of them worked 45 hours a week, 37.5% worked 55 hours or more, 21.7% worked 65 hours or more, and 10.8% worked 75 hours or more. As regards their income, the monthly median salary of the gainfully employed elderly people aged 65 or above in 1986 was around \$1,600, and the corresponding figure in 1991 was around \$2,600.

In respect of social security, among the existing cases of application for public assistance, more than 60% are elderly people aged 60 or above, but from 1983 to 1991, the public assistance allowance was falling far behind the inflation rate, resulting in a negative growth as high as 26.6%. The growth rate of public assistance from 1981 to 1991 was also far behind the growth rate of the gross domestic product. According to the study conducted by some local academics, if calculations are to be made on the basis of the Engel Coefficient, then in the period from 1989 to 1990, the living standard of those who lived on public assistance will have been found to have dropped to the 1974-75 level.

From the above collection of figures, we can see that the elderly in Hong Kong have given out much but received very little and the social security for them is also poor. Therefore, the Administration's decision to issue senior citizen cards, though it comes a little bit late, is nevertheless a timely form of assistance. Without active promotion of the card by the Administration, I am afraid that simply a senior citizen card will not be of much avail. So I very much support Mr HUI Yin-fat's proposal, which is to urge the Administration to make it a rule that the relevant public and statutory bodies must participate in the scheme. It is believed that this will have a great exemplary effect.

Furthermore, I think the Administration should liaise with some large private companies for the purpose of creating a market trend of vying for patronage from elderly customers such that the small to medium-sized shops will also follow the trend. In fact, around 80% of the elderly in Hong Kong live with their families. So it is very likely that they take up some of the domestic chores. They will also go out with the family for some recreational activities. Therefore, the elderly will indirectly bring about business opportunities which are attractive to the businessmen.

If the senior citizen card proves to be successful, that will not only improve the material life of the elderly people, it will also enhance their contact with society and enlarge their scope of activities, and all these will be beneficial to their physical and mental well-being. It is especially important that the elderly should be given preferential treatment in medical services. In this regard, the Wong Tai Sin District Board conducted in 1985 an elderly preferential programme in which senior citizen cards were issued. This programme had their support of some doctors and businessmen of the district. However, some other doctors considered that elderly patients could tell the doctors directly during consultation that they needed a reduction in medical fees

without the need of showing their senior citizen cards. Doctors would give a reduction or a total waiver of fees based on the merits of individual cases.

I think that Mr HUI Yin-fat's motion is a very good one, but if the qualifying age of the beneficiary can be lowered to 60, as Mr WONG Wai-yin has proposed, that will be even better. The lowering of the qualifying age of the beneficiary to 60 is not an arbitrary proposal. It is supported by the relevant data:

Firstly, after retirement at the age of 60, many elderly persons are not entitled to any retirement protection and the amount of public assistance is very small.

Secondly, according to the breakdown by age of the public assistance recipients, the numbers of recipients in the age groups of 30 to 39, 40 to 49 and 50 to 59 are very similar and not large. But for the age group of 60 to 69, the number is twice that of the other groups. It can therefore be seen that the age of 60 may very probably be the turning point at which the general public of Hong Kong becomes financially handicapped. I believe that given the administrative efficiency of our Administration, the lowering of the qualifying age of the beneficiary from 65 to 60 will not be difficult.

Madam deputy, with these remarks, I support Mr WONG Wai-yin's amendment motion.

MR LAU CHIN-SHEK (in Cantonese): Madam deputy, it is an unshirkable responsibility of our community to provide preferential treatment for the elderly in various services. I believe that the Government and some large organizations in the private sector in particular should take the lead in issuing senior citizen cards and bear the related expenditure. Today my speech will concentrate on matters in relation to the responsibility of the public utilities to provide the elderly with preferential treatment.

Apart from social services such as housing and medical care, the elderly in their daily life need to rely on various services provided by the public utilities, such as transport, electricity, fuel, telephone services, postal services, water supply and so on. For this reason, if all public utilities can offer preferential treatment to the elderly, it is of great benefit to them both in terms of money saving and life quality. The public utilities in Hong Kong are either undertaken by the Government or operated by some consortia in a way not far from monopoly. It definitely behoves the public utilities to make social commitment by taking the initiative to provide the elderly with comprehensive preferential treatment.

As a result of the strenuous efforts made by community organizations in recent years, the Government and the public utilities have gradually attached greater importance to the promotion of respect for the elderly and the need of

offering them concessions. Some organizations have already started to provide concessions. However, there is always the question with regard to the provision of concessions. Who should bear the cost of providing preferential treatment for the elderly, the company shareholders, or other users or passengers? In fact, we can see where the problem lies from the different concessions now provided by the Kowloon Motor Bus (KMB) and the China Motor Bus (CMB). The KMB is offering a half-fare concession on all routes for the elderly with part of the cost borne by the shareholders. However, the CMB is only willing to undertake a small sum of expenditure, with its fare concession scheme for the elderly restricted to specific time and routes, and this means a lot of inconvenience to the old people.

In my opinion, the cost of preferential treatment for the elderly should definitely be borne both by shareholders of the businesses providing such services and the Government. They should not pass the buck to the users or passengers by raising the price or fare. Unlike most public utilities in other countries, which have been operating long in the red, quite a number of major public utilities in Hong Kong were protected by a Scheme of Control over a long period in the past. Under such a scheme, the profit return is calculated according to the companies' fixed assets, so the companies are guaranteed huge profits year after year. For this reason, these companies should take the initiative to repay the community by asking their shareholders to bear the cost of offering concessions to the elderly. Of course, this arrangement does not mean that the companies will suffer a loss. In fact, they would only have this profit reduced slightly. On the part of the Government, it is all the more duty bound to undertake the provision of the services for the elderly such as issuing the senior citizen cards. In this connection, the Government should, in respect of government-run public utilities, take the lead in issuing senior citizen cards and, in respect of privately-run public utilities, adopt various measures to help widen the scope of concessions for the elderly. Such measures may include relief of taxes payable by the companies concerned and franchise renewal conditional on the provision of preferential treatment for the elderly.

If the cost of senior citizen cards related services is to be shared by other users or passengers, it will be evident that the Government is not willing to undertake such welfare expenditure, nor are the public utilities paying heed to their social responsibility. The users of public transport in Hong Kong are mainly people from the middle and lower social strata. If the cost of senior citizen cards is to be shared by other users or passengers, it will undoubtedly add to the burden of the public and I think this is not fair to them. At present, the two power companies and the KMB have made it clear that they think the cost of preferential treatment for the elderly should not be passed on to other users or passengers. I believe this principle should be strictly observed when it comes to the provision of concessions for the elderly by other public utilities.

Madam deputy, with these remarks, I hope the Government and the public utilities would take positive actions to shoulder their responsibilities.

MR FRED LI (in Cantonese): Madam deputy, today's debate is causing some sparks to fly. This motion debate is about senior citizen benefits. Yet Mr CHEUNG Man-kwong's speech has raised some political issues. I have been listening to Members' speeches very attentively. I do not have a prepared speech to deliver. I just listened. Now I would like to make a personal response.

Many Members argued whether 60 or 65 should be the appropriate age at which a person is to be regarded as an elderly person. Dr LAM Kui-chun said a moment ago that many United Nations member states set the minimum age of senior citizens at 65. He added that, because of longer life expectancy setting the minimum age of senior citizens at 60 would impact on 60-year-olds or affect their activity level. But let us look at you, Madam deputy, who are full of verve and vigour. It would really be unconvincing to argue that calling you, Madam deputy, a senior citizen would impact on you. Mr Moses CHENG and Dr LAM argued that our amendment to seek to define a senior citizen as a person aged 60 or older was political sloganeering and playing politics. I am very disappointed at such arguments. I will refute them later on.

I would like to provide a piece of information. As Members may or may not know, the Government's White Paper on Social Welfare defined an elderly person as a person aged 60 or older.

If a person is 60 or older, his son or daughter can use this fact to claim a dependent parent allowance, the assumption being that a parent aged 60 or older is retired and not earning an income.

As Mrs Elsie TU made it very clear a moment ago, the Urban Council has been preferentially treating people aged 60 or older for a long time.

If a family consists of four members plus a member aged 60 or older, its waiting time for public housing is shorter by a year and a half.

If an applicant for public assistance is aged 60 or older, he will be additionally given an old age allowance. All of the several hundred centres for the aged in Hong Kong set the qualifying age for membership at 60.

There is one more point which many people may not know but which may be well known to directly elected Members. Many old people come to Members' offices for help. Most of them say that they under-reported their age when they first came to Hong Kong from China. I do not know if my colleagues have come across similar cases. These people under-reported their age at the time because they thought that, if they represented themselves as younger than they really were, it would be easier for them to find jobs in Hong Kong. For instance, if a person reported at the time that he was 35 when he was really 40, he is now really 65 even though the records say that he is 60. I have come across many such cases. They want to know if they can now make a statutory declaration to have their reported age changed back to their real age.

They want to make such a correction because they feel that they should be entitled to old age allowance. Of course they cannot make the correction now. But the fact remains that many of today's old people did under-report their age when they first came to Hong Kong as middle-aged or young people. I do not know if colleagues have taken this factor into account.

Dr LAM Kui-chun said a moment ago that the Liberal Party had referred to its party platform and found that respect for the elderly was therein mentioned. As a directly elected Member from Meeting Point, I do not think that this is a simple matter of referring to the party platform. Mr WONG Wai-yin and I are in direct and close touch with old people's groups, with agencies that provide services to old people. I called in person at centres for the aged numerous times to listen to what old people had to say about various matters, not just the issue of senior citizen privileges.

After preferential transport fares were made available to people aged 65 and above, people in the 60-64 age group at centres for the aged asked me bitterly if I considered them to be senior citizens and, if not, what I thought they were. They said that they had been active in the centres for a long time. They asked why the privilege was made available to others in the centres but not to them. They asked me why this divisive wedge was driven between them and those others. I did not know what to say in response.

We are now moving an amendment to seek to lower the minimum age requirement for senior citizen privileges to 60. We are doing so because we have listened to the comments of many elderly people. Let us not forget that the qualifying age for old age allowance was originally set at 70 and not 65. The Government yielded to social pressure after repeated public attempts to have the qualifying age lowered. It was lowered from 70 to 69, then to 68, then to 67 and finally to 65. So we feel that now is the right time to strive to have the qualifying age lowered to 60.

Mrs Miriam LAU said a moment ago that, if the minimum age requirement for senior citizen privileges was lowered to 60, the public transport companies would sustain an income loss of \$200 million, that is, \$100 million for KMB, \$50 million for MTRC and \$50 million for KCRC. She then went on to ask if this income loss should be made good by the Government, by the shareholders of the companies or by members of the public. I would like to draw my colleagues' attention to one piece of information. At present, 30 000 people aged 70 or older, who are eligible for old age allowance, have not applied to receive it, including you, Madam deputy. The amount of old age allowance is \$510 per person per month. These 30 000 people, by not applying for the allowance, are saving the Government \$15.3 million a month or over \$180 million a year. If the public transport companies, not wishing to take the extra income loss, ask the Government for a subsidy, this money that the Government is saving can be used for such a purpose.

Lastly, many colleagues say that, because foreign countries define a senior citizen as a person aged 65 or older, there is no reason why Hong Kong should set the minimum age requirement at 60. But foreign countries provide much better retirement protection than Hong Kong does. What retirement protection do our elderly have in Hong Kong? Even today, we still have not decided to have compulsory retirement protection, voluntary retirement protection or a Central Provident Fund. When a person in Hong Kong reaches the age of 60, he simply does not know what retirement protection he will have, does he? Besides, now that there is this policy of importing foreign workers, it is difficult for a 60-year-old or even a 50-year-old person to find a job, let alone a person who is over 60. Therefore, we simply cannot compare ourselves with foreign countries. Such being the wide gap between our retirement protection and theirs, how can we set the minimum age requirement for senior citizen privileges at 65 just because foreign countries do?

I have put together a hotchpotch of views to share with colleagues. I earnestly call on all colleagues to take advantage of the Government's willingness to issue senior citizen cards. We should take a further step and lower the qualifying age for senior citizen privileges from 65 to 60, should we not?

Madam deputy, I so submit.

MR MAN SAI-CHEONG (in Cantonese): Madam deputy, the senior members of our community have devoted the prime of their life to society. Society should therefore repay them and recognize the contributions they have made. A preferential treatment card or the "Senior Citizen Card" we have been talking about today is indeed insignificant compared with the mental and physical efforts the elderly people have put into society. The "Senior Citizen Card" is therefore a show of respect for the elderly. Shame on us if society should be so miserly as to withhold such a small favour from old people. To some elderly people who are suffering from chronic illnesses and receiving public assistance and who have no retirement protection, this card would be no more than a small drop of water after a long drought. But its substantive meaning is still very significant.

As we all know, the average life expectancy of old people is over 70 years. All senior citizens who are 60 and about to retire need to face a question, that is, how to spend the next 10 to 20 years? In fact, many of our senior citizens lead a vigorous and energetic post-retirement life. Instead of declining with the passage of years, their productivity and social activity even increase along with their ever growing social experiences. Given proper arrangements, their post-retirement life will not be wasted, but will instead be one of substance, meaning and ever increasing contribution to society. A preferential scheme for people of 60 years or above paying for admission to recreational and cultural activities, for example, has been introduced by the Urban Council since April 1985. Some 50 000 old people have participated, on

a half-fare preferential scheme basis, in activities organized by the various civic centres every year. From this figure we can see that, given a sufficient number of venues, encouraging old people to actively participate in recreational activities is in fact a social movement with very good potentials.

We frequently hear the names of environmental protection bodies such as "Green Power" and "Green Movement". The elderly people can in fact have similar organizations which can be named as "Grey Power" or "Grey Movement". A certain degree of influence is in fact exerted by "Grey Power" formed by grey-haired old people overseas. In addition to fighting for the interests of the old people, "Grey Movement" is helpful to old people in terms of enlarging their social circle and enhancing their liaison with and participation in society. A preferential scheme for our senior citizens can be the first step along the way to realize this "Grey Movement" since, given the preferences in public transport, these citizens will have their ability to participate in social activities indirectly enhanced, so that they may continue to live a rich post-retirement life which is healthy both mentally and physically. Of course, half-fare preference for the elderly is now provided only by a few of our public transport companies. Some others, for example, the China Motor Bus cross-harbour routes, still have yet to catch up with the trend of providing the elderly with preferential treatment.

Apart from transport, this "Senior Citizen Card" should also provide for the elderly comprehensive discounts in other areas such as recreation, entertainment, shopping, food and beverages, communications and so on. Let us imagine: any private company or public utility, in providing half-price discount to the elderly in shopping, telephone service and movie-going, will, I believe, be no worse-off at the end of the day because these old people are usually accompanied by their families who will also be spending money along with their seniors. These companies will then have an increased turnover, while at the same time making the elderly happy.

8.00 pm

PRESIDENT'S DEPUTY: Mr MAN, I am afraid I have to interrupt you. It is now eight o'clock and under Standing Order 8(2) the Council should adjourn.

ATTORNEY GENERAL: Madam deputy, with your consent, I move that Standing Order 8(2) should be suspended so as to allow the Council's business this evening to be concluded.

Question proposed, put and agreed to.

PRESIDENT'S DEPUTY: Mr MAN, please continue.

MR MAN SAI-CHEONG (in Cantonese): Of course, I think it would be even better if, in issuing "Senior Citizen Cards", 60 years would be taken as the retirement age at which senior citizens would qualify for the card. In that event, they would be able to enjoy the benefits as soon as they retire, without having to wait for another five years until they are 65. I believe this would greatly increase the social activities of those very healthy old people who have just retired. In fixing 60 as the starting age for the elderly, the Urban and Regional Councils have been trailblazing ahead of society and many Members of this Council and could be said to possess far-sightedness and vision.

I so submit.

MR HENRY TANG (in Cantonese): Madam deputy, anyone had been toiling during the prime years of his life must have made certain contribution to our community and economy as a whole, notwithstanding whether he was an influential person or a humble labourer. Therefore, such people deserve to enjoy all sorts of preferential treatment in terms of transport, food and drink, recreation and cultural activities by the time they retire. This is a kind of community repay and a means to honour the elderly.

At present, most of the transport companies have already taken the initiative to foster respect for the elderly by making fare concession. Almost all those aged 65 and above can enjoy half fare concession. This is very laudable indeed. Last week when the Executive Council approved an application for a rise in tram fares to be effective from next month, one additional condition was that the tram company should offer persons aged 65 and above half fare concession. This kind of constructive measures, which may put pressure on other profit-making firms to demonstrate greater sense of social responsibility, is to be encouraged.

Madam deputy, I support Mr HUI Yin-fat's original motion because I feel that we should adopt a progressive approach. The concession scheme, as a first step, should be offered to persons aged 65 and above. And I would be delighted if businesses such as the Citybus and the Telephone Company volunteer to lower the eligibility age to 60. However, "whatever one is given, one pays for", as the saying goes. In other words, to extend the concession scheme to the 230 000 people aged between 60 to 64 may impose a heavier burden on the fee-paying population below 60. Furthermore, as it is rightly pointed out by the Honourable HUI Yin-fat, we do not wish to see the five years difference trigger off a row that would pose an obstacle to the Government in its efforts to ask for concession from other institutions and result in the whole scheme to be shelved.

Madam deputy, with these remarks, I support the original motion.

DR YEUNG SUM (in Cantonese): Madam deputy, according to the definition of the United Nations, any country with a population of which 7% are people aged above 65 will be considered an "aging society". From such standard, Hong Kong could be classified as an aging society. It was estimated in the 1991 *White Paper on Social Welfare into the 1980s and Beyond* that there would be an increase of nearly 200 000 senior citizens in the population of Hong Kong by the year 2000. Faced with such a structural change in our population, it is necessary for the Government to take corresponding changes in its welfare policies. That explains why, in the Governor's policy address, welfare service for the elderly is described as one of the main tasks for this year. Moreover, I am also very pleased that the Honourable HUI Yin-fat moves a motion debate on senior citizen card at this timely moment so that we can show our support to this debate to express our concern for the welfare of the elderly.

I think that one very basic concept we have to bear in mind when we map out welfare measures for the elderly is to enable the elderly to lead a free and independent life. They, having sweated and toiled in the past for society, deserve our respect and preferential treatment in return today. To achieve this objective, apart from ensuring that they have steady and sufficient income to maintain a reasonable standard of living, it is very important to make available to them as many opportunities for inter-personal contacts as young people have so that they can live happily and be prevented from being isolated in society. A number of academic surveys indicate that perpetual loneliness is the main cause for suicides among the elderly.

In this connection, in principle the United Democrats of Hong Kong (UDHK) strongly support the idea of issuing senior citizen cards. The Honourable Martin LEE has mentioned in his speech about our past efforts in fighting for preferential treatment for the elderly in transport services. Of course we hope that such concessions are not confined to public transport alone; other public organizations, private firms and statutory bodies providing public services should offer concessions to the elderly as well.

Concessions to the elderly in public transport services will not only reduce their expenses and increase their disposable financial resources, but will also encourage them to remain active in social intercourse and to mix with the outside world by participating in all kinds of cultural and recreational activities

The implementation of the senior citizen card scheme relies on the support of the Government, public utilities and private firms. The part about the obligations of public utilities has been explained at great length by the Honourable LAU Chin-shek in his speech. Public utilities earn huge profits every year. It is their responsibility to repay society by doing something meaningful in return. In this connection, as a gesture of encouragement from the community and the public, the Government should also offer some concessions such as tax relief, as an incentive to urge public utilities or private firms to play an active role in this scheme.

With regard to the question of the eligibility age, the Honourable WONG Wai-yin has moved an amendment to the effect that senior citizen cards should be issued to those aged 60 and above. In the information he provided before this debate, the Honourable HUI Yin-fat has indicated that he did not specify the eligibility age for concessions in the hope that there will not have any further delays. We indeed appreciate that the Honourable HUI Yin-fat did so out of good intentions.

In the past, UDHK have all along supported drawing the line at the age of 60. During the consultation exercise for retirement protection, likewise we put forward the view that people aged 60 or above should be entitled to receiving pension. Actually judging from certain existing government policies, such as the one in respect of the retirement age of civil servants, we can see that in the Government's view, people aged above 60 are no longer economically active. Such view is also reflected in the eligibility age the Government set for public assistance. It is clear therefore that the eligibility age of 60 is basically not unfounded in presentday society and is not drawn up at whim.

As to whether the scheme will be unduly delayed, UDHK think that since the Government has started to set in motion the scheme, there should be no question of its sincerity. If the Government eventually chooses to abandon the scheme simply because the amendment is carried in the Legislative Council, then the Government should be held responsible for its decision, and in that case I believe the officials owe this Council and the general public an explanation.

To UDHK, the lowering of the eligibility age for senior citizen card to 60 is one aspect of welfare protection for the elderly. If the eligibility age for the senior citizen card scheme can start at 60, the Government may then expand, in a progressive manner, other welfare services for the elderly such as, among others, retirement protection and old age allowance. In the long run, more elderly persons who are in need will be benefited. Therefore we support the amendment moved by the Honourable WONG Wai-yin.

However, today's motion debate seems to focus on the issue of the eligibility age, that is, whether the line should be drawn at 60 or 65. I hope that we could look at the discussion from more different perspectives. I would like to present the following proposals on behalf of UDHK:

Firstly, the Government should liaise with various transport operators as soon as possible and, by way of appropriate measures such as tax relief, encourage the provision of concessions on a 24-hour basis for the elderly aged 60 and above expeditiously;

Secondly, to increase the quota of priority discs for medical consultation for the elderly;

Thirdly, to set up an Elderly Service Subcommittee which is responsible to the Governor as early as possible. I hope the Government can enhance the representativeness of this subcommittee. Moreover, the Government should appoint a commissioner for elderly service at a deputy secretary level to co-ordinate all matters concerning the elderly's well being with a view to rectifying the present piecemeal services.

THE PRESIDENT resumed the Chair.

DR TANG SIU-TONG (in Cantonese): Mr President, the Administration will spend \$10 million for the purpose of issuing from 1 April next year "senior citizen cards" to those who are 65 years old or above. These cards are meant to be convenient proof of their age for the purpose of enjoying preferential treatment provided by certain organizations. This seems to be a benevolent measure. But what is regrettable is that this measure is just form rather than substance since the Administration has neither required the government bodies concerned nor encouraged private institutions to actively participate in the preferential scheme for senior citizens. Therefore such a scheme, having no substance at all, exists in name only. And the senior citizen card will only be another identity card for the elderly people.

In 1991, the General Assembly of the United Nations endorsed and passed five principles relating to elderly people and encouraged the governments of member states to give effect to 18 counts of elderly rights on the basis of these five principles. These five principles are: independence, participation, care, self-fulfilment and dignity. The principles of participation and self-fulfilment include the following five basic concepts:

- (1) elderly people should integrate into society;
- (2) elderly people should seek and develop the opportunities for serving society;
- (3) elderly people should organize movements for the elderly and form their own association;
- (4) elderly people should seek opportunities for developing their potentials to the full; and
- (5) elderly people should enjoy the resources for social education and cultural and recreational activities.

To implement the principles of participation and self-fulfilment would require the assistance of the Administration, the voluntary organizations and those who are enthusiastic and willing to help. But what is more important is that the elderly should be able to lead a stable life. Only in the absence of

financial difficulties will the elderly be able and in the mood to effectuate the principles of social participation and self-fulfilment. As the saying goes, "well fed, well bred"; this is a true reflection of reality.

According to the findings of a survey conducted by the Elderly Rights League (Hong Kong) last year, the monthly basic living expenditure of an elderly singleton is \$1,891, not including the expenditure on rents. Currently, an elderly person living alone gets \$1,550 a month in comprehensive social security assistance while those living with their family members get \$1,285 a month. It can be seen from these figures that the life of the elderly in general is relatively difficult. In these circumstances, I do not think that they are able to take part in society.

To pressurize the Administration into enhancing the welfare benefits for the elderly and increasing the amount of the assistance under the Comprehensive Social Security Assistance Scheme would be tantamount to asking the Administration to go against its own interests. Why does the Administration not do the elderly a ready favour by actively encouraging private companies to participate in the preferential scheme for senior citizens such that preferential treatment in transport, medical care, shopping, food and drink, cultural and recreational activities can be offered to the elderly, and thereby reducing the pressure of life on them and encouraging them to take part in society and attain self-fulfilment?

I wholly espouse Mr HUI Yin-fat's motion. The Administration should make it a rule that the relevant public and statutory bodies must participate in the scheme, and it should also encourage the participation of private organizations. Only then can the preferential scheme be really implemented. However, I think that the preferential scheme is only the basic measure for encouraging social participation and self-fulfilment on the part of the elderly people. The most important thing is that the Administration should implement the community-based elderly care programme.

As regards Mr WONG Wai-yin's proposal of lowering the qualifying age for the senior citizen cards to 60 years, I do not know what the rationale behind it is. The retirement age adopted by some organizations is 55. Then why do we not set the age of eligibility for the scheme at 55? "To honour other aged people as we honour our own" is a traditional Chinese virtue which deserves our observance. The aim of Mr HUI Yin-fat's motion is to promote the practicality of the senior citizen card such that the elderly can really be benefited in various aspects. Mr WONG Wai-yin's demand for lowering the age of eligibility to 60 would appear to be overdoing it to the point of nitpicking.

I consider that the age of eligibility for the preferential scheme should in the long run be lowered to 55 which is the retirement age adopted by organizations in general. However, this is not something that can be achieved

today. We cannot reach our aim in one go. But given the improvements of our society and economy, that will of course be one of our objectives.

Today is 10 November and the annual Festival for the Elderly is not far away. Although this festival usually does not have a very festive atmosphere, I hope that society will not forget our elderly who have worked hard and contributed to our society. I hope that in her reply later on, the Secretary for Health and Welfare can present a gift to our elderly people in this year's Festival for the Elderly by accepting the proposals in the motion.

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

DR HUANG CHEN-YA (in Cantonese): Mr President, I had not intended to speak. Yet, I changed my mind after hearing Dr LAM Kui-chun's remarks about the definition of "old age" from a professional point of view just now. Today's debate is about the elderly, which has raised a question of where the line should be drawn in respect of "old age": 60 or 65. In this connection, I would also like to say a few words about "old age" from a professional point of view.

In fact, "old age" is not a cut-and-dried concept. There is an old Chinese saying that "People rarely live to 70." Under such circumstances, people at the age of 60 was certainly very old because very few people could attain the age of 70. At the end of the 19th century, the average life expectancy of the Americans was merely 40 and, therefore, people aged 60 was already regarded as very old. I remember when I was studying in medical school, people in India could be eligible for admittance to homes for the aged when they attained the age of 40 and people aged 60 were already in a senile state. However, things have changed. Now in China, the inclusion of people aged 60 into the Political Bureau is already considered as a move to lower the average age of the members. In many western countries nowadays, there is no definite retirement age. A good many elderly still feel that they are not old. The fact is that, with the improvement in living conditions, people at senior age are not regarded as very old. We can put it in this way: only people at really very senior age should be considered "old". For this reason, people in different times may define "old" in terms of age differently and people from different social strata may define "old" or otherwise differently because of their different living conditions.

Hong Kong people who are presently aged 60 were brought up at a time when Hong Kong's economy was relatively poor and their health is definitely not as good as their counterparts in the West. In this connection, we virtually cannot assess their needs by the standard of the Westerners, nor can we compare their health with that of the Chinese leaders at Zhongnanhai. We, of course, hope that one day Hong Kong people can live under the protection of a good social policy and a sound health policy so that they do not feel old and ask for senior citizen card when they reach the age of 70 and even 80. However, Hong Kong people aged 60 are certainly senile. They would not like to be

senile themselves and their senility is not simply resulted from declining health or age. It is, in fact, due to the strains of day-to-day survival. Over the years the Hong Kong Government has failed to offer adequate care for our citizens' health and welfare, making them becoming old before their age. In this connection, I think we should, out of our reverence for the aged, respect people aged over 60.

PRESIDENT: Mr HUI, do you wish to reply to the amendment? You have five minutes.

MR HUI YIN-FAT (in Cantonese): Mr President, I would like to ask my colleagues to consider the following two points before they cast their votes in support of, or in opposition to, the amendment:

First, the senior citizen cards will become useless even if the Government is willing to issue the cards to people who have reached the age of 60 when most of the existing concessions are merely available to people aged 65 or above. On the contrary, those aged 65 or above holding the senior citizen cards can enjoy the preferential treatment offered by organizations which are willing to offer concessions to people who have reached 60. This includes the services provided by the Urban Council and the Regional Council as mentioned by Mrs Elsie TU.

Second, what if we pass the amended motion that the cards shall be issued to people who have reached 60 and the Government decides to, as a result, delay or shelve such a scheme? How can we account for this to the elderly aged 65 or above?

Thank you, Mr President.

SECRETARY FOR HEALTH AND WELFARE: Mr President, this is a sample of the Senior Citizen Gold Card to be introduced by the Social Welfare Department from April next year for senior citizens aged 65 and above. The Senior Citizen Card Scheme is a meaningful and worthwhile scheme and it should bring real benefits to our elderly persons. However, the success of the scheme will depend on the collective community response to it.

Senior Citizen Card Scheme

The Senior Citizen Card, designed for the convenience of elderly persons, is neither meant to be a replacement for the Hong Kong identity card, nor is it in itself a discount card. It is a proof of age for the holder. As such, holders of such a card will not have to show their Hong Kong identity card in order to obtain concessionary fares and discount rates. This scheme is to reinforce the respect for and to reflect the venerated status of elderly people in our society.

The application procedure for the card is simple. All the applicant has to do is to fill in a simple form and send it in together with a photograph and a photocopy of his or her Hong Kong identity card. Application by mail is also acceptable. We expect that about 400 000 elderly people will apply for the card in the first year. Details of the scheme will be announced soon and I ask elderly persons to look out for public announcements on the scheme in the media.

Community participation

Government's promotion of the scheme alone is not enough. Without community support, a card is only a card. We intend to publicize the card to elderly persons themselves and to the community at large. We hope to encourage more companies and organizations to introduce concessionary schemes and discount rates for elderly people. I shall personally be appealing to public and private organizations to take part in this worthy scheme.

The Senior Citizen Card Scheme is intended to be a voluntary scheme. There is, and can be, no compulsion. It would be against the spirit of voluntary community participation if concessionary fares and discount rates are made mandatory for elderly persons. There might even be a backlash against the card if the scheme were turned into a compulsory preferential scheme for elderly people. The Honourable Martin LEE was perfectly right when he said that the original idea behind the scheme was to encourage our young people to respect our elderly people. This is precisely what the card is intended to reflect. This scheme is about respect and concern for elderly people. Respect and concern cannot be induced by coercive means.

Existing concessions

As quite rightly pointed out by Dr the Honourable HUANG Chen-ya, the definition of age does vary between countries and societies. Indeed, I am often very surprised that men are described to be as old as they feel and women are described to be as old as they look. *(Laughter)* I think there is something wrong with that definition. So a very important question is : Why set the card at the age of 65? I think that is much debated here. The answer is self-evident. The present concessionary schemes provided by public transport operators and other companies and organizations are in the main for persons aged 65 and above. If we were to issue the card to persons under 65, it would neither be of use to the providers nor of benefit to the users. Our card is to meet the pressing need of elderly people for a proof of age to facilitate their use of concessions. For practical reasons, the card should therefore be issued to persons aged 65 and above.

Again, as rightly pointed out by the Honourable Miriam LAU, the transport concessions have been made possible partly as a result of the waiver of government fees and rental charges and partly by the operators at a cost to their shareholders. The revenue forgone by the Government alone is some \$65 million a year. I should state categorically that many public transport

operators are not prepared to lower the age eligibility to 60. To insist on this would have serious impact, I think, on fares for the rest of the fee-paying population. Furthermore, I do not have the necessary funds to issue a card for those of a lower age group. I must reiterate that such a card would have no purpose when it would not be recognized by those who offer concessions. As the Honourable HUI Yin-fat said, our elderly people would end up being asked to show their Hong Kong identity card to prove eligibility. Surely, we do not want that. Thus we have no intention either to churlishly abandon the issue of the card or to carelessly lower the eligibility age below 65.

I am very grateful to the Honourable Elsie TU's comprehensive information on the concessions available to elderly people initiated by the municipal councils. We appreciate that there are concessionary schemes offered to persons aged below 65. This is wonderful. This is very laudable. We are confident that such concessionary schemes will continue.

We in Hong Kong have a very good time-honoured tradition of respect and concern for elderly persons. Let us build on this. Let us make it better.

Question on Mr WONG Wai-yin's amendment put.

Voice vote taken.

PRESIDENT: Council will need to proceed to a division.

PRESIDENT: Would Members please proceed to vote?

PRESIDENT: Do Members have any queries? If not the results will now be displayed.

Mr Martin LEE, Mr SZETO Wah, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin and Ms Anna WU voted for the amendment.

The Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr PANG Chun-hoi, Mr Andrew WONG, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Jimmy McGREGOR, Mr Peter WONG, Mr Vincent CHENG, Mr Moses CHENG, Mr Timothy HA, Mr Simon IP, Mr Steven POON, Mr Henry TANG, Mr Howard YOUNG and Dr TANG Siu-tong voted against the amendment.

Mrs Elsie TU, Miss Emily LAU and Mr Roger LUK abstained.

THE PRESIDENT announced that there were 17 votes in favour of the amendment and 21 votes against it. He therefore declared that the amendment was negatived.

PRESIDENT: Mr HUI, do you wish to reply generally? You have 1 minute 24 seconds.

MR HUI YIN-FAT (in Cantonese): Mr President, I am very grateful for Members' participation in today's debate. As we have already taken the first step—to show our respect for the elderly by providing people aged 65 or above with a preferential treatment scheme, I hope that the Government will issue the cards in next April and that we will strive for their well-being so that they can enjoy more concessions in future. I also hope that the Government could, in the light of the elderly's needs, consider lowering the eligibility age to 60.

Thank you, Mr President.

Question on Mr HUI Yin-fat's motion put and agreed to.

Private Member's Bill

First Reading of Bill

BISHOP OF THE ROMAN CATHOLIC CHURCH IN HONG KONG INCORPORATION (AMENDMENT) BILL 1993

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

Second Reading of Bill

BISHOP OF THE ROMAN CATHOLIC CHURCH IN HONG KONG INCORPORATION (AMENDMENT) BILL 1993

MR RONALD ARCULLI moved the Second Reading of: "A Bill to amend the Bishop of the Roman Catholic Church in Hong Kong Incorporation Ordinance."

MR RONALD ARCULLI: Mr President, I move the Second Reading of the Bishop of the Roman Catholic Church in Hong Kong Incorporation (Amendment) Bill 1993.

The Roman Catholic Church has been active in Hong Kong for more than 150 years. Besides being a religious institution, it has operated schools, hospitals and provided many other charitable and community services.

The Bishop of the Roman Catholic Church in Hong Kong was first incorporated as a corporation sole in 1885. Although active in the local community for many years, the institution does not have an official Chinese name. It is now proposed to give legal recognition to the Chinese name, long used by the Church in Hong Kong, which is 天主教香港教區. The corresponding English name, The Catholic Diocese of Hong Kong, is also needed to be added to complement the Chinese version and to assist public understanding that the corporation sole, namely, the institution of the Bishop, is a legal entity representing the Roman Catholic Church in Hong Kong and not just the individual who is occupying the office for the time being.

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

Adjournment and next sitting

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 17 November 1993.

Adjourned accordingly at twenty-seven minutes to Nine o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Security and Guarding Services Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

WRITTEN ANSWERS

Annex I

Written answer by the Secretary for Security to Ms Anna WU's supplementary question to Question 1

Considerable resources have been employed by the Police Force to train officers and to prepare them adequately to handle cases of domestic violence. In fact, all police officers have, at various stages of their career, received some training on how to handle domestic violence cases. It is, however, difficult to quantify the resources employed, because the training courses are part and parcel of a comprehensive training programme provided to officers throughout their career. Details of this training are set out in the Appendix. The exact number of officers undergoing training at any one time varies considerably according to the number of officers recruited into the Police Training School and the availability of serving officers; but it is fair to say that all police officers are trained to deal with cases of domestic violence.

Appendix

Training for Police Officers on Domestic Violence

I. *Training provided at the Police Training School*(i) *Recruit Police Constables and Women Recruit Police Constables*

Training on domestic disputes is given to all on joining the Force. A training video is used which shows how to handle such a dispute. Harmony House visual material is on display pending production by the Force of its own material on the use of this facility.

(ii) *Women Recruit Police Constables*

All Women Recruit Police Constables receive a lecture from a member of staff from Harmony House. Women Recruit Police Constables are most likely to be asked to deal with a woman who alleges an assault by a spouse.

(iii) *Regional Continuation Training Scheme for Police Constables*

The Scheme is attended by all Police Constables, both male and female, during their first two years of operational service. The handling of a domestic dispute is taught again. The Domestic Violence Ordinance Cap 189 is taught during this session.

WRITTEN ANSWERS—Continued*(iv) Police Constables Fifth Year Continuation Training Course*

Handling domestic disputes is a major part of this course. Two training videos, a booklet (in Chinese), discussion of problems encountered and practices used, all form part of the training.

(v) Probationary Inspectors

Probationary Inspectors (both male and female) are taught the Domestic Violence Ordinance as they will supervise police action taken in domestic dispute cases.

(vi) Station Sergeants Promotion Course

Newly promoted Station Sergeants are taught the same course as Probationary Inspectors.

II. *Training provided at the Detective Training School.*

- (i) Special courses for Women Officers are run to train them to deal with victims of sexual assault and child abuse. This 14-day course is addressed by a variety of speakers, particularly the Senior Force Psychologist.
- (ii) Lectures are given on the questioning of victims and witnesses in circumstances where special care is needed, that is, victims of sexual crime, mentally retarded persons and those who are considered to be in need of special consideration; this includes those affected by domestic violence.

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

I append a list of these installations divided into two groups—those for which the full process of hazard assessment, planning study and action plan has been completed and those for which at least part of the process is still outstanding.

WRITTEN ANSWERS — *Continued*

I should emphasize that the extent to which the process referred to has been completed should not in itself be used as the yardstick to judge the safety of the particular installation. The fact that the process has not been completed does not automatically mean there is something wrong with an installation or that it needs relocating. For instance, some of the installations included under Class C of Group II of list attached have been classified as potentially hazardous only very recently as a result of the tightening up of the definition. We will know if they comply with the risk guidelines and what, if any, risk mitigation measures are required only when the necessary assessments have been done.

Appendix

Potentially Hazardous Installations

I. *Process of Hazard Assessment, Planning Study and Action Plan Completed*A. *LPG Store/Oil Terminal and Related Facilities*

1. Shell LPG store, Heng Fa Chuen, Chai Wan
2. Shell LPG transit depot/bulk store, Ap Lei Chau
3. Caltex Oil Terminal, Tsing Yi
4. Esso LPG store, Fu Shin Estate, Tai Po
5. Esso Oil Terminal, Tsing Yi
6. China Resources Oil Terminal, Tsing Yi
7. Shell Oil Terminal, Tsing Yi
8. Esso LPG store, Butterfly Estate, Tuen Mun
9. Mobil Oil Terminal, Tsing Yi
10. Caltex LPG store, Kwong Fuk Estate, Tai Po

B. *Gas Production Plant or Gas Holder*

1. Hong Kong and China Gas Company Limited gas holder, Shek Pai Wan, Aberdeen

WRITTEN ANSWERS — *Continued*

2. Hong Kong and China Gas Company Limited gas production plant, Tai Po Area 26
3. Hong Kong and China Gas Limited LPG/air mixing plant, Tuen Mun Area 16

C. *Chlorine Stores*

1. Water Supplies Department (WSD) Water Treatment Works (WTW), Sha Tin Area 9
2. WSD WTW, Shing Mun Road, Kwai Chung
3. WSD WTW, Au Tau, Yuen Long
4. WSD WTW, Tuen Mun Area 22
5. WSD WTW, Castle Peak Road, Tsuen Wan
6. WSD WTW, Fu Tei Au Road, Sheung Shui
7. WSD WTW, South Lantau Road, Lantau
8. WSD prechlorination plant, Tai Lam Chung
9. WSD WTW, Tai Po Area 21

D. *Government Explosives Depot/Explosives Factory*

1. Government explosives depot, Stonecutters Island*

* Note: No formal hazard assessment, planning study and action plan required because of isolated location.

II. *Process of Hazard Assessment, Planning Study and Action Plan not yet completed***A.** *LPG store/Oil Terminal and Related Facilities*

1. Mobil LPG store, Mei Foo Sun Chuen
2. Shell industrial LPG store in San Miguel Brewery, Sham Tseng

WRITTEN ANSWERS — *Continued***B.** *Gas Production Plant or Gas Holder*

1. Hong Kong and China Gas Company Limited gas production plant, Ma Tau Kok Road

C. *Chlorine Stores*

1. WSD WTW, Sai Kung
2. WSD WTW, Aberdeen
3. WSD WTW, Shek Lei Pui
4. WSD WTW, Eastern
5. WSD WTW, Tai Po Road

D. *Government Explosives Depot/Explosives Factory*

1. Kowloon Government Explosives Depot, near Tai Po Road
2. Explosives factory, Mau Yau Tong

E. *Liquid Oxygen Storage*

1. Hong Kong Oxygen and Acetylene Company Limited, Tseung Kwan O

Annex III**Written answer by the Secretary for Planning, Environment and Lands to Mr LEE Wing-tat's supplementary question to Question 4**

The United Kingdom Notification of Installations Handling Hazardous Substances Regulations 1982 define a threshold quantity for each hazardous product and if any company proposes an activity involving the storage of that amount or more the authorities must be notified.

WRITTEN ANSWERS — *Continued*

In Hong Kong, a greater degree of control is exercised by the Government because much lower threshold quantities are specified. For LPG, for example, the "Notification" quantity is 25 tonnes. In Hong Kong, if the storage of LPG is 25 tonnes or more it is classified as a PHI. However, permission from the Government is required to store quantities of 130 litre water capacity, that is, approximately 60 kg.

We have written to the United Kingdom Health and Safety Executive to check whether the 1982 Regulations have been revised. I will inform you of the response. In the meantime, please rest assured that the threshold quantities for PHI classification in Hong Kong are regularly reviewed by the CCPHI to suit local conditions or changing circumstances in any case.

Annex IV**Written answer by the Secretary for the Civil Service to Mr Steven POON's supplementary question to Question 5**

The Official Secrets Act (1989) as extended to Hong Kong by the Official Secrets Act 1989 (Hong Kong) Order 1992 applies to persons who are or who have been Crown servants or government contractors and who have or have had official information in their possession.

"Crown servant" as used in the Act means (i) any person holding an office of employment under the Crown in right of the Government of Hong Kong, for example civil servants, police officers and judges; (ii) a member of the Armed Forces; and (iii) a person or a body prescribed by the Governor.

As public bodies such as the Hospital Authority, Vocational Training Council, Securities and Futures Commission, the Provisional Airport Authority and the Mass Transit Railway are not bodies prescribed by the Governor, neither they nor their employees are "Crown servants". However any former civil servant serving with such a public body would continue to be subject to the Official Secrets Act, insofar as his former employment as a Crown servant was concerned.

Under the 1989 Act it is an offence to disclose information shown to have damaged national interests (Hong Kong's or the United Kingdom's) in a specified way (defence, security, crime, investigations, international and State relations). If a member of the public comes by official information, for example official information disclosed to him by a Crown servant or contractor without lawful authority, it would be an offence to further disclose this

WRITTEN ANSWERS — *Continued*

information without lawful authority. Members of the public are not otherwise bound by the Official Secrets Act.

Finally the rules relating to post-retirement employment of former civil servants do not apply to employees of these public bodies as they are not civil servants and are not in receipt of a civil service pension.

