

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 22 February 1995

The Council met at half-past Two o'clock

PRESENT

THE PRESIDENT

THE HONOURABLE SIR JOHN SWAINE, C.B.E., LL.D., Q.C., J.P.

THE CHIEF SECRETARY

THE HONOURABLE MRS ANSON CHAN, C.B.E., J.P.

THE FINANCIAL SECRETARY

THE HONOURABLE SIR NATHANIEL WILLIAM HAMISH MACLEOD, K.B.E., J.P.

THE ATTORNEY GENERAL

THE HONOURABLE JEREMY FELL MATHEWS, C.M.G., 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 RONALD JOSEPH ARCULLI, O.B.E., J.P.

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

THE HONOURABLE MOSES CHENG MO-CHI

THE HONOURABLE MARVIN CHEUNG KIN-TUNG, O.B.E., J.P.

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

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

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

THE HONOURABLE SIMON IP SIK-ON, O.B.E., J.P.

DR THE HONOURABLE LAM KUI-CHUN

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

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

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

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

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

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

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

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

THE HONOURABLE ANNA WU HUNG-YUK

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

THE HONOURABLE ALFRED TSO SHIU-WAI

THE HONOURABLE LEE CHEUK-YAN

ABSENT

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

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

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

THE HONOURABLE STEVEN POON KWOK-LIM

IN ATTENDANCE

MR MICHAEL LEUNG MAN-KIN, C.B.E., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

MR MICHAEL SUEN MING-YEUNG, C.B.E., J.P.
SECRETARY FOR HOME AFFAIRS

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

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

MR NICHOLAS NG WING-FUI, J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

MR DOMINIC WONG SHING-WAH, O.B.E., J.P.
SECRETARY FOR HOUSING

MRS KATHERINE FOK LO SHIU-CHING, O.B.E., J.P.
SECRETARY FOR HEALTH AND WELFARE

MR PETER LAI HING-LING, J.P.
SECRETARY FOR SECURITY

MRS RACHEL MARY BEDFORD CARTLAND, J.P.
SECRETARY FOR RECREATION AND CULTURE

MRS WEI CHUI KIT-YEE, LESSIE, J.P.
SECRETARY FOR FINANCIAL SERVICES

THE CLERK TO THE LEGISLATIVE COUNCIL
MR RICKY FUNG CHOI-CHEUNG

THE DEPUTY SECRETARY GENERAL
MR LAW KAM-SANG

PAPERS

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Air Pollution Control (Vehicle Design Standards) (Emission) (Amendment) Regulation 1995	37/95
Country Parks and Special Areas (Amendment) Regulation 1995	38/95
Pesticides (Amendment) Regulation 1995	39/95
Mass Transit Railway Corporation (Increase in Authorized Capital) Order 1995	40/95
Mental Health (Pamela Youde Nethersole Eastern Psychiatric Observation Unit) (Mental Hospital) Order	41/95
Public Health and Municipal Services Ordinance (Public Markets) (Cancellation of Designation) Order 1995.....	42/95
Declaration of Markets in the Regional Council Area (Amendment) Declaration 1995.....	43/95
Public Health (Animals and Birds) (Amendment) Regulation 1995	44/95
Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 1995	45/95
Dairies (Amendment) Regulation 1995.....	46/95
Public Health (Animals and Birds) (Exhibitions) (Amendment) Regulation 1995	47/95
Public Health (Animals) (Boarding Establishment) (Amendment) Regulation 1995	48/95
Public Health (Animals) (Riding Establishment) (Amendment) Regulation 1995	49/95
Pounds Fees (Amendment) Regulation 1995	50/95

Animals and Plants (Protection of Endangered Species) Ordinance (Replacement of Schedule 4) Order 1995.....	51/95
Plant (Importation and Pest Control) (Fees) (Amendment) Regulation 1995	52/95
Insurance Companies (Authorization and Annual Fees) (Amendment) Regulation 1995.....	53/95
Insurance Companies (Register of Insurers) (Prescribed Fee) (Amendment) Regulation 1995	54/95
Occupational Retirement Schemes (Fees) (Amendment) Rules 1995.....	55/95
Business Registration (Amendment) Regulation 1995.....	56/95
Business Registration Ordinance (Amendment of Schedule 2) Order 1995.....	57/95
Hong Kong Airport (Traffic) (Amendment) Regulation 1995	58/95

Sessional Papers 1994-95

- No. 65 — Trustee's Report on the Administration of the Education Scholarships Fund for the year ended 31 August 1994
- No. 66 — Report by the Commissioner of Correctional Services on the Administration of the Prisoners' Welfare Fund for the year ended 31 March 1993
- No. 67 — Li Po Chun Charitable Trust Fund Annual Report for the Period 1 September 1993 to 31 August 1994

ORAL ANSWERS TO QUESTIONS

Singleton Hostels

1. MRS PEGGY LAM asked (in Cantonese): *Mr President, as the overall vacancy rate of the 17 singleton hostels provided by the Home Affairs Department for housing lodgers in "caged homes" is as high as 60%, will the Government inform this Council of the following:*

- (a) *what measures it will take to enhance the occupancy rate of the hostels;*
- (b) *whether it will consider relaxing the eligibility criteria for admission into the hostels, such as accepting applications from street sleepers and public assistance recipients; and*
- (c) *whether it will review the effectiveness of singleton hostels in solving the housing problem of single persons since their inception in 1991, and whether it will review the future development of the singleton hostel service?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Mr President, Honourable Members will recall that at the resumption of debate on Second Reading of the Bedspace Apartments Bill in April last year, the Chairman of the Committee mentioned the need to rehouse lodgers who might have to be displaced from those apartments requiring improvement works to be carried out to enhance their fire and building safety. In response, I gave an undertaking that efforts would be made to rehouse 1600 of the some 3 200 lodgers at that time through the adoption of a diversity of methods by the Home Affairs Department, Housing Department and the Social Welfare Department.

We envisaged that the Social Welfare Department would take care of those who are eligible for compassionate rehousing through the Housing Department Compassionate Rehousing Scheme or through admission into welfare institutions. Those needy lodgers who fall outside these categories would be eligible to apply for admission into singleton hostels provided by the Home Affairs Department.

For the above reason, one of the eligibility criteria for admission into singleton hostels provided by the Home Affairs Department is that an applicant has to be an existing lodger of a bedspace apartment.

The licensing scheme under the Bedspace Apartment Ordinance is being implemented in phases. The demand for singleton hostel accommodation will rise steadily as the scheme gets under way and will reach its peak by the end of 1996 upon full implementation so the occupancy rate is relatively low at present.

As singleton hostels are established to fulfil Government's commitment to rehouse half of the bedspace apartment lodgers, it is not considered opportune to relax the eligibility criteria at this juncture to include non-bedspace apartment lodgers, such as street sleepers and public assistance recipients. To do so will reduce our ability to rehouse needy bedspace apartment lodgers into singleton hostels at the appropriate time.

Government will keep under review the effectiveness and the development of hostels run by the Home Affairs Department in rehousing bedspace apartment lodgers.

MRS PEGGY LAM (in Cantonese): *Mr President, the Secretary has pointed out in his reply that half of the 3 200 lodgers will be rehoused. If the number of displaced lodgers who require rehousing exceeds 1 600, does the Secretary have any other measures to rehouse those who are not admitted to singleton hostels?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Mr President, the undertaking we made last year was based on several assumptions. If the number of lodgers to be rehoused exceeds half of the existing number of lodgers, we hope we will have adequate means to resolve the problem. As I have mentioned earlier, the Compassionate Rehousing Scheme is mainly administered by the Housing Department. Every year, the Housing Department allocates a certain number of units for various government departments to provide the relevant services. As regards those who are not eligible for compassionate rehousing, most of them can be admitted to the singleton hostels operated by the Home Affairs Department (HAD). We have, at present, 17 singleton hostels, and more hostels of this type will be provided if necessary so that more displaced lodgers may be served. Moreover, we have a sum of money available for this purpose. We will pay close attention to the demand of the coming two years and, if necessary, additional singleton hostels will be made available at the earliest possible time.

MR LEE WING-TAT (in Cantonese): *Mr President, it has been widely reported in the press that conditions of a caged home operated by a principal tenant of a property of the Tung Wah Group of Hospitals (the Group) are extremely unhygienic and the caged home operator is widely criticized by members of the public. Will the Secretary inform us whether the Group and the HAD have approached the lodgers of this apartment and informed them that they may apply for admission to the singleton hostels operated by the HAD? If so, what is the result? If not, will the Group or the HAD conduct a survey to see if the lodgers in the above-mentioned caged home are in need of places in the singleton hostels run by the HAD?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Mr President, the HAD had sent staff to inspect the premises mentioned above in accordance with our licensing scheme prior to the disclosure of this specific case by the press. As I have mentioned earlier, the licensing scheme is being implemented in phases. The first phase is the sending of staff to inspect the premises in order to ascertain the number of bedspace apartments. It is found that there are at present 150 bedspace apartments in the territory. We have asked the operators to apply for temporary licences from the HAD pursuant to the provisions in the

relevant Ordinance. Among these 150 apartments, 149 of them have applied for temporary licences as required under the relevant Ordinance. We have some preliminary understanding as regards the living environment of these 149 apartments, and detailed inspection of each apartment will be further conducted. Then we will begin the second phase of the scheme. In the light of the licensing conditions and the relevant provisions in the Ordinance, we will inform the operators of the improvement works that have to be carried out or the number of lodgers that has to be reduced. In fact, the second phase has already commenced.

As regards the particular example concerning the Group as raised by the Honourable Member, after the disclosure of the case by the press and the radio, the staff members of the HAD and the Group have gone to the premises to acquire an understanding of the need of the dwellers in the premises. We have asked them whether they would like to accept our arrangement for them to be rehoused elsewhere. Information at hand shows that a majority of dwellers in the above premises have expressed the hope of moving to some nearby hostels, if possible. We are therefore looking at the possibility of making arrangements for them to be rehoused in the vicinity of the premises. They have indicated that, in case we fail to provide them with places in nearby hostels, they are not willing to move to faraway places. Anyway, we will follow up the case.

MR JAMES TO (in Cantonese): *Mr President, as regards the vacancy rate of the 17 hostels which is as high as 60%, the Secretary has tried to give an explanation in paragraph four of his main reply. His explanation is that the high vacancy rate has resulted from the fact that the Ordinance has not been fully implemented and that the demand will peak once the Ordinance is implemented in full. First of all, is the Secretary aware of or has the Secretary enquired into the reasons why the existing bedspace apartment dwellers refuse to move into singleton hostels? Is it simply because the Ordinance has not come into effect? Or is it because the conditions for admission to singleton hostels operated by the HAD are too rigid? Many people are discontented with the facilities and the partitioning of these hostels. Moreover, there is a condition restricting a group of friends from residing together. Lodgers are even required to have a proper job and be able to pay rent. Are these requirements too harsh? If this situation persists, the overall vacancy rate of these hostels may well stay at this high level. Does the Secretary think that this situation is acceptable?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Mr President, it is of course unacceptable if the occupancy rate of the hostels remains low in the future, because in providing these hostels, we intend to achieve a specific purpose. As for the reasons behind the high vacancy rate, I think our understanding differs from the Honourable Member's. We have studied the situation and a survey has been conducted. As the Honourable James TO has said, some people may think that the requirements for hostel occupancy are too harsh and rigid. For example, four or five friends are not allowed to reside

together, the lodgers are not allowed to play mahjong in the hostels and karaoke activities are also prohibited. We must be aware that it is necessary to lay down some requirements for these singleton hostels and we do not think that these requirements are too rigid since there are many people residing in these hostels and we have to ensure that everyone will have a quiet place to live in. This is why the lodgers are not allowed to play mahjong or carry out certain other entertainment activities in the hostels. In fact, these activities can be carried out at some other places. We are mainly responsible for providing hostel services to them. The capability to pay rent is of course an important point. I really hope that Members can appreciate the relatively low level of rent in the hostels, which is \$380 a month for a bedspace. That is definitely not high and compares favourably with the level of rent at privately-run apartments, which is usually around \$500 to \$600 a month for a bedspace. Therefore, we do not agree that the low occupancy rate has resulted from the occupancy requirements. As I have mentioned in the main reply, the high vacancy rate is mainly due to the fact that the demand has not yet reached its peak level. I believe that more people will move into singleton hostels when the demand peaks.

Expenses for 1995 Legislative Council Election

2. MR HENRY TANG asked (in Cantonese): *Mr President, the 1995 Legislative Council Election will involve several modes of election and there will be a wide difference in the number of voters among the different constituencies, especially in the case of the newly created ninth functional constituency which will have a particularly large number of voters. In view of this, will the Government inform this Council what criteria it will adopt to determine the maximum scale of election expenses for different constituencies so that fair competition can be achieved?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, election expense limits for the Legislative Council, municipal council, and district board elections set the maximum which candidates for these elections may spend on their campaigns. As the name of the term implies, the limits merely prescribe the overall ceilings. Within the limits, candidates are entirely free to spend their resources in whatever ways they deem fit. Needless to say, they are also entirely free to spend as much or as little as they like, provided that they stay within the prescribed limits.

The election expense limits for the three tiers of elections are reviewed from time to time. When carrying out such reviews over the years, we have been following the basic principle that the limits must not be so high as to deter aspiring candidates with only limited financial means, nor so low as to make it difficult for candidates to mount an effective campaign. In other words, the election expense limits are to provide, in the spirit of open and fair elections, a level playing field for all candidates.

We have applied this same basic principle in a review which is currently under way on the election expense limits for the September 1995 Legislative Council elections. In addition, we have also taken into account a number of practical considerations. These include:

- (i) constituency sizes;
- (ii) types and scales of electioneering activities likely to be commonly carried out by candidates; and
- (iii) estimated cost of the common expenditure items, bearing in mind inflation in the past four years.

On the above basis, we have arrived at certain preliminary proposals on the appropriate ceilings for the coming Legislative Council elections. These are as follows:

- First, for geographical elections, the current ceiling of \$200,000 should remain. This proposal recognizes the fact that whilst constituency sizes for the 1995 Legislative Council will only be about half that of the existing ones, inflation has gone up by about 50% in the past four years or so. A margin should also be built in to allow for more sophisticated, and therefore more expensive, electioneering activities which have become more common in recent years.
- Secondly, for all existing functional constituencies except the Urban Council, the Regional Council, and the rural constituencies, we propose a ceiling of \$80,000. This proposal is principally an adjustment of the current ceiling of \$50,000 to off-set inflation.
- Thirdly, for the Urban Council, Regional Council, and rural functional constituencies, we again propose status quo, that is, a ceiling of \$50,000. Having regard to the small franchises of these three constituencies and past pattern on election expenses, we believe that this figure should be sufficient to meet candidates' campaigning requirements.
- Fourthly, for the nine new functional constituencies, we propose a ceiling of \$180,000. This figure reflects the relatively large electorate sizes of these constituencies, averaging about 300 000, and the fact that electors are scattered in different parts of Hong Kong.
- Fifthly, for the Election Committee, we propose a ceiling of \$50,000 on account of the size of its franchise.

Mr President, let me emphasize once again that the above figures are only preliminary proposals. We make no claim that we have got the figures exactly right. But, in our judgement, our preliminary proposals should form a sensible basis for discussion. We welcome comments and alternative proposals, both from this Council and from the community at large. Firm recommendations will be put to the Governor in Council for approval in early May in the light of comments received. Our aim is to complete the necessary legislative process in June so that candidates will know for certain where they stand in good time before the elections.

MR HENRY TANG (in Cantonese): *Mr President, in point four of paragraph four of his main answer, the Secretary for Constitutional Affairs said "For the nine new functional constituencies, we propose a ceiling of \$180,000. This figure reflects the relatively large electorate sizes of these constituencies, averaging about 300 000, and the fact that electors are scattered in different parts of Hong Kong." The Secretary thinks that the electorate of the nine new functional constituencies are, on the average, larger than that of the geographical constituencies and that the area of distribution of the electorate is also wider than that of the geographical constituencies. Nevertheless, the election expense limit for the nine new functional constituencies is \$20,000 less than that of the geographical constituencies. Will the Secretary explain why this amount is deemed reasonable and in what way it is in line with the principle stated in paragraph three of his main answer? Besides, the candidates are prohibited from speaking freely through the electronic media. Has the Secretary even considered the possibility that the prohibition will infringe upon the freedom of speech as stipulated in the Bill of Rights?*

PRESIDENT: You had better take those two questions one by one. The first question first, Secretary.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, our preliminary proposal for \$180,000 for the nine new functional constituencies obviously takes into account the principle that the ceiling must not be too high as to deter people from campaigning or running a proper campaign, nor should it be too low as to enable them to mount an effective campaign and in that connection, we also take into account the constituency sizes. As I mentioned, the nine new functional constituencies are obviously much larger than the existing functional constituencies and therefore it is quite reasonable that what we propose is greater than that for the existing functional constituencies. I do not think that we should draw a direct comparison between the election expenses for the geographical constituencies and the nine new functional constituencies, albeit that constituency sizes is one factor that one has to take into account. So there is no direct relation as such and what we propose, that is, \$180,000, is marginally lower than the \$200,000 for the geographical constituencies, and electorate size is not the only factor. It does take into account the way that the campaign could

be mounted in the two groups, the geographical constituencies and the nine new functional constituencies.

PRESIDENT: Your second question, Mr TANG. You had a second question I believe.

MR HENRY TANG (in Cantonese): *Mr President, with regard to my first question, I would like to have some clarifications. The Secretary has mentioned that we should not draw a direct comparison between the electorate sizes of the geographical constituencies and the nine new functional constituencies. But she has also said that the electorate size of the nine new functional constituencies can be compared to that of the existing functional constituencies. Since both the geographical constituencies and the nine new functional constituencies are part of the Legislative Council Election and both of them have a large number of voters distributed all over the territory, why does the Secretary think that they cannot be compared to each other? Mr President, should I ask my second question now or later?*

PRESIDENT: Yes, let the Secretary deal with that question first, Mr TANG.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, what I said was that constituency sizes is certainly one factor that we take into account in determining the limits for the election expenses. But then I went on to explain that there is no direct correlation between the different sizes in the different groups of the Legislative Council elections in September.

PRESIDENT: You had a second question, Mr TANG.

MR HENRY TANG (in Cantonese): *Mr President, the Government prohibits candidates from speaking freely through the electronic media. Will such prohibition infringe upon the freedom of speech as stipulated in the Bill of Rights?*

PRESIDENT: I think you are asking for an opinion there, Mr TANG, and I do not think it derives directly from the question and answer.

DR YEUNG SUM (in Cantonese): *Mr President, we are now aware of the Government's preliminary proposal. I hope we can discuss it later in the Legislative Council Panel on Constitutional Affairs. As regards the election expenses for geographical election, it is quite acceptable for the Government to*

maintain the limit at \$200,000 because the sizes of geographical constituencies have become smaller following introduction of the "single seat, single vote" system. However, I think the limit of \$180,000 for the nine new functional constituencies is being set without careful thought. We all know that the electorate of these constituencies are scattered all over the territory. They may be even more widely distributed than the electorate of the geographical constituencies. Maybe the ceiling of \$180,000 is just provisional and subject to further discussion. However, the distribution of the electorate of the nine new functional constituencies are indeed very wide. Will the Government conduct a thorough study in this regard?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, as I said in my answer, we would certainly welcome views and comments from Members and also from the community at large as to whether our proposed limits are appropriate. So we are certainly quite prepared to discuss further with the Members, be it at the panel or on other occasions, and we certainly would be prepared to take into account views expressed on the subject.

MR JAMES TIEN (in Cantonese): *Mr President, in my opinion, it is not the winning of a certain candidate or a certain political party but the high voting rate that makes a successful election. As for the nine new functional constituencies, if the election expense ceiling is \$180,000 with 300 000 electors, then the expenses limit per elector will be \$0.6. Will the Government consider the election unsuccessful if the voting rate is very low? Has the Government ever made any estimation of the voting rate of the nine new functional constituencies on the basis of the \$180,000 election expense limit? Will it be close to the current voting rate of 30% to 40%?*

PRESIDENT: Secretary, are you able to answer?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: I will try, Mr President. I think the main criteria in determining whether an election is successful or not is obviously the judgement as to whether elections have been mounted and organized in a fair and open manner. I think that really is a yardstick. If the general opinion is that the election has been run and conducted in a fair and open manner, I think that will spell success for the elections. I think turn-out rate is obviously something that we would like to have as high as possible and indeed, if we can have everybody who is eligible to vote coming out to vote, that obviously would be the ideal. But it is no more than an indication of the degree of interest and the degree of participation, and I would hate to speculate at this stage as to what the turn-out rate would be in any election, be it for the functional constituency group or any other group. I do not think it would be possible, nor useful, to speculate.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, we all know that the ceiling for election expenses for the 1991 geographical elections was \$200,000. Has the Government actually carried out a review on this amount to see whether it is enough or not? Or is it that the ceiling is maintained just because the Government does not bother to change it since nothing has happened in that election? Besides, has the Government ever checked how much the political parties have actually spent on election campaigns? For example, many political parties have started to plan electioneering activities for their candidates. The expenses involved are great. In what way will the Government check the election expenses of the political parties in detail so that independent candidates will be on a fairer ground in this regard?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, our basic consideration, as I set out in the answer, is a general principle that the ceiling, which is no more than an indicative figure, must not be so high as to discourage any candidate, be it from a political party or an independent candidate, to mount a proper campaign. On the other hand, it cannot be so low, albeit suitable for all, as to make it impossible for any candidate to reach out to his target electorate. So one has to strike a balance. It is no more than a judgement on the basis of past pattern of expenditure from the experience we gathered in past elections. But as I mentioned in the answer, we are quite prepared to discuss further and to listen to views expressed by Councillors, political parties or independent Members on this subject.

MR ALFRED TSO (in Cantonese): *Mr President, according to news reports two days ago, the Government has issued 700 000 letters to employers requesting them to provide information about their employees. However, less than 10% have given a reply after the deadline. How many people will finally be registered as electors for the nine new functional constituencies as estimated by the Government? Will there be only very few registered voters in the end and in these circumstances, will the ceiling of \$180,000 be too high?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, on the registration of the voters for the nine new functional constituencies, I think it is still early days yet. The sending out of letters to employers is a first step in our campaign for registration. Obviously, we have to follow through the first step of sending out letters to employers, and I must say that our focus at the moment is on the arrangements for the 5 March elections. But I can assure Members that as soon as the 5 March elections are out of the way, you will find that we would be stepping up our work in the registration and preparation for the Legislative Council elections. We certainly do not want to confuse the public as to the two elections, but it is early days yet and I would not at this stage draw any conclusion from the initial returns from the various employers. We will certainly be following up and we are certain that we would be able to reach out to our target voters for the nine new functional constituencies.

As for the level of election expenses that we propose for the nine new functional constituencies, we obviously have taken into account the potential size of the electorate in each of the nine new functional constituencies. There obviously is a range, and our proposed level of \$180,000 takes into account this possible range of potential electors, and

we think that what we propose should probably be able to cater for the various sizes of the nine new functional constituencies.

PRESIDENT: Yes, Mr TSO, not answered?

MR ALFRED TSO (in Cantonese): *Mr President, although the Secretary thinks that it is still too early to estimate the ultimate number of registered voters, the returns from employers constitute a very important part of the process of determining the electorate size of the nine new functional constituencies. Will the Secretary inform this Council the estimated number of voters for the nine new functional constituencies on the basis of the current situation? We can decide on whether the proposed ceiling of \$180,000 is reasonable only if we have the figure. Will the Secretary clearly state the Government's estimation?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, I certainly agree with Mr TSO that it is extremely important for employers to respond to our appeal for information on their employees and on this point, I certainly would like to have the help and support of Members on this very important move. But, as I said, it is still early days, it is the first step and we are still following up the response from employers. Mr TSO may wish to know that right at this moment, the Registration and Electoral Office is sending out reminders to those employers who have not responded. So I think it is early days and obviously we will have to see the final results before we come to any conclusion. But electorate sizes is certainly one factor that we would need to take into account in determining the level of election expenses.

Report on Hong Kong's Civil and Political Rights

3. MISS CHRISTINE LOH asked: *The United Nations Human Rights Committee announced in April 1991 that the fourth periodic report under the International Covenant on Civil and Political Rights was due on 18 August 1994, but the British Government has now postponed the submission until mid-1995. In this connection, will the Administration inform this Council:*

- (a) *whether it is aware of the reasons for such a delay; and*
- (b) *whether a separate report on Hong Kong will be produced, as suggested by several members of the Human Rights Committee of the United Nations?*

SECRETARY FOR HOME AFFAIRS: Mr President,

- (a) The United Kingdom Government, as a State Party to the various treaties that apply to Hong Kong, is responsible for submitting periodic reports to the United Nations (UN) treaty monitoring bodies. The Hong Kong Government contributes to the preparation of the relevant reports by preparing and submitting to the United Kingdom Government draft reports in respect of Hong Kong.

The British Government faced an unusual situation last year in that four written human rights reports to the UN were due in the same year. These are reports under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights (ICCPR). This situation was exceptional.

The process for the United Kingdom Government to compile each report is complicated and time-consuming, involving several home departments, as well as 11 dependent territories, and three Crown dependencies. Some delay in meeting the deadlines has become inevitable. The United Kingdom Government has therefore decided to postpone the submission of the sections of the ICCPR report in respect of its dependent territories and Crown dependencies to this year.

- (b) There will be a separate section on Hong Kong in the Fourth Periodic Report as there was in the Third Report. The British Government intends to submit the report under ICCPR in respect of Hong Kong this summer, and will express the hope that the Human Rights Committee will examine it at its 55th Session in the autumn. The timing of the examination is up to the Committee.

MISS CHRISTINE LOH: *Mr President, I would like the Secretary to tell us whether there is at present already a draft Hong Kong report? If it is available, whether this Council would be able to look at that report? And indeed I wish to remind the Secretary that the process of the UN is to make sure that the participating signatory countries indeed consult their respective countries before the submission. So I think in the case of Hong Kong, the Government should be consulting Hong Kong before submission of this report.*

Secondly, I just wish to ask for a clarification that in April 1991, when the UN Human Rights Committee gave their report, it is minuted that they wanted a special report on Hong Kong even though the United Kingdom may not be able to produce the other dependent territories' report on time. I wonder why the United Kingdom Government has decided to delay the ICCPR and not

the other ones, because I believe the UN particularly highlighted Hong Kong's case and they wanted it to be on time. I do not know if the Secretary is aware, whether in any of the other UN reports, back in 1991, the UN has specifically requested any particular report besides Hong Kong?

PRESIDENT: Have you got both questions, Secretary?

SECRETARY FOR HOME AFFAIRS: Mr President, I will try my best. We were formally requested to make our submission by the United Kingdom Government early in the year, precisely the middle of January this year. But despite the late formal instruction, we have started the process of drafting the Hong Kong report. Members will recall that the Constitutional Development Panel of the Legislative Council has been discussing with the Administration this particular matter, and we have promised the Panel that we will be consulting with the Panel the draft outline of the report that we are going to submit to the United Kingdom. Members will recall that at the last meeting of the relevant Panel, we talked about the timetable for the submission of the draft outline and it is our intention, now that a firm date has been given, to finalize the outline within a matter of weeks so as to enable the Administration to get on in earnest with the preparation of the report. As I have said, it is our intention to submit our draft report to the United Kingdom in late May or early June, so as to enable a report to be submitted to the UN and a hearing to be arranged for the Hong Kong report in the 55th Session later in the year.

I think, in respect of the special request made by the Human Rights Committee when it considered the Hong Kong report back in 1991, of course Hong Kong is not a state party to the Covenant, the United Kingdom Government is. And the United Kingdom Government, as I have said in my main reply, has decided, having regard to all the circumstances, to call for a report on the ICCPR in respect of all its dependent territories and Crown dependencies this year. This is something I assume that the United Kingdom Government has decided having regard to all the circumstances and believes that that is the best course of action available to them.

In respect of the other submissions, as I mentioned in my main reply, last year there were four reports due for submission to the UN and in respect of Hong Kong, the position is this: We have already submitted our report in respect of our commitment under the Convention against Torture; we have already submitted our report in respect of our obligation under the Convention on the Elimination of All Forms of Racial Discrimination; and I understand that the United Kingdom Government will be submitting these two reports to the UN very shortly. Of course, in respect of the International Covenant on Economic, Social and Cultural Rights, a report in respect of Hong Kong was considered late last year.

PRESIDENT: Miss LOH, not answered?

MISS CHRISTINE LOH: *Mr President, I am afraid maybe I confused the Secretary in the last part. Perhaps I can phrase the question again. What I meant was the UN Human Rights Committee, I believe, made a specific point to the United Kingdom Government that the Hong Kong report should be on time because of the transfer of sovereignty and all the problems that Hong Kong is facing in terms of the transition. So really since there is a specific request from the UN, I wonder why the United Kingdom decided to delay this particular report, particularly when the UN Human Rights Committee said that they were willing to take just the Hong Kong report on its own?*

PRESIDENT: Are you able to answer, Secretary?

SECRETARY FOR HOME AFFAIRS: Mr President, it is not for me to speculate as to why the United Kingdom Government has taken the decision that it has. But I think I want to take this opportunity to remind Members that we are now drafting a report and as I have said, this report will be ready in a few months' time and it is our hope, our desire, to have this report considered by the Human Rights Committee later this year. And so there is, I think, no substance in any suggestion that we are trying to avoid submitting a report to the United Kingdom in the first place and for the UN Human Rights Committee to consider before the transfer of sovereignty. There is every opportunity for a report in respect of Hong Kong's obligations under the ICCPR to be considered this year.

MR JAMES TO (in Cantonese): *Mr President, perhaps I can help the Secretary to consider how to answer the question concerning the delay by asking in this way. The fourth periodic report under discussion now should have been submitted in August 1994 but the submission has been postponed to mid-1995. The Secretary has explained that this is because the United Kingdom Government has to submit many reports. The Honourable Miss Christine LOH has just mentioned that the United Kingdom can just submit a separate report on Hong Kong. I do not mean that Hong Kong should submit its own report, but a separate report on Hong Kong is to be submitted by the United Kingdom. According to my understanding, this was the intention of the Human Rights Committee back in April 1991. Will the Secretary inform this Council whether the United Kingdom Government or the Hong Kong Government intends to submit the fifth report under the ICCPR before the transfer of sovereignty in July 1997? Does the submission of the fifth report have anything to do with the postponement of the submission of the fourth report?*

SECRETARY FOR HOME AFFAIRS: Mr President, I do not think I have misunderstood the question from the Honourable Christine LOH. I think the situation is this. Despite the fact that we are only reporting on Hong Kong this year, if the Human Rights Committee expresses a desire to ask for a special report on Hong Kong before 1997, I think it is a matter for the Committee, and if a request along those lines is made to the United Kingdom Government, I am sure we will consider such a request in the light of the circumstances prevailing.

PRESIDENT: Mr TO, not answered?

MR JAMES TO (in Cantonese): *Has the United Kingdom Government or the Hong Kong Government any decision at this very moment on the submission of a fifth report prior to the transfer of sovereignty in 1997 even if the United Kingdom Government is not requested to do so by the Human Rights Committee? Will the submission of such a report be considered? What are the criteria for consideration?*

SECRETARY FOR HOME AFFAIRS: Mr President, I cannot possibly answer on behalf of the United Kingdom Government. As far as I am concerned, I stand by what I have said. If we receive a request from the UN Committee, we will certainly give consideration to such a request.

Official Definition of 'the Poor' and 'Poverty Line'

4. MR FRED LI asked (in Cantonese): *Two private survey reports indicate that about one sixth of the population in the territory are living below the "poverty line". As there is no official definition for either "poverty" or "poverty line", will the Government inform this Council:*

- (a) *whether it classifies those eligible for comprehensive social security assistance payment as "the poor";*
- (b) *of the criteria adopted by the Government in formulating social service policies for the lower-income group; and*
- (c) *whether the Government will conduct surveys for the purpose of formulating an official definition for "poverty line"?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, there appears to be a general consensus amongst experts that "poverty" as such defies definition — whether in absolute or relative terms or by any other more subjective method. To seek to define it or a "poverty line" for Hong Kong would serve no useful purpose. We would, as has been the experience elsewhere, no doubt fail

to reach a consensus since any definition would involve the exercise of subjective value judgements.

My response, therefore, to the last part of this question is "no" — the Government will not attempt to formulate an official definition of the "poverty line".

What is important, however, is how we go about identifying those in our society who are in need, those who are so disadvantaged that government support should be provided to them.

For those who lack the means permanently or temporarily to provide for themselves, we have a comprehensive safety net. The Comprehensive Social Security Assistance (CSSA) Scheme is an important part of that net. The CSSA is means tested and the level of payment comprises standard rates supplemented by specific grants to meet the individual needs of our clients concerned. Since we have no agreed definition of poverty or who is poor, the Government does not "classify" those eligible for CSSA as poor.

In formulating our social service policies, the criteria adopted for assisting those who have low incomes necessarily vary from sector to sector depending on the public service concerned. Most of our social welfare services are made available to all and are not targetted exclusively at a lower income group, although those with lower incomes are accorded priority for some services such as child care centres, home help services and care and attention homes for the elderly. If a person cannot afford the fees charged for a service, there are provisions for them to be waived or for support to be given through CSSA payments or other charitable funds. In the case of child care services, for example, there is a Fee Assistance Scheme.

In the case of medical services, these are provided on the principle that no person should be denied treatment through lack of means. Again waiver systems operate for those who cannot afford to pay. CSSA recipients are granted full exemption from fees.

In the case of public housing, income criteria for assessing eligibility are calculated by reference to the cost of renting housing in the private sector and the non-housing expenditure required to maintain a reasonable standard of living for households of different sizes. In view of the costs of housing in Hong Kong, it is not surprising to see that income eligibility criteria in this field are very different from those applicable to social security assistance. For those in need, the main principle of our housing policy is that no one should be made homeless. Use of transit centres and temporary housing areas ensure that this policy objective is met.

In the case of education, nobody is deprived of a place in the education system due to a lack of means. In addition to the nine years of free and compulsory education, Fee Remission Schemes ensure that students from low-

income families can also take part in kindergarten education and senior secondary schooling including the Sixth Forms. At tertiary levels, needy students are eligible for a range of loans and grants. The households benefitting from these schemes range from the low-income to lower-middle-income families. The income eligibility criteria for these forms of support are, again, understandably different from those for social security assistance.

In answer to the second part of the question, I would therefore conclude that rather than formulating policies for a lower income group, we generally formulate our social service policies to address the social needs we see and then, having provided services to address those needs, we ensure that everyone, regardless of income, is given access to them, with priority given to those most in need.

MR FRED LI (in Cantonese): *Mr President, I am very disappointed because the Administration has been turning a blind eye to the plight of a group of poor people. According to figures relating to the second quarter of 1993 provided by the Government, 91 600 people were earning less than \$3,000 a month. These people are not eligible for the CSSA payment because they have got a job. Yet, they earned less than \$3,000 a month. The figures also showed that there were 180 000 people earning \$3,000 to \$4,000 a month. These low-income earners were also not eligible for the CSSA payment. If they were not living in public housing units, they would have to lead a really difficult life. Will the Administration consider helping those people who fall outside the safety net of the CSSA Scheme but are always confronted with unemployment or underemployment? Why does the Administration not start looking into this problem?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the question relates to those who fall outside the safety net of the CSSA Scheme. For those who require specific assistance, our social policies ensure that the resources are geared to providing assistance to those most in need. For those referred to by the Honourable Mr Fred LI, we have a range of services on retraining schemes and employment assistance, to ensure that people on low income are able to acquire skills which will enable them to acquire jobs earning higher incomes. For those who require housing assistance, the Housing Authority and the Housing Department have schemes to ensure that those who require housing are given adequate assistance, whether in temporary housing units or in permanent housing.

MISS CHRISTINE LOH: *Mr President, in the Government's calculation of the CSSA, I presume they have taken into account how much it actually costs a person or a family of a particular size to live in Hong Kong. So I wonder whether that information is indeed available as guidelines for them in granting CSSA, and if that information is available, whether this Council can have those*

criteria? And if that information is not available because the Government has not done it, then why not?

SECRETARY FOR HEALTH AND WELFARE: We have eligibility criteria for granting CSSA to our clients. There are various levels of grants to the individuals, as well as to families, depending on the size, income and needs of the family — whether they have special needs or general basic needs. These vary from family to family. Therefore the whole policy of the CSSA Scheme is to direct resources to those in need and the grants are based on that premise.

MISS CHRISTINE LOH: *I am sorry, Mr President, maybe again I have confused the Secretary. I know the Government releases information about whether any particular person complies with the criteria, for example, how much they earn and so on. But what I am really asking is, as regards the amount that the Government gives out under each of these categories, what are those amounts based on? For any particular amount, what measurements and what criteria do you base them on? Is that available and can that information be publicly released? So, I am really asking, for any amount that you will give out, how did you come to that amount itself as being sufficient to take care of a person who falls under that criteria? I hope I am clear enough, Mr President.*

SECRETARY FOR HEALTH AND WELFARE: Mr President, I think from time to time, we have been briefing the Welfare Services Panel on the whole system of payments and calculations under the CSSA Scheme. I think what the Honourable Member refers to is the basis for the calculation of these amounts, and this is one of the things that will receive priority treatment in the CSSA review that we are undertaking at the moment. I think from time to time we have released information on the basis for these calculations. The standard rates are based on the needs of a person or a family for food, clothing, fuel and other household expenses. The special rates relate to rent, children's school fees, uniforms, meals, transport to schools, other incidental expenses, special diets — particularly for those who are recovering from illnesses, telephone for those who need it, and in many cases special grants to people who require wheelchairs or other items of expenditure which are not generally available to other clients who do not need them. So there are basically two sets of rates, one on standard rate which is food, clothing, fuel and others, and special rates based on what each person or family specifically requires.

MR FRED LI (in Cantonese): *The Secretary for Health and Welfare has just mentioned the Legislative Council Panel on Welfare Services. As the Chairman of the Panel, I would like to follow up the question raised by Honourable Miss Christine LOH. What we want is very simple. The basic CSSA payment for a single elderly will be increased to \$1,810 as from 1 April. Will the Administration provide us with some typical examples to illustrate how an*

elderly can cope with three meals a day with the \$1,810 CSSA payment, how a typical family with two elderly people will make use of the grant, and how a typical family with three members or a typical single parent family will make use of that grant in a month? By allocating these funds, the Administration thinks that the safety net of the CSSA can satisfy the basic needs of people's daily lives. I hope the Administration can provide the relevant information.

SECRETARY FOR HEALTH AND WELFARE: Mr President, at the moment, the CSSA grants are given to individuals and families without any restrictions on how they spend the money. What the Honourable Member has suggested is information relating to how people spend their money. This is one of the very important pieces of information that we intend to get from the Household Expenditure Survey which will give us information on how households spend their income, and this information will include households receiving CSSA payments and those outside the CSSA net.

PRESIDENT: Not answered, Mr LI?

MR FRED LI (in Cantonese): *Mr President, what I want to know is not the way people spend their money. I just want to know whether the Administration has any proof that the money given to the clients under the CSSA Scheme is sufficient to satisfy the basic needs of everyday lives, that is to say, adequate for the clients to live in Hong Kong.*

SECRETARY FOR HEALTH AND WELFARE: Mr President, this is precisely one of the things that we hope to do in this review. We wish to find out how well our CSSA payments are meeting the needs of our clients.

MISS CHRISTINE LOH: *Mr President, would the Secretary tell us that actually, she has no idea right now whether those amounts are suitable and appropriate for the recipients?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the CSSA Scheme is reviewed from time to time and it is our duty to make sure that it is kept up to date with changing social needs. That is not to say that the amounts are not adequate at the moment.

Strategic Sewage Disposal Scheme

5. REV FUNG CHI-WOOD asked (in Cantonese): *Mr President, in its submission to the Finance Committee of the Legislative Council requesting an injection of \$6.8 billion into the Sewage Services Trading Fund, the Government has given assurance that Stage I of the Strategic Sewage Disposal Scheme (SSDS) will be compatible with the Scheme's Stage II projects of any design. However, the preliminary report on the SSDS submitted to the Legislative Council Panel on Environmental Affairs by the three independent experts commissioned by the Government indicates that the proposed Stage II oceanic outfall plan for the SSDS, which has all along been advocated by the Government, is not feasible. In view of this, will the Government inform this Council:*

- (a) *Why the Government has recommended the SSDS to this Council and the public before the Government has examined fully the feasibility of the primary treatment and oceanic outfall plan proposed by the consultants commissioned by the Government;*
- (b) *whether the query by the three experts on the proposed primary treatment and oceanic outfall is an indication that there are problems with the consultants' recommendations; why the Government has accepted the consultants' recommendations without first examining their feasibility; and why the Government has not reviewed the consultants' recommendations earlier and has delayed it until recently to commission other experts to conduct the review;*
- (c) *which part of the Stage I projects will be incompatible with the nine options for Stage II; what remedial measures will the Government take; and*
- (d) *why the Government has assured the Finance Committee that the Stage I projects will be compatible with the Stage II projects of any design; and whether the Government has given incorrect information to this Council?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) The Strategic Sewage Disposal Scheme (SSDS) is a 10-year capital programme for the collection, treatment and disposal of sewage in Hong Kong. As we have frequently made clear, this Scheme is an essential, even critical, component of our proposals to abate very serious water pollution and to protect public health. The present form of the SSDS is the result of a two-year intensive study, completed in 1989, of over 1 000 possible disposal arrangements. An independent group of consultants confirmed, in 1993, that the

Scheme would be cost-effective and environmentally robust. Members of this Council have been kept informed of the progress of the Scheme and the related engineering studies on a regular basis.

The Finance Committee on 4 February 1994 was asked to approve the injection of \$6.8 billion to the Sewage Services Trading Fund to finance Stage I of the SSDS. We usually refer to Stage I as the High Priority Programme (HPP) as it will curtail up to 70% of harbour pollution when completed in 1997. We have assured Members that Stage I of the SSDS will form the fundamental building block for any system of higher level treatment that may be required. This still holds good. We have also made clear to Members our intention to review the oceanic outfall proposal — or Stage II of the SSDS — together with other alternatives, including secondary treatment processes, in parallel with the construction of the Stage I projects; and in doing so to take account of new technologies in sewage treatment and disposal that may have emerged since the first SSDS study in 1989.

We have also undertaken to report to the Environmental Affairs (EA) Panel of this Council the findings and recommendations of the Review of Stage II options within a few weeks of the formulation of its initial findings. This has already been done. The consultants' preliminary draft report became available to us in December 1994 and members of the EA Panel were briefed on the shortlisted options for Stage II by the consultants and the International Panel of (three) Experts on 18 January 1995. This review, may I point out, has not said that the original outfall proposal is not feasible, but that a shorter outfall could be considered if a higher level of treatment was provided for. The consultants recommended nine options for consideration as alternatives to the original Stage II outfall option and the Government is now examining these in detail. Neither the Government nor the experts have taken a final view on the options identified in the review or how this might affect the oceanic outfall proposal. Upon completion of the report, it is our intention that the public should be consulted on the Stage II options.

While a final decision on the later stages of the SSDS can be taken after the public consultation, something must be done now to deal with our water pollution problem. Water quality in the harbour is poor and deteriorating. As a project of the type and scale of the full SSDS is best taken forward in stages in any case, the Government is getting on with Stage I of the SSDS, the High Priority Programme, which offers a speedy and cost-effective first-step remedy to our problem, as quickly as possible. Our first task therefore is to complete the High Priority Programme by 1997 to curtail harbour pollution by 70%. Our immediate aim is to prevent further deterioration in the water quality of the harbour and to protect

public health. As I have already said, the Stage I works will not pre-empt any workable Stage II option.

- (b) As I have explained before, the present form of the SSDS is the result of a two-year intensive study of over 1 000 possible disposal arrangements, the feasibility and effectiveness of which was confirmed by an independent group of consultants in 1993. To be confirmed as part of the long-term solution, the original Stage II option must be environmentally viable and Environmental Impact Assessment (EIA) studies to examine this aspect have been started. We made it clear, from the beginning, that it would not be possible to proceed with the Stage II option without the satisfactory completion of a thorough EIA. This needs to be done with the co-operation and assistance of the Chinese authorities; and, eventually, their formal agreement would be required for any oceanic outfall option. There has never been any doubt about this requirement.

However, in the light of more recent developments in sewage treatment technology, the latest review began in mid-1994 to determine whether more environmentally acceptable and cost-effective alternatives to the original outfall proposal could be identified. The independent examination conducted by the International Panel of Experts has basically endorsed the collection system and centralized treatment at Stonecutters and suggested some adjustments to the treatment level by proposing chemically enhanced primary treatment. Such adjustments are only to be expected during the implementation of long-term technical and engineering projects on such a vast scale. This is why the Administration accepts the need to review Stages II to IV of the SSDS and to consult the public, the Advisory Council on the Environment, the EA Panel of this Council and the Chinese side in the process. I must emphasize, however, once again that the present Stage I works will not pre-empt any Stage II options and are basic and essential components of any system involving higher levels of treatment that may be introduced.

- (c) No part of Stage I of the SSDS will be incompatible with possible Stage II options. As I have already said, the International Panel of Experts have made some suggestions as regards the treatment of sewage flows on Stonecutters Island and these are being examined as a matter of priority. They will not affect or delay the High Priority Programme. A commercial proposal to incorporate secondary treatment on the Stonecutters site was examined by the review consultants, but was found not to be feasible for reasons of operational complexity and cost.

- (d) We assured the Finance Committee in February 1994 that Stage I of the SSDS formed the fundamental building block for any higher level of treatment that might be required. This was correct then and it is correct now. Current Stage I works will be fully compatible with the possible options for Stage II. Indeed, the preference of the International Panel of Experts for connecting Hong Kong Island flows to the Stage I treatment works at Stonecutters only reinforces the need to get on with the High Priority Programme urgently.

REV FUNG CHI-WOOD (in Cantonese): *Mr President, secondary treatment remains a desirable option for many, including various environmental protection organizations. However, the Secretary for Planning, Environment and Lands has just mentioned in his main reply that secondary treatment has been found unfeasible by the Review experts due to operational complexity and high cost. Will the Secretary inform us whether secondary treatment as one of the options for consideration will be included in future consultations or whether it will be ruled out since it has become impossible to have this option because Phase I project has commenced?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the international experts were of the view that primary treatment would not be acceptable and that chemically enhanced primary treatment should be chosen to achieve the dissolved oxygen objectives. In the design of Stage I, we have already taken into consideration the use of chemically enhanced primary treatment at Stonecutters as an interim arrangement before effective control of pollution at source is achieved. Chemically enhanced primary treatment requires fewer sedimentation tanks than conventional primary treatment and we will be taking account of this in the further work on Stage I.

The options that will be considered and will be put to the public for public consultation are those options which have emerged from the Stage II review and they will be compared, of course, with the original Stage II option, the oceanic outfall. If, during the process of consultation, further feasible, workable options were to be suggested or referred to by other experts, then clearly we would consider them.

PRESIDENT: Yes, Rev FUNG, not answered?

REV FUNG CHI-WOOD (in Cantonese): *Mr President, I do not think the answer is clear enough. I understand that it is the hope of many people to have secondary treatment as an option for consideration in future consultations. However, it seems the Administration has initially ruled this out. I hope the difficulties involved in secondary treatment will be included in the relevant*

consultation papers for members of the public to consider so that they can decide whether it is entirely impossible, or simply a matter of cost. After all, members of the public may choose to have a relatively costly treatment, if it could better protect our environment.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I think for Stage II, as I said, we are able, we have the time and we are willing to consider all feasible options.

MR MAN SAI-CHEONG (in Cantonese): *Mr President, the Administration has made a mistake or misjudgment in accepting the recommendations in full put forward by the consultants and in adopting the centralized treatment and the oceanic outfall plan. Will the Secretary for Planning, Environment and Lands inform this Council how the Administration can avoid committing the same mistake in future major environmental projects, including Phase II of the Sewage Disposal Scheme?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I do not accept the premise of the question. The centralized treatment has by no means been ruled out. In fact, it has been endorsed by our International Panel of Experts as the correct way to go. And as far as the oceanic outfall is concerned, it remains one of the options against which other options will be compared. So, I think the use of the word "mistake" is probably misplaced here.

And, of course, as I think the Honourable Member is aware, for major projects — public works projects and other projects — full Environmental Impact Assessments are required and that will continue to be the practice.

PRESIDENT: Yes, Mr MAN, not answered?

MR MAN SAI-CHEONG (in Cantonese): *Mr President, after having been informed of the report of the panel of experts, Members of this Council think that it is questionable the Administration is to have accepted the recommendations in full put forward by the consultants. Will the Administration inform us how it can avoid accepting recommendations in such a manner in the future when further decisions are due to be made?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Well, Mr President, I think with projects of this size and complexity, we have to achieve a number of different things. The first is, we have to keep our eye clearly on the need to achieve some results. We can go on discussing options, consultants'

reports, new technology, different ideas from different directions almost indefinitely. After all, we have been doing this, in respect of the SSDS, since 1989 and now it is 1995. So we must keep clearly in our minds the need to actually do something at some stage rather than to continue to debate and discuss and revise and update indefinitely. I think that is the first point.

The second point against that of course, or counter to that, is that we must keep our minds open, we must be prepared to review, we must be prepared to revise, and we must be prepared to consider new technologies. In a timeframe of this sort of scheme, clearly technology moves on and it is important, as we demonstrated last year, that we be prepared to review. And we have conducted a very thorough review of Stage II and we have been advised that there are several options to be compared with the oceanic outfall option and we will be considering those and we will be consulting, as I have said, widely on those. And if other ideas emerge in the course of that consultation, we will consider them. So, on the one hand we must seek to achieve progress, on the other hand we must seek to be flexible and take aboard new ideas, and we will try to balance the requirements for both aims.

MR PETER WONG: *Mr President, first, I would like to state my objection to the multi-barrelled question such as this one.*

I find the comment in the second paragraph of the Secretary's reply in paragraph (b), that "the International Panel of Experts has basically endorsed the collection system and centralized treatment", when the terms of reference of the consultants forbade them to question Stage I. Can the Secretary truthfully confirm that the experts' opinion is or will be based on a thorough scientific study? And further, can the Secretary confirm that the works presently out on tender have been altered to allow for Stages III and IV, that is, for the sewage inflows from Hong Kong North, which the experts have suggested be brought forward?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, on the first question, of course the fact that the International Panel of Experts have suggested that the flows from Hong Kong Island should be taken to Stonecutters rather than to the other possible sites which we have considered up to now, seems to indicate that they have some tendency to support the centralized arrangements on Stonecutters.

As regards the question of connecting the Hong Kong Island flows to Stonecutters, these of course have never been part of Stage I and should there need to be some adjustments in respect of connecting the flows from Hong Kong Island to Stonecutters, if we decide to do that, then clearly they would be part of Stages III and IV of the project and would be accommodated that way. And I should add that I do not think anything that is happening on Stonecutters in the course of Stage I will preclude that.

MR PETER WONG: *Mr President, my comment was that to alter Stage I now to allow for inflow from Hong Kong North would be a relatively easy and cheap option, whereas to adjust that later would probably cost us a great deal of money. And my question is: Have the plans out on tender been adjusted to take into account this eventuality?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Well, Mr President, I think before we have actually reached a decision on the Stage II review, that it would be premature to conclude that we will actually connect the Hong Kong Island flows to Stonecutters. It is certainly an attractive proposition, but we have not reached a decision on that yet.

Drug Trafficking in Yuen Long

6. DR TANG SIU-TONG asked (in Cantonese): *Mr President, it is learned that drug traffickers are very active at Kam Tin in the Yuen Long district. Will the Government inform this Council whether:*

- (a) *drug traffickers in the district have become active as a result of insufficient police manpower;*
- (b) *there is any plan to prevent drug trafficking in the district;*
- (c) *any other drug trafficking black spots are known to exist in the district; and*
- (d) *there is any evidence to show that triads are involved in drug trafficking in the district?*

SECRETARY FOR SECURITY: Mr President, the answers to the Honourable Member's questions are as follows:

- (a) Drug trafficking activities in the Yuen Long District bear no direct relationship to police manpower in the district. The present manning scale of the Yuen Long Police District is considered to be adequate; police manning scales are of course kept under review from time to time. It should be noted that police enforcement action against drug traffickers is not confined to Yuen Long District police manpower; action is also taken by Police Regional and Police Headquarters units.
- (b) The police have taken, and will continue to take enforcement action, which has resulted in more arrests and improvements to the situation on the ground. In addition, assistance has been sought from the public, through the District Fight Crime Committee and

community organizations in supplying information to the police. But enforcement action alone does not provide a long-term solution to the drugs problem, which is not of course peculiar to the Yuen Long District. Treatment and rehabilitation of drug addicts, and preventive education and publicity are necessary to help reduce the demand for drugs. Thus, the Governor will chair a Summit Meeting on Drugs on 6 March to encourage community participation, and to draw on ideas from a wide sector of the community.

- (c) Although street-level drug traffickers may concentrate in particular areas at particular times, they are highly mobile and they do change their locations and methods of operation quickly. Thus, while black spots can occasionally be identified, police enforcement action tends to make them short-lived.
- (d) It is believed that many street level traffickers have some sort of triad affiliations. However, there is little evidence to indicate that drug trafficking is directly related to triad activities.

DR TANG SIU-TONG asked (in Cantonese): *Mr President, I very much regret that the Administration's reply in respect of problems in a specific district has been so irrelevant and pointless. I wish to follow up two points. Firstly, the Secretary has mentioned in paragraph (a) of his main reply that "drug trafficking activities in the Yuen Long District bear no direct relationship to police manpower in the district." According to documents submitted by the police to the District Board, officers from the Police Tactical Unit were usually deployed to Pat Heung, in Kam Tin District, for seven to 12 days each month. However, since November last year, the number of such officers has been reduced because they were deployed to another District to control the crowd there. Does this reflect a shortage of police manpower? Secondly, in paragraph (c) of the Secretary's main reply, it is said that drug trafficking black spots are highly mobile; but according to documents submitted by the police to the District Board,*

PRESIDENT: I think, Dr TANG, you had better take them one by one please. Secretary, the first question.

SECRETARY FOR SECURITY: Mr President, I do repeat, and I have the assurance of the Police Force, that the manning scale for the Yuen Long Police District is considered adequate. I have to, perhaps, take the opportunity to explain that enforcement action against drug trafficking activities on the streets is not necessarily performed just by district police officers. The police operational system, as far as combatting drug problems is concerned, operates at three levels. At the district level they are primarily headed by Special Duty

Squads, although of course, other police officers in the district, in particular for example, Crime or Intelligence units, could very often help in the actions. But beyond that level, police action squads also exist at the Regional Headquarters level and indeed at the central level in the Narcotics Bureau. In other words, where the action that is planned for a particular time and place justified, the manpower that can be mobilized does not simply depend on the police manning and staff in that particular district concerned. That, in our view, is the best use of scarce, trained professional police manpower resources.

DR TANG SIU-TONG (in Cantonese): *Mr President, in paragraph (c) of his main reply, the Secretary has mentioned that drug trafficking black spots are highly mobile. According to documents submitted by the police to the District Board, there were three divisions in the Yuen Long Police District in 1994. As a result of anti-drugs enforcement action taken by the police in one of these divisions, drug traffickers have gone to another division to do their business. Does this show that: firstly, there is a shortage of police manpower; secondly, there is a lack of co-ordination in police enforcement action against drug traffickers; and thirdly, the police have left drug traffickers a way out so that they may go to another place to continue their operation?*

SECRETARY FOR SECURITY: Mr President, the nature of drug trafficking offences is, as I have already said, a very mobile form of criminal activity. They are highly mobile. They use not only cars; they use pagers; they use mobile-phones; and whenever police action is taken against drug trafficking activities at the street level at a particular point, very often they will cease activities or reduce their activities at that point. But that does not mean, however, that they have ceased operations altogether. It is, in all honesty, a bit of a cat-and-mouse game.

I have to say that the best way in which we could tackle the enforcement problem is of course, on the part of the police, to ensure that these drug traffickers are caught and are put to the courts for sentencing. And as far as the community is concerned, we certainly would like to call upon members of the community to inform the police of any suspicion or evidence they find of drug traffickers in their districts.

MR WONG WAI-YIN (in Cantonese): *Mr President, the Commander of the Yuen Long Police District has held a press conference earlier to summarize the situation in Yuen Long District regarding crimes in the past year, that is, 1994. The figures he announced showed that drug addiction was the most serious problem. The number of students addicted to drugs multiplied as compared to 1993. It is obvious that the problem of students addicted to drugs is worsening. We also learn from information provided by the police that drug addicts are attracted to Yuen Long because drugs are cheaper there and the dilution rate of drugs are low. As a result, the problem of drug addiction by students has*

worsened. Will the Secretary for Security inform this Council whether the Administration has set any objectives or taken any measures to tackle the problem of student drug addiction so as to prevent the situation from deteriorating? Furthermore, the Secretary has pointed out in paragraph (b) of his main reply that "enforcement alone does not provide a long-term solution to the drugs problem". I do agree to this point. I believe that in order to eradicate the problem, we must stop drugs from entering Hong Kong. Will the Secretary for Security inform us what efforts have been made in the past in stopping drugs from entering Hong Kong? Where do drugs usually come from? What progress has been made regarding liaison with China with a view to intercepting drugs from being smuggled into Hong Kong?

PRESIDENT: You have really got two distinct questions there. Could you answer the first one first, Secretary?

SECRETARY FOR SECURITY: Mr President, I take it the first one is about drug abuse and not about the question of enforcement.

PRESIDENT: Do you wish the first question to be put again, Secretary?

SECRETARY FOR SECURITY: I will try and answer it as far as I can remember. There are several points raised. But in general, Mr President, I do agree that the question of drug abuse by young people is serious, not only, as it were, in Yuen Long itself but also territory-wide. I think we have mentioned various statistics before on this question, but let me just illustrate. In the five years between 1989 and 1993, for example, the number of young people under the age of 21 who were reported drug abusers has increased at a rate of 147%. That, of course, is a matter of great worry for us.

In terms of the solution, the longer, broader-term solution to the drug addiction problem, I have, of course, outlined in brief terms the overall strategy or overall policy of how to deal with this question in answer to a separate question from the Honourable Timothy HA. But in specific terms, in terms of the things that we particularly do in the area of preventive education *vis-a-vis* schoolchildren, let me, for example, illustrate a number of things that we are currently doing.

For example, at the school level, drug education talks in schools, in Primary VI and secondary schools, and seminars for parents are held. Materials such as drug education teaching kits for secondary schools and a parent's guide are issued. Drug education is integrated into the formal and informal school curriculum. These are some of the things that we are currently doing.

But as, I repeat, the question of drug addiction generally, and of course drug addiction for young people, is a matter that is causing us concern, we are holding a Summit Meeting on Drugs in early March, to try and tap the ideas from a wider section of the community so as to help us solve the problem.

PRESIDENT: Would you put your second question again, Mr WONG?

MR WONG WAI-YIN (in Cantonese): *Mr President, my second question relates to the remark "enforcement alone does not provide a long-term solution to the drugs problem" in paragraph (b) of the Secretary's main reply. I also think that stopping drugs from entering Hong Kong is the way to eradicate the problem. Can the Secretary for Security tell us the places where drugs usually come from? Are adequate actions being taken to stop drugs from coming in? What progress has been made regarding liaison with China with a view to intercepting drugs from being smuggled into Hong Kong?*

SECRETARY FOR SECURITY: Mr President, of course one of the key aspects of enforcement action is also to try and interdict the supply of drugs into Hong Kong. Most of the drugs that are causing concern in Hong Kong are, of course, heroin drugs which mostly come from the so-called Golden Triangle.

As to the routes, of course, drugs do not necessarily have to go directly from source to market; they may go all over the world and back to Hong Kong as well. Obviously, the route as it were through China, is one of the routes used and of course we have close liaison with the Chinese security forces, particularly through the border liaison channel, which will help us in the interdiction of drug smuggling into Hong Kong.

WRITTEN ANSWERS TO QUESTIONS

Downgrading the Post of Hong Kong Commissioner, London

7. MISS EMILY LAU asked (in Chinese): *Will the Government inform this Council whether:*

- (a) *there is any plan to downgrade the post of Hong Kong Commissioner, London (D8 on the Directorate Pay Scale) by several ranks when the incumbent retires next year; if so, to what level it will be downgraded and what is the justification for doing so; and*

- (b) *the post of Hong Kong Commissioner for Economic and Trade Affairs, United States will similarly be regraded downward upon the retirement of the present incumbent; if not, what the reasons are?*

SECRETARY FOR TRADE AND INDUSTRY: Mr President, the Government is progressively restructuring the London Office with a view to turning it into an economic and trade office by 1997. We see no justification for retaining the post of Hong Kong Commissioner, London, at the current D8 rank on the completion of the re-structuring in late 1996 or early 1997, at which time the London Office will have relinquished those of its traditional functions which are not directly related to trade and economic matters. The future rank of the post is under review and, while no decision has yet been taken, it will certainly be lower than D8.

The considerations which are relevant to the case of the London Office are clearly not applicable in respect of the United States. No change in the role of our economic and trade offices in the United States is envisaged and we do not have any plans to re-grade the post of Hong Kong Commissioner for Economic and Trade Affairs in the United States.

Statutory Registration of Veterinary Surgeons

8. MR TAM YIU-CHUNG asked (in Chinese): *Regarding the Agriculture and Fisheries Department's proposals for the enactment of the Veterinary Surgeon Registration Bill and the setting up of a Veterinary Committee, will the Government inform this Council of the progress to date and whether any long term targets and programmes have been formulated?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, the demand for veterinary services has increased considerably in recent years. There has been a corresponding increase in the number of veterinary surgeons practising locally and in reports of unqualified persons providing veterinary services. In the interests both of the profession and animal welfare, consideration is therefore being given to the statutory registration of veterinary surgeons who wish to practise in Hong Kong and to related matters including qualifications, standards of practice, conduct and discipline. Our aim is to have a bill ready for introduction into this Council during the 1995-96 Legislative Session.

Consumption of Pork and Livestock Farming in Hong Kong

9. MR PETER WONG asked: *Will the Administration inform this Council of the following figures for the past three years:*

- (a) *the total quantity of pork consumed in the territory;*
- (b) *the total quantity of pork produced locally;*
- (c) *the amount of animal waste produced in the territory as evidenced by the Biochemical Oxygen Demand (BOD)/Chemical Oxygen Demand (COD) loading; and*
- (d) *the amount of compensation paid to farmers to discontinue livestock farming?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the figures required are as follows:

(a)	Total consumption of pork in the territory:			
		<i>1992</i>	<i>1993</i>	<i>1994</i>
(i)	Live pigs:			
	heads	2 972 287	2 765 768	2 751 416
	dressed weight (tonnes)	159 200	148 440	165 580
(ii)	Frozen/Chilled pork (tonnes)	46 555	38 481	36 118
(b)	Total amount of pork produced locally:			
		<i>1992</i>	<i>1993</i>	<i>1994</i>
	Live pigs:			
	heads	182 000	169 060	185 560
	dressed weight (tonnes)	9 750	9 070	11 170

	1992	1993	1994
(c) The pollution loadings from livestock waste in our water courses (tonnes Biochemical Oxygen Demand)	18 000	14 000	11 000
	1992	1993	1994
(d) Amount of compensation paid to farmers to discontinue livestock farming as a result of the Livestock Waste Control Scheme (\$million)	202	103	125

Controlled Ingredients in Chinese Medicine

10. MR TAM YIU-CHUNG asked (in Chinese): *Regarding the sale of Chinese medicine containing controlled ingredients, will the Government inform this Council of:*

- (a) *the types of controlled ingredients found by the Agriculture and Fisheries Department during the searches of traditional medicine shops conducted in 1994; and*
- (b) *the criteria on which such searches are based?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, the types of controlled ingredients found by the Agriculture and Fisheries Department during searches of traditional medicine shops in 1994 were those originating from animals subject to licensing control under the Animals and Plants (Protection of Endangered Species) Ordinance. Some parts and derivatives of endangered species of animals used in traditional medicine, including rhinoceros horn and hide, elephant hide, bear gall bladders and bile, musk pods and grains, sea turtle shells and articles claimed to be tiger parts or crocodile meat were found, in addition to medicines claiming to contain ingredients from rhinoceroses or tigers.

Searches of traditional medicine shops are conducted when the Department has reason to believe that endangered species scheduled under the Ordinance may be found on the premises. Such searches must be authorized by a magistrate.

Hostel Places in Hong Kong Institute of Education's New Campus

11. MR TIMOTHY HA asked (in Chinese): *Regarding the Hong Kong Institute of Education's new campus which will be built in Tai Po, will the Government inform this Council of:*

- (a) *the respective numbers of student hostel places planned for various courses; whether they will be adequate to meet the demand in the next five years; if not, what the reasons are; and*
- (b) *the ratio between hostel places and the overall number of enrolments; how does this ratio compare with those adopted by institutions under the University Grants Committee?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) A total of 1 500 student hostel places are planned for the full-time students on pre-service courses at the Hong Kong Institute of Education (HKIED) whereas none are planned for the students on in-service courses. The Government does not specify how these hostel places should be allocated amongst the students.

In planning for the provision of student hostels at the HKIED, the Government's policy is that government contribution will be limited to 75% of the capital cost to enable up to 50% of the full-time students to be provided with hostels. This is in line with the policy on the provision of publicly-funded hostels for students in the tertiary sector as a whole, as institutions funded by the University Grants Committee (UGC) are at present required to cover at least 25% of the total cost of a hostel project. Nevertheless, because of historical and locational reasons, the levels of provision of student hostels in the UGC-funded institutions vary.

Having regard to its unique academic mission in teacher education, the Institute considers there is a need to enable students to participate more fully in student activities and hence develop their social and organizational abilities and to provide easy access to the Institute's facilities for students to carry out their practical work. In view of the location of the campus, the Institute intends to seek private donations to provide maximum student accommodation in order to better fulfill the unique objectives of teacher education.

(b) The planned 1 500 student hostel places represent 37.5% of the projected full-time student population of the HKIEd when it moves into its new campus in September 1997. As mentioned in (a), the levels of provision of publicly-funded student hostels for the UGC-funded institutions vary, largely because of historical and locational reasons, and are as follows:

- up to 25% of the full-time student population for the University of Hong Kong
- up to 50% of the full-time student population for the Chinese University of Hong Kong
- up to 30% of the full-time student population for the Hong Kong University of Science and Technology
- up to 50% of the full-time student population for the Lingnan College

The Hong Kong Polytechnic University, the City University of Hong Kong and the Hong Kong Baptist University are not provided with publicly-funded student hostels.

The UGC's review of the space and accommodation requirements of the UGC-funded institutions will be available by late 1995/early 1996 and the Government will consider whether the existing policy on the provision of student hostels at tertiary institutions needs to be adjusted.

Safety Handrail in Public Light Buses

12. MR ALBERT CHAN asked (in Chinese): *Recently, there have been complaints by the public that in some sixteen-seat public light buses, no handrail is installed for the passenger seat immediately behind the driver's seat, and this can easily cause danger to children and elderly passengers occupying this seat. In this connection, will the Government inform this Council whether:*

- (a) *it will look into the design of seats of public light buses with particular regard to passengers' safety; and*
- (b) *it will consider requiring public light bus operators to install a handrail behind the driver's seat?*

SECRETARY FOR TRANSPORT: Mr President, it has always been the Government's concern that the seating and other arrangements inside public light buses (PLBs) should be designed to enhance the safety of passengers. For example, one of the requirements is that all 16-seat light buses must be fitted with a handrail between the door and the single passenger seat immediately behind the door.

The installation of a handrail behind the driver's seat is not a prescribed requirement at present. In practice, however, many red and green minibuses already have these fitted and, indeed, this has been a standard feature in all new minibuses registered over the past four years.

The Transport Department, in consultation with the PLB operators, will consider making the provision of such handrails a mandatory requirement.

Employees Retraining Scheme Participants

13. MR FREDERICK FUNG asked (in Chinese): *With regard to the Employees Retraining Scheme, will the Government inform this Council:*

- (a) *of the annual breakdown of the number of participants in each of the courses under the scheme since its implementation;*
- (b) *of the number of retrainees who have been able to find course-related jobs upon completion of their retraining programmes, and the annual breakdown of retrained workers in each course who have been able to find course-related jobs within six months after retraining; and*
- (c) *whether the Government will consider formulating policies requiring employers to give priority to employing retrained workers before taking on imported labour to fill job vacancies; if so, whether there is a timetable for the formulation of such policies; if not, what are the reasons for not considering the resolution of the employment problems of local workers first?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) The statistics on the number of participants in each of the courses provided by the Employees Retraining Board from 1992-93 to 1994-95 are at Annex.

- (b) We do not have statistics on retrainees who have been able to find course-related jobs after completion of their retraining programmes. However, according to the results of an independent study commissioned by the Employees Retraining Board on the success rate of retrainees in finding jobs, 70.6% of the active job-seekers who completed the full-time Job Search Skills Course have been able to find employment while the corresponding success rate of those who completed other vocational skill courses is 59.7%. The full report is being finalized and will be published when it is completed.
- (c) It is already an integral part of our policy on importation of labour that employers are required to give priority to recruiting local workers, including retrained workers to fill any job vacancies first before they are allowed to apply for imported workers to fill such places. It is in accordance with this policy that under both the General Importation of Labour Scheme and the special labour importation scheme for Airport Core Programme projects, we require employers who wish to import labour to first register their vacancies with the Local Employment Service (LES) of the Labour Department, and then furnish evidence of such efforts to the Immigration Department when applying for quota allocation.

To assist retrainees to re-join the local workforce, the LES of the Labour Department has been providing special counselling and job placement services to retrainees in all of its nine local employment centres. In the past two years, a total of eight "job bazaars" to promote the employment opportunities for retrainees have been organized. Profiles of retrainees have also been sent regularly to employers on request.

To achieve a better integration of the Employees Retraining Scheme and the LES, we will soon be launching a Pilot Employment Matching Programme to assist unemployed local workers over 30 years of age to rejoin the workforce. This involves the establishment of a Special Register at the LES to provide active placement service for job-seekers over 30 years of age on the basis of actual job vacancies registered by employers, either through direct job referrals, or referrals after arranging for job-seekers to attend job-related retraining courses organized by the Employees Retraining Board.

Number of participants in
retraining courses offered by
Employees Retraining Board 1992-93 - 1994-95

		<i>No. of retrainees enrolled</i>		
		<i>1992-93 (4th quarter only)</i>	<i>1993-94 (1st to 4th quarter)</i>	<i>1994-95 (1st to 3rd quarter that is up to 31 December 1994)</i>
<i>I</i>	<i>General Retraining Programme</i>			
	a) Courses on Job Search Skills	-	6 907	9 906
	b) Job-Specific Skills Courses	535	3 650	2 237
	c) General Skills Course	10	2 808	16 361
	d) Skills Upgrading Course	-	266	331
<i>II</i>	<i>Programmes for the Elderly</i>	-	132	1 887
<i>III</i>	<i>Programmes for Disabled and Accident Victims</i>	-	55	764
	Total	----- 545	----- 13 818	----- 31 486

Profits Tax on Property Businesses

14. MR ERIC LI asked (in Chinese): *Regarding the profits tax levied on the property business sector, will the Government inform this Council:*

- (a) *whether the property business sector has been sub-categorized as a separate type of economic activity among the sources of profits tax levied by the Government, so that the precise amount of the profits tax paid and its share of the profits tax can be identified; if so, what the figure and its share in the 1993-94 fiscal year were;*

- (b) *if the answer to (a) is in the negative, what was the proportion of the profits tax paid by the listed property companies to the total profits tax collected in the 1993-94 fiscal year; and*
- (c) *how long will the tax assessment and collection process take to reflect the situation of the property companies' sharp decrease in profits due to the fall in property prices in late 1994 and 1995, having regard to the fact that property companies usually enter their profits from the sale of property into their accounts at the end of the fiscal year, and that it takes time to go through the procedures of preparing the accounts, auditing, filing declaration and assessment of tax; and whether the decrease in profits tax can only be fully reflected in the 1997-98 fiscal year?*

SECRETARY FOR THE TREASURY: Mr President, in reply to the Honourable Member's questions:

- (a) for statistical purposes, the Inland Revenue Department operates a system of trade classifications which enables the profits tax contribution made by various business sectors to be identified. These statistics are published annually in Schedule 3 of the Annual Review of the Commissioner of Inland Revenue. However, it is not practicable to maintain records which would permit the precise amount of tax paid by every business sector to be ascertained.

For some years now, the profits tax contribution by the property business sector has been included under the heading "Estate Development, Investment and Finance (other than Banking)". This category takes in not only property businesses (both development and rental) but also share/bullion/commodity brokers and dealers, investment companies and merchant banks and finance houses which are not authorized institutions. Based on a sample of files, the Commissioner estimates that of the total profits tax contributed by companies coming within this category, some 80% was paid by property businesses. On this basis, he estimates that about \$8 billion, or 20% of all profits tax contributions in 1993-94, came from the property sector.

- (b) see (a) above.
- (c) we cannot say yet whether the decline in property prices in late 1994 and 1995 has caused a sharp decrease in the profits of property companies, because the profits for that period have not yet been reported. However, if profits have decreased, the effect on the profits tax yield is likely to be reflected before the 1997-98 fiscal year. For example, companies which close their accounts on 31 March 1995 will have to file their tax returns by October 1995 with

tax due for payment before 31 March 1996, that is within the 1995-96 fiscal year. Companies which close their accounts on 30 June 1995 will have to file their tax returns by May 1996 with tax due for payment by November 1996, that is, within the 1996-97 fiscal year.

Traffic Congestion along Castle Peak Road

15. MR WONG WAI-YIN asked (in Chinese): *In regard to the traffic congestion along Castle Peak Road during peak hours in the morning (particularly the section between Sam Shing and Siu Lam), will the Government inform this Council:*

- (a) *of the reasons for the congestion;*
- (b) *what measures are in place to improve the situation; and*
- (c) *whether there are any plans to implement a full-scale widening of Castle Peak Road; if so, what the specific plans are; if not, what the reasons are?*

SECRETARY FOR TRANSPORT: Mr President, Castle Peak Road can cope with traffic volumes experienced at normal times. Congestion does, however, occur occasionally during peak hours at signal junctions between Sam Shing and Siu Lam, in particular at Sam Shing, Tsing Yung Street and Gordon Hard. To address the problem, the Transport Department made adjustments to the traffic signal timings in January this year. The indications are that this has resulted in an improved traffic flow. The Transport Department will continue to monitor the situation closely.

To cope with the additional traffic generated by the new developments along Castle Peak Road near Tsuen Wan, a new dual two-lane bypass, Hoi On Road, was opened to traffic in early January 1995. Since then, the traffic flow in this location has improved considerably.

There are plans to widen Castle Peak Road between Tsuen Wan and Sam Shing. The programme is as follows:

- (i) *Tsuen Wan Area 2 to Ka Loon Tsuen*

The Highways Department is now carrying out an engineering feasibility study to widen this section of the road. The intention is to upgrade it to dual two-lane. The study will be completed by the end of this year.

(ii) *Ka Loon Tsuen to Siu Lam*

This section has already been widened to 10.3 m to provide three lanes: two Tuen Mun-bound and one Kowloon-bound.

(iii) *Siu Lam to So Kwun Wat*

The Highways Department is preparing a detailed design for widening this section to a dual two-lane carriageway. Construction work will commence in late 1995 for completion in mid-1998.

(iv) *So Kwun Wat to Sam Shing*

This section has already been widened to 10.3 m, and there is now a dual two-lane carriageway adjacent to the Gold Coast development.

Environmental Problems Caused by Plastic Envelopes

16. MRS PEGGY LAM asked (in Chinese): *Is the Government aware that the environmental problems caused by the extensive use of plastic bags have been exacerbated by the increasingly common use of large quantities of plastic envelopes? If so, will the Government inform this Council:*

- (a) *of the volume of plastic envelopes currently handled each day by the territory's Post Offices; and*
- (b) *what measures it intends to take to dispose of this type of plastic waste in order to prevent it from becoming another major environmental problem?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, the Government is aware that the environmental problems caused by the extensive use of plastic bags have been exacerbated by the increasingly common use of plastic envelopes in large quantities. Similar to other forms of consumer plastic waste, used plastic envelopes are disposed of mainly in landfills. A small proportion are incinerated. There is virtually no recovery of such waste because of its minimal recycling value.

On the average, the Post Office handles 200 000 plastic envelopes each day. Apart from adding to the volume of plastic waste to be disposed of, these plastic envelopes are also creating a serious operational problem to the Post Office because they cannot be processed by the Post Office's Mechanized Letter Sorting System and have to be sorted manually. To discourage their use, especially by large mailers, the Post Office is now considering removing the printed paper discount from items mailed in plastic envelopes.

Juvenile Drug Offences and Drug Abuse

17. MR TIMOTHY HA asked (in Chinese): *Juvenile involvement in drug offences and drug abuse has recently become a serious problem. According to some survey findings, there was a 35% increase in the number of young people who were involved in drug abuse in the 3rd quarter of 1994 as compared with that in the corresponding period in 1993, and the number of youngsters under 21 who were arrested for alleged involvement in drug offences had also risen by more than 30% over the past two years. In view of this, will the Government inform this Council whether it has formulated any long-term policy to tackle the worsening problem of juvenile involvement in drug offences and drug abuse; if so, what the details are; if not, why not?*

SECRETARY FOR SECURITY: Mr President, the Government is indeed very concerned at the rising trend of young people involved in drug abuse and drug offences. An important factor contributing to the recent increase in drug offences is the increased supply from drugs-producing areas. Vigorous enforcement and interdiction action is being undertaken. But enforcement action alone is not enough.

The Government's long-term policy to combat the problems of drug addiction and drug offences takes a multifaceted approach:

(a) *Legislation and enforcement*

Our policy is to have in place the necessary legislation to combat drug offences, and to keep them up to date. Our enforcement agencies, including the police, Customs and Excise Department and the Department of Health, take vigorous action to detect and prosecute offenders, and to clamp down on the illegal supply of drugs in Hong Kong.

(b) *Treatment and rehabilitation*

A wide range of both mandatory and voluntary programmes for the treatment and rehabilitation of drug addicts and substance abusers is provided in Hong Kong. These programmes are operated by the Correctional Services Department, the Department of Health, the Hospital Authority, the Society for the Aid and Rehabilitation of Drug Abusers, the Hong Kong Christian Service and a variety of voluntary groups.

(c) *Preventive education and publicity*

Our aim is to inculcate in our young people a healthy and positive attitude to life, and to encourage them to resist the temptation to take drugs. This is done through a variety of education and

publicity programmes and material. The Education Department, the Social Welfare Department, the Information Services Department, district-based organizations, voluntary agencies, schools and the media all contribute towards our joint effort.

Research is also carried out to better guide these various approaches and programmes. Playing an important co-ordinating role in this multifaceted approach is the Action Committee Against Narcotics, supported by the Narcotics Division of the Security Branch.

We recognize that the seriousness of the drug problem, particularly as it affects the young, is such that we need to redouble our anti-drugs effort. The Government will, of course, play its part, but we need the support and participation of non-government organizations, teachers, parents and indeed the community as a whole. In order to highlight the need for a concerted effort, and to tap the ideas of all concerned, the Governor will chair a Summit Meeting on Drugs on 6 March 1995. We hope that this will produce worthwhile ideas, which will be followed through.

Applications for Authorization to Carry on Insurance Business

18. DR HUANG CHEN-YA asked (in Chinese): *Will the Government inform this Council:*

- (a) *How many companies have applied for authorization to carry on insurance business in the past three years; and*
- (b) *How many applications have been approved; how many have been rejected and what the reasons for rejection are?*

SECRETARY FOR FINANCIAL SERVICES: Mr President,

- (a) 10 companies have applied for authorization to carry on insurance business in the years 1992, 1993 and 1994. The number of applications in each of the three years was three, four and three respectively.
- (b) Of the 10 applications, three have been approved, two have been granted approval in principle, subject to their setting up a Hong Kong office in accordance with their business plan, and three are being processed. Further information is still awaited from the three applicants concerned to substantiate their financial position and their proposals for establishment of a Hong Kong office. No application has been rejected. However, two applications were withdrawn after the applicants realized that they were unable to meet the

authorization criteria for a strong financial position or the establishment of an office in Hong Kong.

Children of Hong Kong Residents Living in China

19. MR CHEUNG MAN-KWONG asked (in Chinese): *According to the Government's recent estimation, about 300 000 children of Hong Kong residents are living in China. In this connection, will the Government inform this Council of:*

- (a) *the basis on which the above figure is arrived at and the distribution by age groups in intervals of five years;*
- (b) *the estimated number of such children who will become permanent residents of Hong Kong in 1997; and what variations of this figure are expected in the next two years;*
- (c) *the estimated number of such children born to unmarried couples and the basis of the estimation; whether children of this category will be eligible to become permanent residents of Hong Kong; and whether the Government has discussed the issue with the Chinese Government and reached any agreement; if so, what is the outcome of the discussion; and*
- (d) *the number of children below the age of 15 who came to Hong Kong with one-way exit permits issued by China, together with the proportion of this group of children to the children of the same age group in the territory in percentage terms, in each of the past three years?*

SECRETARY FOR SECURITY: Mr President,

- (a) The figure of 300 000 is estimated on available data, including record of applications for Certificates of Absence of Marriage, legal immigration statistics, demographic statistics and assumptions about family size, and a survey conducted in 1991 of the number of Hong Kong men married to women in China. We do not have a breakdown of this figure by age groups of five years.
- (b) We estimate that among these 300 000 mainland children, about 64 000 (as at the beginning of 1995) will have the right of abode in Hong Kong as from 1 July 1997 in accordance with the Joint Declaration and the Basic Law. If the present rate of the entry of these children into Hong Kong for settlement remains unchanged, there will be about 55 000 such children in China by July 1997.

That figure may of course be affected by any change to the current one-way permit quota, or by any change to demographic trends.

- (c) Both sets of estimated numbers refer to legitimate children only. We do not have any estimate of the number of illegitimate children born in China to Hong Kong residents. Whether illegitimate children born to Hong Kong permanent residents will have automatic right of abode in Hong Kong under the Joint Declaration and the Basic Law is under discussion with the Chinese Government.
- (d) The numbers of children under 15 who came to settle in Hong Kong under one-way exit permits in 1992, 1993 and 1994 are 7 853, 8 396 and 11 156 respectively. They constituted 0.66%, 0.71% and 0.95% of the under 15 population in Hong Kong in these three years.

Sign Language Interpretation Arrangements for the Elections

20. MR ERIC LI asked (in Chinese): *Regarding the elections of the two Municipal Councils and the Legislative Council to be held this year, will the Government inform this Council of the following:*

- (a) *whether the Government will consider arranging sign-language interpretation when open forums are held for the candidates, so that deaf electors can understand the platforms of the candidates and raise questions thereon; if so, what the estimated manpower and expenses are; and*
- (b) *if the answer to (a) is in the negative, what the reasons are; and what measures will be taken by the Government to facilitate the contact between deaf electors and the candidates?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, open forums organized by the Administration for candidates during last September's district board elections drew mixed response, with some forums having only one candidate appearing and audience size was very small at others. In view of this, no open forums are being organized for the forthcoming municipal council elections.

For the Legislative Council elections in September, the Administration has yet to decide whether open electoral forums will be organized for candidates. The Administration will certainly consider including sign language interpretation if and when such forums are to be held, subject to the availability of sign language interpreters.

Contacts between deaf electors and the candidates are not confined to participation at open electoral forums. Candidates often meet their constituents during home visits and other canvassing activities. They also make known their platform through the distribution of printed literature, either through the free mailing service provided by the Administration or other distributory channels.

BILLS

First Reading of Bills

LEGAL AID SERVICES COUNCIL BILL

CONTROL OF OBSCENE AND INDECENT ARTICLES (AMENDMENT) BILL 1995

ROAD TRAFFIC (AMENDMENT) BILL 1995

BANKING (AMENDMENT) BILL 1995

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

Second Reading of Bills

LEGAL AID SERVICES COUNCIL BILL

THE CHIEF SECRETARY moved the Second Reading of: "A Bill to establish the Legal Aid Services Council and for related matters."

She said: Mr President, I move that the Legal Aid Services Council Bill be read the Second time. The Bill provides a legislative framework for the establishment of an independent Legal Aid Services Council to oversee the publicly-funded legal aid services operated by the Legal Aid Department and the Duty Lawyer Service.

The establishment of this Council was one of 25 recommendations in nine subject areas made by a working group whose report was approved by the Executive Council and published in July last year, and which took into account the comments received on proposals set out in a public consultation paper released in April 1993. The other eight subject areas covered by the report involved improvements to the scope and operation of the legal aid scheme, and were the subject of the Legal Aid (Amendment) Bill 1995 that I introduced into this Council on 25 January.

Let me make it clear at the outset that the Administration does not interfere with the decisions made by the Legal Aid Department or the Duty Lawyer Service on the granting of legal aid. The Director of Legal Aid has a statutory obligation under the Legal Aid Ordinance to consider applications before her independently; and the Duty Lawyer Service is administered jointly by the Bar Association and the Law Society. However, the Administration recognizes that the status of the Legal Aid Department as a government department may create a perception problem in some quarters. We have therefore accepted the recommendation of the working group that an independent Legal Aid Services Council be set up by statute.

To safeguard the independence of the Legal Aid Services Council, clause 3 of the Legal Aid Services Council Bill establishes it as a body corporate which can take action to enforce its legal rights or can be sued for breach of its legal duties. It will not be the agent of the Crown and will therefore not enjoy any status as such. Clause 15 also adds the Council onto the Schedule of public bodies under the Prevention of Bribery Ordinance.

Clause 4 of the Bill sets out the functions of the Council clearly. Its main function will be to oversee the Legal Aid Department and the Duty Lawyer Service, although it will not interfere with their handling of individual cases. The Council will also act as the Government's advisory body on the formulation of policies relating to legal aid and on the funding requirements of its executive agents.

Clause 5 of the Bill states that the Legal Aid Services Council will be chaired by a non-official who is independent of both the Government and the legal profession. Its members will include four lawyers and four lay members, in addition to the Director of Legal Aid and the Administrator of the Duty Lawyer Service who are directly responsible for the provision of legal aid services. Members of the Legal Aid Services Council are required by clause 8 to disclose any interests that they may have in matters being considered by the Council. On the other hand, clause 7 protects individual members who act in good faith from civil liabilities for any act or omission of the Council.

Clauses 9 to 13 of the Bill deal with the *modus operandi* of the Council. To enhance its accountability, the Council will be required to submit an annual report to the Governor, and to table its report before this Council. The accounts of the Legal Aid Services Council will be subject to examination and inquiry by the Director of Audit.

We aim to establish the Legal Aid Services Council as soon as possible after the Bill is enacted. This is far from a cosmetic change, as some critics have suggested. On the contrary, it represents a significant policy change that will provide a greater opportunity for public participation in legal aid administration and policy formulation and will enhance the independence of legal aid administration. Some people, both from this Council and the legal profession, have argued that we should go further and dis-establish the Legal

Aid Department. The Administration is not convinced that this is the best way forward, but is not ruling it out. Indeed, once the Legal Aid Services Council is established, we will ask the Council to examine the feasibility and desirability of this option.

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

CONTROL OF OBSCENE AND INDECENT ARTICLES (AMENDMENT) BILL 1995

THE SECRETARY FOR RECREATION AND CULTURE moved the Second Reading of: "A Bill to amend the Control of Obscene and Indecent Articles Ordinance."

She said: Mr President, I move the Second Reading of the Control of Obscene and Indecent Articles (Amendment) Bill 1995.

The primary objectives of the Bill are to tighten control over the selling and distribution of indecent articles, to facilitate enforcement actions and to increase the deterrent effect of the penalties under the Control of Obscene and Indecent Articles Ordinance. In designing specific provisions in pursuit of these objectives, we are mindful that all proposals must be the minimum necessary to ensure that freedom of expression is not unjustifiably sacrificed.

I would like to thank Members of this Council, members of the district boards, and members of various political groups and concern groups for their valuable suggestions and views on how obscene and indecent articles could best be regulated. We have very carefully and thoroughly studied their suggestions and revised some of the proposals contained in the Bill in the light of their views.

Owing to the far-reaching consequences and Bill of Rights implications, some of the more restrictive suggestions and views have not been taken on board in this Bill. However, an inter-departmental working group comprising representatives from the Television and Entertainment Licensing Authority, the Police Force, the Attorney General's Chambers, the Urban Services Department, the Regional Services Department and my Branch is studying the implications and feasibility of these suggestions.

Mr President, I now wish to summarize the main provisions of the Bill.

Clause 5 of the Bill proposes stricter restrictions on the external appearance of indecent articles to minimize nuisance to the public and to make them more easily distinguishable, thus facilitating control and regulation. Indecent articles will be required to be sealed in completely opaque wrappers. It is also proposed that nothing shall be printed on the wrappers except the

warning notice, particulars of the publishers, and the name, date, serial number and selling price of the publication.

Although the existing Ordinance already requires a clear and conspicuous warning notice to be printed on indecent articles, we suggest specifying the minimum size under the law. It is proposed that the warning notice must occupy at least 20% of the size of an indecent article. Furthermore, the warning notice is to be printed on the front and back cover of the indecent article as well as on both sides of the opaque wrapper enclosing it. One of the advantages of such a requirement is that, no matter under what circumstances, there is always an easily noticeable warning notice attached to the indecent article reminding people not to sell or lend the article to persons below the age of 18.

Under the existing Ordinance, it is not mandatory for publishers to print their particulars on the indecent articles. Although enforcement action can still be taken against irresponsible publishers who have committed an offence, extra manpower and time are often needed to track down these publishers. To facilitate identification of publishers of indecent articles, clause 5 requires them to print their correct name, address and telephone number on the front and back cover of the indecent article and on both sides of the opaque wrapper enclosing it. Contravention of this requirement is liable to a maximum fine of \$400,000 and imprisonment for one year. The fulfilment of this requirement is the primary responsibility of publishers.

To prevent the selling and distribution of indecent articles which have contravened the legal requirements, clause 7 will make it an offence to possess such articles for the purpose of publication. The presumption clause in the Ordinance will apply to this new offence. If a person possesses more than two copies of such indecent article and the circumstances give rise to such suspicion, he will be deemed to possess it for the purpose of publication.

Clause 10 proposes to grant police officers the power to seize, in public places, any indecent article which commits or constitutes evidence of an offence. Mr President, I wish to illustrate with an example how the new offence and the new seizing power will aid enforcement action. At present, as long as an indecent article is not published, no offence is committed even if the article in question does not carry a warning notice or contravene any other legal requirement. The new offence will help to eliminate this undesirable situation. No matter whether the indecent article is published or not, an offence is committed so long as two copies of the indecent article are found and the circumstances give rise to reasonable suspicion that these copies are possessed for the purpose of publication. The new power of seizure will further enable police officers to seize the article as evidence for prosecution.

There is a strongly-held and widely expressed desire in the community for heavier penalties to be imposed on persons publishing indecent articles in breach of legal requirements. In response to this, we recommend that the maximum fine for offences related to indecent articles be increased from \$200,000 to \$400,000 on first conviction and \$800,000 on second or subsequent convictions. A higher maximum fine for subsequent convictions is proposed in order to increase the deterrent effect.

Mr President, in drawing up these new restrictions on the publication of indecent articles, we have tried our best to introduce measures that are the minimum necessary for the protection of our young people while allowing adults to exercise freedom of choice. We are confident that these legislative proposals are consistent with Article 16 of the Bill of Rights Ordinance and Article 19 of the International Covenant on Civil and Political Rights. I very much hope that these well-balanced proposals will gain Members' support.

Mr President, I beg to move.

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

ROAD TRAFFIC (AMENDMENT) BILL 1995

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

He said: Mr President, I move the Second Reading of the Road Traffic (Amendment) Bill 1995. The main purpose of this Bill is to strengthen legislation aimed at tackling drunken driving.

The present legislation on drunken driving is extremely difficult to enforce, since it does not specify a blood alcohol limit and suspected offenders are not required by law to provide samples of their breath, blood or urine for testing. As a result, prosecution for the offence is possible only in the most extreme cases.

The Road Safety Council has been deliberating this problem for some time. The amendment Bill now before Council seeks to incorporate the recommendations put forward. The Transport Advisory Committee has strongly endorsed the proposals and, indeed, there has been support from the general public and the media. The Legislative Council Transport Panel has also been briefed.

Mr President, the police now have firm evidence, based on autopsy reports on drivers killed in traffic accidents, to show that excessive drinking is a significant cause of serious traffic accidents. We propose to prescribe limits for the concentration of alcohol in a driver's blood, urine and breath, and to require drivers to provide samples for testing in certain specified circumstances. We recommend that the limit should be 80 milligrams of alcohol in 100 millilitres of blood. This is the standard adopted in most European Union countries and also in Singapore.

Clause 7 of the Bill makes it an offence to drive with an alcohol concentration above the prescribed limit. Whilst we do not propose to introduce random breath testing for drivers, police officers will be empowered to require a driver to take a screening breath test if he is involved in a traffic accident, has committed a traffic offence, or if a police officer has reasonable cause to suspect that he has been drinking.

If the screening breath test reveals that the alcohol level exceeds the prescribed limit, or if the driver fails to provide a sample, then the suspect may be arrested and required to provide samples of blood, urine or breath for further analysis. The Bill sets out the conditions under which the various types of specimen should be required, and where and when they should be provided.

Mr President, the opportunity is also taken to make a number of minor amendments to the Road Traffic Ordinance relating to vehicle registration marks, the powers of traffic wardens, and the authority to vary the fees charged by vehicle testing centres and vehicle emission testing centres.

Thank you, Mr President.

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

BANKING (AMENDMENT) BILL 1995

THE SECRETARY FOR FINANCIAL SERVICES moved the Second Reading of: "A Bill to amend the Banking Ordinance."

She said: Mr President, I move that the Banking (Amendment) Bill 1995 be read a Second time.

The two main objectives of the Bill are:

- (a) to establish the Monetary Authority as the licensing authority of all three types of authorized institutions under the Banking Ordinance; and

- (b) to clarify the scope, objectives, duties and powers of a Manager appointed under the Ordinance to take control of an authorized institution.

There are also other amendments to effect a number of changes designed to improve the working of the Ordinance.

Presently banks, restricted licence banks and deposit-taking companies are authorized by the Governor in Council, the Financial Secretary and the Monetary Authority respectively. Powers to revoke and suspend also rests with the respective designated authorities, except that the Ordinance does not provide for the suspension of a licensed bank.

After a review of the provisions, we conclude that the Ordinance should be amended:

- (a) to establish the Monetary Authority as the authority responsible for the authorization, suspension and revocation of all three types of authorized institutions, including new powers to suspend a licensed bank;
- (b) to improve the checks and balances in the authorization arrangements by distinguishing more clearly the administrative and appellate functions; and
- (c) to improve the transparency in the authorization arrangements by setting out more clearly the criteria which would be used for the authorization and revocation of all three types of authorized institutions.

The proposal for vesting full responsibility for authorization matters in the Monetary Authority would be in line with the objective of enabling the Governor in Council to focus on important policy issues. It would also be consistent with the Monetary Authority's central banking role of maintaining the general stability of the banking system and with the practice in other leading financial centres.

The proposed transfer of powers from the Governor in Council and the Financial Secretary to the Monetary Authority would also improve the checks and balances of the authorization provisions in the Ordinance. The three authorities would play distinctive roles under the new structure: the Monetary Authority would be responsible for administering all authorization matters; the Financial Secretary would provide a check as the Monetary Authority would be required to consult him on important authorization decisions; and the Governor in Council would act as the appellate body for hearing appeals against the decisions made by the Monetary Authority.

This represents a significant improvement over the existing system where there is no appeal against a decision of the Governor in Council to refuse to grant, to revoke or to attach conditions to a banking licence. These decisions would be subject to appeal under the proposed structure.

Under the revised regime, it is important that the Monetary Authority should be seen to operate within clearly defined statutory criteria for authorization, suspension and revocation. This would be achieved by introducing the new Seventh and Eighth Schedules to the Ordinance clearly setting out the specific criteria to be applied by the Monetary Authority.

The Bill also deals with the powers of the Monetary Authority to take control of an institution. The powers are based on similar powers introduced into the Insurance Companies Ordinance in 1992. The main objectives of the powers are:

- (a) to allow the Monetary Authority, through a Manager, to control the affairs, business and property of a troubled institution so that it can be nursed back to health, perhaps as a prelude to sale; and
- (b) to enable the Monetary Authority to take quick action to safeguard the assets and maintain the fabric of the business until a liquidator can be appointed.

It is proposed that subject to certain limits which may be imposed by the Monetary Authority, the Manager be given all powers necessary to properly manage the affairs, business and property of the institution. The new Ninth Schedule sets out the specific powers of the Manager which include, amongst others, the power to enter into contracts on behalf of the institution, and to dispose of the business or property of the institution. Experience in 1991 in the control of the Bank of Credit and Commerce Hong Kong Limited revealed ambiguities about the powers of the Manager appointed under Part X of the Ordinance. It is considered both necessary and desirable to spell out more clearly the scope, objectives, duties and powers of the Manager to ensure that he could carry out his duty effectively when an institution runs into problem.

There are a number of miscellaneous amendments made by the Bill, covering areas such as publication of audited annual accounts, submission of returns and information to the Monetary Authority, limitation on advances, restriction on the use of the name "bank" and others. These are considered necessary either to clarify various existing provisions in the Ordinance or cater for new developments in the banking sector.

Thank you, Mr President.

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

HUMAN ORGAN TRANSPLANT BILL

Resumption of debate on Second Reading which was moved on 8 April 1992

Question on Second Reading proposed.

MR RONALD ARCULLI: Mr President, the Human Organ Transplant Bill was first introduced into the Legislative Council on 8 April 1992. It seeks to achieve a number of objectives, firstly, to prohibit commercial trading in human organs intended for transplant (clause 4); secondly, to restrict the transplant of human organs between living persons who are not genetically related unless with the approval of a Human Organ Transplant Board (clause 5); and thirdly, to regulate the importing of human organs intended for transplanting (a new clause 7 is proposed to cover this area).

The Bill accordingly seeks to set up the Board (clause 3) and provides that specified information on transplant operations (clause 6) and a certificate on the imported organ (new clause 7) should be supplied to it. Failure to comply with these provisions in clauses 4, 5, 6 and 7 constitutes an offence.

A Legislative Council ad hoc group was formed on 9 April 1992 to study this Bill. A total of 10 meetings were held. The considerable length of time taken by the ad hoc group to study this Bill was attributed first to the long time taken to gather information (mainly from overseas institutions) on legislation regarding young persons as living donors, then to the detailed examination of some conceptual changes and deliberations on the extraterritorial effect of the Bill by the Administration.

Views from the Kidney Action Group, the Hong Kong College of Physicians and the Hong Kong Medical Association in their submissions to the ad hoc group had been fully taken into account in its deliberations of the Bill.

In considering the Bill, the ad hoc group has expressed a number of concerns. I would like to mention a few of the major ones.

Members find the definition of "organ" in clause 2 of the Bill rather complex and difficult for the general public to understand. They therefore suggest to replace the definition by a schedule in the Bill listing out all those human organs commonly used for transplant and those organs or activities (for example, blood transfusion) not intended to be covered by the Bill. However, the Administration encounters medical and law drafting difficulties in producing exhaustive lists. Some parts of the body which the Bill intends to cover, for example, corneas, are not "organs" under normal medically-accepted definition. The Administration has also undertaken to launch suitable publicity to explain the intended coverage and other features of the Bill. It will be made clear the blood, gametes and bone marrow will not be regarded as "organ" for the purposes of this Bill.

Clause 4 deals with the prohibition of commercial dealings in human organs. It touches on the very issue of the effectiveness of the Bill. It also touches on the extraterritorial aspect of the Bill which is complex and contentious. The Hong Kong Medical Association express particular concern on this aspect and suggests that it is more desirable to restrict commercial organ transplant in Hong Kong only.

After extensive consultation with the Attorney General's Chambers, the Administration is of the view that there will not be any problem with the extraterritorial effect of the provisions in the Bill provided that the Bill could be justified as being necessary for the order and good government in Hong Kong. To fulfil this requirement, some parts of the process at issue have to take place inside Hong Kong. The policy intention is to make it an offence, as long as there is an element of commercial dealings, for any person to remove or transplant an organ, to make or receive payment for an organ, or to act as an agent in the processes if any of these acts or events takes place in Hong Kong. The present proposal as reflected in the revised Committee Stage amendments will best serve the objective to cover as many probable situations as possible. To improve reading of the provisions and to put beyond doubt the legislative intent, clause 4(1) has been re-written and new clauses 4(3A), (3B) and (3C) added.

Members have mixed views on the new subsections (3A) and (3C) which deal with removal and transplant of a commercially-obtained organ. Some consider that this will place an unfair burden on doctors who are the persons performing the operations. In some circumstances, it might be difficult for doctors to ascertain beforehand whether the operation involves a commercial element. It will be particularly unfair to doctors practising under limited registration for a brief period in Hong Kong as they may not be familiar with the requirements of the Bill. On the other hand, some Members are of the opinion that, for reason of professional ethics, doctors have a duty under the law to ascertain all relevant facts or law before undertaking any operation.

Some of the concern was expressed regarding the onus of proof. The Administration has assured Members that, as laid down in the revised Committee Stage amendments, the onus of proof rests with the prosecution as it will have to prove that the person performing the operation "knew or ought, after reasonable inquiry, to have known that a payment was or was to be made for that organ" before the person can be convicted of an offence under the two subsections. Regarding the concern relating to doctors visiting Hong Kong for temporary practice, the Administration agrees that the Hong Kong Medical Council, which is the authority to issue practising certificates for limited registration, can alert such doctors of various legal requirements concerning the medical profession in Hong Kong. Suitable publicity can also be arranged to ensure that concerned parties are aware of the legal requirements in respect of human organ transplant.

I think some of my honourable colleagues might have more to say on this particular clause.

Another area of concern to the ad hoc group is the age of the donor of organs. It is provided in clause 5(4)(b) of the Bill that, where application for organ transplant has to be approved by the Human Organ Transplant Board, and aside from other conditions, the donor should have reached the age of 18 years. The ad hoc group considers that in certain transplant operations, for example, part of a liver, the use of organs from young persons may be more advantageous. Furthermore, there could be cases where some young persons below the age of 18 are mature enough to make their own decisions on organ transplant. It therefore requests the Administration to obtain from overseas countries/territories with different ethnic origins information on legislation regarding young persons as living donors. Out of 16 overseas countries, only two allow, with certain control measures, children to donate their organs. In May 1993, all District Officers of the then City and New Territories Administration also conducted an informal opinion survey in respective districts on our proposal to lower the age of living donors. The majority of respondents did not support the proposal. They considered that children were too young to be able to decide independently and objectively on those matters and they also feared possible abuse by their parents/guardians.

Having considered these findings, the ad hoc group alternatively proposes that, since persons aged between 16 and 18 years can get married with their parents' consent, it is reasonable to lower the age of living donors, to 16 for married persons. This proposal is agreed by the Administration.

The ad hoc group was also concerned that imported organs should be accompanied by certain specified information so as to deter trading of organs and facilitate easy identification of the origin of the organ. It was generally agreed to add a new clause (clause 7) in the Bill stating that an imported organ should be accompanied by a certificate issued by an authority recognized by the respective government (for example, a registered hospital or recognized authority such as the Sri Lankan International Eye Bank, and signed by a

medical practitioner). The certificate should state that: (a) the organ is removed by legal means; (b) it comes from a non-infectious source; and (c) it is removed on a non-commercial basis. Other necessary information will be as prescribed by the Human Organ Transplant Board by Regulation, subject to the negative approval procedure of this Council. Failure to comply with the requirement to furnish the certificate (or even specified information) will be an offence, liable to a fine of \$50,000 (or at level five) and imprisonment for three months. I am pleased to note that the Hong Kong Eye Bank and Research Foundation and the Hospital Authority envisage no problem in complying with the proposed requirement for import certification and documentation.

In order to strengthen the deterrent effect of the provisions in the Bill, the ad hoc group considers that the level of penalty in commercial trading in human organs, illegal transplant of human organs between living persons and failure to supply information about transplant operations to the Transplant Board, as provided in clauses 4(4), 5(7) and 6(3) respectively, should be substantially raised.

In view of the fact that the offences under the Bill are of such a nature that offenders might not be able to be charged within the normal six-month period stipulated under section 26 of the Magistrates Ordinance (Cap. 277), the ad hoc group proposes, and the Administration agrees, to extend the prosecution limitation period of such offences to a maximum of three years.

Besides these major concerns, a few relatively minor points have also been deliberated upon and agreed with the Administration as amendments to the Bill. I shall not go into details of these amendments as they will, I think, be covered by the Secretary for Health and Welfare at the Committee stage.

Before closing, Mr President, I must thank my colleagues for their time, patience and efforts in studying this Bill. I wish also to thank the Administration for their co-operation to obtain the necessary information from overseas countries and to work out the amendments to be introduced.

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

DR LEONG CHE-HUNG: Mr President, I rise to speak in support of the Bill on behalf of the Medical functional constituency that I represent.

In supporting this Bill, I am putting the strongest condemnation of the medical profession to commercial organ trading, and organ donation under duress. The medical profession also calls on the Government to implement without delay the spirit and words of the Bill, in particular, the setting up of an efficient, properly represented and constituted Human Organ Transplant Board.

Mr President, I am well aware of the pain that the Administration has taken to collect relevant information from overseas. I am also aware of the prolonged consultation and the deliberation that Members of this ad hoc group has dwelled on in relation to technical details and many questions raised by the medical profession. To them the medical profession is in debt. All these are no doubt the causes of the delay of some three years before this Bill is finally presented for resumption of Second Reading debate today.

This Bill, as the convenor of the ad hoc group has pointed out, is in essence to prohibit commercial trading of human organs for transplantation, to restrict the transplanting of human organs using organs from living persons not genetically related, and to regulate the importation of human organs for transplant.

Whilst this Bill is comprehensive in general and addresses the principle of all the issues of concern, there are shortfalls that leave a few imperfect areas. It is hoped that the Administration could respond to some of these during the Secretary's reply or make commitment to have some of these areas amended in the future to make it into a perfect Ordinance.

In essence, the areas that I am concerned are as follows:

Firstly, the title of the Bill is misleading in that whilst the Bill aims to annihilate organ trading, the title Human Organ Transplant Bill gives the public an impression, and indeed has been used by the Government to imply, that it aims to promote organ donation, which obviously it is not. The long title is also no less misleading.

Secondly, this Bill has provided no explicit distinction, obvious to any non-legal eyes, between the control and regulation of living versus cadaveric organ donation.

Whilst it would be obvious to all that commercial dealings with cadaveric organ is illegal, the criminality of commercial dealings of an organ or part of it from a living person goes much more beyond — as a start it is definitely amoral.

Furthermore, removal of an organ or part of it from a perfectly healthy individual just for financial gain borders on unnecessary surgery, risking the donor to possible morbidity and mortality of the procedure which no members of the medical profession should ever condone. Transplantation from living donors should therefore only belong to the realm of those with blood relationship or at most between spouses where there may well be unfathomed emotional bondage. In any case, the Human Organ Transplant Board must be fully satisfied that commercialization plays no part.

Thirdly, the proposed addition of new clauses 4(3A) and 4(3C) which impose a criminal offence on a person who "ought, after reasonable inquiry, to have known that a payment was or was to be made for supplying the organs" leaves many an area which is unsatisfactory:

- (a) there is a high degree of uncertainty as to what "reasonable inquiry" is;
- (b) it may well shift the burden of proof onto the defendant; and
- (c) it has a property of changing negligence which should be a civil liability to a criminal liability.

All these is especially burdensome, as the convenor of the ad hoc group which just mentioned, to the doctors who has to remove or transplant an organ and therefore has to bear the onus of proof that he or she has done all he or she could to ensure that he or she has gone through a "reasonable inquiry".

Finally, Mr President, no amount of law will wipe out organ trading as survival is a basic human instinct. We can do no worse than to promote more education in organ donation. The "opt-out system" should really be revived and discussed again. It is only when there are enough donated organs (cadaveric ones) to supply those in the waiting list who need transplantation that those chronically ill who needs transplantation will not risk confrontation with the law to "buy" an organ or to expose his/her life to possible danger by having a transplantation in a foreign environment of uncertain standard.

We support the Bill.

DR LAM KUI-CHUN: Mr President, organ transplantation nowadays brings the only hope of survival to patients with end-stage organ failure. Although a transplanted organ is a disease in itself, current success with this high-technology form of medical treatment offers a near-normal quality of life for otherwise hopeless patients. Success with transplantation for many organs now exceeds 90% in the centres of excellence in various parts of the world. It is inevitable that the donor population, who derives no health benefit from transplantations, is now justifiably extended from cadavers to living people to enhance the chance of survival of otherwise hopeless people.

While the world applauds the magnanimity of selfless donors, social morals should prevent a life-saving procedure from degenerating into commercial profiteering. This Bill is aimed to achieve this. At the same time, the Bill also protects living children from being volunteered to donate their organs by their parents or guardians. For these reasons, I support the spirit of the Bill.

However, in the prolonged period required to fully scrutinize the Bill, the general attitude of the world towards purchase of donor organs has appreciably shifted if not radically changed. It is still accepted that the poor should not be displaced in the queue for organ transplantation because of simple lack of wealth. In so saying, the world of medicine is re-affirming that the rich should not jump ahead of the poor in priority of treatment by payment of money. Nevertheless, the world is beginning to examine a new attitude, namely, that if wealth can bring together a donor and a recipient without displacing poor people in the recipients' queue, then saving a life via commercial means may be more desirable than condemning to death while sticking to high moral principles. Although this attitude is not generally accepted at present in the medical world, a forum on this issue organized late last year in the United States was well attended, with medical participants showing considerable enthusiasm.

Mr President, the field of transplantation is evolving fast. To allow for developments in the future, this Council, while supporting the high moral principle of keeping life-saving measures out of commercial profiteering, may have to keep its mind open for future changes in the attitude towards procuring organs for transplantation. In several years' time, Hong Kong may need an amendment to this present Bill, permitting the purchase of donor organs under defined conditions. Alternatively, an ideal situation may arrive when genetic reactivation by high technology may affect complete regeneration of destroyed organs, thus outdating the need of organ transplantation. When that day comes, this present Bill may become obsolete. Then, this Council may be happy to learn that this Ordinance may be deleted from the Laws of Hong Kong.

Mr President, as of today, I support this Bill.

DR HUANG CHEN-YA (in Cantonese): In essence, the Human Organ Transplant Bill seeks to prevent commercial trading in human organs. As a result of medical advances, quite a number of human organs can now be transplanted as treatment for patients suffering from various kinds of organ failure. However, since the number of organ donors is far smaller than that of people in need of organ transplants, commercial trading in human organs is the result. My opinions differ from what Dr the Honourable LAM Kui-chun has just said. I trust all of us will agree that we can never subscribe to the idea of poor people selling their eyes, kidneys and so on to wealthy people who seek to restore their health at the expense of others. This is what this Bill seeks to prevent and will prevent. Of course, I believe this has not happened in Hong Kong, and we will not see such heart-breaking scenes in which wealthy people cause bodily damage to others while seeking to restore their own health. But unfortunately, we do have medical practitioners in Hong Kong who refer Hong Kong patients to China or other places for transplants of organs from unknown origins. From time to time, we read in the newspapers that poor people in China sell their own organs because of pressing financial needs. Also, a lot of information has indicated that in some places in China, organs are still being removed from prisoners for transplantation without their consent.

Mr President, I believe we all agree that human organs are private properties that no state or government can take away for any purpose because this not only infringes human rights, but also tramples on human dignity, reducing men to animals. Although the laws of Hong Kong may not be able to prevent all commercial trading in human organs outside the territory, we hope that the Ordinance will give a clear message that, in Hong Kong, commercial trading in human organs is considered immoral and unacceptable to a civilized community. I hope that one day, China can enact a similar law which can eliminate the infringements on human rights caused by removal of human organs for transplantation.

While we are passing this Bill, we have to address a problem. Commercial trading in human organs has arisen because demand has exceeded supply. I can recall that many years ago in Hong Kong, some people sold their blood. However, as more people are willing to donate blood nowadays, this practice has become very rare. Today, when Hong Kong people receive organ transplants in China, they usually do not know, or simply do not want to know, where the kidneys or any other organs have come from. The reason they go to China for kidney transplants is that they are unable to get them in Hong Kong. If our goal is to get rid of all commercial trading in human organs, we should not stop with the passing of today's Bill. Instead, we should continue to educate the public and encourage them to donate their organs, so that we can have a sufficient supply of organs to meet transplantation demand. Only by doing so can we really root out commercial trading in human organs and eliminate the associated infringement on human rights.

With these remarks, I support the passing of this Bill.

DR CONRAD LAM (in Cantonese): Mr President, however precise and comprehensive an ordinance may be, I believe that there are bound to be people who can take advantage of loopholes. Whilst the enactment of the Human Organ Transplant Bill can to a certain extent deter commercial trading in human organs, we cannot expect that all the loopholes can be plugged.

After the enactment of the Human Organ Transplant Bill, who will actually be benefited? We can see that there are three categories of people: patients requiring organs for transplant are benefited; people elsewhere outside Hong Kong wanting to sell their organs for financial reasons, who, however, will sustain physical loss despite their financial gains; and "exploitative intermediaries" to whom we should pay particular attention. Some of these intermediaries gain benefits from organ transplantation because there is demand for their technical skills, and others do so by making use of their authority.

I hope that in the course of setting up the Human Organ Transplant Board after the passage of the Bill, the Government can lay more stress on the representativeness of the Board so as to minimize the benefits that can be reaped by exploitative middlemen.

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

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

Bill read the Second time.

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

Committee Stage of Bill

Council went into Committee.

HUMAN ORGAN TRANSPLANT BILL

Clauses 1 and 3 were agreed to.

Clauses 2, 4, 5 and 6

SECRETARY FOR HEALTH AND WELFARE: Mr Chairman, I move that the clauses specified be amended as set out under my name in the paper circulated to Members.

I would like to thank the Honourable Ronald ARCULLI, convenor of the ad hoc group studying the Bill, and Members of the group for their most thorough examination of the provisions therein. As a result, several amendments are now proposed which will increase the scope of the Bill and make its provisions easier to understand.

The amended clause 4(1)(a) makes it clear that it is an offence for any person in Hong Kong to make or receive payment for supplying or offering to supply an organ, or to act as an intermediary in such arrangement, regardless of whether the organ is removed from a living or dead person and whether the removal and transplant take place in Hong Kong or elsewhere. Clause 4(2)(a) is similarly amended to make it an offence to advertise to buy an organ removed from a dead or living person in Hong Kong or elsewhere for transplant in Hong Kong or elsewhere.

New clauses 4(3A) and 4(3C) respectively make it an offence for a person to transplant in Hong Kong or remove from a dead or living person in Hong Kong an organ that he knew or should have known was a commercially-traded organ, regardless of where payment was to be made for it. A new clause 4(3B) makes it an offence for a person to import such an organ.

The purpose of amendments to clauses 4(4), 5(7) and 6(3) and new clause 7(4) is to provide harsher deterrent penalties.

Amendments to clause 5(4) and (5) prescribe arrangements for ensuring that both living organ donors and organ recipients give informed and unpressured consent to the transplant procedure.

Proposed amendments

Clause 2

That clause 2 be amended, in the definition of "organ" by adding", and includes part of an organ" after "the body".

That clause 2 be amended, in the definition of "付款", by deleting "具金錢價值的物品" and substituting "有價事物".

Clause 4

That clause 4 be amended —

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

"(1) A person is guilty of an offence if, in Hong Kong, he -

- (a) makes or receives any payment for the supply of, or for an offer to supply;
- (b) seeks to find a person willing to supply for payment, or offers to supply for payment; or
- (c) initiates or negotiates any arrangement involving the making of a payment for the supply of, or for an offer to supply,

an organ which has been or is to be removed from a dead or living person, whether in Hong Kong or elsewhere, and is intended to be transplanted into another person, whether in Hong Kong or elsewhere.

(1A) A person is guilty of an offence if he takes part in the management or control of a body of persons corporate or unincorporate whose activities consist of or include the initiation or negotiation of any arrangements referred to in subsection (1)(c)."

- (b) in subclause (2)(a) by deleting "referred to in subsection (1)(a)" and substituting "which has been or is to be removed from a dead or living person, whether in Hong Kong or elsewhere, and is intended to be transplanted into another person, whether in Hong Kong or elsewhere,".
- (c) by adding -

"(3A) A person is guilty of an offence if, in Hong Kong, he transplants an organ into a person and he knew or ought, after reasonable inquiry, to have known that a payment was or was to be made for supplying the organ, regardless of where the payment was made and, where the payment was not made in Hong Kong, regardless of whether or not such payment was prohibited under the laws of the country where the payment was made.

(3B) A person is guilty of an offence if he imports an organ for the purpose of -

- (a) having it transplanted into a person in Hong Kong; or
- (b) exporting it to a country where it is intended that it be transplanted into a person,

and he knew or ought, after reasonable inquiry, to have known that a payment was or was to be made for supplying the organ, regardless of whether or not such payment was prohibited under the laws of the country where the payment was made.

(3C) A person is guilty of an offence if, in Hong Kong, he removes from a dead or living person an organ intended for transplant into another person, whether in Hong Kong or elsewhere, and he knew or ought, after reasonable inquiry, to have known that a payment was or was to be made for that organ."

That clause 4(2) be amended, by deleting "影響" and substituting "損害".

That clause 4(2)(b) be amended, by deleting "第(1)(c)款所指" and substituting "第(1)(c)款所提述".

That clause 4(4) be amended —

- (a) by deleting "of \$10,000" and substituting "at level 5 and to imprisonment for 3 months".
- (b) by deleting "of \$25,000" and substituting "at level 6".

Clause 5

That clause 5(1) be amended, by deleting "在符合第(3)款的規定下" and substituting "除第(3)款另有規定外".

That clause 5(1)(a) be amended, by deleting "供移植予他人" and substituting "移植於另一人體內".

That clause 5(1)(b) be amended, by deleting "予他人" and substituting "於另一人體內".

That clause 5(1) be amended, by adding "屬何" before "情況".

That clause 5(2) be amended, by deleting "當作" and substituting "視為".

That clause 5(3) be amended, by deleting "所指" and substituting "所提述".

That clause 5(4) be amended, by deleting paragraph (b) and substituting —

- "(b) the donor has reached the age of -
 - (i) 18 years; or
 - (ii) 16 years and is married;"

That clause 5(4)(c) be amended —

- (a) by adding after "practitioner" -
", who is not the medical practitioner who will remove the organ from the donor or transplant the donor's organ into another person,".

- (b) by deleting "and the donor" and substituting "and the recipient and each".

That clause 5(4)(c)(i) be amended, by deleting "切除器官" and substituting "有關".

That clause 5(4)(c)(iii) be amended, by deleting "該器官捐贈人" and substituting "其本人".

That clause 5(5) be amended, by deleting "both been interviewed" and substituting "each been interviewed separately".

That clause 5(6) be amended —

- (a) by deleting "供移植予他人" and substituting "移植於另一人體內".
- (b) by deleting "確定" and substituting "確使自己能信納".
- (c) by deleting "所指" and substituting "所提述".

That clause 5(7) be amended —

- (a) by deleting "of \$10,000" and substituting "at level 5 and to imprisonment for 3 months".
- (b) by deleting "of \$25,000" and substituting "at level 6".

Clause 6

That clause 6(3) be amended, by deleting "of \$20,000" and substituting "at level 5 and to imprisonment for 3 months".

That clause 6(3) be amended, by deleting "行爲" and substituting "作爲".

That clause 6(3)(a) be amended, by deleting "解釋" and substituting "辯解".

That clause 6(3)(b) be amended —

- (a) by deleting "在充作" and substituting "其意是".
- (b) by deleting "時," and substituting ",但".
- (c) by deleting "真偽" and substituting "後果".
- (d) by deleting "失實" and substituting "虛假".

Question on the amendments proposed, put and agreed to.

Question on clauses 2, 4, 5 and 6, as amended, proposed, put and agreed to.

New clause 7 Information required for
imported organs

New clause 8 Limitation of time for
proceedings in respect of offences

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

SECRETARY FOR HEALTH AND WELFARE: Mr Chairman, the new clause 7 introduces requirements for information to be supplied to accompany imported organs. The purpose of this is to ensure that organs are healthy and that they have not been obtained commercially. A new clause 8 provides an extended time limit of three years for commencing criminal proceedings.

To complement the provisions in the Bill when enacted, we shall solicit co-operation from the medical profession to take the lead by reporting any violations to the Administration. Suitable publicity materials will also be produced and made available for the information and guidance of doctors and patients in hospitals.

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

Clauses read the Second time.

SECRETARY FOR HEALTH AND WELFARE: Mr Chairman, I move that new clauses 7 and 8 be added to the Bill.

Proposed additions

New clause 7

That the Bill be amended, by adding —

**"7. Information required for
imported organs**

(1) Where a human organ is imported for the purpose of transplanting it into a person in Hong Kong, it must be accompanied by a certificate which is signed by a person in the country of origin who is acceptable to the board and which contains the following -

- (a) a statement that, in obtaining the organ, all applicable laws of the country of origin were complied with;
 - (b) a statement that the source of the organ was not infected with any disease that could be transmitted to the recipient of the organ through transplanting;
 - (c) a statement that the organ was removed in a hospital in which the government of the country of origin has authorized organs to be removed for transplanting;
 - (d) a statement that no person in the country of origin made or received a payment for supplying the organ;
 - (e) such other information as the board may, by regulation, require to be supplied, and the board may require different information to be supplied for different organs.
- (2) The person who is to transplant the organ into a person in Hong Kong shall, before transplanting it, supply the certificate to the board.
- (3) If the certificate does not accompany the organ, no person shall transplant it into a person in Hong Kong until such a certificate has been obtained and supplied to the board.
- (4) A person who contravenes subsection (2) or (3) is guilty of an offence and is liable upon conviction to a fine at level 5 and to imprisonment for 3 months.

New clause 8

That the Bill be amended, by adding —

8. Limitation of time for proceedings in respect of offences

In respect of an offence under this Ordinance, a complaint may be made or an information laid within 3 years from the time when the matter of such complaint or information respectively arose."

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

Long title

SECRETARY FOR HEALTH AND WELFARE: Mr Chairman, I move that the long title be amended as set out in the paper circulated to Members.

Proposed amendment

Long title

That the long title be amended, by adding ", to regulate the importing of human organs intended for transplanting" after "related".

Question on the amendment proposed, put and agreed to.

Question on the long title, as amended, proposed, put and agreed to.

Council then resumed.

Third Reading of Bill

THE ATTORNEY GENERAL reported that the

HUMAN ORGAN TRANSPLANT BILL

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

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

Bill read the Third time and passed.

PRIVATE MEMBER'S MOTIONS

PRESIDENT: I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates and Members were informed by circular on 17 February. The movers of the motions will have 15 minutes for their speeches including their replies 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.

PUBLIC RENTAL HOUSING

MR ANDREW WONG moved the following motion:

"That in view of the dire need for public rental housing as evidenced by the fact that "some 150 000 families are on the Waiting List", this Council welcomes the Government's 1994 Policy Commitment target to "build an additional 141 000 public rental flats before April 2001", and urges the Government to inject before July 1997 at least an additional 90 hectares of land into the Housing Authority for the construction of public housing in order to accomplish the said target."

MR ANDREW WONG (in Cantonese): Mr President, in the "Policy Commitments" which is an annex to the Governor's policy address in 1994, the Government made the following commitment, or undertaking, in the section on housing: (page 47 in the Chinese version and page 55 in the English version) "Public Rental Housing — Targets — The Government aims to build an additional 141 000 public rental flats before April 2001". The motion I am moving today urges the Government to inject sufficient land in order to realize its policy objective of "building an additional 141 000 public rental flats".

Regarding the words "build an additional", anyone with common sense will take them to mean that on top of the number of flats already planned to be built, an additional 141 000 units will be constructed. This commitment makes people feel overjoyed and think that the Government has abandoned the policy direction of "building more Home Ownership Scheme housing and fewer public rental housing". I have discussed with a group of young people who are concerned about public housing and who, incidentally, I have to declare, are not my students, as to how we can urge the Government to realize the objective of "building an additional 141 000 public rental flats". This youth concerned group has established a joint committee with people from the 150 000 families who have been on the General Waiting List for many years but not yet allocated public housing. They work together for the realization of the objective of building an additional 141 000 public rental flats by the appointed time. According to our understanding of the words "build an additional" and assuming that about 700 flats can be built on each hectare of land, the additional land required will be about 200 hectares. As we are also aware that production of land is not an easy task at all, we have adopted a conservative approach and have reduced our demand for 200 hectares of land to 75% of the total, that is 150 hectares. Besides, we have assumed that the additional 60 hectares of land promised by the Government at an earlier meeting of the Housing Panel of this Council will entirely be used for the construction of public rental housing, therefore, we have very conservatively and, I think, reasonably, only demanded an injection of an additional 90 hectares of land before July 1997.

Mr President, my motion has been supported by 34 non-governmental groups. I urge Members of this Council to show their kindness, act according to their conscience and unanimously support this motion in order to provide people who are most in need of help with basic housing.

Unfortunately, Mr President, the Honourable LAU Wah-sum is going to amend my motion. Although he will be asking for the injection of the additional land to be advanced to 1995, the additional land he asked to be injected will be reduced to 38 hectare. When my friends in the joint committee discussed my motion and his amendment with Mr LAU Wah-sum, he pointed out that the additional land the Housing Authority (HA) required was only about 30-odd hectares. I have also discussed with officials of the Housing Department, the HA and the Housing Branch the question of the additional injection of land. They also thought that the Government had largely injected the land required to accomplish the target of the HA of building about 140 000 public rental flats and about 160 000 Home Ownership Scheme flats before 2001. Hence, only an additional 30-odd hectares of land would be required.

Mr President, so it is clear that Mr LAU Wah-sum or perhaps the Liberal Party and the Government (including the Housing Department, the HA and the Housing Branch) have a different interpretation regarding the objective "to build an additional 141 000 public rental flats" as stated in the 1994 Policy Address. They have taken that to mean the housing objective of the HA of "building" flats, but not building "additional" flats. Here, I would like to call upon, you, Mr President, Honourable Members and the people of Hong Kong to pass a fair judgment. Have I misunderstood the meaning of "to build an additional 141 000 public rental flats" or have the Liberal Party and the Government distorted its meaning?

Mr President, right, let us forget it, and let us suppose this is a misunderstanding on my part and that of those who support my motion, but this is not a "pleasant misunderstanding". Thinking of the long General Waiting List, the unreasonable income ceiling, the over-crowded households in public housing estates, and the people living in squatter huts, temporary housing areas and roof-top huts, I would say, Mr President, this is an "ugly misunderstanding".

Mr President, I can accept that "building an additional" does not mean building an additional 141 000 flats on top of the existing housing objective, I suppose I have misunderstood its meaning. However, I cannot accept that "to build an additional 141 000 flats" is equivalent to the housing objective of the HA. According to the figures provided by the HA, the objective of the HA is to build some 146 000 public rental flats from now on until 2001, a number which is greater than 141 000. About 76 000 of these flats will be built on the 130 hectares of land newly made available and the remaining 70 000 flats will be built on about 94 hectares of land obtained in the redevelopment of existing housing estates. However, based on the figures in the Mid-term Review on the Long Term Housing Strategy published by the HA in 1993, my calculation

reveals that 105 000 flats in the old housing estates will be demolished from the year 1995-96 to the year 2000-2001.

Mr President, the 76 000 flats to be built on the new sites can be regarded as additionally constructed, but the 70 000 flats to be built on sites of the old housing estates cannot be called additional in any case. Moreover, at the same time when these 70 000 new flats are to be built, 105 000 old flats have to be demolished to make place for them. Instead of building additional flats, this is in effect a reduction in the number of flats. Indeed, this is a reduction in the supply of public rental flats.

Mr President, let us consider the figures carefully. From now on until 2001, 146 000 flats will be built and 105 000 will be demolished, there will only be a net increase of 41 000 flats. Is this an "ugly misunderstanding" or an "ugly lie"?

Mr President, the 105 000 flats under the Public Housing Development Programme of the HA which are lost have to be replaced. The land required will be the 94 hectares of land so lost in the process.

Mr President, the amendment proposed by the Honourable Frederick FUNG expresses the spirit of the original motion in an even better way and I will vote in support of his amendment. However, Mr LAU Wah-sum's amendment makes me sad. Is a net addition of 41 000 flats the same as building an additional 141 000 flats? I call upon Members to oppose his amendment.

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

Question on the motion proposed.

PRESIDENT: Mr Frederick FUNG and Mr LAU Wah-sum have given notice to move amendments to this motion. As Members were informed by circular on 18 February, under Standing Order 25(4) I shall ask Mr Frederick FUNG to speak first, to be followed by Mr LAU Wah-sum; but no amendments are to be moved at this stage. Members may then debate the main motion as well as each of the two amendments listed in the Order Paper.

MR FREDERICK FUNG (in Cantonese): Mr President, over the last few years, this Council has time and again debated on such topics as housing, property price and land. According to telephone surveys conducted by the City and New Territories Administration over the years, the housing problem has always remained at the top of the list as the subject constantly causing the most anxiety and concern for those members of the public who aspire to have their own places to live in. If not for the stringent income calculation requirement under the General Waiting List, I believe many more people would wish to apply for public housing and they would have already been allocated flats. At present,

there are 150 000 families on the General Waiting List, which is a considerable number. I believe the Government would not be unaware of the community's great demand for public rental housing. The Governor's undertaking in the Policy Commitments to build 141 000 public rental flats during the period from 1995 to 2001 is certainly welcomed. Having said that, I think this commitment should only be a starting point. With the Housing Authority (HA)'s annual adjustment of the income limit for public rental housing and the continual arrival of new immigrants to Hong Kong, public rental flats would certainly become the housing shelter on which the middle and lower income groups rely. As shown in the information provided by the Housing Department, by 2001, even if these 141 000 flats were built, there would still be 31 000 families waiting to be allocated flats. Hence, the Government must make further commitments in respect of its Public Housing Development Programme in order to fulfil its promises.

On the basis of the Government's claim to produce the target number rather than building additional flats, the commitment I referred to is the allocation of adequate land. At present, land allocated by the Government is far from sufficient. Calculated on the HA's planned construction ratio of 700 flats for each hectare of land, an additional 44 hectares will be required to settle 31 000 families by 2001. Taking together the 58 hectares of land promised to the HA by the Government last year, a total of 102 hectares will need to be allocated. This figure has not yet taken into account the 15 hectares of land reserve demanded by the HA. Therefore, the proposed 90 hectares of land as set out in the motion and its amendment is actually a small number and a very modest demand.

In fact, my amendment is in principle similar to the original motion. I believe the Honourable Andrew WONG shares my hope that the Government would fulfil its rudimentary commitment. However, the amendment differs from Mr Andrew WONG's motion by proposing some changes to the timing of the housing programme. The production of, or building of, an additional 141 000 flats is only a starting point. Usually, it would take five to six years from the planning to the completion of a building project. Hence, this year is of crucial importance.

To devise any housing programme beyond 2001 would require various government departments, in particular the Planning, Environment and Lands Branch, the Housing Branch and the HA, to conduct another study on the long term housing strategy to examine the supply of and demand for housing and land in Hong Kong after 2001. According to my understanding, as yet the various Government departments seem to have no such intention. Their picture of the housing programme after 2001 appears to be a blank. Although the Government is now in its twilight years, I think it should, as a responsible government, plan for policies that extend beyond 1997. We should not wait idly and delay the planning of our housing programme for the years after 2001. If the waiting is allowed to go on, there will come a time when the Government will fail to "deliver" any new public housing flats. By that time, I think the ones

to be reproved should not be the then Special Administration Region Government, but the Hong Kong Government and the responsible officials of today, if only we can still remember whom we should hold responsible for and reprove. Therefore, I think my amendment differs from the original motion in that the former is looking beyond 2001, in the hope that the Government would have more foresight and forward planning in its housing programmes.

As for the Honourable LAU Wah-sum's amendment, I think it has not only embraced the principle of focusing on the interests of businessmen but has been oriented to a probably regressive move. Firstly, I consider Mr LAU's amendment to be conceptually contradictory, as while he urges the Government to allocate additional land for building public housing before the end of 1995, he also subjects it to a prerequisite that the supply of land for private housing would not be reduced. This is just like a modern version of the Biblical incident of "five loaves and two fishes." The availability of land has in fact a fixed limit. How can the Government act like God and suddenly increase the land supply within this year? How can more land be made available without affecting private housing? Secondly, I think the amendment largely protects the interests of real estate developers. A housing strategy with private housing as the principal concern would only allocate land for public housing provided that it would have no impact on private housing development. Therefore, I find this totally unacceptable.

Finally, I hope the Government would give serious consideration to the four requests set out in my amendment:

- (1) That land be allocated to the HA on schedule. At present, apart from the problem of land shortage, the HA is faced with the predicament of highly fluctuating amounts of land allocation. According to the information I have, the supply of public housing flats in the two years from 1995 to 1997 will be the lowest in the '90s, less than an average of 30 000 flats a year. From 1998 to 2001, however, there will be a supply of 40 000 to 60 000 flats a year. This shows that the supply is not evenly spread out. As I gathered from the staff of the Housing Department, this situation arises out of the Government's uneven and fluctuating allocation of land. Such practice affects the output under the housing programme of the HA, leaving its staff head over ears in work at one time and sitting idly at another. I urge the Government to spread out the allocation of land more evenly to rectify the present situation.
- (2) That various government department co-operate and make their best effort to achieve set targets. The HA's present hope to complete 12 000 flats before 2001 will not be realized due to such factors like environmental protection, planning, geological problems and even red tape. I hope the Government can improve its interdepartmental communications so as not to break the promises it has made to the public.

- (3) That an additional 90 hectares of land be allocated before 1997, so that families on the General Waiting List can be housed in time.
- (4) That the Housing Project Action Team under the Housing Branch can start its work this year to deliberate on the housing development programme after 2001, so that the people of Hong Kong can soon see the picture of Government's conception of housing in the 21st century, thus averting the possible situation of confusion in, disorientation of, and unavailability of land for, public housing development by 2002.

With these remarks, I move the amendment.

MR LAU WAH-SUM (in Cantonese): Mr President, I have been involved in the formulation of public housing policies since the '60s. Although I later resigned my post as Member of the Housing Authority (HA), I am still very much concerned about the long term housing strategy. The motion moved by the Honourable Andrew WONG this time requests the allocation of 90 hectares of land. The Honourable Edward HO (also a Member of the HA) and I discussed this with the HA, because we know that the figure cannot be obtained by simple calculation. Some new flats have to be built on new sites, and some on redevelopment sites. Some flats on redevelopment sites have already been demolished while others have not. The sites having flats not yet demolished can only be used after five years, that is, after 2001. Therefore, the figure of 38 hectares of land I propose may not be accurate.

The motion I am going to move this time does not involve any political factors or personal attack at all. I hate personal attacks most. I only want to tell the public the truth and warn them not to be deceived by "grand" slogans. Why am I saying this? A few weeks ago, some people from certain concerned groups came to see me with a crowd of elderly people. They asked me to "show a little kindness" and to seek the allocation of more land for the relocation of rooftop squatters. I told them that the two policies were basically different. Since the Government has not decided how the rooftop squatters should be rehoused, it may not be useful even if more land were given to the Housing Department. As what the Honourable Frederick FUNG has just said, it would be of no use if the timing of the allocation is not right. The allocation of more land for this purpose will only deprive other building projects in which land is needed of the chance to go ahead.

I do not want to discuss figures with Mr Andrew WONG, my job is "crunching numbers". Now, I would like to put forward some important amendments. If we are to allocate land to satisfy the housing needs in 2001, disregard the number of hectares for a moment, and as our past experience tells us that we need five years from the allocation of land to the completion of the flats, I have therefore proposed to amend the motion to require the allocation of the land before the end of 1995. Second, land should be given to the HA by

batches so that it may be able to build the flats. If 90 hectares of land were given to it all at once, the HA might not have the capacity to complete all the flats.

It is all nonsense for Mr Frederick FUNG to say that I am only concerned about the private developers. I only want to tell the Government that besides the land required for public housing, some land has to be reserved for private developers. Why? Not long ago, there was a debate in this Council and Members thought that the only way to lower property prices was to build more flats. If land were not made available to private developers, how can they build more flats? Do you want property prices to rise further? Therefore, I totally disagree with what Mr Frederick FUNG said. I am not speaking for private developers.

In addition, there are at present 150 000 families on the General Waiting List, but I believe only half of this number can obtain public housing after all applications are checked for accuracy. Although I know that there will be even more applicants in the future because many newcomers who have lived in Hong Kong for seven years will become eligible to apply for public housing, the Government's target is to build 141 000 flats (here, I do not want to argue about whether "redevelopment" or "new construction" is involved). This is the Government's policy. I hope the Government can allocate land to the HA in quantities determined by the Authority and at times it deemed fit for meeting its target; otherwise, there is going to be an even greater demand for residential flats in Hong Kong, consequently causing prices of private housing to soar even higher.

Although I realize that my amendment may not be carried, I hope Members will have good sense and will not be involved in endless arguments for political reasons.

These are my remarks.

MRS ELSIE TU: Mr President, I will avoid going into the details of the amendments and speak only on the urgent need for more land for public rental housing, a need I repeatedly pointed out in this Council and which the Government has repeatedly ignored. The situation is reaching dangerous proportions. Low income workers simply cannot afford to rent even a small room, and the situation is getting worse with the influx of children from China, a matter I shall mention in my own motion later.

The public housing programme of the 1950s gave a great boost to the economy, because it gave the workers a safe shelter at a rent they could afford, and it gave them security of tenure, which no one in private rental housing can enjoy now. Aspirations have risen since the early Mark I and II blocks were built, but the need for rental housing at an affordable rent is still acute.

Since lower income families can no longer build squatter huts on hillsides, they have to find other ways to make themselves a home to bring up their families. One way is to rent or build a roof-top structure, and we have been told by the Government that there are about 40 000 of these roof-top huts. The Government cannot escape its responsibility to rehouse these roof-top squatters, and the number of 150 000 families awaiting public rental housing given in today's motion should include a further element for roof-top squatters.

The Government tries to escape its responsibility by explaining that it does not have the manpower to prevent roof-top squatting. If that is the case, then the Government must either stop demolishing the huts, or alternatively, it should include roof-top squatters in its rehousing programme in the same way that it includes hillside squatters.

It is incredible that the Government claims it cannot survey roof-top structures for rehousing, yet at the same time the Government accepts rates from their owners and tenants. It also provides water meters. It must therefore have records in various departments about the squatters, and yet denies them public housing on the grounds that they are not recorded.

So in speaking on this motion, we must include not only those who are on the Waiting List for public rental housing, but also those who did not apply for it, because they believed they owned a roof-top hut and would therefore not be eligible for public housing. I urge the Government to include roof-top squatters in their plans for public rental housing, and to give them the same treatment that it gives to other squatters when their homes are demolished.

There are many other low-income families who should be included in the number of those needing public rental housing. For example, the Government conceals the real need by taking from the Waiting List those families whose incomes are only a few dollars above the arbitrary income limits. Any family earning less than \$20,000 is really in need of public rental housing, unless we are happy to see them living in deplorable conditions in single rooms of tenement slums.

I therefore support the motion on the need for more land for public rental housing, though I put the need much higher than 150 000 so as to include the unfortunate families presently excluded on slightly higher income grounds, and those who have had to resort to squatting on roof-tops because they cannot pay private housing rents.

It is high time we returned to the policy of making sure that our low-pay workers can live in safety and security such as public rental housing offers at a rent they can afford. We have recently seen some ugly scenes when such people have been evicted from their homes. We must not take this unrest lightly, but must take measures to solve their housing problems by building more public rental housing.

Mr President, I support the aim of this motion and the amendments. I do not want to enter into an argument about hectares but I just hope that the land allocated will be increased according to the need for public rental housing.

MR LEE WING-TAT (in Cantonese): Mr President, today we once again debate on the supply of land and the production of premises. This was discussed time and again in this Council in the past four years. The Honourable Andrew WONG, the Honourable LAU Wah-sum and the Honourable Frederick FUNG have just referred to a number of figures, I think the elderly people and youngsters in the public gallery have all felt confused and would not know who is right.

Indeed, should it be an increase of 90 hectares? Or should it be 38 hectares? Probably, both are right, only that they are referring to different periods of time. The increase in land supply, I think, is related to the objective we wish to set. If we adhere to the old Long Term Housing Strategy, we do not need an increase of even one hectare since the old strategy predicted that the problem could not be solved by 1997 or even after 2000, therefore, any increase in land supply would be unnecessary. The Administration gave some concrete figures in the Report of the Task Force on Land Supply and Property Prices published in June 1994: there will only be an additional 45 000 housing units in the five years from 1995 to 2000 and the public sector will only have an additional 5 000 public rental flats and about an additional 15 000 Home Ownership Scheme (HOS) flats. Calculation shows that the increase in the public sector will only be 1 000 public rental flats and 3 000 HOS flats each year. It is clear to all whether these numbers are large or small.

In fact, the increase which the Administration has been talking about is a meagre one that can serve no useful purpose in the face of the huge demand. As estimated by the Housing Authority (HA), even if this scheme is fully implemented, there will still be 30 000 applicants on the General Waiting List by 2000. Based on an average increase of 9 000 to 12 000 applicants a year, there will still be 100 000 applicants waiting for the allocation of public housing by 2000. Can the problems be solved? Definitely not. The present plan and even the measures as proposed in the Report released in June 1994 cannot solve all the problems.

If we put aside the figures, the core of the problem lies in whether the Administration is determined to solve the problem. I think basically the Administration does not have the determination and makes no commitment to meet public demand for public rental flats within a specific timeframe, say five or seven years. The former Governor expressed that the General Waiting List should cease to exist by 1997 when he talked about the Long Term Housing Strategy in 1987. It is now February 1995, it can be estimated that the General Waiting List will still exist by 1997 because there will still be at least more than 100 000 applicants on the List. Now, no one talks about this as this undertaking has already been discarded and nobody pays any attention to it.

Now, the Administration has postponed the realization of the objective by three years to 2000, this is why the Secretary for Housing keeps on talking about the year 2000. However, can the problem be solved by that time? I believe still it will not be solved. I reckon that by 2000, there will still be 100 000 families on the General Waiting List. When will the Administration be actually able to allocate public housing to all those who are in need of rental flats? It is, after all, only a number game when we talk about the production of flats and the annual land supply. Our Government does not have a specific year in mind as to when public demand for rental flats will be fully met, references to quantities of land supply or flat production are only repetitive number games.

Let us take a look at Singapore which is near and similar to Hong Kong. Singapore started implementing her housing programme in the middle to the end of the '60s, 10 years later than Hong Kong. 90% of the Singaporeans are already living in public housing flats by the end of the '80s and early '90s. A "small flat" of three bedrooms for a four-person nucleus family has an area of 1 000 sq ft and the waiting list in Singapore is very short. Singapore does not have a housing subsidy policy, and they do not need to relocate residents by compulsory means. Our economic development is more or less the same as that of Singapore, why are we not able to do what the Singaporeans do?

Apart from the above core problem regarding the Administration's determination, it has in fact always protected the interests of local property developers and those in the real estate business. Recently, property developers, bankers and real estate agents have joined together in a chorus. The title of their song is "Let us speculate on property again". This song has three lines only: the first line is "drop the measures that curb property speculation", the second line is "property prices have rocked the bottom" and the third line is "one needs to be quick in buying flats". Their aim is to "create a rush", making people think that property prices will rise again, and if they do not buy flats now, they will not be able to do so later on. The conductor of this chorus is certainly the well-known property developer, Mr LI Ka-shing. He was awe-inspiring when he queried the Director of Planning, in Beijing, as to the reason why so much land had been reclaimed. The reclamation of so much land will depress the value of his land reserve, thus reducing his profits from the future sale of flats. Other property developers, bankers and real estate agents joined the chorus, chanting that property prices have hit the bottom, that many people are queuing to buy flats and that the mortgage percentage for luxurious flats will increase. In fact, the property developers, bankers and real estate agents would all like to make the song popular, so that the public will start buying flats and speculating on property, pushing property prices up again, so that they can reap huge profits. Actually, they have already made quite a lot of money before and those were staggering profits. The measures to curb speculations have only been in place for eight months and these people are already asking for a stop. I reckon that asking for a stop when property prices have only been slightly adjusted is irresponsible. I hope that the property developers and real estate agents could do something good after having made a fortune and behave themselves after they have become rich. If they insist on reaping colossal

profits, they cannot blame the public for calling them unscrupulous capitalists or unscrupulous developers. Mr President, I hope that the Administration will not stop the measures that curb speculation on property in view of this chorus.

Mr President, in order to effectively suppress property prices and to achieve home ownership, we have to start with the supply. Therefore, I fully support what Mr Andrew WONG asked for. Although it is not possible for everyone on the list to be allocated a unit after Mr Andrew WONG got what he asked for, it is still a relatively good measure. Mr LAU Wah-sum asked for 38 hectares of land but I did not know where he got such a figure. I searched through the relevant documents vigorously and found that the figure came directly from paragraph 5 of a document of the Development Committee of the HA dated April 1995. I would like to remind Mr LAU not to forget that what he asked for is a specific objective in itself and it cannot solve all the problems. Therefore, the Democratic Party opposes Mr LAU's amendment.

Mr President, with these remarks, I support Mr Andrew WONG's motion and Mr Frederick FUNG's amendment.

MR HUI YIN-FAT (in Cantonese): Mr President, in the wake of economic development, there comes an increase in the income of the public and a growth in public aspirations for purchasing their own homes and improving their living environment. As a result of the limit on annual land sales and the errors in land planning, there is a dramatic increase in the prices of private housing due to a serious shortage in supply. This situation is also reflected in the public sector. Every phase of the Home Ownership Scheme is oversubscribed by several times. Meanwhile, the number of households on the General Waiting List for public rental flats has never fallen below 100 000, despite the fact that the Housing Authority (HA) has already speeded up the construction of new blocks in the last few years.

I have always thought that high property prices and speculation activities in the market are not healthy social phenomena. While the industrial and commercial sectors have started to feel the adverse effects of an upsurge of rents, the salaried class has been most affected. Some people with low income have been deprived of their basic rights to housing and the Administration should take the blame.

As the saying goes, "It is better late than never", I am very pleased to know that the Administration has allocated 12 additional pieces of land, totalling 32.1 hectares, to the HA at the end of last year for the construction of more than 24 500 public rental flats and Home Ownership Scheme flats. No doubt, the Administration is fulfilling the undertaking made by the Governor in respect of building additional public housing units in his policy address last year. However, I think this is only the first step. As calculated by the HA, it will still need another 38 hectares of land after the additional allocation before it is able to realize the objective of the Long Term Housing Strategy by 2001. I have to

stress that the HA needs the timely allocation of formed land by the Administration in order not to hinder the progress of its housing programme.

In addition, I noticed that among the 30-odd additional hectares of land allocated, urban sites, including the sites on Tsing Yi, only account for less than 30% of the total, and this is utterly inadequate for relieving the serious shortage of public housing in the urban area. I now urge the Administration to allocate a larger proportion of land to the HA for development when planning the West Kowloon Reclamation and redeveloping the site of the Kai Tak Airport.

Finally, as a period of five years is generally required from the planning to the completion of buildings, in order to ensure that the HA can achieve the objective of the Long Term Housing Strategy by 2001, the Administration must decide on the allocation of land additionally required within this year. We should not allow the Administration to delay the decision until July 1997. In fact, 1997 is just a time for the transfer of sovereignty, it should not be regarded as a line of demarcation for the development of various aspects in our community.

Mr President, these are my remarks.

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

DR TANG SIU-TONG (in Cantonese): Madam Deputy, in last year's debate on the housing policy part of the Governor's third policy address, I had already categorically pointed out that in order to fit in with the Housing Authority (HA)'s Long Term Housing Strategy formulated in 1987, a total of 210 000 public housing units would have to be built by 2001. Only then can the demand of the families waiting for public housing be "more or less" satisfied. The policy address only promised to build an additional 141 000 public rental flats which are 70 000 short of the expected demand, constituting a shortfall of one-third of the total demand. It is admitted in the policy address that there are now 150 000 families waiting for public rental flats. At the rate of an average 1 100 new applications being added to the General Waiting List every month, there will be a total of 230 000 wait-listing families by 2001. When comparing this figure with the additional 141 000 public rental flats, we can clearly see that the production rate of public housing can barely help in easing the demand.

The Administration continues to defend itself on the issue of public housing demand by claiming that out of the 150 000 applications on the General Waiting List, only 80 000 are estimated to be eligible. I have reservations on this official estimation. I agree that not all applicants are eligible, but it is far too optimistic to say that only one-half of them can satisfy the eligibility requirement. Moreover, in making the above estimates, the Administration may have overlooked such factors as the upward adjustment of the income ceiling of

waiting families, and the approval of children born to Hong Kong people in Mainland China to come to Hong Kong after 1997. These factors all exert great pressures on the demand for public housing. It is put clearly to us that among the 100 000-odd additional public housing units, nearly 70 000 will come from the redevelopment of old housing estates. Even if the Administration can honour its promise on public housing as mentioned in the policy address, the demand for public housing is still greater than supply. This impasse will certainly continue into the 21st century.

The motion requested the Administration to inject before July 1997 at least an additional 90 hectares of land, that is 20 hectares more than the amount promised in the policy address. All along, this Council has been urging the Administration to allocate more land for the construction of public housing. However, the Administration has always turned down our request. It is more factual to say that the Administration is refusing to allocate available land than to say it has no available land for allocation. Let us take a look at the following two examples, so that we can see what the Government is in fact "up to".

The West Kowloon Reclamation, the Southeast Kowloon Development Area and the Green Island Reclamation are the main development areas under the Metroplan. The West Kowloon Reclamation has a total land area of 323 hectares, 14 hectares of which will be allocated for the building of public housing, accounting for 4.3% of the land provision. The Southeast Kowloon Development Area has a total land area of 676 hectares, 44 hectares of which will be allocated for the building of public housing units and home ownership flats, accounting for 6.5% of the land provision. As for the 187 hectares of land from the Green Island Reclamation, 26.5 ha will be allocated for the building of public housing, accounting for 14.2% of the total area. The above three metropolitan areas occupy a total of 1 186 hectares, of which only 84.5 hectares are earmarked for the building of public housing, while 142.8 hectares will be used for the development of private residential flats, which means a difference of 70% above the former figure.

I totally agree that it is very hard to find any more land in the urban area for the building of public housing. However, the Administration can freely control the future growth pattern of the redevelopment areas and the metropolitan areas, so that through proper planning and reservation, an adequate amount of land can be allocated to the HA for the construction of home ownership flats or public housing units. Regrettably, by looking at the planning of the above three metropolitan areas, we can conclude that the Administration has no such intention. It shows that the Administration still adopts high land prices and high property prices as the backbone of its housing policy. It may be no exaggeration to say that the Administration would "rather be dead than to allocate more land for public housing".

For the property developers, even if they have no money, they can still carry out their building projects so long as they have the land. But for the privileged HA, although it has got money, there is no 'place' for its housing programme because it has not an inch of land under its name. To rectify this situation, the Administration has to change its attitude. The Administration should allocate and reserve more land for the HA in the main metropolitan areas for the early launching of its housing programme in order to meet the target of the Long Term Housing Strategy of providing 210 000 public housing units by 2001.

Madam Deputy, I would like to turn to the topic of standard building ratio for land development. According to the figures provided by the Planning, Environment and Lands Branch, the average density of public housing units constructed by the HA is not only slightly lower than that of home ownership flats but even up to 20% lower than that of flats constructed under the Private Sector Participation Scheme. Available information shows the HA's existing planning ratio to be 670 public housing units or 695 home ownership flats per hectares of land, but for the Private Sector Participation Scheme the standard figure is 802 flats. The HA has kept on clamouring that it has no land for the construction of public housing, yet it has set the density of public housing units at a lower level than flats built under the Private Sector Participation Scheme, a move that is really hard to comprehend. It may be because public housing cannot be sold but home ownership flats can bring in immediate profits.

Apart from the above cases, isolated examples of housing estates having a population density far below the standard have been found. According to the population density standard provided by the HA, each hectare of land can provide accommodation for up to 2 500 persons. However, the Ma Hang Estate in the South District of Hong Kong Island which occupies 10.2 hectares of land is only planned to accommodate about 8 000 persons, which means only an average of 780 persons will be living in each hectare of land. The difference comes to two - thirds below the maximum standard laid down by the HA.

I understand that arrangements regarding the allotment of land use and population density are basically restricted by town planning factors. I also realize the lower building density of public housing estates is probably related to the need to reserve land for community facilities. But how is this standard worked out? If the present standard is said to be already the ultimate limit that cannot be exceeded, why then can the HA construct additional buildings around the fringe areas of some existing housing estates? I hope the Administration can clear up the puzzle for us.

The main factor for success in any business is "to put all available human, material and land resources into their best possible uses". Now the Administration is unwilling to allocate adequate land to the HA for the building of public housing, and if our town planning cannot respond with enough flexibility and make timely adjustments to meet practical needs, then the wish of public housing applicants for a decent home will remain an unreachable dream.

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

MR JAMES TO (in Cantonese): Madam Deputy, due to the shortage of Land supply, supply of housing units by the Housing Authority (HA) has fallen short of the targets laid down in the Long Term Housing Strategy. For instance, in 1996-97, there will be a shortfall of 130 000 units; and, during the period from the year 1996-97 to the year 2000, there will be a shortfall of 19 957 housing units. Recently, the HA has successfully obtained an extra supply of land, which includes 12 new sites with a total area of 32.1 hectares. In addition, three Home Ownership Scheme developments will be converted to PSPS developments. With all these, the HA will be able to build an extra 20 00 housing units, thereby achieving the Government's pledged target of an extra supply of 20 000 housing units by 2001, which was laid down last year, when measures to curb property prices were implemented. Despite this, the HA still faces a shortfall of 20 to 30 hectares of land if it were to accomplish its target for 2001 as laid down in the Long Term Housing Strategy. Owing to the shortage of land, the period 1995-96 to 1997-98 will be lean years in housing supply. Many people, be they the applicants on the General Waiting List or residents of hillside squatter huts and temporary housing areas, are bound to suffer as a result.

Moreover, the Long Term Housing Strategy has been very conservative in its estimation of the actual demand for public housing. As at 1993, 150 000 households are on the General Waiting List. Given the Governor's promise to rehouse three-fourths of the households on the General Waiting Lists by 1997, the number of households not yet rehoused by that year will approximately be 18 750. In addition, since the number of households on the Waiting List will go up by 13 000 every year, a rough total of 100 000 households will still have to be rehoused by 2000. Therefore, even if the Long Term Housing Strategy can be implemented as scheduled, it is still difficult to tell just how much longer the waiting households will have to wait before they can be allocated public rental housing. This shows that the Long Term Housing Strategy cannot meet our existing demand. Then, if the HA cannot achieve the objectives laid down in the Long Term Housing Strategy due to the shortage of land, the applicants on the Waiting List may have to wait for yet another eight to 10 years.

On the other hand, the real demand for public rental housing has been suppressed by the harsh formula applied in determining the income ceiling for eligibility to public rental housing. As it is, only a four-member households with a total monthly income lower than \$14,000 can be eligible for public housing. Does that imply that a family of four earning \$15,000 a month will be able to rent a decent dwelling? The Long Term Housing Strategy has after all set down a minimum standard only. However, if even this minimum standard cannot be attained, the 150 000 households on the Waiting List for rental public housing will suffer all the more.

Furthermore, I would like to stress once again that the Government may decide on its own the land required for rental public housing and that there is no need for the allocation of land by the Sino-British Commission. There is indeed a great demand for rental public housing, as evidenced by the 150 000 households on the Waiting List, and the number of cases of families with genuine but suppressed demands, such as the roof-top structure residents who have been much talked about recently. The demand for land arising from housing need is in no way smaller than the demand generated by the construction of schools and hospitals. I hope the Government will make a commitment regarding the modest standard, and assure us that the targets of housing supply would not be frustrated in any way by the shortage of land supply.

Feeling aggrieved just now, the Honourable LAU Wah-sum said that he did not want to politicize the issue under discussion. I have emphasized time and again that different people may have different views on politics. Mr LAU is a person whom I highly respect, for he does not politicize matters. Nevertheless, he also upholds his own convictions regarding various social policies and resource allocation, which he has had no hesitation in making clear to this Council. Just now, he emphasized that he had not moved his amendment for the interests of private developers, and that therefore, he had been wrongly accused. But then he reasoned as follows: When debating about soaring property prices, we agreed on increasing housing supply as a solution, and so if private developers are not allocated more land, they will not have the land for private housing developments. Do we want to see soaring property prices? I hope Members can see clearly the logical fallacy in his reasoning. The Honourable Andrew WONG's original motion urges the Government to inject additional lands for the construction of public housing. Obviously, public housing refers both to public rental housing and HOS flats. These two types of public housing can certainly regulate and even curb property prices. We certainly did not mean that we should increase land allocations for public housing at the expense of private housing developments. I agree to his concluding remark. However, the major point of difference between us is that he will be satisfied if 38 hectares of land could be allocated by the end of 1995. We hope the Government can allocate extra lands, and I emphasize, extra land. I hope that the HA, while striving to accomplish the modest objectives of the Long Term Housing Strategy, can also pay attention to the needs of other categories of people, such as those living in roof-top structures, and those living in squatter huts and hillside wooden huts which are due to be demolished, because at present these people are not eligible for formal public rehousing in the urban areas or around. And, those living in private residential buildings which are to be demolished under the Urban Renewal Scheme must also be looked after because some of these people are not eligible for public rental housing. Will the Government make some arrangements to meet their needs? Hence, we urge the Government to allocate more land for public housing. But, we do not want the Government to do so by reducing allocations to private developers. This is simply not our intention.

I hope Members will deal with things with a regular mind. No one has tried to politicize this issue, and we have actually been used to diversified views on allocation of resources and social policies in this Council. We must refrain from making references to "politicization", "nastiness", "currying favour with voters" and the like. Making frequent references as such is absolutely not a beneficial and constructive attitude that a legislator should adopt in a debate.

MR FRED LI (in Cantonese): Madam Deputy, I do not want to dwell on the 150 000 applications on the Housing Authority (HA)'s General Waiting List. Instead, I wish to discuss another condition which I have observed in the course of actual contact with the public, and draw your attention to another category of demand for public housing, which is often overlooked not only by the general public, but also by the HA in its Mid-term Review of the Long Term Housing Strategy. This is the issue of overcrowded families in old estates.

I want to point out only one thing in respect of this issue. The need for extra flats by these overcrowded families in old estates should not be ignored. Their overcrowded living conditions are indeed deplorable. Under the existing policy concerning overcrowded families in public housing estate, a household will be regarded as an overcrowded family if the average *per capita* area available is less than 5.5 sq m, or 59 sq ft; and it may then apply for an extra flat or a bigger flat. Theoretically, this is the case. But what things are really like in practice is that in all housing estates under the HA, there are more than 19 000 families with an average *per capita* area of less than 5.5 sq m. Every year, the HA allocates only about 1 000 flats to meet the needs of these overcrowded families and to relieve their deplorable living conditions. Obviously, demand far exceeds supply. The fact is that the HA has failed to address properly the demand for public rental housing by these overcrowded families. The point I am raising illustrates further that I have to support the Honourable Andrew WONG's motion, which urges the Government to inject more land for the construction of public housing, especially public rental housing, in order to meet the needs of the people.

I have also found the policy of the authorities in dealing with overcrowded families extremely unsatisfactory. Under this policy, families living in public rental flats can be regarded as overcrowded if and only if the average *per capita* area is less than 5.5 sq m. But, what kind of flats will they possibly get? In the case of housing estates which have already been included in the 3-year redevelopment programme, the situation will be slightly better because the application criterion has recently been relaxed, with the result that the family with the worst overcrowdedness in a block can now apply for a vacant flat in the same block in order to relieve its overcrowded living conditions. In other words, the criterion for the allocation of additional flats is at least based on cases of extreme crowdedness. However, in housing estates not yet under a 3-year redevelopment programme, or in those without any foreseeable prospects of redevelopment at all, such as Ping Shek Estate and Choi Hung Estate, which have a history of 20 to 30 years, there are quite a large

number of overcrowded families. Understandably, the emergence of overcrowded families in such housing estates is largely the result of marriage, growing children, new births or even wives coming from the Mainland. Since such housing estates will not be in the redevelopment scheme in three years, the overcrowded families there will basically have no way to apply for additional flats. This is due to the "triangle allocation policy" practised by the Housing Department, under which consideration for additional allocation to an overcrowded family will be given only if there is a vacant flat situated opposite to or on either side of the overcrowded family. Hence, if there is no vacant flat so situated, an eligible applicant will still be unable to get an extra flat no matter how deplorable the living conditions are. This policy limits an applicant's chance of success. The Housing Department has repeatedly refused to revise this rigid policy, and just allocates about 1 000 flats for this purpose every year. As a result, most vacant flats will be put into the central reserve after renovation for the purpose of rehousing temporary housing area (THA) and squatter hut residents or people affected by redevelopment. Very few of the vacant flats are reserved for the purpose of relieving the problem of overcrowding. Owing to the scarcity of vacant flats, and the various allocation restrictions, we have to deal with a large number of requests for assistance every day. The Housing Department has refused to deal with these cases on the ground that "they are beyond the accommodation of the existing policy". I have at hand several hundred such outstanding cases now.

I raise this issue just to alert Mr Dominic WONG Shing-wah, the Secretary for Housing, to the problem of overcrowded families in old estates. By present-day living standards, it is really is shameful to accommodate a family of six in a unit of 200-odd sq ft. However, instead of properly addressing the people's needs, the Housing Department simply asks them to wait. That, of course, they will certainly queue up for. But just for how long will they have to wait? Some overcrowded families are in fact already waiting. But it will be years before they can get what they want. This is another category of demand for public housing. Many of them are now crammed inside flats of less than 200 sq ft each and the situation is even more serious in Mark 4, Mark 5 and Mark 6 blocks, which are not due for redevelopment in a long time to come. I raise this point in the hope that the Secretary for Housing and the Government can take steps to address this problem. I hope they can realize that, besides those on the General Waiting List and the residents living in THAs, roof-top structures, squatter huts and private land who need rehousing, there are seriously overcrowded families living in old public housing estates who are also having demand for public housing flats. It is hoped that extra flats can be allocated to them to ease their problem of overcrowding.

Madam Deputy, with these remarks, I support Mr Andrew WONG's motion.

SECRETARY FOR HOUSING: Madam Deputy, I am grateful to the Honourable Andrew WONG for proposing this debate, and have listened with interest to what Members have said. The debate gives me the opportunity to clear up a few misconceptions and to inform this Council what the Government has done and will do to match the supply and demand for public rental housing.

Rectifying misconceptions

The suggestions that an additional 90 or 38 hectares of land should be granted to the Housing Authority before July 1997 for the construction of public rental flats are misleading. Some of the reports on which Members based their comments only broadly indicate the amount of new land which may be made available for rental housing and other types of development. They do not necessarily reflect the actual amount of land which the Government has allocated to the Housing Authority and the Housing Society.

Apart from new and redevelopment sites, there is also another source of supply which also makes a substantial contribution to meeting the demand for public rental housing. Sitting tenants who are successful in their applications under the Home Ownership Scheme and the Private Sector Participation Scheme are required to surrender their rental units upon acquiring the new flats. Since the inception of these schemes in 1978, we have recovered over 70 000 rental flats from this source, for re-allocation to others in need. Over the next five years, we estimate that about 60 000 rental flats will be recovered from tenants in this manner, to be subsequently refurbished and allocated to eligible families.

Policy on land supply for public housing

Let me assure Members that the Government's policy is to provide enough land to meet housing demand in the public and private sectors. The demand for public housing fluctuates owing to factors such as population growth, the timing of redevelopment and clearance programmes, and the market price of private housing. It is a constantly moving target. However, our aim has always been to make available sufficient land to meet the additional requirements arising from regular reviews of public housing demand.

Meeting the policy commitment

In the policy commitment which formed part of the Governor's address last year, the Government announced that an additional 141 000 public rental flats would be built before April 2001. These flats represent total new production from both redevelopment and new sites, and are not intended to be additional to the targets contained in the Public Housing Development Programme. These flats are an integral part of that Programme. They also take into account the rental units which will be demolished over the same period under the comprehensive redevelopment programme. This method has always

been used in the preparation of the Programme. The policy commitment target for rental housing is also based on this very same method of calculation.

We are making every effort to meet our objective of producing 141 000 rental flats in the six years between April 1995 and April 2001. Some 223 hectares of land have already been allocated to the Housing Authority and the Housing Society, and this more than meets the full land requirement for the production of these rental flats. We will continue to work closely with these two organizations to ensure that the flats will come on stream as scheduled. I can assure Members that the recently established Housing Project Action Team, which I lead, will actively monitor progress, co-ordinate action and resolve problems relating to public housing sites. We are also working closely with the Housing Authority and have already identified some potential new housing sites.

Waiting List for public rental housing

Some Members have referred to the backlog of 150 000 applications on the Housing Authority's General Waiting List. According to past experience, not all these applications constitute a real demand for public rental housing because a significant proportion are existing tenants wanting to change flats. Others may be rehoused through other quotas or may be found ineligible. For example, the majority of temporary housing area residents and urban squatters who are on the Waiting List will be rehoused through the clearance allocation rather than the General Waiting List. As already announced, we expect that by 1997-98, about 70% of the backlog on the General Waiting List as at August 1993 will be cleared. After 1997-98, when temporary housing areas and urban squatters on Government land have been cleared and given the increase in public housing production thereafter, we should be able to handle Waiting List applicants much faster.

Balance between rental and home ownership flats production

Home ownership has long been regarded as a desirable objective in terms of its contribution to social stability and fostering a sense of belonging. Members will wish to know that while attempting to meet the demand for public rental housing, the Government will also maintain a sensible balance between an adequate supply of public rental housing and aspirations for affordable home ownership. We will continue to provide various subsidized home ownership schemes for those public rental housing tenants and others eligible, who can afford them. Indeed the Government has already pledged to provide 168 000 flats for sale in the public sector before April 2001. This will have the effect of releasing a substantial quantity of rental flats to meet the demand of those in genuine need.

Review of housing demand

Members have raised the question of housing demand. I would like to inform this Council that we have started a systematic and comprehensive assessment of the scale and composition of housing demand in both the public and private sectors. It aims to reflect more accurately the amount of land which should be allocated for the various categories of housing in both sectors. We hope to complete this assessment in the middle of this year. Subject to the findings and a review of the Long Term Housing Strategy beyond 2001, which will commence later this year, the Government will be prepared to identify and allocate extra sites to enable the Housing Authority and the Housing Society to produce more subsidized rental flats and flats for sale to meet the confirmed demand. Similarly, we will make sufficient land available for private housing, subject to the agreement of the Sino-British Land Commission.

Conclusion

In conclusion, I would like to reassure this Council that the Government's commitment to supply enough land to meet the housing needs of the community is as strong as ever. We are on course to meet the Governor's policy commitment last year of building 141 000 public rental flats over the next six years, and have already allocated sufficient sites for this purpose. We are also taking progressive steps to clear the backlog of applicants on the General Waiting List. Subject to the findings of the comprehensive assessment of housing demand being undertaken at present and a review of the Long Term Housing Strategy, we will take positive action to identify and allocate more sites to meet the confirmed and realistic demand agreed by the Government.

I know that the Housing Authority's latest assessment of housing demand shows a 38 hectare shortfall in land specifically for the production of subsidized flats for sale. I confirm that it is also the Government's policy to promote home ownership schemes. While more land for this purpose may well be required, as seem to have been implied in Mr LAU Wah-sum's amendment, we do not wish to pre-empt the findings of the comprehensive review of housing demand which is being undertaken. Therefore, we consider it inappropriate at this stage to commit the Government to any new figure of land allocation, whether it be for public rental housing or flats for sale, before we can have the benefit of all these findings. The motion under debate today presents a technical difficulty. For these reasons, the Administration does not support the motion or the proposed amendments urging the Government to allocate extra land to the Housing Authority for the construction of public rental housing before we have the findings of the comprehensive review.

Thank you.

THE PRESIDENT resumed the Chair.

PRESIDENT: Mr Frederick FUNG has given notice to move an amendment to the motion. His amendment has been printed in the Order Paper and circulated to Members. I propose to call on him to move his amendment now.

MR FREDERICK FUNG moved the following amendment to Mr Andrew WONG's motion:

"To add "and that the Waiting List is still growing" after "the Waiting List"; to add ", as a start," after "this Council welcomes"; to substitute "accomplish" with "satisfy"; and to substitute "target" with "need"."

MR FREDERICK FUNG (in Cantonese): Mr President, I move that the Honourable Andrew WONG's motion be amended as set out in the Order Paper.

Question on Mr Frederick FUNG's amendment proposed.

PRESIDENT: Mr Andrew WONG, do you wish to speak? You have a total of five minutes to speak to all the amendments.

MR ANDREW WONG (in Cantonese): First of all, I would like to thank the eight colleagues who have delivered speeches on my motion. Most of them expressed the view that the Administration should continue to increase the supply of land to meet the pressing need for public rental housing in Hong Kong. Actually, only one Member holds a different view. In fact, I am not saying in my motion that merely 150 000 units are needed, but that the figure serves as an evidence to prove that there is really a pressing demand.

The Honourable LAU Wah-sum mentioned that his job involved doing calculations. I may not be good at calculations but I took literature and language when I studied for my bachelor's degree. The words "additional" and "build an additional" obviously point to the fact that when something is being taken away, it should at least be restored to its original number before any addition can be made. Otherwise, it cannot be called an addition. This is very simple. If I give you \$14 but take away \$ 10.5, and then give you back \$7, then you only get \$4.1 more (sic), or in terms of housing units, 41 000 flats. I find this not acceptable. You cannot give out something with one hand and take away something with the other hand. Therefore, there will not be an additional 141 000 flats but only 41 000 flats. If the Administration's original intent is to build 41 000 flats, then I think the policy address contains nothing but lies.

Question on Mr Frederick FUNG's amendment put.

Voice vote taken.

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

MR FREDERICK FUNG: I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Will Members please proceed to vote?

PRESIDENT: Are there any queries? If not, the result will now be displayed.

Mr HUI Yin-fat, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Andrew WONG, Mr LAU Wong-fat, Mrs Peggy LAM, Dr LEONG Che-hung, Mrs Elsie TU, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Timothy HA, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Miss Emily LAU, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Dr TANG Siu-tong, Miss Christine LOH, Mr Alfred TSO and Mr LEE Cheuk-yan voted for the amendment.

The Chief Secretary, the Attorney General, the Financial Secretary and Mr NGAI Shiu-kit voted against the amendment.

Mrs Miriam LAU, Mr LAU Wah-sum, Mr Vincent CHENG, Mr Moses CHENG, Mr Henry TANG, Mr Howard YOUNG and Mr James TIEN abstained.

THE PRESIDENT announced that there were 31 votes in favour of the amendment and four votes against it. He therefore declared that the amendment was carried.

PRESIDENT: Mr LAU Wah-sum, as Mr Frederick FUNG's amendment has been agreed, your amendment cannot proceed in its present form. Would you like to seek leave to alter the terms of your amendment?

MR LAU WAH-SUM (in Cantonese): Mr President, now it is impossible for me to move the amendment as I wish to because the amendment is basically aimed at pointing out that the figure of 90 hectares is wrong. I would like to say that with regard to the figure of 38 hectares that I have mentioned, it was not taken from any Housing Authority documents because I am not a member of the Authority.

I wish to point out that the Liberal Party advocates the construction of more Home Ownership Scheme flats or public rental housing because it has been our long-standing policy to see the Administration accomplish this task. The Secretary for Housing has just said that supply permitting, land will certainly be allocated. There is in fact enough land now for the construction of 141 000 public rental housing units. I hope the Administration can keep up its efforts, and allocate more land to private developers or the Housing Authority for the construction of more residential units so that the general public can lead a reasonably complacent and settled life.

I do not wish to move any amendment to the motion.

PRESIDENT: Mr Andrew WONG, you are now entitled to reply and you have seven minutes 41 seconds out of your original 15 minutes.

MR ANDREW WONG (in Cantonese): Mr President, just now when the Honourable LAU Wah-sum said he did not want to move any amendment, he made some substantial points which he did not include in his first speech at this sitting.

I wish to point out that I am not against the building of more public housing for sale; that is, Home Ownership Scheme (HOS) flats. In fact the Housing Authority has already had the target of building about 167 000 HOS units by 2001. However, only 146 000 public rental housing units will be built by the same year. There is a big difference between the two, and it is not just in the numbers. More HOS flats will be constructed than public rental housing units, and all HOS flats are newly built and represent extra supply, while in the case of public rental housing units, some are to be built on redevelopment sites, existing public rental housing units have to be cleared and thus lost. Therefore, my motion is basically aimed at urging the Government to inject at least an additional 90 hectares of land for the provision of public housing to meet genuine public demands. However, I hope you can all appreciate the spirit of my motion that I have not sought to restrict the use of this additional land allocated to the construction of public rental housing only.

Once again, I would like to thank all those Members who have spoken on my motion and those who support it.

Question on Mr Andrew WONG's motion as amended by Mr Frederick FUNG put.

Voice vote taken.

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

Mr LEE Wing-tat claimed a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Will Members please proceed to vote?

PRESIDENT: Are there any queries? If not, the result will now be displayed.

Mr HUI Yin-fat, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Andrew WONG, Mr LAU Wong-fat, Mrs Peggy LAM, Dr LEONG Che-hung, Mrs Elsie TU, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Timothy HA, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Miss Emily LAU, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Dr TANG Siu-tong, Miss Christine LOH, Mr Alfred TSO and Mr LEE Cheuk-yan voted for the amended motion.

The Chief Secretary, the Attorney General and the Financial Secretary voted against the amended motion.

MR NGAI Shiu-kit, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Vincent CHENG, Mr Moses CHENG, Dr LAM Kui-chun, Mr Henry TANG and Mr James TIEN abstained.

THE PRESIDENT announced that there were 31 votes in favour of the amended motion and three votes against it. He therefore declared the amended motion was carried.

ENTRY OF SPOUSES AND CHILDREN OF HK RESIDENTS FROM CHINA

MRS ELSIE TU moved the following motion:

"That this Council calls upon the Government to review the immigration policy on the entry of spouses and children of Hong Kong residents from China, so as to reduce the social problems arising from split families."

MRS ELSIE TU: Mr President, the Hong Kong Government's immigration policy is building up huge social problems, and it should be reviewed before it is too late. As in the case of Vietnamese immigration many years ago, the results of the policy appear not to have been thought through, and now we are suffering the backlash.

I am referring to the arrangements for entry to Hong Kong of all children born in China to Hong Kong-born men regardless of whether or not their mothers have the right to enter Hong Kong. Though the figures are not known, it is believed that most of the children who will come to Hong Kong under the scheme will leave their mothers behind in China. The process has in fact already begun, and children are being brought here to live with a father they scarcely know, and at the same time they are being deprived of the care of their mothers. These Hong Kong-born fathers then have to take care of children they do not know how to handle, while at the same time they are deprived of their wives. I wonder if any thought has been given either by the Hong Kong or the Chinese Government to the social implications of this policy. In fact, the problems are already surfacing. I will give a few examples of these problems. These are actual persons whom I have interviewed personally, and they are not hypothetical cases.

Mr A is a Hong Kong-born resident and he has brought his two-year-old son to Hong Kong as of right. Unfortunately, Mr A has terminal cancer and is already in hospice care. His wife has no right to join him in Hong Kong and has to seek renewal of her visitor's visa in order to take care of the child and visit her husband. When he dies the child will have only Hong Kong residence, while his mother will have only Chinese residence rights. Whether or not the mother will be given compassionate permission to remain in Hong Kong is not known. In the meantime the mother is left to worry about the future of the child and herself, as well as the loss of her husband. There is no policy to cover such cases.

Mr B is a Hong Kong-born resident. Two years ago, he brought his three Chinese-born children, aged between three and eight years, to Hong Kong. In accordance with the present policy, his wife has no right of entry. One of the three children suffers from heart and kidney diseases and is mentally retarded. Like other wives, Mr B's wife will have to wait for her turn in the daily quota, but the question is how Mr B can cope with three small children, one in poor

health, both mentally and physically. The mother may have to wait up to 10 years — or the family may have to find enough money to bribe an official to give her special treatment, as quite frequently is the case. Again, there is no policy to deal with such cases and they have to try to get special compassionate treatment, which may be denied.

Mr C is also Hong Kong-born. He has brought his two children, aged three and five to Hong Kong. One of the children is mentally handicapped. This child is in need of special care, but the mother has no right of entry.

There are numerous other cases of sick children being left motherless.

Mr D was born in Hong Kong but he went to China where he married and produced a family of five children — apparently the one-child policy does not apply to men not born in China. Mr D returned to live in Hong Kong in 1990, and he has now brought his five children here, aged between two and 12. His wife has no right of entry, and he has no way to look after the five children when he goes to work to support the family of seven. His 12-year-old daughter has to be entrusted with the other four young siblings, and she has to depend on the kind help of neighbours. As Mr D only earns about \$7,000 a month, he cannot afford more than a bedspace to house the family, so he is hoping to jump the waiting list for public housing.

I agree that these families bring their own problems upon themselves by not considering how to take care of the children they bring here. But fundamentally, it is surely the policy that is wrong. What is the purpose in allowing children to come here if their mothers cannot come to take care of them? Any national, except Chinese, can bring his wife as well as his children to Hong Kong. So the policy is purely discriminatory. I know that the Government will make the excuse that the system would be abused, and I agree that it could be abused and that people might marry only for the purpose of entry to Hong Kong. But should we make unjust policies just because some may abuse fair policies? Surely we have to deal with the abuses, and not punish innocent women and children as a deterrent to abuses. The fact that the couple already have children would suggest that the marriage is likely to be genuine. For any which are not genuine, we could have deportation of the offending parties.

It is estimated by the Government that after 1997, 64 000 children will be eligible to come to Hong Kong from China. I do not know the figures, but would estimate that most of these children would have to leave their mothers behind in China. All those who come without their mothers are going to be children at risk, both physically and morally. Let me explain why.

If the fathers of these children go to work to support the children, they will have to leave the children either home alone, or in the care of others who may have no interest in the children's welfare. Alternatively, the fathers may give up their jobs to look after the children and live on public money in the

form of the Comprehensive Social Security Assistance Scheme. The children would then be underprivileged, living in the poverty trap of a bare existence, and feeling inferior to their peers who have parents and whose fathers have employment. I think that unless the policy is changed, we shall have an increase in anti-social behaviour among children. We shall also be creating marital problems by separating husbands from their wives. In fact, the policy is contrary to human rights which safeguard the unity of the family. I hope that the two Governments will review the policy and allow Hong Kong-born Chinese to have the same right to bring their wives and children as other nationals enjoy. We cannot continue this discrimination on the flimsy grounds of expediency to prevent abuses. Policies should be made to deal with those abuses, and not to split up genuine families.

Regarding men who are now Hong Kong residents but who were not born in Hong Kong, I think the Immigration Department needs to review the policy allowing a wife who come from China to give birth in Hong Kong as often as she wants, and allowing all her babies to have the right of abode here with her husband. The wife has to return to China, leaving the newborn babies motherless. Some wives wrongly believe that if they come here often enough to have children they will eventually get priority for residence themselves. Some of them also know that they can avoid the seven-year residence requirement for public housing because they have children left here who have the right of residence by birth, making up the required 60% local residency for public housing allocation.

This lax policy is also causing serious social problems, which will rapidly increase unless the policies are changed. Let me again quote a few real-life examples.

Mrs E came illegally to Hong Kong in 1988 and bore two children before she was discovered and deported. The children are now aged four and six respectively. A week after her deportation she returned illegally, that is, last month. It is open to question how she managed to get birth certificates for the babies, while she herself was living here illegally; nevertheless she did obtain birth certificates. She is now trying to claim that with her husband and two children resident here she should have priority to stay, especially as one of the children has asthma. She is unlikely to succeed, and the children, as usual, will be the victims.

Mrs F came here illegally in 1993 and gave birth to a son. The newborn baby, who has heart disease, is allowed to stay here because he was born here, but the mother has no right of residence. The question is how this sick baby can be cared for. Immigration policy does not have to solve the problems as it is creating.

Mrs G came to Hong Kong twice to give birth and leave her children here. The children are now aged two and eight months respectively, and her husband suffers from liver disease so he cannot take care of the babies. The mother has to return to China.

Madam H came to Hong Kong to give birth. She had to return to China but left behind two children, now aged two and four. Her husband has to leave the children with friends, and he hopes to be given priority in public housing because he lives only in a bedspace.

Of course all these problems are being caused by the parents themselves, and the victims in all cases are the helpless children. But the policy allows parents to do this, and the immigration policy on the issue is building up huge social problems to which officials appear to be closing their eyes.

I would oppose granting right of residence to the women who come here just to give birth, because that is using children and depriving others in China who are waiting patiently on the waiting list for their turn in the quota. What I would suggest is that this abuse could be stopped or, at least, slowed down if the children born here during the mothers' visit were to be sent to China with their mothers. A newborn child needs bonding with the mother if the child is to live a normal life in future. I am sure that it would be possible to adjust the law by giving the children born here provisional birth certificates that would allow them direct entry as soon as the mother's turn on the quota is reached.

The present policy is unfair not only to those who do not abuse the system. It is also unfair to Hong Kong people, because if the father of these babies left in Hong Kong has to give up working, the Hong Kong taxpayer will have to support the family under the Comprehensive Social Security Assistance Scheme. In cases where the father continues to work and leaves the children unattended, it is clear that there will be a price to pay in the anti-social or delinquent behaviour of some of these children left to their own devices. In fact, we are creating one-parent families.

Is the Government going to wait until this problem gets out of hand before doing something? I am tired of drawing attention to it but seeing no action by the Government.

Another social problem with some immigration implications that should be faced at an early stage is that of Hong Kong men setting up new families in China and neglecting their families in Hong Kong. I can understand that taking a concubine can hardly be called a criminal offence, but there is no reason why it should not be a criminal offence not to support the Hong Kong family. Moreover, I see no reason why the man should not be required to make a choice as to his right of abode, whether it is in Hong Kong or China. And in any case, the law should not allow him to bring a second family to Hong Kong. We have enough problems supporting families such as those I mentioned earlier, without

allowing a husband to bring a second family to live in Hong Kong on the Hong Kong taxpayer. Policy on these problems should be considered now.

The immigration laws are outdated in the light of present-day circumstances, and I propose in my motion that they should be reviewed. On the one hand, we should not discriminate against Hong Kong-born Chinese and prevent them bringing their wives as well as their children to Hong Kong. On the other hand, we should not allow abuses such as leaving Hong Kong with the burden of thousands of babies whose mothers came here purposely to deposit their newborn children here. Most of all, our immigration policies should put first and foremost the protection of children from the shortcomings or abuses of the existing policies. My motion calls for a review — and may I add that this would require liaison with China because both sides of the border are involved.

Mr President, I so move.

Question on the motion proposed.

MRS PEGGY LAM (in Cantonese): Mr President, in recent years, China - Hong Kong relations are getting closer than ever. Apart from tangible trading and transport connections, there is also an even more important intangible connection, which is the increasing cases of marriage between couples from both sides of the border. However, this phenomenon has also brought along many social problems to Hong Kong. How to handle the China-born children of Hong Kong residents is one of the thorny issues we have to face today.

As a matter of fact, the issue of Hong Kong male residents getting married in mainland China is nothing new. A Hong Kong resident's legally wedded spouse and legitimate children in the Mainland should be entitled to enter Hong Kong for reunion through normal immigration procedures. If the Hong Kong Government had an earlier insight to handle the right of entry for reunion of family members of Hong Kong residents and had made good preparations in the aspects of population and education planning, the present problems like the large number of separated families, illegal immigrant (II) mothers and II children would not have occurred.

I believe that both the Chinese and Hong Kong Governments are well aware of the fact that the legitimate children of Hong Kong residents in China will have automatic right of abode in Hong Kong after 1997. But the problem lies in how their entry into Hong Kong can be arranged in a gradual and orderly manner in line with Hong Kong's specific situations. Under the current system, only 15 places per day are earmarked for children from China to immigrate to Hong Kong. Compared with the tens of thousands of children waiting for reunion, this quota is far too inadequate. But the number to which the quota can be increased depends very much on the Hong Kong Government's planning on education, housing, health and other social services, and it is difficult for members of the public to speculate on. Before the implementation of a daily

quota of 15 children under the current one-way permit system, the Education Department indicated that it had been difficult for it to plan for the education needs of children coming from China in the absence of any data on their age group distribution.

Now that the one-way permit quota system has been implemented for more than one year, I hope that the Administration can now work out, on the basis of more information being known, a preliminary plan stipulating the possible intake of children into Hong Kong per year. The Hong Kong Government must clearly set out the quotas over the next few years for qualified children and their mothers to immigrate to Hong Kong. It should also maintain a close co-operation with the Chinese officials so as to ensure a smooth entry of those qualified people into Hong Kong through the quota system.

I think our most pressing task is to find out the exact number of legal spouses and legitimate children of Hong Kong residents in China, and the age group distribution of those children. According to information given by the Hong Kong Government, 64 000 children will automatically be granted the right of abode in Hong Kong after 1997, among which 5 120 are under 10 years old. I think these official figures may not really reflect the actual situation. In fact, between 1985 and 1993, the Hong Kong Government has processed a total of 180 000 applications for Certificates of Absence of Marriage Record. It is hardly convincing that only 60 000-odd children were born to 180 000 Hong Kong residents who went to China to get married. Besides, the figure given by the Hong Kong Government is also a far cry from the 300 000 quoted by Mr LU Ping, Director of the State Council's Hong Kong and Macau Affairs Office. So a clarification is indeed called for. Can the Hong Kong Government's future planning which is being based on the figure of 60 000-odd children be relied upon? As the saying goes, "a geomancer may fool you for eight or 10 years", but that numerical fraud will automatically be exposed in about 800 days or so. One can imagine the social commotion that may result when that time comes. To find out the number of spouses and children of Hong Kong residents in China, especially those children not formally registered for residence under the existing one-child policy, we have to rely on the co-operation between the Hong Kong and Chinese Governments.

Moreover, the Hong Kong Government should put a stop to the question of the smuggling of pregnant women into Hong Kong or of such women illegally prolonging their stay in Hong Kong to give birth. It is obviously dangerous for a pregnant woman to stow away. And the lack of antenatal care may cause serious harm to the lives of both the mother and child. This has also exerted enormous pressure on the medical services of Hong Kong. I know that there was a time when a majority number of women giving birth in hospitals were IIs from China. If these women are deported to China after giving birth, their children left in Hong Kong will still have to live in broken families. If the mothers refrain from registering the birth of their children to avoid deportation, these children will become illegal residents. At a later stage, if their parents are not able to provide any evidence to prove they were born in

Hong Kong, not only will the children face the inevitable prospect of deportation in the end, but they will also lose the social rights they should enjoy. In view of this, the Hong Kong Government should hold early consultation with the Chinese authorities with a view to effecting the temporary suspension of two-way permit issuance to pregnant women for entry to Hong Kong. Hong Kong can also follow the international trend of phasing out the rule that a child born by an II will automatically be granted citizenship of the place where he or she is born, in order to eradicate the problems of stowaways and II children.

Furthermore, there is a wide divergence of views in our community regarding the immigration of illegitimate children of Hong Kong residents from China into Hong Kong. Even the Basic Law has no specific provision on that issue. I think the complexity of that issue goes far beyond the question of similarities and differences between the marriage laws of China and Hong Kong. It also involves the rights and interests of illegitimate children and the impact it brings onto the marriage system of Hong Kong. If it is expressly provided that illegitimate children of Hong Kong residents are not allowed to enter Hong Kong, then the cohabitants of Hong Kong residents in the Mainland may be driven to demand a formal registration of marriage by all means so that their children can immigrate to Hong Kong. It will certainly stir up many family problems in Hong Kong. On the other hand, even if illegitimate children are given the right to come to Hong Kong, who will take care of them here? Should the community be responsible for taking care of these children? All these questions indeed call for careful deliberation by the community at large.

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

DR LEONG CHE-HUNG: Mr President, I rise to speak in support of the motion. In supporting the motion, I would like to concentrate on the discriminatory nature of citizenship, right of abode in Hong Kong and the nationality that the current immigration laws and the British Nationality Act 1981 have produced to the children of Hong Kong residents in China. I am afraid I would take a slightly different view from the mover of the motion, Mrs Elsie TU.

Mr President, I am obviously aware of the social problems arising out of split families and the impact on infrastructure and social structure of Hong Kong should there be a massive influx of children into Hong Kong after 1997. Needless to say, there would also be a great impact and disruption on our existing health services.

I will be focusing on children born outside legal wedlock by male Hong Kong residents in China. In focusing on this area, I am in no way condoning cohabitation in China or "bao yi nai" lest my friend, the Honourable Eric LI, will stab me at my back. I am looking at the rights of children, so born who through no wish nor fault of their own, have been brought to this world to be discriminated.

Mr President, the Law Reform Commission in 1991 has made extensive study on the issue of illegitimacy and has recommended, amongst other things, that reform should be introduced to abolish the legal discrimination against children outside marriage — "We are persuaded that the law should be changed to provide a general rule that there be legal equality for children, regardless of the marital status of their parents."

In 1992, the Parent and Child Bill was introduced to this Council and subsequently passed into law. Amongst other issues, the ordinance reflects the spirit of the recommendation of the Law Reform Commission. Unfortunately, the issue of nationality of children born outside legal wedlock was not included nor addressed, the excuse being that nationality is a matter of the British Government.

In the resumption debate of that Bill, I said: "I am disturbed by this grey area of the child so born which is not addressed by this Bill, but is recommended by the Law Reform Commission. I do understand it is a matter for the United Kingdom but I would urge the Administration to do the utmost to pursue the issue with Her Majesty's Government to avoid another example of 'split families'."

The British Nationality Act of 1981 Part II section 50(9) states that "the relationship of father and child shall be taken to exist only between a man and any legitimate child born to him". In essence, therefore, a child not born of wedlock will not acquire the British Dependent Territories Citizenship (BDTC)/British National (Overseas) (BNO) status of his natural/biological father, and since the child is not a BDTC, nor a BNO, he/she has no right of abode in Hong Kong.

All these sound very legal and since it is British nationality, it is an issue for the British Government not Hong Kong.

But let us look at it from another angle. What does BDTC or BNO confer on you? It does not confer on you a nationality, nor a citizenship. You cannot claim to be British and you have no right of abode in the United Kingdom. What it confers on you is that you are being issued a travelling document by the British Government. The word British in BDTC and BNO really has very little meaning, let alone significance.

The problem of right of abode in Hong Kong for those unfortunate children born outside Hong Kong is therefore a problem for Hong Kong. There is no reason that the Administration should hide behind the veil of the British Nationality Act and remain docile. Urgent action must be taken not only to minimize the social impact by 1997, but also to provide equal opportunities in all aspects for those children who are legally disabled through entirely no fault of their own.

I support the motion.

MR JAMES TO (in Cantonese): Mr President, upon hearing the motion mover, the Honourable Mrs Elsie TU,'s detailed account of and her suggested solutions to the issue concerned, the Democratic Party completely accedes to her arguments.

Family unity is a human right, a right provided for in the International Covenant on Social, Economic and Cultural Rights. The topic under discussion addresses issues concerning spouses and children of Hong Kong residents in China. The Administration can certainly argue that unity means family members staying together. So it can also be achieved by Hong Kong people going north to obtain from the Chinese Government the right of abode in China, instead of having these spouses and children coming down to settle in Hong Kong. However, according to the above-mentioned international covenant, a citizen of any country - a citizen having right of abode in Hong Kong, for example - can arrange to have his spouse and children, if any, from another country, if any, to come to his homeland for reunion. This situation is particularly evident in Hong Kong where, as Mrs Elsie TU has just mentioned, a citizen who marries a woman from any place other than China can enjoy family reunion with little waiting. But if the spouse is a Chinese woman, it will not be as easy. Over-population is always cited by the Administration as the reason behind this policy, but I think it is not an excuse for splitting up a family. The Administration claims that the issue is being handled with a manner that is orderly, systematic and backed with legal authority, but I find problems abound.

Article 23(3) of the Basic Law specifies that persons of Chinese nationality born outside Hong Kong of Hong Kong's residents shall be permanent residents of Hong Kong. I feel sympathy for the Secretary for Security because this policy is not made by him but is something provided for in the Joint Declaration. The reason for putting this provision in the Joint Declaration may have involved a lot complicated factors at the time. But as it has been laid down as such, we must accept and abide by it, unless we seek to amend the Basic Law or even the Joint Declaration. The Democratic Party has no intention to seek amendment to these two documents, so we think the clause should be observed.

According to government statistics, the current number of children belonging to this category is estimated at 64 000. By the year 1997, they will enjoy the same citizen rights, including the right to social services, as other Hong Kong citizens. We all know that if they swarmed into Hong Kong in 1997, there are bound to be great repercussions. In fact, after having consulted the Chinese side, the Government has added 30 places to the one-way permit quota since 1993, of which 15 are designated for those children and the other 15 for those spouses who fit into this category. However, a rough computation will show that with the current method the problem can hardly be solved before 1997. If we fail to solve this problem by 1997, it will eventually get out of hand and the chance of those people coming to Hong Kong in an orderly and systematic manner as the Secretary for Security has suggested would indeed be slim. For this reason, the only choice left for us is to make the most out of

these two or three years and conduct such informational or statistical surveys as necessary for the co-ordination of relevant policies and the arrival of these children to Hong Kong. Such surveys may be conducted along the line suggested by Mrs Peggy LAM or through the provision of fundamental information by those Hong Kong residents concerned. But in the meantime, we certainly have to prevent "snake-heads" from taking advantage of this situation and from spreading misleading messages.

The Democratic Party agrees in principle that to cope with the situation the one-way permit quota for Mainland China residents of this category should be increased. The Basic Law has certainly not specified the granting of the right of abode for spouses, and so it has been criticized as "taking in the children, but keeping out the mothers". However, for humanitarian considerations and the right of families to reunion, Hong Kong will come under great pressure. Therefore, I hope the Secretary for Security will think of a way by which the increased quota can also benefit the spouses to some extent so as to increase their chances of reunion with their families. But I am worried that the Administration will argue against this point by saying that it will encourage more people to go to China to get married and have children. It should be borne in mind that these people are citizens of Hong Kong with the right to form a family. They are not able to find a spouse in Hong Kong only because of various economic, social and cultural factors. I think we must try to understand their situations. As they are also members of the Hong Kong society, their families should also be treated as such. The last thing we should do is to look at them with discriminative and hostile eyes.

Incidentally, it is worth mentioning that many Hong Kong citizens are also applying for their Mainland relatives to come to Hong Kong, but many of them have been waiting in vain for a long time. We all understand that the problem lies in the handling of these applications in China. Some cases involve corruption, "queue-jumping" and the exercise of special privileges. I hope the Hong Kong Government can try its best to urge the Chinese authorities to adopt a more reasonable and objective standard in the processing of such applications, so that the applicants can have a clear idea of the required waiting time. In that case, their family members waiting in Hong Kong can have a time frame within which to make necessary arrangements in anticipation of the arrival of their spouses and children. In addition to this, the application procedure for urgent cases should also be reviewed so that reunion for those particularly needy families can be expedited.

On the other hand, I call on those families that have waited for a long time, whether for financial reason or otherwise, to contact the Hong Kong Government. They may worry about offending the Chinese Government, so an alternative way is to reflect their cases to the Chinese Government through the Hong Kong Government. I understand the Security Branch recognizes the gravity of the problem and is currently putting it under review, but regrettably nothing has yet come out of it. I hope the Administration will speed up the

review, because a month's delay in coming up with a solution would mean the loss of a month's time for relevant co-ordination work to be done.

I am really glad that Sino-British co-operation in this area has been very good, and the problem has not been politicalized. Discussion on this issue was not interrupted even during the hardest times. For the benefits of the people of Hong Kong as well as those living across the border, we hope the Chinese and British Governments will fully co-operate and come up with a solution to this problem as soon as possible. I also call on the citizens of Hong Kong to show understanding for the situation of these people and view them with a patient and sympathetic attitude.

MR LEE CHEUK-YAN (in Cantonese): Mr President, a queer phenomenon of inequality has emerged in Hong Kong today: on the one hand, some people are rich enough to maintain mistresses or "second wives" in the Mainland, but, on the other, the poor ones who cannot afford a "back door entry", are practically denied of any opportunities for family reunion. To them, even reuniting with their legally-wedded wives is an impossible dream. I think this is most unfair. Quite a number of members of the Confederation of Trade Unions have approached us, saying that after submitting their applications for bringing their wives to Hong Kong, they have waited in vain for 10 years. To these people, this is real anxiety, and one may say that they have lived a lonely life for 10 years.

I believe that the problem lies in the existing immigration policy of Hong Kong. I think Hong Kong is the only place in the world which does not have self-determination in its own immigration policy. Hong Kong has no say in what kind of people it is to receive from China. How the quota of 75 people is to be distributed is totally determined by the Chinese Government. Up to now, the only area where Hong Kong have had a say is in increasing the quota by 30, 15 for spouses and 15 for children. Now, what is happening is that rich people in mainland China who can afford a "back door entry" can come to Hong Kong ahead of others, while 11% of the applicants, according to the Government's statistics, have to wait for 10 years. This indeed is an unfair system. Besides, the most urgent problem before us is how we should handle the 64 000 children who will come to Hong Kong after 1997. Will Hong Kong be able to accommodate these 60 000-odd children who may flock to Hong Kong all at the same time on 1 July 1997? The answer is definitely no. If we do not plan carefully today, we will have to suffer the ill effects of our own improper preparation in the future.

Moreover, apart from the above-mentioned children, according to statistical figures, it is estimated that more than 90 000 spouses of Hong Kong people are now waiting for approval to come to Hong Kong. Under the existing policy, it is difficult to tell how long these 90 000-odd families will have to wait before their family members can enjoy reunion. Therefore, in order to solve the family reunion problem confronting these 64 000 children and 90 000-odd

spouses, the only alternative for the Hong Kong Government is to fight for a say in the distribution of the quota of 75 people. This can enable us to give the entire quota to the spouses and children in question, similar to what we are doing with the extra quota of 30 people. That way, during the remaining 850 days, we will be able to solve the reunion problem for nearly 90 000 children and spouses, in addition to eliminating the practice of "back door entry". This system will be fairer. Can the Secretary for Security please inform us whether there is still any room for negotiation over the distribution of the quota of 75 people? How much say does Hong Kong have? If my recommendation were not adopted, I just cannot see how we can deal with the problem of getting these 64 000 children and 90 000-odd spouses into Hong Kong.

MR TIK CHI-YUEN (in Cantonese): Mr President, in regard to the motion moved by the Honourable Mrs Elsie TU today, I would like to focus on the education problems that may be caused by the arrival of Hong Kong resident's children from China. In the area of education, I hope that the Administration can plan appropriate measures to properly address the general difficulties encountered by new immigrants, so that the tens of thousands of children who are about to arrive can quickly adapt themselves to the life in Hong Kong.

Generally speaking, the greatest difficulty faced by new immigrants from China is the problem of adaptation, particularly the obstacles the children face in the school, the most obvious of which is the language problem. Mainland children, who do not know any English, use simplified Chinese characters and are used to learning in their mother tongue. This means that they must get to know the traditional complex Chinese characters used in the textbooks of Hong Kong, and learn anew ways of language communication and usage. As a matter of fact, many school teachers are aware of the special needs of this kind of students, but it is unfortunate that either they may not have the necessary expertise to handle them, or they do not have sufficient time to give extra attention to these new immigrants. When admitting students, some schools may simply reject the applications of new immigrants for fear that they may cause troubles and hinder their teachers' teaching progress. That is why many new immigrants have sought assistance from Members' offices. Over the past few years, my office in the district received quite a number of such cases.

We should adopt immediate measures and formulate long-term policies in order to address the problem. For immediate measures, we should provide more counselling service on matters relating to the schooling of new immigrants. First, learning counselling. We know that some voluntary agencies in Hong Kong have already tried to organize some counselling programmes designed especially for children from the Mainland. In anticipation of increasing demand for such programmes, we urge the Administration to allocate more resources to encourage more voluntary agencies to run diversified courses. Parents counselling service can even be introduced so that parents can learn how to assist their children in the process of integration into society and in school.

The second immediate measure concerns student admission. As far as I know, at present many parents look for schools for their children through the Education Offices under the Education Department (ED). But their choices are generally limited. This is because after the commencement of a school year, a school with spare places is not required to notify the ED when they accept late admissions. Therefore, anyone, who wants to get a school place, including children from the Mainland, has to rely on allocation by the ED.

Mr President, when deciding which are the right schools for their children, parents should have full access to all available choices. Therefore, we urge the ED to require all schools to submit to their respective District Education Offices all details concerning late admission, including the dates, procedures and admission requirements so that parents can make informed choices. This is a fairer arrangement for all children who come to Hong Kong from China, and will not deprive gifted children of their chances to develop their potentials.

To prepare for rainy days, so to speak, the Administration should formulate long-term policies. First, I want to talk about the planning for education developments. Mr President, I have great concern for the long-term problems arising out of the need to educate Hong Kong residents' children from China. We should really learn from our past mistakes. Imperfect and improper planning for new towns is the reason for the acute shortage of Form One places in some districts such as the North District and Tai Po. I do not want to see a repetition of similar mistakes. Now that the Hong Kong Government has already had an idea of how many children are coming to Hong Kong, it should work even more closely with the Chinese authorities so as to collect more information about the expected arrivals — for example, the levels they intend to start from, or even the locations of their future homes. We believe that such information will facilitate the Hong Kong Government in the formulation of development plans both for education and other related areas. Projections on the demands for school places, in particular, will certainly become more realistic.

Second, we have to have more resources. Mr President, the arrival of these Mainland children is really no small issue. I am extremely worried that if these 60 000-odd children cannot adapt themselves to the school life in Hong Kong after their arrival, we may have to deal with many study-related youth problems. If this really happens, the consequences will be unimaginable. Therefore, as a means of indirectly encouraging schools to admit new immigrant students from China, I urge the Administration to allocate additional funds to all those schools which have admitted more than a certain number of new immigrant students. With the additional funds, these schools can acquire more materials for the teaching of English, Cantonese and traditional complex Chinese characters. Besides, I also urge ED to set up a support unit to offer assistance to these children's parents and to provide inquiry, counselling and briefing services.

Mr President, with these remarks, I support Mrs Elsie TU's motion.

MR CHEUNG MAN-KWONG (in Cantonese): Mr President, at present, there are at least 300 000 children born in China to Hong Kong residents who were married there. According to the Basic Law, over 64 000 of these children shall be able to obtain the right of abode in Hong Kong after 1997 because either their fathers or their mothers were already permanent Hong Kong residents when they were born. In other words, after 1997, the Government of Hong Kong cannot repatriate these children even if they enter Hong Kong through illegal means. It is obvious that the alarm has been sounded because swarms of these children may sneak into Hong Kong after 1997, setting off the time bomb of a renewed influx of a illegal immigrants.

What is worse, more and more Hong Kong people are getting married and having children born in the Mainland as a result of closer political and economic ties between Hong Kong and China. The status of the "illegitimate children" born to Hong Kong residents' "second wives" in the Mainland has further complicated the issue because it is unknown whether these children can stay in Hong Kong in the future. The population growth due to such external factors may even be greater than the natural growth of our own population. This will impose a heavy burden and exert tremendous pressure on the social development of Hong Kong.

As for the entry of Hong Kong permanent residents' wives from China, although the Basic Law does not specify that they can also enjoy the right of abode in Hong Kong, we will certainly be subjected to continuous pressure to let them come on humanitarian grounds. Indeed, family reunion is a universal concept which we cannot deny for any reasons.

Mr President, experience shows that even those who have settled in Hong Kong would encounter a lot of difficulties. In the past two years, over 70 000 Mainlanders came to Hong Kong by virtue of One-Way Exit Permits. This number is as large as the number of births in Hong Kong in one year. Therefore, whether our infrastructure can cope with the situation has become a matter of great concern. What worries me most is of course the impact on our education system caused by these children.

According to the information obtained from the Security Branch, in the past two years alone, almost 20 000 children aged under 15 came to Hong Kong from the Mainland by virtue of One-way Permits, representing 30% of all the Mainlanders who came to Hong Kong by virtue of One-Way Exit Permits in the same period. Every year, more than 10 000 school-age children come to Hong Kong, and the greatest difficulty confronting them is the need to look for school places all by themselves. Since they know very little English and indeed very little Cantonese, they may not be able to cope with the local curricula. We can easily imagine their difficult life in school. Moreover, at a time when the local education sector generally hopes that the standard of students can be raised and the ratio of pupils to teachers reduced, these children from the Mainland have exerted tremendous pressure on the local education system and related facilities.

We must, therefore, provide them with additional support to enable them to adapt themselves to the new environment.

At the same time, we should also assist the tens of thousands of new immigrants to integrate into our society by taking appropriate measures in the areas of housing, employment, language and culture. Wherever they come from, we are in the same fraternity. Hong Kong was originally a society made up of Mainland immigrants. To render support to new immigrants is to lay a solid foundation for Hong Kong's stability and prosperity. This is a responsibility that the Government must take up.

Mr President, what I am going to talk about next is a more sensitive issue that has been subjected to severe criticisms — the Mainland's quota distribution system and the criteria involved. There have been frequent allegations of "entry through the back door", bribery and long waiting time. We may never know whether these allegations are true or not because the authority of vetting and approving applications rests entirely with the Chinese Government. The Government of Hong Kong has no access whatsoever to such material information as the personal particulars of new arrivals, their connections with Hong Kong and the quota-shares of individual provinces. Hong Kong's role is a rather passive one because the only thing we can do is to reach an agreement with the Chinese side on the quota for entry into Hong Kong. In other words, whoever China sends out Hong Kong has to accept. We simply cannot bargain, let alone voice any disapproval.

Mr President, this is extremely unfair to Hong Kong. I suggest that Hong Kong should actively fight for a say in the vetting and approval of One-way Permit applications. The existing situation, under which Hong Kong is entirely circumscribed by China's decisions, should not go on. In addition to fighting for a say in its own immigration control, the Government of Hong Kong, and the future Government of the Special Administrative in particular, should put forward to the Chinese Government an objective and equitable Points System under which applications are to be ranked according to clear criteria. Such a system should also let applicants know their positions on the waiting list. In this way, waiting applicants, who at least have an idea of their own positions, might be prevented from swarming illegally into Hong Kong around 1997 out of unnecessary panic and wild speculation.

As for how applications are to be ranked, children who are entitled to the right of abode in Hong Kong by virtue of Sino-British agreements should be accorded top priority. Other criteria such as age, years of applications, connections with Hong Kong and relatives in Hong Kong can also be adopted. A sound monitoring and appeals system should also be set up so as to ensure that applications are approved according to law and fair criteria. In this way, the secretive and vastly divergent practices adopted by individual provincial and municipal authorities in the Mainland can be eliminated. Most importantly, by having a say in the decision-making process, we can be better informed when

adjusting and planning our social services. This is in the best interests of Hong Kong.

Mr President, family reunion is an age-old desire among Chinese families. The wounds sustained by split families also torment the whole of China and Hong Kong. All members of a split family suffer, whether they live in Hong Kong or in China. The prolonged separation of families is an unhealthy social phenomenon that is against humanity and this has given rise to latent family and social troubles that may erupt at any time. A sound system as described above is the only way to ease the gravity of the situation. In the long run, the problem of split families can be solved only when the differences between the system of China and that of Hong Kong are eliminated, and this will be possible only when China and Hong Kong can attain progress at the same pace in terms of economic development and democratization.

Mr President, with these remarks, I support the Honourable Mrs Elsie TU's motion.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, in view of the problem of "maintaining second wives" that emerges recently in Hong Kong, it is imperative for the Government to have overall plans well ahead, because everywhere in the world, everything starts with the children. Hong Kong faces a special situation. As a result of the large number of women taking employment, many men who want to get married have to turn to China for wives. The Government of Hong Kong definitely has the responsibility of tackling the problems arising from these lawful marriages, and should really plan in advance. The United States and other places also face a similar situation. The United States is confronted with the great impact on its society as a result of the influx of illegal immigrants from Mexico every year, but they still have to deal with this problem. Hong Kong's trade volume ranks tenth or eleventh in the world and our fiscal reserves, in particular the foreign exchange reserves, are quite substantial. The Government should therefore try to look after the needs of every social class as far as possible. If the Government does not make any such arrangements in advance, the situation may become even more serious in the future. We must bear in mind that 1997 is not the end of Hong Kong; it is just the year in which political power will be continued in another form. Therefore, the Government should not think that its responsibility will cease in 1997, and should proceed to plan for long-term arrangements.

In the meantime, the Government should look thoroughly into the situation and should even conduct a survey to find out how many Hong Kong people have got married in the Mainland and to collect information on their children there. With the information gathered, the Government should then work out some arrangements for the phased entry of these children into Hong Kong through legal means after 1997, so that they can receive regular education. Some Members are concerned about the problems these children may encounter after they have come to Hong Kong. I am not too worried about

this for the simple reason that children can easily adapt themselves to a new environment. The important thing is that in the Government's policy to deal with the issue a clear line should be drawn. We must appreciate that keeping a girlfriend or a so-called "second wife" in the Mainland is not against the law. However, if a man begets children as a result of this kind of relationship, he will add to the burden of Hong Kong or may even break the law. The Government of Hong Kong should face this problem. Some forty years ago in Taiwan, it was common to see an old man in his seventies giving a feast in celebration of the birth of a one-month-old child born to one of his many wives. This is also happening in Hong Kong and is not against the law. I suggest however that the Government should introduce some legislation that can make a man bear a minimum of criminal liability if he claims to be the father of any children born to him outside his lawful wedlock because his wife can sue him for adultery or other offences. This is a disturbing problem that has exerted pressure on our society. The Government should face up to it in order to stop people from claiming to be the fathers of China-born children. Hence, we are not directing our attack at the maintaining of "girlfriends" or "second wives". Instead, we want to address the resultant problem of illegitimate children. The Government has the responsibility and authority to deal with this.

Mr President, we do not have to worry too much about the future situation in Hong Kong. Nowadays in Hong Kong, many elderly people like to buy property in their native areas in China when they have the money. They may even choose to live their twilight years in their native areas where they feel more at home and have more acquaintances. In the future when the Mainland's economy improves and when better living, hygiene and other conditions become available, the gap between China and Hong Kong will be further narrowed. By that time, not only elderly people will return to their native places but even children may be entrusted to the care of their relatives in China. Therefore, we really do not have to worry about this problem. The only thing is that the Government must plan ahead as soon as possible to better equip our society for the future changes. In fact, the Government has a lot of things to deal with. A government that shirks responsibility and only responds to things after they happen is a government with no long-term plan.

Mr President, we will certainly support the motion put forward by the Honourable Mrs Elsie TU today. We also hope that the Government can properly address the issues currently under discussion so that members of the public will know their obligations and rights better. This is more important.

Mr President, I so speak in support of the motion.

MRS SELINA CHOW (in Cantonese): Mr President, I believe everyone wants social stability. The stability of a society, which enables its people to live and work happily, is maintained, to a large extent, by a controlled population growth supported by well-planned social services in all aspects.

Many of us have our own families. We, therefore, fully understand that only in a complete family can children be brought up in a healthy way; and only through mutual support can family members have the courage to face up to problems and difficulties. Families torn asunder with children separated or spouses alienated are human misfortunes which we do not want to see. I am, therefore, very much in support of the Honourable Mrs Elsie TU's motion today. However, I would like to point out one thing. Most places in the world have clear-cut immigration policies aimed at maintaining controlled or orderly population growth. It, therefore, gives no cause for criticism to lay down clear regulations to control the number of immigrants.

At present, Hong Kong is facing the following problems:

The first problem is related to the issue of 1997. The Basic Law stipulates that children of permanent Hong Kong residents shall be allowed to settle in Hong Kong. We then have to ask: Will this lead to an influx of Mainland-born immigrants who are the children of permanent Hong Kong residents? As guaranteed under the Basic Law, they shall be able to come to Hong Kong.

The second problem is about Hong Kong people keeping "mistresses" in China. Just now, some colleagues have mentioned that quite a number of permanent Hong Kong residents, probably because of the need for family support under special circumstances, have raised second families in China. Will all the children born to such second families be automatically entitled by law to come to Hong Kong immediately after 1997? If yes, how many such children are there?

Third, when these children come to Hong Kong, our society will have to face an invisible yet real pressure because their fathers or mothers in China can also ask for permission to come. On humanitarian grounds, we do not want to see children being separated from their mothers or fathers. We all want to see families being re-united. But, a series of problems will then ensue.

Let us look at the problems from the Government's perspective. First, since many people who have to work in both Hong Kong and China have felt a need to raise second families, the Government should launch community-wide publicity campaigns to advise them of their children's legal status, with particular reference to their Mainland-born children. Second, the Government should discuss with the Chinese side on the following issues. How many children are entitled to residency in Hong Kong under the Basic Law as a result of the 1997 issue? Also, how will they come to Hong Kong? With the information obtained, the Government can then plan and prepare provision of the necessary social services. Third, with regard to Mainland mothers whose children are entitled to residency in Hong Kong under the Basic Law, it must be made very clear whether their applications for coming to Hong Kong will be accepted. At present, I think the most important thing is to ascertain the seriousness of this problem. Meanwhile, we should also clarify the status of

those people who are affected by this issue. Their status have to be clarified as a matter of priority so that they can understand their present as well as future situations. With such an understanding, they can then have their own plans, and when problems really arise in the future, they will not be frustrated to the extent of resorting to extreme actions. What is more, the Government should discuss with the Chinese side. Although time is running short, the Government should immediately seek to find out the seriousness of the problem through the Sino-British Joint Liaison Group or other channels such as the Immigration Department. Appropriate arrangements must then be made.

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

SECRETARY FOR SECURITY: Mr President, let me make it quite clear at the outset that the Government shares the same family values as Honourable Members, and indeed the community. We believe that it is right that families should be together, and that split families should have the opportunity to be reunited. Nor do we dispute that split families often create social problems. I trust that these values and beliefs are virtually universal.

These values and beliefs are, of course, reflected in the effect of the current arrangements on legal immigration from China which, as Honourable Members know, is based on the "one-way permit" system. Indeed, about 90% of one-way permit holders entered Hong Kong for reunion with their nuclear family members, that is to say, parents, spouses and children. Of the remainder, most entered Hong Kong for reunion with non-nuclear family members. An average of 105 persons per day, or about 38 000 per year enter Hong Kong from China under the current one-way permit system. This is one of the highest immigration for settlement rates per capita in the world. I would just like to add that 15 places within the daily quota of 105 one-way permit holders are specifically earmarked for wives to join husbands in Hong Kong. Another 15 are specifically earmarked for children who will have the right of abode in Hong Kong after 1997 to join parents here.

But we do face a constraint. We cannot admit people from China for settlement in a totally uncontrolled manner. To do so would result in over-straining our community and social services, our housing, education and medical facilities, and of course our ability to pay for them. Let me give just one example. The cost of providing a primary school place is about \$12,000 per annum, and the cost of providing a primary school place is about \$18,600 per annum. These figures are exclusive of the capital cost of building schools and classrooms. We cannot simply let in more children than we can provide education for; more schools may then have to be built. Our capacity to absorb new immigrants from China is therefore not unlimited, nor, I believe, would be the community's tolerance to the reduction in standards of the many services which they have come to expect.

The reality we face is that there are probably hundreds of thousands of persons in China waiting to join family members in Hong Kong. We estimate, for example, that there are up to 300 000 legitimate, I stress, legitimate children in China in the position. Not all of these children will have automatic right of abode in Hong Kong after 1997. That is not a situation created by our immigration policy; that is a situation created by the close historical, economic, social and cultural linkage between Hong Kong and China. While it is probably unrealistic in most cases to expect their family members to return to China permanently to join them, it is even more unrealistic to expect that they should all be let into Hong Kong for settlement in an uncontrolled manner. Sheer numbers rule that out.

Clearly, therefore, in determining an immigration policy from China, a balance has to be struck. We have to strike a balance between our humanitarian instincts, based on those shared values of family unity, and our ability to absorb new additions to the community without eroding our quality of life. Where in individual cases there are exceptional humanitarian or compassionate grounds, the Director of Immigration does take these into account in exercising his discretion.

Some Honourable Members have referred to the abuse of the two-way permit system by women at an advanced stage of pregnancy, coming here for short visits in order to give birth to their children in Hong Kong. It is international practice that if a child is born in a place where one parent is resident, the child will be allowed to have the same resident's status of the parent if the parent so chooses. We have followed this practice not only in respect of children from China, but also in respect of children from other parts of the world. The solution to the problem of abuse lies, in the first instance, in stopping this at source, not in returning Hong Kong-born children with a parent settled in Hong Kong. We are discussing this difficult problem with the Chinese side, most recently at the annual Border Liaison Review meeting in Guangdong.

Mr President, our immigration policy on the entry of spouses and children from China is a matter of striking the right balance. On the whole, I believe we have got that balance just about right, and there is no cause for a "root and branch" revamp. But we are not complacent. We will obviously have to keep it under review in the light of changing circumstances. Clearly, one issue which we are addressing is the admission of the estimated 64 000 children who will have the right of abode in Hong Kong on 1 July 1997, in accordance with the terms of the Joint Declaration and the Basic Law. That is something which will have to be discussed with the Chinese side. The position of illegitimate children will also have to be addressed in that context.

Mr President, Official Members will abstain from voting on the Honourable Elsie TU's motion.

PRESIDENT: Mrs Elsie TU, you are now entitled to reply and you have one minute out of your original 15 minutes.

MRS ELSIE TU: Mr President, I would like to thank my colleagues for their support of this motion. But I am totally horrified with the reply of the Government because it absolutely misses the point I have been trying to make.

We have just been told that if we allow more children to come to Hong Kong, we would need more schools. That is quite true. We are allowing them to come. We are allowing their mothers to bring them here at birth. We are allowing them to be born here. Does that not require school places? You are allowing them to be born here and create a problem.

On the other hand, how can it create a problem of schools if we bring their mothers here? The mothers are not asking to go to school. I am simply asking for the mothers be enabled to come when their children are allowed to come. I am only asking for the mothers to be able to stay here to look after their children. I am not asking for the mothers to have schooling.

Mr President, I think the Administration has really missed the point and I hope there will be a policy review as Members have already suggested.

Question on the motion put and agreed to.

PRIVATE MEMBER'S BILL

Second Reading of Bill

IMMIGRATION (AMENDMENT) BILL 1993

Resumption of debate on Second Reading which was moved on 21 July 1993

Question on Second Reading proposed.

MR MARTIN LEE (in Cantonese): Mr President, this Private Member's Bill, namely the Immigration (Amendment) Bill 1993, moved by the Democratic Party, seeks to empower this Council to supervise the labour importation policy. Members of the Democratic Party will speak in detail about the necessity of the Bill on the basis of the following aspects:

- (1) The impact of labour importation on local workers;
- (2) The economic consequences of importation of labour;
- (3) Labour importation for the airport projects; and
- (4) The supervisory role of the Legislative Council.

I shall discuss the role played by the Legislative Council in supervising the implementation of policies, mainly from a constitutional point of view.

At the House Committee meeting last Friday, each Member received a copy of an urgent letter sent to the Chairman of the House Committee by the Chief Secretary, Mrs Anson CHAN. The Chief Secretary attempted to block the resumption of the Bill's Second Reading today. On Monday, the Government even issued a press release which severely criticized this Bill of ours, saying that it would bring about serious consequences. As a directly elected representative of the people, I must tell the Government that if this Bill would really seriously affect our economy as alleged, members of the public would make their own judgment. If this were a bad Bill, the Democratic Party would have already been reprimanded by the people, and there would be no need for the Chief Secretary and the Deputy Secretary for Education and Manpower to say anything else. Unlike you Government officials who are high above and turn a deaf ear to public opinions, we in the Democratic Party have to be accountable to the people. The moving of this Bill is a manifestation of our sense of responsibility. When we, as directly elected Members, learn that there are public grievances against labour importation in our constituencies, we feel duty-bound to supervise the operation of the Government as representatives of public opinion.

Therefore, in order to ensure that we can live up to our duties as Members of this council, the Democratic Party has drafted this Bill, which aims to set up a mechanism through which we can supervise the labour importation policy on behalf of the people.

Mr President, the primary function of an assembly is to represent the people and supervise the Government. This Bill, which seeks to enable Members to carry out their responsibilities and exercise their constitutional powers, should receive the support of all non-government Members in this Council. Yet, many Members have spoken openly against the Bill. The public, I believe, can understand why. Members who want to protect the interests of the industrial and commercial sectors have chosen to evade their responsibilities. They are afraid of facing public opinions, fearing that the Legislative Council's power to monitor importation of labour would result in changes in the policy that may hurt the interests of major consortiums and the industrial and commercial sectors that now enjoys the supply of cheap labour. As a result, they prefer to give the power to Government bureaucrats, and use the latter as a shield against attacks and for better protection of their interests.

It is precisely this mentality that has impeded the democratization of Hong Kong's constitutional system and the progress towards maturity of its representative government. Consequently, the colonial executive dictatorship has been preserved, even in the 1990's, under the guise of a so-called "executive-led" government.

In her letter to the Chairman of the House Committee, the Chief Secretary said that the Private Member's Bill would impinge on the executive-led Government and impair its effectiveness. I hope the Chief Secretary can stop misleading this Council and the public by confusing some basic concepts in political science, namely "efficiency" and "effectiveness".

A regime which is most dictatorial and authoritarian is often the most efficient. This is because policies are made behind closed doors, free from any public supervision. And, the suppression of all opposition can ensure that the entire process from decision-making to eventual implementation can be completed with maximum speed. This, however, is not "effective governance" because efficiency does not necessarily mean public acceptance. Let us take the labour importation policy as an example. The policy was first approved by the Executive Council, and then passed to the Education and Manpower Branch, the Labour Department and the Immigration Department for implementation. All along, I have had no doubt about the Government's efficiency. But, on the other hand, the community has been boiling with resentment. This shows clearly that efficiency is not everything. Since accountability is the prerequisite of effective governance, if public opinions are taken into account in the process of policy-making, we can ensure better justified governance in addition to efficiency. This is "effectiveness" in the true sense of the term. This is exactly what the present labour importation policy has failed to achieve. Mrs Anson CHAN is the head of the Civil Service. Yet, she is so ignorant of these basic concepts. This bespeaks how she interprets the so-called "executive-led" government. Behind the rhetorics on an "executive-led" government is revealed once again the Chief Secretary's authoritarian and high-handed style of administration. But Mrs Anson CHAN may wish to read some history. A high-handed government will never gain the support of its people, particularly in this age of rising democratic aspirations.

I reiterate that in order to make the labour importation policy an "effective" policy, we should introduce a public regulatory mechanism.

Mr President, with these remarks, the Democratic Party gives its full support to the Bill introduced by the Honourable Michael HO.

MR LEE CHEUK-YAN (in Cantonese): The Chief Secretary, Mrs Anson CHAN, has said that the passage of the Honourable Michael HO's Private Member's Bill would be tantamount to discontinuing the importation of labour policy, which would seriously affect the economy of Hong Kong. I think Mrs Anson CHAN has simply ignored local workers' right to work. Unemployment or underemployment of workers is of no concern to the Chief Secretary, who only keeps talking about economic consequences. As a matter of fact, importation of labour has depressed local workers' wages and has also resulted in local unemployment or underemployment. I believe that the economy of Hong Kong will not in the least be affected even without importation of labour. At first, I found the Private Member's Bill of Mr Michael HO not drastic enough to effect a complete end to the importation of labour policy. The remarks made by the Chief Secretary have, however, prompted me to give full support to Mr HO's Private Member's Bill because halting labour importation as she referred to is exactly what I want to achieve.

All along, the Confederation of Trade Unions (the Confederation) has resolutely and unambiguously opposed the importation of labour policy, on the following grounds:

Firstly, for many policy issues, the Government has time and again refused to step in on the ground of a free market. But importation of labour has in fact worked to the detriment of our free labour market, hence violating the free market principle which the Government has been advocating. Why has the Government made no mention of a free market this time? And why has it chosen to wreck the free labour market?

Secondly, Hong Kong is undergoing structural changes in its economy, and large numbers of displaced workers in the manufacturing sector are in urgent need of jobs. However, these displaced, underemployed workers, who are mostly over 30 years old, have been largely unsuccessful in getting new jobs because of the competing imported workers. A huge army of unemployed and underemployed workers as well as depressed local wages are the results.

Thirdly, we think that the policy has fostered age discrimination among employers. Since employers can take on younger imported workers, it is very likely that they will refuse to employ local workers who are in their more robust years. We conducted a survey on newspaper recruitment advertisements, and found that 90% of the advertisements showed age discrimination and 60% of such advertisements even said that workers over 30 would not be employed. Age discrimination of such serious proportions is in fact closely related to the importation of labour policy.

Fourthly, later at this sitting, I am sure the Government will argue that since Hong Kong's rates of unemployment and underemployment are very low, only 2% and 1% respectively, Hong Kong is in a state of full employment. But the Confederation has always taken such statistics with a large grain of salt because many workers have in fact been forced to stay home as housewives

because they cannot get any jobs. They will certainly reply in the negative when asked whether they are unemployed. Therefore, the Government's statistics can in no way cover all those women who are forced to stay home as housewives. Besides, underemployment is currently defined as working less than 35 hours a week. Though this is the international standard, since a standard working week in Hong Kong consists of 48 hours, our underemployment rate can hardly reveal the real situation, when only those working less than 35 hours a week are considered underemployed. And, even if we accept the Government's statistics, the combined rate of unemployment and underemployment in the construction industry is still as high as 12%, representing over 20 000 people. Hence, the importation of 27 000 workers for the new airport projects is really a total disregard for the local employment situation.

Fifthly, the Government has always stressed that employers who want to take on imported workers should give priority to local workers. However, we have observed the following: (1) When publicizing vacancies for local workers, many employers do not mention any harsh conditions. Then when workers come for interviews, such employers will show them a long list of requirements that they are never able to meet. One example is that construction site workers are required to understand English. Having thus turned local workers away, such employers can then tell the Government that they have failed to recruit sufficient number of workers. This situation cannot be monitored at all. Since even the Government is unaware of the existence of such employers, it continues to grant foreign worker quotas to them. In conclusion, I think it is impossible for us to monitor the Government's avowed policy of according priority to local workers. (2) We have lodged complaints to the Government against some factory operators who dismiss local workers or impose harsh conditions on them after importing workers. Sometimes local workers are virtually forced to resign because they have not been given any wage increase for several years. Some factories have even reduced their fringe benefits and wages. When we asked the Government what step could be taken to put things right, the Government would reply that it would not grant any quotas to these employers next time. But they already have the necessary quotas for two years. I am really disappointed at the Government's procrastination. I hope that the Private Member's Bill moved by Mr HO can address the problems arising from importation of labour. But we feel that only when the Government abolishes the policy to import workers that local workers can be assured of full employment.

I want to make one final point. The Government explained that it had dropped the Old Age Pension Scheme (OPS) because the community did not support it. On the question of labour importation, the public has been so strongly opposed to it that a groundswell of discontent has emerged. We can rightly say that, of the many labour issues, importation of labour has led to most public discontent. The Government has, however, turned a deaf ear to public opposition and opinions on this issue. This, we think, is extremely unreasonable. In the case of the Old Age Pension Scheme, the Government

abandoned the whole thing and put the blame on the public. Why, then, has it been so stubbornly impervious to public opposition when it comes to labour importation? We are extremely dissatisfied. Lastly, we hope that the Government can abolish the importation of labour policy completely.

Thank you, Mr President.

MR NGAI SHIU-KIT (in Cantonese): Mr President, the Honourable Michael HO's Bill was introduced in this Council as early as July 1993. Yet, the Bills Committee has been unable to reach any agreement so far. This shows that some Members of this Council are strongly against the idea of giving the Legislative Council policy-making powers that can enable it to influence the implementation of the Government's labour importation policy. Given the Bill's significant impact on our importation of labour policy in the future, the Legislative Council must give the matter very careful consideration, and take full account of the mutual interests of employers and employees before making a decision. More importantly, we must ensure that all those who are interested in this issue, Members and people from different walks of life alike, are given their chances to speak their minds. This is what we should do as responsible debaters of public issues. This is what we should do if we are to benefit from a wide spectrum of opinions.

In addition, I want to express my profound regret at the fact that quite a number of our colleagues in this Council who are concerned about importation of labour are not present today and thus have no chance to voice their opinions. What I find more worrying are Mr HO's motive for suddenly resuming the Bill's Second Reading debate and the severe blow to our economy and business sector in case the Bill is really passed.

In a secretive manner, Mr Michael HO has suddenly taken out the long moth-balled Bill and hurriedly decided to resume the Second Reading debate today. His motive is indeed crystal clear to all. Today, quite a number of colleagues who are opposed to the Bill are unable to attend the debate because they are overseas representing the legislative Council on an official visit. Therefore, by picking this sitting for the debate, Mr HO is in fact depriving these Members of their rights to speak and vote. This ungentlemanly act is regrettable.

Furthermore, there is only less than two weeks to go before the municipal councils elections on 5 March. A member of the Democratic Party has even admitted frankly that their move this time is an "electioneering publicity effort". Such a move turns serious legislative work into political publicity, it is not only a farce but also an irresponsible and disgraceful act that disappoints the very people who have given this Council the responsibilities it now has.

PRESIDENT: Mr LEE?

MR LEE WING-TAT (in Cantonese): Just now Mr NGAI quoted the remarks that a member of the Democratic Party made in relation to election. May I ask who is he referring to?

PRESIDENT: If you want to, Mr NGAI.

MR NGAI SHIU-KIT (in Cantonese): You can find it out yourself. I do not have to give you an answer here.

As we all know, in the course of formulating social policies, the Government of Hong Kong adheres to some well-integrated objectives that serve as general policy orientations. In case of need, the Government will make appropriate adjustments to individual policies to take account of social changes. We, as Members of the Legislative Council, are supposed to play the role of a watchdog to ensure that all the policies formulated by the Government are appropriate and conducive to the maximum long-term interests of Hong Kong.

Mr President, this is the executive-led system that Hong Kong has been practising. Under such a system, the duties and responsibilities of each and every component are clearly and distinctly defined. If Members of the Legislative Council step out of line and monopolize all powers, executive and supervisory ones alike, the ill-results of blurred responsibilities will occur. The Bill we are looking at is a case in point. If passed, it will give the Legislative Council a dual role — that of endorsing regulations on importation of labour and of monitoring the appropriateness of these very same regulations. But then, if the policy does not work out right, as when rising labour costs result from an acute shortage of labour, who should be held responsible for the adverse impact of soaring inflation on the people's livelihood?

Recently, some people with ulterior motives have been trying to sabotage the executive-led system in Hong Kong. The row over the Employment Bill earlier on was just a beginning. By moving his Private Member's Bill, Mr HO has gone even further in the dangerous attempt to create a legislative-led system. His aim is to infinitely inflate the role of the legislature so that it can issue orders to the executive. I am afraid that more such incidents will occur in the future. If this really happens, our executive-led system, which has stood the test of time and which has been one of the cornerstones of our sustained prosperity and stability, will be utterly destroyed.

Mr President, while the present General Labour Importation Scheme has had its operational deficiencies since implementation in 1989, it has indeed played a positive role in alleviating our acute shortage of labour, thereby safeguarding our economic growth against undesirable slowdowns. All along,

with the employment opportunities of local workers in mind, the industrial and commercial sectors have advocated a tight control on the scale of the schemes and the categories of workers to be imported.

In the future, in order to rectify the flaws in the existing importation of labour schemes and to take account of our economic developments, the Government must pay more attention to the views of this Council and the community on the number of workers to be imported in each phase and on the criteria governing quota distributions to different trades and industries. However, it will be totally inappropriate for this Council to resort to legislative means to interfere with the Government's work and force it to make changes. For all I have said, I am strongly against the Bill moved by Mr Michael HO.

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

MR TAM YIU-CHUNG (in Cantonese): Mr President, ever since the labour importation policy was proposed by the Government in 1990, I, as the representative of the labour sector in the Legislative Council, and the Hong Kong Federation of Trade Unions (the Federation) of which I am a member, have been opposing this policy. Regrettably, not only has the Government turned a deaf ear to our dissenting voices, it has even gone as far as continuously extending the quota of imported labour up to the present figure of 25 000 per year whereas the quota of imported labour for the Airport project has also increased to 17 000. The employment prospect of local workers is thus seriously affected, a situation which the labour sector strongly resents.

Around Lunar New Year this year, the Federation conducted an employment survey by sending questionnaires to members of its affiliated associations. The outcome showed that over 75% of the members find it very difficult to secure a job under present circumstances, while those who are employed have no job security and feel that their salaries have been unjustly contained.

From the survey, we found out that a construction site worker may be refused employment because he does not know English, and that a cleaning worker may lose his job just because he is over 40. Furthermore, I regret to see that certain political parties which have claimed to oppose age discrimination also included the unreasonable age requirement of 30 years or under in their recruitment advertisement for Executive Assistants.

Nowadays, local workers not only have to face difficulties in finding a job as a result of the restructuring of our economy, but are also subjected to various kinds of discrimination when they look for employment in another field. Furthermore, they have to face fierce competition from imported workers. On top of these hardships, there are the increases in transport fares, rental, water and electricity charges, hospital charges and so on waiting in line. The only exception that never enjoys any reasonable increase is the wages of our workers.

Under such circumstances, the standard of living of the working class is in fact on a decline.

We are given to understand that there are over 300 000 imported workers in the territory. We come across imported workers nearly everywhere in our daily life, whether we go shopping, to the restaurants or to the hair salon. The Government claims that Hong Kong has a shortage of labour and that Hong Kong has achieved what the Government and employers described as full employment. However, is it the true picture? Or is it just an illusion created by the Government?

The survey conducted by the Federation shows that the unemployment rate and underemployment rate are as high as 7.1% and 10.7% respectively. These figures are much higher than those released by the Census and Statistics Department which stand at 2% and 1.4% respectively. At the same time, the Government has mentioned nothing about the fact that the labour force participation rate in Hong Kong, unlike other developed countries where economic development attracts more people to join the labour force, is conversely shrinking. According to Government statistics, the labour force participation rate in 1981 was 66.3%, but in 1994 it dropped to 62.7%. Had the rate remained unchanged, the workforce in Hong Kong would be increased by over 170 000 people. Therefore the Federation thinks that Hong Kong has a large labour force and there is absolutely no need to import workers on a large scale.

Mr President, in line with its past advocacy, the Federation will continue to resolutely oppose the Government's labour importation policy. We also call on the Government to promptly enact legislation to provide for the accordence of priority to the employment of local workers. Those employers who only employ imported workers, and discriminate against local workers by deliberately making things difficult for them through various means, should suffer the heaviest penalty under our labour law, which is 12 months' imprisonment and a fine of \$200 000. The Federation holds that the livelihood of local workers can be protected only when the Government's words of safeguarding priority rights to employment of local workers are written into the law.

The Government has so far refused to give up its labour importation policy. The formulation and implementation of such a socially significant policy have been wholly put in the hands of the executive. Once approved by the Governor-in-Council, the policy can be handed to the Immigration Department and Labour Department for implementation. The Legislative Council has no say in any part of the process, unlike the case for other labour policies under such legislations as the Factories and Industrial Undertakings Ordinance which have to be tabled at the Legislative Council in the form of subsidiary legislation for approval. Such an arrangement is extremely unreasonable. Therefore, I support the Private Member's Bill moved by the Honourable Michael HO which provides that all future regulations regarding the

labour importation policy must be tabled at the Legislative Council in the form of subsidiary legislation for approval before they can be put into effect.

In addition, I think the Government should also put any future regulations concerning labour importation to the Labour Advisory Board so that representatives from the labour sector will be able to monitor the implementation of the scheme.

Finally, Mr President, I would like to reiterate that the Federation's ultimate goal is to urge the Government to withdraw the labour importation policy which has seriously affected the employment opportunity of our local workers.

Mr President, with these remarks, I support the Second Reading of the Bill.

8.00 pm

PRESIDENT: It is now eight o'clock and under Standing Order 8(2) the Council should adjourn.

ATTORNEY GENERAL: Mr President, 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.

MRS ELSIE TU: Mr President, I am not convinced that the Government of Hong Kong, under its present constitution, can be administered by means of Private Member's Bills whenever any Panel fails to achieve a change of policy. It would mean that any group which could muster a majority would virtually be the ruling party without having reached that goal by the democratic mandate required for party government.

The use of Private Member's Bills serves to highlight the impossibility of a cabinet (in this case the Executive Council) operating without backup in the legislature.

But to come to the essence of the proposed Bill before us today, I should say that it should have been dealt with more than a year ago, if the Government had listened to warning voices about the increase in unemployment, coupled with importation of foreign labour. I believe that what our colleagues have said is true that some bad employers, I am talking about the bad ones, offer local workers conditions totally unacceptable to them.

I have here an article from the *Guardian Weekly* dated last week. It tells us that in New York, 200 000 illegal immigrants are employed in factories, shops and restaurants. Some of these illegal immigrant workers are under-age children. All the workers are overworked and underpaid. There are laws against employing illegal immigrants, but with only 18 immigration enforcement officers, the practice goes on unchecked. The trend nowadays is that when working conditions for local workers are improved to a degree that employers will not accept, the employers look for cheap imported labour, or for illegal immigrant workers. Unfortunately this process has already begun in Hong Kong, and it needs to be tackled before it gets out of hand, and before the economy in general is damaged. I am not convinced that Mr HO's Bill will solve the problem because the employer will find illegal immigrant workers if they cannot get imported ones. But what is the remedy? I very much doubt whether Mr HO's Bill will do any more than to build up acrimony between workers and employers and at the same time divest the Government of the right to administer the territory.

I have interviewed some of the workers themselves and they have suggested that a commission should be set up to investigate all the circumstances to find out when local workers are available and why they are not engaged and to look into the whole problem.

I suggest that before this Bill proceeds, the Government should take steps to initiate a thorough investigation and to listen to what the workers are saying instead of looking at inaccurate statistics which only cover up the true facts. The workers must be given a forum where they can air their complaints, and the Government must be prepared to listen and act on their behalf.

If the Government wants to remain an executive-led government, it must be more sensitive to the daily and pressing needs of the people, otherwise the Government will find itself faced with a groundswell of discontent similar to that of the late 1960s, and I am sure that none of us would like to see that happen.

Thank you, Mr President.

MISS EMILY LAU (in Cantonese): Mr President, I rise to speak in support of the Private Member's Bill proposed by the Honourable Michael HO. I am not totally against importation of labour. I do believe that under certain circumstances, it is necessary for Hong Kong to do so. But I also believe that, contrary to what some Members have just said, this Private Member's Bill is not aimed at stopping all the labour importation schemes. If this were the case, I, for one, would not have supported it.

The Government is well aware of a current situation in Hong Kong that "there are workers without jobs, and jobs without workers". The Legislative Council has held quite a number of debates on this issue. I am

rather disappointed in the Government's employees retraining schemes. As I told some government officials just now, many people have come to my office and complained that in spite of the retraining they received, they still cannot find any jobs. They also say that they do not quite understand how the labour importation schemes work. I am very glad that the Honourable NGAI Siu-kit also admitted a while ago that there were flaws in the implementation of the labour importation schemes. I believe that what Mr Michael HO's Private Member's Bill seeks to achieve is to have the relevant power given to the Legislative Council so as to increase the operational transparency of the schemes, thus making the Government accountable to both the Legislative Council and to the public at large.

Having thought about the matter over and over again, I still cannot understand why the Government has been so shocked by something which, in my view, is so reasonable. The members of the public whom I talked to agreed that the Bill was worth supporting, and they also urged me to support it. The Bill may have been put forward in a bit of a rush. I, like the Government, have the feeling that this is a surprise attack. Nevertheless, I still believe that we have to speak in support of what is right. When the Government official speaks in response to Members' views later on, I hope that he can tell us why the Administration refuses to give this Council the power that can enable it to play a part in such an important issue. Is it because it will weaken your so-called executive-led government? Or are there any other reasons that are not brought to light?

Some Government officials say that giving the Legislative Council this power would result in delay and loss of flexibility. However, I can still recall that in the past when there was an emergency, the Legislative Council did manage to pass a bill in just a matter of weeks. Some government officials do not trust the Legislative Council, saying that they do not know what kind of people will be elected to the Legislative Council and if some mad Members are elected who then decide to ban labour importation completely, the interests of Hong Kong would be jeopardized. I think if we really have such a Legislative Council, the public will certainly have a way to castigate Members of the Legislative Council. I think the crux of the problem is that the Government and some Members present today simply do not trust an elected Legislative Council. But I hold a different opinion. While I do not necessarily believe that an elected Legislative Council is the best in terms of wisdom and ability, I do believe that a Legislative Council made up of elected members is better than one with any other form of composition. And it is also my belief that Members of an elected Legislative Council will spare no effort to do their best; and if they make a wrong decision, they will shoulder the responsibility themselves. Some government officials may say, "No, you are wrong. You do all your talking here, and when you make mistakes, the Government is always left carrying the can." I think this is not the case. Perhaps when the Government official speaks later on, he can really give us a few examples of the Government having to bear the responsibility as a result of our mistakes in this Council. I cannot think of any myself. If we do the wrong thing, we will shoulder the responsibility

ourselves. The question is: the matter now under discussion being so important, why has the Legislative Council been denied any authority over it? Some Members have just talked about the lack of adequate monitoring and transparency. So, I believe that we do not aim to totally scrap the importation of labour schemes; we only want increased transparency in the formulation and implementation of the schemes and the full participation of an elected Legislative Council.

Mr President, with these remarks, I support the Bill proposed by Mr Michael HO.

MR CHEUNG MAN-KWONG (in Cantonese): Mr President, before turning to the subject of the present debate, I would like to make a clarification on behalf of the Democratic Party. The Honourable TAM Yiu-chung mentioned that a political party, by which he meant the Democratic Party, had placed an advertisement showing age discrimination. I must point out that it is absolutely wrong to have age discrimination. The advertisement referred to was indeed placed by the Democratic Party. However, it was placed by a middle-ranking employee, and the Democratic Party members serving in this Council as well as those responsible for Party policies did not know about it before and after it was published. However, we have not intended to deny the mistake. After the advertisement was published, we stated in public that that was a mistake. But let us be clear about one thing. Are we going to dismiss an employee just because of one single mistake he made, thus adding to his frustration and regret? I can only give him time to come to understand why it was something that should not have happened. I have not shirked the responsibility, and I have made it known on many occasions that a mistake was made. This is the clarification I wish to make. Mr President, I would now like to turn to the subject of the debate.

In 1989, the Executive Council decided, without any consultation, to introduce flexible importation of labour with technical skills, thus ushering in labour importation on a large scale. In 1990 and 1992, the Government twice announced the expansion of labour importation schemes. In early 1994, the Government even permitted the importation of professionals from China, and at the end of the same year, it raised the quota to 27 000 in respect of imported workers for new airport projects. Therefore, with the introduction of more quotas and more categories over the past six years, it is estimated that the total number of imported workers can be as large as 60 000. As for the underlying principle of importation, it has been changed from one of selective importation for trades experiencing shortage of labour to one that is open to all trades.

Over these six years, continuous expansion is mainly seen in the category of non-technical imported labour, which has made inroads on trades upon which the masses of our labour force rely to earn their living. Over these six years, what we have witnessed is that as a result of labour importation, the employment opportunities, general livelihood and social security in Hong Kong

have been seriously affected, giving rise to a number of serious and far-reaching evil consequences.

The first evil consequence of labour importation is that local workers have been seriously deprived of employment opportunities. We can see that the first victims were old workers. But, then, as the impact spreads, even physically fit middle-aged workers, and in recent years female workers over 30, are also victimized.

In order to show the Labour Department that it is impossible to hire local workers, many construction contractors who want to import workers have imposed unreasonably high recruitment requirements on local workers. For example, workers must not be over 40, or they should have attained Form three standard and so on. According to a press report, some construction contractors even required that a painting worker should be able to speak English. At a time when our infrastructure projects start one after another, it is really ironical to see that local construction workers are still caught in the quagmire of unemployment or half-unemployment. Why? This is because the large-scale importation of labour for the new airport projects has given employers in the construction industries a large supply of cheap labour which enables them to maintain low wages and poor working environment. So, middle-aged local workers have found their employment opportunities diminished, and getting higher wages and better work conditions are simply out of the question.

I am equally concerned about the many displaced female workers who are also badly hit by importation of labour. Though over 30 years old and are still in their prime years, they have to look for alternative employment or re-employment. Following the exodus of Hong Kong industries to the north in the mid-1980s, the number of local manufacturing workers has been reduced by over 400 000 over the period from 1988 to 1994. Every year, an average of 70 000 workers are forced to seek alternative employment either because of dismissal or being "on the drip", that is, grave underemployment. Since female workers have all along constituted the bulk of the labour force in Hong Kong's manufacturing industries, they are certainly the people worst-hit by unemployment, and their need for alternative employment is therefore the greatest. In theory, the ever-growing service industries should be able to absorb this redundant labour force. However, what the service industries want to take on are just "young and good-looking" females. The recruitment advertisements placed by many major retail shops and department stores state that they are looking for females who are between 18 and 25 years old, or below 30. Since female workers over 30 are considered too old by employers, many of them have to retire early because of "middle age", some hang on to lowly-paid casual jobs, while others have no alternative but to remain half-unemployed or "on the drip".

These female workers grew up during the '60s, the period of industrial take-off in Hong Kong. They left school at their tender age and a large number of them worked as illegal child labour in factories. They gave the prime years

of their life, their labour and hard work for the prosperity of Hong Kong, and have enabled Hong Kong to emerge as one of Asia's "Four Little Dragons". However, how is our community treating these female workers in return? What do they get after working hard for some 20 years? Sadly, what they get in return are unemployment, half-unemployment, reduced income and lowered living standards. Is not our community being too ungrateful to them?

Mr President, the fact that "women in their thirties find jobs scanty" really tells of a heart-breaking scene in our community. Does our community want to advocate that workers are like "disposable wares"? What the importation of labour policy means to employers is exactly this: when workers no longer bring the maximum profits to their employers, they should be discarded like used tissue paper and abandoned to their own fates.

The second evil consequence of labour importation is the increasing number of local workers turning into casual labour. Labour importation has deprived local workers of their employment opportunities. The Government's defence is that since the unemployment rate of Hong Kong is lower than 3%, local workers are virtually in full employment. As a result, labour importation is a necessary policy to relieve the acute labour shortage in Hong Kong. This is indeed a self-deceiving way of decision-making. How can the unemployment rate alone reflect in full the employment situation of local workers? Many cases of unemployment, half-unemployment, job insecurity, forced casual labour and part-time labour can never be reflected in the unemployment rate. In order to gain a picture of the employment situation of female workers affected by our economic transformation, I once requested the relevant statistics from the department concerned at a meeting of the Legislative Council. However, the reply by the official attending the meeting was that the Government did not conduct any such survey. In the absence of adequate information, I wonder how has the Government managed to come up with such a significant policy that affects so many local workers?

If the true picture behind the low unemployment rate is one of half-unemployment, "life on the drip" and lowered living standards, we must say that this picture is not in line with the image of a society that prides itself on being an international financial centre. In the absence of any effective measure to enhance the employment opportunities of local workers, labour importation will certainly work against the interests of local workers. Despite the Government's avowed measures of according employment priority to local workers, the fact is, they continue to experience difficulties in getting jobs as the Government enlarges the scale of labour importation because such measures are not monitored by the public.

Mr President, the third evil consequence of labour importation is depression of local wages. Since 1992 when the Financial Secretary announced using importation of labour as a means of curbing inflation, major chambers of commerce and economic commentators have started to attribute high inflation to high local wages and acute labour shortage, arguing that labour importation can

help relieve acute labour shortage and curb rising wages. But, the truth is that only management and technical personnel have been able to enjoy higher increases in wages. As for non-technical manual workers and general service industry workers, their increase in wages have been on the low-side. In some trades, the real income of workers has even suffered a negative increase.

Let us take a look at the wages of construction workers and basic level female workers. Over the past five years, the real increase in the wages of construction workers has been lower than the overall wage increase in Hong Kong, and there was even a negative increase in two of these five years. As for female workers who took up alternative employment and re-employment, according to a survey conducted by a local newspaper early this year on the recruitment advertisements of five major fast-food chains in Hong Kong, the hourly wages offered to their part-time employees were not revised according to the inflation rate. Another survey conducted by a women's group in 1992 also showed that the hourly wages for part-time workers of these five major fast-food chains were increased only by an average of 0.6%, which was far lower than the inflation rate, and in some cases, the wages tended to get lower.

Since trade unions in Hong Kong have no collective bargaining power, workers' wages are determined unilaterally by employers. On the face of it, it is market forces that are in operation. But the truth is that importation of labour has interfered with the local labour market in an adverse way and has severely reduced the bargaining power of local workers. Before the Government has formulated any satisfactory policies for the training of human resources and the enhancement of employment opportunities, it has repeatedly brought in imported labour, and the masses of workers can only suffer helplessly the fate of being made redundant by market forces. Not only have they been deprived of an equitable share of the fruit of economic success, but their living standard is also becoming worse.

Mr President, with the down turn of the property and stock markets, the sluggishness of the service industries and the shift of the manufacturing industries northward, the economy of Hong Kong this year has indeed been bad enough so far. And, with a Sino-American trade war looming over the horizon, the life of Hong Kong workers will certainly go from bad to worse. It can be predicted that we will have more unemployed workers, more workers "on the drip" and more workers earning less than before. Here, we are talking about an issue that involves the livelihood of several million people. Since there is inadequate unemployment insurance in Hong Kong, this issue, if not tackled properly, will become a bomb that can blow up our economy any time. If we are to prevent the bomb from going off, we must halt labour importation as soon as possible. In the interim, when we stop expanding the scale of importation and move toward a complete abolition, we must adopt a stop-gap measure of placing the policy of labour importation under public monitoring and restriction.

We must establish an effective mechanism to monitor and restrict the number of workers to be imported. The granting of quotas to trades must not conflict in any way with the interests of local job-seekers. We must rigorously monitor the wages and working conditions of imported workers to prevent abuse of the policy that can deprive local workers of their employment opportunities. I think the most effective way to achieve all this is to codify the monitoring mechanism in regard to labour importation so that this Council, as representative of public opinions, can exercise control through legislative means.

Mr President, with these remarks, I support the Private Member's Bill proposed by the Honourable Michael HO, on the monitoring of labour importation through amendments to the Immigration Ordinance.

MR HENRY TANG (in Cantonese): Mr President, in today's debate of the Bill, I will not talk about if labour were not imported now, how far would inflation increase or how would the transformation of the economic structure be affected. I will not talk about how would the growth of the overall economy be checked or how much delay would airport projects encounter, nor will I talk about if this Bill is passed, how much would the costs to the manufacturing industry increase, how many industries would be caused to move north and how many workers would lose their jobs. I will not talk about these topics.

The only topic we discuss today is whether our government should be changed from one that is "executive-led" to one that is "legislative-led"! This has nothing to do with "the importation of labour". This Private Member's Bill, the Immigration (Amendment) Bill, as proposed by the Honourable Michael HO, requires the Director of Immigration to abide by the regulations passed by the Legislative Council when approving the entry of foreign workers in future. This means that any future alterations to the details of the importation of labour schemes must be agreed and approved by the Legislative Council. This is obviously "Legislative Council Chauvinism", hoping to infinitely expand the power of the Legislative Council and upsetting the management structure of the Government which has always been executive-led, as well as undermining the Government's authority to rule. Therefore, even if the topic of today's debate were not such a controversial issue as the importation of labour, but a simple one like "Approval of the Legislative Council is required to conduct a drama on stage in Hong Kong in the future", I would definitely not give my support.

If a group of people play a game, they must follow the rules. Anyone who is not pleased with the rules can always persuade the others to change the rules and start anew after making the changes. If it is not possible to do so, he can either go on playing, or stop taking part in protest.

The Hong Kong Government has always enshrined an "executive-led" mode of government. Article 50 of the Basic Law has clearly stated that after 1997, if the Chief Executive of the Hong Kong Special Administration Region

refuses to sign a bill passed the second time by the Legislative Council, or the Legislative Council refuses to pass a budget or any other important bill introduced by the Government, and if consensus still cannot be reached after consultations, the Chief Executive may, after consulting the Executive Council, dissolve the Legislative Council. We can see that the "executive-led" rule of the game will continue to apply after 1997. If any Member is not satisfied with the existing role of the Legislative Council in that it "has responsibilities but not power", he may challenge the existing government or even the Basic Law. But Members, please do not "play a sly trick" under the pretext of "opposing the importation of labour".

The Legislative Council has always aptly performed its functions of legislating, monitoring the Government's administration, and examining and approving the allocation of funds. In case today's Bill is passed, there will be a precedent, from now on, that all policies, regardless of their importance, would have to be passed by the Legislative Council before being implemented. Would the Legislative Council then become a huge monster having power but not responsibilities? I believe this is by no means a blessing for the people of Hong Kong.

With these remarks, I object to passing the Bill.

MR ALBERT CHAN (in Cantonese): Mr President, how does the extreme disparity between the rich and the poor in a society come about? And in a Chinese society where the traditional virtue of filial piety is valued, why are there so many elderly people who have no one to fall back on?

Both phenomena mentioned above are found in Hong Kong today. Chinese people possess the virtues of diligence and frugality. Such qualities can generally be seen in the Hong Kong workforce and they are also essential for the continuous growth of our economy. However, because of the lack of labour protection and the throttlehold of workers' union activities, the growth of wages has long been suppressed. In the past, workers could only depend on their resilience and diligence in work to strive for a better income to support their families and parents.

Nevertheless, with the structural changes to our economy which started in the '80s, the manufacturing industry moved its production lines out of Hong Kong and job opportunities for our workers have been greatly reduced. Their hopes of making a better living become impossible dreams. Their idea of saving up for their later years may well become something beyond their grasp.

It is outrageous to see the Government deliberately scheming to import labour and extend its scope at such a time. This further reduces the local workers' chances to keep the jobs in their own trade. They are forced to switch to another trade or even got laid off altogether. The excuses given by the Government are many and inexhaustible including the shortage of labour and

the curbing of inflation, as a number of Members from the commercial and industrial sectors have just quoted. But in fact the real purpose behind the policy is to suppress the growth of wages so that the capitalists, especially the unscrupulous ones, can enjoy the benefits of cheap labour.

Labour importation has caused those industries which cannot be relocated outside Hong Kong, such as the service and construction industries, to be dominated by low-paid foreign workers. The situation is obvious in restaurants and at the airport site. Construction workers have long suffered underemployment and unemployment from three or four years ago. They have put their hopes on the commencement of the Airport Core Programme Projects to solve part of their unemployment problem. To their dismay, the Government came up with a scheme of labour importation for the core programme projects which allowed employers to import labour without any misgiving. In 1993 and 1994, the special quota for imported labour for the new airport projects was drastically augmented from 5 500 to 17 000. The figure has been planned to reach 27 000 in 1996.

The new Airport Core Programme projects involve an astronomical expenditure that represents a substantial part of the gross production of the construction industry. In these few years, the amount of construction works other than those of the new airport projects will show a sharp decline. Many workers, especially construction workers barred from the Airport Core Programme Projects, will find themselves in desperate straits. The Government should know that these workers, having dedicated half of their lifetime to the construction industry and reached the age of 40 to 50, have little chance of switching to another trade. With the Government further extending the scope of labour importation for the new airport projects, these local workers will stand no chance of making a living at all, let alone making a meagre living.

Mr Billy LAM, Director of the New Airport Projects Co-ordination Office, has claimed that the extension of the Labour Importation Scheme would help boost the confidence of those who bid for the New Airport Core Programme projects by letting them know that work on these projects would not be held up by any problem in labour supply. In this way, the tendering price can be contained in line with the Government's principle of maintaining expenditure on the projects within budget. It seems that Hong Kong workers are sacrificed for this goal.

These words fully reflected the Government's state of mind in its management of the Airport Core Programme projects, which is set to maximize the profits of those giant corporations through exploitation of the low-paid workers. The workers in Hong Kong are thus deprived of their employment opportunities.

As regards the actual labour supply situation, with the present high levels of unemployment and underemployment, many labourers, especially construction workers, are only taking up jobs with a high turnover rate. Some

of them even become hawkers or casual workers. Given the chance, they are more than willing to return to their own trade. The Government, however, does not give them this chance, leaving them still underemployed. The situation can be summed up with the following doggerel: "With the airport emerging from level ground, hear the magnates' laughing sound; with imported labourers snatching their rice bowls, Hongkongers' job chances soared away, nowhere to be found."

Under the existing system, the Government has no proper measures to implement the principle of giving employment priority to local workers. Hence, when hiring workers, employers can set the education requirement for local cement workers and steel fixers at secondary level. They just treat local workers with an attitude of "rejecting whoever comes for the job" so as to create the need for imported labourers.

Mr President, it is excusable to import skilled labour which is not available in Hong Kong. However, if a large number of unskilled workers are imported solely for the lowering of wages, then not only will it fail to achieve the effect of transfer of skills, but it will also deprive local workers of their jobs. Such policy is neither fair nor reasonable. The Legislative Council, representing public opinions, has to monitor the Government's administration by means of its legislative power, especially in the face of a policy which has no regard for the workers' rights and benefits.

Several Members have just talked about the relationship between the executive and the legislature, as if once the Legislative Council were given the power to monitor the Government's importation of labour, it would give rise to a "dominative legislature". But when the Legislative Council exercised the power to vote down the Government's proposal to raise the tunnel toll by \$1 in the first instance, why did the Liberal Party agree and not regard the power as making the legislature dominative? What was its logic? Is it right to regard the Legislative Council "a dominative legislature" when it is empowered to monitor the capitalists' interests? Does it mean that the Council can handle general things which have nothing to do with the capitalists' interests? I hope the Liberal Party Members concerned can clarify on how the executive and legislative powers should be divided.

Furthermore, as regards the Employees Retraining Scheme, the Government has repeatedly claimed that the Scheme is useful. May I ask if the Government can provide some statistics to show the number of persons who has completed courses under the Scheme whom it has employed. My office has employed one such person. How many has the Government employed? Moreover, if the Government considers this Scheme to be so successful, can it guarantee that government institutions will in future employ every person who has completed the courses of the Retraining Scheme?

Mr President, lastly, I would like to mention that many Members present today may have direct interests in the issue of labour importation. They may have hired foreign workers themselves, or enjoyed great benefits by having their factories or companies hiring foreign workers. Is it necessary, in such circumstance, for individual members to declare their interests before casting a vote? I now take the lead to declare: I have no interest involved.

MRS SELINA CHOW (in Cantonese): Mr President, originally, I did not intend to speak, but as the Honourable Albert CHAN has mentioned that Members from the Liberal Party have talked about the relationship between the executive and legislative authorities, I find it necessary to explain this in detail for it seems that he has not got the point. The same issue has also been brought up by the Honourable Miss Emily LAU just now and I would like to discuss this matter also.

It is undeniable that the Legislative Council plays the role of monitoring the government, and I think that it has outstanding performance over the last few years. With the democratic element of the Legislative Council ever expanding, I believe it can play this role increasingly better. However, I think that how good this role will be played depends very much on whether the rules of the game as described by the Honourable Henry TANG are fully understood by everyone. Just now, Miss Emily LAU said that the Legislative Council was only given a little power and there was no need for us to get nervous because the Legislative Council should have shared some duties. But I think a very important principle is what the duties of the Legislative Council are, and what the duties of the executive authorities are? The duties of the Legislative Council are to draw up rules for everyone to follow. Any person or institution who does not observe or act according to these rules will be criticized or even prosecuted. However, the Legislative Council does not play enforcement and administrative roles. If we casually say that a certain official does not perform his duty well, so it will be better for us to do the job instead; and that Secretary does not perform his duty well, so let us also do the job for him, then the line of demarcation between various roles and terms of reference will be indistinct. The Government will then say that now that the Legislative Council is working on a task, the Government does not have to work on it and can then "sit back and relax". We definitely do not want such a government or such executive authorities.

In fact, we often criticize the Government because we think that it could have done better. For the sake of the public, we criticize when we find there is something wrong in the hope that improvements will be made. We do not criticize purely for the sake of criticizing. Though many officials have expressed their wish that we would not criticize them too harshly on public occasions, lest they should be embarrassed, and though I agree that sometimes we may have gone too far when debating issues, we only criticize in the hope that improvements can be made by the executive, and we do not aim to replace the executive authorities. I find this a very important principle.

I respect the spirit of democracy very much and I also respect the Legislative Council and defend its roles. I think what is wrong with this Private Member's Bill is that it confuses the roles of the executive and legislative authorities. Mr Albert CHAN has just said that when we wanted to reduce (tunnel tax) by \$1, we insisted on having it reduced by \$1. That is a different matter. That was done because the public reacted strongly towards the increase in tunnel tax, we only reflected their feelings and expressed their views, we had not taken up administrative work. I hope everyone of us should gain a clear idea of this principle and must not be confused. Only then can we demand more from the executive and set very high standards for it to meet.

As a matter of fact, I agree very much with the views of the Honourable Mrs Elsie TU, that is, problems really exist between the executive and legislative authorities. As we are about to implement certain policies, some colleagues say that they support importing workers but they still support this Bill. What is the rationale behind this? This in fact is because they are discontented with the implementation of this policy by the executive. I think the executive should face these discontents squarely and seek to strengthen communications with the legislature when implementing policies, lest such discontents should accumulate and finally evolve into something like today's Private Member's Bill where one Member will demand the other party to move back, and let him do the job. I believe no one wants to see this happen, nor is there anyone who wants the Government to become an ineffective and incompetent executive. We want our government to continue to operate in an effective manner.

In order that the Legislative Council can continue to perform its supervisory role, I cannot support this Private Member's Bill. Similarly, the Liberal Party cannot support this Bill.

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

REV FUNG CHI-WOOD (in Cantonese): Madam Deputy, the Government began to import skilled labour in 1989. Later the scope was widened to include unskilled labourers and foreign workers for the new airport. By the end of 1994, the quota for importation of labour reached the level of 52 000. Taking into account the 44 000 overseas professionals who came to work in Hong Kong between 1991 and 1993, an average of over 60 000 foreign workers are working in Hong Kong every year.

The public have been criticizing the labour importation policy for blocking the employment opportunities of local workers. The employment difficulties and discrimination I referred to include: (1) discrimination in respect of employment opportunities; and (2) discrimination in respect of wages. Local workers, especially women, often receive unfair treatment in

terms of employment opportunities and wages. The labour importation schemes have added fuel to the flames of employment discrimination in Hong Kong.

Take the manufacturing industry as an example. There were 870 000 workers in the industry in 1988, but only 600 000 in 1993, a drop of more than 200 000 workers within a period of five years. Those who were displaced are mostly women. These displaced workers are generally unskilled, over 30 years old and academically not well qualified. If these women do not want to revert to the position of non-wage-earning housewives, their only alternative is to look for job opportunities in the newly developing and fast-growing service industry. But the Government has imported a large number of foreign workers in this sector. The quota of 11 000 imported workers announced in 1994 was mainly allocated to the retail and catering industries. This move obviously reduced our women worker's employment opportunities. That is discrimination in a covert form against them.

The situation of those workers remaining in the manufacturing industry is not much better either. The Government, on the ground of an annual average of over 17 000 vacancies in the manufacturing industry over the past few years, has let in a large number of foreign workers for this industry. Labour importation is not only justified with the problem of labour shortage in the industry, but also with such high sounding excuses as "arresting inflation" and "curbing wage rises". The average wage increase in the manufacturing industry has also been seriously affected. Because of the labour importation policy, the industry's average wage increase has been as low as 1.64% since 1990, while the average inflation rate over the same period of time has been as high as 9.6%!

The Government's labour importation schemes have seriously affected wage increases in various industries. The manufacturing industry is not the only victim. With an increasing number of imported workers in the service industry, the wages of service industry employees are likely to be unreasonably depressed. By resorting to importation of labour as a means of curbing wage rises, the Government is in effect barring workers from reasonable remuneration!

I would like to bring up again for discussion the view that women workers, being subject to discrimination in employment opportunities and wages, should be given due attention and redress. Some women will leave the workforce temporarily between the age of 20 and 30 on account of marriage and child-bearing. When their children grow older, they will seek to re-enter the workforce. And those women looking for jobs in another trade are also mostly over 30 years old. For these women workers who come from different backgrounds, if they are unable to secure any jobs, they will be forced to stay at home as housewives, performing household chores for no pay in return. This will certainly reinforce the thinking that women's place is in the home. Similarly, their difficulties in finding jobs in the labour market will also give further backing to the ridiculous concept that women are less competent and less career-minded.

The labour importation policy has reduced the employment opportunities of local workers. It will also aggravate the underemployment situation of women workers, force them to revert to the position of housewives, and reduce their competitiveness in the labour market. These undesirable effects will deal a serious blow to the women's efforts in striving for equality in society.

To offset the effects brought about by labour importation, we must, monitor and regulate the intake of foreign workers on the one hand, and draw up a sound job placement policy that can cater for the employment needs of women on the other.

Madam Deputy, with these remarks, I support the Honourable Michael HO's Private Member's Bill.

MR JAMES TIEN (in Cantonese): Madam Deputy, being a typical capitalist society has been the key to Hong Kong's success, and this view is shared by many countries in the world. Unlike many other countries which have natural resources, we in Hong Kong do not have oil under our feet, and we cannot grow much agricultural produce. All Hong Kong has is only a population of 6 million. Of course, out of these 6 million people, there are both "bosses" and "employees". In the process of generating wealth, is it necessarily the case that those who happen to be employers will exploit the workers? In fact, if we think deeply about this, we will find that this is not necessarily the case.

The industrial and commercial sector of Hong Kong - what do we mean by the industrial and commercial sector? We do not think that only tycoons can claim to belong to the industrial and commercial sector, hawkers in the streets and owners of grocery stores are also members of this sector. They make efforts to fight for better living, this is something they should do. For those in the industrial and commercial sector, take as an example, we who are in the garment business, who is going to buy our garments if the general public do not have the money? For the restaurant operators, who is going to eat in their restaurants if the general public do not have the money? Even for the richest tycoons whose business is real estate development, to whom are they going to sell their flats if the general public cannot afford to buy properties? Therefore, I do not agree with the colleagues who say today that the industrial and commercial sector gets benefits only by exploiting workers.

At present, the world economic situation is not good. As far as the Southeast Asian countries are concerned, new developing countries like Vietnam are wooing Hong Kong investors everyday to invest in their countries, not to mention countries like China, the Philippines and Indonesia. Factory workers in these countries earn US\$30 a month, far less than the workers in Hong Kong do. Certainly, these countries have their shortcomings, their transport facilities are inconvenient, their political environment not good enough, and return not protected and so on. Therefore, many of us dare not invest there. Turning round to look at Hong Kong, our unemployment rate has been maintained at 2%

to 3% for more than a decade, and this is one of the major factors for Hong Kong's persistently high inflation rate. Back in the '70s, the manufacturing industry in Hong Kong was highly competitive, but today, our manufacturing industry is not competitive at all in international markets. But this is not directly related to the importation of labour. We now have a labour force of 2.8 million, and 25 000 imported workers only account for less than 1% of our labour force. Will the wages of workers in Hong Kong be substantially increased without these 25 000 imported labour? I believe this will not be the case.

I also decline to agree that imported labour means cheap labour. The wages of imported workers are equal to the medium wages of the categories of work they are engaged in, and they are definitely not cheap labour. It is by no means cheaper for Hong Kong employers to employ imported workers instead of local workers. The only reason for us to do so is that, for efficiency and other reasons, we are not able to get local workers for jobs in many trades. The Honourable Miss Emily LAU has just pointed out that there is a phenomenon in Hong Kong where "there are jobs without workers, and there are also workers without jobs". This is also a worldwide phenomenon.

As far as the airport is concerned, since it has to be built within the short period of time, we will need a total of 20 000 construction workers. If we only have a total of 68 000 to 70 000 workers in the construction industry, and if we do not import 20 000 workers to take part in the construction of the airport, we will have to employ local workers. If 20 000 workers are taken away from the 60 000-odd strong construction workforce for the construction of the airport, does this mean that we will have to shelve all other construction projects including housing estates, roads, hospitals and schools? I believe the people of Hong Kong will not agree with this.

Madam Deputy, we frequently compare Hong Kong with Singapore. While Singapore has a population of 3 million, we have a population of 6 million, twice the size of that of Singapore. Now, Singapore has 100 000 imported labour, but this has not brought about the unemployment of her local workers.

Let me talk about the relationship between employers and employees. Many Members have just talked about executive-led and legislative-led government. I think, as far as employer-employee relationship is concerned, the employers certainly want to have more available workers, and they hope that the increase in wages will not be in such a manner that even a 10% increase per annum is considered not enough, just like the present case in Hong Kong. With an annual increase of 10%, the actual rate of cumulative increase within ten years will be more than two times. In respect of employer-employee relationship, proper balance is only achieved when the interests of both the employers and the employees are catered for by the Administration at the same time. If the Legislative Council is to make a decision, does this mean that the labour importation policy will be abolished if, after the September election, the

majority of Members of the Legislative Council come from the labour sector as a result of the political reform package of the Administration, where 250 000 or 300 000 people will take part in the election in the additional nine functional constituencies? Or, on the other hand, if one day in the future, people from the industrial and commercial sector become a majority in this Council, do we have to request once again that 25 000 or more workers be imported? I think this will be even less advantageous to most of the workers in Hong Kong.

Many colleagues naturally think that the Democrats are putting forward this Bill today probably for the sake of the election on 5 March. I hope this is not the case. I hope they are not doing this as publicity for the election. Do they really want to abolish the importation of labour by means of this Bill? Madam Deputy, why do many people from industrial and commercial sector have reservations about the so-called direct election and the development of a democratic political system? A good example can be found today. Do Members returned by democratic direct election necessarily act against the industrial and commercial sector? I think this should not happen in such a capitalist society as Hong Kong. If all the bosses are forced to give up their businesses, forced to emigrate and retire or to invest abroad, what will the millions of so-called grassroots people left behind do for a living?

Madam Deputy, what I just said have repeatedly been mentioned by other Members. For the above reasons, the Liberal Party, the industrial and commercial sector and I are opposed to the Honourable Michael HO's Bill.

MR CHIM PUI-CHUNG (in Cantonese): Madam Deputy, I want to cite a real-life example. Once a foreign airline company was very popular, but as a result of labour legislation, the air stewardesses of this company had become "air grannies" before they knew it. This is not meant to be derogative, it is simply something to do with age. When these stewardesses pushed the refreshment trolleys on the aeroplane, they waddled themselves. They would also ask passengers to put baggage into the overhead cabinets by themselves. The passengers lodged complaints with the company and with concrete evidence the company wanted to lay off the more "mature" stewardesses. However, the stewardesses raised objections through their trade union and they were not dismissed. With other competing airlines available, the passengers would certainly not take this company's flights again. Being unable to compete with other airlines, this company was finally wound up. We can conclude from this story that you cannot eat your cake and have it because there are many practical problems. Similarly, Hong Kong is progressing towards a sophisticated capitalist society, and it will have the same problems.

Our debate today is mainly on the labour issue, I shall also talk about issues concerning the Legislative Council later. Over the past few years, we have debated repeatedly on labour issues, which are the concern of many people. The things we say which people find favourable or pleasing to the ear will certainly be widely supported, this is an inevitable and irrefutable fact, but

this is not desirable. Members of the public and those who are directly affected should clearly understand the extent of the actual problems.

Members have just expressed their sympathy for the unemployed. But we should not forget that there are now at least 120 000 Filipino maids and Thai maids in Hong Kong. I want to put a bold question to the women of Hong Kong: how many of you are willing to stay home and do housework, just like the women in the past who had to do so? I believe most of them will not be willing to do so, they will say they are progressive, and that they definitely have to do something else. This is because society is under transformation, and women will ask themselves whether they are willing to do something of less significance. The example I have just given is likely to incur reproach, but examples must be based on facts. The fact is that society is progressing, but there is absolutely no lack of jobs; therefore, one must not make criticism on the basis of an extreme example.

Undeniably, the open door policy of China has given rise to an industrial restructuring in Hong Kong, Hong Kong has been compelled to develop tertiary industries or consumer-oriented industries. The pace of restructuring has been too quick and many people have failed to adapt themselves to these changes. The Administration and the parties concerned should find out the causes of and solutions to this problem in a cool-headed manner. We should not stir up contradictions between the industrial and commercial sector and the labour sector, posing ourselves as the Saviour who fights for the people's interests, and that even if we are not successful in the fight for public interests, the public should still support us because we have tried our best. This would mislead the public, making many people who hear what they say think that they have really spared no efforts. To talk is easy, but to do is what it counts. Therefore, the most important thing is that the Administration should formally conduct studies on the restructuring of our society and on ways to give most people better protection and more opportunities. We should not readily lay our blame on society, in fact, we also have to make efforts.

As regards the importation of labour for constructing the airport, it is similarly related to the issue of maids I have just mentioned. Our Governor eagerly hopes that his aeroplane can take off at Chek Lap Kok in 1997. However, how can this be achieved without enough workers and direct participation by the workers? How much future loss will there be? Ultimately, the public have to bear the losses. For this reason, when tackling this problem, we must have a deep understanding as to whether there is such an essential need. Some may say that the bosses certainly hope to earn more with less efforts. But please be reminded that not everyone in the service industries mentioned just now has substantial profits. In fact, many consumer-oriented businesses have been closed down after the Lunar New Year. Therefore, we hope that, apart from implementing the Employees Retraining Scheme, the Administration will take into account the actual situation and will not import labour hastily. It should do so by phases and with regular reviews in order to cater for the actual needs.

As far as the Legislative Council is concerned, many Members, including those who are present, would like to have more power, but we must also understand that we are only empowered to request the Administration to do things. For the airport project for example, if we have concrete data to prove that 27 000 imported workers are far too many, we can set another number and suspend the scheme after importing these 27 000 workers, or we can even request that the number of workers be reduced to 20 000. These are reasonable actions. It is unrealistic, even if we are not seizing power, for power to be directly vested in our hands.

I have to defend some Secretaries against injustice. Apart from performing their duties, they often have to lobby Members to support their Bills. The Administration may afford to ignore the motion debates by Members, but Bills are legislation which must be observed, therefore, government officials at various levels have to engage in endless lobbying. In the future, when the Administration adjusts civil service salaries, it may consider the addition of "lobbying allowance". Otherwise, when lobbying is required on every occasion and in every week, how can they manage? For this reason, I remind the Administration or the people concerned to vote for people who do not need your lobbying in the September election. At present, lobbying is the rule of the game which everybody must follow. However, any suggestion made or advice given by us must be practical which will eventually cater for the various needs of society. 1995 is an election year, and I respect Members' decisions. I am not saying that every Member works for votes. But I want to say that when tackling a task, we must take everything into account, and we should not create contradictions in our society. I think it does not matter as to who will become Members of this Council, provided that these Members will do their best to make contributions to bring about practical effects. I hope Members will thoroughly understand the responsibilities they have, and unite themselves in solving problems. Only by doing so can we carry on beyond 1997, and give greater impetus to future development. If we have to create contradictions for each other before we can become Members again, even if we can carry on beyond 1997, we may not be able to accomplish much.

Madam Deputy, I definitely have reservations about this Bill, so I will object to the amendments proposed.

MR JAMES TO (in Cantonese): Madam Deputy, under discussion today is a serious issue with constitutional implications. Every Member, every political party, and even every citizen may have different opinions about what powers should be vested in which institution — the executive or the legislature. This is a matter of individual political ideologies. Some Members have argued just now that we should have an executive-led government. But what in fact does the term "executive-led" mean? Though many people have said that ours has all along been an executive-led government, I want to draw your attention to some laws and let you know that this Council can in fact exercise the following

powers under some specific legal provisions or with respect to major issues affecting public interests.

First, according to the law, this Council has the power to veto a Budget as well as decisions on some issues that affect people's livelihood; in the cases, for instance, of the increases in ferry fares and tunnel tolls, the major parties and factions in this Council did once join hands to block the Government's decision to implement a tunnel tax increase of \$1. This time around, however, some factions in this Council may think that monitoring the Government's importation of labour schemes is not as important as the increase of \$1. We may also declare buildings and antiquities as monuments. Or, according to the municipal law, we may declare specific sites for hawking areas, funeral halls, markets and so on. Under the Banking Ordinance, we can also specify the ratio of loans to deposits for financial institutions. In addition, the demarcation of constituencies, recognition of foreign consular staff and exemption of civil and criminal liabilities all fall within the competence of the Legislative Council. And, the treatment of detainees under the immigration ordinance, such as the venues of detention, is also determined by the Legislative Council. According to the International Organizations and Diplomatic Privileges Ordinance, this Council is even empowered to decide whether Hong Kong is to recognize the United Nations or the World Health Organization as international organizations. By means of subsidiary legislation this Council may also decide whether the judgments of foreign courts of law should be recognized or enforced in Hong Kong. As to vehicles, the maximum number of minibuses, and the number of minibus licences to be issued by the Government can all be set by this Council by way of subsidiary legislation. I have quoted all these examples to illustrate that we do have a clear separation of powers now.

Perhaps in the past, under the British colonial Government, the Legislative Council was a wholly appointed body, there was no misgivings about giving powers to the Legislative Council because the Legislative Council would always remain "docile" and under control and it did not matter who was appointed. But the whole political arena has actually changed, perhaps the change fails to dovetail all the constitutional developments thus straining the relations between the executive and the legislature now. Some may wonder why the Government is so afraid to have a legislature that wields more power. Well, this is something relating to political legitimacy and mandate. For example, if a presidential candidate states in his election platform that he wants to import 10 million foreign workers, and if the people endorse his proposal by voting for him, he should, after being elected, go about implementing his proposal, and what the legislature should then do is to check and monitor him during the whole process. Although the people may choose to vote him down next time, when he implements his policies during his term of office, at least he has the mandate. But what kind of government is ours? It is a colonial government whose power to rule came from the gunboats more than a century ago. I do not mean to demean the government officials present today for all their efforts. But, you cannot deny that this is indeed the source of your political power.

This legislature, which is the product of increased public representation and popular elections, is taking this matter very seriously, because the rights of the public are directly at stake. We are concerned about the impact of labour importation on local employment, as we were concerned about the rise of tunnel tax by \$1. I can frankly tell Members and the government officials here that I myself have not conducted any signature campaigns, and thus cannot have the feeling of exactly how resentful the public is. I am still not too experienced. But, in view of the divided opinions, and the enormous diversity of conflicts as well as social splits that we have seen over the past few years, I must point out that labour importation is really an issue of serious concern. The Government may be able to canvass enough votes today to beat the Honourable Michael HO's Bill. But, this is not the end of the story. For more than two years already, I have tried in vain to urge the Government to review the Urban Renewal Scheme. For this issue, I cannot muster 1 000 residents to make a protest — they simply will not come because they can feel no immediate threat when the buildings are demolished one by one. But I can tell you that the signature campaigns against labour importation are entirely different. Torrents of angry people virtually rushed to put down their signatures of their own volition. The 2% unemployment rate cited cannot explain why this is the case. I hope the Government will not take this issue lightly, lest street violence and open conflicts may result. The leftists may not want this to happen because the Chinese Government will stop them. But independent labour unions or even individuals may rise and organize their own struggles. This is a crisis with far-reaching effects.

On the other hand, I am furious that the British colonial government, at a time when it is about to withdraw, has set so many precedents of reducing the legislature's supervisory authority over the government. The Bill in question aims to give more power to the legislature to supervise the government. In the past, in the case of the Western Harbour Crossing toll increase, the legislature was barred from exercising any veto, and thus no checks and balances were possible. The Civil Aviation Ordinance is yet another example. With the excuse of opposite flights, the Government deprived this Council of its power to monitor landing schedules or aircraft movements, thus secretly paving the way for its present proposals to increase the number of flights. These are the dangerous precedents. Under the British, we have enjoyed the rule of law, with a common law legal system. We have to thank them for this. However, in the future the executive will be given supreme authority under the Basic Law, and given such an undemocratic system, the legislature is bound to have very little supervisory authority. Therefore, if the British tries repeatedly to take away the remaining authority of this Council before they leave, I feel that they will be setting a very dangerous precedent.

Mr President, I want to respond briefly to the views expressed by some Members just now. At the beginning of his speech, the Honourable Henry TANG said that he would not talk about how labour importation would affect the livelihood of the people. He only said that serious problems would result if

no workers were imported. His words serve to support that, given the significance of the issue of labour importation, the legislature, as a representative body, should make the final and painful decision that we are not to import any workers. The Honourable Miss Emily LAU said that workers should be imported if there were appropriate justifications. Therefore, a decision against labour importation will be a very painful one. Many Members have also said that we do not have to be held accountable for what we advocate. Who says this is the case? Our government officials are the people who do not have to be held accountable. They do not have to step down even if they make mistakes. Even the Chairman of Taiwan's Executive Yuan, Mr LIEN Zhan, had to make a public apology in the Legislative Yuan yesterday. Is our government obliged to do the same? In the Kwun Lung Lau disaster, in which people had died, our government did not apologize. What sort of a government is that? This is obviously the result of the lack of checks and balances from the legislature, and of the lack of mandate from the people. That is why there are big problems. The Honourable Mr Selina CHOW said the legislature should not assume an executive role, and that the legislature should not replace an efficient executive. Just when did we say that we wanted to usurp the powers of the executive? What we are doing is to put forward a Private Member's Bill that lays down the regulations under which the executive can propose the categories and quotas of imported workers for public consultation and eventual passage in the legislature. We have not tried to replace the executive. Some government officials have said that since we have introduced the Bill, we should introduce the subsidiary legislation as well. If we really do, we would be usurping the role of the executive. With access to statistical data, and with so many departments under it, the executive should first examine the circumstances in our society, and then put forward its demand for legislative endorsement. Mr James TIEN said that Singapore has over 100 000 imported workers, much more than what Hong Kong has. But, I must point out that there is legislative control in Singapore. Of course, Singapore is a bad example because the government there is quite an authoritarian one. But, formally speaking at least, they have acknowledged the need to have legislative control as a manifestation of the system. Then, it was also asked whether a Legislative Council returned entirely by direct elections would necessarily be anti-commercial and anti-industrial. We can perhaps take a look at the situation in the United States. I hope we can all see that these days, practically all people, be they consortiums and businessmen or workers, have to lobby a lot and make difficult decisions. The people give the mandate to the executive by means of their votes, which is then supposed to act decisively for the long-term interests of the community.

Mr President, with these remarks, I support the Second Reading of Mr Michael HO's Bill.

THE PRESIDENT resumed the Chair.

MR FREDERICK FUNG (in Cantonese): Mr President, since it was first implemented, the Hong Kong Government's importation of labour policy has been subjected to criticisms from local workers and labour organizations. The Government is accused of importing large numbers of workers before it has a clear understanding of the local labour market, thus putting local workers' employment and well-being at great risks. The Administration has alleged that the General and Special Importation of Labour Schemes are working effectively with a high degree of transparency. However, the fact is that the Government has paid no attention to the views of the Legislative Council on the operation of the two schemes, and so far the Education and Manpower Branch's briefings are our only access to the latest progress of the schemes. I support the Second reading of the Honourable Michael HO's Bill, which aims at ensuring that foreign workers are allowed to enter for employment in Hong Kong only according to the rules and regulations endorsed by the Legislative Council.

The Government is worried that the passage of the Bill may put an immediate halt to the importation of foreign workers. And, in view of our current labour shortage, this will do harm to our economy, in particular the Airport Core Projects, which have to rely on a special importation scheme to recruit the workers required. I think the Government's worry is based on groundless fears because the current workforce in Hong Kong can adequately meet our market demand. The only problem is that the Government has neither understood the real situation of our labour market, nor fully mobilized these workers. Take the construction industry as an example. At the end of last year, the Government drastically increased the number of imported construction workers for the new airport from an initial level of no more than 5 000 workers, to the present scheme of 17 000 workers for Phase I and 27 000 for Phase II, representing a five-fold increase over the initial limit. But the Government has overlooked the fact that 4 900 local construction workers are unemployed, and another 165 000 are underemployed. Therefore, our construction workforce can actually provide an adequate number of workers for the industry. What is more, statistical data provided by the Census and Statistics Department show that the number of workers engaged in the local construction industry has dropped from 76 000 to 58 000 in March 1994, a drop of up to 25% over the past five to six years. Actually, the Administration may try to attract these displaced workers back into the market, and brush aside the fear that passage of the Bill may affect the airport projects because of a lack of foreign workers. I think the present issue reflects on the Government's lack of thorough consideration when formulating the related policy.

Importation of labour is an issue that involves not only immigration matters, but also relates to our economy and workers' rights. As an institution which represents public opinions, the Legislative Council is of course concerned about this issue which has a direct bearing on the people's livelihood. It is also incumbent upon this Council to reflect public views on labour interests and the

economy to the Government. The Legislative Council should be able to state its views in the formulation of the importation of labour policy, and be empowered to draw up subsidiary legislation for the protection of public interests, particularly those of the working class. However, the situation now is that the Legislative Council will not be consulted until the relevant policy-decisions have been made by the Executive Council. The policy is then implemented by the Immigration Department, which is given a large scope of flexibility to act at its own discretion under certain circumstances. The situation as such, I think public opinion and the views of the Legislative Council have not been given due respect. It is therefore proper for the subsidiary legislation concerning importation of labour to first receive the consent of the Legislative Council. I urge the Government to appreciate and respect the decision reached by Members of this Council because we have considered the issue thoroughly. Ours are not idle talks, nor do we raise our hands just for show. Our arguments are also not unfounded. Therefore, the Administration can rest assured that the Legislative Council will not make any rash move when drawing up the subsidiary legislation or making relevant decisions in the future.

Apart from the remedy of empowering the Legislative Council to take part in and give consent to the labour importation scheme as suggested in Mr Michael HO's Bill, existings laws should also be used to curb any abuses and cases of unjustified employment of foreign workers. At the same time, effective measures should be taken to protect local workers. While I support the Bill, I did not have enough time to discuss it in detail with legal adviser due to its relatively short notice period. Therefore, I may propose amendments before the Third Reading if Mr HO's Bill is carried after the Second Reading.

These are my remarks.

DR HUANG CHEN-YA (in Cantonese): Mr President, it is said that the Government imports labour because this can contain inflation and boost our economy. First of all, I would like to refute the argument put forward by some people in the business sector that the increase in wages is a major cause of inflation and the importation of labour may contain inflation. In fact, this argument is not true. The Government's high land price policy causes substantial increases in property prices and rents, the increase in the profits of enterprises is far greater than increase in wages and this is the major factor that causes inflation. The soaring property prices and rents are too much for the general public and are unbearable for many medium and small enterprises. The residential property price index in the third quarter of 1994 increased by 19%, that of shops by 12% and that of offices by 43% as compared with those in the same period the preceding year. Their respective rents have also risen, by more than 15%. According to a survey conducted by the Industry Department on overseas companies setting up headquarters or offices in Hong Kong, high rents is the major difficulty faced by them and the costs of offices and plants are more significant than the costs of wages. In view of this, the business sector should urge the Government to continue to check property prices and rents and to

break the property developers' monopolistic hold on the property market so as to improve the business and investment environment, instead of making workers at the grassroots level targets of attack.

I am going to analyze the drawbacks of the Government's existing policy of labour importation from three angles, that is, the redistribution of resources, long-term economic development and the policies for manpower resources.

When employers are vociferously complaining that they are suffering greatly as a result of rising wages which bring about a big increase in operating costs, why as a rule do they not mention a word about the substantial profits they have been reaping year after year? In fact, workers just hope that the annual increase in their wages will not be lower than the rate of inflation to ensure that their living standard will not be lowered. On the contrary, employers are asking for profits much higher than the rate of inflation. Look, for example, at the profits of major listed companies. In 1993, their average rate of increase in profits was more than 20% whilst the rate of increase in the nominal wage index of the same year was only 11.2%.

Let us also compare the growth rate of real wages and the actual rate of economic growth. In recent years, a "tight labour market" has almost become a pet phrase in the business sector. It should follow that there should be a considerable increase in wages. But this is not the case. The growth rate of real wages is less than the actual rate of economic growth. In the 10 years from 1982 to 1992, the average growth rate of the actual per capita gross domestic product was 5.4% while the average rate of increase in the real wages of middle and low rank employees was less than 1% and that of professionals only 2%. This clearly shows that economic growth lets employers rather than the mass of workers reap most of the profits. Therefore, the argument that wages cause inflation and affect economic growth is actually not tenable.

A responsible government should narrow the gap between the rich and the poor through effective distribution of resources. However, the Hong Kong Government has all along been intervening very little in the redistribution of wealth, aggravating the disparity between the rich and the poor. Now, in a preverse move the Government even introduces measures to relax the restrictions on the importation of workers in various trades and industries in order to suppress wages which have only seen marginal increases in the first place. The gulf between the rich and the poor will inevitably be further widened. I wonder whether the Government will feel ashamed of its policy of "robbing the poor to help the rich" when it boasts of the economic achievements of Hong Kong. I suggest that the Government should regularly publish figures on the redistribution of wealth among the people of Hong Kong and let us have a better grasp of the problem of disparity between the rich and the poor.

It should be noted that the Government's policy of importation of labour is not conducive to the long-term economic development of Hong Kong. From the late '80s to the early '90s, a large number of Hong Kong industries moved

north in quest of cheap labour and land. That was regarded as the turning point of industrial transformation, from labour intensive industries to high technology ones. The situation today is obvious to all. The industries of Hong Kong have not advanced towards "high technology" or "technology intensive", but many are left with empty shells. Many manufacturers have moved their production lines to the Mainland and sold their plants in Hong Kong for profits; some have switched to the business of property development and some have only sales offices in Hong Kong. From the figures of the total increase in the fixed assets of the entire manufacturing industry, we cannot find any manufacturer who is willing to throw in more resources to develop industries which rely on high productivity and high added values for profits.

The Government should be held responsible for this hollow-shell state of our industries. It is because the Government has not drawn up long-term strategies for economic transformation, nor has it helped the manufacturers overcome the difficulty in upgrading industries. What is more worrying is that, the Government still has no intention to draw up any long-term strategy for manpower resources development to cater for the future economic development of Hong Kong, nor does it encourage or support various enterprises to make long-term investments to improve productivity and increase the added values of products. Instead, the Government has chosen to take a short cut to import a large number of workers. This only satisfies those manufacturers who make profits by low wages and not high added values; this is actually pouring cold water on the manufacturers who seek to develop high technology and get profits by high added values. In the long run, this short-sighted policy of labour importation will do harm and not good to the future economic development of Hong Kong.

Lastly, people in the business sector have emphasized that there is a very tight labour market and it is hard to find suitable workers. Is there really a shortage of labour in Hong Kong and is importation of workers inevitable? The answer is definitely no. In fact, as compared with the United States, the employment rate of the working population in Hong Kong is relatively low, which reflects that a great deal of human resources have been wasted and left idle. It is mainly because the Government lacks an employment policy and it fails to make good use of the existing human resources. The Government cannot simply take a low unemployment rate as the basis for importing labour, without explaining to the public the reasons for a low employment rate in Hong Kong. Why are there still several hundred thousand manufacturing workers and housewives who cannot find a job? Why has the employment rate of workers aged about forty to fifty been constantly lowering in recent years? By adhering to the claim of low unemployment rate over the years, the Government has only been trying to cover up its fault that it has never had an employment policy. The importation of labour will only allow the myth of a low unemployment rate to last because a large number of local workers have stopped looking for jobs or stayed home because they cannot get a job over a long period of time. The low employment rate at present undoubtedly reflects a concealed unemployment problem.

I urge the Government to look squarely at the plight of the several hundred thousands manufacturing workers and housewives who cannot get jobs and actively provide them with education and training to help these workers fill the vacancies in various trades. In addition, the Government should reformulate a long-term strategy for the development of manpower resources to cope with the future economic change rather than irresponsibly abandon the workers who cannot adapt to the new environment.

Some Honourable Members have said that if the Bill presented by the Honourable Michael HO were passed, the Government will actually be deprived of its leadership. But I would like to let Members know that it is not possible for us to deprive the Government of the leadership that is simply not there. The Government, in fact, gave up its leadership a long time ago. It has never formulated any labour policy to boost employment, nor has it formulated any effective labour policy to cope with the economic transformation of Hong Kong. Therefore, even if the Bill presented by Mr Michael HO were passed, the Government cannot be deprived of its leadership because the Government gave it up long ago.

With these remarks, I support the Second Reading of the Bill.

SECRETARY FOR SECURITY: Mr President, I will speak on the more general aspects of the Honourable Michael HO's Private Member's Bill. My colleague, the Secretary for Education and Manpower, will speak on the more specific issue of the Importation of Labour Scheme, which this Bill is specifically aimed at.

The Bill introduced by the Honourable Member addresses a matter of public policy. Although it may not be evident on the face of this Bill, it appeared that the Honourable Michael HO is, in effect, seeking to replace, by legislative means, the present Importation of Labour Scheme by some different arrangements. In that case, surely it is incumbent upon him to spell out precisely what arrangements he is seeking to put in place in replacement of the present Scheme. But he has not done so. In today's debate, some Honourable Members in support of the Bill said that the present Scheme should be revised. Other Honourable Members equally expressing support for the Bill seemed to want the Scheme to be stopped, although that is not what the Bill says on the face of it. So what really is the Bill's intended effect?

The Bill, as it stands, has the effect of completely stopping the Importation of Labour Scheme, for no rules have been drawn up by the Honourable Member as to how the Scheme might continue to operate after the Bill is enacted. My colleague, the Secretary for Education and Manpower, will explain why this is highly undesirable. The Honourable Member has said previously that he is prepared to move a Committee Stage amendment to postpone the coming into effect of the Bill for several months, so as to allow time for the rules to be drawn up. But there is no certainty that the intended

Committee Stage amendment will materialize. Quite frankly, there must be considerable doubt that the matter has not been thought through, and it is extremely risky to support a Bill which is only half-baked.

What, therefore, does the Bill in front of us amount to? May I just use a metaphor to illustrate. It is like saying: I do not like your window and I am now going to break it. You will have to sweep up the broken glass to make sure others are not hurt. I might, although I cannot promise you, give you a few months to suggest another window to replace the one I have broken. But you will have to figure out the shape and colour of the replacement. I might not like what you put forward later, and you cannot install it unless I allow you to. In the meantime, you will just have to live with the wind and rain that comes in through the broken window. And if everybody else catches a cold, that is their business.

What the Bill will do therefore is to leave in its wake huge uncertainty. Uncertainty as to its effects; uncertainty as to how long that uncertainty itself is going to last; and uncertainty as to what will happen at the end. That is surely not the proper way to go about making public policy!

Let us also be clear about the responsibilities of those who seek to legislate on public policies. They have a responsibility, to this Council and to the community, to make it clear what precisely is the policy that they seek to make. It is not good enough simply to seek to destroy the present arrangement, without proposing at the same time precisely what the replacement is, so that this Council and the community can make an informed choice. That is a responsibility owed to the public. That is a responsibility which, under our executive-led system, has been fully discharged by the executive. As the well-known adage goes: "The executive proposes, the legislature disposes." It is a well-trying, and effective system for Hong Kong. Underlying that system is the concept of public responsibility that I have just referred to. In the present case, that public responsibility has not been discharged by the Honourable Member moving this Bill. Instead he puts the onus back to the executive, in the person of the Director of Immigration.

Mr President. I should like to make one further point. Our system of immigration control, as enshrined in the Immigration Ordinance, is based on the discretion of the Director of Immigration. That system enables the Director to deal effectively, and with flexibility, with the differing circumstances of each individual case, but working under a general policy. That system has worked well in the past, and it would be dangerous to tamper with it lightly. Legislative rules on immigration would introduce rigidity into the system. The Bill before us is also likely to have unintended side-effects. For example, the Bill before us provides for exemption from the requirement of legislative rules, in respect of foreign domestic helpers, and those in possession of special skills, knowledge or experience not readily available in Hong Kong. It makes no specific exemptions in respect of persons seeking to enter Hong Kong in an employment capacity but bringing with him substantial investments to Hong Kong in the business he is

engaged in. Nor does it make specific exemptions in respect of persons entering Hong Kong for employment in international or diplomatic bodies. Apparently, none of these grey areas have been examined carefully. Nor has any necessary remedy been discussed and agreed. The Bill is, to all intents and purposes, a flawed Bill and I urge Honourable Members not to support its passage.

For these reasons, and the reasons which my colleague, the Secretary for Education and Manpower, will explain later, the Administration strongly opposes the Second Reading of the Honourable Member's Bill.

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the Private Member's Bill to amend the powers exercised by the Director of Immigration under the Immigration Ordinance strikes at the very heart of our importation of labour schemes, two schemes which are of vital importance to Hong Kong. Let me explain.

Contrary to what one Member has alleged, the Government has a sound labour policy which has stood the test of time. This is to ensure that, on the one hand, there is a stable and well-motivated workforce to support economic growth, and on the other hand, Hong Kong can maintain a level of labour standards broadly comparable with those of its neighbouring countries at a similar level of economic development and with a similar socio-cultural background.

Underpinned by sustained economic growth, ever-increasing economic links with China and rapid expansion in our service sectors, we have the good fortune of having near full employment for our workforce in recent years. The latest unemployment rate, seasonally adjusted, was 2% for the quarter ending December 1994. This compares with 2.3% for the previous quarter ending September 1994 and 2% for the same quarter in 1993. The unemployment rate has been at this low level since 1987. These statistics indicate that the overall labour market situation continues to remain tight.

To ease the constraints that a tight labour market has on our economic growth, the Government allows, as a matter of policy, foreign nationals to enter Hong Kong for employment subject to various conditions. Apart from overseas professionals and foreign domestic helpers, we have in place a General Importation of Labour Scheme which permits the orderly importation of workers at technician, supervisor, craftsman and experienced operative levels up to a total of 25 000 to work in Hong Kong at any one time. Under a separate scheme for importation of workers for the new airport and related projects, we also allow up to a total of 17 000 workers to enter for employment in Hong Kong. At the peak of the various construction projects next year, up to 27 000 workers will be allowed to be imported.

These two labour importation schemes have been most carefully devised taking fully into account both the labour shortage problem in our economy, and the need to protect the interests of our local labour force. There are a number of basic principles under the present schemes which we seek to enforce:

- (a) principle of demand — employers must prove they cannot recruit locally before importing;
- (b) principle of parity — imported workers must be paid at least the median wage for local workers and subject to similar conditions of service; and
- (c) principle of relevance — the imported workers must have relevant experience and skill for the jobs they fill.

Apart from these fundamental policies devised carefully, we do undertake regular reviews over the years to ensure that these policies are working to the best interests of our economy and the various sectors affected. These administrative schemes have been running smoothly and given a very high degree of transparency. We have kept this Council informed regularly through the Manpower Panel and consulted Members whenever we intended to make any changes to the arrangements under the schemes. Examples of this are the calculation criteria of the quota allocation system. I must stress that we have fully taken into account the views expressed by Legislative Council Members, employers and employees and practicable proposals have been subsequently incorporated to meet concerns and changing circumstances. The Government's labour importation policy has thus been closely monitored by the Legislative Council throughout the past years. There have been no major problems which warrant such a drastic change to the existing system. The Government must be allowed the necessary flexibility to meet changing needs while ensuring that the Legislative Council is kept fully informed and consulted, and remain open always to suggestions for views from this Council.

These importation schemes are vital to the sustained growth of our economy. They help to relieve the temporary bottlenecks in our labour market and assist in our efforts to contain inflation. It is of vital importance that they be maintained as administrative schemes. Only in this way can we ensure flexibility exists. Mr HO's Bill which codifies the arrangements under which foreign workers are allowed to enter Hong Kong for employment purposes, will effectively constrain our ability to respond rapidly to support our economy's need for manpower to sustain growth. Furthermore, the Bill does not spell out clearly what exactly will be included in the subsidiary legislation. This will give rise to a lot of confusion and controversies in the drafting of the subsidiary legislation. If the Bill were passed, renewal of the quotas under our on-going labour importation schemes will have to come to an abrupt halt until subsidiary legislation acceptable to this Council has been drawn up and become effective. In the meantime, the Hong Kong economy as a whole would thus be adversely affected, in particular those specific industries and companies which need to use

the schemes to maintain the operation of their business would be seriously affected. This would not surely benefit the interest of those whom the supporters of this Bill are trying to safeguard.

Under the General Scheme, which aims to relieve the limiting effects of labour shortage on sustained growth in certain sectors, the lack of imported workers will actually result in unemployment for local workers.

For example, in the manufacturing sector, imported workers constitute only about 2% of the workforce. However, without these workers who are technicians, supervisors, craftsmen and experienced operatives, manufacturing production would be seriously affected. In severe cases, production lines would have to be shut down. Not only would the productivity and the competitiveness of the local manufacturing sector be hampered, but the employment opportunities of local workers would also be affected. This will be more severe for linkage industries such as dyeing and bleaching and the industries they support, that is, textile and clothing. Without the imported workers, these industries will not be able to operate to their full capacities or to plan for expansion.

The hotel sector, as another example, and to a lesser degree, the tourism industry, have long maintained that Hong Kong's hospitality industry is suffering from a significant labour shortage. We anticipate that the hotel industry would face real operational problems at the rank and file levels, if the Scheme were halted.

In infrastructural development, we are, as Members are fully aware, building a new airport which is of paramount importance to the sustained growth of our future economy. It is unthinkable to delay the completion of this important project. For the special schemes under the Airport Core Programme (ACP), non-availability of any imported labour supply would obviously have a severe impact on the ACP itself. For example:

- in the peak year 1996, which is next year, the ACP will add some 50% to the demand for on-site construction work labour in Hong Kong which can only be met by importing labour;
- again next year, it is estimated that only 10% of the ACP demand for labour can be met by the local labour force. If we cannot import workers, unacceptable delays to the airport project will result;
- delays in the ACP projects will cause significant increases in cost as a result of inflation affecting expenditure over a longer period of time; and
- finally, the Provisional Airport Authority have just awarded \$12 billion worth of contracts for the Passenger Terminal Building. We

need to ensure that an adequate supply of labour is available now to support the works programme for these very important contracts.

Apart from the constraints on growth, we estimate that the removal of the existing supply of 25 000 imported workers under the General Scheme (amounting to only around 0.8% of the total workforce) would push up inflation, as measured by the Consumer Price Index (A), by around 0.2 of a percentage point. Moreover, construction wages are likely to rise rapidly, by around three percentage points in 1995, seven percentage points in 1996 if the ACP quota were not adjusted upwards.

It has been remarked that the importation of labour schemes have affected the employment opportunities of local workers. This is simply a gross simplification. All the imported workers under our labour importation schemes are confined to those possessing special skills and experience of value to, but not readily available in sufficient numbers in Hong Kong. The impact on employment opportunities of our local workers should be minimal. We are fully aware that as a result of our structural changes in the economy, there is bound to be a group of displaced workers, though not of a large number, who are faced with employment problems. This is why the Employees Retraining Board (ERB) was set up in October 1992 to assist those workers to re-enter the active workforce by equipping them with new and marketable skills. We believe that the best way to help those workers displaced by the structural changes in our economy is to offer job placement assistance and retraining. We have already informed the Manpower Panel of this Council at the meeting on 7 February 1995 that a pilot scheme to integrate the Local Employment Service with the Employees Retraining Scheme will soon be launched. In short, we intend to arrange direct job referrals and retraining to workers to meet labour requirements of employers faced with labour shortage problems.

The importation of workers have had a beneficial effect on our economy. Surveys conducted by the Industry Department revealed that labour shortage and related problems are the major concerns to local and overseas manufacturing companies in their consideration to invest in Hong Kong. Without imported workers, these industries will decline fast since local manufacturers will relocate their operations and overseas manufacturers will not be set up in Hong Kong. More local workers will then be displaced and will require job placement assistance and retraining. Let us not forget that retraining is, after all, funded by a levy paid by employers employing imported workers. This surely is a vicious cycle that we should avoid.

Mr HO's Bill impinges upon a number of public policies. As I have explained, there would be serious consequences if the Bill were passed. To preserve our existing flexibility in dealing with our tight labour market, the Government opposes this Bill. We must uphold our basic labour policy. A later commencement date would not reduce the effects of this Bill, but simply defer the serious consequences which I have just mentioned. The importation of labour schemes must remain flexible to react swiftly to changing market needs.

A set of statutory rules will seriously hamper the effectiveness of the schemes, and affect the employment opportunities of local workers. This surely will not serve the best interests of Hong Kong. I urge Members to vote against the Bill.

MR MICHAEL HO (in Cantonese): Mr President, over the past week or so, a lot of discussions in the community about the Private Member's Bill I proposed focused on whether it was "a surprise attack", "a battle of wits" or a violation of the Standing Orders. Let me make a solemn statement here: the Private Member's Bill standing in my name is absolutely not a vehicle intended to serve any political purposes. Rather, it represents a genuine attempt by the Democratic Party to safeguard the interests of local workers.

Just now, some colleagues criticized my Bill for, among other things, being ambiguous. Let me reiterate a few points. The main points of my proposal are as follows:

(1) *Distribution of Quota for Importation of Labour*

At a time when Hong Kong is undergoing structural changes in its economy, the Democratic Party is of the view that the Government's quota distribution for importation of labour takes only short-term circumstances into account without any long-term consideration. Let us take the Employees Retraining Scheme as an example. No doubt, the Employees Retraining Board has focused on declining industries when determining who should receive job retraining. However, since declining industries or industries facing imminent decline are still able to get quotas from the Government, and the quotas for service industries are being increased gradually, displaced local workers will find it hard to get new jobs. What is more, a number of industries that can provide alternative employment to displaced workers relatively easily, such as the retail industry, the catering industry and the import/export sector, have each been granted a quota of more than 1 000 imported workers. Therefore, when the executive submits the subsidiary legislation concerned to this Council for scrutiny, we should also look at declining industries. Unless sufficient grounds are given, importation of labour in these industries should be prohibited.

(2) *Public Monitoring of Importation of Labour*

The existing policy does not specify that the names of companies applying for importation of labour should be publicized. The Democratic Party regards importation of labour an important policy, but the public has been kept largely in the dark, especially when all the screening and associated administrative costs are shouldered by the Government instead of the employers. For that reason, we hope that the Government can make the whole policy

more open, with a view to minimizing abuse. We also hope that a provision can be laid down in the subsidiary legislation to be submitted to this Council later, requiring that the names of all employers/companies employing imported workers to be released for public information.

(3) *Government Monitoring of Importation of Labour*

In 1994, the Labour Department issued 1 120 warnings and 190 summonses to employers in connection with imported labour. At present, since a local worker cannot establish a case of complaint unless he is dismissed by his employer, many employers have taken advantage of this loophole and use various unfair means to get rid of their local workers. One example of such means is to make the workers resign. Or, a local worker may be transferred to make room for an imported worker. Some employer may also resort to indefinite freezing of salary levels or unreasonable salary adjustments. In view of this, we hope that the subsidiary legislation can specify the circumstances which warrant penalty so that employers found guilty of employing the aforesaid practices to force workers to quit can be duly punished.

(4) *Ceiling on the Quota for Imported Workers*

Opinions are still divided as to whether the Bill should require the subsidiary legislation concerned to include a quota ceiling. But I think the arguments can be resolved before long. I recommend that the Bill be passed now, but with a later effective date in October so that we can have eight to nine months for further discussion.

Now I want to respond to the remarks made by some of my colleagues. First, I want to respond to the Honourable NGAI Shiu-kit's comments. He said that since timing had prevented some Members from attending today's meeting, he doubted my motives. He also used adjectives like "ungentlemanly" and even "disgraceful". The Honourable Miss Emily LAU also referred to her feeling of "a surprise attack". I am really rather sorry that they have felt that way. As regards this Private Member's Bill, though the notice period I gave is not very long, there is still a period of 12 days between the first notice and the present time. Of course, when I propose a Private Member's Bill next time, I will do a better job and allow ample time. Concerning Mr NGAI Shiu-kit's reference to our "disgraceful acts" and the Honourable James TIEN's query whether the Bill was an electioneering act for the March 5 elections, I do not intend to answer in the same kind of language used by Mr NGAI. The only thing I ask of you is: "Please do not interpret the Democratic Party's intentions with the Liberal Party's mentality." It is the conviction of the Democratic Party that only sustained hard work, not any gimmicks at election times, can earn the trust of the public. What you people in the Liberal Party think we have no way of knowing. What we do know, however, is that we must work hard for the public

every day in order to earn their trust. Working only during election times and doing nothing when there is no election is not our style.

The Honourable Henry TANG described the Bill as "Legislative Council Chauvinism" which would impinge upon our executive-led system. The Honourable CHIM Pui-chung also accused us of trying to usurp more powers. The truth is that we have no intention of gaining more powers. We are just trying to do what we should do in a reasonable manner. I wish to explain several things. Are we in fact entitled to the powers in question? Where do they actually come from? In which countries can we see the exercise of such powers? When drafting the Bill, I referred to the Immigration Act 1971 of the United Kingdom, which stipulates that the rules drawn up by the Home Secretary on the entry of foreign nationals for the purpose of employment have to be endorsed by the House of Commons before they can come into effect. It can be seen that my Bill conforms with this long-standing practice (in the United Kingdom). I also referred to the experience of countries like Singapore which also have imported workers. Their importation of labour policies are circumscribed by a whole set of legislation whereby their legislature can regulate importation of labour under clear and comprehensive laws. In an international trade union forum held in Hong Kong in November last year, it was generally agreed that the situation of local labour in Hong Kong after the implementation of importation of labour schemes was the worst, when compared with their counterparts in neighbouring countries such as Japan, Korea and Taiwan which also had imported labour. Having looked at the many other countries, we know that we can in fact exercise legislative control over importation of labour through the legislature.

Mr TANG also talked about the rules of the game. We can of course challenge the Basic Law. We can challenge whatever we disagree with. We have been doing this all along. We also challenge the decisions made by the wholly appointed Executive Council. Is this an impingement upon the executive-led system, which the Government has repeatedly stressed? Let me cite an example. Members will perhaps remember that not too long ago, over the issue of allowing contract expatriate civil servants to switch to local terms, our Council Member the Honourable TAM Yiu-chung took the lead in blocking this executive-led policy by introducing a Private Member's Bill. I do not think that my Bill can hinder our executive-led Government any more than Mr TAM's Bill could. At that time, Mr TAM's Bill received the support of the United Democrats of Hong Kong, the Meeting Point, some independent Members and the Liberal Party in this Council. Is it true that what you people are saying now contradicts what you did in the past? As to Mr James TIEN's remarks about democracy and its antagonism against industry and commerce, I should like to offer clarification. Democracy is absolutely not against industry and commerce. Neither is the Democratic Party. It is precisely because of this that the Bill we put forward today is described by the Honourable LEE Cheuk-yan as not "mean" enough. I hope we can act sensibly today so that we can discuss the details at a later stage.

The Secretary for Security said that we were trying to replace the scheme. This is pure sophistry! When have we ever demanded to replace the scheme? Our only intention is to introduce subsidiary legislation to facilitate control and regulation. He repeatedly said that since he was not sure, he did not want to do anything. However, as far as I can observe, the Government has never had any intention of introducing any subsidiary legislation at all. Since it has not even started working on it, how can it know that it is not feasible? How can it know that the draft, if submitted, will not be approved by this Council? Even if the draft legislation is not agreeable to us, we can make amendments. Why is the Government so sure that the proposal submitted will definitely not be approved by the Legislative Council? Has the Government ever tried to draw up a draft in the first place?

Then, there are the remarks about flexibility. It is often said that the executive has been doing a good job and there is a high degree of flexibility. I agree that ours is a very flexible system, and I am even bound to admit that the executive has been working not too badly. But, the question is: will legislative control necessarily result in the loss of this flexibility? Has not the Legislative Council been flexible too? Many a time in the past, this Council did manage to finish the three readings of a bill on one single day when urgent circumstances so warranted. All of us here will at least agree that this legislature is a sensible legislature. We have been conducting our business with good sense because we have no reason to obstruct the progress of our own work. If you have no confidence in this legislature, and for that matter some Members may have no confidence in themselves, then our working here will serve no useful purpose.

Just now, the Secretary for Education and Manpower repeated some very old points such as full employment. With full employment though, many workers are "on the drip". He mentioned some policy principles such as demand, parity and so on. Why can these not be codified in the law? I can see no reason why this cannot be done. If we are to make a quick response, I think this point merits our discussion here. Retraining and re-employment would have been much easier if the quotas had not been given to certain trades such as the retail industry, the garment industry and the service industry. Had these quotas not been allocated in this way, there would have been more jobs for displaced workers. Both the Secretary for Security and the Secretary for Education and Manpower think that the Bill will put a stop to the importation of labour schemes. I think they should stop misleading this Council.

As everyone is aware, I have offered to defer the effective date of the amendments to October. In case we still fail to get the whole thing done by October, you should trust the next elected Council! I mean if my amendments are still not sorted out by then, the matter can be further postponed by way of a resolution in this Council. Have you not any confidence in the Legislative Council that will be in place in October? In today's Second Reading debate, we should focus our attention on the principles of the Bill. The Bill I propose is basically very neutral. Whether the subsidiary legislation should be stringent or

lax can be discussed in greater detail when the time comes. I do not know whether the Bill can be passed today, and it appears that passage is hopeless. Although I may not be sitting on this Council in October, the Democratic Party will definitely stage a comeback over this issue. We will definitely try again, through this Council and by legislative means, to regulate the importation of labour schemes. May I emphasize that we just want to regulate and monitor the schemes, we are not trying to impinge on the executive-led system, or to replace the Government.

These are my remarks.

Question on the Second Reading of the Bill put.

Voice vote taken.

THE PRESIDENT said he though the "Noes" had it.

MR MICHAEL HO (in Cantonese): Mr President, I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Will Members please proceed to vote?

PRESIDENT: Are there any queries? If not, the result will now be displayed.

Mr HUI Yin-fat, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Miss Emily LAU, 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 Mr LEE Cheuk-yan voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mrs Selina CHOW, Dr David LI, Mr NGAI Shiu-kit, Mr Andrew WONG, Mr LAU Wong-fat, Mr Ronald ARCULLI, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Dr LEONG Che-hung, Mr Jimmy MCGREGOR, Mr Peter WONG, Mr Vincent CHENG, Mr Moses CHENG, Mr CHIM Pui-chung, Mr Timothy HA, Mr Simon IP, Dr LAM Kui-chun, Mr Eric LI, Mr Henry TANG, Dr Philip

WONG, Mr Howard YOUNG, Miss Christine LOH, Mr Roger LUK and Mr James TIEN voted against the motion.

Mrs Elsie TU abstained.

THE PRESIDENT announced that there were 21 votes in favour of the motion and 28 votes against it. He therefore declared that as the motion for the Second Reading of the Bill has been negatived, no further proceedings will be taken on the Bill.

ADJOURNMENT AND NEXT SITTING

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Thursday 23 February 1995.

Adjourned accordingly at one minute past Ten o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Legal Aid Services Council Bill, Control of Obscene and Indecent Articles (Amendment) Bill 1995 and Human Organ Transplant Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

