

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 31 May 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 MR MICHAEL LEUNG MAN-KIN, 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 ALLEN LEE PENG-FEI, C.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 EDWARD HO SING-TIN, 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 STEVEN POON KWOK-LIM

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

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

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

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

THE HONOURABLE ANNA WU HUNG-YUK

THE HONOURABLE ALFRED TSO SHIU-WAI

THE HONOURABLE LEE CHEUK-YAN

**ABSENT**

THE HONOURABLE MRS SELINA CHOW LIANG SHUK-YEE, O.B.E., J.P.

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

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

THE HONOURABLE TIK CHI-YUEN

DR THE HONOURABLE PHILIP WONG YU-HONG

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

**IN ATTENDANCE**

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

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

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

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

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

MRS ELIZABETH MARGARET BOSHER, J.P.  
SECRETARY FOR ECONOMIC SERVICES

MISS JACQUELINE ANN WILLIS, J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

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	L.N. No.
Merchant Shipping (BCH Code) (Amendment) Regulation 1995 .....	184/95
Merchant Shipping (IBC Code) (Amendment) Regulation 1995 .....	185/95
Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) (Amendment) Regulation 1995 .....	186/95
Electoral Provisions (Procedure) (Geographical Constituencies) (Amendment) Regulation 1995 .....	187/95
Legislative Council (Electoral Provisions) (Procedure) (Functional Constituencies and Election Committee Constituency) Regulation .....	188/95
Maximum Scale of Election Expenses (Legislative Council) Order 1995 .....	189/95
Antiquities (Excavation and Search) (Amendment) Regulation 1995 .....	190/95
Building (Administration) (Amendment) Regulation 1995 .....	191/95
Building (Oil Storage Installations) (Amendment) Regulation 1995 .....	192/95
Immigration (Amendment) Regulation 1995 .....	193/95
Marriage Reform (Fees) (Amendment) Regulation 1995 .....	194/95
Registration of Persons (Amendment) Regulation 1995 .....	195/95
Ferry Services (Amendment) Regulation 1995 .....	196/95

Road Traffic (Driving Licences) (Amendment) Regulation 1995 .....	197/95
Road Tunnels (Government) (Amendment) Regulation 1995 .....	198/95
Road Traffic (Parking) (Amendment) Regulation 1995 .....	199/95
Road Traffic (Public Service Vehicles) (Amendment) Regulation 1995 .....	200/95
Road Traffic (Registration and Licensing of Vehicles) (Amendment) Regulation 1995.....	201/95
Road Traffic (Village Vehicles) (Amendment) Regulation 1995 .....	202/95
Import and Export (Fees) (Amendment) Regulation 1995 .....	203/95
Insurance Companies (Miscellaneous Fees) Regulation .....	204/95
Births Registration (Special Registers) Ordinance (Amendment of Fifth Schedule) Order 1995 .....	205/95
Deaths Registration (Special Registers) Ordinance (Amendment of Fourth Schedule) Order 1995 .....	206/95
Marriage Ordinance (Amendment of Second Schedule) Order 1995 .....	207/95
Clubs (Safety of Premises) (Exclusion) (Amendment) Order 1995 .....	208/95
Official Languages (Alteration of Text) (Prevention of Bribery Ordinance) Order 1995 .....	209/95
Road Traffic Ordinance (Amendment of Schedule 3) Order 1995 .....	210/95
Library (Regional Council) (Amendment) Bylaw 1995 .....	211/95

Insurance Companies (Amendment) (No.3) Ordinance 1994 (76 of 1994) (Commencement) Notice 1995 .....	212/95
Security and Guarding Services Ordinance (97 of 1994) (Commencement) Notice 1995 .....	213/95
Occupational Deafness (Compensation) Ordinance (21 of 1995) (Commencement) Notice 1995 .....	214/95
Radiation (Control of Radioactive Substances) (Amendment) Regulation 1995 (L.N.153 of 1995) (Commencement) Notice 1995 .....	215/95
Radiation (Control of Irradiating Apparatus) (Amendment) Regulation 1995 (L.N.154 of 1995) (Commencement) Notice 1995 .....	216/95
Official Languages (Authentic Chinese Text) (Prevention of Bribery Ordinance) Order .....	(C)39/95
Official Languages (Authentic Chinese Text) (Corrupt and Illegal Practices Ordinance) Order .....	(C)40/95

#### Sessional Papers 1994-95

- No.89 — Audited Statement of Accounts of the Hong Kong Rotary Club Students' Loan Fund for the year ending 31 August 1994
- No.90 — Audited Statement of Accounts for the Sing Tao Foundation Students' Loan Fund for the year ending 31 August 1994
- No.91 — Audited Statement of Accounts of the Language Fund for the year ending 31 August 1994
- No.92 — Report on the Administration of the Fire Services Welfare Fund for the year ended 31 March 1994
- No.93 — Revisions of the 1994-95 Estimates Approved by the Urban Council during the Fourth Quarter of the 1994-95 Financial Year

**ORAL ANSWERS TO QUESTIONS****Regulation of Container Terminal Operators**

1. MR LEE WING-TAT asked (in Cantonese): *Mr President, regarding the operation of container terminal companies in Kwai Chung, will the Government inform this Council of the following:*
- (a) *the anticipated growth in freight transport and volume of container throughput in the next three years;*
  - (b) *whether measures have been put in place to prevent the operation of container terminal companies from becoming an oligopoly;*
  - (c) *whether, as more and more mid-stream container handling operators have been taken over by container terminal companies, there are any measures to prevent those companies from further monopolizing the market; and*
  - (d) *whether a profit control scheme or other regulations, modelled on the operation of the Hong Kong Air Cargo Terminals Limited, will be formulated to regulate and monitor existing and future container terminal companies?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, the total volume of freight transported through our port is forecast to grow from 151 million tonnes in 1995 to 177 million tonnes in 1997. This represents a projected annual average growth rate of some 8%. During the same period, container throughput is forecast to grow from some 13 million Twenty-Foot Equivalent Unit (TEU's) to 16 million TEU's. This represents an annual growth rate of 11%.

It is our policy to promote competition in the port. The four existing container terminal operators at Kwai Chung compete for business with each other, with some 20 mid-stream container operators and with other ports open to international trade in the vicinity of Hong Kong — for example, Yan Tian, She Kou and Chi Wan. In this regard, Hong Kong is virtually unique, since most major ports are operated largely by single conglomerates, which compete for business only with other ports.

In the interests of promoting still greater competition we have encouraged, and will continue to encourage, new operators to participate in the port, as and when opportunities arise. For example, the Chinese State shipping line (COSCO) is a partner in the development of Container Terminal No.8. Our proposals for the development of Container Terminal No.9 would also



have the effect of bringing in new operators and increasing competition in the port. This is the best way of preventing the emergence of a cartel or oligopoly.

While there is a degree of cross-ownership of mid-stream container handling companies by the major container terminal operators, there is no evidence to suggest that there is not still vigorous competition between the two sectors and between the mid-stream operators themselves. An important reason for this is that mid-stream operators offer a different type of service to shippers, both in terms of cost and quality. As a result, they tend to cater mainly for inter-Asia traffic, while the terminals serve mainly the inter-continental market.

Mr President, I know there are concerns among some shippers and exporters and some Members of this Council that, if terminal charges in our port become too high they may impact on the competitiveness of Hong Kong exports and may drive business to other ports. It is these concerns, I believe, which are prompting calls for price or profit controls to be applied to the terminal operators.

To these concerns I would respond as follows. As the Administration has said on many occasions, including in this Council, regulation is always a poor substitute for genuine market competition. The only justification for regulatory intervention would be, if we were convinced, that market forces were not operating sufficiently to protect the interests of consumers and to promote the necessary degree of economic efficiency.

Let us look at the facts. No other major port in the world offers such an extensive range of competitive cargo handling services. While charges at our terminals are somewhat higher than ports in the region, they are comparable with those in Japan, the United States and Europe. More importantly, the total cost of a ship's call into Hong Kong's port remains highly competitive. This is principally because ship turn-around times at our ports are second to none — and the less time a ship spends lying idle in port the more cost effective is the operation overall.

Far from driving away business, the efficiency of our port services has contributed to an average annual growth in port throughput of 13% in the last decade and an average annual increase of 12% in the number of calls by ocean-going vessels.

Against this background, Mr President, I see no case for regulatory intervention in the operation of our container terminals at this time.

MR LEE WING-TAT (in Cantonese): *Mr President, among the present container terminal companies, the Hong Kong International Terminals Limited has more than 50% of the market share. According to some sources, that*

*company is taking over many of the mid-stream container handling operators. I would like to ask the following two questions:*

- (i) Does the Economic Services Branch have information about the percentage of mid-stream container handling operators owned by the major container terminal companies; and*
- (ii) Why is the freight in Hong Kong higher than that of Kaohsiung and Singapore?*

PRESIDENT: Take one question at a time, Secretary.

SECRETARY FOR ECONOMIC SERVICES: Thank you, Mr President. On the first part of the question, as I said in my main answer, Mr President, we are aware that there is a degree of cross-ownership between some of the major container terminal operators and mid-stream operators. Having said this, the majority of mid-stream operators are still independently owned. About 40% of mid-stream operators, we believe, are controlled in part by the existing container terminal operators. But as I said earlier, there is still vigorous competition between the mid-stream operators themselves and with the terminals.

PRESIDENT: The second question, do you wish it repeated?

SECRETARY FOR ECONOMIC SERVICES: Yes, please, Mr President.

PRESIDENT: The second question, Mr LEE.

MR LEE WING-TAT (in Cantonese): *Mr President, compared with the major container terminals in Asia, the terminal charges in Hong Kong are higher than Kaohsiung and Singapore. Can the Secretary for Economic Services tell us why our charges are higher than Kaohsiung and Singapore if Hong Kong is a competitive container terminal?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, I think terminal charges are based on a number of factors. One of the important factors relates, of course, to the development costs of the terminal and we believe this may be one of the factors which affects our charges. Having said that, the picture is not totally clear cut. There are very different levels of charges on different freight routes throughout the world and in some aspects, Hong Kong charges are very

competitive, even with some ports in the region, whereas on others there is more of a discrepancy, as I indicated in my main answer.

MR PETER WONG: *Mr President, I see from my copy of the typed script that the forecast figures as well as the projected annual growth rate has been scaled downwards in manuscript. Can the Secretary confirm that our overall growth rate is also being scaled back?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, I am sorry if there were last minute adjustments made to the text but we wanted the figures to be as accurate as possible. We are not seeking to scale back growth rate at all. What we are doing is working with the best estimates that we have of forecast throughput rate, that is, forecast throughput in the port as a whole and for the container terminals.

MR RONALD ARCULLI: *I wonder whether the Secretary will inform this Council whether the Government has taken any measures at all in the last decade to actually prevent — and I emphasize "prevent" — the entry of new operators in the bidding system for container terminal facilities in Hong Kong?*

SECRETARY FOR ECONOMIC SERVICES: As far as I am aware, Mr President, the answer to that question is a resounding no. On the contrary, as I said in my main answer, we do, whenever opportunities arise, encourage new operators to come into the port.

### **Retired Senior Government Officials Taking up Private Employment**

2. MR SZETO WAH asked (in Cantonese): *Mr President, with regard to the taking up of employment in the private sector by the former Commissioner of Police immediately after leaving office, will the Government inform this Council:*

- (a) *whether it will review the existing legislation and procedures governing the taking up of employment in the private sector by retired senior government officials to ascertain if the provisions in such legislation and procedures are expressly and adequately set out;*
- (b) *when the former Commissioner of Police will officially leave the civil service; and*

- (c) *whether it is in breach of Civil Service Regulations if a senior government official takes up employment in the private sector immediately after leaving office?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Mr President, I must preface my answers to this question by saying that because we are currently dealing with this case, therefore I will only be giving a factual reply to the second part of the question because since we are now handling this case it would not be appropriate for us to comment too much on it at this stage.

I will now give answers to the three parts of the question as follows:

- (a) First of all, legislation, regulations, rules and detailed procedures already exist governing outside work during leave and upon retirement. However, in the light of recent public concern about a particular case the Government has asked the Advisory Committee on Post Retirement Employment to review the rules and procedures governing outside employment during both pre-retirement leave and upon retirement. In the light of the Advisory Committee's advice the Government will consider what and how, if any, changes should be made to the rules and procedures;
- (b) the former Commissioner of Police will officially retire upon the expiry of his approved pre-retirement leave on 9 July 1995; and
- (c) the Civil Service Regulations governing paid outside work while on leave require that a civil servant should seek permission to do so in advance. However, the regulation also states that if a civil servant on pre-retirement leave wishes to take up paid outside work in Hong Kong and intends to continue with the work after the date of retirement, then the rules governing post retirement employment will apply. The rules governing post-retirement require an officer to seek permission during the first two years of retirement in respect of any employment "the principal part" of which, to quote the pensions legislation, is carried on in Hong Kong. How these rules apply in practice depends on the circumstances of each case and, where appropriate, on the advice of the Advisory Committee on Post Retirement Employment.

MR SZETO WAH (in Cantonese): *Mr President, will the Government inform this Council whether a civil servant taking part in an activity for financial returns before he officially leaves office without seeking permission in advance is in breach of the Prevention of Bribery Ordinance?*

PRESIDENT: Are you in a position to answer that, Secretary?

SECRETARY FOR THE CIVIL SERVICE: Mr President, I think this particular question seems to ask for my opinion on a legal situation. If I may, I would suggest that this question be directed to the Attorney General.

PRESIDENT: If you wish to answer it, Attorney General.

ATTORNEY GENERAL: No, Mr President.

PRESIDENT: Do you have another question, Mr SZETO Wah?

MR SZETO WAH (in Cantonese): *Mr President, will the Government inform this Council whether a civil servant taking part in an activity for financial returns before he officially leaves office without seeking permission in advance is in breach of the Prevention of Bribery Ordinance?*

PRESIDENT: The Secretary has rightly declined to answer that question, Mr SZETO Wah, on the grounds that it seeks a legal opinion. And I cannot call on the Attorney General to answer this question because it is a question for the Secretary for the Civil Service. So, if you have another question you are free to ask it, but this question has already been asked and you will not get any further with it.

MR SZETO WAH (in Cantonese): *Mr President, will the Government inform this Council whether the former Commissioner of Police has sought the Government's permission to take up employment before officially leaving office?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Mr President, I have made it clear at the beginning of the main reply that we are currently investigating this case. So I am afraid it would not be appropriate for me to comment on its details.

MR RONALD ARCULLI: *The Secretary in his answer referred to work in Hong Kong. I wonder whether he would be kind enough to advise this Council what the position of a senior government official is, whether during pre-retirement or leave prior to retirement or after retirement, undertaking work outside Hong Kong?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, I am not exactly sure of the import of this question. If I may, could I ask, through you, the Honourable Member to repeat the question.

PRESIDENT: It seems to be in three parts, Mr ARCULLI.

MR RONALD ARCULLI: *It is really in one part, Mr President. It really is a senior civil servant undertaking work outside of Hong Kong, and this presumably is after he has actually left the service, but he might technically still be a civil servant on pre-retirement leave or in fact on retirement leave, or indeed after retirement. So, if he undertakes work, say in the United States or in Australia or wherever, but not in Hong Kong, is there any rule governing that particular situation, and if so, what the rules are?*

PRESIDENT: While he is technically still a civil servant?

MR RONALD ARCULLI: *That is correct, Mr President.*

SECRETARY FOR THE CIVIL SERVICE: Mr President, the rules governing work during retirement leave or after retirement centre around one key provision, namely whether that work is undertaken in Hong Kong or related to Hong Kong. So this is, I think, the most crucial aspect. But normally, one would expect a colleague who undertakes employment, whether within Hong Kong or outside Hong Kong, whilst he is still technically a civil servant, namely that he is on leave and has not completely left the establishment, then in which case he should have checked with the Civil Service Branch as to whether or not permission is required.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, the Government, in answering the question, seems to think that as long as the work of the civil servant in question is not principally undertaken in Hong Kong, or perhaps in Hong Kong but with foreign-related nature, he is not required to go through even the most basic application procedures, nor is he required to seek permission. Does the Government agree that, given Hong Kong's international status, the civil servant in question, whether taking up employment outside Hong Kong or undertaking foreign-related work within the territory, may possibly be involved in a conflict of interests in Hong Kong? And will those conditions, namely, taking up employment overseas or undertaking foreign-related work in Hong Kong be taken as a safety net or haven under which no civil servant is required to go through application procedures or seek permission?*

PRESIDENT: Have you got the question, Secretary?

SECRETARY FOR THE CIVIL SERVICE: Not really, Mr President.

PRESIDENT: Mr CHEUNG, I must say I have not fully understood it myself.

MR CHEUNG MAN-KWONG (in Cantonese): *I repeat my question. But perhaps Mr SZE has got it. First, the Government mentioned in its reply that as long as "the principal part" of the employment is not undertaken in Hong Kong, the officer concerned is not required to seek permission. As no reporting is required, of course, no permission is required either. Does the Government agree that if the employment is undertaken in Hong Kong, the officer may possibly obtain benefits overseas; or for many transnational companies, the work may be undertaken in an overseas country while the benefits may be obtained in Hong Kong? Could this be the reason for not reporting and not seeking permission ?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Mr President, first of all, I would like to make myself clear. When considering whether a civil servant on retirement can take up a new employment, the most important point is whether that particular employment involves a conflict of interests. So normally, if the civil servant leaves Hong Kong upon retirement and takes up employment that is not in any way related to Hong Kong, there will definitely be no conflict of interests. However, the Mr CHEUNG mentioned some other circumstances, namely, the civil servant remains in Hong Kong after retirement and takes up employment that does not seem not to be undertaken in Hong Kong; or he actually leaves Hong Kong but the work undertaken may be related to Hong Kong. In these circumstances, is permission required then? In my view, the colleague has to check with us, and as such ambiguity exists, he should seek permission. It is because under the relevant legislation, whether the work is undertaken in or related to Hong Kong, it is a matter entirely for the Governor and not the colleague himself to make the final decision. So it is not a question of providing any haven at all.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, some members of the Securities and Futures Commission and the Hong Kong Monetary Authority basically have greater responsibilities than Policy Secretaries and other civil servants because the legislation or laws they draft will gravely affect the monetary affairs of the whole of Hong Kong. Will the Secretary tell us whether these people are also governed by the relevant rules? If not, will he consider making amendments to these rules?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Mr President, this question makes me feel flattered because Mr CHIM has greatly elevated my position. Basically, these two organizations are not part of the Government's internal structure. And as the Secretary for the Civil Service, I have no jurisdiction over their staff on matters such as their conduct. So I am not in a position to answer this question.

DR CONRAD LAM (in Cantonese): *Mr President, the people of Hong Kong are very hard-working indeed. Many of them do not oppose post-retirement employment being taken up by civil servants. But what they are worried is whether civil servants will give their future employers certain advantages during their service with the Government in order to secure some returns after retirement. In paragraph (a) of his main reply, the Secretary said that legislation, rules and detailed procedures were already in place to govern employment after retirement. I would like to ask the Secretary whether the mentioned legislation and rules include a mechanism to check if these civil servants did something which they should not do by abusing their power during their service in order to secure a good job after retirement? For instance, is the Advisory Committee on Post-Retirement Employment empowered to request the ICAC to conduct investigation on those civil servants in question to see whether they did anything against public interests?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Mr President, as I have said, in examining the colleagues' post-retirement employment, the most important point of consideration is conflict of interests. If a civil servant did something improper before his retirement, as what Dr LAM has suggested, that is, providing an advantage to certain people, then we should take follow-up action against him instantly for the reason that he has breached the Civil Service Regulations, or even the Prevention of Bribery Ordinance. We should never accept these practices here in Hong Kong. In this regard, I believe we need not worry.

As regards post-retirement work, when examining these applications, do we need to consider whether the applicants' pre-retirement work is too closely related to their post-retirement employment, and whether we need to take any precaution? The answer is in the affirmative. Therefore, in general, most of the colleagues, upon retirement, have to go through a frozen period of at least six months during which they are not allowed to take up any employment. Over the past seven years, there were about 46 cases requiring the imposition of a frozen period. In some cases, the frozen period even lasted as long as two years. The reason was that the employments which these colleagues sought to take up were too closely linked to their previous work in the Government. So we usually impose a longer frozen period, the longest being two years. In this light, imposing a two-year frozen period is equivalent to non-approval.



### **Academic Achievements of Local Universities**

3. MISS EMILY LAU asked (in Cantonese): *Mr President, will the Administration inform this Council whether it has information to show that the salaries and fringe benefits of the local universities' academic staff are higher than those of their counterparts in many overseas universities; if so, why have the local universities not been able to attain outstanding academic achievements on an international level?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the Administration has some information on the salaries and fringe benefits of academic staff in other countries, but the information is by no means comprehensive or totally reliable. Whilst it is recognized that the salary and benefits package of local universities' academics compare favourably with that of many, though by no means all, of their counterparts in universities and equivalent institutions elsewhere, the Administration considers that any direct comparison between the remuneration of academic staff in money terms could be misleading because the figures have to be interpreted in the context of each country's social and economic environment, the prevailing standard of living, inflation rate, purchasing power and market forces as well as relativities with other professions, which are essentially the factors determining the remuneration of academic staff.

As regards the second part of the question, it is not quite correct to suggest that local universities have not been able to attain outstanding academic achievements on an international level, which is largely measured by success in academic research. In the past few years, there have been significant increases in support for research, notably since the establishment of the Research Grants Council (RGC) in January 1991 and the Applied Research and Development Scheme in February 1993. Although the level of investment in research and development in Hong Kong is still low in comparison with other jurisdictions in the region, and lower still when compared with Western developed countries, research of high quality is being done right now in Hong Kong's higher education institutions. The best research projects funded by the RGC would be supported by research funding bodies in the United States and Europe. Academic staff of Hong Kong's universities are valued participants in international collaborative research projects and international conferences. Overseas members of the University Grants Committee (UGC) and the RGC have advised that research of international standard is being undertaken in Hong Kong.

Another measure of academic achievement of our universities is the quality of their graduates. It is a common phenomenon, not just in Hong Kong, that previous generations of graduates (and school leavers) regard succeeding generations as not matching their high standards.

Notwithstanding such views, the best graduates of our institutions still are highly sought after by local and international companies and the professions, and many also succeed in enrolling on master's and doctoral programmes in first-class universities all over the world.

MISS EMILY LAU (in Cantonese): *Mr President, the Secretary for Education and Manpower admitted in his reply that the salaries and fringe benefits of the local universities' academic staff are higher than those of their counterparts in many overseas universities. Will the Secretary confirm that it is mainly because of their salaries and fringe benefits having been in line with adjustments to salaries in the Civil Service, and salaries and fringe benefits in our Civil Service are one of the best in the world? Also, on the question of the standard of our academic achievement at the international level, will the Secretary inform us which university or which faculty in these universities is internationally famous and which has won the recognition of their international counterparts as one of the best?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the salary scales of academic staff are required to be approved by the Government. They are determined in relation to salary scales in the public sector following an agreement between the Universities' Joint Salaries Committee and the Government in 1971 which provides that university salaries in Hong Kong bear a similar relationship to administrative grade salaries in Hong Kong, as university salaries in the United Kingdom bear to the administrative grade in the United Kingdom. Subsequent adjustments to salaries of academic staff in Hong Kong have been made in line with adjustments to salaries in the Civil Service.

As regards civil service salaries, these are adjusted annually and approved by Members of this Council in relation to the funding of civil service salaries. The reason for the apparent difference between salaries of Hong Kong academics in the UGC-funded institutions compared with other institutions are many-fold. As I said in my main reply, these have to be considered in the context of the social and economic environment of those countries. Furthermore, these differences are also explained in terms of the types of institutions and the funding arrangements when we compare — and I have stressed such comparisons are misleading — with other institutions in other countries.

For example, in the United States, there are private institutions as well as public institutions; some universities offer two-year courses, others offer four-year courses; some are church-funded. These differences within the United States may account for as high as 70% differences in salary scales.

Another important factor is that in other countries, often academics are paid for nine months only. They are expected to get research grants to supplement their salaries. Now, in Hong Kong, the research grants that we

provide to our academics are not intended to be supplements to their salaries; they are intended to meet the direct costs of doing the research. So these are some of the reasons why they are different.

As regards examples of academics in Hong Kong, we do have a Nobel prize Winner, as well as Field Medal Winners. If you would like, I could give names of such distinguished academics we have in our institutions.

There is also one other point that I would like to make, that is, teaching is very important. We emphasize not only research — quality of research — through the support that the UGC provides to the institutions and their staff, but we also emphasize the importance of an environment for learning and teaching.

MR ERIC LI (in Cantonese): *Mr President, teaching is exactly the question that I wish to raise. In order to be able to say whether salaries are high or low or whether they are worth it, we also have to look at the workload of teaching staff apart from their research work. Does the Government have any statistics on the comparison in respect of the teaching staff to students ratio, between local universities and those of academically distinguished overseas universities?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I do not have such comparative figures. But I would like to, perhaps, draw to Members' attention that even such comparisons may not be very meaningful because in some other universities in other jurisdictions, graduate students do take on a lot of teaching work. So again, these comparisons do not help.

MR HENRY TANG: *Mr President, in the main reply, we have been advised that research of international standard is being undertaken in Hong Kong. Research by definition is a venture into an area where no man has gone before — in a research sense, not in the Star Trek sense. If that is the case, is there such a thing as an objective standard of evaluation? And if there is, what is it?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, assessment of our research performance by the UGC and by the RGC overseas members confirmed that the quality of our research is on par with those of other countries. This is a third-party endorsement from outside Hong Kong. The other aspect, of course, is the publication of research material in world renowned journals, and here again in Hong Kong we have many examples of publication in such journals.

MR PETER WONG: *Mr President, I would like to inform the Honourable Member that I think that our medical faculties here are second to none. Be that as it may, will the Secretary inform the Council whether the UGC institutions have formulated performance measures for their academic staff and the institutions as a whole?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the assessment of the academic performance of teaching staff is essentially a matter for the institutions concerned, but the UGC is certainly concerned about the quality of the academic staff. Whilst they do not have plans to undertake a teaching assessment exercise at this stage, because there are no well-formulated or internationally accepted method or criteria for assessing teaching performance, the UGC will undertake a teaching and learning quality process audit of the institutions, starting in 1996, to see what each institution's teaching and learning quality assurance processes are and whether they are in place and operating effectively.

### **Employment of Disabled and Chronically Ill Persons**

4. DR HUANG CHEN-YA asked (in Cantonese): *Mr President, in view of the problems that the disabled and chronically ill persons face in seeking employment as a result of discrimination, public bodies should take the lead to prove that the disabled and the chronically ill do have the ability to work and that it is wrong to discriminate against them. So will the Government inform this Council:*

- (a) *of the numbers of disabled and chronically ill persons employed by the Mass Transit Railway Corporation, the Hospital Authority and the Hong Kong Trade Development Council respectively, together with the proportion of such persons to the total number of staff in each of these public bodies;*
- (b) *whether positive measures have been taken by the Government and the public bodies to prevent discrimination of such persons in recruitment; if so, what these measures are;*
- (c) *what policy the Government has formulated to encourage the employment of such persons by public bodies; and*
- (d) *what specific measures have been put in place by the Government to assist such persons in undertaking vocational training and seeking employment?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) At present, the Mass Transit Railway Corporation has in its employment a total of 15 persons with a disability or chronic illness. This accounts for 0.2% of its total staffing establishment. The Hospital Authority has employed 220 persons with a disability, representing slightly over 0.5% of the total number of its employees. Separate statistics on chronic illness in the recruitment of staff are not maintained by the Hospital Authority. As regards the Hong Kong Trade Development Council, it has a total of six employees with a disability and 10 with chronic illness, which make up 3 % of its total number of staff.
- (b) In line with the Government's well-established recruitment policy that we should take the lead in employing people with a disability, all persons with a disability applying for jobs in the Civil Service are not subject to our normal shortlisting criteria. In other words, those who possess the basic qualifications will be directly invited to attend selection interviews. Once selected for interviews, they will be considered on equal terms with other able-bodied applicants. If found suitable, they will be given preference over other applicants.

These three public bodies as well as many others have already put in place a series of non-discriminatory measures in their recruitment process. Job applicants, irrespective of whether they have a disability or not, are assessed equally on the basis of their qualifications and working ability. Some of these organizations have also modified their office equipment and facilities to cater for the needs of disabled employees. A greater number of public bodies are also gradually taking on these practices.

- (c) Our policy is to ensure that people with a disability have an equal opportunity to participate in a productive and gainful employment in the open market. We have been encouraging this through public education and the outreaching efforts of the Selective Placement Division of the Labour Department to promote the employment of people with a disability.

Furthermore, at the Governor's Summit Meeting on Open Employment of People with a Disability in February 1994 and in March this year, employers' representatives were called upon to make concrete efforts to improve the employment prospects of people with a disability including those suffering from chronic illness. To follow up on this appeal, we have invited major employers, including public bodies, to publish policy statements and to set voluntary targets on employment of people with a disability.

- (d) Various measures have been adopted to assist people with a disability and chronic illness in undertaking vocational training and seeking employment. The Secretary for Health and Welfare has introduced into this Council the Disability Discrimination Bill which seeks to make discrimination and harassment on the ground of disability unlawful in specific areas, including employment and education. We will step up public education for the promotion of employment of people with a disability and chronic illness in the current financial year. This will include the publication of a guidebook to promote employers' awareness of the working ability of people with chronic illness.

Our supportive services include the counselling services provided by the family service centres and medical social services units of the Social Welfare Department and the provision of Rehabus service comprising scheduled routes and dial-a-ride service. The Selective Placement Division of the Labour Department provides special job placement service to all persons with a disability or chronic illness including those who have completed vocational training and retraining courses.

As regards training, the Vocational Training Council (VTC) provides a vocational assessment service to assess the ability of disabled persons for the purpose of formulating training plans for them. Full-time vocational training courses specifically designed for people with a disability are currently provided by the five subvented skills centres, three of which are run by the VTC. The VTC also provides a range of supportive services for the trainees, such as vocational guidance to prepare trainees for employment, paramedical services to help those with health and physical problems, technical aids for those who live far away from skills centres and centre bus service for those who have travelling difficulties.

In addition, the Employees Retraining Board provides people with a disability with special retraining courses which are tailor-made to meet the specific job requirements of the potential employers. A pilot retraining programme specifically designed for the chronically ill persons will be launched in collaboration with the Queen Elizabeth Hospital shortly. The Board also offers through its on-the-job training scheme financial incentive to employers employing persons with a disability by reimbursing to them one-third of the first three months' salary of employees with a disability.

DR HUANG CHEN-YA (in Cantonese): *Mr President, the figures revealed by the Government actually reflect that the proportion of disabled and chronically ill persons being employed in these public bodies is very low. These figures*

*also show that those bodies are just saying one thing but doing another. Discrimination still exists in public bodies. I can also cite some examples where it is complained that some chronically ill persons, when seeking employment from the Hospital Authority, were rejected without reasonable grounds. In view of this, will the Government inform us whether it will require all public bodies to publish and increase the proportion of the disabled and chronically ill persons in their employ and introduce a registration system under which these public bodies are required to explain why they do not employ these people?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the figures giving the employment rate for people with a disability should not be regarded as discriminatory practices. As I have said in my main reply, the public bodies, as well as the Civil Service itself, practise non-discriminatory measures in its recruitment of people with a disability. Not all people who have a disability are capable of progressing to open employment. We should bear this fact in mind.

As regards urging public bodies to employ more people with disabilities, this is what we have already done following the Governor's last summit. We will review performance at the next summit.

PRESIDENT: We have to move on because there are lots of supplementaries.

MR LEE CHEUK-YAN (in Cantonese): *Mr President, in paragraph (b) of its main reply, the Government said that it would take the lead in employing people with a disability. But the figures I have in hand cannot make me believe that the Government has done so. As at 1 April 1994, there are 3842 civil servants with a disability, among them, 900 are colour blind. If these 900 colour blind people are excluded, the disabled government employees make up just 1.5% of the total number of civil servants. Can the Government explain how, with such figure, it can claim that the Government has taken the lead? Did the Government set a target of having a certain ratio between disabled employees and the total number of civil servants?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the number of persons with a disability employed by the Civil Service at March 1994 is 3842. Whilst the figures do include people who are colour blind, the figures have been increasing. For example, as of April this year, the numbers employed in the Civil Service increased to 3941. We have continued to increase the number of persons with a disability within the Civil Service. These numbers should be seen in the light of the size of the Civil Service itself, which is getting smaller.

Insofar as the civil service recruitment procedures are concerned, the Civil Service Branch will implement the following measures to enhance employment opportunities for people with a disability wanting to join the Civil Service. They will increase the frequency of their visits to departments and attend recruitment interviews involving candidates with disabilities. This will ensure that non-discriminatory practices are carried out to the tee. They will extend the existing network of co-operation with relevant non-governmental organizations to fully utilize their resources and support. So we will be giving more information directly to non-governmental organizations to find out whether their clients are interested in joining the Civil Service. There will also be increased emphasis on employment of people with a disability in human resource management training programmes for managerial grades in the Civil Service. The Civil Service Branch also intends to improve the collection of statistics to monitor the employment situation in individual departments more closely.

PRESIDENT: Last supplementary, I am afraid, we have to move on.

MS ANNA WU: *Mr President, on support and supportive services for the disabled persons, can the Secretary elaborate as to whether these services include pre-job assessment of the job environment to see if reasonable changes could be made to accommodate disabled persons and providing accompanying persons to the disabled persons to assist them with job adaptation ?*

SECRETARY FOR EDUCATION AND MANPOWER: The support services, for example, provided by the Selective Placement Division of the Labour Department includes assessment of each job seeker who needs to attend an in-depth interview with the Placement Officer to assess that individual's potential working ability, as well as training needs, and if required, we also make referrals for tailor-made retraining courses to strengthen their employability. Officers of the Selective Placement Division will carefully match the vacancies with the qualifications and ability of the person with a disability seeking a job and will accompany that person to attend selection interviews. After placement, officers of the Labour Department's Selective Placement Division will provide follow-up services for three months to ensure successful job placement. Counselling will be provided, if necessary, not only to the person placed but, if necessary, the employer will also be helped to understand the needs of such persons who have been placed with them.

### **Long-Term Ferry Policy**

5. MR WONG WAI-YIN asked (in Cantonese): *Mr President, as traffic congestion has become a serious problem in Hong Kong which needs to be resolved urgently, will the Government inform this Council whether it will,*



*apart from strengthening the development of the land transport network, make full use of Hong Kong's physical advantage of being surrounded on three sides by sea and launch a comprehensive review and planning of the inner harbour and outlying ferry services, so as to formulate a long-term policy to enhance such services ?*

SECRETARY FOR TRANSPORT: Mr President, ferries provide an essential link to the outlying islands. They cope with the transport needs of those who live there and also cater for recreational traffic during weekends and public holidays.

Ferry services also provide an important alternative transport mode for residents of northwest New Territories, for example, linking Tuen Mun with the urban areas.

On the other hand, it must be recognized that, given the choice of the Mass Transport Railway (MTR) and cross-harbour buses, inner-harbour ferry services have become less attractive to commuters in terms of convenience and travelling time. Indeed the Hong Kong and Yaumati Ferry's cross-harbour patronage has fallen significantly from about 72500 passengers per day five years ago to the current level of about 32000 passengers per day.

The review and planning of ferry services is an ongoing exercise. Let me illustrate this:

- (a) Over the past two years, there have been significant improvements in service to northwest New Territories. For example, in addition to regular sailings, three high capacity and fast catamarans are now deployed on the Tuen Mun route to cater for the morning rush. Two new routes have also been introduced — one from Tuen Mun to Wan Chai and one from Gold Coast to Central. To encourage commuters to travel by ferry, special feeder buses and green minibus services have been provided to connect the ferry piers with residential areas. Additional ferry services have also been provided between Tsing Yi and Central.
- (b) Ferry services are mobilized to provide a back-up service during emergencies which in turn, may result in severe road traffic congestion. For example, in June last year, special ferry shuttle services were provided between Tsing Yi and Tsuen Wan because of serious traffic congestion in Kwai Tsing District caused by a combination of poor weather and bad traffic accidents, and in August last year, special ferries were deployed to Ap Lei Chau because of the partial closure of the Ap Lei Chau Bridge caused by a landslide.

- (c) We license ferry services to private residential developments, for example, at Discovery Bay.
- (d) The completion of the Chek Lap Kok Airport and Tung Chung new town will open up opportunities for new ferry services. This will be examined in the context of a transport study which is now in hand.

To provide the required network of ferry services we must ensure their economic viability. By way of looking ahead and forward planning, the Administration is finalizing the detailed terms of a pier development package with the Hong Kong and Yaumati Ferry. A key element in this proposal is the requirement that a proportion of the profits from the project will be used to finance service improvements, particularly to upgrade services to the outlying islands and northwest New Territories. This package will also allow fares to be maintained at reasonable and affordable levels.

Mr President, the Administration will continue to review its policy on ferry services and will take into account changing circumstances and new developments. We will continue to encourage ferry companies to improve their services.

MR WONG WAI-YIN (in Cantonese): *Mr President, it seems to me that the reply of the Secretary for Transport has not addressed the key point of my question. It is said in the fourth paragraph of the reply that the review and planning concerned are on-going exercises. Yet, I found from those several cases that all are merely reviews carried out as corrective or "remedial" measures. They are by no means forward-looking planning work. In fact, the substance of my question concerns inner-harbour and outlying island ferry services and I hope the Government would have a policy under which a comprehensive review will be conducted. As a matter of fact, many modes of transport in Hong Kong were reviewed before. For example, the railways, public light bus, green minibus and so on. Now I am calling for a comprehensive review on aspects including the viability of routes and whether new ferry companies will be brought in to create competition. In this connection, I would like to ask the Secretary whether the Government is unwilling to carry out a comprehensive review of ferry services and will continue to carry out reviews only as remedial measures just as it is currently doing. If the answer is yes, what are the reasons?*

SECRETARY FOR TRANSPORT: Mr President, with due respect, I do not accept the Honourable Member's criticism. When I say we have an ongoing review, this is a review and we are always looking at ways and means of improving ferry services. I think the reality, insofar as inner-harbour ferry services go, must be recognized. The fact is that for many commuters, ferries do not necessarily offer a point-to-point destination. It is much more

convenient both in terms of using one transport mode and also in the actual time taken on the trip to travel by other means. This is a fact. Buses, as I have said, cross-harbour buses, and the MTR provide much more accessible and much more direct services. But having said that, I did say that we are reviewing ferry services. We have in fact looked at ferry services to northwest New Territories in particular and this is under constant review. We have upgraded our facilities — ferry services both to Tuen Mun and to Tsuen Wan and Tsing Yi, if I can cite a few examples. The total capacity to cope with the morning rush, for example, to Tuen Mun, is over 5400 passengers. The total patronage now stands at something in the order of 3100, which is about 58%. Likewise, for the Tsuen Wan to Central/Wan Chai service, the capacity used is only 21% and for Tsing Yi to Central and Wan Chai is higher at about 70%.

The point is that these services are under constant review and because ferries are not necessarily the most attractive investment for operators and because of costs and other factors, one has got to be realistic. I think we should focus our attention on services to the outlying islands.

MR EDWARD HO (in Cantonese): *In his reply the Secretary for Transport said that inner-harbour ferry services were becoming less attractive. Is it due to reasons such as low frequency and discomfort of ferries and so on that members of the public prefer buses rather than ferries? However, we all know the problem of traffic congestion at present. For instance, it takes quite a long time to travel from Kowloon to Central by bus. May I ask if the Government has considered improving the service and frequency of ferries with a view to making ferries more attractive, hence increasing the patronage of this mode of transport?*

SECRETARY FOR TRANSPORT: Mr President, one of the reasons, of course, why inner-harbour ferry services are less attractive now is because the piers have had to be relocated and in turn this is due to reclamation for various airport projects and other development projects. This means that originally, when, for example, one could travel between, say, Central and Jordan Road in a direct line, now because of the relocation of the piers it is less convenient and it may be more convenient for commuters to use buses or the MTR. But having said that, we do try and encourage commuters to use ferries and one way of doing this is to make sure that at the main ferry piers, there are adequate transport interchange facilities and indeed at most of the ferry terminals you will see taxi stands and bus terminals.

MRS MIRIAM LAU (in Cantonese): *Insofar as improvements to the ferry services are concerned, it is vitally important to purchase brand new and fast vessels. Only by so doing can ferries become more attractive to commuters. Catamarans running the Tuen Mun route is a case in point. Does the Government have any measure in place to ensure that the Hong Kong and*

*Yaumati Ferry Company Limited will continue with its investment in brand new and fast vessels subsequent to its property development above the piers?*

SECRETARY FOR TRANSPORT: Mr President, the Honourable Member is quite right. In fact, as I have said in my main reply, one of the key elements in the development package is to require that funds be set aside for service improvement and as part of this exercise, the Government, in discussion with the ferry companies, will ensure that they have a forward planning programme to purchase new craft and fleet.

DR TANG SIU-TONG (in Cantonese): *Mr President, the Secretary for Transport said in the fifth paragraph of his reply that the Administration was working with the Hong Kong and Yaumati Ferry Company Limited on the development of the pier. Has the Government considered offering the pier development to another real estate company in such a way that the profits could be directly invested in the ferries?*

SECRETARY FOR TRANSPORT: Mr President, as I have said, part of the profits will have to be ploughed back for the improvement of ferry services.

MR LEE WING-TAT (in Cantonese): *Mr President, the development of outlying island ferry services is indeed very sluggish. Chatting with residents of the outlying islands, I was often told by many of them jokingly that it took one hour for their grandfathers to travel from Cheung Chau to Central by ferry and now it still took them one hour to do so. There has been no improvement at all. Neither has there been any improvement made to the piers in Sok Kwu Wan and Yung Shue Wan on Lamma Island for the past 30 years. It is only because the Government has reached an agreement with the Hong Kong and Yaumati Ferry Company Limited on property development in Central that residents of outlying islands have their first heaven-sent chance in 40 years to travel by new ferries and have new piers. May I ask the Secretary for Transport if it is the Government's policy to launch another pier development project and improve pier services, frequency and quality of craft in another 40 years later when the grandchildren or even great-grandchildren of this generation will be born?*

SECRETARY FOR TRANSPORT: Mr President, one of the reasons why the Government has entered into discussions with the Yaumati Ferry Company is because they are now experiencing a very serious financial position vis-a vis their services and as I have repeatedly said, one of the key considerations is to require a fairly substantial proportion of the profits to be channelled back into the improvement of ferry services. Much of the forward planning and the target is indeed to improve ferry services to the outlying islands. The Honourable LEE Wing-tat is quite right. Up to now, service improvements in

terms of ferries and piers to the outlying islands has been less than satisfactory but I can assure Mr LEE that once the development package is announced, the company's priority will be to ensure that the fleet and the services to the outlying islands are much improved.

MR WONG WAI-YIN (in Cantonese): *Mr President, the question I raised just now sought to call on the Secretary for Transport to carry out a forward-looking and comprehensive review. However, in his reply he only made reference to the reviews on inner-harbour services. Not a single word was said with regard to outlying island ferry services. Mr President, my follow-up question is this: Does the Secretary accept that where the existing ferry services are concerned, some routes are basically unattractive to commuters because the fleet of craft have been in service for a long time and become decrepit? Will the Secretary consider, in the course of the review, allowing new ferry companies to provide ferry services for certain routes in order to bring in competition, whereby the ferry services could be improved?*

SECRETARY FOR TRANSPORT: Mr President, as I said in my reply to the Honourable Member's first question, I am afraid I do not accept his criticism. When I say we are going to review it, we are going to review it comprehensively and obviously if the Honourable Member has any specific ideas we will be very happy to take these on board. Insofar as competition is concerned, as I have said, one has got to be realistic insofar as ferry services are concerned. On a daily basis, we have some 10 million commuter trips per day, but the share of this figure, insofar as ferry services are concerned, is in the order of about 170000. Having said that, we will certainly continue to review the improvement of ferry services and see what we can do.

### **Handling of Dangerous Chemicals**

6. REV FUNG CHI-WOOD asked (in Cantonese): *Mr President, while workers were unloading goods in a Tuen Mun godown some time after 8 am 11 May, a drum containing industrial raw material was punctured, from which flowed a cyanide-type liquid chemical called "tolylene di-isocyanate". Workers at the scene used water in an attempt to dilute and wash away the chemical leaking out but instead some toxic fumes were created. Nine men and women workers suffered from chest pain, burning eyes and shortness of breath after inhaling the toxic fumes and were all sent to hospital for observation and treatment. In this connection, will the Government inform this Council:*

- (a) *whether the above incident was caused by illegal storage or mishandling of dangerous chemical substance; if so, whether prosecution will be instituted;*

- (b) *whether companies dealing in dangerous goods and their staff are required to follow safety regulations and procedures in handling chemicals and coping with related accidents; if so, whether these safety regulations and procedures are adequate to ensure the safety of workers; and how the Government will monitor activities involving the handling of chemicals and provide the relevant information; and*
- (c) *whether staff working in such companies have received any special training in handling the relevant dangerous chemicals; if not, whether the Government will consider imposing such a requirement?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) The investigation conducted by the Fire Services Department revealed that the accident was not caused by illegal storage of dangerous chemicals. The Labour Department is still investigating whether the incident was caused by mishandling of the dangerous chemicals during unloading. In the circumstances, it is inappropriate to speculate on whether any prosecutions will eventually be undertaken.
- (b) As regards the second part of the question, the Dangerous Goods Ordinance, in broad terms, covers the physical aspects of the control of dangerous goods. It contains provisions for the control of the storage and transport of dangerous goods, including the packaging, labelling, licensing of vehicles, methods of storage and fire prevention measures.

Proprietors of companies or establishments falling within the definition of "a factory" or "an industrial undertaking" under the Factories and Industrial Undertakings Ordinance are required to take measures to ensure the safety of their employees in handling dangerous substances. Under the Factories and Industrial Undertakings (Dangerous Substances) Regulations, the proprietor of an industrial undertaking is required to label the containers holding chemicals controlled under these regulations, to give information on the risks inherent in the chemicals and to ensure that the safety precautions required and remedial measures in case of spillage, contact with, inhalation or swallowing of the chemicals are in place.

The proprietor is also required to provide his employees with protective clothing and equipment, information, training and supervision for the safe handling of dangerous chemicals so as to prevent accidents and injuries. To guard against the inhalation of toxic chemicals, the proprietor has to provide adequate ventilation

of the workplace to render harmless all fumes and other impurities in the air that may be injurious to health. In general, he needs to ensure that the workplace and the system of work are safe and the working environment is healthy for his workers. The Labour Department has also published specific guidelines on dealing with dangerous goods and safety procedures to help proprietors and workers.

As far as the monitoring of activities involving the handling of chemicals is concerned, the Five Services Department makes regular and surprise inspections to licensees of dangerous goods stores and of vehicles conveying dangerous goods regulated by the Dangerous Goods Ordinance. The Factory Inspectorate Division of the Labour Department also pays regular visits to factories and industrial undertakings, especially those premises which are considered particularly prone to accidents caused by mishandling of dangerous chemicals to ensure proprietors' compliance with the relevant provisions of the Factories and Industrial Undertakings (Dangerous Substances) Regulations. Prosecutions will be taken out during such inspections for any proven breaches of the relevant legislation. In addition to routine inspections, the Factory Inspectorate Division mounted a Chemical Safety Campaign in 1993 and 1994 to check on safety practices when handling dangerous chemicals. During these campaigns, targetted inspections were made and prosecutions were also taken as a result.

- (c) As regards the third part of the question, under the General Duties Provisions of the Factories and Industrial Undertakings Ordinance, employers are already required to provide employees with the necessary safety training relating to their work. Failure to do so renders the employers liable to prosecution under the relevant ordinance.

REV FUNG CHI-WOOD (in Cantonese): Mr President, recently there have been repeated incidents of toxic chemicals leakage. And the incident on 11 May was obviously a result of mishandling by the workers. Does it reflect the inadequacy of the existing procedures, regulations and training concerned? Will the Administration review these existing measures to see, for example, whether the training required to be provided by the employers to the employees is adequate, whether it is necessary to add more information on the labels on containers of chemicals, including, for example, what should be done in case of an accident?

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the provisions in the law already provide for a very comprehensive requirement to be met by employers as well as their staff to ensure safety in the workplace in

handling dangerous chemicals. We believe that these provisions are adequate. We ensure the adequacy of these provisions through the inspections I referred to in my main reply.

There is, separately, a more general review of safety which is currently conducted within the Education and Manpower Branch. This review of safety is being conducted by the Secretary for Education and Manpower and it involves the relevant departments and outside bodies. We will be producing for public comments a consultative document on ways to improve the safety culture in the community as well as looking at needs to strengthen legislation generally.

PRESIDENT: Last three supplementaries, as we are running out of time.

MR JIMMY MCGREGOR: *Mr President, given the rapid housing development in Hong Kong in virtually all areas of the territory, does the Fire Services Department continuously review the locations of dangerous goods storage to ensure that these locations and the conditions applying to them are still valid and that they do not become, because of the development, risks to public safety?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, with your permission may I refer that question to my colleague, the Secretary for Security?

PRESIDENT: Are you able to answer, Secretary?

SECRETARY FOR SECURITY: Yes, Mr President. The Fire Services Department carries out annual inspections of dangerous goods stores. This is a necessary condition for their continued licensing. Obviously, if there are any reasons, any development in relation to a particular dangerous goods store that would render the store to be unsuitable at that location, licence would not be issued.

PRESIDENT: Mr MCGREGOR?

MR JIMMY MCGREGOR: *Mr President, I think the question is not answered. I am really concerned about the positive need to vet those areas, those places which are permitted storage of dangerous goods when developments are put into place like large housing estates and not simply an inspection of existing storage to see whether each one is safe or not, once the housing estate has been constructed. In other words, Mr President, is planning of storage areas for dangerous goods part and parcel of the overall housing planning ?*



SECRETARY FOR SECURITY: Planning for the location of dangerous goods stores are, of course, where appropriate, taken into account in the planning of new large estates.

MR JAMES TO (in Cantonese): *Mr President, the main reply given by the Secretary for Education and Manpower has painted a faultless picture of the situation. There are labelling, safety precautions, remedial measures, information and training on safety, protective clothing and equipment and the like. Nevertheless, in that incident, it appeared that everything was lacking. For example, the workers seemed to have never received any training because they used water to wash away the chemical leaking out, and there seemed to have no protective clothing because the workers inhaled the toxic fumes immediately after the spillage. In the past few years when the Administration conducted surprise inspections to the licensees concerned, did the inspectors concerned check whether the workers know how to deal with any contingency or were they only looking at something superficial, like whether there was any protective clothing or labelling? Are the inspections sufficient in that aspect?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, in the course of inspections, the Factory Inspectorate will make enquiries with both employers as well as employees to find out whether safety training has been provided. Also in the course of such inspections, they will be able to see visually whether appropriate safety measures have been undertaken in the process of the work carried out by staff. As regards frequency of inspections, this varies as I indicated in my main reply. Those premises where we believe are more prone to accidents will be visited on a more regular basis and also, as I mentioned in my main reply, if we find that there are breaches, prosecutive actions are taken under the Factories and Industrial Undertakings Ordinance and its regulations.

PRESIDENT: We have to move on, Mr TO.

MR LEE CHEUK-YAN (in Cantonese): *Mr President, I hope that every time when the Administration responds to a question, it will not keep on saying that everything is sufficient as though nothing needs to be done. I find that in fact the weakest part of the whole answer is that workers are not provided with any safety training. The Secretary for Education and Manpower just mentioned that in the course of inspections, the Factory Inspectors would observe whether safety training had been provided to the workers. I am sure they did not ask such questions. I hope that the Factory Inspectorate can conduct a survey on all the trades and establishments dealing with chemicals to see how many of them have provided training to employees and what kind of training courses are offered. I hope that the Administration will not only reply that everything is enough. Will the Administration consider my suggestion?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, as I mentioned already, we do make enquiries in the course of these inspections of both employers, proprietors, as well as the workers themselves, and there are severe penalties for breaches, both applying to proprietors as well as workers, covered by the ordinance.

I hope I have not appeared to be complacent about industrial safety, because as I mentioned earlier in a reply to a supplementary question, we are reviewing safety generally and one aspect of our review is to promote a better safety culture within our workforce. This we believe to be very important.

I have taken note of the Honourable Member's suggestion of a survey and we will consider that.

## WRITTEN ANSWERS TO QUESTIONS

### Statutory Protection of Professional Titles

7. DR SAMUEL WONG asked: *According to the Professional Engineers Act (Cap.253) in the Republic of Singapore, no person shall use verbally or otherwise:*

- (a) *the words "professional engineer" or any additions to or abbreviation or derivative of those words in connection with his designation;*
- (b) *the word "engineer" or the abbreviation "Er" or "Engr" as a title before his name; or*
- (c) *any word, name or designation that will lead to the belief that the person is a registered professional engineer,*

*unless at the time of so doing the person is a registered professional engineer.*

*The Engineers Registration Ordinance (Cap.409) was enacted by this Council in 1990, in which the title "registered professional engineer" with or without a qualifying discipline, and the initials "RPE" with or without a qualifying discipline, are all protected. In this connection, will the Government inform this Council why the use of the title "engineer" is not protected in the Engineers Registration Ordinance while the title "architect" which, along with the title "registered architect", is protected under the Architects Registration Ordinance ?*

SECRETARY FOR WORKS: Mr President, during the drafting stage of these two ordinances, the professional bodies representing architects and engineers in Hong Kong were fully consulted. Each of these bodies adopted a slightly different approach. Nevertheless, the final provisions under the respective ordinances have the common objective of assuring the public that registered professionals will have a proper background and that they are competent to practise in their respective professions.

Before the enactment of the Architects Registration Ordinance (ARO), there was the possibility of confusion in the public mind as to the differences between qualified architects, and other professionals without architectural training but also involved in the building process. Building Surveyors and Engineers, for example, can also be Authorized Persons under the Buildings Ordinance. The title "architect" (建築師 Kin Juk Si) is therefore protected under the ARO to signify only a professionally qualified architect. The expression (劃則師 Waak Jik Si) which can be used by surveyors and engineers as Authorized Persons under the ARO remains unprotected.

The situation for engineers in regard to the Engineers Registration Ordinance (ERO) is different. This was confirmed during extensive consultation, in particular with the Hong Kong Institution of Engineers. Furthermore, the word "engineer" is commonly used in a non-professional context by individuals as well as businesses, and it is difficult to protect the title engineer given its common usage in Hong Kong and elsewhere.

Enactment of the ERO and the creation of a register of qualified "registered professional engineers" allows employers and the public to identify those engineers who have not only achieved full professional standing, but on an annual basis confirm their continuing competence to practise in a particular discipline. The Engineers Registration Board administers the register, and has the necessary powers under the ERO to ensure that only competent engineers are recognized as registered professional engineers.

### **Kindergarten Subsidy Scheme**

8. MR TIK CHI-YUEN asked (in Chinese): *Regarding the Government's recently announced kindergarten subsidy scheme, will the Government inform this Council:*

- (a) *of the number of existing kindergartens collecting school fees at a rate of more than \$8,300 a year; of these, how many have employed more than 40% of qualified teachers, and what is the percentage of such kindergartens against the total number of kindergartens; and*
- (b) *whether the upper limit of annual school fees under the scheme will be raised as a result of kindergartens having to employ more than 40% of qualified teachers?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) The number of kindergartens currently collecting school fees at a rate of more than \$8,300 per pupil per annum is 203. Of these, 166 employ more than 40% qualified teachers, representing 22.5% of the total number of kindergartens.
- (b) The cut-off point of \$8,300 has been set having regard to the resources available for the subsidy scheme and the general consideration that we should not subsidize kindergartens charging high fees. It is intended to conduct a review of the scheme in early 1996 to take account of operational experience including whether the cut-off point should be adjusted for those kindergartens employing more than the minimum requirement of 40% trained teachers.

### **Black Market Activities Involving Correctional Services Department Officers**

9. MISS CHRISTINE LOH asked: *Is the Government aware of allegations of black market activities involving Correctional Services Department (CSD) officers in Vietnamese Detention Centres? If so, will the Government inform this Council whether:*

- (a) *an investigation is being conducted; if so, what the progress is, and whether the Independent Commission Against Corruption has been called in to investigate;*
- (b) *protection is being offered to potential witnesses, be they detainees or CSD officers; and*
- (c) *consideration will be given to providing the camps with those necessities which are now only available on the black market?*

SECRETARY FOR SECURITY: Mr President, in March this year, the Government received allegations of black market activities involving CSD officers in the Whitehead Detention Centre.

Following receipt of the allegations, an investigation was conducted by the Complaints Investigation Unit of the CSD. The investigation found that some illegal hawking by Vietnamese migrants existed in the Whitehead Detention Centre. The investigation also confirmed that the activities were individual initiatives. As there was no evidence to support the allegation of CSD officers' involvement, the matter was not referred to the Independent Commission Against Corruption.

As there is no prosecution case, the need for witness protection does not arise.

The Vietnamese migrants in the detention centres are provided with all the basic necessities. There is no plan to change the existing arrangements.

### **Improvement Works to Pamela Youde Nethersole Eastern Hospital**

10. DR LEONG CHE-HUNG asked: *Will the Government inform this Council why improvement works are needed for the electrical installations of the Multi-Centre Block of the Pamela Youde Nethersole Eastern Hospital, given that the hospital is relatively new?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the Multi-Centre Block of Pamela Youde Nethersole Eastern Hospital was originally planned for use as staff quarters. Since it is an established policy of the Hospital Authority to provide only callrooms and overnight accommodation based on operational needs, action is being taken to convert these quarters into office units. Electrical upgrading works are therefore necessary to meet the increase in power supply required for ventilation and air-conditioning equipment associated with this change of building usage.

### **Government Steps in Handling Mr Paul AU's Case**

11. MRS ELSIE TU asked: *Will the Government inform this Council what steps have been taken to secure the retrial, or appeal, or the release of Mr Paul AU from life imprisonment on a dubious charge in the Philippines, since the subject was last raised in this Council at the sitting on 26 October 1994?*

SECRETARY FOR SECURITY: Mr President, in a written reply to Honourable Members on 26 October 1994, my predecessor reported that Mr AU's attorney intended to file his brief, relating to Mr AU's appeal, in the Supreme Court of the Philippines before the end of October 1994. We understand that Mr AU's attorney filed his brief on 27 October 1994. The British Government has been pressing the Philippine Government for an early hearing and decision on his appeal.

Since then, the British Embassy in Manila wrote twice, on 6 December 1994 and on 28 February 1995, to the Solicitor-General of the Philippine Government to press for a speedy consideration of the case. The case was raised again with the Philippine Solicitor-General on 21 March.

In April 1995, the visiting Deputy Under-Secretary of State at the Foreign Office also expressed concern to his counterpart in the Philippine Government on the slowness of the Philippine judicial system and the time taken to hear Supreme Court appeals.

To ensure the well-being of Mr AU and the other Hong Kong resident in this case, the Consul from the British Embassy in Manila visits them regularly. The Hong Kong Government and the British Government will continue to press for early consideration of the case.

### **Protection against Methane from Landfills**

12. DR LEONG CHE-HUNG asked: *Will the Administration inform this Council:*

- (a) *whether any measures have been taken to protect residents living near landfills from the influence of methane produced from garbage decay; if so, what those measures are and what the cost of implementing such measures is; if not, what measures will be taken and what the cost of, and the timetable for, implementing those measures is; and*
- (b) *how it can prevent similar problems occurring in new landfills in the future?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) There are 13 operating and closed landfills. The Environmental Protection Department has commissioned studies to examine how these landfills can be restored to a safe and environmentally acceptable condition to permit their afteruse. Interim first-aid measures at Sai Tso Wan Landfill and Jordan Valley Landfill have been completed. These involved the construction of gas abstraction systems to abstract the methane gas to high temperature flares on site to bum it off, and of a gas venting trench to create a barrier to stop methane gas migration, respectively. The works at Shuen Wan Landfill involves a gas abstraction system and will be completed next month. The construction costs for these measures amount to about \$40 million.

In the longer term, gas control systems will be developed in all the old landfill sites under a comprehensive restoration programme. The works will be divided into four packages. The timetable for implementation and total cost estimates are given in the table attached. On average, the costs for gas control systems account for

about 9% of the capital cost and about 25% of the operating cost. We shall seek approval from the Public Works Subcommittee for upgrading the works projects to Category A in May and June 1995.

- (b) Regarding the current three strategic landfills, measures have been incorporated into their new design to prevent similar landfill gas problems. The impermeable liner at the base and sides of the new landfills eliminates the possibility of the escape of methane gas through the base of the landfill. A gas abstraction system will also be installed to prevent gas escaping from the surface. These measures will ensure that gas will not migrate off the landfill sites and will be installed progressively as landfilling proceeds.

<i>Landfills</i>	<i>Completion date</i>	<i>Cost estimates</i>		
		<i>at December 1994 prices</i>		<i>MOD</i> <i>(Capital + 7</i> <i>years' operation)</i> <i>(\$million)</i>
		<i>Capital</i> <i>(\$ million)</i>	<i>Operating</i> <i>(\$million/year)</i>	
<b>Package A</b>				
- Shuen Wan Landfill	April 1997	185	12.6	389.3
<b>Package B</b>				
- Ngau Chi Wan Sai Tso Wan Jordan Valley Ma Yau Tong West Ma Yau Tong Central Landfills	June 1997	194.8	22.2	514.3
- Gin Drinkers Bay Landfills	June 1998	81	9	197.2
<b>Package C</b>				
- Tseung Kwan O Stage I and Stage II/III Landfills	May 1997	581	18.2	972.6
<b>Package D</b>				
- Ngau Tam Mei Ma Tao Lung Siu Lang Shui Landfills	Oct 1997	119.6	10.8	288.5
- Pillar Point Valley Landfills	late 1998	481.5	9.7	849.8

**Juvenile Violent Crimes**

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

- (a) *the total number of violent crimes committed by young people under the age of 18 in the past three years; and*
- (b) *the breakdown of the number of such offenders by the following categories:*
  - (i) *those who have hyperactivity, attention deficiency or other similar medical problems;*
  - (ii) *those who come from problem families; and*
  - (iii) *those who have triad society involvement?*

SECRETARY FOR SECURITY: Mr President,

- (a) The number of violent crimes for which persons under the age of 18 years were arrested was 2255 in 1992 and 4298 young people were involved; in 1993, it was 2183 and 4250 young people were involved; and in 1994, it was 2221 and 4132 young people were involved.
- (b) (i) and (ii) We do not have statistics on the number of these young people who have hyperactivity, attention deficiency or other similar medical problems, or who come from problem families.
- (iii) The number of persons under the age of 18 years arrested for violent crimes was 4298 in 1992, of whom 836, or 19.5%, had triad-links; in 1993, out of the 4250 young people arrested, 805, or 18.9%, had triad-links; and in 1994, out of the 4132 arrested, 719, or 17.4%, had triad-links.

**'Smart Card' Scheme**

14. MR WONG WAI-YIN asked (in Chinese): Is the Government aware of the plan to introduce a "Smart Card" scheme by various public transport organizations? If so, will the Government inform this Council:



- (a) *which public transport organizations have decided to take part in the "Smart Card" scheme;*
- (b) *which public transport organizations will not take part in the scheme and the reasons thereof;*
- (c) *how the organizations mentioned in (b) above can be encouraged to take part in the scheme;*
- (d) *what is the progress regarding the introduction of the scheme, and when it will be formally implemented; and*
- (e) *whether it is aware of the estimated cost of implementing the scheme, how it will be shared among the organizations concerned, and whether it will put any pressure on the fares of public transport services provided by these organizations?*

SECRETARY FOR TRANSPORT: Mr President, five major transport operators have agreed to co-operate to introduce a common contactless smart card scheme — the Mass Transit Railway Corporation, the Kowloon-Canton Railway Corporation, Kowloon Motor Bus (KMB), Hong Kong and Yaumati Ferry and Citybus. Initially, the smart card can be used for all existing rail services, KMB cross-harbour routes and selected ferry and Citybus services.

The other public transport operators have not opted to take part in the scheme but they may join later if they so wish. This is entirely a commercial decision.

A contract for the design, development, manufacture, installation, commissioning and maintenance of the scheme was awarded by the participating organizations in June 1994. According to the current programme, a trial scheme will be introduced towards the end of 1995 with a view to full implementation in late 1996. The smart card project aims to provide not only better customer service in terms of convenience, reliability and security but also operational benefits.

The common system for the smart card scheme is estimated to cost \$150 million. In addition, the participants will each have to meet their own capital costs for equipment totalling about \$250 million. Since the capital expenditure will be spread over many years the impact on fares should be marginal.

**Training Courses for Health Workers of Residential Care Homes**

15. MR MOSES CHENG asked (in Chinese): *Regarding the training courses jointly organized by the Hong Kong College of Nursing and the Social Welfare Department since 1989 for health workers working in Residential Care Homes (RCHs), will the Government inform this Council:*

(a) *what are the respective total numbers of courses held so far and training places offered;*

(b) *of the total number of persons who have applied for enrolment, how many of them have been admitted to the courses, and how many have successfully completed the whole training course;*

(c) *how many trainees managed to obtain employment as health workers in RCHs after completing the courses; and*

(d) *whether the Government will review the entry qualifications for such courses so as to attract more people to enrol and become trained RCH health workers?*

SECRETARY FOR HEALTH AND WELFARE: Mr President,

- (a) Since the introduction of training courses for health workers in 1989, 10 courses have been organized. The first nine courses produced 326 trainees. The current course which commenced in March 1995 and the coming one which will commence on 26 May 1995 each involve 40 trainees.
- (b) There were 628 applicants for the 10 training courses organized so far, out of whom 367 were enrolled. Of the 367 who were enrolled, 326 have so far successfully completed their courses. One failed to complete the course and 40 are still currently attending the 10th course.
- (c) Those who have so far enrolled for the courses were already employers or employees in RCHs for the elderly. Most of them continued to work in these homes after completing the course. In view of the great demand for health workers, trainees awarded regular certificates from the courses have experienced no problems in securing employment in RCHs for the elderly.

- (d) Those targetted for enrolment in the training courses organized so far are persons with a minimum of two years' medical or nursing training. In order to attract more people to apply for enrolment, the training courses will be expanded by strengthening the scope of the training content so that people who do not have prior medical or nursing experience can participate effectively in them. Applicants for the new courses will need only a Form III standard of education and preference will be given to those applicants who are already working in RCHs for the elderly or who have received previous training in first aid or home nursing.

### Safety of Mass Transit Railway

16. MR LEE WING-TAT asked (in Chinese): *As the safety of the Mass Transit Railway (MTR) has become a subject of concern in the wake of the poison gas attack in Tokyo, will the Government inform this Council whether it is aware of the following:*

- (a) *which are the five busiest stations along the MTR lines and what is the number of people using the MTR during peak hours at each of these stations;*
- (b) *what measures the Mass Transit Railway Corporation (MTRC) has put in place to improve the congestion at the stations' concourses and exits caused by waiting crowds and hawkers;*
- (c) *what contingency measures does the MTRC have to deal with unexpected occurrence of major incidents in its stations; and*
- (d) *whether the MTRC has commissioned an independent professional firm to assess the effectiveness of the contingency measures in the event of an emergency in its stations; if so, what the result is; if not, why not?*

SECRETARY FOR TRANSPORT: Mr President, the average number of passengers per hour at the five busiest MTR stations during peak hours is as follows:

Central	33800
Kowloon Tong	32050
Tsuen Wan	30900
Wan Chai	23850
Tsim Sha Tsui	22200

The MTRC is aware that hawkers cause a nuisance at certain station entrances and has employed nine teams of guards to patrol its stations. Regular enforcement action is also taken by the police jointly with the two municipal services departments against hawking activities in the vicinity of the MTR stations. Concourses at stations are busy during peak hours but MTRC does not consider that large numbers of passengers waiting at concourses present a serious problem.

The MTRC has contingency plans to deal with emergencies. Indeed, the need for such measures as enhanced ventilation and mass evacuation during possible emergencies has already been taken into account in the design of the layout and operation of the system. Drills are organized periodically in conjunction with the police and the Fire Services. Through these drills, the adequacy of the co-ordinated contingency plans and the ability of staff to handle emergency situations are tested.

The MTRC seeks the advice of the Hong Kong Railway Inspectorate and the United Kingdom Railway Inspectorate on safety aspects and emergency procedures. In addition, the Corporation keeps abreast of local and overseas experience in handling emergencies. Given these arrangements, and their own in-house expertise, the MTRC considers that there is at present no need to engage an independent organization to advise on contingency procedures.

### **Recruitment of University Vice-Chancellor**

17. MISS EMILY LAU asked (in Chinese): *Recently, the University of Hong Kong (HKU)'s handling of the recruitment of its new Vice-Chancellor has not only embarrassed the scholar tipped as the successful candidate, but also given rise to criticisms on the recruitment exercise. In this connection, will the Government inform this Council whether:*

- (a) *it has made any attempt to ascertain from the Court of the HKU about the problems encountered in the recruitment process, and what measures will be taken to prevent the recurrence of similar problem; and*
- (b) *it is aware of any implications this incident may have on the forthcoming recruitment of the new Vice-Chancellor of the Chinese University of Hong Kong; if so, what those implications are?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the Administration is aware of developments with regard to the selection of a new Vice-Chancellor at the University of Hong Kong and understands that the University will take all necessary steps to ensure that the recruitment process is conducted smoothly and fairly. The appointment of the University's Vice-Chancellor is, however, a matter solely for the University, under the provisions

of section 12(6) and Statute VI.1 of the University of Hong Kong Ordinance (Cap.1053).

The Administration is also aware that the University Council of the Chinese University of Hong Kong has formed a Search Committee for the appointment of the next Vice-Chancellor in accordance with requirements of the Chinese University of Hong Kong Ordinance and its statute. The Administration understands that this Committee is now conducting the search with due care and diligence.

### **Enrolment at Practical Schools**

18. DR TANG SIU-TONG asked (in Chinese): *There are at present two practical schools in the territory which provide education to school-age youngsters who are not interested in the normal secondary school curriculum. In this connection, will the Government inform this Council:*

- (a) *of the enrolment in the current academic year at the Hong Kong Sea School and whether the admissions in the 1995-96 academic year have dropped as compared with figures of the past two years; if so, what the reasons are;*
- (b) *whether the reported 40% admissions rate of the Tung Wah Group of Hospitals Practical School in Yuen Long falls short of the Government's target, and how many student hostel places will be provided in the school and when they will be ready for use so as to attract more students to apply for admission; and*
- (c) *whether the Education Department will review the admission standards for practical schools so that Band 5 students under the Secondary School Places Allocation System may also enrol in these schools?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) The Hong Kong Sea School commenced operation as a practical school in September 1993. Its enrolment was 251 and 235 respectively for the academic years 1993-94 and 1994-95 (as at 15 April 1995). Enrolment for the 1995-96 academic year will not be known until later in the year.
- (b) The Tung Wah Group of Hospitals Practical School in Yuen Long commenced operation in September 1994 with a capacity for 150 Secondary I places. It admits students throughout the year. As at 15 April 1995, the school has already admitted 132 students. We consider the enrolment level satisfactory. The school hostel is

scheduled for completion in September 1995. It will provide 120 residential places.

- (c) Practical schools admit students who are not motivated by the normal school curriculum but who are interested in and are likely to benefit from an alternative curriculum placing less emphasis on academic subjects and more on practical skills. Such students are assessed by the professional officers in the Education Department for the purpose of admission to a practical school offering such alternative curriculum. Various factors such as students' interests, personality, family background and school results are taken into consideration in the assessment process. Band 5 students fulfilling the above criteria are assessed on the same basis and a number have been admitted to the two practical schools as a result.

### **Rehousing Policy for Squatters Affected by Fires**

19. MR FRED LI asked (in Chinese): *According to the existing housing policy, urban squatters who are unfortunately rendered homeless as a result of natural disasters (such as landslides) will be rehoused in nearby urban areas, while victims of fires will be accommodated in remote areas in the New Territories. The main purpose of this policy is to deter people from setting their homes on fire so as to get rehoused. However, as most of the urban squatters have been cleared and rehoused, and having regard to the undertaking mentioned in the Governor's policy address last year and the fact that cases involving arson with the intention of getting rehousing have disappeared, will the Government inform this Council whether consideration will be given to changing the existing rehousing policy for squatters affected by fires; if so, how it will handle the rehousing problem of the squatters in a few remaining urban squatter areas like Lei Yue Mun and Cha Kwok Ling in the event of a fire; if not, why not?*

SECRETARY FOR HOUSING: Mr President, the supply of public housing in the urban area is limited. Given this situation, provision needs to be made for residents already living in the urban area who, for various reasons, have a priority claim on rehousing in the urban area. These include victims of natural disasters, tenants affected by the redevelopment of public housing estates and residents of urban Temporary Housing Areas under clearance.

As a matter of policy, fire victims are rehoused in the New Territories in order to discourage the incidence of fire. There are about 7000 urban squatters on government land and some 22000 urban squatters on private lots. If fire victims living in urban squatter areas were to be rehoused in the urban area, it could lead to an increase in the squatter population and the possibility of arson. As a result, the waiting period for households on the General Waiting List for

public housing would be lengthened. For these reasons, we do not think it is advisable to change the existing policy, but will keep it under review.

### **Pylons and Routing Project in Fei Ngo Shan Area**

20. MR PETER WONG asked: *In view of the concerns expressed by the Black Point Routing Objection Association over the close siting of 400kV pylons in the Fei Ngo Shan area, will the Administration inform this Council why, with the 50% surplus in China Light and Power's electricity supply, the routing project cannot be suspended until a solution satisfactory to all parties concerned is found?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, the 400kV transmission lines currently being constructed by the China Light and Power Company are needed to strengthen the company's transmission and distribution system to cope with increasing demand for electricity in the Company's supply area. The section of line which passes through the Fei Ngo Shan area is required to serve the growing population of Tseung Kwan O. Tseung Kwan O is currently served from the Tsz Wan Shan primary substation, which also serves East Kowloon and is nearing capacity. A new primary substation at Tseung Kwan O and the line connecting it to the 400kV transmission system must be commissioned in May 1996 to maintain adequate security of supply.

The level of reserve capacity in the company's generating system is not a factor in the planning of transmission and distribution facilities.

## **MOTIONS**

### **FIXED PENALTY (TRAFFIC CONTRAVENTIONS) ORDINANCE**

THE SECRETARY FOR TRANSPORT moved the following motion:

"That, with effect from 9 June 1995, section 20B(1) of the Fixed Penalty (Traffic Contraventions) Ordinance be amended by repealing "\$125" and substituting "\$440"."

He said: Mr President, I move the motion standing in my name in the Order Paper concerning the Fixed Penalty (Traffic Contraventions) Ordinance.

Court costs are payable under section 20B of the Ordinance by a person who, having initially disputed liability for a fixed penalty in respect of a parking offence and having been served with the summons, subsequently changes his mind and elects not to pursue the matter in court. In order to terminate the

court proceedings, he has to pay double the fine of a fixed penalty and an additional \$125 in court costs.

The existing court cost fee of \$125 was set in 1991. A recent costing exercise indicates that the costs to the Administration in respect of the preparation for court proceedings now mount to \$440.

It is normal practice to set fees and charges at the level necessary to recover full costs. We therefore propose to increase the court costs to \$440 to recover these costs in full.

Mr President, I beg to move.

*Question on the motion proposed.*

MR JAMES TO (in Cantonese): Mr President, I have some comments to make in respect of the Secretary for Transport's motion. I am not against the principle of cost recovery but there are a few points I would like to make:

Firstly, I learned from the Transport Branch the reason for the increased costs, which is that a number of people would initially dispute their liability but then suddenly choose to terminate the court proceedings, resulting in the so-called extra administrative costs. I hope the Administration could conduct a review to find out the reasons for the sudden surge in the number of people who disputed the fixed penalty and then changed their minds. People need to pay an extra penalty of \$125 for the change of mind. We cannot say that they are doing this for no reason, as this fails to explain the sudden surge. Could it be that in the implementation of policies, some disputable situations have arisen, for example, in dealing with parking offences?

Secondly, I see there are some problems in the Ordinance which I hope the Secretary for Transport can review. Under the existing proceedings, a so-called "ticket" is issued first. If the offender does not pay within 21 days, a notice will then be sent as a reminder, specifying a date by which the penalty must be paid. If the offender fails to pay by that date, the police will apply to court for an order to the effect that the offender is required to pay twice the penalty, for example, twice of \$320, the existing penalty for a parking offence, plus court fees. However, current law, that is section 15(5A) of Chapter 237, states that even if the police has not yet applied for an order from the court, the police by law cannot accept any payment of penalty, after the date specified in the notice served subsequent to the first ticket. I am surprised by this part of the law. Is not the whole system so designed to encourage residents to abide by the rules? I have a real case in which the offender went to the police headquarters to pay the penalty and the police indeed was prepared to accept payment because this would save the trouble for both parties. Unfortunately, the said section 15(5A) states that this cannot be done. I hope the Secretary for Transport will conduct a review to iron out this problem.



Thirdly, from the data given to us by the Secretary for Transport, we know that the \$440 is a figure arrived at by dividing the total costs by an average figure. Nevertheless, I have noticed something weird. Costs for handling a fixed-penalty case in the Eastern Magistracy are \$650 while those in the San Po Kong Magistracy are \$262. There is a big difference between the two. The same situation arises in the subject of the motion immediately after this one that is the Fixed Penalty (Criminal Proceedings) Ordinance. Figures for the costs in the two magistracies are markedly different — those in the Eastern Magistracy are more than twice of the other. This is certainly not the responsibility of the Secretary for Transport, but I do hope the Judiciary can improve on its efficiency. Of course, I am not saying that offenders should be asked to pay less. Rather, I hope that our administrative efficiency may be enhanced.

Fourthly, although the penalty is an average figure, it is not entirely fair. Offenders who choose to follow through the redress process and those who choose to dispute initially but afterwards decide to terminate the action are involved in two different sets of procedures. Frankly speaking, the administrative costs incurred in the latter case will surely be less than those incurred in the former. Therefore, I feel that the Secretary for Transport can discuss the matter with the court with a view to reflecting through different amounts to be paid the extent of the different costs incurred by the two different categories of offenders. This would be fairer. Under the present method of calculation by average, offenders who choose to follow the process through would be favoured. This, I think, does not conform to the principle of equity.

Be that as it may, the Democratic Party is not opposed to this motion.

SECRETARY FOR TRANSPORT: Mr President, I would just like very briefly to respond to the points raised by the honourable Member. I shall certainly pursue the various points he has raised with the authorities concerned and, in particular, ask the Judiciary Administrator to review the method of court costs. As regards the reasons why individuals may or may not change their minds and pay fixed penalty tickets or seek redress in the courts is up to the individuals, but the point about whether or not the police can adjust their timing to collect fixed penalty tickets will be followed up. I think all I would like to say, Mr President, there has to be a cut-off point and it is of course indeed proper that individuals who are served with fixed penalty tickets should have the opportunity to seek redress in the courts, but I am grateful to the Honourable Member for his suggestions and I shall follow this up.

*Question on the motion put and agreed to.*

**FIXED PENALTY (CRIMINAL PROCEEDINGS) ORDINANCE**

THE SECRETARY FOR TRANSPORT moved the following motion:

"That, with effect from 9 June 1995, section 9(1) of the Fixed Penalty (Criminal Proceedings) Ordinance be amended by repealing "\$125" and substituting "\$440"."

He said: Mr President, I move the motion standing in my name in the Order Paper concerning court costs under section 9 of the Fixed Penalty (Criminal Proceedings) Ordinance in respect of fixed penalty tickets issued for moving traffic offences.

The explanation I have given regarding the previous motion applies equally to this motion.

Mr President, I beg to move.

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

**BILLS****First Reading of Bill****BUILDINGS (AMENDMENT) (NO.2) BILL 1995**

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

**Second Reading of Bills****BUILDINGS (AMENDMENT) (NO.2) BILL 1995**

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

He said: Mr President, I move the Second Reading of the Buildings (Amendment) (No.2) Bill 1995.

The Bill consists of two parts. One concerns the control of building and demolition works. The other deals with the registration of building professionals.

Following the collapse of a part of a wall under demolition in Nathan Road in September last year, the Government announced a comprehensive action plan to improve safety at construction and demolition sites. The action plan outlined immediate, interim and long-range measures to tighten control of building and demolition works. It included more intensive site inspection, clearer practice notes for building professionals, firmer prosecution policy against breaches of safety requirements and a legislative review. A part of the Bill is the result of this review.

The Bill aims to strengthen the Buildings Ordinance in three areas: first, the Building Authority's powers to impose control to ensure safety; second, the registration system of building contractors; and third, offences and penalties.

The Bill enables the Building Authority, for public safety reasons, to:

- refuse to approve building or demolition plans or issue consent for the commencement or continuation of building works;
- require proper supervision and safety measures to be provided at work sites; and
- require the submission of relevant information so that the Building Authority can determine whether adequate safety measures have been implemented.

For the new system of contractor registration, we propose two types of contractors — general building contractors and specialist contractors — should be registered. A key requirement will be that the contractors' qualifications, experience and competence will be assessed by a statutory committee, whose membership will include representatives of the concerned industry associations and professional bodies. In addition, registration will be personal to an individual. Corporate bodies or unincorporated associations of persons will not be able to register. This will remove an existing grey area in terms of legal liability. A grace period of two years for the existing registered building contractors to comply with the new requirements will be provided.

We also propose that failure to provide proper supervision of building works or to comply with the conditions attached to the Building Authority's approval of the building plan or consent to the commencement of building works will be an offence so as to ensure compliance with the new legislative provisions. This will cover building owners, registered contractors, site agents, works supervisors, building professionals and construction workers. Their responsibilities will be clearly defined, in a way which reflects their roles in a construction project.

Our proposals accommodate practically all the recommendations of the Coroner's Court which recently completed an inquest into the deaths at the wall collapse in Nathan Road. They are a reasonable and pragmatic approach to further strengthen construction safety.

The Administration shall be discussing further with professional bodies and others concerned on details. Further amendments to the law will be finalized in the form of three amendment regulations, which will be tabled in this Council for Members' consideration as soon as possible. These regulations will cover details such as the proper level of supervision to be provided by different parties at construction sites, new safety controls on demolition works and other amendments consequential to the future enactment of the Bill.

The second part of the Bill deals with the registration of Authorized Persons and Registered Structural Engineers. We propose to improve the existing registration system by bringing it in line with the provisions in three other building professional registration ordinances, namely, the Architects Registration Ordinance, the Engineers Registration Ordinance and the Surveyors Registration Ordinance.

Under the Bill, only a building professional who is registered under the relevant registration Ordinances will be permitted to become an Authorized Person or Registered Structural Engineer. Two registration committees to help the Building Authority to assess the eligibility of a person to register will be formed. Most of the committee members will be nominated by the statutory Registration Boards of the concerned professions.

The Bill will ensure the continuing competence of and help encourage self-regulation by building professionals. I commend the Bill to Members.

Thank you, Mr President.

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

## **CREDIT UNIONS (AMENDMENT) BILL 1995**

### **Resumption of debate on Second Reading which was moved on 8 March 1995**

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

Bill read the Second time.

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

**POST-RELEASE SUPERVISION OF PRISONERS BILL****Resumption of debate on Second Reading which was moved on 19 January 1994**

*Question on Second Reading proposed.*

MISS CHRISTINE LOH: Mr President, the Post-Release Supervision of prisoners Bill aims to provide for the release under supervision of certain categories of prisoners on the order of the Post-Release Supervision Board established for that purpose.

A Bills Committee was activated on 10 June 1994 to study this Bill. I chaired nine meetings, including eight with the Administration. The Bills Committee has considered views from five deputations and written submissions from the Law Society of Hong Kong, the Hong Kong Council of Social Service and 132 prisoners.

In considering the Bill, the Bills Committee has reservations, first and foremost, on the objective of the proposed Post-Release Supervision Scheme.

Members of the Bills Committee and deputations are concerned that the new Scheme will involve a fundamental change in the granting of remission to prisoners, although Members have mixed views on the proposed Scheme itself. Prisoners are normally granted remission up to one-third of their sentences as a matter of course under Rule 69 of the Prisons Rule. It is, therefore, not surprising that serving prisoners view the Scheme as an extension of their sentences. Members took that concern into account when scrutinizing the Bill. I will return to this later. Members unanimously stress that the proposed Scheme should be rehabilitation-oriented. The emphasis should be on care, not control. In that connection, they consider that more resources should be devoted to the provision of release counselling and training for effective rehabilitation.

After extensive discussion, the Administration agrees to modify some provisions of the Bill as reflected in the Committee stage amendments which, I am sure, the Secretary for Security will elaborate in a moment.

I would just like to summarize, therefore, the major concerns of the Bills Committee for this Council.

As I said earlier, Members of the Bills Committee are most concerned with clause 22. This clause attracts the strongest objection from deputations and prisoners because of its retrospective effect which is considered unfair to serving prisoners. The proposed Scheme has been described as introducing a form of double punishment for prisoners covered by it, who are now released unconditionally at the two-thirds point of their sentences without post-release

supervision. But in future they will be subject to such supervision. Although remission under the present system is not a legal right, it is a legitimate expectation of the prisoners.

The Administration argues that the existing remission scheme will not be abolished, and it will not constitute double punishment because it will not increase the sentence imposed on a prisoner by the court. Under the Scheme, they will be given guidance and counselling after their release. Close supervision and control will only be necessary if an ex-prisoner is demonstrating recidivist behaviour.

After protracted discussions, the Administration finally agrees that the Scheme will apply in such a way that only periods of prison service outstanding after the enactment of the Bill will be considered for the purpose of calculating possible periods of supervision for serving prisoners. The maximum period of supervision that the Post-Release Supervision Board may order may not exceed half of the period between the enactment of the Bill and a prisoner's earliest date of discharge. However, the Board may order a period of supervision of up to six months regardless, providing that this period does not extend beyond the date at which a prisoner's sentence will expire without any form of early release or remission. The Bills Committee accepts the proposed new clause 22 as a reasonable measure for serving prisoners.

Another concern of the Bills Committee is about the involvement of the police in the Scheme. The Administration originally proposed that there should be three members in each aftercare team: one Officer and one Assistant Officer I from the Correctional Services Department, and one Police Sergeant. The role of the police officer would be a supportive one, and that his or her expertise was intended to enable the team to identify any recidivist inclination among the supervisees at an early stage.

Members, deputations and prisoners are all concerned that the police involvement may be open to abuse by the police using the opportunity to obtain information from the supervisees for criminal investigation purposes. I wish to re-emphasize the Bills Committee's concern for post-release care of the supervisees, and not their control. We are pleased that the Administration agrees that police officers will not be involved in the operation of the Scheme. Instead a social worker from the Social Welfare Department will replace the policeman in each aftercare team. He or she will have no control duties: his or her responsibility will be to provide necessary aftercare services to persons to whom the Scheme will apply. In this way, the Administration will ensure a strong and independent element in the aftercare teams responsible only for the delivery of post-release care.

Our third concern is the original clause 13(1). It would have been possible to suspend a supervision order if the Board considered that a person was acting in a manner likely to cause serious harm to the public, or if a person appeared to be proposing to commit any offence. The Bills Committee was

concerned that it would have been impossible to define what manner of act or acts were likely to cause serious harm to the public, or whether a low threshold would be set for proof of likelihood to commit a crime.

In response to concerns of the Bills Committee and deputations, the Administration now proposes a new clause 13(1) which better defines the nature of the unacceptable behaviour which must be evident before a supervision order may be suspended. Members are happy with the new clause.

Our fourth concern is about the representations by the prisoner. A new clause 19 is proposed. It relates to the process which must be followed before the Board may make a supervision order, or vary the terms and conditions of a supervision order, or the period of suspension of any order. The proposed amendments require that a case must be considered within a reasonable period, of any form of recall being implemented; and, within this timeframe, a person is given a reasonable period to make representations to the Board, or to prepare for a hearing.

Towards the end of deliberations of the Bill, Non-official Members of the Board of Review — Long Term Prison Sentences approached the Bills Committee to express their concern that the terms of reference of the proposed Post-Release Supervision Board may overlap with those of the Board of Review.

The Administration explains that the functions of the two Boards are different in that the former will deal with prisoners with determinate sentences, whereas the latter recommends to the Governor whether the sentences of long term prisoners should be converted from indeterminate sentences to determinate sentences. Members were advised that the Administration intends to put forward new legislation to turn the latter into a statutory body with its own powers to determine post-release supervision of long term prisoners in future. As a transitional measure to enable proper functioning of the two Boards, a new clause 20(2) is proposed to allow recommendations made by the Board of Review to be taken into account.

Before closing, I would like to say that it appears to the Bills Committee that the Administration was somewhat unclear about its plan on post-release supervision of prisoners when the Bill was first presented to the Committee; and as a result it caused delays in the deliberation of the Bill.

To end, I would like to thank Members of the Bills Committee, our very hardworking secretary, and representatives from the Security Branch, the Correctional Services Department and the Legal Department, for their efforts on the re-making of this Bill into an acceptable form.

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

SECRETARY FOR SECURITY: Mr President, the Bill before us seeks to introduce a mandatory Post-Release Supervision Scheme for adult prisoners. To date, these people have been released from prison, often after very long periods, with only limited preparation for what to expect after their release, and with no formal post-release guidance and assistance in their efforts to reintegrate into society in a law-abiding manner.

Looking back over the progress of this Bill, I am struck by the extent to which thinking on it has developed. This evolution is a testament to the work of the Bills Committee, as well as a reflection of the changing expectations of the purpose of our penal system. I would, therefore, like to offer my appreciation to the Honourable Christine LOH and Members of the Bills Committee, who, in their thorough deliberations, have focused the Administration's attention on those aspects of the Bill which they believed should be amended to advantage. I am convinced that the amendments to be moved at the Committee stage later today will produce a Bill that is a marked improvement on the original.

The Bill as it was first put to this Council, while supplying the essential framework for the Post-Release Supervision Scheme, lacked sufficient appreciation of the impact of the Scheme on the individuals it was designed to serve. We have come to appreciate better, through the months of deliberation in the Bills Committee, that those being released from prison are returning to an environment that will be unfamiliar, challenging and, in some cases, frightening. We cannot expect that upon release prisoners will always know what to do to reintegrate into society in a law-abiding manner. Unless they have good support from their family and friends, ex-prisoners will find it hard to react positively to the situation. The Bills Committee process has identified ways and means for us to improve the Scheme, both within the context of the Bill itself and in other areas relevant to our aim of ensuring that the Scheme is applied in a truly beneficial manner.

The principal improvements that we will seek to make at Committee stage are:

- (a) in general, to make the review processes of the Post-Release Supervision of Prisoners Board more transparent;
- (b) to tighten the nature of the circumstances that must prevail before the Board may consider suspending a supervision order;
- (c) to ensure that a person being reviewed by the Board receives all information to be considered by the Board in a timely and accessible manner so that he or she has a reasonable period to prepare appropriate representations. These provisions will also ensure that information to be considered by the Board may be withheld from the person only if good cause, as defined in the Bill, is shown and that it will not be possible, under any circumstances, for the Board



not to provide sufficient information to allow the person to appreciate the nature of the case being considered by the Board;

- (d) to provide the right of a hearing for the person before the Board may consider suspending a supervision order and to allow the person to be assisted at such a hearing;
- (e) to enable the Governor to make recommendations to the Board in the light of the views and the observations of the Board of Review — Long Term Prison Sentences on prisoners who are within its purview. Where the Board does not accept such recommendations, it shall submit a report to the Governor to explain its reasons; and
- (f) to apply the provisions of the Bill to prisoners serving sentences at the date that the Bill comes into effect, so that the periods to be specified in supervision orders will be limited to exclude the portions of sentences that have been served up to that date. In other words, we will not be applying the Scheme in a manner which has been described as "retrospective". It will apply only to sentences or portions of sentences served after the Bill comes into effect.

The Bills Committee, quite rightly, urged the Administration to consider these amendments in a wider context. The Post-Release Supervision Scheme has the dual aims of establishing both mandatory care and also control structures for released adult prisoners. We had originally envisaged that these aims would be exercised through three-man supervision teams, each comprising two Correctional Services Officers and a police officer. However, we accept that our principal aim should be the care aspect of the scheme: we should provide opportunities to prepare prisoners for their release back into society and then, after their release, we should give them every assistance in their efforts to reintegrate into society. We should not seek to exercise any control powers under the Scheme unless our rehabilitative efforts are clearly not succeeding.

I should stress that we will, as Members have urged, be initiating the rehabilitation process before prisoners are released. In this context, we have agreed that the police officer in each aftercare team should be substituted by an officer from the Social Welfare Department. All officers, both from the Correctional Services Department and from the Social Welfare Department, will have a qualification in social work. In addition, the Social Welfare Department officers will remain on the establishment of their Department and will report to their Director. This will ensure that priority will always be given to rehabilitative care in the implementation of this Scheme.

We have also agreed to amend the proposed quorum of the Board, which is specified in the draft regulations to the Bill, so that public officials on the Board will always be in the minority. This ensures that the Board will be able to function independently.

The Post-Release Supervision Scheme has been proposed because we believe that it will be of benefit to prisoners who are leaving prison and returning to society. In order for prisoners to fully appreciate this, we will be amending the information booklet given to all prisoners to explain, in non-technical language, the way that the Scheme will operate and what prisoners should expect from it. It is important that prisoners appreciate that we have introduced this Scheme for their benefit, and we shall make every effort to help them to understand this.

Until now, Correctional Services Officers have been forbidden by law to associate with most prisoners after release. Thus, over the years, much of the rehabilitative support given to prisoners and, particularly, ex-prisoners has been provided by voluntary agencies. These agencies have established themselves as an important part of the rehabilitative process. Indeed, some of them command a high level of trust from prisoners themselves. We have acknowledged this in our discussions with the Bills Committee. Although it would not be appropriate to make specific mention in the Bill of the involvement of these agencies, it is our intention that they will continue to be closely involved in the rehabilitation process.

This Scheme should be viewed not as an end in itself, but as the first step in an ongoing process. The application of the Scheme will be relatively limited at its inception, expanding to include more prisoners as it becomes established. The Scheme itself will apply to prisoners with determinate sentences, that is, those who have been sentenced to fixed periods of imprisonment. We will, as a next stage, be drawing up detailed proposals for prisoners serving indeterminate sentences. Further on, we will explore other ways and means of improving the rehabilitative aspects of our correctional services system. This step by step approach should enable us to develop from a solid and tested base.

I believe that this Scheme will work, that it will become accepted by prisoners and by the community at large, and that prisoners and ex-prisoners will appreciate the benefits that it will bring. We will now be able to offer continuing, immediate and personal support and guidance to ex-prisoners in a clearly-structured Scheme. This can only work to the benefit of the ex-prisoners themselves and to the community as a whole.

Mr President, with these words I recommend the Post-Release Supervision of Prisoners Bill to this Council.

*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).*

**MARINE PARKS BILL****Resumption of debate on Second Reading which was moved on 23 November 1994**

*Question on Second Reading proposed.*

DR LAM KUI-CHUN: Mr President, the Marine Parks Bill seeks to provide for the designation, control and management of marine parks and marine reserves, and for the purposes connected therewith. Its objective is to protect valuable sea areas identified as ecologically important by designating them as marine parks or marine reserves. Members of this Council have set up a Bills Committee to scrutinize the Bill.

In studying this Bill, the Bills Committee has received representation from fishermen who object to the proposed designation of Cape D'Aguilar as a marine reserve. Members of the Committee note their concern that since fishing activities would no longer be allowed in the marine reserves, the fishermen's livelihood might be jeopardized. In reply, the Administration has explained that the proposed reserve at Cape D'Aguilar comprises a small area of only about 20 hectares, in which fishing effort will be limited. The impact on fishermen is expected to be small. Under the prevailing policy, *ex gratia* allowance would be granted to the fishermen affected. After a site visit to Cape D'Aguilar, we have accepted the Administration's explanation, and support the Cape be designated a marine reserve.

Regarding the specific provisions of the Bill, the Bills Committee has expressed a number of concerns. I shall highlight the major ones.

Under the Bill, no new development shall be carried out within the proposed marine park or marine reserve without the prior approval of the Authority. The Bills Committee is concerned about the definition of "new development", which does not include developments that have been approved prior to the publication of the draft maps showing the proposed marine parks or reserves, and any repair or renewal works to existing structure or facility. In the absence of objective criteria to determine the potential damage caused by the proposed works to the marine environment, the purpose of conservation could be defeated. The Committee therefore considers it necessary to tighten the meaning of "new development".

The Administration has pointed out that clause 22 of the Bill requires the approval from the Authority in carrying out repair or renewal works. The Authority could, where necessary, impose stringent conditions on granting such approval. The Administration gives the assurance that it will, in consultation with the Country and Marine Parks Board, devise guidelines for processing applications for repair and renewal works. If the proposed works are assessed to have potential impact on the marine environment, the Authority will consult

the Board before making the decision. The Administration has further explained that existing works which have already been approved prior to gazettal of a proposed marine park or reserve will not be required to reapply for permission to continue the works because of the need to honour such approval. In the light of Members' concern, the Administration agrees to delete renewal works from the scope of exemption under the definition of new development and move relevant amendments to the Bill.

On the proposed designation of the Director of Agriculture and Fisheries as the Authority to both control and manage these parks and reserves, the Committee is concerned that for the Director to assume the dual role of conservation of marine environment and development of fisheries industry, conflict of interest may arise.

The Administration does not envisage there would be any conflict of interest. In fact, both the Country Parks Board and its Working Group had discussed the issue and they had recommended the Director as the Authority handling both conservation and development.

The Bills Committee feels that it may not be practicable to have a new department to assume the role of the Authority without delaying the passage of the Bill, and therefore accepts the Director of Agriculture and Fisheries as the Authority.

Another area of concern, Mr President, is on the scope of persons eligible to lodge an appeal against the approval by the Authority on new developments. Members are particularly concerned that persons other than the appellant, for example, green groups or persons affected, should be provided with a channel of appeal. We therefore suggest that clause 11(1) be amended to allow persons who feel aggrieved by a decision of the Authority in respect of new developments in the marine park or marine reserve to appeal to the Administrative Appeals Board.

The Administration has pointed out that it will be inconsistent with the policy intent of allowing an applicant a channel of appeal if the scope of aggrieved persons is widened to include any person. Persons other than the applicant have already had opportunities to voice their views on any new development. An amendment to clause 10 to require the Authority to seek the advice of the Country and Marine Parks Board before deciding on an application is one of the channels. Section 6 of the Foreshore and Sea-bed (Reclamations) Ordinance provides any person who considers he has an interest, right or easement in or over the foreshore or sea-bed could lodge an objection in respect of any reclamation works. Persons such as the green groups could make use of this channel to raise objections.

Given that a Bill is best self-contained and the nature of this Bill differs from that of the Foreshore and Sea-bed (Reclamations) Ordinance, some Members feel that the Bill should clearly set out the scope of permissible

appellants as well as the mechanism for appeals and objections. Other Members, however, have reservation on consolidating into one Bill all relevant provisions of the appeal mechanism. The key to the concern would be whether there are adequate avenues for members of the public to gain access to the necessary information to enable them to lodge valid appeal or objection.

In the light of the concerns expressed, the Administration agrees to add provisions under clause 8 of the Bill, for the purpose of providing for public access to necessary information. The amendments proposed are finally accepted by the Committee. The Administration has also undertaken to introduce measures to increase the transparency of the Country and Marine Parks Board, for example, by widening the representation on the Board and conducting meetings in public.

On the question of Crown immunity, the Bills Committee welcomes the Committee stage amendment which is intended to bind the Government to the Bill.

Members of the Bills Committee generally accept that the Bill represents a step forward in protecting our marine environment, although it may not be considered to have gone sufficiently far by some. After the Bill's passage, the first phase of the programme will begin with the designation of two marine parks at Hoi Ha Wan and Yan Chau Tong, and a marine reserve at Cape D'Aguiar. We would like to emphasize on the importance of adequate resources available for the programme and the Authority's commitment in conservation.

The Committee is glad to note that the Administration is planning to embark on a five-year ECOFISH project — a project to restore the already damaged marine resources and to improve fish stock. For the project to be a success, adequate funding must be provided. We believe it is important that the Administration will accord priority to the ECOFISH project in its resource allocation.

With these remarks, Mr President, and subject to the Committee stage amendments to be moved by the Administration, the Bills Committee recommends to this Council that the Bill be supported.

MR PETER WONG: Mr President, up till recently, we all thought of the seas as an infinite resource — hence the seemingly callous proposal of dumping our sewage into the deep blue sea. We did not realize that man with his technology is close to beating nature at its own game. There is just too much pressure on nature, particularly near the heavily populated areas, and nature needs time and help to heal and regenerate itself.

I make no bones that I exerted pressure on the Government to bring this Bill to this Council, albeit with the absolute minimum of resources. I would

respectfully draw the Financial Secretary's attention that the funds for setting up and running the Authority and the actual parks and reserve can be almost dismissed as derisory. But they are better than nothing, and I mean nothing.

I was pleased that the Government announced that the artificial reef projects will be included in the Resource Allocation Exercise for installation in the parks. I would put in a strong plea for a fair share of the pie.

This piece of legislation marks new ground in green laws. The Administration has finally recognized that such legislation must bind the Crown because infrastructure and utility works even for the benefit of the people have the potential to be the greatest polluter — you only have to look at the dumping of toxic mud. Civil servants will now have to be much more careful in what they do — they will have to communicate more with the public who will be represented by increasingly vocal and better informed green lobbyists. In order to enable them to do this without fear, amendments are being brought in to protect them when acting in good faith.

I have had long arguments about the merits of extending the class of people who can appeal a decision of the Authority to those who have no direct involvement in the project. I strongly feel that urban dwellers may have an interest to appeal, for instance, a decision under this Marine Park legislation to put a new electric cable through a marine park, even though it was pointed out that it should be possible to bring an action under the Foreshore and Sea-bed (Reclamations) Ordinance to stay new developments.

Mr President, I am mindful that half a cake is better than none at all. I apologize to fellow environmentalists if they felt that I have betrayed our cause by not pushing for this fundamental right — but I can see us arguing until the Administration withdraw the Bill at the Third Reading after my amendments have been passed by a large majority. I have settled for an interim resolution by accepting an undertaking that the Administration will be much more open in the way information is made available to the public, so that they have the necessary information to consider what is being done is in everybody's best interest and have practical avenues of redress if they think otherwise. This undertaking to be open about the business of the Board and Authority has been vital in our backing for this Bill.

There are still many battles that have to be fought and they will wait for another day. I will only mention just one, and that is the conflicting roles of the Secretary, being in charge of both the promotion of fisheries and conservation.

Mr President, this Bill has seen breakthroughs that are very welcomed. The Governor and the Administration have promised a comprehensive review of the Country Parks Ordinance and I hope that the lessons and new principles gleaned from this Bill be applied, and soon, in that review.

It is my sincere wish that with the passing of this Bill, the Authority and the Board can be set up quickly with adequate resources. In a few years, I hope that our fishermen, both commercial and recreational, will see the wisdom of these parks and reserves and as a sanctuary for fish stocks to be replenished and in time to supplement their catch in a meaningful way. In North America, Japan and Thailand, where these sanctuaries have been established, we find that the commercial fishermen are their most zealous guardians because they appreciate that sensible conservation is the only way to sustain their livelihood or sport.

Mr President, I support the resumption of the Second Reading of the Marine Parks Bill.

REV FUNG CHI-WOOD (in Cantonese): Mr President, on behalf of the Democratic Party, I welcome this Bill as well as the proposed designation of marine parks and marine reserves by the Government.

Instead of restricting to certain areas only, this marine conservation measures should be extended to cover the entire territorial waters of Hong Kong. The Government has to take some measures to protect certain areas from further pollution because marine pollution in Hong Kong is extremely serious. At present, activities like dredging of marine mud, reclamations and dumping of sludge into the sea have resulted in serious marine pollution, not to mention the effect of industrial and domestic sewage discharges into our harbour. The designation of marine parks and marine reserves would be unnecessary at all should our harbour not be so seriously polluted. I earnestly hope that the Government will take more positive measures to protect the sea. For instance, dredging of marine mud for reclamation purpose should be avoided as far as practicable. But unfortunately, due to urgency of our airport project, a large amount of marine mud has been dredged for reclamation purpose in order to save time. I hope that other reclamation projects will not be undertaken with this method. Besides, the designation of marine parks and marine reserves by the Government should never be interpreted as an indication that other areas can be polluted at will.

Mr President, the Government is now going to designate a special area as a reserve for the Chinese white dolphins, which is a special and scarce species of wild animals. But some environmentalists opined that the 1000 hectares of area initially proposed by the Government is not enough. I am also doubtful as to the effectiveness of this reserve. In fact, the Government is responsible for the protection of the marine ecology, yet the Government itself is the greatest spoiler. We must now start to rescue our sea because the destruction to the marine ecology is so serious that it has reached catastrophic proportion. Our fishermen's complaint that their catch has dropped dramatically is the most obvious evidence.

The designation of marine parks and marine reserves is an important first forward in our effort to protect the marine ecology. I hope that the Government will continue with its effort with sincerity in protecting our sea in the future.

Mr President, the Democratic Party supports this Bill.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I am grateful to Dr the Honourable LAM Kui-chun, Chairman of the Bills Committee on the Marine Parks Bill, and to Members of the Bills Committee for their careful consideration of the Bill and the many constructive comments they made.

The Administration discussed with the Bills Committee a number of issues and concerns raised by Members and other interested parties. By and large, they relate to the definition of "new development" and the extent of development control inside marine parks and marine reserves; the issue of who is eligible to appeal against a decision of the Authority; public access to information; the implementation programme and the role of the Agriculture and Fisheries Department. The Administration has taken on board the views of the Bills Committee and I shall be moving a number of amendments to the Bill at the Committee stage. I would like to take this opportunity to respond to the points raised by Members.

*Definition of "new development"*

First, the definition of "new development". In determining what kind of development should be considered as "new development" to be controlled under the Bill, we have decided not to include projects already approved, that is, projects which have already obtained the necessary approvals and permissions from the relevant authorities before a draft map of the proposed marine park or marine reserve is gazetted will not be required to seek approval from the Marine Parks Authority. Under the designation procedure stipulated in the Bill, members of the public can comment on or raise objections to any proposed marine park or marine reserve. There is always a chance, therefore, that the proposed designation is cancelled or changed because of objections by members of the public. We do not think it appropriate to suspend existing works when the designation process is still ongoing and yet to be approved.

The Administration agrees, however, to tighten the definition of "new development" by deleting renewal works from the list of exceptions to the definition. Works carried out for the purpose of renewing any utility or other apparatus will thus be considered as "new development". I shall move an amendment to this effect at the Committee stage.



*Development control inside proposed and designated marine parks/reserves and the Board's involvement*

With regard to development control inside proposed and designated marine parks and marine reserves and the Board's involvement, no new development can be carried out in designated marine parks and marine reserves without the Authority's approval under the current proposal. The same will apply to areas gazetted as proposed marine parks or marine reserves. It is our intention, if an application for approval is received, to consult the Country and Marine Parks Board before making a decision. We shall also consult the Board on applications to carry out prohibited activities inside marine parks and marine reserves. We are glad, therefore, to accept Members' suggestion to amend clauses 10 and 23(1) to make this a statutory requirement. If the Board's advice is not taken, the Authority will explain his decision to the Board.

As for repair works, the Authority's approval is also required before they can be carried out in designated marine parks and marine reserves. The Authority shall also consult the Board on any proposed repair works which may have a detrimental environmental impact. Guidelines for processing applications for repair works will be established in consultation with the Board.

The Administration is drafting subsidiary legislation to set out further details of the controls in marine parks and marine reserves. We shall soon be able to consult the Board and the relevant panels of this Council.

*Appeals*

On the issue of appeals in respect of new development in marine parks or marine reserves, the Bills Committee proposed that the scope of permissible appellants should be expanded to include any person who feels aggrieved by the Authority's decision. Some Members were also concerned that interested parties, such as environmental groups, should be given an opportunity to give their views on such development proposals.

As the Administration explained to the Bills Committee, the views of interested parties on new development applications will be heard and considered before a decision is made by the Authority. As Dr the Honourable LAM Kui-chun has pointed out, persons other than the applicant will in fact have at least two channels to air their views. The first is the Country and Marine Parks Board. Under clause 10, which as I mentioned earlier will be amended at the Committee stage, the Authority will be required to seek the advice of the Country and Marine Parks Board before deciding on an application. Interested parties are welcome to put their views to the Board for consideration.

The second channel is through the statutory procedures under the Foreshore and Seabed (Reclamations) Ordinance. Under that Ordinance, any proposal to carry out works over and upon any seabed is required to be gazetted; and, under section 6, any person who considers that he has an interest,

right or easement in or over the foreshore and sea-bed in question may raise objections to the proposal. The objections will be dealt with under well-established statutory procedures.

#### *Access to information*

As regards public access to information, the Bills Committee believes that it will be significantly enhanced by widening the representation on the Board and by making its operation more transparent. Members have suggested, for example, that the Board should open its meetings to the public and make available unclassified papers upon request. The Administration will look at how the representation on the Board can be widened. We shall also pass on Members' suggestions on improving the transparency of its operation to the Board.

The Administration further agrees with Members that as much information as possible should be given to the public. Clause 8 will be amended to require the Authority to make available additional information upon request, unless there is reasonable ground not to do so.

#### *Implementation*

Mr President, we shall begin the implementation of the marine parks programme with the designation of Hoi Ha Wan and Yan Chau Tong in northeast New Territories as marine parks and Cape D'Aguilar as a marine reserve. They have been identified by the Marine Parks and Reserves Working Group as ecologically important marine areas and should be protected as soon as possible. In particular, I would like to thank the Bills Committee for supporting the proposal to designate Cape D'Aguilar as a marine reserve.

The designation of these areas will benefit fishermen in the long run, although there are concerns on how this might affect their livelihood in the short term. While fishing will be prohibited in marine reserves, sustainable fishing will be allowed with permits inside marine parks. For those fishermen affected by the fishing ban inside marine reserves, they will be given an ex gratia allowance. Moreover, consideration is being given to installing artificial reefs in these areas. This will not only increase the diversity of marine life but also generate surplus stock which will move out from the conservation areas into other areas, thus contributing to the long-term interests of the fishing industry.

#### *Role of the Agriculture and Fisheries Department*

Reservations have also been raised about the dual roles of the Agriculture and Fisheries Department to take charge of conservation on one hand and to oversee the development of the fishing industry on the other. We understand Members' concern, but the issue has been considered carefully by both the Country Parks Board and the Marine Parks and Reserves Working Group, and

we have no disagreement with their recommendation that the Director of Agriculture and Fisheries should be the Authority under the Bill.

Mr President, conservation is a subject of growing concern in our community and rightly so. The proposed legislation, which aims to establish marine parks and marine reserves, is an important move towards greater protection of our marine environment. The present proposal has taken into account valuable suggestions by the Country Parks Board, the Bills Committee and interested parties. The designation of the first marine parks and the first marine reserve will begin upon enactment of the Bill.

Thank you, Mr President.

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

Bill read the Second time.

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

### **Committee Stage of Bills**

Council went into Committee.

### **CREDIT UNIONS (AMENDMENT) BILL 1995**

Clauses 1 to 12 and 14 were agreed to.

Clause 13

SECRETARY FOR ECONOMIC SERVICES: Mr Chairman, I move that clause 13 be amended as set out in the paper circulated to Members.

*Proposed amendment*

Clause 13

That clause 13 be amended, by deleting the clause and substituting —

#### **"13. Appeal against action of Registrar**

Section 62 is amended -

(a) in subsection (1) by adding -

- (e) under section 57(3) or 58(3), orders the cancellation of the registration of a credit union; or
  - (f) makes an order under section 61D, "
- (b) in subsection (2)(a) -
- (i) by repealing "suspension order" and substituting "order under subsection (1)";
  - (ii) by repealing "or (d)" and substituting ", (d), (e) or (f)".

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

*Question on clause 13, as amended, proposed, put and agreed to.*

New clause 13A      Section added

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

SECRETARY FOR ECONOMIC SERVICES: Mr Chairman, I move that new clause 13A as set out in the paper circulated to Members be read the Second time.

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

*Clause read the Second time.*

SECRETARY FOR ECONOMIC SERVICES: Mr Chairman, I move that new clause 13A be added to the Bill.

*Proposed addition*

**New clause 13A**

That the Bill be amended, by adding —

**"13A. Section added**

The following is added -

**"79A. Failure to comply with Registrar's order**

Any person who wilfully or without any reasonable excuse fails to comply with an order made under section 60 or 61D shall be guilty of an offence. ". "

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

**POST-RELEASE SUPERVISION OF PRISONERS BILL**

Clauses 1, 4, 9, 10 and 14 to 18 were agreed to.

Clauses 2, 3, 5 to 8, 11, 12, 13 and 19 to 22

SECRETARY FOR SECURITY: Mr Chairman, I move that the clauses specified be amended as set out in the paper circulated to Members.

These and subsequent amendments contain the principal improvements to the Post-Release Supervision Scheme which I have already referred to in the Second Reading debate, and also some technical and clarificatory amendments. They have been discussed in detail by the Bills Committee and have received the Committee's endorsement.

Mr Chairman, I beg to move.

*Proposed amendments***Clause 2**

That clause 2 be amended, by adding —

""detention facility" (拘留地方) means -

- (a) any prison;
  - (b) any place or building appointed to be a detention centre under section 3 of the Detention Centres Ordinance (Cap. 239);
  - (c) any place or building appointed to be an addiction treatment centre under section 3 of the Drug Addiction Treatment Centres Ordinance (Cap. 244); or
  - (d) any place or building declared for use for the purposes of a training centre under section 3(2) of the Training Centres Ordinance (Cap. 280);
- ".

**Clause 3**

That clause 3(e) be amended, by deleting "section 5A(2)" and substituting "section 5A".

**Clause 5**

That clause 5(2)(a) be amended, by deleting "重要" and substituting "適宜".

**Clause 6**

That clause 6 be amended, by deleting subclause (1) and substituting -

"(1) Where it appears to the Board that a prisoner to whom this Ordinance applies should be granted early release on the ground of his industry and good conduct, the Board may, if it considers that the prisoner should be subject to a period of supervision following such release, order the prisoner's early release subject to supervision under this Ordinance. "

**Clause 7**

That clause 7(1)(b) be amended, by deleting "的因素後，認為有需要的或宜應" and substituting "指明的因素後，認為有需要就或適宜".

**Clause 8**

That clause 8(1)(a)(ii) be amended, by deleting ", in consultation with the Commissioner of Police, ",

That clause 8(2) be amended, by deleting "喪失任何減刑期" and substituting "被取消任何期間的減刑".

**Clause 11**

That clause 11 be amended —

- (a) in the heading, by deleting "**Prisoner's right**" and substituting "**Right**".
- (b) by deleting subclause (1) and substituting -

"(1) Subject to subsection (2), any person who is subject to a supervision order may, upon the making of the order or at any time after the making of the order, request the Board to vary or discharge the order. "

- (c) in subclause (2), by deleting "prisoner" and substituting "person".

### **Clause 12**

That clause 12 be amended, by deleting "prisoner" wherever it appears and substituting "person".

### **Clause 13**

That clause 13 be amended, by deleting subclause (1) and substituting -

"(1) Where the Board is satisfied as regards a person who is subject to a supervision order that -

- (a) the person has without lawful authority or reasonable excuse failed to comply with any term or condition of the order; or
- (b) because of his conduct or a change in his circumstances since his release -
  - (i) the person is likely to commit an arrestable offence; or
  - (ii) in the case of a person who has been recalled to prison under section 14 or 15, the person was at the time of his recall a person likely to commit an arrestable offence,

it may order that the supervision order be suspended for a specified period not exceeding the unexpired term of the order. "

### **Clause 19**

That clause 19 be amended, by deleting the clause and substituting —

**"19. Provisions relating to proceedings  
under sections 6 and 12**

- (1) An order shall not be made by the Board under section 6 or 12 unless -
  - (a) not less than 14 days before the Board's consideration of the making of the order the prisoner has been provided with a copy of all relevant material to be considered by the Board in connection with the possible making of the order; and
  - (b) the prisoner has been allowed an opportunity to make written representations to the Board.

(2) Notwithstanding subsection (1)(a), where the Board reasonably considers that the disclosure of any part of the material referred to in that paragraph would be likely -

- (a) to jeopardize the health or safety of any person;
- (b) to jeopardize the security of any detention facility;
- (c) to prejudice the conduct of any lawful investigation into an offence,

the Board shall not be required to provide the prisoner with a copy of that part of the material but shall, if it elects not to provide a copy of any part of the material in accordance with this subsection, provide such information concerning that material as may reasonably be disclosed to the prisoner having regard to the matters mentioned in paragraphs (a) to (c); and subsection (1)(a) shall apply to the provision of such information as it applies to the provision of a copy of the relevant material to be considered by the Board.

(3) Nothing in subsection (2) shall be construed as authorizing the Board not to provide the prisoner with sufficient material, or sufficient information concerning the material, as will enable him to appreciate the general nature of the case against him.

(4) Any material required to be provided to a prisoner under subsection (1)(a) shall be provided to him in such of the official languages as he may, upon being invited so to do, indicate to be his preferred language for those purposes. "



**Clause 20**

That clause 20 be amended —

- (a) by renumbering it as clause 20(1).
- (b) by adding -

"(2) In giving any direction to the Board under subsection (1)(b), the Governor may make recommendations as to -

- (a) the conditions as to supervision; and
- (b) the period for which the order shall remain in force,

to be specified in the order, and if the order subsequently made by the Board does not specify such conditions or period the Board shall submit a report to the Governor setting out the reasons for the conditions and period specified in its order. "

**Clause 21**

That clause 21(2)(j) be amended, by deleting "19(b)" and substituting "19(1)(b)".

**Clause 22**

That clause 22 be amended, by deleting the clause and substituting -

**"22. Transitional**

(1) Subject to subsection (2), this Ordinance applies to persons sentenced before the date on which it comes into operation ("the commencement date") as it applies to persons sentenced on or after that date.

(2) For the purposes of section 7(1)(c), and subject to that provision, the period to be specified in a supervision order in the case of a person sentenced before the commencement date shall not exceed whichever of the following is the greater, that is to say -

- (a) a period equal to half the period beginning with the commencement date and ending with the date of the person's release as calculated in accordance with section 6(2) and taking into

account the portion of the total period referred to in that subsection that the Board proposes to specify in the case of the person; or

(b) 6 months. "

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

*Question on clauses 2, 3, 5 to 8, 11, 12, 13 and 19 to 22, as amended, proposed, put and agreed to.*

New clause 13A      Provision of materials in proceedings under section 13

New clause 13B      Assistance at hearings under section 13

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

SECRETARY FOR SECURITY: Mr Chairman, I move that new clauses 13A and 13B as set out in the paper circulated to Members be read the Second time.

Again these clauses reflect some of the improvements to the Scheme which I have explained earlier in my speech at the Second Reading debate.

Mr Chairman, I beg to move.

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

*Clauses read the Second time.*

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

*Proposed additions*

### **New clauses 13A and 13B**

That the Bill be amended, by adding —

**"13A.            Provision of materials in proceedings under section 13**

(1) An order shall not be made by the Board under section 13 unless -

- (a) not less than 7 days before the day appointed for the purposes of paragraph (b) the person under supervision has been provided with a copy of all relevant material to be considered by the Board in connection with the possible making of the order; and
- (b) the person under supervision has been allowed an opportunity, on a day appointed for the purpose, to appear before the Board and be heard or to make representations to the Board.

(2) Notwithstanding subsection (1)(a), where the Board reasonably considers that the disclosure of any part of the material referred to in that paragraph would be likely -

- (a) to jeopardize the health or safety of any person;
- (b) to jeopardize the security of any detention facility;
- (c) to prejudice the conduct of any lawful investigation into an offence,

the Board shall not be required to provide the person under supervision with a copy of that part of the material but shall, if it elects not to provide a copy of any part of the material in accordance with this subsection, provide such information concerning that material as may reasonably be disclosed to the person having regard to the matters mentioned in paragraphs (a) to (c); such information as it applies to the provision of a copy of the relevant material to be considered by the Board.

(3) Nothing in subsection (2) shall be construed as authorizing the Board not to provide the person under supervision with sufficient material, or sufficient information concerning the material, as will enable him to appreciate the general nature of the case against him.

(4) Any material required to be provided to a person under subsection (1)(a) shall be provided to him in such of the official languages as he may, upon being invited so to do, indicate to be his preferred language for those purposes.

(5) The Board may, where good cause is shown as to why any part of the material to which subsection (1)(a) applies could not have been provided earlier, make an order under section 13 notwithstanding

that such part of the material was provided to the person less than 7 days before the day appointed for the purposes of subsection (1)(b).

**13B. Assistance at hearings  
under section 13**

(1) At any hearing under section 13 at which the person under supervision is present the Board shall, subject to subsection (2), permit him to be assisted by a person of his choice, and a person so chosen is entitled -

- (a) to be present at the hearing at all times when the person under supervision is present;
- (b) to advise the person under supervision throughout the hearing; and
- (c) to address the Board on behalf of the person under supervision.

(2) The following persons are not eligible to assist a person under supervision for the purposes of subsection (1) -

- (a) any person who is or has at any time been subject to an order for detention under the Mental Health Ordinance (Cap. 136);
- (b) any person who is serving a sentence of imprisonment;
- (c) any person who has served a sentence of imprisonment in Hong Kong. "

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

**MARINE PARKS BILL**

Clauses 1, 3, 5, 6, 7, 15, 16, 18, 19, 20 and 24 to 34 were agreed to.

Clauses 2, 4, 8 to 14, 17, 21, 22 and 23

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

The major amendments are that:

- (a) clauses 2 and 22(1) are amended to exclude renewal works from the exception in the definition of new development;
- (b) clauses 8(1)(b) and 8(3) are amended to require the Authority to make available for public inspection, in addition to a draft map, other information relating to a proposed marine park or proposed marine reserve and to give notice to this effect in the Gazette; new clauses 8(5) and 8(6) are added to require the Authority to furnish additional information on the proposed marine park or marine reserve upon request and the Authority may refuse the request only on reasonable ground.
- (c) clauses 9(3) and 22(3) are amended to make provision for the Authority to order in writing any person who carries out new development within any proposed or designated marine park or marine reserve without prior approval of the Authority or without compliance with any condition of approval to stop work or to carry out restoration work.
- (d) new clauses 9(4), 9(5), 22(4) and 22(5) are added to enable the Government to carry out and recover the cost of any remedial work required;
- (e) new clauses 9(6) and 22(6) are added and clause 21(2) is amended to specify a daily fine for each day an offence is proved to have continued;
- (f) clause 10(3) is amended to require the Authority to seek the advice of the Board on any application for approval to carry out new development;
- (g) clause 11(1) is amended to allow appeal on any conditions of approval for new development;
- (h) clause 23(1) is amended to require the Authority to seek the advice of the Board before granting a licence or permit for prohibited activities; and
- (i) new clauses 11(3) and 23(3) are added to suspend the decision of the Authority against which an appeal is brought.

Mr Chairman, I beg to move.

*Proposed amendments***Clause 2**

That clause 2 be amended, in the definition of "new development", by deleting ", repairing or renewing" and substituting "or repairing".

**Clause 4**

That clause 4(b)(ii) be amended, by deleting "promoting" and substituting "managing the".

**Clause 8**

That clause 8 be amended —

(a) in subclause (1)(b), by adding ", and other information (if any) relating to the proposed marine park or proposed marine reserve, as the case may be, " after "draft map".

(b) in subclause (3), by adding after "draft map" -

", together with other information relating to the proposed marine park or proposed marine reserve, as the case may be, as the Authority considers appropriate, ".

(c) by adding -

"(5) Any person may in writing request the Authority to provide him with further information relating to the proposed marine park or proposed marine reserve, as the case may be, which has not already been made available for inspection under subsection (3).

(6) Upon receipt of a request under subsection (5), the Authority may -

(a) provide the required information to the person making the request; or

(b) on any reasonable ground, refuse to provide such information. ".

**Clause 9**

That clause 9 be amended, by deleting subclause (3) and substituting —

"(3) Where any new development has been carried out or is being carried out within any proposed marine park or proposed marine reserve without the prior approval of the Authority or in breach of or without compliance with any condition imposed on the granting of approval by the Authority under section 10(3)(b), the Authority may by order in writing served on -

- (a) the person carrying out such new development; or
- (b) the person for whom such new development has been or is being carried out or his agent,

require -

- (i) the carrying out of such new development to cease forthwith; and
- (ii) where appropriate, remedial and restoration work to be carried out at that person's expense within such time as may be specified in the order.

(4) If a person fails to comply with any requirement under subsection (3)(i) or (ii), the Authority may, without further notice, carry out, or cause to be carried out, such work as may be necessary to ensure that the requirement is complied with.

(5) The cost of any work carried out, or caused to be carried out, by the Authority under subsection (4) shall be recoverable, as a civil debt due to the Government, from the person or persons referred to in subsection (3)(a) or (b) or both irrespective of on whom the order under subsection (3) has been served.

- (6) Any person who -
  - (a) carries out any new development within any proposed marine park or proposed marine reserve without the prior approval of the Authority; or
  - (b) fails to comply with an order served on him under subsection (3),

commits an offence and is liable on conviction -

- (i) to a fine at level 5 and to imprisonment for 1 year; and
- (ii) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. "

### **Clause 10**

That clause 10(3) be amended, by adding ", after seeking the advice of the Board" after ", the Authority may".

### **Clause 11**

That clause 11 be amended —

- (a) in subclause (1), by deleting "section 10(3)(a)" and substituting "section 10(3)".
- (b) by adding -

"(3) A decision of the Authority under section 10(3)(b) against which an appeal is brought under subsection (1) shall be suspended in its operation as from the day on which the appeal is made until such appeal is disposed of, withdrawn or abandoned unless such suspension would, in the opinion of the Authority, be contrary to the public interest and the notice of the decision contains a statement to that effect."

### **Clause 12**

That clause 12 be amended, by deleting the clause.

### **Clause 13**

That clause 13(6) be amended, in the Chinese text, by deleting paragraph (b) and substituting —

- "(b) 指示總監因應該項反對的全部或部分而修訂有關的未定案地圖。"

### **Clause 14**

That clause 14(b) be amended, by deleting "順應" and substituting "因應".



**Clause 17**

That clause 17 be amended —

- (a) in subclause (5)(b)
  - (i) in subparagraph (i) -
    - (A) by deleting ", 10 and 12" and substituting "and 10 and subsection (5A)";
    - (B) by deleting "under this subsection" and substituting "pursuant to this subsection";
  - (ii) in subparagraph (ii), by deleting "under this subsection" and substituting "pursuant to this subsection".
- (b) by adding -
  - "(5A) Any person who -
    - (a) carries out any new development within any proposed area of extension of any marine park or marine reserve without the prior approval of the Authority; or
    - (b) fails to comply with an order served on him pursuant to subsection (5) in the manner described in section 9(3),

commits an offence and is liable on conviction -

  - (i) to a fine at level 5 and to imprisonment for 1 year; and
  - (ii) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. "

**Clause 21**

That clause 21(2) be amended, by deleting "the offence has continued after the conviction" and substituting "it is proved to the satisfaction of the court that the offence has continued".

**Clause 22**

That clause 22 be amended —

- (a) in the heading, by deleting "**repair, renewal**" and substituting "**inspection, repair**".
- (b) in subclause (1), by deleting "modifying, repairing or renewing any existing structure or facility within any marine park or marine reserve and may, upon" and substituting "inspecting or repairing any existing structure or facility within any marine park or marine reserve and may, after seeking".
- (c) in subclause (2), by deleting "to 12" and substituting "and 11".
- (d) by deleting subclause (3) and substituting -

"(3) Where any work referred to in subsection (1) or any new development has been carried out or is being carried out within any marine park or marine reserve without the prior approval of the Authority or in breach of or without compliance with any condition imposed on the granting of approval by the Authority under that subsection, the Authority may by order in writing served on -

- (a) the person carrying out such work or new development; or
- (b) the person for whom such work or new development has been or is being carried out or his agent,

require -

- (i) the carrying out of such work or new development to cease forthwith; and
- (ii) where appropriate, remedial and restoration work to be carried out at that person's expense within such time as may be specified in the order.

(4) If a person fails to comply with any requirement under subsection (3)(i) or (ii), the Authority may, without any further notice, carry out, or cause to be carried out, such work as may be necessary to ensure that the requirement is complied with.

(5) The cost of any work carried out, or caused to be carried out, by the Authority under subsection (4) shall be recoverable, as a civil debt due to the Government, from the person or persons referred to in subsection (3)(a) or (b) or both irrespective of on whom the order under subsection (3) has been served.

(6) Any person who -

- (a) carries out any work referred to in subsection (1) or any new development within any marine park or marine reserve without the prior approval of the Authority; or
- (b) fails to comply with an order served on him under subsection (3),

commits an offence and is liable on conviction -

- (i) to a fine at level 5 and to imprisonment for 1 year; and
- (ii) to a fine of \$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued. "

### Clause 23

That clause 23 be amended —

- (a) in subclause (1), by deleting "prohibited or controlled under this Ordinance" and substituting -

"controlled under this Ordinance and may, after seeking the advice of the Board, grant to any person a licence or permit in writing upon such terms and conditions as he thinks fit to do anything which is otherwise prohibited under this Ordinance".

- (b) by adding -

"(3) A decision of the Authority against which an appeal is brought under subsection (2) shall be suspended in its operation as from the day on which the appeal is made until such appeal is disposed of, withdrawn or abandoned unless such suspension would, in the opinion of the

Authority, be contrary to the public interest and the notice of the decision contains a statement to that effect. ".

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

*Question on clauses 2, 4, 8 to 14, 17, 21, 22 and 23, as amended, proposed, put and agreed to.*

New clause 23A	Protection of the Government and public officers
New clause 27A	Application of Ordinance to the Government
Heading before New clause 35	Administrative Appeals Board Ordinance
New clause 35	Schedule amended

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

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, I move that new clauses 23A and 27A, Heading before new clause 35 and new clause 35 as set out in the paper circulated to Members be read the Second time.

New clause 23A is added to confer protection upon the Government and public officers in the exercise of any function, duty or power under the Ordinance. New clause 27A is added to apply the Ordinance to the Government.

Mr Chairman, I beg to move.

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

*Clauses read the Second time.*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr Chairman, I move that new clauses 23A and 27A, Heading before new clause 35 and new clause 35 be added to the Bill.

*Proposed additions***New clause 23A**

That the Bill be amended, by adding —

**"23A.           Protection of the Government  
                  and public officers**

(1) No liability shall rest on the Government or upon any public officer by reason of the fact that any licence or permit is granted under this Ordinance.

(2) A public officer shall not be personally liable in respect of any act or omission of his if it was done or made by him in the honest belief that it was required or authorized in the exercise of any function, duty or power of his under this Ordinance.

(3) The protection conferred on public officers by subsection (2) in respect of any act or omission shall not in any way affect any liability of the Government in tort for that act or omission. "

**New clause 27A**

That the Bill be amended, by adding —

**"27A.           Application of Ordinance  
                  to the Government**

(1) Subject to this section, this Ordinance shall bind the Government.

(2) Sections 9, 17, 21 and 22 shall not have effect to permit proceedings to be taken against, or to impose any criminal liability on, the Government or any person who does any act which he is required to do in the course of carrying out his duties in the service of the Government.

(3) If it appears to the Authority that there has been a contravention of section 9, 17 or 22 or any regulation made under section 21 by any person in the course of carrying out his duties in the service of the Government, the Authority shall, if the contravention is not forthwith terminated to his satisfaction, report the matter to the Chief Secretary.

(4) On receipt of a report under subsection (3) the Chief Secretary shall inquire into the circumstances and, if his inquiry shows that a contravention of section 9, 17 or 22 or any regulation made under section 21 is continuing or likely to recur, he shall ensure that the best practicable steps are taken to terminate the contravention or avoid the recurrence.

(5) Any application under this Ordinance for approval for the carrying out of any work or new development or for any licence or permit which is to be, or may be, made by or on behalf of the Government may be made by any public officer on behalf of the Government.

(6) Any order under this Ordinance concerning the cessation of any work or new development and the carrying out of remedial and restoration work which is to be, or may be, served by the Authority on the Government shall be served on the head of the Government department which appears to the Authority to be responsible for the work or new development; and, in the event of any question arising as to which department is responsible, the question shall be determined by the Chief Secretary.

(7) No fee or charge prescribed for the purposes of this Ordinance shall be payable by the Government. "

### **Heading before new clause 35 and new clause 35**

That the Bill be amended, by adding —

#### **"Administrative Appeals Board Ordinance**

#### **35. Schedule amended**

The Schedule to the Administrative Appeals Board Ordinance (Cap. 442) is amended by adding -

"28. Marine Parks Ordinance ( of 1995)	A decision of the Country and Marine parks Authority under section 11 or 23 of the Ordinance."."
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*Question on the addition of the new clauses 23A and 27A, Heading before new clause 35 and new clause 35 proposed, put and agreed to.*

Council then resumed.

**Third Reading of Bills**

THE ATTORNEY GENERAL reported that the

**CREDIT UNIONS (AMENDMENT) BILL 1995****POST-RELEASE SUPERVISION OF PRISONERS BILL and****MARINE PARKS BILL**

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

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

Bills read the Third time and passed.

**PRIVATE MEMBER'S MOTIONS**

PRESIDENT: I have accepted the recommendations of the House Committee as to time limits on speeches for the motion debates and Members were informed by circular on 29 May. 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.

**ITEMIZED CHARGES OF MEDICAL SERVICES**

MR MICHAEL HO moved the following motion:

"That, in view of the fact that quite a number of patients currently receiving treatment at public medical institutions are required to pay various itemized medical charges in addition to hospital maintenance fees, this Council urges the Government to abolish all itemized medical charges with immediate effect. "

MR MICHAEL HO (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper.

To begin with, I would like to talk about the amendment to my motion which the Honourable Dr LEONG Che-hung intends to move. In the first place, I hope Members will see it clearly that Dr LEONG's amendment and my motion diverge most significantly in that in the second paragraph of his amendment, Dr

LEONG supports itemized charging. I hope Members are clear that under our existing charging method, there is only one hospital charge. One single maintenance fee should have already included all the expenses needed for medicine, treatments and check-ups. If we accept the itemized charging policy, there would be on top of the maintenance fee other items to be paid. In that case, the patients will never know, in addition to the daily charges, how many itemized medical charges they will have to paid on the day when they are discharged from the hospital. Up till now, the number of items charged may not be too many, but once a precedent is set, the policy will attract a lot more other itemized charges. This is what the citizens most worried about. I hope that before Members cast their votes later they can carefully consider this point. Do not support the amendment, even if Members are not in favour of my motion.

The present itemized charging policy is not widely known, because the Government has never talked about it openly. The reason may be that the Government has never put in black and white a policy of itemized charging. However, since the Government is turning a blind eye to it, our hospitals are actually resorting to what is amounted to itemized charging by adopting a so-called "free-operation items-not-included" policy. That is to say, if a patient has to undergo an operation in a hospital to have his joint replaced, the hospital will carry out the joint replacement operation free of charge, but the joint itself has to be paid for by the patient. Or in another case, a patient may be required to pay for the lens for his eyes. This is no less than by-passing the existing charging policy and taking advantage of the patients amidst chaos, a "fishing in troubled waters" situation. Itemized charges like these have already imposed a very heavy burden on patients with chronic diseases. My concern is not only for the several thousand or several ten thousand chronic patients, but for all the citizens. This is because medical services are different from other services: consumers of medical services cannot decide on their own how much services they need. The services they need depend solely on the state of their illness, and it is not up to them to choose fewer or more services. This is a situation I want Members to recognize. Nobody knows whether they will be fallen ill the next day or in the next month, nor will they know if they would be less alert and get involved in a traffic accident which would take them to a hospital for several months to undergo a series of surgical operations.

Recently we learnt that the Government is considering introducing admission charge, daily charge and many other itemized charges. We do not know how many itemized charges there will actually be, and this is our biggest concern. A storm is brewing, and all of us are expecting the charging report to be published by the Government in September and see what it will contain.

Hospitals charging on certain medical items such as artificial joints, cardiac pacemakers, cardiac catheters and so on has in fact been in practice for quite some time, but it is in these recent years that the situation has gone worse. In the past there were no itemized charges in Government hospitals and only subvented hospitals used to do that. However, since the hospitals were all placed



under the Hospital Authority, the situation has not improved at all. Worse still, more and more Government hospitals are jumping on the bandwagon of itemized charging.

Of the affected patients, some are chronic patients, such as patients suffering nephrosis, haemophilia and heart diseases and so on. They need tonic injections and artificial joints, and they need on-going treatments. That is to say, they have to keep paying, which to them is a long-term burden. There are also those whose income level are just above the poverty line. These people have to insist on working, irrespective of the meagre income, to stay out of social security assistance. Itemized charging amounts to squeezing the only money, the only savings these people, or their whole families, have. To these people, making a living and maintaining a reasonable standard of living may have already been difficult enough, if they are further required to spend part of their income, which is already scanty enough, in medical expenses, we are really making lives unbearable for them. Three days ago in a demonstration, patients chanted a slogan: "Raising money wears patients out". I do hope Members will somehow be impressed by these words. They can take out some money to buy joints, cardiac catheters or endoscopes, but to them raising the money is far from easy. They have these money "squeezed out" from their family savings. How could we still say apathetically that those who are able to pay shall pay? I hope Members will make the logic clearer: what does it mean by "who are able to pay"? If a person does not want to die, if they do not want to spend the rest of their lives in a wheelchair, and if they want to walk again, then they are obliged to have their joints changed, whether it will cost them ten thousand dollars or twenty thousand dollars. They have to pawn or borrow to raise the money. They have no choice. Is this what you have in mind as "being able to pay"? I hope Members will consider this very carefully. I do not want to victimize these people with such an itemized charging policy, which squeezes out all their savings.

In fact, the Government has long been aware of this issue. The 1985 Scott report mentioned for the first time in a Government paper that itemized charging was to be adopted. Consultation on the Scott report resulted in great repercussions. In the "Towards Better Health" consultation paper published in September 1993, the option of itemized charging was again formally included in the report. The Government also set up a working group to study how the proposals could be implemented, while the existing itemized charges were to be considered in conjunction with the current charges. However, the actual implementation of this measure has been delayed for two years, since 1993, when the previous Secretary for Health and Welfare was still there. The Deputy Secretary for Health and Welfare, Mrs S LAU, once remarked that good news was imminent, but until now we have not heard of any new proposals or any conclusion. The charges remain. When the Legislative Council Panel on Health Services met last month, the Health and Welfare branch claimed that the issue was very complicated and that they were still studying it. A report would not be available until September.

The other part of the amendment proposed by Dr LEONG urges the Government to finish the review as soon as possible. My honourable colleagues, how soon is "as soon as possible"? Half a year, a year or two years? If we changes the subject of this motion to "as soon as possible", that would mean that even if today's motion gets carried, the Government may take another two years and claim to do it as soon as possible, thus rendering today's motion meaningless. If I were the Secretary for Health and Welfare, I would have acceded to it in no time.

I believe what the Government described as very complicated and very thorny is the review on medical services with a brand new charging policy to be fully implemented with the principle of cost recovery. The Government has made it clear that the public will not be consulted on the new charging policy, I am worried about the new charging policy to be put forward in September: What will it consist of? What items will be included? Worse still, the public will not be consulted. September is the time when a new term of Members will sit in this Council, and these charging proposals may take advantage of this situation and get through.

The stance of the Democratic Party is to oppose itemized charging, for with itemized charging there will be no upper limit for future charges. Just now when I was lobbying the Honourable Mrs Elsie TU, she asked me if there were funds or other kinds of subsidies that could help the patients. All right, there are indeed. However, the requirements are very harsh. In a recent meeting of the Panel on Health Services, the Chief Executive of the Hospital Authority, Dr E. K. YEOH, remarked also that the Samaritan Fund would consider raising the income limit for applicants to \$6,000. Now \$6,000 is even below our current median income, and can these people afford it? To charge on these expensive hospital facilities and medicines is to price out most of the citizens. When more and more itemized charges are imposed, the livelihood of the citizens will be put under pressure. Examples of this abound in early Cantonese films. I do not want to see that in the 90's in Hong Kong there would still be some of our citizens who have to pawn their blankets or resort to prostitution just to raise money for the medical charges for their families.

Mr President, medical services are a necessity. Given Hong Kong's economic capability, more money should be spent in medical services. Simply take the figures of 1990, Britain's public medical expenses represented 5.2% of the Gross National Product, Japan's 4.8% and Hong Kong's 1.1%. Can we spend a little more to improve our services? I stress that we do not want itemized charging, for itemized charging is putting the burden entirely on the patients and their families. we stress that there should be a collective mechanism by which the burden is spread out. This collective mechanism could be set up with levies, it may be a central medical insurance scheme or it may also take other forms. But I stress that it should be a collective one.

My colleague Dr the Honourable HUANG Chen-ya will speak on itemized charging from the perspective of the Hospital Authority's financial management, Dr the Honourable Conrad LAM on some of the absurdities under the current system, and Dr the Honourable YUENG Sum on the shortfall of the existing subvention mechanism.

Mr President, I beg to move.

*Question on the motion proposed.*

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

DR LEONG CHE-HUNG moved the following amendment to Mr Michael HO's motion:

"To delete all the words after "urges the Government to" and substitute the following:

": (1) complete expeditiously the formulation of a rational charging strategy for public medical institutions and consult the public before implementation;

(2) identify and waive immediately the kind of itemised medical charges that could be abolished in order to relieve the financial burden of needy chronic patients before implementation of the charging strategy; and

(3) ensure that assistance is readily and adequately available to patients in financial need so as to truly uphold government's policy that 'no person should be prevented, through lack of means, from obtaining adequate medical treatment'. "

DR LEONG CHE-HUNG (in Cantonese): Mr President, it is bad enough to be sick. It is even worse to be poor at the same time. As a health care worker for over 30 years, I believe that I understand this feeling better than anyone else in this Chamber. It is therefore with the deepest feeling that I echo my honourable colleague Mr Michael HO's concern over and frustration at the itemized charging system. It is with the same principle that I will rise to amend the motion to ensure that a rational and workable solution can be worked out that will help all the sick people who have financial difficulties now and in the future.

*Gazetted charges Misleading and Unfair*

As a start, the Hospital Authority's list of charges in the Gazette Notification is not only unreasonable but, as Mr HO has pointed out, misleading the public.

Paragraph 1.0 of the List states that the maintenance fee "includes charges for clinical, biochemical and pathological investigations, vaccines and general nursing, where such examinations or treatment are necessary, and medicines within the scale provided at the hospitals and clinics".

Yes, diabetics and hypertension patients have their medicines included in the maintenance fee of \$60 a day. But the terminal kidney patients have to buy the very costly injection medicine that shores up their blood level to enable them to stay alive. Is this a case of double standard?

Paragraph 2.4 classifies surgical operations into major, intermediate and minor ones; for public ward patients, all such operations are put under "no charge", and open heart surgery and joint replacement operations are included. However, it transpired that the artificial heart valves and joints and so on had to be paid for by the patients. Yes, in public hospitals, the surgery is free, but the artificial replacements used have to be purchased by the patients. I am worried that very soon the Government even charges the patients for the suture.

Paragraph 2.0 states that additional charges for treatment items "will be determined by the consultant or medical officer attending the patient in accordance with the detailed list available at the Registration Office of the public hospital concerned".

This is grossly unfair to front-line medical workers who should use their professional judgment to treat the patients, determine the treatment method and prescribe the suitable medicines. Their professional decisions must never be clouded by any financial consideration and administrative factors. The Government should not force them to play the role of God in deciding who should pay and who should have the charges waived in the treatment process.

*The Administration Procrastinates in Solving Problem*

The Government has repeatedly said that the problem was a historical one. As subvented hospitals were allowed to charge for specific items and things could not be changed overnight. As Mr Michael HO put it just now, the Hospital Authority, having been in operation for 3 years, has not improved this particular situation in former subvented hospitals; on the contrary, former Government hospitals that did not previously have such a practice are jumping onto the bandwagon of itemized charging.

To many, the maintenance fee of \$60 per day is only the "initial fee" or "minimum charge". More charges will come if one is unfortunate to require operations or acquire chronic diseases.

The Hospital Authority may perhaps say that needy patients can apply for assistance from the Samaritan Fund. However, how can critically ill patients afford the long wait for the application and the vetting thereof? Do we require the destitute and sick to beg for assistance?

As early as in January this, the Health Services Panel of the Legislative Council already brought this issue to the attention of the Administration, urging the latter to make immediate improvement. Unfortunately, the Administration did not listen.

#### *Reasons for Moving the Amendment*

Why do I propose to amend Mr HO's motion if I am so sympathetic with the unfortunate patients? The answer is simple. I only hope to help the destitute and sick people in a surer and more comprehensive way. First of all, I wish to point out that the original motion is far from practical. Even if it is carried today. It would impossible for the Government to do away with all itemized charges at one go. If the motion is voted down, the Government will then have every reason not to do anything about it, and the poor patients will get no improvement at all. Furthermore, the original motion fails to put forward any longer term plan.

It has been said that itemized charging only generates a mere \$100 million which, when compared with the \$17 billion annual budget of the Hospital Authority, the Government has no reason not to be able to forgo. However, if the Government really does so, I fear that those who can afford or are willing to seek private medical care would flock to the public hospitals. Statistics show that public hospitals took in 85% of all hospitalized patients in the territory one or two years ago, the percentage is now over 90. If public hospitals keep taking over patients from the private medical establishments, the expenditure on public medical services will soar. It is extremely unfair to the taxpayers if their money is used, or taxes are to be raised, to heavily subsidize those who otherwise can and are willing to pay for their own medical services.

My firmly believed principle is for those who can afford it to pay more for medical services, but at the same time, there must be a simple, sound and effective exemption mechanism whereby needy patients are helped.

#### *Longer Term View on the Charging Policy*

In the longer term, I urge the Government to work out a rational charging policy for public consultation before implementation; and the Government must also give us a reasonable timeframe today.

Before implementing this policy I urged, the Administration must inform this Council and the general public at once what itemized charges can be abolished with immediate effect, so as to benefit destitute patients, patients with chronic illnesses in particular.

I think that a decision can be based on the following two major principles:

- (1) Fees for medicines should be exempted for the chronically ill; and
- (2) The charge on all items in relation to emergency rescue of lives should be exempted.

The Administration must also review the Samaritan Fund qualifying criteria and to inject more funds into the Fund so as to help needy patients.

*Piece-meal Approach does not Help Solve the Problem*

Mr President, in dealing with the problem of itemized charging, the Administration all along took a piece-meal approach in the wake of public pressure. No real solution was ever made. The Government must formulate a practical medical financing policy as soon as possible.

Mr President, the objective of my amendment is to really help the needy patients. I look forward to a positive and determined response from the Administration. My amendment will be meaningless if the Secretary for Health and Welfare does not meet the targets I set later in her reply. Therefore, I wish to reserve, with your permission, Mr President, the right to consider withdrawing my amendment after I listen to the Secretary's response.

Mr President, with these remarks, I move on a provisional basis my amendment.

*Question on the amendment proposed.*

MR HUI YIN-FAT (in Cantonese): Mr President, fee charging for medical services is a very sensitive policy, not only because it touches upon different sectoral interests in society, but, more importantly, also because it implies that this Council is unable to monitor the Government. When we came to know that the generous salaries and fringe benefits for the staff of the Hospital Authority constituted as much as 80% of the Authority's overall spending, we could not help feeling astounded. We further wondered to what extent the rights of the clients of the Hospital Authority were being protected, particularly in such areas as meals, advanced equipment and medicine which could alleviate the physical and psychological sufferings of the patients.

To any officials of a policy branch, a charging policy is effectively a hot potato. What we are accusing the Government right now is that it did not spare

the very high price to be spent is separating medical services from the civil service structure at a time when a full-fledged strategy on medical development, including a standard for charges, had yet developed. This has resulted not only in today's lost of control, but also the enormous financial burden the Hospital Authority is facing. Under this major premise, particularly when the result of the efficiency reform is not that evident, it is unconvincing to demand the grass-roots level citizens who have long been dependent on Government's services to increase their shares of medical expenses, in spite of the fact that the Government has repeatedly reiterated that every hospital bed receives subsidies of more than 90% of its costs from the Government.

There are people who accept in principal the "those who can afford it pay" or "user pays" concept, particularly when it comes to major public projects with enormous spending, such as sewage treatment. However, many civil and non-governmental organizations, including the Hong Kong Council of Social Services, to which I belong, have all along been vehemently opposing any cost-pegged charging method and associated policies. It is hard to settle people's minds at rest, especially when costs are seemingly inflating at a runaway rate, and a charge exemption system is still at large. Do not forget that to make sure "no one should be denied adequate medical treatment through lack of means" is a public service that the Government is bound to provide.

The Government keeps stressing that a report on the review of charging policy will be finalized by the end of the year, and that the report will be published. However, the Hospital Authority has taken a stealthy step recently to allow hospitals to have the discretion of charging patients for expensive medical products or even the costs of specific medicine, each according to the shortfall in its operating cost, and the amount ranges from several hundred dollars to several ten thousand dollars. This strikes particularly hard at chronic patients and elderly people suffering from various chronic diseases, who have virtually no income at all. By "discretion", it means that this practice is not gazetted as the law requires, and that patients are told about this by doctors only when they have to receive the respective treatments. To those who are living from hand to mouth, this will stretch their budgets. Patients can apply for the Samaritan Fund, but with no clear cut assessment criteria even medical social workers are at a loss.

I want to reiterate that before the report on the review of charging policy is concluded, the Hospital Authority should not hastily put forward any cost-pegged itemized medical charging policy. As a matter of fact, I do not see any urgency for the Hospital Authority to do that. The prospective charging policy should embrace a charge exemption system with more flexible and less strict application and assessment procedures, furthermore, it should recommend a central medical insurance scheme to the Government so as to address the issue of medical costs in the long run. The Government should not procrastinate about making this decision because of the worry that medical services might be abused by some people. It is man who makes the rules. If plans are made carefully, with experience of other countries taken into account, cases of abuse

should be reduced to a minimum. What is more, we can set up a system first, while improvements are always possible in the future.

Mr President, with these remarks, I can support Dr the Honourable LEONG's amendment for the time being.

DR LAM KUI-CHUN (in Cantonese): Mr President, the targets of this debate are the sick people of Hong Kong. Although they may have different illnesses, they are in the same situation, that is the hospitals are sure to be able to treat them, and with effective results, but the medical items used are rather expensive. At the same time, as they are deemed by doctors as not being critically ill, unless they pay the extra charges, they will have to wait. The Liberal Party is very sympathetic with these people. The crux of the issue is how we can secure more resources to purchase advanced medical appliances and equipment for the treatment of these patients.

First of all, if the patients can afford to pay for the medical costs of their own free will, I stress it must be entirely of their own free will and not subject to any pressure at all, this will be one of the possible solutions to the problem. With the resources from patients themselves, we may, on one hand, augment the tight resources, and on the other hand, keep in line with the "user pays" principle. The original motion does not contain any initiative to seek new resources, it merely aims at abolishing added medical charges for the patients, even for those who can afford and are willing to pay. As a result, a possible means to increase resources is lost. The Liberal Party is opposed to such a retrogressive request.

There are in principle only three sources where we can get the extra resources to help those who cannot afford the heavy medical charges. Firstly, scale down the expenditure of the Hospital Authority or various Government expenditure items to get the required funds to meet the needs of these patients. In fact, all expenditure items of the Government are in themselves significance. Individually, every single item undertaken by the Government is justified, it is very hard to identify which one or two items of expenditure are accorded unjustified priority. I believe no one dare suggest any reduction in the manpower of the police force or in the supply of public housing and to redirect the resources so released to cover the medical costs in treating the critically ill. Nevertheless, if the Hospital Authority can streamline its management staff and reduce the wastage of resources to get surpluses, it may then increase the subsidy to these patients.

The second source of extra funds is based on the concept of free lunch whereby these patients are granted as much public fund as possible irrespective of the Government's financial position, and where necessary, by increasing taxes. Regrettably, some people have to pay for these free lunches at the end of the day. This is the approach of welfare-state medical systems. However, after 20 years' operation, this particular kind of medical system adopted by many of



the welfare states has now gone bankrupt. The reality they are facing is that every person in these countries has to bear a medical cost five times the average amount paid by each person in Hong Kong. And what they get in return is longer waiting time for treatment, four to nine times that in Hong Kong. In other words, what used to be a rich free lunch is now crumbs and leftovers, expensive but inferior. It can be seen that an indiscriminate use of money does not necessarily solve the problem.

In these welfare states, there are indeed some patients who are willing to pay itemized charges but are forbidden by law to seek treatment at their own expense. In such circumstances, they are forced to give up public medical treatment and go to neighbouring countries with all their money for private treatment. The tax-payers of their own countries, however, have to pay 30% to 40% of their income as tax.

It will be most idealistic, of course, if there are extra medical funds of a charitable nature in addition to government funds to solve the medical problems faced by these patients. The Liberal Party thinks that it is the right way out of the present predicament. Such funds do exist, one of them being the Samaritan Fund which is the largest. But there are some operational problems that need to be solved and the most urgent one is the limited size of the fund. The Hospital Authority and the Government should step up its efforts in raising funds, from the Jockey Club, for example, to cater for the great demand. Another problem is that medical social workers do not have a set of consistent criteria in vetting applications for the charitable funds. As a result, the applying patients are puzzled and unsure. Some even suspect that there are favouritism and underhand dealings. The Hospital Authority must lay down and announce a set of uniform criteria for assessment as soon as possible so that the public can follow.

Mr President, to conclude, with regard to this issue, the Liberal Party urges the Government to implement the following six recommendations:

- (1) all emergency cases should be accorded priority regardless of the source of resources;
- (2) charitable medical funds should be expanded and operated in accordance with the existing principles whilst the conditions for application should be relaxed as far as possible;
- (3) the eligibility of applicants and the application procedures should be standardized as soon as possible; the vetting procedures should be systematic and made open to scrutiny by the applicants;
- (4) patients who are willing to pay the costs of their medical appliances should be allowed to continue to do so but the hospitals must ensure that treatment is not provided only to those who are willing to pay extra medical costs;

- (5) the surpluses from the Hospital Authority's current allocation of funds should be used to pay for the medical appliances in order to relieve the burden on the patients;
- (6) on top of the overall medical budget, in the long run, a separate budget should be made for high technology medical treatment and should be adjusted annually according to the economic conditions of Hong Kong.

The Liberal Party will support Dr the Honourable LEONG's amendment if he decides to move.

THE PRESIDENTS DEPUTY, MRS ELSIE TU, took the Chair.

DR YEUNG SUM (in Cantonese): Madam Deputy, at present some hospital do not have itemized medical charges, but it is in name only, for in fact they do. The present so-called itemized charges can be likened to a doctor telling a patient who has to undergo a certain surgery, "I will arrange to buy a cardiac pacemaker for you, please pay for it yourself. The deal is entirely between you and the equipment supplier. The hospital is only responsible for implanting it into your body by surgery. And you pay the government hospital standard maintenance fee of \$60 a day. " Therefore, the Government can say with dignity that the hospital does not charge the patient, it is only a business transaction between the patient and the equipment supplier. However, as long as there are items that the Government does not subsidize and requires the patient to pay for them themselves, it is in reality itemized charging.

The Government claims that even if the patients are charged, it does not matter because there is a "safety net", which is the Samaritan Fund. If someone cannot afford to pay, he can apply for an allocation from the Fund to buy the equipment. The application is examined and approved by the medical social workers. There are basically two criteria to follow. One is the financial position of the patient. The patient is eligible for the subsidy if his household income is less than 75% of the median wage. Another criterion is a non- financial one. For an example, if the patient's family refuses to help the patient buy the equipment, or assistance from the Fund helps the family to care for the patient, the patient may apply for assistance from the Fund. The guideline for approving applications lays down that the non- financial criterion is the main consideration. If the assistance can help the patient receive the care from his family afterwards, then the assistance is granted. It seems that the non-financial criterion which considers the needs of the patient's family is the more humane one. But the problem is, despite the guideline for approval, the information we receive is that possibly because the Fund has been depleted to only a few million dollars, very often applications are examined on strength of the household income of the patients. Thus, a family of four may receive the assistance only if their household income is less than \$9,719 a month and then they may even

receive partial assistance only. There is a serious problem here. For example, with today's high cost of living in Hong Kong, a couple with two children subsisting on a monthly income of \$11,000, would not have any money to spare; if they cannot obtain assistance from the Fund, they may have to exhaust their savings, however small that may be, and then do their best to borrow money from their relatives in order to tide over this difficulty. If the patient has chronic illness, such as rheumatoid arthritis, where the patient has to have his joint replaced every two or three years, then he will have to spend his whole life working for his joint.

I can cite many miserable and painful cases to prove that the safety net is indeed unsafe. Perhaps few people are too poor to pay for medical service because health is, after all, the most important. But many people have become utterly destitute as a result of their illnesses.

The medical social workers may be in a way trapped in the middle of the whole quagmire. I myself am a social worker. A social worker's work should be to assist others to resolve their problems and counsel those who are faced with difficulties so that they may get over their problems. The manpower ratios of Hong Kong's medical social workers are 1 to 90 ordinary beds and 1 to 150 psychiatric patients. Compared to Canada's 1-to-20 ratio, there is a vast gap. Worse still is that Hong Kong's medical social workers have to take up the role of allocating resources. If a patient has financial difficulties and cannot afford an artificial joint, he will have to apply to the medical social workers and have them decide for him whether he is eligible for assistance from the Samaritan Fund. To make medical social workers take up the responsibility of allocating resources would not only increase their workload and reduce their services in other areas but will also create conflicts between the social workers and the patients and make their work of counselling patients more difficult.

Just as what the Honourable Michael HO said, I am also worried that the Government will launch the whole package of charging strategy in September. The Government has used many of such tricks in recent years. For example, after the Government had heftily increased the tuition fees of tertiary institutions, it then told everyone that people could apply for a loan. It is true that all such charging strategies may contain a certain exemption mechanism like giving people subsidies if their income is lower than a certain level. But the problem is, no matter how, the Government has shirked the responsibility of providing medical services. Besides, according to past experience, these so-called safety nets are not too safe and often have holes. It is also very doubtful whether the exemption mechanism is indeed helpful to the poor.

Do not think that itemized charging is only disadvantageous to the very poor. Itemized charges are in fact unfair to many "wage earners" and even the sandwich class as well. In Hong Kong there are many households in the sandwich class the monthly income of which is over \$10,000 but under \$20,000. They are not eligible for public housing while in applying for the Home Ownership Scheme (HOS) housing, they have to use the white forms. Even if

they have a HOS unit, they have to spend half their income to service the mortgage. Those earning just over \$20,000 a month are not even eligible for the HOS housing and neither can their children be entitled to textbook and stationery grants or student loans if they are receiving tertiary education. They have to pay tax but they can get no welfare. While they are paying high rents even the public medical services are jumping in for a share now. This is far too unfair to them. I hope that the Government will not introduce this unpopular charging scheme in September according to what I anticipate.

Madam Deputy, the Democratic Party is watching closely the itemized charging policy that the Government and the Hospital Authority are about to launch. The Democratic Party is strongly against this policy. I have to make a statement here for the record. If the Government and the Hospital Authority are determined to go ahead notwithstanding our objection, the Democratic Party will react strongly.

The Democratic Party believes that the Government should take up the basic social responsibility of providing the public with medical services and should continue with the present system of nominal charge. This system not only allows the people of Hong Kong, whether rich or poor, to have access to appropriate services of the same quality, but it also has plenty of merits which contribute greatly to the protection of public health as well as the stability of society. Should the Government and the Hospital Authority, just trying to have a slight increase in their revenue, forcibly launch the policy of itemized medical charges, it will certainly damage the principle and function of the good charging policy of the public hospitals in the past. In future, if the Government were to launch this policy, the sandwich class and the middle class will both be required to pay extra medical expenses, which will increase the pressure they are already subjected to. On the other hand, the Government will also incur large administrative costs to carry out means tests for the patients. What it gains may not cover the expenditure.

With these remarks, I support Mr Michael HO's motion.

MR TAM YIU-CHUNG (in Cantonese): Madam Deputy, although government officials have repeatedly emphasized that "no one should be denied adequate medical treatment through lack of means", the fact remains that this seems to be merely a hallow pledge. Among the cases that we have come across, we do have quite a number of patients who had to have their operations postponed for financial reasons, and they had to scrimp hard and raise the money for just one operation.

According to the Gazette notification published on 21 April this year, the daily maintenance fee for in-patients in Hospital Authority (HA) hospitals is \$60. This charge should have included the costs for the tests, treatment and meals necessary for the patient, and all operations are free of charge. However, what we have found is that in as early as 1991, both Queen Mary Hospital and

Grantham Hospital started to charge patients for the expensive medical items including artificial joints for patients of rheumatoid arthritis and other joint diseases, pacemaker for heart disease patients, filter for blood transfusion for patients of thalassemia and anti-anaemic injection for renal disease patients. This year, almost all of the HA hospitals have charged patients for the costs of these items, the additional charges often range from a few hundred to a several ten thousand dollars.

From our contact with patients we learn that if patients tell the doctors that they cannot afford to buy the expensive medical items from the suppliers, doctors will either ask the patients to postpone the operations, or to use cheaper or inferior substitutes.

Furthermore, the itemized medical charging policy we now have is in fact very confusing, and some patients come to realize that they have to pay other charges apart from the daily maintenance fee of \$60 only when they are being discharged from the hospital. So it can be seen from this that the so-called pledge that "no one should be denied hospitalization because of lack of adequate means" seems unlikely to be honoured.

In fact, there is no legal basis for this so-called itemized medical charging policy, and there is not a list of the itemized charges put up in hospitals. It is only when patients have to receive treatments that they are informed by the doctors. This is no different from robbing an unfortunate fire victim, and it is really a revival of the cost-pegging policy in a new guise, which is against the principle of low-cost medical care for the protection of the health of the public cherished in the past.

As to the Government's intention to impose an admission charge of \$100 for each admission, it is even more unacceptable. It is because once this is done, a precedent will be set, and there is no telling what a variety of other charges, including a discharging fee, will be imposed in future.

However, the Democratic Alliance for Betterment of Hong Kong (DAB) does not agree with the Government in using the waiving system to solve the problem of itemized charging as this is actually a dangerous trap to divert the public attention from the most basic problem in the itemized charging policy.

The so-called waiving system just affirms the itemized charging policy. In it is hidden the principle of "having those who can afford pay", showing only a little kindness here and there. Moreover, implementation of the waiving system will only entail onerous administrative work for medical social workers as well as tremendous administrative costs for the HA in the vetting of applicants' financial background and status.

It has been repeatedly emphasized by the HA that because of the rapidly rising medical costs, hospitals have to charge patients for medical care. But it is well-known that over 80% of the HA's expenditure is spent on staff salaries and

fringe benefits. Yet, the voice urging the HA to streamline its internal administrative structure has almost become a platitude, and whilst the new chairman of the HA has also indicated his agreement to that, it has so far been in word but not in deed. This is really disappointing.

The DAB admits that the costs of medical service for the public will rise by the year as the population is aging and as people's expectation for the level of medical service is getting higher with the times, but we do not agree to have the costs in effect transferred onto patients through the itemized charging policy.

The DAB has been maintaining that public medical service is an important aspect of social welfare and it is for this reason that charges ought to be kept at a very low level and the itemized charging policy should be scrapped at once to relieve patients of the burden of paying the various and complicated charges.

As to the question of how to deal with the ever rising medical costs, the DAB is of the view that the Government should admit in the first place that it is the Government's own responsibility, and then it should try to keep the costs under control on one hand and deal with the question of obtaining resources on the other. The only positive approach is the two-prong one of getting resources and economizing.

As to the compulsory population-wide medical insurance scheme advocated by some people as a solution to the problem of medical costs the DAB is not entirely in favour. We are of the view that medical insurance must be a non-compulsory one because if medical insurance is compulsory, it will only go on pushing up the costs, and it is prone to abuse. The situation now in the United States is a very good example of failure. Also, as insurance companies are no welfare institutions, all of the costs will only be transferred onto members of the public in the form of high premiums. What is more, most insurance companies charge certain patients high premiums, including those with chronic illnesses. Therefore, it will only result in doctors and insurance companies becoming the real beneficiaries whereas patients who need the primary health care will still be unable to get the protection.

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

DR CONRAD LAM (in Cantonese): Madam Deputy, the third item of amendment proposed by Dr the Honourable LEONG Che-hung points out that the Government's medical care policy is that "no person should be prevented, through lack of means, from obtaining adequate medical treatment". It is obvious that the spirit of the policy is not to have medical service linked with financial means, whereas the purpose of itemized charging is to have "user pay" and "those who can afford pays". In other words, if patients need to obtain medical services, they will have to pay extra money for it.

On one hand, the Government says that members of the public need not be afraid to be ill and that lack of means is not a problem; but on the other hand, it says that users have to pay. This policy is not only self-contradictory but also confusing to the public.

Madam Deputy, there are shortcomings with itemized charging. First, it is an unfair and discriminatory system. For example, if patients need pacemakers, artificial joint or cardiac catheters, and so on, those who can afford to buy these items will get the treatment, whereas those who cannot will not get it. Is this fair to the patients?

Next, this policy is also discriminatory with respect to patients with different illnesses. If someone needs a "by-pass" operation, the Government may carry out the operation on him free of charge. But if someone has a problem with his leg joint, then he has to pay for the artificial joint himself. Patients are not free to choose their sicknesses, so why should there be people who have to pay whereas others who do not? Is it not that some kind of patients are being discriminated against?

Third, it is the geographical discrimination. At present, the great majority of the services provided by some hospitals under the management of the Hospital Authority (HA) are free of charge. But in hospitals in some districts, such as Our Lady of Maryknoll Hospital in Wong Tai Sin, itemized charging is applied in quite a number of services. Why is it that some women parturients have to pay over \$2000 to have their babies born at Our Lady of Maryknoll Hospital in Wong Tai Sin, whereas others do not have to pay that if they go to the Kwong Wah Hospital or Queen Elizabeth Hospital? Is it not that patients living in different districts are getting different treatment? The Government should think carefully about this.

Also, itemized charging is a measure that is not worth the candle. I would like to read to you some examples of itemized charges in a hospital: an additional charge of \$18 for admission; an additional charge of \$7 for pulmonary functions examination; an additional charge of \$13 for physiotherapy; a charge of \$7 for the use of a baby's incubator; the use of oxygen facility means an additional charge of \$7; while that of steam facility costs \$7. These are petty charges which are in fact insufficient to pay for the administrative costs. Are these charges reasonable? Are they worth the effort of collection?

Besides, itemized charging brings about a lot of inconvenience both to doctors and to patients. Just now a Member has spoken on it and I shall not repeat that.

What is good about itemized charging? Indeed, we all know that the good thing is to collect money, or in other words, it would open up new revenue. Whether itemized charging is a reasonable or fair measure, I believe we all know that the answer is in the negative. So why is the Government so insistent

on it and have this charging system implemented? I hope that the Government can think over it thoroughly and see if it needs to be revised and improved.

Now, I would like to speak on the amendment motion proposed by Dr LEONG Che-hung. The first item of the amendment reads: "complete expeditiously the formulation of a rational charging strategy for public medical institutions". Here Dr LEONG Che-hung has seen and accepted the existing charging strategy of public medical institutions as rational. However, we have just clearly heard Dr LEONG speak of the irrational aspects of the charging strategy of public medical institutions.

The second item of the amendment motion urges the Government to "waive immediately the kind of itemized medical charges that could be abolished". In fact, this is exactly what the Government is doing, for I understand that through the HA the Government has abolished the charge on Our Lady of Maryknoll Hospital patients for X-ray tests and pathological tests with effect from 1 May. In other words, the Government has been doing what Dr LEONG has proposed, only that the progress is slow. What the Government does is in the right direction.

As to the third item proposed by Dr LEONG Che-hung, namely, that no person should be prevented, through lack of means, from obtaining adequate medical treatment, as I have just said, it is not compatible with itemized charging.

So, for these reasons, I cannot support the amendment motion moved by Dr LEONG Che-hung.

Madam Deputy, these are my remarks.

MS ANNA WU: Thank you, Madam Deputy. Those who are in the know tell me that prior to 1992 when hospitals were directly operated by the Government, doctors resorted to "robbing Peter to help Paul" in some sense. There was not enough to go around and, as a consequence, doctors would request some patients to pay for medical items, releasing the limited resources in favour of those who are poorer.

As time went by, this practice apparently resulted in underbudgeting for hospital services and made a bad situation worse.

The practice now is in fact legitimized through the charging system applied against those who can afford to pay. While this is only right in principle, the system of charging is so chaotic that we have abandoned those who badly need medical attention but are penniless.



I am also informed that the legal basis for levying the patients is not entirely clear. Firstly, the consultant and medical officer might not have the necessary authority to determine fees for non-gazetted items. Secondly, it could not be argued that a patient could be cut open, have a joint removed without a replacement implanted. A surgical operation must therefore necessarily include the cost of the implant. Administration of anaesthetics and surgical operation being free, no levy therefore be made for the implant. To argue for the opposite would be supporting the unthinkable, that surgical operations could be provided free but not the use of anaesthetics.

Legal arguments aside, it seems to me to be wrong in principle for a patient to walk into a hospital expecting to pay \$60, undergo open heart surgery only to be shocked to death by a bill for tens of thousands of dollars afterwards.

The system simply does not work and is extremely harsh to those who has neither health nor money. We now possibly have a situation of robbing Peter but not helping Paul.

Madam Deputy, there have been criticisms that the finances of the Hospital Authority is not sufficiently transparent or accountable. A clear account of the receipt and expense of the hospitals and the Hospital Authority is called for.

Madam Deputy, in my response to the Budget in March, I had referred to the plight of those suffering from chronic and long-term illnesses: "Some of these patients would work the best they can for several years, hoping to save enough money to pay for an artificial joint, only to find that inflation has eaten away their savings and that they only had enough money at yesterday's price."

Even the Samaritan Fund has dried up and a major injection is called for. A medical loan fund to extend interest free loans would also help some to buy an artificial joint at today's price. With the rising cost of medical attention, I urge the Government again to start discussions with insurance companies to provide standardized and basic medical insurance to individuals.

I am surprised that the Hospital Authority seems to be so much out of touch with these problems and that they have developed into such magnitude. I would suggest a user's committee and an appeal board be established by the Hospital Authority to help it monitor and review the situation.

Madam Deputy, while I share the longer-term views reflected by Dr LEONG's amendment, I do not have the heart to deny those who are in need today. I would call for a suspension of the itemized charges.

Thank you, Madam Deputy.

DR HUANG CHEN-YA (in Cantonese): Madam Deputy, the present charging system of public hospitals can best be described as "completely baffling".

Right now, public hospitals are treating patients in different manners. Some patients are given complete treatments, including for example major and expensive heart or kidney transplant surgeries, and only pay the normal maintenance fee. Some patients are half-treated; patients having heart problems but not serious enough to warrant a heart transplant, for example, are required to buy their own cardiac pacemakers. Some are treated by the doctors until they are only half-alive and in no danger of immediate death, patients suffering from kidney failure for example will suffer from anaemia if they do not have money for the required injections; the hospital, on the other hand, with only a word of apology, leaves the patients listless, having neither the spirit nor the energy to work. Is it true that some diseases are more important which must be completely cured while others are less so and can be only half-treated, and still some patients are only treated until they are only half-alive?

It is actually very simple to eliminate this strange phenomenon of having the patients treated half-way. All the Government has to do is to include the present unfinished half of the treatment into the scope of government subsidization. In fact, this is reasonable since implant items such as eye lens and artificial joint have become an essential part in today's medical treatment. These pieces of equipment, just like the traditional medical equipment such as gauze and blood transfusion tube, are medical equipment and there is no reason to say that they are extra and have to be charged extra. There is no reason to say that gauze and blood transfusion tube are basic equipment and should be free but other equally necessary equipment should not be. Similarly, we should not charge patients extra for some equipment because it is expensive. We know that many diseases require very expensive medication. For example, the cost of treatment in the intensive care unit may be over \$10,000 a day. In that case, are we to charge extra and have the patients pay? Therefore, logically, the Government cannot explain why there are such extra itemized charges.

Nevertheless, we should never think that just by giving the hospitals more money, these expenses can be covered because the hospital under the Hospital Authority are financially independent. The Government allocates a certain amount of money to these hospitals, the hospital chief executive has the right to make the final decision on how this money is to be used. Therefore, as long as the itemized charging system exists, there is a possibility that the hospital chief executive may, for some reason, use this money in some other way. In fact, if it is said that the hospital lacks the money to buy the artificial joints, we might as well say that the hospital simply has not put aside enough funds for these items and to pay for the necessary equipment needed by patients who are about to undergo the concerned surgeries. Therefore, I suggest the Government to clearly lay it down that hospitals have to follow through the whole process of maintaining the patients' life and normal living ability. When the entire proven and effective treatment course is completed, it can then be considered that the disease is cured. And the Government should bear the total treatment expenses

of every case. Only thus can eliminate the strange phenomena of patients having been treated half-way or treated until they are half-alive.

As regards Dr the Honourable LEONG Che-hung's amendment, we, the Democratic Party, is against it. Although Dr LEONG's amendment appears to be in favour of the exemption from the present itemized charges, its essence is accepting the Government's idea of "cost recovery" to supplement in the medical expenses and this is what we cannot accept. The so-called reasons cited by the Government for the cost recovery policy presumes that the existing medical services are "heavily subsidized" and the cost recovery policy is just to cut down the subsidization. Actually, all the money underwriting the Government's expenditure comes from the public, and one of the major sources is tax revenue. The citizens of Hong Kong pay taxes and the Government allocate money from the tax revenue to provide medical services. It cannot be said that the Government "subsidizes" the public at all. At most it can only be said that the Government assumes the role of a public "insurance company" of the people and the taxpayers' tax payment is just like the insurance premium. Therefore, as the public has already paid taxes, the Government should not add to their burden.

Madam Deputy, itemized charges are hurting the "wage earners" most. To the rich, they do not care about these services and can easily afford whatever expenses in this regard. To the poor, if the Government's "safety net" is still considered effective, then these destitute people may still expect to enjoy some of the services. However, to most "wage earners", it is unlikely that they have much money left after paying taxes, rent or mortgage payments, and yet their income level keeps them out of the safety net. Falling ill once may cost them their entire family fortune.

With the population of Hong Kong aging, the overall medical cost is bound to rise. An essential job of the Government is to put in place a primary health care programme and reduce the spreading of diseases so as to control medical costs rather than to solve the medical care problem by charging the patients.

A Government with an enormously huge fiscal reserve is plainly an immoral one when it requires patients who cannot even spare \$5,000 to \$25,000 to pay for the medical expenses, refuses to replace their joints for them, making them endure great pain when walking or even unable to walk; or places a patient who cannot afford to pay a few thousand dollars for a catheter to enlarge the cardiac vessels in the life-threatening condition of possible myocardial infarction.

A policy of fees charging is a wicked policy when it penalizes the sick and reduces decent families with savings to destitute ones heavily in debt. A society which has conscience cannot accept such a policy.

As to Members of the Liberal Party saying that not charging by items is handing out free lunch, we absolutely cannot accept this view.

DR TANG SIU-TONG (in Cantonese): Madam Deputy, medical services are essential to the public. Most in our community rely on the services of public medical institutions as their "life-saver". If public medical institutions set the charge at a rate higher than what the public can afford, the people will have to pay a high price for medical treatment and this will surely impose an extra burden on the community at large.

The Government has time and again emphasized the catch-phrase that "no one should be denied adequate medical treatment through lack of means". No one will object to this principle. Regrettably, however, the Government lacks a clear and reasonable policy on medical charges to ensure that the aforesaid commitment can be put into practice. Two years ago, the Health and Welfare Branch put forward a concept based on the "user pays" principle in its consultation document "Towards Better Health". In view of strong opposition, the Government claimed that it had put aside this proposal. But what is the truth of the story? At the moment, the only specified and standardized medical charges are those for the beds and various out-patient services provided by public hospitals. As regards the itemized charges, they are imposed on patients by individual hospitals after taking into consideration its own shortage of funds so as to recover the costs of expensive medical items or potent drugs. But these charges are not uniform.

Besides, these charges are not gazetted, nor are the prices for various items listed and displayed in hospitals. Only after patients have used the services and when required to pay do they know that the \$60 maintenance fee is not all-inclusive but there are charges in addition to that. Since this charging method has not been published in detail in the gazette, some people therefore doubt the legality of this kind of charges. Even if we put aside the question of lawfulness, as the rates of charge vary from hospital to hospital, and the types of diseases and items for which the charges are payable are subject to the decisions of individual hospitals, we cannot help thinking that these hospitals are acting in an arbitrary and irresponsible manner.

Furthermore, in these additional charges is hidden the "user pays" spirit which is inconsistent with the Government's commitment. Though patients with a monthly household income below \$4,000 may apply to the Hospital Authority for assistance from the charitable fund to have these additional and itemized charges reduced or waived, there are no clear criteria for assessing such applications; the outcome depends only on the subjective views of the medical social workers dealing with the applications. The Alliance for Patients' Mutual Help Organization and the media have disclosed a number of complaint cases arising from the itemized charging system. I would like to quote the following examples so that Members can better see the situation.

There was an elderly person suffering from rheumatoid arthritis. The couple had a deposit in the sum of \$14,000 or so in their bank account. The medical social worker concerned thought that the patient was entirely able to afford the payment for the artificial joint which happened to cost \$14,000. As a result, the application for subsidy was denied. The elderly couple had to spend the whole sum of money which they had saved for their final days. This made them feel worried about the rest of their lives.

Another example is even more ridiculous. There was a patient who at the same time needed to replace two artificial joints. The Government agreed to waive the charge for one of the joints whilst the other one which costed \$9,000 had to be paid for by the patient or else the patient could only have one joint replaced. Fortunately, the patient was able to come up with sufficient funds at the end, otherwise, the patient would have to undergo two separate operations.

There are indeed many more examples apart from the above ones I quote. We appreciate the difficulty which chronic patients in financial hardship have to face when seeking special treatment under the system of itemized charging implemented in public hospitals. According to the data provided by the Hospital Authority, at the moment, the charges for various items of medical services collected from patients by various hospitals amount to a total of about \$80 million to \$100 million which is about a 170th of the total expenditure of the Hospital Authority. At present, there are only a few million dollars left in the charitable fund for subsidizing those who cannot afford the medical costs. We cannot help wondering if people who have no money will receive any treatment at all.

Now the Government is proceeding with the review on the itemized charging strategy and the application procedures for health care subsidies. I sincerely urge the Government to consult the public extensively and take their opinions as the main points of consideration before formulating a rational charging policy to ensure that the public in general will not be deprived of their basic rights to medical care.

Madam Deputy, I so submit.

MADAM DEPUTY: Mr Michael HO, do you wish to speak? You have five minutes to speak on the amendment.

MR MICHAEL HO (in Cantonese): First of all, I want to respond to Dr the Honourable LEONG Che-hung's remark. He said just now if he did not move an amendment, then even if my motion got carried the Government would not necessarily abide by it. I challenge his logic. Should that be the case, there is no need for the Legislative Council to debate on anything any more. Private medical practitioner are having less patients as more and more people now turn to the Hospital Authority for medical services. That is true, and I am worried

about that too. But would medical practitioners charge a bit less? As regards the issue of using taxpayers' money to subsidize those who can afford it, I take this more as a system of collective underwriting than subsidies. The \$17.1 billion of operation fund for the Hospital Authority is a collective pool drawn from the citizens of Hong Kong. Every one paid, and the less fortunate ones make use of it. That is a subsidy from the healthy to the sick, not a subsidy the Government gives us.

Dr the Honourable LAM Kui-chun talked about free lunch. But that is not free. The patients have already paid, in the form of taxes. It is only that at the very moment they use the service they are just required to pay a nominal fee. In medical economics this is called "free at the point of consumption", but it absolutely is not free, much less a free lunch, because this lunch is available only when you are taken ill. Therefore, this service is different from any other services.

The Honourable HUI Yin-fat talked about central medical insurance scheme. The central scheme he talked about is actually a system of collective underwriting. But why then did he support the itemized charging policy, which is a system that put the burden entirely on the patients or the patients' family?

Dr LAM Kui-chun further talked about charity funds. We are now in the 90s, why do we not think of establishing a sound and proper system, and how to take care and protect some poor people through this system by asking those who are able to afford it to give some money for this purpose? Why do we not set up a real and strong safety net so that these people can receive medical services? Why, at this time of the day, do we have to consider charity funds which are a form of almsgiving? If we still have to talk about charity funds, that would mean that our medical system is flawed, because there are people who cannot afford it and therefore they have lean on charitable organizations for assistance. We should no longer be burdened by this kind of thinking. Right from the beginning we should consider in serious terms our charging policy for medical services, and we should consider it as a whole. If at this time of the day we are still talking about charity funds, that is really a retrogression.

Dr LAM Kui-chun talked about voluntary payment too. I invite him to ask how many people up there in the public gallery paid voluntarily. Take it from me that many of them were forced to pay voluntarily simply because they had no choice. If they did not have their joints replaced they would have to spend the rest of their lives in a wheelchair; if they did not undergo cardiac catheterization Dr HUANG Chen-ya said they might have to undergo more complicated operations; if they did not have the lenses in their eyes replaced they would not be able to see any more. They lead frugal lives, but however difficult it was they just had to raise enough money. Why do we have to reduce them to such a state?

I very much hope to remind Members again that if we implement the itemized charging policy, charge increases may easily take on different and disguised forms in the future. The admission charge is \$60 for instance, but in addition to this \$60 there may be countless A, B, C, D and you-name-it charges. I hope Members will be prudent in their consideration. Meanwhile, I would like to remind Members that in the second paragraph of Dr LEONG's amendment it is said that some of the itemized medical charges should be waived immediately before the implementation of the above charging strategy. "The above charging strategy" is itemized charging policy.

With these remarks, I hope Members will support my motion and oppose Dr LEONG's amendment.

SECRETARY FOR HEALTH AND WELFARE: Madam Deputy, first of all, I would like to thank Members for raising this important and complex subject for debate. I am grateful to all Members for their frank expression of views.

To be meaningful, itemized charging must be seen in the context of health care financing as a whole. Abolition of itemized charging is not just a question of how to trim a few dollars here and there as a welfare measure for certain groups of patients. It is a question of what principles the Government should adopt to ensure that we use our resources in a fair, equitable and consistent manner.

#### *History of itemized charging*

There are, in fact, two types of itemized charges — for convenience, these can be referred to as non-standard and non-gazetted.

Non-standard itemized charges are historical in nature. They originated before the establishment of the Hospital Authority in 1991. At that time, the ex-subsidized hospitals were run by various charitable organizations, each of which had a different charging approach. One might impose a charge for surgical operations, another for accident and emergency treatment, a third for something else, and so on. When the management of these hospitals was taken over by the Hospital Authority, these non-standard itemized charges remained.

A list of all of these charges is published in the Government Gazette.

The Gazette also indicates that individual hospitals have the discretion to charge for any items which are not included in the daily maintenance charge, for example, expensive drugs, certain consumables, implants/prostheses and appliances for patients' home use. Since the number of items is long and constantly changing due to the introduction of new drugs and equipment onto the market, the list is not gazetted. Instead, a list of these non-gazetted itemized charges is kept in each hospital, where it can be inspected by patients.

These existing itemized charges should not be confused with the proposed itemized charges contained in the consultation "Towards Better Health", which have not been introduced.

As I have just mentioned, non-standard itemized charges are a historical anomaly, inherited from various ex-subsidized hospitals. Non-gazetted itemized charges are a mechanism to obtain items which are not part of the normal hospital inventory. Without this mechanism, patients would be denied access to new medical technology and all patients would have to wait longer for treatment due to redirection of resources.

#### *Review of health care financing*

As Honourable Members are aware, the Administration has been reviewing the health care financing system as a whole — including itemized charging — to ensure that it is fair to all and continues to provide quality services at a cost that both patients and the community can afford. The review will address many issues of common concern. If it is to be done properly, it must be done carefully. This will take time. Meanwhile, we have been consulting Members at every step of the way.

The Government has a responsibility to ensure access to adequate health care. This means helping the financially needy to obtain treatment in the public sector. It does not mean that everyone should be provided with everything for free.

Our health care system is not funded by compulsory contributions from all. It is paid for by General Revenue that comes from a low tax regime and a narrow tax base. Our expenditure on health care amounts to above 4% of our Gross Domestic Product. In formulating a health care financing strategy, we must therefore strike a balance and adopt the principle that those who can afford to pay should contribute a fair share of the costs, while those who are in need should receive greater assistance.

#### *Helping the needy*

Not every patient is financially needy. To abolish itemized charges for all items or for all patients would be to cast the net too wide. We need to target subsidies to those most in need.

The most needy group of patients must surely be those with chronic diseases which require expensive, ongoing treatment to maintain a basic quality of life. Because of the nature of their diseases, these patients will have lessened ability to work and many of them will be in financial need.

We intend to help this group of patients generally by simplifying the procedure and relaxing the criteria for application to the Samaritan Fund, which



is used mainly by chronic patients to pay for itemized charges. This will mean that more needy patients will be able to benefit.

One of the areas under active consideration is the income criteria. For patients with a household income which is less than the Median Household Income, it is proposed that itemized charges would automatically be waived. Using the Median Household Income for a family of four as at the last quarter of 1994 as an example, any family earning \$16,000 per month or less would pay no itemized charges. The Median Household Income figure will be updated every three months.

The Hospital Authority and the Social Welfare Department are now working on revised guidelines for medical social workers, so that they can begin to apply the relaxed criteria as soon as possible and certainly within three months. At the same time, the Administration and the Hospital Authority have been actively looking at ways to boost the size of the Samaritan Fund.

We have been working closely with the Hospital Authority to identify needy patients by chronic disease groups. By abolishing charges for treatment items mainly used by such groups, we would be targeting assistance where it is most needed. Such groups include elderly and chronically ill patients with degenerative bone disease, elderly people with compression fractures and thalassaemic patients. To help them, we will abolish charges for replacement joints, spinal implants and special accessories required for blood transfusion. This will be done as soon as possible, but certainly within three months. We will consider what assistance we can give to other groups in the context of our overall review of health care financing.

In addition to the foregoing measures, the existing fee waiver system will remain in place to help patients unable to pay their daily maintenance charge.

The Hospital Authority has also agreed to freeze the introduction of any new itemized charges pending the review of health care financing.

### *Conclusion*

The measures I have described will mean greater assistance to chronic patients who need financial assistance. All public sector patients will continue to enjoy access to heavily subsidized services and waiver of daily maintenance charges where necessary.

I would like to stress that patients will always be treated first and the issue of payment will be addressed later. No patient will be kept waiting for urgent treatment while someone looks at his bank balance.

The Government remains committed to its policy of ensuring that no one is prevented, through lack of means, from obtaining adequate medical treatment. The measures I have outlined are proof of this commitment. The

Government cannot support Mr Michael HO's motion but would support Dr LEONG Che-hung's amendment to Mr HO's motion.

Thank You, Madam Deputy.

THE PRESIDENT resumed the Chair.

*Question on Dr LEONG Che-hung's amendment put.*

*Voice vote taken.*

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

MR MICHAEL HO (in Cantonese): Mr President, I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Would Members please proceed to vote?

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

Mr Allen LEE, Mr HUI Yin-fat, Mr NGAI Shiu-kit, Mr PANG Chun-hoi, Mr Edward HO, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Dr LEONG Che-hung, Mr Jimmy MCGREGOR, Mrs Elsie TU, Mr Moses CHENG, Mr Timothy HA, Mr Simon IP, Dr LAM Kui-chun, Mr Eric LI, Mr Steven POON, Mr Howard YOUNG and Miss Christine LOH voted for the amendment.

Mr Martin LEE, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Vincent CHENG, 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 James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Dr TANG Siu-tong, Ms Anna WU and Mr LEE Cheuk-yan voted against the amendment.

THE PRESIDENT announced that there were 19 votes in favour of the amendment and 21 votes against it. He therefore declared that the amendment was negated.

PRESIDENT: Mr Michael HO, you are now entitled to reply and you have one minute 34 seconds out of your original 15 minutes.

MR MICHAEL HO (in Cantonese): First of all, I thank all the colleagues for today's excellent debate.

The Secretary for Health and Welfare mentioned earlier in her response that hospitals are still empowered to charge patients for non-standard items. I hope in the forthcoming review on charging, this problem will be clearly sorted out, for I think this is a very large loophole.

I am very happy to see here that patients organizations have truly established themselves and have evidently gathered strength. I very much hope that these patients organizations will relate more clearly the opinions of the patients. I further hope that there will be patients' representatives joining the Hospital Authority, the Hong Kong Medical Council or the Nursing Board.

I congratulate patients for organizing themselves. I hope you will continue your efforts. I salute you all.

*Question on Mr Michael HO's original motion put.*

*Voice vote taken.*

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

MISS EMILY LAU (in Cantonese): Mr President, I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Would Members please proceed to vote?

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

Mr HUI Yin-fat, Mr Martin LEE, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Andrew WONG, Mr Albert CHAN, Mr Vincent CHENG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Timothy HA, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Dr TANG Siu-tong, Ms Anna WU and Mr LEE Cheuk-yan voted for the motion.

Mr Allen LEE, Mr NGAI Shiu-kit, Mr PANG Chun-hoi, Mr Edward HO, Mrs Miriam LAU, Mr LAU Wah-sum, Dr LEONG Che-hung, Mr Jimmy McGREGOR, Mrs Elsie TU, Mr Moses CHENG, Dr LAM Kui-chun, Miss Emily LAU, Mr Eric LI, Mr Steven POON, Mr Howard YOUNG and Miss Christine LOH voted against the motion.

Mrs Peggy LAM abstained.

THE PRESIDENT announced that there were 23 votes in favour of the motion and 16 votes against it. He therefore declared that the motion was carried.

## **CHILD PROTECTION**

DR TANG SIU-TONG moved the following motion:

"That, in view of the deterioration of the situation regarding abuse and neglect of children in recent years, this Council urges the Government to expeditiously set up a statutory framework for the protection of children, formulate a long-term and comprehensive children policy and improve the relevant child protection legislation; and at the same time to increase immediately the manpower and resources of the Social Welfare Department and strengthen the publicity and education on child protection in order to prevent the abuse and neglect of children and to protect their physical and mental health."

DR TANG SIU-TONG (in Cantonese): Mr President, I move the motion standing in my name in Order Paper.

Children are our future. During their growing years, children should be given proper attention, adequate care and their rights should also be protected. To achieve that purpose, there must be co-ordination among the family, the government and the community. At present, there is obviously considerable room for improvement insofar as the role played by the Government in this respect is concerned. On this ground, I hope that we can, by way of this motion debate, urge the Government to look squarely at this issue and to contemplate improvements.

During the five years from 1990 to September 1994, there were altogether 2210 reported cases of child abuse, with a total of 2373 children abused. On average, over 470 children were abused one way or another each year. Among the abuse cases reported during the said period, 130 victims suffered from multiple abuse, while the number of sexual abuse victims even stood at 185, representing 35% and 40% respectively of the total number of abused children in the past five years. The number of abuse cases is in an upward trend. In 1990, there were 17 and 11 multiple abuse cases and sexual

abuse cases respectively, but the corresponding number soared to 37 and 73 in 1994. Sexual abuse is not confined to use of violence, ingratiating tactics or material attraction to seduce children into having sexual contact, but also includes provoking with indecent language and forcing children to view pornographic movies, and so on. Since it is much more difficult to uncover sexual abuse cases than physical abuse one, the above number of reported abuse cases represents only the tip of the iceberg. The actual situation is surely far worse than that reflected by the statistics.

Although child abuse is a social problem, it is particularly acute in some districts and the most noticeable one is Tuen Mun, New Territories West. According to the information supplied by Against Child Abuse, during the three years from 1991 to 1993, the number of cases handled by the organization was 420 and among these cases, 85 occurred in Tuen Mun which thus ranked top among the various districts. Tuen Mun has topped the list of child abuse cases for several consecutive years. Moreover, the Tuen Mun Hospital received a total of 54 suspected child abuse cases last year, which was one case more than the total number of cases received in 1992 and 1993. Apart from Tuen Mun, child abuse cases in new towns record a higher rate of incidence than in other districts. That child abuse in new towns is particularly serious can, to a certain extent, be attributed to the lack of social support services in new towns.

Mr President, it is not the responsibility of individual families alone to protect children, it is also imperative that schools, government and other social resources are well-co-ordinated. I understand that the policies formulated by different policy branches do, to a certain extent, touch upon child affairs, but there is no consistent direction towards which the welfare of children is promoted. Moreover, whether the efforts of the departments are co-ordinated, and whether the different departments have the same value concept over child welfare and child rights, will also have implications on the consistency that child protection issues are handled.

In the past decade or so, both the community and professional social workers have been urging the Government to refine the existing work on child protection and on the promotion of child abuse prevention. However, the Government only took some actions after the outburst of headline stories or shocking incidents. When the tide of the relevant incidents ebbed, the Government slowed down its work again. This is evident from the fact that the Government's inter-departmental "Working Group on Child Abuse" convene meetings only occasionally. Of course, it would not be fair to say that the Government has virtually done nothing at all. If we take a glimpse at what progress has been achieved in the past two years or so, we shall find that the Government has not been sincere enough in addressing the issue.

Let us take a look at what the Government did in 1993. The Government started in that year to allocate a sum approximately equivalent to the salary of a social worker to subsidize Against Child Abuse. This organization is the only voluntary organization in Hong Kong dedicated to the

work of handling child abuse cases. The Government, in the same year, set up a District Forum on Child Abuse in Tuen Mun, which was the first of its kind in the entire territory. However, the Forum has conducted a total of only six meetings up till now. At the same time, the Government amended the Protection of Women and Juveniles Ordinance and renamed it as the Protection of Children and Juveniles Ordinance, with a view to enlarging the scope of protection for children in relation to gross neglect and psychological abuse.

In 1994, the Government extended to Hong Kong the "United Nations Convention on the Rights of the Child".

In 1995, a task group on sexual abuse was set up with a view to drafting a study report by the end of the year. It was planned that a number of District Committees on Child Abuse would be set up in various districts. The Social Welfare Department promised to increase its manpower, expanding the number of workers in the Child Protective Services Unit from 11 to 16. It was also pledged that \$500,000 would be used for publicity campaigns and education programmes.

At a debate in this Council in February 1993 on "Trauma to Children", I suggested that a special committee be set up to co-ordinate all child protection work. A number of colleagues also called for the formulation of a child policy and the establishment of a statutory Children's Commission. However, the Government was not enthusiastic in its response and then put the proposal on the shelf. This, I think, results in our child protection work lacking progress and full attention. Although the "United Nations Convention on the Rights of the Child" was extended to Hong Kong in 1994, how can the spirit embodied in the Convention be upheld if there is no comprehensive child policy in place and no statutory framework to deal with child affairs? Which department is responsible for monitoring and ensuring the observation of the provisions in this Convention?

While Against Child Abuse is subsidized by the Government, the limited subsidy has restricted the development of this organization. Against Child Abuse is the only voluntary agency in Hong Kong dedicated to investigating, studying and referring child abuse cases as well as providing counselling services thereof. This organization, which was set up in 1979, even got bogged down in financial problem at one time. It would have ceased operation had it not been supported by charity funds. The fact that the Government's subsidy came only 14 years after its establishment reflects the slow response of the Government. The Government has put the organization on a par with the other units providing general family services and therefore, and has offered only a meagre sum of subsidy equivalent to the salary of a social worker. I believe that the Government is not putting due weight to the importance of the work of preventing child abuse.

This year, the Government earmarks \$500,000 for child abuse prevention publicity and education programmes. Although the sum allocated in

this respect is already 10 times the publicity fund for the promotion of the Basic Law, how many APIs can be screened on the television and how many posters and leaflets can be printed with a meagre sum of \$500,000? We know all that too well. The publicity campaign on the promotion of voter registration is overwhelming. It is reported that apart from those publicity campaigns co-ordinated by the central government, the publicity expenses incurred by individual administrative districts have been to the tune of over \$200,000 each. The importance of voter registration and protecting children against abuse are of similar weight, but there is a vast difference between the amounts of publicity funds. Is the Government quite biased in this sense?

The Protection of Children and Juveniles Ordinance has been enacted in such a way that the scope of protection under this Ordinance is enlarged; however, the focus of this Ordinance is on general abuse while sexual abuse is somewhat ignored. As I have said earlier, the definition of sexual abuse is broad. The offences of "Intercourse with under-aged girls" or "Indecent conduct towards child under 16" under the Crimes Ordinance may not be applicable to sexual abusers. The absence of legislation targeting at sexual abuse has reduced the comprehensiveness of the Protection of Children and Juveniles Ordinance and has rendered law enforcement and prosecution work difficult. In view of this, it is imperative that the Government plug those legislative loopholes as fast as possible. In addition, the existing penalty in the legislation on the protection of children against abuse has been too light. The maximum penalty that can be imposed by the Magistrates' Courts for child abuse offence is a fine of \$250 and imprisonment for six months. In higher courts at the level of District Court and above, the maximum penalty is a fine of only \$2,000 and imprisonment for two years. The excessively light penalty has reduced the deterrent effects, and the relevant departments should therefore conduct a review in this respect. Of course, penalty can only serve as the deterrent, in practice, the abusers should be counselled, educated and cured, if the situation is to be improved.

All in all, to promote child protection, we must adopt a three-pronged approach, that is to say, legislative work, supporting services and education and publicity efforts should run parallel. To achieve this purpose, I have the following recommendations:

- (1) the formulation of a long-term and comprehensive child policy and the rectification of inadequacies found in child protection legislation;
- (2) the establishment of a Children's Commission;
- (3) the increase of manpower in the Social Welfare Department and the raising of the level of subsidies offered to voluntary organizations;
- (4) the increase of family support services, counselling services as well as publicity and education efforts.

Mr President, I would like to specifically speak on two issues, namely, the formulation of a child policy and the establishment of a Children's Commission, so that the honourable Members may have the opportunity to have an in-depth discussion on these aspects.

I hold that a sound child policy should head towards the following direction:

- (1) The Government should ensure that the spirit of the "United Nations Convention on the Rights of the Child" is implemented, so that the rights of children under 18 are both respected and safeguarded. These rights include the right to be protected against discrimination, abuse and gross neglect, the right to receive health care services and the right to education;
- (2) Clear guidelines should be formulated, with a view to raising our social awareness towards child protection and to informing the parents and everyone in society of their obligations in the growth process of our children;
- (3) Professional support services should be engineered, maintained and provided with a view to handling child abuse cases or gross neglect cases, as well as providing appropriate counselling, education and support services to those parents who may have difficulties getting along with their children.

As to the proposal that a Children's Commission with statutory powers be set up, it was already raised by the honourable Members during the motion debate in February 1993, regrettably the Government remains unmoved. In view of the necessity of establishing this organization, I therefore harp the same old tune today, in the hope that the Government would give second thoughts to this proposal. I suggest that this Commission should comprise representatives from the Health and Welfare Branch, the Social Welfare Department, the Education Department, the Royal Hong Kong Police Force, the Legal Department and the Department of Health. The Government should, in addition, appoint some other people into the Commission, such as the representatives from voluntary organizations providing child protection services and family services, professional social workers, representatives from the education sector and those members of the public who have been showing concern about this problem. The terms of reference of this Commission should include the following four aspects: (1) the promulgation of a long-term and comprehensive child protection policy; (2) the monitoring of the effective implementation of this policy; (3) the co-ordination of all education and publicity work in relation to child protection; and (4) maintaining co-operation and close contact with the relevant voluntary organizations.



Earlier on, some governmental officials told me that the Government would not support this proposal as an inter-departmental "Working Group on Child Abuse" has already been set up and therefore there is no need to set up a Children's Commission with statutory powers. I must raise two points here: First, the Working Group in question was set up as early as in 1983 but it is not a standing group which meets regularly; in other words, the Group will only convene meetings on an ad hoc basis. Moreover, this Working Group has no decision-making power and all policy proposals would have to be handed over to individual policy branch for consideration. There will undoubtedly be obstacles in the efficiency with which the relevant policy is formulated and implemented. Second, this Working Group only targets at preventing child abuse, but the Commission that I propose to set up does not only focus on the prevention of child abuse, but also looks into the general issues in relation to child affairs such as safeguarding the healthy growth of children and protecting child rights. The scope of work is much broader than that of the current Working Group. I really hope that the Secretary for Health and Welfare can respond to my opinion in this respect.

Mr President, with these remarks, I so move.

*Question on the motion proposed.*

MRS PEGGY LAM (in Cantonese): Mr President, the family is the cradle in which our children grow and parental love is an essential element for their healthy growth. Yet, this intimate child-family relationship does not imply that children belong to their parents or families. In fact, children are part of our society, which is obliged to provide them assistance when they are injured by their families or reduced to isolation and despair. I have been emphasizing that child protection is our common responsibility. Based on this concept, our debate today should seek protection for our children within our system. Further, I hope our community can set an example in lending a helping hand to our children.

Mr President, we should start protecting our young children by addressing three areas: first, parent education; second, educating the children on their own rights; popularizing sex education and strengthening protection for children; third, encouraging the general public to assist children who are in need of help.

Although the Government has recently done much to publicize child protection, the result is not quite satisfactory. The reason is that the core of the problem is not dealt with. For instance, the Government's TV API urging the parents not to give vent to their personal feelings on their children only has the publicity effect of telling the general public that child abuse is an unacceptable behaviour in our society. What actual effect is there on the abused children and their abusers?

In fact, child abuse is not an isolated problem, it is the end result of personal disturbance caused by a chain of individual and family problems. In essence, child abuse is a symptom of family malfunctioning, along with battered wife, divorce, child at risk and juvenile delinquency. As the Government has time and again refused to take positive measures to shore up our family system, there is virtually no hope of eradicating child abuse.

I suggest that the Government should adopt a more active approach in providing family counselling in two different stages, when the mother is conceived and when the child is a primary-school student. In fact, many child abuse cases indicate that the victims started to suffer maltreatment at a very young age, showing that the cause of child abuse can be traced to as early as the stage when the mother was pregnant. For instance, the woman is pregnant before the couple's affection towards each other becomes stable and firm. Under such circumstances, the baby might be unwelcomed to either one or both of the couple. If the couple lacks a mature mind in dealing with the problem, the little one might be at the risk of being ill-treated or abandoned.

As pre-natal medical care is being provided by the Government to pregnant women, why not also give psychological counselling to parents-to-be? Such service will not only assist the normal families in getting well prepared for the birth of their babies, it will also help identify the problem areas at an early stage or provide support to problematic families.

Besides, I also suggest that the second stage of family counselling should start when children begin their primary school education. Some social workers have pointed out that the parents' inappropriate method of disciplining their children is one of the main reasons of child abuse. Primary school years are the period when children have their character formed. On the other hand, it is also a period when quick-tempered parents still tend to impose corporal punishment on their children. Modern parents often find that they are at their wits' end in teaching their children. Communication failure between parents and children is exactly a precursor to a broken family. Social support will surely mitigate this problem.

Besides, there is an upward trend in sexual abuse cases. In 1994 alone, about 70 sexual abuse cases were discovered. Most of the abusers are the victims' father, either biological father or otherwise. Sexual abuse, which causes no apparent bodily wounds, is not easily detected by outsiders. So we must enhance the children's own sexual knowledge and their awareness in self-protection. At present, seminars on sex education for students organized by the Family Planning Association of Hong Kong, which include knowledge about sexual assault, are producing notable results. However, as our schools are still conservative towards sex education, I am afraid that quite a number of children are still at a loss of what to do under the threat of sexual assault.

Fortunately, some government departments have co-operated in finding ways to improve the evidence-giving procedure in courts for children in order

to reduce the young victims' stress suffered during the relevant proceedings. I think proceedings which can take the children's interests into account will be the most effective deterrent to the child or sexual abusers. News reports on the punishment imposed on the child or sexual abusers by courts of law are also the most persuasive publicity on child protection.

A family having a child abuse problem is like an insect trapped in a spider web awaiting the fate of destruction. These families are actually in need of the support of a third party. Teachers, doctors, neighbours, relatives and friends all play important roles in bringing the problem to light and assisting these families to start a new life. We are happy to see that members of the public are becoming bold enough to report child abuse cases. The Government's APIs on electronic media should particularly aim at changing the people's mentality of "minding one's own business" and preaching to the public that it is our responsibility to protect the children.

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

MR HUI YIN-FAT (in Cantonese) Mr President, just looking at official statistics and the media reports alone, I believe no one will deny that the problem of in its multifarious forms child abuse is worsening. But on the other hand, the general public should not blindly put the blame on the Government for having neglected the gravity of this problem if they have carefully observed the amount of resources being allocated to and the efforts made by the Government in recently years in the area of child protection. These include the strengthening of child care service, increasing staff to ease the workload of caseworkers in family service centres, the promotion of public education, and even the consideration of possible legislative amendments in order that a heavier penalty can be imposed on the abusers, and improved facilities for abused children giving evidence.

Despite the efforts of the Government and the professionals concerned, the number of child abuse cases between 1990 and 1994 can only managed to remain at a stable level. Meanwhile the number of sexual abuse cases has increased by over six times during this period. Where does the problem lie? Is it due to a shortage of resources or a misplaced problem solving strategy?

The causes of child abuse are really very complicated. However, as the family is where children grow, any social factors impeding the normal functioning of the family might become the added fuel to this problem. These factors include the exaggeration of sex and violence by the media, the prevailing trend of parents both working, broken families such as families with single-parents or stepparents, pressure of modern life, interpersonal conflicts caused by high population density with limited area for activities and so on. So the Government as well as the public should try to help restore the functions of the family which include the caring of the children and the old and weak, the teaching of interpersonal skills, the sharing of experiences and values.

I would like Members to have a close look at the causes of various problems we encounter nowadays such as teenage suicides, drug addiction by the young, juvenile delinquency, lack of care and concern for the aged as well as various kinds of family tragedies. I am afraid you will find that all are related to our weakening family system and its functions. For this reason, I think the motion I moved in mid November 1994 urging the Government to formulate a "family policy" as soon as possible, which was also supported by the Members, is still of strategic reference value to our debate today on child abuse. I earnestly hope that the Government will take more professional advice in formulating a comprehensive family policy to strengthen all family-related policies and services.

Some genuine cases tell us that the causes of child abuse are often related to the adults themselves. Some parents, due to their weaknesses in character, are not alert to potential danger. They do not know how to deal with a problem that arises. Some parents are basically at their wits' end in giving guidance to their children, let alone giving a correct sex concept to their young children. Even worse, some parents just scatter pornographic magazines which they have read around at home. Such an act is somewhat like laying a time bomb for their mentally immature children. All these phenomena make me doubt that our civic education as well as publicity efforts has over-emphasized the detection and reporting of and punishment for child abuse and has ignored parent education. I suggest that the Administration should adopt the practice of those advanced countries in Europe and America where parenting education is introduced in high school and post-secondary school so that every citizen is well prepared mentally to be a parent. In the short term, the Administration should make use of the community resource to instill in the parents the correct parenting attitude through classes or seminars.

On the other hand, although the long-established child-minding system has had much contribution to many families and even to the economy of the whole society, there is no guarantee of its quality because it is still provided on the basis of "mutual agreement and consent". Recently, a two-year old child was found to have almost one hundred pin marks on its body. The injury was inflicted by a male child-minder who is suspected to have an abnormal addiction. Regarding this, I suggest that the Government should set up a child-minding system as soon as possible which will include a pre-determined standard of service and a code of practice for the service. Under this system, training courses will be provided and a complaint and monitoring machinery will also be established. Having established that, the practising child-minders are encouraged to register voluntarily. In the final stage, registration should be made compulsory through legislation that governs the whole system. I believe parents are willing to pay more in order to avoid penalties and an uneasy conscience due to child neglect or abuse.

Lastly, I urge the Administration to set up a child abuse central information centre for the purpose of undertaking a long-term systematic study on the various and changing causes and social factors of the problem. This

study will assist the Administration and non-government agencies in working out flexible solutions which can ensure every child grows up in a healthy environment.

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

DR LEONG CHE-HUNG: Mr President, since July 1991 this Council has seen the third Member's motion debate on the care of the child. It is doubtlessly a good thing as it witnessed the attention paid by society to our future pillars. It is a good thing too that it signifies that this Council cares for the different facets of society and that we are not day in and day out involved in just simply political bickering. But honest enough, if you read the Hansard on the last two motion debates, you will realize that the requests from Members are not very much different. Similarly, the response from the Administration is also the run-of-the-mill reply: the usual co-operation needed between government and non-governmental bodies, proper welfare services to support the family, strengthening of family education, educating the public and professionals in contacting children, better means to detect abuse cases, and so on. I predict a very similar request will come out of the debate today, and if I have a crystal ball, perhaps a fairly similar reply from the Administration.

Be that as it may, there is another angle. The fact that a third motion is brought forward today also indicates that very little has been done to improve child care during the span, to the dismay of the people who have made representations to this Council. Worse, in the ensuing years, this Council has seen more and more direct and purposive harm to children. The yearly average figure of child abuse amounts to 400-plus. Yet the figure must be the tip of the iceberg. In major hospitals, doctors come into contact with two to three suspected cases a month. In the worse hit Tuen Mun area alone, the Accident and Emergency Department deals with at least one suspected case a week. Meanwhile, everyone has thrown in their towel. The Governor, in realizing the problem, has been quoted as saying that it happens in every community and that in Hong Kong the problem is an inevitable breakdown of the extended family that goes hand in hand with affluence. He felt that the way ahead is training a multi-disciplinary force to handle child abuses and educate the public. How true! Even judges have put in their bid, criticizing that penalties for child abuse have been set too low. With all this support, morally or otherwise, from our societal heirachy, why do we still need this debate today?

To me, the answer is a simple one. With all the well intention of Hong Kong, there is still one core area which is missing which is we still do not have a central policy for child care. We do not have an overall encompassing set of child protection legislation. And we do not have a co-ordinative body with muscle to push whatever we want to imply on child protection. In essence, we need a commission — a body with statutory power, funded by public money and supported by multi-disciplinary professionals.

In essence, Mr President, the following areas must be addressed:

First, prevention. The only way to promote prevention is to annihilate the cause. Many have suggested intelligent thoughts. But unless and until we have proper statistics, we will not be able to get into the true picture. And until and unless we have a true picture, we will never know our family education and family support services are effective or adequate. The problem in compiling reliable data is of course that different bodies have their own definition of child abuse. The police may look at child abuses only with a view for possible prosecution. The health care workers will look at it from the angle of injuries and treatment. And social workers will look at it with a view of how best to prevent the destruction of the family. A proper definition/data collection machinery must therefore be arrived at without delay.

Secondly, education. It is important to educate the public and various professionals in daily contact with children to identify and report child abuse. The traditional Chinese motto of "minding one's own business" will not help to stop, let alone prevent, the spine chilling case that we have recently seen in the media. Furthermore, other than the blatant physical and sexual abuse cases, the public, especially the child care professionals, must also be educated to detect those victims of emotional abuse, or emotional or physical negligence. Figures are believed to be far under-reported. Doctor's groups like the Hong Kong Paediatric Society and the Tuen Mun Hospital have actually acted to teach not only doctors, but also teachers, child minders and other professionals dealing with children skills of detecting and handling child abuses.

Thirdly, proper investigation. Much has been said that a proper multi-disciplinary team is needed to investigate suspected cases and to minimize stress on the victims to give evidence via provision of conducive environment. I support the call for these centres to be set up in hospitals where properly trained investigators, medical examination, treatment and initial counselling could be done without the need for cumbersome transfer from one institution to another.

Fourthly, the need for proper counselling and rehabilitation. Help should be on the hand to the victims and abusers alike without delay. With a chronic shortage of clinical psychologists in the territory, I must worry over the prompt accessibility and adequacy of such service for child abuse cases. With respect to the professionalism of social workers, doubt has been cast over some cases where the social workers were criticized for over-emphasis on the family integration of the abused child and abusers at the expense of protecting the victims. There were also complaints from doctors that social workers had placed many unsuspected cases into the hands of the Social Welfare Department's Family Service Division instead of the Child Protection Division specialized in dealing with child abuses. Social workers will have over-emphasized the consideration of the impact

of prosecuting the abusers on family integration. Such must be looked into. Furthermore, for those children unable to return home, they must be provided with quick rehabilitation service including placement in family-like setting to ensure that the victims have the least mental trauma.

Mr President, the proper upbringing of our future generation needs co-operation and co-ordination of all sectors and our Government's political will. I hope the Government will show us such will instead of paying lip service again and again.

With those words, I support the motion.

MRS MIRIAM LAU (in Cantonese): Recently, the extensive media coverage of the court hearing on a child abuse case has sparked off public concern over the problem of child abuse. Child abuse, as a matter of fact, has all along existed in Hong Kong. Yet, the Government has not attached much attention to the issue. Child abuse varies in nature, existing in both visible and invisible forms which cover physical abuse of children, serious neglect causing injury and death of children, sexual and mental abuse. Some incidents of abuse are deliberate whereas others are inadvertent. These cases add up to four to five hundred in number every year. Although the number of child abuse cases over the past years show no noticeable rise, several points deserve our attention.

Firstly, the child abuse cases reported may be merely the tip of the iceberg. The reason is that the victims are ignorant kids whereas the abusers are generally their relatives. While many victims dare not or do not know how to report what has happened to them, outsiders refrain from getting involved for not wanting to meddle in other people's family affairs. Accordingly, it is by far more difficult to bring to light cases of child abuse than those of other forms of abuse.

Secondly, recent years have seen an upsurge in the number of sexual abuse cases. In my opinion, sexual abuses result in a more profound and serious impact on children than physical ones do. Whilst physical pains will generally abate through the passage of time, psychological trauma may forever be beyond healing, leaving a lifelong damage in the children.

Thirdly, the acts of child abuse have become more and more brutal, making people's blood boil and reflecting that domestic violence is a rather grave problem. In fact, society should address the problem of child abuse squarely, provide assistance to children suspected of being abused. On the one hand, due to ignorance, children have to depend on their relatives to look after them. If even their relatives fail them by ill-treating them, they do not know whom to turn to. On the other hand, childhood experiences to a great extent have a bearing on children's healthy growth. Those children who have been unfortunately ill-treated by their parents suffer not only from physical and

mental wounds; without proper counselling, they will grow up to be sadists who in turn will ill-treat their own offsprings, passing on ill-treatment as a family tradition. This is a very dangerous social phenomenon.

The present assistance to children suspected of being abused or proven to have been abused is not adequate. In terms of staff, although the Child Protective Services Unit has increased the number of caseworkers to 16, bringing down the caseload per social worker from 40 to 30 cases, this caseload figure is still high as compared with other countries. Take the United Kingdom as an example, each social worker there is responsible for 12 to 15 cases on average, with a maximum of 25 cases. Heavy workload most probably not only affects the quality of the services provided by social workers, but also confines their scope of services.

Moreover, though there exist twenty-odd pieces of law dealing with abusers of children, they are scattered among different ordinances, and there lacks a distinct and comprehensive set of child protection legislation, the existence of which can help to alert and educate the public on the importance of child protection. Whilst similar legislation exists in many other countries such as the United Kingdom, Hong Kong has for a long time been unwilling to initiate reform in this respect.

The penalties for child abuse are obviously inadequate. In this regard, as far as I know, the Government yesterday indicated to the Bills Committee scrutinizing the Administration of Justice (Miscellaneous Provisions) (No.2) Bill 1995 its intention to amend Sections 26 and 27 of the Offences Against the Person Ordinance so that the penalty for child abuse will be raised to a maximum of 10 years of imprisonment. I welcome this move. Although the provisions will undergo minor amendments, such move is still some distance from enacting a comprehensive set of child protection legislation. I hope that the Government will conduct a general review. I also hope that the Government will strengthen law enforcement, remind the public through publicity and education that child abuse is wrongdoing and encourage the reporting of child abuse incidents. In this respect, the Government over the past years failed to adopt a strategic approach to focus on the prevention and reporting of child abuse. Promoting generally, as it did, public awareness of the significance of a harmonious family life is obviously inadequate.

The tendency for the problem of child abuse to aggravate, in my view, is more or less attributable to the Government's failing to work out a comprehensive child protection policy objective. Whenever problems crop up, the Government only adopts a passive attitude. Besides addressing some problems in a piecemeal manner, it even evades certain problems.

This Council had a debate on the issue of leaving children unattended at home. In fact, leaving children unattended at home can constitute neglect and neglecting children is also regarded as child abuse. It is regrettable that many



parents in Hong Kong all along are not aware of this point. In 1991, the Government consulted the public on the measures to prevent children from being left unattended at home. It, however, subsequently decided to shelve the enactment of legislation to forbid parents to leave their children unattended at home. I still hold the opinion that enacting legislation in this respect has its value. Doing so can at least raise parents' alertness and bring about certain educational effects. Yet, taking into account the actual situation of Hong Kong, we need to have sufficient social support before enacting legislation. Otherwise, it will bring grave hardship to many parents.

Although the Government had its reasons to shelve the enactment of legislation, after the consultation period, it shelved not only the enactment of legislation but also the issue of leaving children unattended at home. According to several surveys, the problem of leaving children unattended at home at present is still very serious, particularly in new towns. With accidents happening to unattended children from time to time, each year sees at least ten to twenty children killed in such accidents, not to mention the innumerable number of children injured.

I have approached the Social Welfare Department for figures on the number of unattended children incurring death or injury. Strangely though, the Social Welfare Department's reply is that no such statistics are available, indicating that the Government no longer attaches importance to this issue, or the Government has dropped the issue, simply adopting an ostrich policy of pretending that there was no such problem, and letting the problem deteriorate.

Although the Government increases the nursery as well as the occasional child care places, we can see from several aspects the Government lacks positive attitude in solving the problem of leaving children unattended at home. First, the provision of nursery service is still gravely inadequate. The service provided lacks flexibility and is unable to meet the demand. Second, the provision of occasional child care service is still very limited. There are only some 400 places which fall far short of the actual demand. Moreover, seeing that the rate of utilization of the occasional child care service is rather low, the Government has neither looked into the cause of such phenomenon nor improved the service quality with a view to enhancing its attractiveness. Third, the Government's past publicity effort to educate the public not to leave children unattended at home obviously proved to be ineffective. Yet, the Government has not conducted a comprehensive review on the relevant strategy to look for more effective means of publicity and education.

Under the present situation in Hong Kong, in order to solve the problem of leaving children unattended at home, the Government has to provide adequate and quality nursery service, especially the occasional child care service. Only if these services meet the actual general family needs will they be attractive.

Recently, the Liberal Party sent out questionnaires to investigate the problem of leaving children unattended at home in Tai Po. The findings reveal that over 40% of the respondents did leave their children unattended at home, among them, over 70% did so to make short shopping trips. In this connection, the Liberal Party recommends to the Government the introduction of a scheme to provide one-hour occasional child care service. The idea is for participants of the scheme to pay a monthly fee for an unlimited number of occasions of using such service. I hope the Government will seriously consider this suggestion.

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

MR CHEUNG MAN-KWONG (in Cantonese): Mr President, though it is apparently natural that life begins at home, we easily fail to notice that there are some helpless children around us whose lives, on the contrary, may end at home.

According to the statistics of Against Child Abuse, the number of reported cases of physical abuse was the highest last year with a total of over 180 cases. This is easy to understand because the bruises and cuts on a child's body can be more easily detected. However, Mr President, what I want to focus on today is gross neglect with the number of reported cases just next to that of physical abuse. Gross neglect is what causes even more far-reaching harm to children.

Gross neglect takes many different forms, for example, inadequate food, clothing and shelter for the children or the children are habitually left unattended and so on. Nevertheless, past experiences show that, though gross neglect can be a death trap that kills a child at any time, people generally do not have a strong sense of its prevention. People usually consider it as an accident or the mere carelessness of the parents. As a result, the number of reported cases is usually lower than the number of actual cases. According to a survey, close to 70% of children who were treated in the emergency department of a local public hospital were under the age of five and half of them, that is, over 2600, were injured at home. The main cause of their injuries is the falling from height, including the stairs, tables and chairs, window sills and so on. Although this number does not reflect the situation in the whole territory, it is serious enough to make us think. The home is not the safest place for the children; neither is it the best shelter for them. And neglect, purposely or unintentionally, often starts at home. Eventually, neglect results in the suffering and even death of children.

Mr President, little children are ignorant; they need the adults to take good care of them. Unfortunately, reports of fatal accidents happening to children left unattended at home have never stopped. In 1991, there were 25 cases, on average two per month, of children meeting their death as a result of

accidents which happened to them when they were left unattended. Although the number of such cases dropped in the past three years, on average there was still one child killed under similar circumstance every month. The most shocking is that in Tuen Mun alone, still close to 10% of the interviewers admitted that they often left their children under six unattended at home. The Census and Statistics Department also estimates that a total of over 40000 families throughout the territory are likely to leave their children unattended at home. For whatever reasons they have, all these 40000-odd families are putting their children in extremely dangerous situations. Recently, the number of children falling off from buildings has been on the rise. In March and April this year alone, three children fell off the building from their homes and two of them died as a result of their injuries. These two young victims had one thing in common, they were both left unattended at home and fell to their death when they climbed out of the window looking for their mothers. Mr President, I am also a parent and I certainly understand the grief of losing a child. But I have to point out that even though these children's parents might have their own difficulties, they have to bear a large part of the responsibility for these accidents.

Mr President, social support and family education are, of course, very important to the protection of children, including the prevention of children being grossly neglected, but there must be a set of comprehensive laws to go along with the child protection policy, before children's rights can be fully protected. The penalties imposed under existing laws cannot reflect the level of damage done to children. A recent case in which a young child was badly abused has fully exposed the loopholes in the law. The mother in this case was fully aware that her son was being abused by his male child-minder, resulting in various injuries on his body including over a hundred pin marks and a broken wrist, but she continued to put her son under this man's care. Eventually, the convicted offender was only sentenced to 21 months' imprisonment. The maximum penalty which the district court may impose under the summary Offences Ordinance is two years' imprisonment and \$2,000's fine. If it is the magistrates' court, the penalty is even less, only six months' imprisonment and a fine of \$250, the fine is actually more or less the same as that one generally gets for spitting. Even the judge described it as "ridiculously light". The Government must therefore raise the maximum penalty for child abuse and gross neglect and also allow more flexibility such as ordering the offender to receive treatment. At the same time, a more distinct statutory definition for child abuse should be worked out. This not only gives a more consistent standard for sentencing but also narrows down the difference of opinions of different organizations when assessing the child abuse problem.

Mr President, I must stress once again that legislation is not the permanent cure for the child abuse problem but it is one very important part of the whole package of the child protection policy. However, here I want to remind all parents that as a father or mother who brought their children to this world, they have the responsibility to care for them so that they can enjoy the life that they deserve, and make for them the safest and most secure arrangements. This is a

parent's duty which cannot be shirked for whatever reason. And we, as Members of the Legislative Council, no matter how earnest we call on the Government to provide more occasional child-care services, how much we urge the Government to step up the logistic support and how hard we demand the Housing Department to improve the facilities in the public housing estates, to put up higher fences and install more window grilles, we are not able to assume the role of the parents. We have to understand that even a few seconds' negligence may result in the loss of a precious young life, much to the ever-lasting sorrow of the parents.

Mr President, with these remarks, I support the Honourable TANG Siu-tong's motion.

MR FREDERICK FUNG (in Cantonese): Mr President, in 1991, after public consultation on measures to prevent leaving children unattended at home, the Government came up with four proposals to solve the problem. In 1993, the Legislative Council had a motion debate on the protection of children and the motion urging the Government to take substantive measures in that respect was carried. However, the condition of child abuse and neglect in Hong Kong has not improved, instead it deteriorated. This time the Legislative Council is again having a motion debate to call the Government into question, reflecting that Members are dissatisfied that the Government has not tried its best to solve the problem. The problem is still there and the Government can hardly absolve itself of the blame.

We agree that children are our future. Therefore, children should be brought up with utmost care and should not have to suffer unnecessarily. Unfortunately, many children grew up in an environment where they were abused, leaving permanent scars in them. In the more serious cases, the values and attitudes of these children are affected and their lives will be ruined. That is very unfortunate indeed.

Child abuse covers unnecessary harm done to children which includes excessive physical harm, mental abuse, neglect and sexual abuse and so on. These forms of harm can sometimes be serious enough to cause death. According to the Annual Report of Against Child Abuse for the year 1993 to 94, the number of cases in which children suffered physical and sexual abuse have increased in recent years. The Health and Welfare Branch had also indicated that there were 73 cases of sexual abuse of children in 1994, 35% higher than the 54 of 1993. This situation is worrying. In addition, tragic and unfortunate deaths of children as a result of their being left unattended at home or neglected by parents are also common. Besides lamenting these unfortunate incidents, we should also take positive actions to devise ways to prevent these tragedies so that no more children will be abused and killed.

In most of these cases, children were physically and mentally abused because their parents faced problems which they could not solve. For example,

problems of marriage, excessive financial burden or frustrations relating to their jobs and so on. Parents then vented their feelings on their children who would become targets of the attacks. Hence, the Social Welfare Department should expand its family services to help families in need. There are now 62 family service centres over the territory with 565 caseworkers. In addition, there are 71 family life education workers. However, the number of cases of family violence is constantly increasing. According to Government statistics, the number of cases which involve family violence has increased from 187 in 1992 to 289 in 1994. Therefore, the Government should consider increasing the number of such centres to cope with the need. More importantly, the Government should ensure that the services are provided efficiently. In other words, publicity should be strengthened to promote this kind of services to all the families in Hong Kong so that the resources of the centres would not be wasted and that all the families in need would know about the services and be able to make use of them. I believe that the majority of the public do not understand the operation of this kind of services. Therefore, I suggest the Government should form a working group to assess the operation of the services and to increase the rate of utilization so that the services can be provided more efficiently.

Neglect of children is often the major cause of tragedies. At the end of 1991, the Legislative Council discussed measures to prevent children from being left unattended at home. Actions were taken by the Government in response to the discussion. In these few years, a number of services have been added to reduce the chance of children being left unattended at home. After four years, however, the situation has changed. As the population in new towns have greatly increased in recent years, especially that in Tuen Mun, Kwai Tsing, Sha Tin, Tai Po and Sheung Shui and so on, children below 14 now comprise of 11-12% of the total population of the new towns. There is now a serious lack of social services in these new towns and estates. Therefore, the Government should take corresponding measures to provide services to children according to the situation of each area, particularly according to its population composition. The problems of a serious lack of facilities or wastage of resources in some communities can then be avoided.

The cases of sexual abuse of children are worrying. According to the statistics of the Health and Welfare Branch, there were 73 cases of sexual abuse of children last year, which was about 35% higher than that of 1993 which was 54. It is possible that some cases of sexual abuse of children have, for some reasons, not been reported, detected or successfully prosecuted. At the beginning of this year, the Legal Department amended the Evidence Ordinance modelling on the legislation of the United Kingdom so that evidence given by children under 14 will be admissible in courts; at the same time, children are spared the unnecessary intimating process in giving evidence. I support the amendment and I think it is conducive to the successful prosecution of abusers.

However, all these do not go to the root of the problem. The most thorough measure is the prevention of sexual abuse of children altogether.

Under the current laws, the maximum penalty for causing physical harm to children intentionally or sexual abuse of children is life imprisonment. The maximum penalty for other offences of child abuse is only imprisonment of a few years. Besides, the courts seldom give convicted persons sentences at the upper end of the scale and so there is no deterrent to the offenders. However, by their behaviour, the offenders have inflicted on the abused children unforgettable pains. Therefore, I suggest that the courts should give higher sentences so that those who have caused harm to children will be punished severely in order to produce a deterrent effect.

Compassion is what we all share. We would feel sad when we saw that harm had been caused to children. Some cases which have not been detected may even too heinous to think about. I would urge the Government to deal with the problem of child abuse in Hong Kong seriously and not to adopt stalling tactics in order no more children should be harmed.

With these remarks, I support the motion.

DR YEUNG SUM (in Cantonese): Mr President, the problem of child abuse in Hong Kong has in recent years aroused public concern. A few days ago, Against Child Abuse and the Hong Kong Paediatric Society pointed out that child abuse in Hong Kong was becoming more and more serious. In the year 1993-94, Against Child Abuse received 484 reports of child abuse through its telephone hotline. 148 of these cases had to be followed-up and investigated. Last year, Against Child Abuse received 393 reports through the telephone. According to the statistics of the fourth quarter of last year provided by the Child Protection Registry, there were records of 700 child abuse cases, of which 78 were new ones. Most of these cases involved physical and mental abuse, and the number of sexual abuse cases is also on an upward trend.

Mr President, the above statistics have only shown the tip of the iceberg of child abuse in Hong Kong. I believe the real situation is even worse. Many cases of child abuse have not been reported because people believe that they should not "wash their dirty linen in public". Hence, I believe the real situation is far more serious than what the statistics have shown.

Hong Kong is a place full of stresses. Stresses may be associated with the following factors: the difficulties of making a living, a crowded and noisy living environment, the worries that the 1997 issue brings, the increasing emigration and divorce and the rising unemployment rate and so on. Besides, Hong Kong is a rapidly changing society and our cultural value system has become confused in the face of strong challenges. So, the children of Hong Kong have been brought up in the middle of all forms of stresses. Worse still, because of the failure of the supportive system of some families, the number of child abuse cases naturally increased.

Mr President, the people of Hong Kong cannot after all ignore the social problem of child abuse. The Democratic Party has often maintained that the people of Hong Kong should take a positive attitude towards society and its future and strive to make Hong Kong a "hopeful" society. The academic sector, the medical profession and the social welfare sector of Hong Kong have recently suggested many ways to improve the problem of child abuse. I would like to draw your attention to some of these suggestions which deserve serious consideration and adoption by the Government.

First, as regards the definition of child abuse, there are a lot of differences among the various professions and Government departments. Hence, how to reach a consensus on the definition has become an important issue. Dr NG Yin-ming, Chairman of the Hong Kong Paediatric Society, pointed out that although many cases of child abuse were established by paediatricians in the hospital, people from other institutions including social workers of the Social Welfare Department, police officers and teachers held different views when the cases were discussed. Mr President, when different professions have different criteria to judge child abuse, how can we provide a comprehensive and multi-professional social service to those who need it? Therefore, in order to provide and co-ordinate the required services, the first thing the Government has to do is to discuss with the various professions and give a definition to child abuse which is acceptable to all.

Second, review the current laws relating to children and formulate a comprehensive protection policy. At present, laws relating to children are scattered among many pieces of legislation. The Government should review these laws and improve them. It would be best if the relevant parts in the various laws could be consolidated into a comprehensive piece of legislation for the protection of children, with all the provisions relating to children put into a single ordinance, just like what the United Kingdom did. That would make it clearer and easier for the Government to promote and implement the law. A more comprehensive policy on the protection of children can then be formulated, based on such a piece of law, so that the piecemeal situation of "treating the head when it aches and treating the foot when it hurts" can be improved. Services for the protection of children can thereafter have the backing of the law in a more unified and comprehensive way. Besides, Mr President, the penalty for child abuse stipulated in the current laws is rather lenient. I suggest that it is necessary to increase the penalty so that the children can be protected and a deterrent effect can be produced.

Third, the Government should establish and expand the social support network and services within a short period of time to help those in need. Support services like child care centres, nurseries, occasional child care service, domestic help and counselling are very important to families and individuals in need. From 1989 to 1994, 113 children were killed in accidents because they were left unattended at home. An academic once called upon the Government to enact a law to prohibit parents from leaving their children unattended at home. This question was discussed in this Council. I have reservations about the

enactment of the law because many parents have to make a living and they have no choice but to leave their children at home. In some cases, one of the parents goes to work and in others, both have to go to work to support the family. However, the Hong Kong Government can allocate more resources to expand support services, for example, the occasional child care service and the child care centres to strengthen the mutual help network and the support capacity of those concerned.

Fourth, to set up a research and educational resource centre for the protection of children to promote the research and public education on the protection of children. This resource centre can even establish an international information network by means of the computer so that there will be co-ordination and interflow between Hong Kong and other communities in respect of studies on child abuse and protection. There will then be a clearer analysis on child abuse which will certainly be very helpful to the improvement of the situation.

Mr President, it is undeniable that faced with the question of the future of Hong Kong and the rapid changes of society, the pressure on the people of Hong Kong has become increasingly greater. However, adults have no right to vent their stresses resulted from the political and economic problems and even marriage on the children and aggravate the problem of child abuse. Mr President, everyone was born equal and they were born with dignity. Children are no exceptions. Everyone has rights as well as obligations towards society and other people. We cannot pursue our own rights at the expense of the rights of children and neglect our obligations towards them. If the adults of Hong Kong only paid attention to their own rights, pursued their own wants and neglected to protect the rights of children, Hong Kong would become a place where everyone would only seek to satisfy their own needs and neglect their obligations towards the next generation.

With these remarks, I support the motion.

MR LEE CHEUK-YAN (in Cantonese): Mr President, although the following figures are only a partial reflection of the real picture, they are both very terrifying and shocking. During the 1991-92 school year, 21 students committed suicide. There were 28 in 1993 and 37 in 1994. Between 1989 and 1994, 113 children died as a result of neglect. Members may recall that in 1982 two children were burned alive at their Sau Mau Ping home. In 1991, four toddlers were burned to death at their home in Ho Man Tin. In April this year, a two-year-old baby boy was ill-treated and sexually abused to the extent that close to a hundred pin marks were found all over his body. According to Government statistics, cases of children being sexually abused rose by 2% in 1991 and the year 1994 saw an increase of 17%. I found from newspaper cuttings that over 50 cases of children being sexually abused were reported in the press during the first five months this year. They included indecent assaults



and rapes. Of the rape cases, there are even cases of incest or cases in which the rapist is someone whom the victim is familiar with.

I would like to ask how come our society is in such a state? We seem to have crazy people and crazy acts like those found in a sickly society. As far as I know, other than those appalling cases, our children are subject to a different degree of maltreatment physically and mentally in every single minute that passes. What kind of protection has our society provided to the children? We certainly hope to put an end to the insanity in our society and this is the fundamental cure to the problem. Why is the society of Hong Kong so crazy? This is actually closely related to the everyday pressure on the people. However, I do not intend to discuss the way to relieve the stress of the people today because in so doing other social problems must also be talked about. Today, we should focus our discussion on the protection of children.

First, let us find out whether the existing legislation on the protection of children against ill-treatment is adequate to produce a deterrent effect. Under the Protection on Children and Juveniles Ordinance, in the event of a child being proved to have been ill-treated, the Social Welfare Department may be authorized to take up the guardianship of such child or the court may order that the guardian of the child be replaced. Yet, the parents of the abused child are not criminally liable. Now, let us look at the Offences against the Person Ordinance, the breach of which by any person shall render such person liable to criminal prosecution. It is clearly stipulated in the Ordinance that any person who wilfully assaults, ill-treats and neglects a child in a manner likely to cause such child suffering or injury shall be guilty of an offence. However, the question is: what is the definition of "wilfully"? Many people still hold nowadays that parents spanking their children is for the good of their children and that parents do not intend to harm their children. Therefore, such an act should not be considered as a criminal offence.

All along, the community has not been too vigilant towards the problem of children being physically and mentally abused. Besides, the community has only a very vague idea of the concept of neglect. Just now I mentioned some cases in which children were burned to death. In fact, these cases are the result of neglect. However, as far as I know, between 1988 and 1994 the Legal Department successfully prosecuted only a mere seven cases, in which the convicted persons were sentenced to imprisonment terms ranging from nine months to 12 months. It shows that while legislation is in place in this regard, its enforcement is too lax.

In order to really protect children, I think we must start by directing our efforts to three areas of work.

First, we should detect child abuse cases and report them so as to enable immediate intervention to save the children. This is an important element in public education and in fostering public vigilance towards this issue. This is the responsibility of neighbours, relatives and friends, teachers, doctors and social

workers. With a view to encouraging people to report these cases, I think the first thing to do is to dispel the belief that parents spanking their children is none of other people's business and that it is done for the good of their children. As the Government has not been doing a good job in carrying out publicity and education to encourage people to report child abuse and stop neighbours using violence on their children, the result is far from effective. We are of the view that the Government should review the methods used in publicity and education campaigns. On the other hand, teachers, doctors as well as social workers should be more alert to this problem so that child abuse cases can be dealt with earlier to save our next generation.

Secondly, I feel that prevention is better than cure. In this connection, the Administration should strengthen family life education at the locality level, thereby assisting parents to learn how to cope with their emotional problems and their children's. In addition, a sufficient number of school social workers is required to provide students and parents with counselling services. These will certainly be conducive to better prevention of child abuse. I very much hope that the Government will tell us later on in its reply whether additional fund will be provided for the purpose of strengthening family life education and counselling services provided by social workers.

Thirdly, we should step up prosecutions against parents who abused their children. I am not spurring the court to put parents in jail easily. Yet, a certain degree of deterrent effect is essential. For examples, imposing a fine on the convicted parents, requiring them to perform social service and take up counselling courses and so on. Persons who committed offences of a more serious nature should be sentenced to imprisonment. Only in this way can there be a deterrent effect.

It is distressing and infuriating that the number of crimes relating to sexual abuse of children is on the rise. My view is that more stringent penalties should be imposed on those who sexually assaulted vulnerable children in the capacity of being the children's older relatives. It is also vitally important for children to learn to protect themselves. In addition to cases of incest, the past few months saw cases in which old men indecently assaulted girls by playing cards with them or giving them candies. Making friends on telephone, which is commonly called "to play with the line", is also a trap which easily exposes youngsters to sexual assaults. I think in the primary curriculum children should be taught to protect and understand their bodies and also be taught the way to prevent sexual abuse. I hope the Education Department will study the introduction of these elements into the curriculum expeditiously.

Moreover, I notice that at present youngsters aged 14 or below will not be prosecuted for rape. They will only be charged for indecent assault. But is it fair from the perspective of the victims? Our social norms have changed drastically and the mentality of children nowadays reaches maturity faster when compared with the past. Therefore, we hope that the Law Reform Commission will reconsider whether there is a need to amend this provision in law.

Last year, Hong Kong became a signatory to the United Nations Convention on the Rights of the Child. Therefore, Hong Kong has every responsibility to work fully in accordance to the Convention by setting up a Children's Commission to conduct an overall review of the inadequacies in the protection of children in areas such as medical and health, education, environment, legal framework and so on, thereby to formulate a comprehensive policy on the protection of children and to monitor its enforcement. A good social environment will be created as a result. It is equally important to enact legislation with sufficient deterrent to ensure that children are free from any kind of abuse and to teach children how to protect themselves. I sincerely hope that under the protection of comprehensive policy and legislation, children in Hong Kong will be cared for, cherished and understood and they will grow up in peace and fraternity and learn to become useful members of the community, as described in the United Nations Convention on the Rights of the Child.

DR HUANG CHEN-YA (in Cantonese): Mr President, the motion moved by DR the Honourable TANG Sin-tong is worth our support. To abuse a child who has no means of self-defence or self-protection is a shameful act whether it is an assault or a sexual abuse, and it should be condemned. However, the measures we take should not aim just at venting our anger or satisfying our sense of justice. The aim and spirit of such measures should be to help and protect children, and they should be in the interest of children's well-being. Unfortunately, the existing policy has too often reflected only the anger of the adults and neglected the children, and it has even aggravated their plight in the name of helping them.

First of all, the present penal code places too much emphasis on punishment and there is a lack of alternatives. Many Members who have spoken this evening stressed only on punishment. Actually, if we want to improve the problem of child abuse, harsh punishment may not work. Many child abusers did not do it with bad intent; they might have done so because they did not know how to be parents, or perhaps it was because the pressures of life were too much for them, or there might even be some psychiatric problems which required professional psychiatric counselling or the help of clinical psychologists. Moreover, punishment alone will only aggravate the relationship between child abusers and their children. For this reason, punishment should take diversified forms. For example, child abusers can be required to take part in some courses on parenting, or they can even be referred to clinical psychologists or required to do social service. Severe cases must of course be the punished with fines or imprisonment. In doing so, we will not start with the intention to prevent child abuse but end up instead in having the families of these children broken up, depriving them of the warmth of family life; or even worse, end up making them feel that it might well be their fault that led to the breaking up of their families and the losing of their parents.

Secondly, whenever a child abuse case comes to light, the normal procedure is to have the abused child interviewed by various government departments respectively, including maybe the Social Welfare Department, Police and the Department of Health. For the sake of helping the abused, it is natural for these government departments to understand his or her situation. However, we can imagine the difficulty on the part of even a normal and healthy child whose mentality is yet to mature to have interviews with three or four adult strangers respectively and to repeat the same subject matter; not to mention the difficulty for a child who has been hurt both psychologically and physically, to repeat the traumatic experience he has had.

My suggestion is to have someone who has a good knowledge of psychology and who loves and cares about children to represent the various departments, that is to say, the Social Welfare Department, Department of health, the Police, and so on, to have an interview with the victim once and for all to obtain information. The interview may be video-tape-recorded if necessary. To this end, it obviously would need the co-ordination by the various departments and need to have their way of work slightly changed. For example, it would be necessary for the police to consider whether such records are acceptable as statements in criminal procedures. Nevertheless, this is a way that may help to alleviate the pain of the victim having to repeat again and again his or her misfortune. Moreover, statements should be taken in a hospital or a welfare institution instead of in a police station so as to reduce the victim's worries and mental pressure. Also, abused children naturally have a lot of worms and fears in their minds when suddenly they have to face strange surroundings and adult strangers. Therefore, designated social workers, doctors and nurses should be available to counsel them, rather than passing them around like human balls, as it is the case at present. Therefore, it is necessary for both hospitals and welfare institutions to set up special working groups to handle these cases.

Thirdly, at present, abused children may get a protection order from the court, preventing further abuse done by the child abusers on their children. But quite a number of cases have shown that the execution of the protection order is flawed in many ways. For example, there is a case in which the mother of a girl who ran away from home said that her daughter could only see her supervising social worker four times a year, and each time lasted a mere half an hour, which was manifestly inadequate. Also, a girl who was under protection was, without her prior permission, suddenly sent back to her biological mother, who had abused her before. It can be seen from these that the present protection system has still a lot of areas that need improvement. One of the reasons behind it is that the present system meets only the good will of adults or the administrative operation, but neglects whether the real needs of children can be met or not.

Mr President, child abuse is in fact an infringement on children's human rights. We must not forget that these children should have the rights of having their own families, enjoying their own privacy and possessing both mental and physical health. Any policy to protect the children must be able to genuinely help them instead of infringing on their rights and hurting their well-being.

With these remarks, I support the motion.

MR ALBERT CHAN (in Cantonese): Mr President, I have in my hand five pamphlets printed by the Government. They are publicity pamphlets on child abuse. On the back of one pamphlet are two hot-line numbers. At one o'clock early this morning, I tried to call these two numbers. I dialled 27551122 first and got a telephone recording saying that I could relate my problems on the telephone and that I could call the hot-line of the Social Welfare Department or the police in case of emergency. The number of the Social Welfare Department (23432255) is the other number on the same pamphlet, so I called this number. Again, I got a telephone recording which, at the end of the message, told me to call the police if there was an emergency case of child abuse.

Mr President, if I was emotionally disturbed by problems relating to child abuse at 1:00 a. m. and if I had thought of calling the police in the first place, I would not have taken the trouble to call these two numbers. The cases handled by the police are entirely different from the child abuse cases which social service agencies generally deal with. Different professional training and procedures are involved. When a family or a person is asking for assistance, what that family or person needs is professional counselling or the service of a professional social worker, not the assistance of police officers. Therefore, I was astonished to find that the two hot-line numbers so extensively publicized by the Government put callers through to telephone recording. It will not always be during the office hours from 9:00 a. m. to 5:00 p. m. only that families having child abuse problems seek help. Sometimes it may be very late in the night or at a time when they are having a very bad mood. There is simply no fixed time whatsoever. Families which are in need of services could not choose to confront problems at a time which suits the working hours of social workers. Therefore I hope that the Government can really review these hot-line services from the perspective of those people in need of the service, so that the hot-lines service will no longer be subject to the convenience of administrative arrangements.

Mr President, at present, services in respect of child abuse in Hong Kong are in a way a big mess for there are many institutions providing such services but their responsibilities are not clearly defined. There are dozens of telephone numbers and names of institutions printed on these pamphlets. I have contacted and talked to the person-in-charge of some of those institutions and they told me that they did not handle child abuse cases. However, on this pamphlet is printed the publicity slogan "Address child abuse properly and provide positive assistance". To me, the confusion in the existing services is a historical

problem. If the Government is thinking to address and handle this matter seriously, I believe it will take some time to achieve this end.

Not every voluntary institution or agency or social worker has the power or is in a position to deal with child abuse cases. The services required in the handling of child abuse cases are a very professional and very special kind of services. The Protection of Children and Juveniles Ordinance (Cap.213) clearly states that "ill-treatment" is under the jurisdiction of this Ordinance. Section 34(2) of the Ordinance lays down in clear terms that a child or juvenile is in need of care and protection under four kinds of circumstances, and ill-treatment is one. Therefore I think that the confusion in dealing with the child abuse problem is to a certain extent created by the Hong Kong Government itself. I think that since this problem comes under the scope of statutory service, it should be handled by a designated statutory body and should not be dealt with by just any organization or agency. For instance, the police is to investigate crimes and no non-governmental organization can form a security company to investigate crimes, because crime investigation needs statutory power. Child abuse should be treated in the same way.

I surely appreciate the willingness of many voluntary service agencies in directing their effort to this problem. However, without the statutory power, their efforts are very often more of a hindrance than a help. It is because in addition to the necessary professional training and special training, which cannot be acquired in a few months' time, statutory power is also required in handling this matter. As such, if an agency does not have the authorization and proceeds to handle the case on its own, what the agency has done may very likely be more of a hindrance than a help. It is because the case may have to go through legal proceedings eventually and this will have to be handled by a statutory body. The case may finally have to be passed to the Social Work Officers of the Social Welfare Department. However, as the case was first handled by some other social workers but then passed to the Social Work Officers of the Social Welfare Department, the disturbances made to the family or the ill-treated child will affect to a certain extent that family or child. Therefore, I am of the view that the Government should have the responsibilities and authorities defined explicitly.

On the other hand, as far as the services are concerned, I think the way that the child abuse problem is handled at present is too centralized. When the families with problems are in need of services, they would certainly hope that the services are easily accessible and direct. It is not the most desirable thing to do if the provision of services has to fully rely on the telephone. Therefore, where child abuse and the protection of children are concerned, I think the Government should gradually regionalize the services or provide the services at the locality level. Regionalized services may include investigations into problem families and the exercising of intervention as a means to provide assistance. In addition, it should also include other supportive services, such as residential services, foster care service or other group services and so on, which should be provided directly to ensure that problem families can have access to the

necessary kind of services. If this problem remains unsolved, I believe that much resources will be squandered consequently. In that case, the abused children may be the ultimate victims. I hope that the Government will seriously attend to the problem of a confusion in the services.

Thank you, Mr President.

MR FRED LI (in Cantonese): Mr President, in the wake of the extensive media coverage of two cases involving sexual abuse and serious abuse of children in March this year, attention of the community is again brought to the issue of child abuse. In fact, the problem of child abuse is worsening and in many cases the children do not suffer merely from ordinary physical abuses but sexual abuse is involved and serious bodily harm occasioned.

It is unfortunate that we only wake up to Hong Kong's need to have a set of sound policy to protect children only when children are injured seriously or even when some die as a consequence. The KWOK Ah Nui incident in 1986 aroused the public to debate whether the our legislation on the protection of children was adequate, whether the measures to prevent child abuse were sound and whether counselling services provided to abused children and problematic families were sufficient. Almost a decade has passed and we are still faced with the same problems. It seems that we have gone through the years without actually moving forward. A comprehensive Government policy on the protection of children is still lacking.

Although the Government of Hong Kong extended to Hong Kong the United Nations Convention on the Rights of the Child at the end of 1994, our existing laws, policies and social services still fail to materialize the spirit of the Convention. According to the Convention, we must protect our children from all forms of physical, mental and sexual abuse, from neglect or negligent treatment, and ensure that children can have healthy physical and mental growth, that they are protected against discrimination and that their basic rights are respected.

However, our legal system fails to embody in it a comprehensive set of legislation aiming at preventing child abuse and protecting children. There is no legal definition for "child abuse" in the provisions of our statutes and there is no such offence as "child abuse". We can only institute proceedings against child abusers under the Offences Against the Persons Ordinance. I would not repeat what Dr the Honourable YEUNG Sum has elaborated on law-related problems.

I would now turn to the proposal of setting up an independent committee to formulate the relevant policy. I throw my support behind this proposal and I urge the Government to expeditiously set up such an independent working group or committee to study the formulation of long-term child protection policy. If we do not have a long-term policy in this regard, the Government

measures will only be piece-meal and ephemeral responses to individual incidents.

On the Government's manner of handling child abuse cases, the most seriously criticized area is the severe shortage of rehabilitation and counselling services. Its lack of strategy and direction in providing assistance to the re-integration of problematic families has, on many occasions, resulted in yet another abuse tragedy when the abused children returned to their families. At present, there are 11 social workers in the Child Protective Services Unit and the number will rise to 16 in 1995-96, but that still fails to relieve the serious staff shortage. It would not be effective if visits to abused children and problematic families are made only about once a month. Therefore, the Government should allocate more resources to improve counselling services, in particular, the provision of after-care rehabilitation and counselling services as well as services aiming at enhancing family re-integration.

Moreover, the Government should attach due importance to "preventing child abuse", such as strengthening public education, improving curriculum design, informing children of their rights and the importance of exercising their own rights. At the district level, district service teams should be set up to conduct regular family visits in the community and to get an understanding of the family life in the community. That may help prevent child abuse tragedies.

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

SECRETARY FOR HEALTH AND WELFARE: Mr President, our children are our future. The Government has few more important responsibilities than ensuring that they are provided with an environment which nurtures their physical and mental growth and well-being; which provides them with security, good health and education; and which prepares them fully to become responsible and productive members of the society into which they are born.

I welcome the opportunity provided by Dr TANG's motion to explain how we have put in place a comprehensive policy designed to protect and nurture our young by providing the laws and services needed to protect them and to support their development.

The Administration is able to support the spirit of this motion. We can do so because we believe we are already doing in essence what the motion is urging us to do.

But I cannot agree with those who, in this debate, have urged us to go even further and establish a statutory body to co-ordinate policies and actions relating to children. This is simply not necessary. Our approach is to ensure that all parts of the Government, whose policies and actions may affect children, must be aware of and take into account our basic policy with regard to the



rights and needs of children. In this way, all our policies and actions are co-ordinated to deal with children with fundamentally the same approach.

*United Nations Convention on the Rights of the Child*

Nor does our general approach to the treatment of children stem solely from local policy considerations. Since October 1994, the United Nations Convention on the Rights of the Child has been extended to Hong Kong. The significance of the extension of the Convention is that it builds upon Hong Kong's existing international obligations to protect the rights of children and to protect their interests. The Convention obliges us to respect and protect the rights of children as set out therein, such as the right to health care and education, and to protect children, for example, from discrimination, abuse and neglect.

With the enactment of the Parent and Child Ordinance in 1993, which removed provisions which had been discriminatory in their effect against illegitimate children, our laws are now in full accord with the Convention as it is applied to Hong Kong. Copies of the Convention will be widely disseminated and its provisions publicized as part of the Government's enhanced human rights publicity strategy. The Committee on the Promotion of Civic Education is working on a number of events and programmes that will include promotion of the Convention, for example, at the Civic Education Exhibition to be held this summer, in human rights teaching kits for school children, and through the production of videos and comic books in collaboration with UNICEF. The Convention has been printed in booklet form and will be widely distributed to schools, libraries and Public Enquiry Service Counters. Copies will also be available to the public at human rights functions organized by the Committee.

Implementation of the Convention takes place in several ways. First, each Policy Secretary is responsible for the implementation of the Convention within his or her own policy areas and they will be reminded on a regular basis of the need to take the Convention fully into account in legislative drafting and policy review and formulation. Secondly, co-ordination of the work of individual Policy Secretaries in implementing the Convention takes place as necessary in the relevant Policy Groups chaired by the Chief Secretary. Thirdly, implementation of the Convention is critically reviewed as part of the process of preparing and submitting to the United Nations the periodic reports that it requires. This process also affords an opportunity for non-governmental organizations (NGOs) to give their views on implementation of the Convention. Preparatory work has recently begun on the initial report on implementation of the Convention in Hong Kong, which the United Kingdom has undertaken to submit to the United Nations in 1996.

We therefore have a central policy for protecting the rights of the child in accordance with the United Nations Convention on this subject. Today I shall concentrate my remarks, as indeed have Members, on our efforts to combat child abuse and neglect. That is not to say, however, that it is only in this way

that we implement our policy on children. We must not forget the enormous resources the Government spends on education and health care for our children, nor the sterling efforts of the Regional and Urban Councils and other voluntary and subvented bodies in providing healthy recreational activities for them. The policy is multi-faceted. We not only need to protect children from abuse, but we also have to provide educational, health and recreational services and facilities to ensure that they can develop to their full potential.

I believe we do all this efficiently by ensuring that all parts of the Government follow the same basic policy and apply the policy in respect of the services for which they are responsible. There is in all this no need for a single commission or other body to oversee this activity.

*Guiding principles*

Let me now turn more specifically to child protection work which I know is of great concern to Members. This work in Hong Kong is carried out on the principle that the child's interests are of paramount importance in all matters concerning his or her welfare. As set out in the 1991 Social Welfare White Paper, the overall objective of child welfare policies is to support and strengthen families so that they may provide a suitable environment for the physical, emotional and social development of children and to provide assistance to those disadvantaged and vulnerable children who are not adequately looked after by their families. The primary responsibility for the adequate care of children rests with parents, but society has an obligation to protect children from all forms of maltreatment and to provide services for the prevention and treatment of abuse.

8.00 pm

PRESIDENT: Secretary, sorry, I have to interrupt you there. It is now eight o'clock and under Standing Orders this Council should now adjourn.

CHIEF SECRETARY: 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.*

SECRETARY FOR HEALTH AND WELFARE: Based on this policy, we have put in place a comprehensive framework of legislation, services and public education on child protection. Let me tell you about some of what we are doing in this regard.

*Legal provisions*

The legal framework for child protection is provided mainly in the Protection of Children and Juveniles Ordinance. To improve the protection of children from abuse or neglect, the Ordinance was amended two years ago to widen the circumstances in which a child or juvenile may be considered to be in need of care or protection. In addition to physical abuse, sexual abuse and neglect, this category now covers children or juvenile suspected to be suffering from psychological and emotional abuse. The amended Ordinance also provides a new procedure whereby the Director of Social Welfare can serve a child assessment notice to require a parent or a guardian to take a child who is suspected of being abused for medical, psychological or social assessment or to remove the child for such purpose if the notice is not complied with. This has made it possible for the Government to intervene effectively at an early stage of suspected child abuse or neglect.

Proposed legislative amendments in relation to vulnerable witnesses giving evidence in court were introduced into this Council last month. The proposals will enable child abuse victims to testify through live television links. Furthermore, it is proposed that video-taped and uncorroborated evidence given by children should be accepted in court. These measures will eliminate the need for repeated interviews which can be traumatic for child abuse victims and will also enhance the chances of convicting abusers. To tie in with the proposals, a task group has been set up to work out procedures for handling sexual abuse cases. In addition, a vulnerable witness pack will be produced to assist child abuse victims to give testimony in court. A special investigation team comprising multi-disciplinary professionals from the government sector will also be set up to conduct video-recorded interviews of child abuse victims. A month-long training programme for multi-disciplinary professionals on these new measures will start next week. It will be conducted by overseas experts including paediatrician, social worker and police officer.

To ensure that we have the necessary deterrent for abusers, we are now also reviewing the appropriateness of the penalty for neglect of ill-treatment of children under the Offences Against the Person Ordinance. We aim to submit our proposals in this regard to this Council within the current legislative Session.

To improve the protection of young children, we are also considering legislative amendments to prohibit unsuitable persons from acting as child minders, and to empower the Director of Social Welfare to inspect and suspend the operation of child-minding services provided by mutual help groups, if it is considered that the operation may expose the children involved to any danger.

#### *Child Protective Services Unit*

Statutory duties relating to child protection are now carried out by the specialized Child Protective Services Unit of the Social Welfare Department. At present, the Unit is staffed by professionally trained and experienced social workers at senior practitioner level. They provide outreaching services for suspected child abuse and neglect cases during and after office hours. Upon receiving a report through the police, the Department Hotline or from members of the public, they carry out investigations to ascertain whether a child is in imminent danger and exercise intervention on the spot when and where necessary to protect the child. They also provide counselling, supervision and other follow-up services for established child abuse cases.

To improve its investigation and intervention capabilities, the Unit will be strengthened this financial year. This will bring down the caseload per worker substantially from 40 to 30 cases.

#### *Multi-disciplinary co-operation*

The handling and treatment of child abuse and neglect cases require co-operation which involves the staff of various government departments and NGOs. To streamline the handling of child abuse and neglect cases, a comprehensive set of guidelines has been compiled for use by multi-disciplinary teams of professionals.

Whenever there is a report of a suspected child abuse or neglect case, it will be taken up by caseworkers of the family service centres, medical social service units, or the Child Protective Services Unit of the Social Welfare Department who will investigate the family circumstances and gather collateral information from other disciplines, including social workers in the NGO sector, medical officers, teachers and police. A case conference comprising professionals of all disciplines who have knowledge of the child and the family will be conducted. In the case conference, the participants share their professional opinions on the nature of abuse and their assessment of the degree of risk. They also agree what action should be taken. Once a decision is reached on establishing the case as a genuine or suspected child abuse or neglect case, all parties concerned will take part in carrying out the agreed treatment both for the abused and the abusers.

*Multi-disciplinary district committees*

Following a successful pilot project in Tuen Mun, the Social Welfare Department will set up multi-disciplinary committees in five districts with the highest incidence of child abuse in this financial year, to promote understanding of child abuse and neglect among different professions and to examine the issue on a district basis. The district committee would be an effective means not only for service improvement and community education, but also for the promotion of multi-disciplinary co-operation in handling the problem of child abuse and neglect at this level.

*Public education*

The Social Welfare Department has also set up a Public Education Subcommittee on Child Abuse to co-ordinate publicity and public education on the prevention of child abuse. The programme will be launched by phases targetting the general public, parents and children. The first phase was launched two months ago focusing on educating the general public about early detection and the reporting of child abuse and neglect cases. The second phase will be launched towards the end of this year. Continuous publicity efforts have also been made to arouse public awareness of the serious consequences of leaving children unattended at home.

*Improvement to family and child welfare service*

To help prevent child abuse and neglect, we also need to provide adequate support to families and children through more preventive, supportive and remedial services. Over the last two years, we have seen a rapid expansion of child care services including additional day nursery and day creche places, occasional child care and extended hours of operation to meet an increased need for day care facilities for young children who cannot be cared for by their parents during the day. Additional social workers and clinical psychologists have been provided to ensure a more timely and intensive casework service to prevent child abuse and neglect and to rehabilitate the abused and the abusers. But there is a limit to what professionals can do, both in the preventive and curative fields, and a great deal must depend on the families themselves.

Mr President, we have a comprehensive framework of legislation, services and public education on child protection which is based on the policy set out in the 1991 Social Welfare White Paper. The effectiveness of measures for the protection of children is being monitored by the Working Group chaired by the Director of Social Welfare which has a multi-disciplinary membership from the Government and NGOs which include social workers, medical practitioners, psychologists, police, educationalists and academics. It co-ordinates efforts made in child protection and makes recommendations for improvement.

With the extension of the United Nations Convention on the Rights of the Child to Hong Kong, the Government has used the Convention's provisions as a basis for formulating policies and programmes that affect children and there is at present close co-ordination within the Government in this regard. We are also promoting public awareness of the Convention and reviewing how well its provisions are being implemented in the context of the preparation of the initial report on this for submission to the United Nations next year.

We recognize that children, because of their vulnerability, need special care and protection. We shall continue to review critically our laws, our policies and practices that affect children with a view to enhancing the protection afforded to them.

Mr President, the Administration is in a position today to vote for this motion because it represents for us broadly a statement of what we are already doing. I have described the many initiatives we have been taking and continue to take to enhance the way in which we tackle child abuse in particular. Our expertise is growing through drawing on the best practices from overseas and enhancing our multi-disciplinary approach. I agree that more can be done and have noted the many useful and practical suggestions Members have made today. But the important point is that we are fully committed to protecting and nurturing our children. This is a commitment which must be made and acted upon because, as I said earlier, our children are our future.

Thank you.

PRESIDENT: Dr TANG Siu-tong, you are now entitled to reply and you have four minutes 42 seconds out of your original 15 minutes.

DR TANG SIU-TONG (in Cantonese): Mr President, first of all, I would like to thank Members for their enthusiasm in speaking today to make this a fuller debate. The Honourable Mrs Peggy LAM has made it clear that child abuse is a result of the family malfunctioning. The Honourable CHEUNG Man-kwong and the Honourable Mrs Miriam LAU have pointed out that many cases of child abuse have been caused by gross neglect. I am very pleased to hear of the Honourable HUI Yin-fat's proposal to organize counselling sessions for parents so that they will understand what their responsibilities are. Other Members have also made similar suggestions. I would like to thank the Honourable Fred LI, the Honourable Albert CHAN and many other Members who have supported the proposal to set up a statutory body for the protection of children. If we do not do so, we will become "toothless tigers" and can do nothing but talk.

During the growing-up process, a child is emotionally vulnerable. Abuse, neglect or lack of care and concern will become obstacles in a child's growing-up process. Although the physical injuries sustained can heal up, emotional harms can never be mended and they may leave permanent scars.

Adults will voice their dissatisfaction or demands even if nobody speaks for them, but children cannot do so because they simply do not know how to. Children therefore need our constant care.

The Government's response just now is disappointing. It has been stressed time and again that a lot has been done, but things have only been done on a haphazard basis. There lacks a comprehensive system, reflecting the common bureaucratic syndrome of "treating the head when the head aches". Although the Government supports the general principle of protection of children and backs the spirit of the United Nations Convention on the Rights of the Child, it does not agree to formulate a long-term and comprehensive child policy or to set up a children's commission with statutory powers. That obviously is a short-sighted approach which has ignored the importance of the problem and that makes me question the sincerity of the Government.

To protect children we need an overall strategy and practical work, and not a decorative vase within the framework of social service. I therefore call on the Government to consider our proposals seriously and implement them.

Mr President, children are innocent and they should not be abused. I urge Members to support my motion and to show some kindness in protecting our next generation.

*Question on the motion put and agreed to.*

#### **ADJOURNMENT AND NEXT SITTING**

PRESIDENT: In accordance with Standing Orders, I now adjourn the Council until 2.30 pm tomorrow, 1 June 1995.

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

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Post-Release Supervision of Prisoners Bill and Marine Parks Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

