

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 13 November 1996

The Council met at half-past Two o'clock

## MEMBERS PRESENT:

THE PRESIDENT

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

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

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

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

THE HONOURABLE NGAI SHIU-KIT, O.B.E., J.P.

THE HONOURABLE SZETO WAH

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

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

THE HONOURABLE RONALD JOSEPH ARCULLI, O.B.E., J.P.

THE HONOURABLE MRS MIRIAM LAU KIN-YEE, O.B.E., J.P.

DR THE HONOURABLE EDWARD LEONG CHE-HUNG, O.B.E., J.P.

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA, M.B.E.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE ERIC LI KA-CHEUNG, O.B.E., J.P.

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

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE ZACHARY WONG WAI-YIN

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

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE CHAN KAM-LAM

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE CHENG YIU-TONG

DR THE HONOURABLE ANTHONY CHEUNG BING-LEUNG

THE HONOURABLE CHEUNG HON-CHUNG

THE HONOURABLE CHOY KAN-PUI, J.P.

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE IP KWOK-HIM

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE AMBROSE LAU HON-CHUEN, J.P.

DR THE HONOURABLE LAW CHEUNG-KWOK

THE HONOURABLE LAW CHI-KWONG

THE HONOURABLE LEE KAI-MING

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE BRUCE LIU SING-LEE

THE HONOURABLE LO SUK-CHING

THE HONOURABLE MOK YING-FAN

THE HONOURABLE NGAN KAM-CHUEN

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE TSANG KIN-SHING

DR THE HONOURABLE JOHN TSE WING-LING

THE HONOURABLE MRS ELIZABETH WONG CHIEN CHI-LIEN, C.B.E.,  
I.S.O., J.P.

**MEMBERS ABSENT:**

THE HONOURABLE MARTIN LEE CHU-MING, Q.C., J.P.

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE MARGARET NG

THE HONOURABLE LAWRENCE YUM SIN-LING

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE DONALD TSANG YAM-KUEN, O.B.E., J.P.  
FINANCIAL SECRETARY

THE HONOURABLE JEREMY FELL MATHEWS, C.M.G., J.P.  
ATTORNEY GENERAL

MR CHAU TAK-HAY, C.B.E., J.P.  
SECRETARY FOR BROADCASTING, CULTURE AND SPORT

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

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

MR JOSEPH WONG WING-PING, J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

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

MR KWONG KI-CHI, J.P.  
SECRETARY FOR THE TREASURY

MR STEPHEN IP SHU-KWAN, J.P.  
SECRETARY FOR ECONOMIC SERVICES

MR KWONG HON-SANG, J.P.  
SECRETARY FOR WORKS

MR TAM WING-PONG, J.P.  
SECRETARY FOR TRADE AND INDUSTRY

**CLERKS IN ATTENDANCE:**

MR RICKY FUNG CHOI-CHEUNG, SECRETARY GENERAL

MR LAW KAM-SANG, DEPUTY SECRETARY GENERAL

MISS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

**PAPERS**

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

*Subject*

Subsidiary Legislation	<i>L.N. No.</i>
Merchant Shipping (Prevention and Control of Pollution) (Charges for Discharge of Polluting Waste) (Amendment) Regulation 1996.....	465/96
Builders' Lifts and Tower Working Platforms (Safety) (Fees) (Amendment) Regulation 1996.....	468/96
Employees' Compensation (Amendment) Regulation 1996.....	469/96
Shipping and Port Control Regulations (Amendment of Fifth Schedule) Notice 1996 .....	470/96
Specification of Public Office.....	471/96
Official Languages (Authentic Chinese Text) (Affiliation Proceedings Ordinance) Order .....	(C) 111/96
Official Languages (Authentic Chinese Text) (Occupiers Liability Ordinance) Order .....	(C) 112/96
Official Languages (Authentic Chinese Text) (British Nationality Act 1981 (Consequential Amendments) Ordinance) Order .....	(C) 113/96
Official Languages (Authentic Chinese Text) (British Nationality (Miscellaneous Provisions) Ordinance) Order .....	(C) 114/96

Official Languages (Authentic Chinese Text)  
(Undesirable Medical Advertisements  
Ordinance) Order ..... (C) 115/96

### Sessional Papers 1996-97

- No. 32 — The Audited Statement of Assets and Liabilities and Statement of Receipts and Payments of the Urban Council for the year ended 31 March 1996
- No. 33 — Urban Council Annual Report 1995-96
- No. 34 — Revisions to the 1996-97 Estimates approved by the Urban Council during the second quarter of the 1996-97 financial year

### ANNOUNCEMENT

**PRESIDENT** (in Cantonese): At the last sitting of this Council, I announced the result of the division on the amendment moved by Mr CHEUNG Hon-chung to Mr SIN Chung-kai's motion on "Strengthening the Supervision of Statutory Public Organizations". The result was: 31 votes for the "ayes" and 21 votes for the "noes". Mr CHEUNG's amendment was agreed to and I declared forthwith that Mr SIN's motion as amended by Mr CHEUNG had been agreed to by this Council. Two Members then raised questions on my declaration.

After the sitting, another Member wrote to me and questioned my declaration.

The questions raised by the three Members really concern one point, that is, by not putting the question on Mr SIN's motion as amended by Mr CHEUNG to the Council, I was depriving Members of the opportunity to vote either in favour of or against Mr SIN's motion as amended by Mr CHEUNG, or to abstain.

Members will recall that, before the debate started, I had announced the proper procedure for handling an amendment which involved leaving out all the effective words of a motion. I said that Mr CHEUNG's amendment to Mr SIN's motion involved leaving out all the effective words of Mr SIN's motion and it was virtually an alternative proposition to substitute for Mr SIN's motion. Therefore, if Members voted in favour of Mr CHEUNG's amendment later at the sitting, it would mean that the Council accepted Mr CHEUNG's amended version to substitute for the original motion. The Council having taken a decision on this motion, the question on the motion as amended would not therefore be put, as to do so would be tantamount to proposing a question in the same terms as the one which the Council had just considered and agreed to.

This procedure is based on Standing Orders 23A and 31(3). Standing Order 23A stipulates that: "Where the Council has taken a decision on a specific question no further motion shall be moved in relation to that question during the current session except a substantive motion to rescind the decision, moved with the permission of the President." Standing Order 31(3) stipulates that: "It shall be out of order to attempt to reconsider a specific question on which the Council has taken a decision during the current session, except in debate on a substantive motion to rescind that decision moved with the permission of the President."

As Standing Orders prohibit the reconsideration of a question on which a decision has been taken, and as this Council has already agreed that Mr SIN's motion be replaced by Mr CHEUNG's alternative proposition in the form of an amendment, no further vote could be taken on the motion as amended which was exactly the same as the alternative proposition by Mr CHEUNG. Therefore, the question of Members expressing again, at that stage, a preference either for or against the motion as amended did not arise; neither did the question of abstention.

I hope this announcement clarifies the position for Members.

**MR ALBERT CHAN** (in Cantonese): I wish to seek clarification on one point. As far as voting is concerned and in terms of definition, is a motion as amended the same as a motion to amend? The two may be different in terms

of status and legal consideration.

**PRESIDENT** (in Cantonese): What is to be voted upon is a question. If the Council has taken a decision on a specific question, it shall not reconsider the question.

## ORAL ANSWERS TO QUESTIONS

### Athletes Fund

1. **MR ANDREW CHENG** asked (in Cantonese): *The Government has recently announced the setting up of the Athletes Fund (the Fund) and pledged to match community donations to the Fund on a dollar-for-dollar basis (with the Government's commitment being capped at \$8 million) until the size of the Fund reaches \$16 million. In this connection, will the Government inform this Council:*

- (a) *of the latest progress of the Fund;*
- (b) *whether, in the event of public donations to the Fund falling short of the expected \$8 million, the Government will consider injecting more money into the Fund so as to ensure that the size of the Fund reaches the target of \$16 million; and*
- (c) *whether the Government will draw up any guidelines on the operation of the Fund such that individual athletes or sports organizations can apply to the Fund on an equal footing?*

**SECRETARY FOR BROADCASTING, CULTURE AND SPORTS** (in Cantonese): Mr President, public donations to the Hong Kong Athletes Fund at present amounts to \$4.08 million.

Government has already agreed to inject \$8 million into the Fund. We will continue to appeal for donations from the community, with the aim that the size of the Fund should reach at least \$16 million this financial year.

While the Government currently has no plans to inject more money into the Fund, we would be prepared to review the situation at a later date in the light of our experience in running the Fund.

In consultation with the Sports Development Board and other major sports organizations, we are currently drawing up detailed application procedures for the Fund. These will be made public in due course.

**MR ANDREW CHENG** (in Cantonese): *Mr President, when we discussed the size of the Fund with some sports organizations, many of them held that \$16 million was merely a token support from the Government and that it would not be very conducive to the training of athletes in the long run. May I ask the Government what data were based on in setting the amount at \$16 million and what measures the Government will take if this \$16 million is used up before long?*

**SECRETARY FOR BROADCASTING, CULTURE AND SPORTS** (in Cantonese): Mr President, there was no particular criterion that we based on in setting the amount at \$16 million. Since \$8 million is the ceiling for provision beyond which we are required to lodge an application to the Finance Committee of this Council, the Government thus made a commitment of \$8 million at the time. In fact, the Government has no authority to pledge provision in excess of \$8 million. Besides, as the objective of the Fund is to encourage athletes in Hong Kong and as Hong Kong has done distinguishably well both in the Olympics and Paralympics this year, we feel that we should encourage public donations and support for our athletes. In this connection, we came up with the proposal that the Government would inject \$1 for each dollar the community donated until the injection from the Government reached \$8 million. In the debate on the policy address a couple of weeks ago, I said that although the donations had not yet reached \$8 million, the Government had decided to inject \$8 million into the Fund. With regard to future development, as I have said just now, we will review the situation in the light of our experience in running the Fund if necessary.

Moreover, I would like to inform Members that this is in fact not the only fund subsidizing athletes in their participation in international tournaments. At present, there are two other funds, namely the Sports Aid Foundation Fund and the Sports Aid for the Disabled Fund. The Sports Development Council now subsidizes athletes in their training or participation in international tournaments with the income generated from the \$40.75 million capital outlay

of the Sports Aid Foundation Fund. The Sports Aid for the Disabled Fund, of which the capital outlay amounts to \$6.5 million, is set up to subsidize disabled athletes in their training and participation in international tournaments.

**MR ALBERT CHAN** (in Cantonese): *Mr President, given that the donations only amount to \$4.08 million and fall short of the expected amount by 50%, the subvention and promotion of sports activities will certainly be affected. If forthcoming donations remain unsatisfactory, will the Government consider granting subsidies to make up for the shortfall due to insufficient donations?*

**SECRETARY FOR BROADCASTING, CULTURE AND SPORTS** (in Cantonese): Mr President, as I have said earlier, this Fund has not yet come into operation and so it is very difficult to say whether the existing \$12 million will be sufficient. Meanwhile, I have also mentioned just now that at the outset upon the establishment of the Fund, we did not have any objective criterion in fixing the amount. We will certainly review the situation should we find the circumstances so warrant after the Fund comes into operation.

### **Shortage of Skilled Labour in ACP Projects**

2. **MR PAUL CHENG** asked: *Mr President, it is learnt that the progress of the Airport Core Programme (ACP) projects is being held back because of a shortage of skilled labour, delays in completing the design work of some of the projects and other factors. In particular, the problem of shortage of skilled labour is further aggravated by the demand for skilled labour arising from the construction of the extension of the Hong Kong Convention and Exhibition Centre. Will the Government inform this Council of the measures taken to alleviate the shortage of skilled labour in the ACP projects and to resolve the design delay problems in the projects concerned, so as to ensure that all ACP projects can be completed on schedule?*

**SECRETARY FOR WORKS** (in Cantonese): Mr President, the Airport Core Programme (ACP) projects are making good progress. As at 30 September 1996, the overall ACP was approximately 68% complete. The seven Government ACP projects were 91% complete and will be completed by mid-1997, except for a few minor items. The Western Harbour Crossing is

scheduled for opening in April 1997 ahead of programme while the new airport and the Airport Railway projects remain on target for opening in April and June 1998 respectively.

It is true that the supply of skilled labour in the construction trade has become very tight and that labour availability is a critical factor in the timely completion of the new airport and the Airport Railway. According to the latest manpower forecasts from the Airport Authority and the Mass Transit Railway Corporation, an additional workforce of approximately 7 500 (3 500 for new airport works and 4 000 for the Airport Railway works) is needed between now and the peak demand period around end of 1996/early 1997.

The Government is aware of the situation and is working closely with the Airport Authority and the Mass Transit Railway Corporation (MTRC) to ensure the timely completion of the new airport and the Airport Railway projects. Measures introduced include:

- (a) Firstly, by assisting the Airport Authority and the MTRC in setting up an ACP Job Centre to help contractors employ local workers. In addition, the Government is working with the trade associations and unions to retrain workers from other trades up to a semi-skilled level as a means to ease the manpower demand in the construction industry.
- (b) Secondly, the Government has recently streamlined the procedures of the Special Labour Importation Scheme so that contractors can bring in imported workers in a more timely fashion to fill vacancies where it has been established through the local recruitment test under the Scheme that local workers are genuinely unavailable.

Now, let me turn to design changes as noted by Mr CHENG. Design changes are not uncommon in major works projects and could be necessary as projects proceed. However, in the case of Government ACP projects and the Western Harbour Crossing, works are near completion and no major design changes are envisaged. For the new airport and the Airport Railway, which are still under active construction, design changes are under strict control and are only permitted when fully justified. Both the Airport Authority and the MTRC are required to report to their respective Boards of Directors any

proposed design changes which entail financial commitments exceeding set limits or which have significant time implications. In addition, regular reports on the progress of the new airport and the Airport Railway projects are submitted to New Airport Projects Co-ordination Office (NAPCO) for monitoring purposes.

With these measures and very close monitoring of the situation, the Government is confident that the new airport and the Airport Railway can be completed as scheduled.

Thank you, Mr President.

**MR PAUL CHENG:** *Will the Government please confirm my understanding that when the \$1.9 billion claims agreements were made with the construction consortium recently, there was stipulation that design of the terminal building must be finalized and frozen by the end of July? Yet as recent as two weeks ago, the design work was still not finalized. This is a full three months' delay from the deadline. And I understand that the 15 sub-contractors are continuing to make further claims. Will the Government assure this Council that indeed there will be no further claims forthcoming from this situation?*

**SECRETARY FOR WORKS** (in Cantonese): Mr President, we have already discussed this problem with the Airport Authority. Apart from a few changes which will have significant time implications on the completion of the airport, other smaller changes have basically been frozen and any further design changes are absolutely forbidden. However, even if there are such changes, they will have to be reported to the Board and can only be carried out with the Board's approval. We have stepped up the monitoring of design changes; for example, I am chairing the works sub-group. We have some adjustments to our work positions later to further tighten up our monitoring of the claims or progress of the projects. In addition, we hope to set up another working group which will pay special attention to monitoring the progress of the projects. Hence, I believe the number of claims similar to the recent situation will be reduced. However, with an undertaking of such a scale, I believe that many smaller changes are hard to avoid but many of the small work changes

may not lead to monetary claims or loss of time.

Thank you, Mr President.

**PRESIDENT** (in Cantonese): Mr Paul CHENG, are you claiming that the Secretary has not fully answered your question?

**MR PAUL CHENG:** *I do not think my question was answered. I am asking: Whether the Government can reassure this Council that there will be no further substantial claims forthcoming; if there are, can we know the magnitude of those claims?*

**SECRETARY FOR WORKS** (in Cantonese): Mr President, up till the present moment, I am not aware of another claim of a similar magnitude. As I have just said, we will monitor the projects more closely in the ensuing period and hopefully there will not be claims of such magnitude in future.

**MR CHIM PUI-CHUNG** (in Cantonese): *From the Secretary's reply, can we be assured that the 10 ACP projects will be completed before 1 July 1997? Particularly, will the Hong Kong Convention and Exhibition Centre (HKCEC) extension in Wan Chai be in operation on schedule?*

**PRESIDENT** (in Cantonese): This supplementary question is not quite related to the original question and reply.

**MR CHIM PUI-CHUNG** (in Cantonese): *Mr President, in his reply the Secretary has mentioned that the ACP projects will be completed and I only want to make sure whether the HKCEC in Wan Chai is included.*

**PRESIDENT** (in Cantonese): Will the Secretary please answer whether the HKCEC is part of the ACP?

**SECRETARY FOR WORKS** (in Cantonese): The HKCEC in Wan Chai is not one of the 10 ACP projects but I can take this opportunity to tell Members that we are confident of finishing it on schedule.

**PRESIDENT** (in Cantonese): Mr CHIM sneaked an attack successfully.

**MR LEE CHEUK-YAN** (in Cantonese): *Mr President, in paragraph (b) of the main reply, we are told that the Government has recently streamlined the procedures of the Special Labour Importation Scheme. I would like to know how the Government has streamlined the Scheme and whether it will contravene the principle that local workers are given the priority after such streamlining?*

**SECRETARY FOR WORKS** (in Cantonese): Mr President, I believe that we will not abandon the principle of giving local workers first priority. This is one of the main conditions that contractors have to comply with. The streamlining relates to many aspects. For example, concerning the time taken for approval, we can shorten it to close to a month. So after submitting an application, the applicant will be able to bring in workers sooner. Regarding the workers needed for mechanical and electrical work, since we are concerned that the supply of workers needed for this kind of work in the ACP projects will be tight in the future, we can allow a contractor to, after bringing in an imported worker, have room to transfer the worker to another project of the same nature of the contractor's company when the need for such a transfer arises. All these arrangements are to facilitate as much as possible the contractors' utilization of the workers already imported and these will certainly help with the progress of the projects.

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan, are you claiming that your question has not been fully answered?

**MR LEE CHEUK-YAN** (in Cantonese): *Mr President, I wish to follow up. Do I have to queue again?*

**MISS CHAN YUEN-HAN** (in Cantonese): *Mr President, concerning paragraph (a) of the main reply and as the Secretary answered Mr LEE Cheuk-yan's question, he said he would first consider the employment of local workers. In the face of the shortage in supply of the 7 500 workers, what measures have been taken to solve it?*

**SECRETARY FOR WORKS** (in Cantonese): Mr President, in answering the question just now, I have actually mentioned that it is most important for us to first analyze the sort of workers we need and the types of work that they will engage in. For instance, in respect of mechanical and electrical work, most of the workers that we need are those they call semi-skilled workers and we are discussing this with the relevant contractors associations. They are very willing to arrange for retraining in the hope of training a number of job-seekers up to the level of what they call semi-skilled workers in their trades within a short period of time. What actually are semi-skilled workers? For example, they need workers to lay and thread cables and engage in other related jobs. In fact, a large number of such workers are needed and this is one of the measures that we can take to reduce the negative impact on workers.

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han, are you claiming that your question has not been fully answered? Which part?

**MISS CHAN YUEN-HAN** (in Cantonese): *I was asking about the measures but he has not talked about very specific measures.*

**PRESIDENT** (in Cantonese): Secretary, any specific measures?

**SECRETARY FOR WORKS** (in Cantonese): Mr President, other than the arrangements that I have just discussed which can allow us to find what we call semi-skilled workers faster, it is also our present job to find a way to speed up the whole process. Very often when we need to hire workers, it takes a very long time to prove that such type of workers are not available locally. Therefore, other government departments are now compiling a more thorough report on the distribution of various work types and the starting points of

wages so that we can verify faster whether the shortage in the supply of workers needed as claimed by a contractor is true. In addition, very often, when a contractor applies for importation of labour, he is not very clear about the procedures and therefore the NAPCO has done a great deal lately to explain to individual contractors who want to import labour the application procedures as clearly as possible so as to help them to complete the applications as soon as possible.

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han, this is not time for debate.

**MISS CHAN YUEN-HAN** (in Cantonese): *Mr President, I am not starting a debate. Because the Secretary mentioned a shortage of 7 500 workers, I therefore asked what measures he had taken to allow local workers to fill these 7 500 vacancies. But he has not responded to this point. As there is a shortage of 7 500 workers and he has to help local workers to secure jobs, then there must be measures to help the workers fill the vacancies. But he has not answered my question. This is not a debate. I just want to follow up on the question.*

**PRESIDENT** (in Cantonese): If the Secretary's answer cannot satisfy you, you can follow it up in the Panel in future. There are two Members waiting to raise supplementary questions and I will draw a line there.

**MR MICHAEL HO** (in Cantonese): *Mr President, in his reply just now, the Secretary has mentioned that he will study the distribution of work types among the shortage of 7 500 workers expected. Will the Government tell us when this report on the distribution of work types is to be completed and when it can be submitted for study by this Council's Panel on Manpower?*

**SECRETARY FOR WORKS** (in Cantonese): Mr President, we are actually reviewing this on a regular basis. As regards the distribution of work types, what we do mainly is to consult the Airport Authority and the MTRC regularly. I believe that we will continue with the review. But if Members feel that there is a need, we can provide a more detailed reply in writing. (Annex)

**MR LEE CHEUK-YAN** (in Cantonese): *Mr President, in answering my question on streamlining the Scheme, the Secretary has said that if it is within the scope of the ACP projects, imported workers can be transferred from project A to project B. That is my understanding. But will such arrangements not deprive local workers of their employment opportunities because local workers will then not be recruited to take up the jobs in project B? I hope that the Secretary will clarify whether workers will not be recruited locally to fill the vacancies in project B?*

**SECRETARY FOR WORKS** (in Cantonese): Mr President, as far as I know, even if imported workers are to be transferred to company B, company B still has to prove that it is unable to recruit local workers before approval for the transfer is granted.

**PRESIDENT** (in Cantonese): Next question. As the Chinese version of the reply to Question 3 is not yet available, I will defer Question 3.

### **Child Care Services**

4. **MR EDWARD HO** asked (in Cantonese): *It was reported that between 1989 and 1994, over 100 children lost their lives in accidents which occurred when they were left alone at home. Another such incident occurred recently when a five-year-old child, who was at home by himself, played with fire and got severely burnt. In view of this, will the Government inform this Council:*

- (a) *of the distribution of child care centres in various districts, the proportion of these centres to their target clients, and the utilization rate in these centres;*
- (b) *whether consideration has been given to introducing 24-hour child care services in these centres; and*
- (c) *of the measures adopted to prevent the recurrence of such incidents?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, before answering the specific points raised, I should like to stress that we consider that the primary responsibility for providing adequate care to children must lie with their parents or legal guardians. While, therefore, we too are very concerned about the tragic incidents arising from children being left alone at home, our priority is to educate parents of the dangers and unacceptability of this practice.

- (a) Nevertheless, in order to assist those parents who cannot look after their children during the day, we have child care facilities in the form of day crèches for children aged under two years and day nurseries for those between two and six years of age. Occasional child care services are also provided in some of these centres for children whose carers are unable to take care of them for brief periods during the day and extended hours' services are available to cater to the special needs of working parents or single parent families. In addition, after-school care provides half-day care, lunch, homework tuition, guidance and play activities for primary pupils aged between six and 12 who come from families with social and financial needs and who lack adequate adult care and supervision outside school hours. To help low income families who cannot afford the fees charged by child care centres, there is a comprehensive fee assistance scheme.

The distribution of day nursery, day crèche, occasional child care and after-school care places in various districts is shown in Annex I tabled for Members' information.

Because our planning ratio is on a territory-wide basis, we do not have planning targets on a district by district basis. Based on our territory-wide planning ratio of 100 aided day nursery places for every 20 000 of the general population, the estimated total target

requirement for aided day nursery places is currently 30 137 places as against a provision of 24 229 places or 80% of the target.

The enrolment rates in aided day nurseries and day crèches and the utilization rates of the occasional and after school care services are provided in Annex II which I am also tabling.

- (b) Child care services are only one form of family support service for parents. We also provide a range of residential child care services for children and young persons who need 24-hour out-of-home care due to domestic crises such as family illness, death, desertion, imprisonment or child abuse. These services are to cater for exceptional circumstances. No parent should as a normal practice expect to be able to place his child in care on a 24-hour basis: children should return to their parents and siblings in the evening to enjoy and benefit from a normal family life.
  
- (c) As I said at the start of this answer, our main concern is to ensure parents act responsibly towards caring for their children. To foster this attitude, we have enhanced our public education and publicity through the mass media as well as through talks, seminars, exhibitions and video shows at district level. During the past two years, a total of 500 programmes, attended by around 180 000 participants, have been organized. We are also seeking to improve both the availability and security of informal childminding services. Amendments to the Child Care Centres Ordinance which were introduced into this Council on 27 June this year are designed to facilitate the development of more mutual self-help child care groups by exempting them from many of the more onerous requirements set out in the Ordinance. The amendments will also enable parents to seek confirmation that a childminder does not have any criminal record which might make him or her unsuitable to be placed in charge of a child.

These measures are in addition to the ongoing major expansion of child care facilities. For example, in the four-year period between April 1993 and March 1997, we expect to have provided 4 047 new day nursery places.

Thank you, Mr President.

## Annex I

## Distribution of Child Care Places

<i>Districts</i>	<i>Day Nursery Places</i>	<i>Day Crèches Places</i>	<i>Occasional Child Care Places</i>	<i>After-school Care Places</i>
Central/Western	1 362	60	18	88
Islands	388	0	6	12
Southern	1 312	0	21	120
Eastern	4 079	166	27	472
Wan Chai	1 792	80	12	503
Kowloon City	4 349	132	30	91
Sham Shui Po	2 149	64	51	151
Yau Tsim Mong	1 150	85	18	255
Kwun Tong	2 871	143	57	595
Wong Tai Sin	2 167	104	54	291
Sai Kung	568	60	12	415
Sha Tin	3 602	70	51	273
Tai Po	1 589	70	30	243
North	1 412	60	21	238
Yuen Long	1 482	60	27	183

Tuen Mun	3 247	120	60	539
Tsuen Wan	1 330	88	9	158
Kwai Tsing	2 562	184	69	726
Total:	37 411	1 546	573	5 353

## Annex II

Enrolment and Utilization Rates:  
Aided Day Nurseries and Day Crèches, Occasional Care and After-school Care

<i>District</i>	<i>Enrolment in Aided Day Nurseries</i>	<i>Enrolment in Aided Day Crèches</i>	<i>Utilization Rate of Occasional Child Care Service</i>	<i>Utilization Rate of After-school Care Programme</i>
Central/Western	93%	100%	62%	98%
Islands	100%	N.A.	51%	75%
Southern	94%	N.A.	63%	85%
Eastern	92%	67%	115%	81%
Wan Chai	95%	67%	79%	86%
Kowloon City	88%	94%	89%	100%
Sham Shui Po	94%	97%	78%	78%
Yau Tsim Mong	96%	100%	135%	72%
Kwun Tong	95%	61%	103%	79%
Wong Tai Sin	95%	54%	63%	126%
Sai Kung	90%	43%	53%	67%
Sha Tin	95%	54%	58%	95%

Tai Po	99%	61%	55%	91%
North	95%	53%	74%	84%
Yuen Long	97%	63%	49%	117%
Tuen Mun	94%	40%	53%	99%
Tsuen Wan	99%	95%	80%	96%
Kwai Tsing	88%	54%	60%	74%
Average:	94%	69%	73%	89%

**MR EDWARD HO** (in Cantonese): *Mr President, first of all, I am glad to hear the Secretary for Health and Welfare say that there are already many child care facilities. I also share the view that parents have the responsibility to take care of their own children. However, it is very unfortunate that problems keep on cropping up. It is therefore quite obvious that both education and publicity have failed to achieve the desired result. Will the Secretary consider once again enacting laws which prevent young children from being left alone at home and punish those very irresponsible parents?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, perhaps some Members will remember that a rather comprehensive three-month consultation was conducted in 1991, and the question whether laws should be enacted to prohibit parents from leaving children at home alone or to punish them for that was discussed. Great controversy was aroused at that time. I remember that while some people showed their support, there were also many who opposed the legislative proposal. One of the grounds in opposing legislation was that it would discriminate against low-income families or families where both parents need to work, and in doing so, it would also punish such families. Moreover, should such legislation be enacted, the biggest problem would be its enforcement. It might be necessary for the police to be vested with special powers to force their entry into premises for searching. Therefore, many people have viewed the legislative proposal with reservations, for it would not be good enough to have the legislation just for the sake of deterrence and education, and it would be a rather retrogressive move to legislate without having these laws enforced. Therefore, the conclusion erstwhile was that no legislation on this should proceed. Instead, it was stressed that provision of facilities for child care services and provision of support services should be strengthened and in particular, publicity and

education should be stepped up. I remember that about three years ago, this Council also had a debate on this issue. As a matter of fact, we have been having discussions on this issue from time to time. But according to the public's views, the idea that education and publicity should be the principal means to address the situation is generally favoured.

**PRESIDENT** (in Cantonese): Many Members are still waiting to ask supplementary questions. There are seven of them and I shall draw the line there. By the way, will Members please keep their supplementary questions as short as possible, and please avoid having long preambles and preambles in the form of commentaries, or trying to make comments in the guise of questions.

**MR LAW CHI-KWONG** (in Cantonese): *Mr President, in part (a) of the reply, the Government mentions that occasional child care services are provided for children whose carers are unable to take care of them for brief periods during the day. Is it the Government's stand that if parents have sudden and brief periods of needs during the day, the Government will help them, whereas if parents have sudden and brief periods of needs at night, the Government will see them as unworthy causes to help?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, I believe whether it is day or night, families in general would arrange suitable persons to look after their children before the parents leave home. It is our hope that some mutual aid groups can be organized to provide such kind of services because many people rely on their own relatives, neighbours or friends to help, albeit occasionally, taking care of their children. If they have special needs, they should ask people they are familiar with for this kind of services, for it is our general practice to provide services during the day.

**MRS SELINA CHOW** (in Cantonese): *Mr President, after all, we cannot go on in the same old rut in doing things. In view of the fact that from 1991 to*

*now, cases of tragic accidents as a result of children being left at home alone have been increasing, and child care services have kept on increasing, can the Secretary inform this Council if it is necessary to review the situation again and to regulate and remind parents of their responsibility in this respect by means of laws? If she is still of the opinion that this is not the time yet, then may I ask her when will the time be?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, as to whether legislation should be enacted to punish this kind of parents, I believe opinions are varied in the community. I do not rule out the possibility that the Government will re-examine this aspect and see whether such is feasible, because it is of utmost importance that we have to know whether or not it is feasible, and whether there will be difficulties in enforcement. However, there are other legislation which we can examine in detail because other legislation can also serve to educate parents and have deterrent effects on them. To my knowledge, there are quite conflicting views in the community on the question of legislation.

**MISS CHAN YUEN-HAN** (in Cantonese): *Mr President, the Secretary for Health and Welfare has repeatedly emphasized that presumably all small children have suitable people to take care of them, and that presumably there are people to take care of them either during the day or at night, or even round the clock. But still, why are there so many accidents as a result of children being left at home alone? If it is the case as the Secretary has presumed, there should not have been such problems. What is the reason then?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, I have already stressed in my main reply that the most important thing is for parents to act responsibly towards caring for their children. If parents do not act responsibly, then unfortunate incidents will still occur.

**MRS MIRIAM LAU** (in Cantonese): *Mr President, erstwhile I was one of the few who recommended to the Government to enact laws. Looking at the education and publicity the Government has been working on over the past few years, the provision of many occasional child care services places and the many efforts it has made, it seems that all these are of no avail, for the number*

*of accidents as a result of children being left at home alone are on the rise. I am glad to hear the Secretary promise to review this. But before any review is made on the question of legislation, will the Secretary consider a change of strategy and find out why the existing occasional child care services are unattractive and that the education and publicity programmes have come to no avail? Also, will she consider other ways to make sure that parents act responsibly?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, I share the view that there are many areas we can work on. First of all, in respect of education, we have to review whether or not the existing forms of education and publicity are effective and how we can strengthen the publicity network. On the other hand, we hope to encourage more discussions at the district level, especially for the establishment of more mutual aid groups at the district level. Moreover, if the Child Care Centres (Amendment) Bill is enacted, it will encourage more mutual aid groups to provide such services. I understand that at present many parents like to place their children in the care of relatives, friends or neighbours, as this is more convenient for them. As to how education can be better carried out, there are various ways both we and non-government organizations would resort to. In this connection, the Social Welfare Department (SWD) and relevant social welfare organizations will keep on looking for better ways for publicity and education to be carried out.

**MR CHOY KAN-PUI** (in Cantonese): *Mr President, the Secretary has mentioned territory-wide services. However, I would like to know which one of the districts is most in need of the services. Also, I would like to know if there are certain services not fully utilized, if so, why?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): The utilization rates of child care and nursery facilities we have provided are different for different districts, as it depends on population movements, changes in age and the parents' decision. Since the number of small children enrolled at kindergartens are on the rise, about 80% of children aged between three and six have already been enrolled at kindergartens. In view of the fact that circumstances have changed, the needs have also changed. At present,

one way we deal with it is to move certain facilities of low utilization rates to some other districts where they are in greater demand. Therefore, apart from the fact that the number of facilities have to be adequate, they also have to tie in with the needs of each of the districts, because services like nurseries or child care centres have to be convenient to parents, and they must not be too far away from where they live.

**DR JOHN TSE** (in Cantonese): *Mr President, I am in support of the legislative move and the increasing of services. This is because 20 children die every year as a result of their having been left at home alone. In fact, one of the main criticisms is that the time at which the existing services are provided is not suitable .....*

**PRESIDENT** (in Cantonese): Dr John TSE, please ask your supplementary question.

**DR JOHN TSE** (in Cantonese): *Will the Government consider the provision of occasional child care services during the night, as night time is more suitable because many parents may have to work at night? Or will it consider increasing occasional child care services?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, we try as far as possible to encourage existing aided nurseries to provide occasional child care services. But as to the question of whether occasional child care services should be provided during the night, we of course have to make more in-depth studies. In my main reply, I have already pointed out that we hope that children could return to their homes in the evening to enjoy and benefit from a normal family life. Should special needs arise, many parents will make their own arrangements for their relatives to take care of their children. Of course, we have to provide a number of options for parents to decide how their children should be taken care of. If they are responsible parents, they will make good arrangements. Therefore, whether it is day or night, the most important thing is for parents to take up such a

responsibility.

**MR EDWARD HO** (in Cantonese): *Mr President, in the Secretary's main reply, she has referred to a certain planning target, and she states that the current ratio is only 80% of the target. Can she inform us when the target can be achieved? Also, the Basic Law provides that after 1997 Hong Kong permanent residents' children born in China may come to Hong Kong. By that time, would it be necessary to review this planning target?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): *Mr President, the planning target serves only as a guideline. It shows us what the quantity of services should be for a certain area. But as to where the services should be provided and how many of them should be provided, it is for us to plan in detail according to the needs of each district. Of course, if the children population increases, we will increase the facilities to keep up with it. Apart from the new child care centres provided by the existing plan, the SWD also liaises closely with the Housing Department, and in doing so, it has an understanding of the renewal, construction and removal of public housing estates. During the construction of public housing estates, provision would be made for this kind of services.*

**PRESIDENT** (in Cantonese): *I now invite Miss CHAN Yuen-han to ask the third question.*

### **Women and Young Persons (Industry) Regulations**

3. **MISS CHAN YUEN-HAN** asked (in Cantonese): *Regarding the Labour Advisory Board's recent endorsement of the Government's proposal to repeal the provisions in the Women and Young Persons (Industry) Regulations applicable to women, will the Government inform this Council:*

- (a) *having regard to the fact that the provisions in section 4 of the Regulations were formulated for the purpose of implementing the Underground Work (Women) Convention (International Labour Convention No. 45) in Hong Kong, whether the present proposal to repeal the Regulations is in breach of the above Convention; if*

*so, of the remedial measures which will be taken by the Government and the timetable for the implementation of such measures; and*

- (b) *whether, in putting forward the proposal to repeal the Regulations, the Government has sought the medical sector's opinion as to whether the repeal of the provisions in the Regulations relating to carrying of weights by women may result in women suffering from gynaecological diseases (such as excessive menstrual flow, menstrual pain, stoppage of menstruation and prolapse of uterus) while moving heavy objects at work; if so, what the details are; if not, why not?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Mr President, before I reply to the specific parts of the Question, I should point out that Regulations 4 and 6 are two of the eight Regulations containing women-specific employment restriction provisions under the Women and Young Persons (Industry) Regulations. These provisions will become legally incompatible with the Sex Discrimination Ordinance (SDO), after the grace period for exempting such provisions from the application of the SDO expires on 13 July 1997 under Section 57 of the Ordinance. It is therefore technically necessary to repeal these provisions under these Regulations before the aforesaid date in order to render the entire set of Regulations compatible with the SDO.

As regards Part (a) of the Question, Regulation 4 of the Women and Young Persons (Industry) Regulations prohibits the employment of women (and young persons) from underground work in any mine or quarry, or in any industrial undertaking involving a tunnelling operation.

This Regulation is in line with International Labour Convention (ILC) No. 45 which prohibits the employment of female workers from underground work in any mines. ILC No. 45 was ratified by the United Kingdom in 1936 and extended to Hong Kong without modification in 1950 by virtue of United Kingdom's ratification of ILC No. 83, which provides that a ratifying member should make a declaration on the extent to which the provisions of a prescribed list of ILCs should be applied to its Non-Metropolitan Territories. In 1988, United Kingdom denounced ILC No. 45 on the ground of providing equal employment opportunities for men and women. The Convention, however,

continues to apply to Hong Kong by virtue of the above declaration made by United Kingdom under ILC No. 83 in 1950. Following the repeal of Regulation 4 of the Women and Young Persons (Industry) Regulations, the United Kingdom has to make a declaration to the International Labour Organization that ILC No. 45 ceases to apply to Hong Kong.

As regards Part (b) of the Question, Regulation 6 of the Women and Young Persons (Industry) Regulations prohibits a woman (or young person) employed in an industrial undertaking from carrying any load which is unreasonably heavy having regard to his or her age and physical development.

In putting forward the proposal to the Labour Advisory Board, medical advice was not sought on the impact of the repeal of Regulation 6 of the Women and Young Persons (Industry) Regulation on the health of women. This is because the repeal of the women-specific provision under this Regulation will not amount to a reduction of the protection of female workers in respect of carrying of heavy weights, as the same protection is already in place under Section 6A of the Factories and Industrial Undertakings Ordinance. The latter provision, which was brought into effect in 1990 (that is, after the making of the Women and Young Persons (Industry) Regulations), prescribes the general duties of a proprietor to ensure the health and safety at work of all persons (both male and female) employed in industrial undertakings. Such duties include the duty to ensure safety and absence of risks to health in connection with the use, handling, storage and transportation of articles and substances. Under this provision, no worker, male or female, should be requested to carry any load which is unreasonably heavy that it may damage his or her safety and health.

**MISS CHAN YUEN-HAN** (in Cantonese): *Mr President, I would like to ask the Secretary for Education and Manpower why the Government did not seek medical advice on the impact on women's health when it decided to repeal the relevant provisions in the Women and Young Persons (Industry) Regulations?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Mr President, in my main reply, I have already explained why we did not seek medical advice on the impact of the repeal of Regulation 6 of the Women and Young Persons (Industry) Regulations on the health of women. This is because the repeal of the provision under this Regulation will not lead to a reduction of the protection for female workers in respect of carrying of heavy

weights as the same protection is already in place under Section 6A of the Factories and Industrial Undertakings Ordinance. I have made this point very clear in the last paragraph of my main reply.

**MR CHAN WING-CHAN** (in Cantonese): *Mr President, in the last paragraph of the Secretary's main reply, he said that Section 6A of the Factories and Industrial Undertakings Ordinance prescribes the general duties of a proprietor to ensure the health and safety at work of all persons (both male and female) employed in industrial undertakings. In that case, why are there still a large number of workers who are suffering from occupational diseases?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Mr President, the provision in the Ordinance concerning the protection of the health and safety at work of all persons (both male and female) is a legislative device enabling the relevant government departments, such as the Labour Department, to enforce the stipulation and prosecute the employers who fail to comply with it. However, it cannot guarantee that no one will contravene the law or no worker will suffer from any occupational diseases just because of the enactment of this Ordinance.

**MR LEE CHEUK-YAN** (in Cantonese): *Mr President, I cannot understand why the general duties of a proprietor laid down under Section 6A of the Factories and Industrial Undertakings Ordinance can replace the protection of female workers in respect of carrying heavy weights, as told by the Secretary. The reason is that general duties are very "general" and can cover everything. How can such a general provision replace the specific provision in the Women and Young Persons (Industry) Regulations? Besides that general provision, is there any other provisions in the Factories and Industrial Undertakings Ordinance that give protection to both male and female workers in respect of carrying weights? Is there any other provisions in the Ordinance which have the same effect?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Mr President, the Honourable LEE Cheuk-yan can, of course, disagree to what I

said. But in my main reply, I have already pointed out that, under Section 6A of the relevant Ordinance, the health and safety at work of all persons (both male and female) employed in industrial undertakings should be protected. And these duties include the arrangement for ensuring safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances. Certainly, in the course of the use or transport of articles, workers may need to carry the objects. According to our understanding, therefore, the employers, under this provision, should not request any workers, male or female, to carry unreasonably heavy loads.

**MISS CHAN YUEN-HAN** (in Cantonese): *Mr President, according to the Secretary's reply, in 1990, when the proprietors' general duties were laid down, protection for both male and female workers has been ensured. But why did the Government not repeal the relevant provisions in the Women and Young Persons (Industry) Regulations at that time?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): *Mr President, when the Factories and Industrial Undertakings Ordinance was enacted in 1990, we did not see any actual relationship between this Ordinance and the Women and Young Persons (Industry) Regulations. In my main reply, I have made it clear that our present view is that Section 6A of the Factories and Industrial Undertakings Ordinance will provide the same protection as Regulation 6 of the Women and Young Persons (Industry) Regulation.*

**MR LEUNG YIU-CHUNG** (in Cantonese): *Mr President, in the last paragraph of the Secretary's main reply, he said that under this provision, no worker, male or female, should be requested to carry any load which is unreasonably heavy. In theory, it is true that a worker may refuse the employer's request, but in reality, the situation that often occurs is that the worker who has time and again refused the employer's request to carry a heavy load will be dismissed. May I ask the Secretary: How can we prevent the employee from being dismissed after he or she has refused to carry a heavy load?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Mr President, any employer who has contravened Section 6A of the Factories and Industrial Undertakings Ordinance is liable to a maximum fine of \$200,000 on conviction. That is already a protection.

**PRESIDENT** (in Cantonese): Mr LEUNG, are you claiming that your question has not been fully answered?

**MR LEUNG YIU-CHUNG** (in Cantonese): *Yes, Mr President. I am asking how to ensure that the employee will not be dismissed. What the Secretary has just said is the penalty to be imposed on the employer, but he has not mentioned how to ensure that the employee will not be dismissed.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): No legislation can ensure that no one will break the law or that no employee will be unreasonably dismissed.

### **Subsidies to Chinese Schools in the United Kingdom**

5. **MR LO SUK-CHING** asked (in Cantonese): *Among the Chinese residing in the United Kingdom, many are second or third generation descendants of indigenous villagers of the New Territories and have a close relationship with Hong Kong. The Liaison Section of the London Office of the Hong Kong Government previously granted subsidies to the Chinese schools in the United Kingdom for the provision of Chinese language education. In this connection, will the Government inform this Council of:*

- (a) *the amount of subsidies granted to the Chinese schools in the United Kingdom in each of the past five years;*
- (b) *whether the London Office's decision to cease granting subsidies to these Chinese schools and to dissolve the Liaison Section is related to the return of the territory's sovereignty to China; and*
- (c) *whether it will consider resuming the granting of subsidies to these*

*Chinese schools, so that future generations of the indigenous villagers of the New Territories residing in the United Kingdom are equipped with sufficient proficiency in the Chinese language to serve the community upon their return to Hong Kong?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Mr President, the scheme to provide assistance to Chinese community language classes in the United Kingdom by the London Office started in the late 1960s as a community service in response to requests made by immigrants from Hong Kong to the United Kingdom who had difficulty in finding schools providing lesson for their children to learn the Chinese language. Help was rendered by way of supplying classes organized by local organizations, usually held on weekends, with Chinese language textbooks which were in short supply in those days and some cash subsidies which was no more than a token of appreciation for the services provided for the community. The expenditure incurred in providing such financial assistance during the last five-year period before the phasing out of the scheme are given as below:

<i>Year</i>	<i>Text-book costs</i>	<i>Subsidies</i>
	£	£
1990-91	37,940	58,700
1991-92	33,120	50,000
1992-93	41,000	34,000
1993-94	25,230	32,150
1994-95	18,600	-

The scheme was phased out and eventually suspended in 1994-95, partly as a result of the major reorganization of the London Office to refocus the Office's efforts to meet changing needs, taking into account:

- (a) the need to plan for, in the long term, the role of the London Office as an economic and trade office under the Sino-British Joint Declaration; and
- (b) a more efficient utilization of resources.

as was reported to this Council on 2 November 1990 when the Finance Committee was asked to note, *inter alia*, the reorganization of the London

Office into an economic and trade office. As part of the reorganization exercise, the then Community Services Division of the London Office, which had all along handled the scheme, was disbanded in September 1995, because liaison with the Hong Kong community, among others, would cease to be a function of the restructured London Office.

At the same time, with the change in circumstance in the United Kingdom, it was deemed that there was no paramount need to continue providing financial assistance for Chinese language class. With the increased affluence of immigrants in the local community, they are now much more able to self-support running of the classes themselves. These classes are well-established and ably run. The withdrawal of financial assistance by the London Office has not caused serious hardship. In fact, as far as we are aware, no class was closed for financial reasons as a result. As regards textbooks, by 1994-95, the United Kingdom Federation of the Chinese Schools had developed their own set of textbooks up to GCSE level which are widely circulated and better suited for children living in the United Kingdom. There was therefore no further need for the London Office to supply Hong Kong textbooks to the classes.

Moreover, following an inquiry by the House of Common in 1984-85, a report entitled "Chinese Community in Britain" was published which affirmed that the local governments should support Chinese language teaching in the Chinese communities. As a result, the Chinese residents have been able to make some success in getting regular support from local governments for classes for Chinese language studies.

Since the Chinese language classes organized by community organizations treat all pupils the same and do not differentiate them by countries of origin, there should be no problems for descendents of indigenous villagers of the New Territories residing in the United Kingdom to enroll in these classes.

Because of the reasons stated above, the Government has no plan to resume the granting of subsidies for running Chinese language classes in the United Kingdom.

**MR LO SUK-CHING** (in Cantonese): *Mr President, Hong Kong at present*

*still imports certain professionals from other countries. Regarding the above indigenous villagers, they are all Hong Kong permanent residents and most of them are professionals. It will be very difficult for them to look for jobs when they come back to Hong Kong if they are only proficient in English and the Hakka dialect. When we dissolve the Community Services Division and cease granting subsidies to the Chinese language schools, does it mean that the Hong Kong Government is prepared to relinquish its responsibility towards these permanent residents of Hong Kong? Are there any ways to assist them?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Mr President, I have just mentioned in my main reply that there are still many Chinese language classes in the United Kingdom and their curriculum has already been developed up to GCSE level. If these persons who are now residing in the United Kingdom want to learn Chinese, they are welcomed to join these classes. It is believed that the standard of these Chinese language classes can help them meet the job requirement in Hong Kong.

**MR CHOY KAN-PUI** (in Cantonese): *Mr President, will the Government inform this Council how does the London Office's role differ from the past? And what is the Government's assessment of the work of the Community Services Division before its dissolution?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Mr President, before the reorganization of the London Office, its duties included representing Hong Kong in the United Kingdom, and also taking up part of the liaison work with the United Kingdom Government and the liaison with the Hong Kong community. It was also responsible for looking after Hong Kong students in the United Kingdom, as well as the recruitment of civil servants.

After the reorganization of the London Office, its function is now the same as our economic and trade offices in other parts of the world. It is mainly responsible for business relations, public relations and foreign industrial investments in the territory. In other words, liaison with the Hong Kong community has ceased to be the function of the United Kingdom economic and

trade office.

**MR JAMES TO** (in Cantonese): *Mr President, according to my understanding, "the Chinese residing in the United Kingdom" in the Honourable LO Suk-ching's question are those people who have already obtained British nationality, especially their second or third generation descendants.*

*My question is: In relation to the Chinese residing in Canada, Australia and the United States, has the Government granted the same subsidies to the Chinese language classes in those countries for their second or third generation descendants?*

**PRESIDENT** (in Cantonese): Although this supplementary question is not directly related to the original question and the main reply, if the Secretary can answer this question, please do so.

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Mr President, as far as I know, there are no such subsidies.

**PRESIDENT** (in Cantonese): In fact even without the Secretary's reply, we all know the answer.

## WRITTEN ANSWERS TO QUESTIONS

### Strategic Sewage Disposal Scheme Stage I Project

6. **MR HENRY TANG** asked (in Chinese): *In regard to the Strategic Sewage Disposal Scheme Stage I project, will the Government inform this Council of:*

- (a) *the problems which have arisen in the above project resulting in the temporary suspension of the construction work;*
- (b) *the party which should be held responsible for such problems; and*

- (c) *the costs of the improvement works arising from such problems?*

**SECRETARY FOR WORKS** (in Chinese): Mr President,

- (a) Stage I works for the Strategic Sewage Disposal Scheme (SSDS) provides for the collection, treatment and disposal of 1.7 million cu m of domestic and industrial wastewater per day from urban Kowloon and the northeastern parts of Hong Kong Island by:
- (i) upgrading of seven preliminary treatment works;
  - (ii) construction of a deep-sea tunnel outfall;
  - (iii) construction of a new chemically enhanced primary treatment works on Stonecutters Island; and
  - (iv) construction of six sections of deep sewage collection tunnels.

All construction contracts of the SSDS Stage I project have already been let and the works are generally progressing well on the works under items (i) to (iii) above. However, problems have arisen with part of the tunnel works under item (iv).

Tunnel boring works for the \$1.3 billion deep sewage tunnels contract commenced on site early this year. Towards the middle of the year, the Contractor encountered water seepage through the rock into two of the six tunnel sections. From mid-June to the end of July, the Contractor suspended the tunnel boring works progressively, leading eventually to works stoppage at all six tunnel sections although no technical obstacles related to water seepage were encountered in the other four tunnel sections.

- (b) In response to the Contractor's actions, Government has engaged independent tunnelling experts to advise on the technical issues and discussions have been held with the Contractor's

representatives in an effort to get the tunnelling works back on track. As discussions are still going on, it would be inappropriate to disclose further details of the process and premature to say who should be held responsible for the problems.

- (c) The details of any improvement works that may prove necessary have yet to be agreed upon. It is thus too early to say how much those additional costs will be.

### Home Ownership Scheme

7. **MR CHAN WING-CHAN** asked (in Chinese): *Is the Government aware of:*

- (a) *the number of flats produced in respect of each phase of the Home Ownership Scheme (HOS) in the past five years;*
- (b) *the following information under the green-form and white-form categories in respect of each phase of the HOS in the past five years:*
  - (i) *quota allocation;*
  - (ii) *number of applications;*
  - (iii) *oversubscription rate;*
  - (iv) *number of cases involving purchasers of uncompleted HOS flats failing to complete the sale and purchase agreements after payment of deposits; and*
  - (v) *number of cases involving owners of HOS flats surrendering their flats to the Housing Authority on account of default in mortgage repayment;*
- (c) *the reasons for the increase in the number of forfeiture of deposit cases in respect of HOS flats; and*

- (d) *whether the Housing Authority will adjust the production rate and prices of HOS flats in the light of the reasons given in the answer to (c) above; if so, how the rates of such adjustments will be determined?*

**SECRETARY FOR HOUSING** (in Chinese): Mr President, the required information is given in the table attached.

The main reasons for purchasers of uncompleted Home Ownership Scheme and Private Sector Participation Scheme flats failing to complete sale and purchase agreement after payment of deposits are changes in family circumstances (such as moving out of grown-up children upon marriage, death of principal income earner), emigration and change of mind instead to purchase flats in the private property market.

The mortgage repayment default rate in the past five years is very low. The number of cases is given below:

*Default cases*

1991-92	26
1992-93	33
1993-94	18
1994-95	14
1995-96	39

A breakdown by white form and green form applicants is not available.

Affordability remains the primary consideration for setting prices of Home Ownership Scheme and Private Sector Participation Scheme flats. Prices for each phase are determined with reference also to the market value of comparable private sector flats in similar locations, with a discount of at least 30% of market value (the discount being around 45% in the last eight phases). The high subscription rate is evidence that the flats are affordable. There is no need to make price adjustments.

The number of flats for sale in each phase will be determined in the light of demand and the flat production rate.

Annex

## Home Ownership Scheme and Private Sector Participation Scheme Flats

Month/ year	Phase	No. of flats for sale			Allocation ratio (%)			No. of applications			Subscription rate (round figures)			No. of rescission case (as at 31.10.96)		
		GF	WF	Total	GF	WF	Total	GF	WF	Total	GF	WF	Overall	GF	WF	Total
4/91	13A	4 024	1 982	6 006	67	33	23 773	35 868	59 641	6	18	10	67	9	76	
8/91	13B	4 132	2 035	6 167	67	33	21 193	36 120	57 313	5	18	9	84	6	90	
12/91	13C	4 319	2 128	6 447	67	33	29 023	59 706	88 729	7	28	14	99	10	109	
4/92	14A	4 338	2 136	6 474	67	33	16 559	53 812	70 371	4	25	11	121	7	128	
8/92	14B	4 591	2 261	6 852	67	33	22 385	61 252	83 637	5	27	12	145	8	153	
12/92	14C	5 002	2 464	7 466	67	33	19 425	48 994	68 419	4	20	9	195	20	215	
4/93	15A	3 034	3 033	6 067	50	50	14 702	52 694	67 396	5	17	11	140	45	185	
8/93	15B	2 294	2 293	4 587	50	50	20 488	52 410	72 898	9	23	16	114	16	130	
12/93	15C	2 999	1 477	4 476	67	33	28 495	52 534	81 029	10	36	18	253	13	266	
4/94	16A	3 550	1 749	5 299	67	33	25 482	58 414	83 896	7	33	16	265	29	294	
9/94	16B	5 469	2 694	8 163	67	33	35 069	77 276	112 345	6	29	14	492	49	541	
4/95	17A	5 446	2 682	8 128	67	33	24 604	53 984	78 588	4	20	10	244	23	267	
11/95	17B	3 601	1 400	5 001	67	33	16 743	36 338	53 081	5	26	11	34	5	39	
4/96	18A	3 292	793	4 085	67	33	21 828	29 955	51 783	7	38	13	11	1	12	
8/96	18B	5 217	1 262	6 479	80	20	19 946	32 492	52 438	4	26	8	-	-	-	

Legend: GF = Green Form

WF = White Form

Rescission = Forfeiture of deposit for uncompleted flat

**Treatment of Discarded Vehicle Lubricating Oil**

8. **MR NGAN KAM-CHUEN** asked (in Chinese): *Regarding the treatment of discarded vehicle lubricating oil, will the Government inform this Council of:*

- (a) *the estimated quantity of discarded vehicle lubricating oil requiring treatment in each of the past three years;*
- (b) *the respective quantities of discarded vehicle lubricating oil collected by the Tsing Yi Chemical Waste Treatment Centre and a privately-run waste collection plant in each of the past three years;*
- (c) *the number of prosecutions against illegal dumping of discarded vehicle lubricating oil in each of the past three years; and*
- (d) *the measures currently adopted by the Government to facilitate the collection of discarded vehicle lubricating oil?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Chinese): Mr President,

- (a) An estimated 8 000 tonnes of waste vehicle lubricating oil are generated in Hong Kong every year.
- (b) The quantities of waste vehicle lubricating oil treated at the Chemical Waste Treatment Centre (CWTC) on Tsing Yi Island and recycled at the private recycling plant during the past three years are as follows:

	<i>CWTC (tonne)</i>	<i>Private Recycling Plant* (tonne)</i>
1994	2 808	0
1995	2 966	2 541
1996 (up to October)	1 414	4 344

\* commissioned in early 1995.

A large quantity of waste lubricating oils were also exported for recycling elsewhere in the past.

- (c) We have taken legal action against one case of illegal disposal of waste lubricating oil in 1994, six cases in 1995 and seven cases during the first 10 months of 1996. We are maintaining pressure on those who ignore the law, whilst the statistics at (b) indicate that an increasing proportion of waste lubricating oil is recycled.
- (d) It is government policy to encourage waste recovery and recycling activities. The Environmental Protection Department is in regular contact with vehicle and drivers' associations and garage operators to promote their awareness of the importance of proper disposal of waste lubricating oil. In addition, one of the oil companies will soon set up reception facilities on a trial basis at some of its petrol-filling stations to collect waste lubricating oil from drivers and vehicle owners for recycling. The Government supports private-sector initiatives such as this and will encourage and assist similar schemes in future.

### **Regulation of Chinese Patent Medicines**

9. **MR CHAN KAM-LAM** asked (in Chinese): *The Department of Health recently announced that several brands of Niu Huang Chieh Tu Pien (a kind of Chinese patent medicine) in the market were found to contain high levels of arsenic, and this has aroused concern among the public about the regulation of Chinese patent medicines. In this connection, will the Government inform this Council:*

- (a) *of the categories of Chinese patent medicines selected by the Department of Health for testing, together with the number and results of such tests, in each of the past three years;*
- (b) *of the criteria adopted for determining the categories of Chinese patent medicines to be tested, the number of such tests and the methods of conducting such tests;*

- (c) *of the progress made by the Preparatory Committee on Chinese Medicine regarding the Committee's work on the regulation of Chinese herbs and Chinese patent medicines;*
- (d) *whether the Department of Health has considered bringing Chinese patent medicines under the regulation of the Pharmacy and Poisons Ordinance and setting up a labelling system for Chinese patent medicines; if so, when the relevant measures will be implemented; if not, why not; and*
- (e) *whether the Department of Health at present has regular contacts with the Chinese Ministry of Public Health and the State Chinese Medicine Regulating Bureau; if so, what the details are; if not, whether regular contacts with these two bodies will be made in future?*

**SECRETARY FOR HEALTH AND WELFARE** (in Chinese): Mr President,

- (a) The number of tests on Chinese proprietary medicines carried out during the past three years, and their outcomes, are as follows:

	<i>No. of samples analysed</i>	<i>No. found to contain western drug</i>	<i>No. found to contain unacceptable levels of heavy metals</i>
1993	242	6	1
1994	252	10	4
1995	433	9	2

Medicines selected for tests include those for rheumatism, colds, influenza and so on.

- (b) Chinese proprietary medicines are selected for testing upon import or from the local market. Special emphasis is placed on those medicines which are more popular among consumers or have had a record of failure to meet test standards. They are analysed for the presence of western drug ingredients and of the level of heavy

metals, namely, arsenic, mercury, lead and since 1996, cadmium. The number of Chinese proprietary medicines taken for analysis and the results are set out in (a) above.

(c) and (d)

The Preparatory Committee on Chinese Medicine (PCCM) has done an assessment on the trade of Chinese medicine in Hong Kong. It is now deliberating on the mode of regulation of Chinese proprietary medicines and herbal medicine.

Currently, the Pharmacy and Poisons Ordinance provides for the regulation of western medicine. The PCCM considers that Chinese proprietary medicines should be regulated under separate legislation which should include registration and labelling requirements. The PCCM expects to draw up proposals for Government's consideration in 1997.

(e) The Department of Health has contacts with the Ministry of Public Health in China on public health issues. It also has regular contacts with the State Administration of Traditional Chinese Medicine in China. The Department will inform the State Administration of Traditional Chinese Medicine of any incidents involving Chinese medicine in Hong Kong for their follow up actions. In August this year, members of the PCCM made a five-day visit to the Administration and other related institutions in Beijing to understand the current regulatory system of Chinese medicine and its development in China.

### **Freedom of Assembly, of Expression and of the Press**

10. **MR LEE WING-TAT** asked (in Chinese): *In a recent interview with an overseas newspaper, the Chinese Vice Premier-cum-Foreign Minister made certain remarks about the freedom of assembly, freedom of expression and freedom of the press in the territory after the transfer of sovereignty in 1997. In this connection, will the Government inform this Council:*

- (a) *whether the Hong Kong Government will request the British Government to seek clarification from the Chinese Government regarding the remarks made by the Chinese Vice Premier-cum-Foreign Minister; and*
- (b) *whether the Hong Kong Government will consider enacting legislation to further protect the freedom of assembly, freedom of expression and freedom of the press in the territory?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): Mr President, freedom of expression and of assembly are essential and fundamental aspects of Hong Kong's open society and way of life.

- (a) We are very conscious of the concern caused in Hong Kong by the reported remarks of the Chinese Vice Premier and Foreign Minister on the freedom of expression and of assembly in Hong Kong after 1 July 1997. The Governor discussed this issue with the Foreign Secretary and Prime Minister during his recent visit to Britain. The Foreign Secretary subsequently expressed concern about these remarks in the Debate on the Queen's speech in the House of Commons. He noted that no mention had been made in either the Joint Declaration or the Basic Law of the restrictions suggested in the reported remarks. The Foreign Secretary has raised this matter with the Chinese Vice Premier and Foreign Minister.
- (b) Freedom of expression and assembly are among the most important rights in the Joint Declaration, the Basic Law, the Bill of Rights Ordinance and the International Covenant on Civil and Political Rights in Hong Kong. Since 1992, we have reviewed 53 provisions in 27 Ordinances which could affect these freedoms. We have amended or repealed 32 of these provisions and left 11 unaltered as they are consistent with the Bill of Rights Ordinance and serve to protect the right to privacy, the public interest or the right to a fair trial. We will complete this exercise as a matter of the highest priority to ensure that freedom of assembly, of expression and of the press are protected in Hong Kong now and

in the future.

### Mislabelling of Gas Cylinder

11. **DR LEONG CHE-HUNG** asked: *It was reported that the Legal Department recently dropped the charges against the Hong Kong Oxygen and Acetylene Company for mislabelling a gas cylinder. In this connection, will the Government inform this Council:*

- (a) *of the reasons for the Legal Department dropping the charges;*
- (b) *how the above "mislabelling" incident was discovered; and*
- (c) *whether the above "mislabelling" incident has caused injuries to persons or damages to properties?*

**ATTORNEY GENERAL:** Mr President,

- (a) On 5 June 1996, a summons was laid against the Hong Kong Oxygen and Acetylene Company under section 10(a) of the Dangerous Goods Ordinance (Cap. 295). That section creates a summary offence, and proceedings in respect of it must be commenced within six months from the time an offence occurs. The summons alleged that the company had sent to a customer an acetylene cylinder, on which the true name or description of the contents was not distinctly marked. It was subsequently discovered that the date on which the cylinder was sent, and therefore the date of the alleged offence, was 18 April 1995. Proceedings in respect of that alleged offence were therefore time-barred before the summons was issued and, indeed, before the alleged mislabelling was discovered. In the circumstances, the prosecution offered no evidence in respect of the charge. The Administration is considering whether to propose a change to the law so that, in future, similar cases could be prosecuted.
- (b) The cylinder in question was delivered to the customer on 18 April 1995 and placed inside a dangerous goods store. On 20 March 1996 the customer attended the store for collection of the cylinder and discovered the alleged mislabelling.

- (c) The cylinder had not been used. It had caused no injuries or property damage.

### **Workload of A & E Departments during Long Holiday Periods**

12. **DR DAVID LI** asked: *It is learnt that many privately-run clinics are closed during long holiday periods, resulting in a significant increase in the number of patients seeking treatment at the accident and emergency departments of public hospitals during such periods. Does the Government know what measures the Hospital Authority will take to relieve the workload of medical and nursing staff at the accident and emergency departments of public hospitals during long holiday periods?*

**SECRETARY FOR HEALTH AND WELFARE:** Mr President, the Hospital Authority is aware of the increase in the number of attendance at its accident and emergency units during extended public holidays and has adopted measures to alleviate the workload borne by the staff working at these units.

First, additional staff and other resources will be deployed as and when necessary to meet the prevailing operational needs of individual hospitals.

Secondly, in collaboration with the Hong Kong Medical Association, efforts are being made to promote the use of Medilink, a telephone hotline to assist patients in seeking information on the availability of alternative primary health care services.

Thirdly, vigorous efforts have been made to enhance public awareness on the appropriate use of accident and emergency services. These include distribution of information pamphlets, issuing of press releases and setting up of a multi-media enquiry system to provide patients with details about the location and opening hours of public general out-patient clinics as well as simple tips on the treatment of minor illnesses or injuries.

Finally, the Hospital Authority is exploring with the Department of Health the feasibility of strengthening the general out-patient clinic service at

strategic locations to divert non-urgent patients from accident and emergency units.

### **Building Management**

13. **MR ALBERT CHAN** asked (in Chinese): *Since the Building Management Ordinance was amended in 1993, many owners' corporations have been formed by owners of private housing estates. In this connection, will the Government inform this Council:*

- (a) *of the legal status of a management committee which has been re-appointed by the owners' corporation but which has not yet applied to the Land Registrar for registration; and*
- (b) *whether any legal document signed or resolution passed by a re-appointed management committee is valid prior to the completion of the registration process; if not, what measures have been put in place by the departments concerned to tackle the problem?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): Mr President, my reply is as follows:

- (a) a management committee re-appointed by the owners' corporation in accordance with the provisions of the Building Management Ordinance (the Ordinance) shall perform the duties and exercise the powers of the owners' corporation by virtue of section 29 of the Ordinance. The Ordinance does not require a further registration of the owners of a building as a corporation on the re-appointment of a management committee. However, the secretary of the management committee of an owners' corporation is required under section 12(3) of the Ordinance to give notice to the Land Registrar within 28 days of any change in certain particulars of the corporation specified under section 12(2); and
- (b) any legal document signed or resolution passed by a re-appointed

management committee in accordance with the provisions of the Ordinance is valid.

### Schizophrenia Patients

14. **DR HUANG CHEN-YA** asked (in Chinese): *Is the Government aware of the following in each of the past three years:*

- (a) *the number of schizophrenia patients admitted into public hospitals, as well as the number of old-case patients hospitalized due to sudden deterioration of their illness and the number of such admissions;*
- (b) *the number of schizophrenia patients under the care of the out-patient departments of public hospitals;*
- (c) *the average and longest waiting time for schizophrenia patients to get their first appointment for follow-up out-patient service in public hospitals; and*
- (d) *the number of schizophrenia patients receiving follow-up out-patient service, the number of attendance of these patients and the number of occasions when these patients fail to turn up at the appointment time?*

**SECRETARY FOR HEALTH AND WELFARE** (in Chinese): Mr President, the number of patient episodes of schizophrenia handled by public hospitals in 1993-94, 1994-95 and 1995-96 were 4 671, 4 797 and 5 294 respectively. Most of these patients are suffering from symptoms of a chronic nature which require hospitalization or regular out-patient consultation. A review conducted in 1994 and 1995 indicated that about 25% of schizophrenic patients were re-admitted for treatment within a period of one year to 18 months after hospital discharge.

The Hospital Authority's computer information system is capable of capturing the total number of mental patients receiving out-patient consultation, but not a breakdown of patients by different types of illnesses. In terms of

new cases, a total of 1 748, 2 155 and 2 571 new schizophrenic patients were registered with our psychiatric out-patient clinics in 1993-94, 1994-95 and 1995/96 respectively. The Authority is developing a new Psychiatric Clinical Information System to provide more specific data on the profile of patients. A pilot project of this new system will be implemented in Castle Peak Hospital and Kwai Chung Hospital in mid-December 1996 before consideration is being given to rolling it out to other hospitals.

Since no separate waiting list is kept for different types of mental illnesses, the average waiting time for first appointment at psychiatric out-patient clinics in respect of schizophrenic patients is not available. However, a triage system is in place to ensure that patients showing significant signs of behavioural disorder will receive immediate treatment.

All psychiatric out-patient clinics operated by the Hospital Authority have established systems to recall patients who failed to attend scheduled appointments. Based on a recent survey, about 10% of mental patients have failed to turn up for follow-up consultation. Contacts will be made through various means such as telephone, letter and home visits to ensure that the patients are being provided with appropriate medical attention.

### **Protecting the View of Victoria Peak and Ridgeline**

15. **Miss Christine LOH asked:** *In his reply to a question raised at the sitting on 9 October this year regarding the Town Planning Board's approval of a property development plan, which includes a high-rise building of 400 m in height, at the site of the Hong Kong Central Station of the Airport Railway, the Secretary for Planning Environment and Lands stated that the requirement that new building developments in the Central district on Hong Kong Island should not protrude the view of Victoria Peak and its ridgeline is no more than an administrative guideline. In this connection, will the Government inform this Council:*

- (a) *whether there are any existing high-rise buildings on Hong Kong Island which contravene the above guideline; if so, please provide the names and locations of the buildings concerned; and*
- (b) *whether it will adopt such guideline as a government policy so as*

*to protect the view of Victoria Peak and its ridgeline; if not, why not?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Mr President, the administrative guideline refers to the general principle in the Metroplan that new development/redevelopment should make allowance for the retention of at least 20% to 30% visibility of enclosing peaks and ridgelines when viewed from the opposite side of the harbour. The objective is to ensure that, as far as possible, building heights do not prejudice the important role played by the city's peaks and ridgelines as a key scenic backdrop of Hong Kong. Nevertheless, the Metroplan also recognizes the need to use taller buildings to define important economic focal points (such as new office zones) and other key landmarks or visual focal points within the city. No building approved since the promulgation of the Metroplan in 1991 breaches the above guideline. However, two buildings approved before that time may be seen to protrude above the ridgeline of Victoria Peak when viewed from some particular locations. They are the Bank of China Tower and the Central Plaza.

The Metroplan principles have been adopted as broad guidelines at the district planning level and would be applied on a case by case basis when development and redevelopment proposals are processed. In specific cases, visual impact studies will have to be made by the project proponents before approval is given to the project.

### **Vietnamese Migrants Stranded in Hong Kong**

16. **MR CHEUNG HON-CHUNG** asked (in Chinese): *It is reported that the Hong Kong Government has recently released another 130 Vietnamese migrants (VMs) whose applications for repatriation have been rejected by the Vietnamese Government or who have been stranded in the territory for a number of years pending repatriation. In this connection, will the Government inform this Council:*

- (a) *of the estimated number of the above two categories of VMs being stranded in the territory at present;*

- (b) *what measures does the Government have at present to resolve the problem of these VMs being stranded in the territory before the return of sovereignty to China; and*
- (c) *what status will these VMs have in the event that they still remain in the territory after the return of the territory's sovereignty to China?*

**SECRETARY FOR SECURITY** (in Chinese): Mr President, on 18 October 1996, 130 Vietnamese migrants (VMs) were released on recognizance. They fell into two groups, namely, those who had been rejected by the Vietnamese authorities for return under the Orderly Repatriation Programme, and those who had volunteered to go home but had been awaiting clearance for an unreasonable period of time. The continued detention of these VMs would have been unlawful. 12 of the 130 have since returned to Vietnam following their clearance by the Vietnamese authorities. At present, there is a total of 546 VMs released on recognizance.

To resolve the VM problem we have been negotiating with the Vietnamese authorities on the repatriation of all VMs to Vietnam. A technical meeting was held with Vietnamese officials last month to discuss means to speed up the clearance of VMs for return. During his visit to Hanoi from 31 October to 2 November, the British Foreign Secretary also urged the Vietnamese authorities to resolve the problem of the remaining VMs in Hong Kong. We shall continue our discussions with Vietnamese Government with a view to securing the return of all VMs to Vietnam as soon as possible.

As the VMs released on recognizance were without travel documents, have been found not to be refugees, and have been refused permission to remain in Hong Kong, they are in the same position as illegal immigrants. Their status would not be affected by the change of sovereignty in 1997. They will be removed under Section 13E of the Immigration Ordinance when that can be arranged.

### **Water Leakage in Old Public Housing Blocks**

17. **MR LEUNG YIU-CHUNG** asked (in Chinese): *Recently, many public housing tenants living in the top floor flats of slab housing blocks built in the 1980s have complained about the problem of water leakage in the ceilings of their flats. In this connection, will the Government inform this Council:*

- (a) *of the number of complaints received by the Housing Department (HD) over the past three years regarding water leakage in the ceilings of the flats mentioned above;*
- (b) *whether the water leakage is in any way related to the thermal insulation design of the rooftops of the housing blocks concerned; if not, what the causes of leakage are;*
- (c) *whether the HD has carried out any waterproofing works on the rooftops of the housing blocks concerned at the time of their completion; if not, why not; and*
- (d) *whether the HD will inspect the rooftops of all slab blocks in the territory to ascertain if the waterproofing measures in place are effective, and carry out remedial works on the rooftops of those blocks which have a similar water leakage problem?*

**SECRETARY FOR HOUSING** (in Chinese): Mr President, during the period from April 1995 to October 1996, the Housing Department received 10 300 requests for repair of ceiling seepage in public rental flats and has completed repairs for 95% of them. Earlier statistics are not kept, nor are separate figures for top floor flats built in the 1980s.

Common causes of water seepage are material wear and tear, and tenants' unauthorized modifications. There is no evidence to suggest that water leakage is related to the heat insulation design of rooftops of housing blocks. The heat insulation layer is made of light-weight material, and provides additional protection to the roofing system.

All public housing blocks are provided with waterproof roofing systems at the construction stage, and are inspected at six-yearly intervals and repaired,

as necessary. In the meantime, minor roof leakage defects are rectified under usual management procedures. Repairs will normally be carried out within 14 days.

### **Government Bulk Tender for Internet Service**

18. **MISS EMILY LAU** asked: *The Information Services Department and the Information Technology Services Department announced earlier this year that a bulk tender would be issued to all Internet Service Providers (ISPs) by May of this year, so as to meet the huge demand for Internet services by the Government and to reduce administrative costs. However, it is learnt that the bulk tender has not yet been issued up to the present moment. In this connection, will the Administration inform this Council:*

- (a) *whether it has laid down any guidelines regarding its acquisition of Internet services from ISPs; and*
- (b) *of the reasons for the delay in issuing the bulk tender and when such a tender will be issued?*

**SECRETARY FOR THE TREASURY:** Mr President,

- (a) The Information Technology Services Department (ITSD) has advised departments on the acquisition of Internet services from ISPs. The advice requires departments:
  - to acquire services only from licensed ISPs,
  - to consider the support services offered by the provider and the type of transmission bandwidth on offer, and
  - to use only a dial-up service to connect to those of their workstations not connected in any way to their operational network.

ITSD has also advised departments that they may acquire Web page design services directly from ISPs or other companies that

offer this kind of service.

The acquisition of all such services is governed by the Stores Regulations in the usual way.

- (b) We did plan originally to issue a bulk tender to procure ISP services. However, in the light of the rapid developments in the market and the high degree of competition in the industry, we have reviewed our original plan. We now feel that we should not issue a bulk tender because this would tie us to a single provider. Even if the contract had provision for price adjustments, this would not be as flexible as having the ability to obtain services from several different providers. Accordingly we are now formulating a revised ISP procurement strategy. We expect to draw up for departments' reference early next year a short-list of suppliers who can provide such services.

### **Public Access to Government-aided School Facilities**

19. **DR LAW CHEUNG-KWOK** asked (in Chinese): *Will the Government inform this Council:*

- (a) *whether the facilities in government-aided primary and secondary schools (such as school halls, playgrounds and classrooms and so on) are open for public use outside school hours; and*
- (b) *whether it has formulated any policy regarding making such school facilities available for public use; if so, what the details are?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Mr President,

- (a) Facilities of government-aided primary and secondary schools, such as school halls, playgrounds and classrooms, are generally not open to the public outside school hours, as the schools themselves often use them for a wide range of functions such as extra-curricular activities and parent-teacher association events.

However, outside organizations can apply to individual schools for the use of school facilities for their activities.

- (b) Schools are encouraged to make the best use of the space available to them for educational purposes. In addition, the Education Department has issued guidelines to both government and aided schools on hire of accommodation to outside organizations for a variety of functions including organizing public examinations and charitable functions; use of premises as polling/counting stations during elections; holding inter-school competitions; and operating adult/evening classes. In accordance with these guidelines, supervisors of government-aided primary and secondary schools can decide whether to allow an outside organization to use the school facilities, having regard to the pupils' welfare and the nature and purpose of the proposed activities.

### **Supervision Fees on Management Fees from HOS Estates**

20. **MR SIN CHUNG-KAI** asked (in Chinese): *Does the Government know whether the Housing Authority's levy of a supervision fee on the management fees collected by the companies managing Home Ownership Scheme estates is for profit-making or cost-recovery; if not, of the use to which the supervision fee is put?*

**SECRETARY FOR HOUSING** (in Chinese): Mr President, the Housing Authority monitors and supervises the management and maintenance of Home Ownership Scheme estates by property management agents, in order to ensure that the services provided meet specified standards. To cover the Administration overheads and staff costs incurred by the Housing Authority, a supervision fee is paid by property management agents and is recovered from management fees collected from flat owners.

## **GOVERNMENT BILLS**

### **First Reading of Bills**

**WILD ANIMALS PROTECTION (AMENDMENT) BILL 1996****MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT)  
(NO. 2) BILL 1996****ARCHITECTS, ENGINEERS, SURVEYORS AND PLANNERS  
REGISTRATION (MISCELLANEOUS AMENDMENTS) BILL 1996**

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

**Second Reading of Bills****WILD ANIMALS PROTECTION (AMENDMENT) BILL 1996**

*THE SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS to move the Second Reading of: "A Bill to amend the Wild Animals Protection Ordinance."*

He said: Mr President, I move that the Wild Animals Protection (Amendment) Bill 1996 be read the Second time.

One of the main purposes of the Bill is to make the Wild Animals Protection Ordinance consistent with the Hong Kong Bill of Rights Ordinance. Under the existing legislation, a person suspected to be guilty of an offence under section 8 or 9 is required to prove that the protected wild animal or the eggs of the protected wild animal he possessed is not taken or killed in Hong Kong. The Bill proposes that this be replaced by presumption provisions which are only to operate in two sets of specified circumstances, outside which the prosecution would need to prove all elements of the relevant offence. The first is when the suspect is caught with the protected wild animal or the eggs of a protected wild animal in a nature area. The second is when the suspect is caught with the same used for commercial purposes.

The Bill also introduces necessary provisions to facilitate enforcement of measures for the better protection of wild animals. First, the Bill seeks to prohibit the feeding of protected wild animals in specified places. The new

provisions are needed, for example, in monkey habitats where there have been numerous reports of nuisances and some incidents of attacks by monkeys. It has been found that feeding by humans is an important factor leading to such nuisances and attacks. By restricting the areas where feeding is allowed, we believe there would be fewer cases of nuisance and attack, and the likelihood of transfer of diseases from human beings to monkeys and *vice versa* would be minimized.

Second, the Bill proposes to give the Director of Agriculture and Fisheries additional powers to search, seize and forfeit evidence, detain the protected wild animals and eggs so seized and the conditions for releasing or disposing the protected wild animals and eggs. The additional powers would enable the Director to discharge his duties under the Ordinance more effectively.

Third, the Bill revises the level of fines under the Ordinance. These fines have not been reviewed since the enactment of the Ordinance in 1976. The Bill now proposes four levels of fines, with each level reflecting the seriousness of the different offences.

Finally, the Bill adds new provisions for appeals. It is proposed that a person aggrieved by a decision of the Director of Agriculture and Fisheries in cancelling his permit or not granting him a permit can appeal to the Administrative Appeals Board. This is in line with the Government's practice to open up channels for appeal.

Thank you, Mr President.

*Question on the motion on the Second Reading of the Bill proposed.*

*Debate on the motion adjourned and Bill referred to the House Committee pursuant to Standing Order 42(3A).*

**MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT)  
(NO. 2) BILL 1996**

***THE SECRETARY FOR THE TREASURY to move the Second Reading of:  
"A Bill to amend the Motor Vehicles (First Registration Tax) Ordinance."***

He said (in Cantonese): Mr President, I move that the Motor Vehicles (First Registration Tax) (Amendment) (No. 2) Bill 1996 be read the Second time.

The Motor Vehicles (First Registration Tax) Ordinance provides the legislative framework within which the first registration tax system for motor vehicles operates. The current system was introduced in August 1994. We then undertook to review the operation of the system after its implementation. We have now completed the review. Members may recall that in the context of the 1996-97 Budget, we introduced legislation to tackle the problem of over-declaration of the value of tax exempted items, that is, exempted vehicle accessories and distributor's warranty, in order to manipulate the price structure of vehicles, thereby reducing the first registration tax payable. This is one of the main issues identified in the review. The legislation was passed by this Council and came into operation on 3 June 1996.

The Bill before Members today aims to deal with other issues identified in the review. It seeks to improve the operation of the first registration tax system, to facilitate trade operation, and to further reduce opportunities for tax evasion. However, no major change to the first registration tax policy has been proposed. Let me briefly explain the amendments.

First, to improve operation of the first registration tax system. Under the Bill, we seek to provide clear definitions in law so as to minimize uncertainty and disputes in tax assessment work. To strengthen enforcement, the Bill includes provisions to allow Customs officers to enter the non-domestic premises of a registered vehicle importer or distributor at a reasonable time to inspect motor vehicles for tax assessment purposes. The time limit within which legal proceedings against offences under the legislation can be initiated will also be extended from six months to two years after the date on which the offence is committed or six months after the date on which the Commissioner for Transport first has knowledge that the offence has been committed, whichever is earlier.

The Bill also provides that all costs incurred in relation to the importation of a vehicle have to be declared in the import return and taken into account in the calculation of first registration tax. This seeks to ensure that vehicles imported for personal use are taxed on the same basis as those imported by registered operators for trade purposes. To further provide a level playing field, resale of vehicles originally imported for personal use may also be subject to additional first registration tax where appropriate, on the

same basis as the existing arrangement for vehicles imported for trade purposes. On equity grounds, the Bill also provides that depreciation would be allowed in respect of the taxable value of a vehicle which is registered in a place outside Hong Kong by an importer before its importation into Hong Kong for personal use. This is in line with the present arrangement whereby depreciation allowance is provided for vehicles which have been legally used in Hong Kong before first registration.

Second, to facilitate trade operation. We seek to improve the system for filing import return. The Commissioner for Transport will allow flexibility for late submission of import return under special circumstances and upon application by the importer. Moreover, under the Bill, the filing requirement will no longer apply to special vehicles used in the airport, cargo terminals or construction sites. These vehicles are not subject to first registration tax but they are caught by the filing provisions under existing law. The Bill also includes provisions for currency conversion to facilitate the trade in their declaration work.

Third, to tackle tax evasion. We also identify in the review that some vehicle traders provide distributor's warranty, which is currently not subject to tax, on a mandatory basis to buyers and seek to manipulate the price structure of vehicles so as to reduce the first registration tax payable. The Bill seeks to plug this loophole by stipulating that the value of any warranty provided on a mandatory basis will be subject to first registration tax.

We have consulted the Motor Traders Association of Hong Kong on the proposals as contained in the Bill. The Association supports these proposals.

Mr President, these are my remarks.

*Question on the motion on the Second Reading of the Bill proposed.*

*Debate on the motion adjourned and Bill referred to the House Committee pursuant to Standing Order 42(3A).*

**ARCHITECTS, ENGINEERS, SURVEYORS AND PLANNERS  
REGISTRATION (MISCELLANEOUS AMENDMENTS) BILL 1996**

***THE SECRETARY FOR WORKS to move the Second Reading of: "A Bill to***

*amend the Architects Registration Ordinance, the Engineers' Registration Ordinance, the Surveyors Registration Ordinance and the Planners Registration Ordinance."*

He said (in Cantonese): Mr President, I move the Second Reading of the Architects, Engineers, Surveyors and Planners Registration (Miscellaneous Amendments) Bill 1996. The Bill mainly seeks to empower the registration boards for architects, engineers, surveyors and planners to make orders for costs incurred in disciplinary inquiries.

The registration boards for architects, engineers, surveyors and planners (the Boards) have been established according to the respective Registration Ordinances. The main function is to deal with the registration matters of the above professionals and the disciplinary matters related to their respective professions. However, there are no provisions under these Ordinances which empower the Boards to make orders for costs in respect of disciplinary inquiries. If this situation persists, the legal expenses incurred in disciplinary inquiries may lead to a financial burden to the Boards and render the Boards unable to operate as intended.

The four Registration Ordinances are very similar in almost all aspects. Therefore, it is the intention of the Administration to stipulate similar provisions for these four Ordinances. The proposed amendment empowers the inquiry committee under each Board to make orders for costs to pay for the costs incurred by the Registrar, the Board or the inquiry committee in dealing with the disciplinary matters concerned. Besides, the proposed amendment also stipulates that the inquiry committees may assess the amount of such costs or make orders for the assessment of such costs.

By empowering the Boards to make orders for costs, this Bill can thus reduce the chances of the Boards having financial difficulties arising from disciplinary inquiries. It will also give the Boards equal status with other tribunals such as the disciplinary tribunal which have been granted similar powers to make orders for costs.

Moreover, the Bill also empowers the Boards to engage professional legal advisers in respect of all statutory duties. The existing legislation only provides that the Boards can engage legal practitioners in regard to disciplinary inquiries, to provide legal advice to the inquiry committees and the review

committees on legal and procedural matters that arise before, during or after the inquiries. However, there is no general provision under the existing legislation which empowers the Boards to engage professional legal advisers in regard to other statutory duties. Therefore, the Administration has incorporated a provision in this Bill which empowers the Boards to engage such professional legal advisers as they may deem necessary or expedient.

In addition, the Bill also proposes to repeal "Director of Administration" as the official representing the Government in the Ordinances and substitute "Secretary for Works", with whom any rules regulating the procedures of Board meetings will be lodged. The Works Branch has the most frequent contacts with these professionals and always has to deal with matters relating to the Ordinances concerned. The Administration thinks that it is appropriate to lodge the aforementioned rules with this Policy Branch.

Mr President, this Bill seeks to reduce the possibility of the Boards having financial difficulties arising from taking disciplinary actions, with a view to ensuring that the services provided by the Boards to the public will not be affected.

Mr President, I so submit.

*Question on the motion on the Second Reading of the Bill proposed.*

*Debate on the motion adjourned and Bill referred to the House Committee pursuant to Standing Order 42(3A).*

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Two motions with no legal effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates and Members were informed by circular on 12 November. The movers of the motions will each have 15 minutes for their speeches including their replies, and another five minutes to speak on the proposed amendments. Other Members, including the movers of the amendments, will each have seven minutes for their speeches. Under

Standing Order 27A, I am obliged to direct any Member speaking in excess of the specified time to discontinue his speech.

## **ELECTION PLATFORMS OF THE SAR CHIEF EXECUTIVE CANDIDATES**

**PRESIDENT** (in Cantonese): Before I call on Mr LEE Cheuk-yan to move his motion, I would like to make a ruling.

Mr IP Kwok-him has given notice to move an amendment to this motion. Mr Bruce LIU has also given notice to move an amendment to Mr IP Kwok-him's proposed amendment. The amendments have been printed on the Order Paper and circularized to Members. Members will have noticed that Mr IP's amendment involves leaving out all the effective words of Mr LEE's motion and adding words as an alternative to the words proposed to be deleted.

This being the case, if after Mr IP's amendment, or his amendment as amended by Mr Bruce LIU, has been put and agreed to later at this sitting, it will mean that the Council accepts Mr IP's amendment, or his amendment as amended by Mr Bruce LIU, as an alternative to the original motion. In accordance with my ruling on the debate on Mr SIN Chung-kai's motion on "Strengthening the Supervision of Statutory Public Organizations" held at the last sitting, after I have declared that Mr IP's amendment, or his amendment as amended by Mr Bruce LIU, has been agreed, I shall forthwith declare Mr LEE's motion as amended by Mr IP, or as amended by Mr IP and Mr Bruce LIU, has also been agreed to by the Council and the debate will end there. The question on the motion, as amended, will not therefore be put and Mr LEE will not have a right of reply.

I consider this procedure to be in order. At the beginning of this sitting, I have already quoted the Standing Orders to explain that this Council having first agreed to the amendment which virtually replaces all of the effective words in the original motion, to ask this Council to consider and vote again on the motion as amended is not in order.

If, however, Mr IP Kwok-him's amendment, or his amendment as amended by Mr Bruce LIU, is not agreed, the usual procedure in regard to the original motion will be followed.

**DR PHILIP WONG** (in Cantonese): Mr President, I have some reservations about your ruling. It is because history tells us that not all the amended motions in the past could be carried in the end. The way you deal with the amended motion, how can Members vote against it under the circumstance? You have to realize that when considering the amendments, we actually look at which one is "the lesser of two evils". That does not necessarily mean that we are in support of the duly amended motion.

**PRESIDENT** (in Cantonese): Dr Philip WONG, at the beginning of this sitting, I have already explained that this ruling is made according to Standing Orders 23A and 31(3). If you have other opinions, you can write to me and ask for reconsideration. However, the ruling is still effective at the moment.

**MR MICHAEL HO** (in Cantonese): Mr President, motion debates to be moved today will be handled in a similar manner. Mr President, I totally agree with you that an amended amendment is a decision made by this Council. But a decision or voting result of this Council as a whole does not mean that individual Members cannot choose to abstain.

**PRESIDENT** (in Cantonese): Mr Michael HO, the ruling shall not be debated. Should you have any comment, please send it to me in writing.

**MR MICHAEL HO** (in Cantonese): Mr President, I would like to raise a question. If, in this debate, we want to abstain from voting, vote for the motion or otherwise subsequent to the passage of the amendment, how can we possibly have the opportunity to express our wish in the voting procedure today?

**PRESIDENT** (in Cantonese): The conclusion of the ruling is that there is no such opportunity.

**MR ALBERT CHAN** (in Cantonese): Mr President, with regard to what you have mentioned just now, no amendment was made in the Standing Orders in this respect in the past. Why would the President have different interpretations of the same Standing Order at different times?

**PRESIDENT** (in Cantonese): Mr Albert CHAN, this is not a time for debate.

**MR ALBERT CHAN** (in Cantonese): Mr President, I just want to raise a question and seek elucidation.

**PRESIDENT** (in Cantonese): Insofar as this procedure is concerned, I have made the ruling in accordance with my interpretation and understanding of Standing Orders 23A and 31(3).

**MR ALBERT CHAN** (in Cantonese): Mr President, does it mean that the previous voting procedures were entirely wrong?

**PRESIDENT** (in Cantonese): There was no such a case where all the effective words of an original motion were deleted.

**MR MICHAEL HO** (in Cantonese): Mr President, can I ask for an adjournment? I think we need to have a thorough discussion on this procedure before we can go on. If we continue the meeting in this way, the motion debates for today will be ruled in the same way.

**PRESIDENT** (in Cantonese): Mr HO, according to Standing Order 33, "The President in Council, the Chairman in a committee of the whole Council or the Chairman of any standing or select committee shall be responsible for the observance of the rules of order in the Council and committee respectively. His decision on a point of order shall be final." However, I am prepared to consider Members' views. Please raise your points in writing after the

meeting.

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, I would like to raise a point of order on the amendment. But I am not sure whether I should raise it now or do that after making the speech on my motion.

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan, do you want to raise a point of order regarding the procedures of the motion and the amendment mentioned just now, or is it another point of order?

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, it is a point of order about the amendment raised by the Honourable IP Kwok-him. It is not concerned with the issue that we have just discussed.

**PRESIDENT** (in Cantonese): Could you put your question to me in writing, so that I can make a ruling?

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, I already put my written question to you the day before yesterday and you gave me a written reply yesterday. However, there is one point in your reply that I hope you will reconsider.

**PRESIDENT** (in Cantonese): I am prepared to make a ruling on your point of order. I already gave you my ruling on your private question yesterday. If you want to raise a point of order again, I am willing to immediately rule on the question regarding the point of order. Please put it in a written form.

4.05 pm

**PRESIDENT** (in Cantonese): Sitting is now suspended.

*Sitting suspended.*

5.05 pm

*Sitting resumed.*

**PRESIDENT** (in Cantonese) : Council will now resume. Upon my request, Mr LEE Cheuk-yan has put his written question on a point of order, requesting me to make a ruling on whether Mr IP Kwok-him's amendment is relevant to Mr LEE's motion. Regarding the question of relevance, the matter in Mr LEE's motion is in two parts: firstly, his proposition to express great disappointment that, under the system of election by a small coterie adopted by the Chinese Government, the election platforms of some candidates for the Chief Executive position have avoided the issues of the development of democracy and the protection of human rights in Hong Kong; and secondly, that the Chief Executive should be elected through the one-person-one-vote system. Mr IP's proposed amendment to Mr LEE's motion also consists of two parts: the first is his proposition that the pace of democratic development and the protection of human rights in Hong Kong are already prescribed in the Basic Law; and the second is his proposition to support the selection of the Chief Executive in accordance with the Basic Law. *Erskine May* (21st Edition, p.336) states that "the object of an amendment may be either to modify a question (motion) in such a way as to increase its acceptability or to present to this House (of Commons) a different proposition as an alternative to the original question (motion)". Mr IP's amendment, which seeks to modify Mr LEE Cheuk-yan's motion and present to this Council different propositions as an alternative to the original propositions, is therefore relevant to the matter proposed for debate by this Council, and is relevant to the original motion.

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, I think it is not relevant. However .....

**RESIDENT** (in Cantonese): *Erskine May* (p.337) suggests that as long as the different propositions are not expressed as "a direct negative", they are still

relevant to the original motion even if they are against or disagree with the motion.

***MR LEE CHEUK-YAN to move the following motion:***

"That, as a number of candidates who participate in the procedure for nomination of the Chief Executive of the Hong Kong Special Administrative Region designed by the Chinese Government have put forward election platforms which avoid the issues of the development of democracy and the protection of human rights in Hong Kong, thereby indicating a lack of determination to uphold the concepts of "one country, two systems" and "a high degree of autonomy" and reflecting that, under a system of election controlled by the Chinese Government and in which only a few can take part, only platforms which politically follow the wishes of the Chinese Government are permitted, this Council expresses its profound disappointment over the situation, and emphasizes that only an SAR Chief Executive elected through the one-person-one-vote system by the people of Hong Kong can effectively protect the interests of Hong Kong people."

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, I move the motion as set out under my name on the Order Paper.

On the front cover of the last issue of *Time* magazine, the headline "Hong Kong Horserace" was boldly printed. This is really a shame on Hong Kong. When the 150 years' colonial era under British appointed Governors ends, what comes next is an SAR Chief Executive election that looks like a horse race.

When the Honourable SZETO Wah and Mrs Elsie TU competed for a Legislative Council seat in 1995, the vigorous fight was called "battle of the century". Nevertheless, the election of the SAR Chief Executive this time may well be called "rigged horse race of the century". The reason being: on the surface, the recent campaign activities of the candidates do "look real". They go everywhere to solicit votes. Other than frequenting those organizations behind members of the Preparatory Committee, they visit caged

homes and take the MTR — even the latter is viewed as an activity of experiencing and observing people's livelihood. With the polls and the media's revelations, this election is performed as realistically as possible. All the candidates have tried their best to put in "genuine feelings" although they know they are only acting.

However, this is after all a fake election show, the "rigged horse race of the century". In the race, Hong Kong people, just like the horse racing punters, can only bet but have no influence on the result at all. Yet the stakes are very high this time, because we are risking the "high degree of autonomy" of Hong Kong on it. But it looks that Hong Kong people are "doomed" to lose this time because the rule of the rigged horse race states: "It does not matter whether the horse is black or white. As long as it is obedient, it is a good horse. And only "good horses" are allowed to take part in the race. Which horse will win? Will the favourite one lose finally and the unexpected one succeed? Or will the odds-on favourite triumph? That only depends on how the "trainer" fixes the race. Now the Chinese side is calling the shots. As SHIU Sin-por, executive director of the One Country, Two Systems Institute of Economic Research, told *Time* magazine, "It is an election with Chinese characteristics."

Another Chinese characteristic of the election is the "birdcage platform". Anyone who has finished reading carefully the platforms and political views of the four favourite candidates will find that their platforms basically only follow tightly the line of the central authorities and dare not deviate from the wishes of the Chinese Government. They voluntarily put themselves in a birdcage. In their "birdcage platforms", the four favourite candidates adopt a conservative stance or an evasive attitude on the issues of democracy and human rights. On the development of democracy, the four favourite candidates subscribe to the establishment of a provisional legislature and the resumption of appointed members in the district boards, the Urban Council and the Regional Council, and they insist on an executive-led government and an incremental pace of democracy. However, they never express their own opinions on the political system and evade all such questions. All four of them are unanimously conservative, they dare not criticize the Basic Law, and

do not express any opinion on the further development of the political system. They evade and evade. These are our four favourite candidates.

TUNG Chee-hwa is the odds-on favourite chosen to appear on the front cover of *Time* magazine. On the television screen, we saw him pledge in all sincerity and seriousness: democracy is very important ..... democracy is very important ..... democracy is very important. He said it three times at the platform press conference. Protecting the interests of Hong Kong people ..... protecting the interests of Hong Kong people ..... was also said twice. Would people be convinced just by repeating something? When he says that democracy is very important, what does he mean by democracy exactly? Is it the democracy under the one-party dictatorship with Chinese characteristics? Or is it the democracy of one-person-one-vote referendum? If democracy is so important for him, why does he subscribe to the restoration of appointment system in the district boards? Why does he subscribe to the provisional legislature which makes democracy retrogress? Why are there so many anti-democracy implications in his platform? For instance, he criticizes that the politicization of our legislative procedures would affect the efficiency of the civil servants. This shows clearly that he is still emotionally attached to the appointment system of the old colonial era in which the legislative procedure was only a rubber stamp that was not at all politicized and was purely a safeguard for private interests.

In his platform, TUNG Chee-hwa flaunts that he is going to set up an SAR Government which is executive-led and takes the interests of all the people as its goal. So he is trying to make people believe in the rule of man and believe that there will be a benevolent king who takes good care of his people. However, how can a government that is not established by democracy guarantee that it will take the interests of all its people as its goal? Is it through TUNG Chee-hwa's tapping on the table to reiterate his pledge that the interests of the people will be protected? Hong Kong people are not blind to politics anymore. What we believe in is protection by a system, not some kind of assurance by any person.

If we turn to look at the parts concerning the protection of human rights and freedoms in the candidates' platforms, we will be more worried about the

future. The "birdcage" here is Article 23 of the Basic Law. TUNG Chee-hwa has even overridden other provisions of the Basic Law and the basic rights of the people with Article 23. When QIAN Qichen, the Chinese Minister for Foreign Affairs, said that activities intervening in the internal affairs of China would be prohibited after 1997, the four favourite candidates were forced to react. TUNG Chee-hwa has the strongest party spirit. He pointed out clearly that the extent of tolerance would not be known until the implementation of the relevant laws in accordance with Article 23 of the Basic Law. YANG Ti-liang stated that assembly is legal at present, there would have to be an amendment to the procedure if the law is to be tightened up. Do you understand what this amendment to the procedure is? His words are always so paradoxical and ambiguous. Peter WOO also displayed the Basic Law, saying that things have to be done according to the stipulations in the Basic Law. LI Fook-sean stated that Hong Kong people mourning "June 4" would mean a grudge against the Chinese Government. Although this kind of activity should not be banned, people should not shout "down with DENG, LI, YANG" either.

As for the protection provided by the Bill of Rights, TUNG Chee-hwa has indicated categorically that the Bill of Rights definitely violates the Basic Law and he proposes to restore two of the draconian laws, namely the Public Order Ordinance and the Societies Ordinance. YANG Ti-liang takes more or less the same view, but there is only one draconian law to be restored: the Societies Ordinance. LI Fook-sean, on the other hand, assumes an attitude of "it is none of my business and I could not care less". He only says that he cannot do anything if the Bill of Rights is amended and the relevant ordinances are restored after 1997. With respect to other sensitive issues such as the pro-democracy movement activists stranded in Hong Kong, the continuation of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China and freedom of the press and so on, the four favourite candidates all put out the same standard answer: "act in accordance with the law". The problem is, there are "righteous laws" and "draconian laws". If they are "draconian laws", "acting in accordance with the laws" would mean "undermining the interests of Hong Kong people in accordance with the laws". Take WANG Dan's heavy sentence of 11 years as an example. When the Chinese court passed the sentence they also said that they did it in accordance with the law, yet it was the "draconian laws", the laws that persecute the people. The candidates for the SAR Chief Executive should have a duty to explain their understanding of and stand regarding Article 23 of the Basic Law. Since the

laws will be proposed and made by the future SAR Government, the SAR Chief Executive will play a decisive role. In fact, the problem of whether the future SAR Government will define "subversion" according to the system of one-party dictatorship in China is so important that all the candidates should make known their positions and not evade. However, we can see that they have all evaded this issue. TUNG Chee-hwa even says that legislation should be done in accordance with Article 23 of the Basic Law by the provisional legislature, whereas YANG Ti-liang states that the problem should be dealt with by the first SAR legislature. It seems that TUNG Chee-hwa is more inclined to follow the orders of the central authorities in dealing with the question of legislation because, after all, the provisional legislature is more under the control of the central authorities.

It can be seen from the above that all the four favourite candidates follow closely, although with a difference in degree, the wishes of the Chinese Government on the issues of human rights and democracy. Currently available materials show that the most conservative one among them is TUNG Chee-hwa, who is also the most dangerous one since he is not only conservative but also sweet-talks most and knows the best way to use the anxiety of the people about the future to impart them with the mentality of "accepting the will of the superior" and "resigning themselves to becoming obedient citizens". There is a paragraph about "values" in his platform, the central thought of which is: "We endeavour to keep the community in order and cherish stability". He also says that "the traditional Chinese concepts teach us to do our duties and talk less about rights. Therefore, we attach great importance to consultation and try our best to avoid unnecessary confrontation". How do the citizens talk less about rights, avoid confrontation and endeavour to maintain stability? The answer is to be obedient! To follow instructions! To be an obedient citizen! This is the quintessence of TUNG Chee-hwa's traditional Chinese values. What he advocates is the restoration of feudal culture and the use of feudal thought, the worst root in traditional Chinese culture, to backup the governing of Hong Kong. Feudal thinking has several characteristics:

1. Absolute obedience to the one in power: the peasants have to obey the landlord, and the ministers have to obey the emperor.
2. Intolerance of dissidents: because those who hold different views will "stir up troubles" and undermine stability.

3. The antithesis of discrimination against those who hold different views is dispensation of awards according to merits. Those who have merits will be awarded honours or senior positions. Under the British rule, these are called OBEs, MBEs or knighthoods. Under the future SAR Government, these will be the appointments to the provisional legislature, the Executive Council and the municipal councils. Under the present election by the Selection Committee in which only a few can take part, it does not matter who is the most suitable candidate for the SAR Chief Executive. What matters is who should be selected to allow certain parties, political groups, organizations or individuals to secure positions with the greatest power.

By dispensing awards according to merits, a privileged class is produced. The privileged class can then "enjoy all the rights and talk less about duties", but the Hong Kong people have to "do their duties and talk less about rights". This means that after being exploited of their rights, Hong Kong people are further ordered to shut up and talk less about rights. "Doing one's duty" is actually a noble idea, just as the well-known saying of John F. KENNEDY, the assassinated United States president, goes, "Ask not what your country can do for you. Ask what you can do for your country." He called on the people to do their duties, but he had not asked the people not to talk about rights. If Hong Kong people talk less about their rights, the privileged class will only be encouraged to seek more by hook or by crook.

Hong Kong after 1997 will be a battlefield between advancement and backwardness, civilization and feudalism. With the coming out of the four favourite candidates' platforms, I feel that they have already changed the nature of "one country, two systems". "One fish in two ways of cooking" is trendy at the moment. In the future SAR, it will become "one SAR, two systems": Politically a democratic system with Chinese characteristics will be implemented, while economically a free economy will be pursued.

The selection of an SAR Chief Executive by the Selection Committee is in fact a democratic system with Chinese characteristics, which is basically a procedure of appointment by superior order. An SAR Chief Executive will then be nominated and selected by this Selection Committee appointed by superior order. Therefore, even though China tries very hard to deny that

there is a superior order, yet in fact the system has ensured that only a person selected by superior order from the Chinese Government can become the SAR Chief Executive. The selection method practised this time betokens that the future 800-people selection system will be the same "appointment by superior order" system.

I reckon that after 1997, "one SAR, two systems" will face contradictions that are difficult to reconcile, and this will definitely influence the prosperity and success of the Hong Kong society. If we are to maintain our prosperity and success and to enable Hong Kong to develop further after its return to China, we have to defend "one country, two systems" and "a high degree of autonomy", and to uphold "a high degree of autonomy" in both the political and economic systems of Hong Kong. The only guarantee for "a high degree of autonomy" lies not in the promise of any candidate, but in a system. Only through a one-person-one-vote referendum to elect the SAR Chief Executive and all members of the SAR legislature can "a high degree of autonomy" be implemented. We have to dismiss the traditional Chinese concepts of the rule of man, feudal concept and flattering behaviour and build a comprehensive democratic system in order to prevent the restoration of feudalism.

With these remarks, I move the motion. Thank you, Mr President.

*Question on the motion proposed.*

**PRESIDENT** (in Cantonese): Mr IP Kwok-him has given notice to move an amendment to this motion. And Mr Bruce LIU has given notice to move an amendment to Mr IP Kwok-him's proposed amendment. Both amendments have been printed on the Order Paper and Members have been advised by circular on 12 November. I propose that the motion, the amendment and the amendment to the amendment be debated together in a joint debate.

Council shall debate the motion, the amendment and the amendment to the amendment together in a joint debate. I will first call upon Mr IP to speak and to move his amendment to the motion, and will then call upon Mr LIU to speak and to move his amendment to Mr IP's proposed amendment. After Members have debated the original motion as well as the amendments, we will vote on Mr LIU's amendment to Mr IP's amendment to the motion first. I now call upon Mr IP to speak and to move his amendment.

***MR IP KWOK-HIM's amendment to MR LEE CHEUK-YAN's motion:***

"To delete "a number of candidates who participate in the procedure for nomination of the Chief Executive of the Hong Kong SAR designed by the Chinese Government have put forward election platforms which avoid the issues of the development of democracy and the protection of human rights in Hong Kong, thereby indicating a lack of determination to uphold the concepts of 'one country, two systems' and 'a high degree of autonomy' and reflecting that, under a system of election controlled by the Chinese Government and in which only a few can take part, only platforms which politically follow the wishes of the Chinese Government are permitted" and substitute with "the election of the Hong Kong SAR is carried out in accordance with the stipulations laid down in the Basic Law and that the pace of democratic development in the territory and the protection of human rights are already clearly prescribed in the provisions of the Basic Law"; and to delete "expresses its profound disappointment over the situation, and emphasizes that only an SAR Chief Executive elected through the one-person-one-vote system by the people of Hong Kong can effectively protect the interests of Hong Kong people" and substitute with "supports the election of the SAR Chief Executive in accordance with the Basic Law, so as to effect a smooth transition"."

**MR IP KWOK-HIM** (in Cantonese): Mr President, I move that the Honourable LEE Cheuk-yan's motion be amended as set out under my name on the Order Paper.

Mr President, the formation of the future Hong Kong Special Administrative Region (SAR) has reached a white-hot stage. The establishment of the Selection Committee signifies that the preparation work in accordance with the resolutions of the National People's Congress and the Basic Law is being carried out step by step. The first SAR Chief Executive and the provisional legislature will be elected by the 400-member Selection

Committee. "One country, two systems" is becoming a reality, "Hong Kong people ruling Hong Kong" will be put into effect and "a high degree of autonomy" will take a crucial step forward.

Hong Kong has long been under British colonial rule, and all along our Governors are appointed by the British monarch. We never have any "election of the Governor" in the past 150 years, and nominating candidates for governorship can just amount to a lunatic talking in his dreams. The Preparatory Committee will establish the Selection Committee in accordance with the Basic Law on 15 November, and the 400-member Selection Committee will elect the first SAR Chief Executive by secret ballot on 11 December. This is a concrete manifestation of Hong Kong people exercising their democratic rights.

At present, we hear voices saying that Hong Kong should follow the examples of countries in Europe and America where leaders are elected through the one-person-one-vote system. However, the Democratic Alliance for the Betterment of Hong Kong (DAB) has reservations about this plan at this stage. The DAB is in support of democratic development, but democracy does not mean "a bowl of instant noodles" which you can cook and eat instantly. The development should be in accordance with the current situation of Hong Kong and conformed to the prescribed steps. If we take the democratic countries in Europe and America as an example, their election systems have gone through hundreds of years of development before they become established. On the contrary, Hong Kong's election system only has a short history of over a decade, and many questions, such as which election system should be adopted and how to increase the civic awareness of the public to participate in elections are still not being answered. If we insist on imposing the western systems on Hong Kong, is it the appropriate time now?

Therefore, to smear the election for the SAR Chief Executive that is in line with the Basic Law as an election controlled by the Chinese Government and in which only a few can take part is definitely a distortion of the Basic Law. Also, the Basic Law has stipulated that if there is a need to amend the method for selecting the Chief Executive subsequent to the year 2007, such amendments can be made through a particular procedure. The Basic Law, therefore, has already prescribed the arrangement for the pace of democratic development in Hong Kong.

Mr President, the Honourable LEE Cheuk-yan has noted in his motion that, "a number of candidates who participate in the procedure for nomination of the Chief Executive of the Hong Kong SAR designed by the Chinese Government have put forward election platforms which avoid the issues of the development of democracy and the protection of human rights in Hong Kong, thereby indicating a lack of determination to uphold the concepts of 'one country, two systems' and 'a high degree of autonomy'." We must point out here the mistake of Mr LEE Cheuk-yan in saying so. First of all, at present we do not have any real candidates for the post of the SAR Chief Executive because all qualified contenders have to secure at least 50 nominations from members of the Selection Committee before they can become candidates for the Chief Executive. Therefore, the eight qualified applicants can only be regarded as contenders but not candidates.

Let us not dwell on whether Mr LEE Cheuk-yan is not very familiar with the selection method of the Chief Executive or that there are other reasons. As for whether or not the platforms of the contenders for the SAR Chief Executive have deliberately avoided the issues of democratic development and the protection of human rights, I am sure if Mr LEE can have the opportunity to browse through all the platforms of the contenders objectively, he should be able to find the answer.

Mr President, in the process of conceiving the "one country, two systems" concept, DENG Xiaoping remarked, "China has to deal with the Hong Kong and Taiwan issues. What is the solution to the issues then? Should the socialist system gulp down Taiwan, or should Taiwan spread the Three People's Principles to gulp down the Mainland? The answer is neither one should gulp down the other..... We have adopted the concept of 'one country, two systems' to solve the Hong Kong question. It is not at all an emotional impulse.....but is developed from pragmatism. We have taken into full consideration the history of Hong Kong and the practical situation." So for this reason, from the time when DENG Xiaoping conceived such an idea to JIANG Zemin now reiterating time and again about safeguarding "one country, two systems" and "a high degree of autonomy", it is hoped that Hong Kong will maintain the present capitalist political, social and economic systems and will not be affected by the return of sovereignty. The Basic Law is drawn up by continuing with this principle in keeping with the existing circumstances of Hong Kong. The problem is the platforms of the contenders are not favoured by some people, and they are therefore discredited as having been

written in the light of China's wishes. This is totally unfounded and shows a lack of complete understanding of the concept of "one country, two systems". If anyone insists that the platforms of the contenders are following the wishes of China, I would say the wishes of the Chinese Government are to implement the Basic Law and to rule Hong Kong with the concepts of "one country, two systems" and "a high degree of autonomy".

Does Mr LEE Cheuk-yan think that it is wrong to implement the Basic Law, and to uphold the concepts of "one country, two systems" and "a high degree of autonomy"? Or is it because Mr LEE is not familiar with the Basic Law that he has moved this motion debate?

Mr President, the platform of the future SAR Chief Executive should cover a wide scope. The DAB is of the opinion that the motion of the Honourable Bruce LIU is incomplete, and we therefore have reservations about his amendment.

Mr President, with these remarks, I beg to move my amendment to the motion.

*Question on Mr IP Kwok-him's amendment proposed.*

***The amendment moved by MR BRUCE LIU to MR IP KWOK-HIM's amendment:***

"To add ", and calls for members of the Selection Committee to fully respect the wishes of the people of Hong Kong by electing an SAR Chief Executive who has the aspiration and ability to adhere to the concepts of 'one country, two systems', 'a high degree of autonomy' and 'Hong Kong people ruling Hong Kong'; safeguard the rights and freedoms of the people of Hong Kong provided under the Basic Law; and improve the livelihood of the grassroots people" after "supports the election of the SAR Chief Executive in accordance with the Basic Law"."

**MR BRUCE LIU** (in Cantonese): Mr President, I move that the Honourable IP Kwok-him's amendment be amended as set out under my name on the Order Paper.

"Facing a thousand pointing fingers with an indignant glare, I bow my head to serve the people as a willing ox." These two lines by Mr LU Xun should be made the motto of the future Chief Executive of the Hong Kong Special Administrative Region (SAR).

Now in Hong Kong, the "thousand pointing fingers" refer to members of the public and the mass media that have made a barrage of comments on the candidates for the SAR Chief Executive and their respective platforms. Obviously, the Honourable LEE Cheuk-yan, who is the mover of the original motion today, as well as some other Members of this Council are also included.

The future SAR Chief Executive should have the magnanimity for democracy so that he can absorb others' opinions amongst comments and criticisms with a sober mind, thereby revising and improving his platform. Therefore, he needs not and should not cold-shoulder all criticisms and face them with "an indignant glare".

The SAR Chief Executive is a public servant of the people of Hong Kong and "a willing ox" of Hong Kong. It is the hope of Hong Kong people that the elected SAR Chief Executive possesses the aspiration and ability to put into practice the principle of "one country, two systems". For this reason, the people of Hong Kong are very concerned about the election of the SAR Chief Executive, particularly the overall process of the election as well as the philosophy that the SAR Chief Executive bases on in ruling Hong Kong.

Mr President, the Chief Executive of the Hong Kong SAR is to be returned by the Selection Committee. The election of the SAR Chief Executive, in fact, resembles a conceived woman who is expected to give birth to a baby on 11 December, which is just 28 days later. Therefore, any attempt to consistently call for the election of the SAR Chief Executive by the "one-person-one-vote" system and refusal to recognize the election of the SAR Chief Executive by the Selection Committee is not conducive to the "natural delivery" of the SAR Chief Executive. Nor is it a pragmatic attitude. What is more, this may mean relinquishing the opportunity to give useful and constructive views on the platform of the SAR Chief Executive.

Mr President, in proposing to further amend Mr IP Kwok-him's amendment, I hope to put forward three requirements for the SAR Chief Executive to fulfill:

*First, it is hoped that someone who has the aspiration and ability to adhere to the principles of "one country, two systems", "a high degree of autonomy" and "Hong Kong people ruling Hong Kong" will be elected as the SAR Chief Executive.*

The SAR Chief Executive is the locomotive of the realization of "one country, two systems". Since the Basic Law has laid down provisions for what "one country, two systems" depicts, the SAR Chief Executive should make commitments, in more concrete terms, as to how he will adhere to the concept of "one country, two systems". Insofar as China-Hong Kong relations are concerned, the SAR Chief Executive, being the spokesman for Hong Kong people, should speak in the interests of Hong Kong people, fighting for the interests of Hong Kong where there are just grounds. In the event that the interests of Hong Kong are impaired, the SAR Chief Executive should have the courage to say "No" to Beijing.

Whether in defending "a high degree of autonomy" for Hong Kong or implementing the concept of "Hong Kong people ruling Hong Kong", the SAR Chief Executive should refrain from "reaping private benefits". He should wholeheartedly devote himself to serving the people of Hong Kong.

*Secondly, the rights and freedoms of Hong Kong people should be safeguarded.*

The Basic Law has clearly set out the rights and obligations of the citizens of the SAR and now the question is how these rights can be fully protected. The Constitution of China has also set out in detail the rights and obligations of the citizens of China but why are the citizens of China not able to fully enjoy the rights and the protection in respect of human rights as enshrined in the Constitution?

In my view, it is the system that makes the difference. While there is still room for improvement in the protection of human rights in Hong Kong,

the rights of Hong Kong citizens have all along been protected because Hong Kong has a system of the rule of law which respects human rights. In this connection, the candidates for the SAR Chief Executive have to firmly hold on to the rule of law in governing Hong Kong. Any measure which undermines the rule of law in Hong Kong should not be implemented.

*Thirdly, concrete improvements should be made in the people's quality of life.*

The general public is earnestly looking to the SAR Chief Executive to make concrete improvements in their quality of life and they just detest those promises which are "fictitious, grand and empty". Therefore, the future SAR Chief Executive must be forward-looking so as to devise long-term ideas in governing Hong Kong and come up with practical and viable measures to improve people's livelihood. This will facilitate the continued prosperity of the territory while at the same time enable the grassroots to genuinely share the fruits of the economic boom.

Mr President, with the economic development in the Asia-Pacific region, Hong Kong will move into a new phase of economic competition as it marches into the 21st century. It will be the principal duty of the first SAR Chief Executive to lead the Government and the people of Hong Kong to build a stable and prosperous society where democracy, freedom and human rights prevail. It is precisely because the responsibilities of the Chief Executive are so immensely important that the Chief Executive must be someone who is acceptable to and accountable to the people of Hong Kong and who respects the wishes of Hong Kong people.

The election method of the SAR Chief Executive at this stage is far from ideal. Yet, given the constraints of the Basic Law and in order to safeguard the spirit and tradition of the rule of law in the territory, the position of the Association for Democracy and People's Livelihood (ADPL) is very clear and that is, before amendments are made to the Basic Law, the election of the first SAR Chief Executive should proceed in accordance with the stipulations in the Basic Law. However, the process of election should be open and monitored to the fullest possible extent.

Mr President, the latest world boxing spectacular is the defeat of TYSON, the incumbent world champion and the odds-on favourite, by

HOLYFIELD. The ADPL is not interested in whether the "odds-on favourite" will lose eventually in the election of the SAR Chief Executive. All we hope is that the candidates will spare no effort in contesting the election so that citizens can get a full picture of and can comment on the ideas of the candidates in ruling Hong Kong. What harm will it have even if the "odds-on favourite" loses? As long as he wholeheartedly devotes himself to safeguarding the interests of the people of Hong Kong and adhering to the principle of "one country, two systems" and "Hong Kong people ruling Hong Kong", he will command the respect of history even if he loses the election eventually.

Lastly, the ADPL calls on members of the Selection Committee to fully respect the wish of Hong Kong citizens by electing a Chief Executive who fulfills the "three requirements" for the Chief Executive that I put forward just now on behalf of the ADPL, thereby facilitating a smooth transition.

I so submit.

*Question on Mr Bruce LIU's amendment to Mr IP Kwok-him's amendment proposed.*

**MR ALLEN LEE** (in Cantonese): Mr President, as Legislative Council Members, we should observe and respect the law. I believe that it is not only our duty to do so but also the principle that we should live by. The motion that the Honourable LEE Cheuk-yan proposed shows that either he has not read the Basic Law or he simply ignores it or does not understand after reading it. The method with regard to the election of the Chief Executive of the Special Administrative Region (SAR) was written into the Basic Law in 1990. It is stipulated that the Chief Executive shall be returned by a Selection Committee comprising 400 members. Now he is "pinning labels" and has described the election as one in which "only a few can take part". Yet, the reality of the election of the SAR Chief Executive simply cannot be changed.

What I find even more terrifying is that Mr LEE Cheuk-yan vigorously

criticized and launched personal attacks on four contenders for the SAR Chief Executive post by "pinning labels" on them. Mr LEE even devoted three quarters of his speech to painstakingly attacking and criticizing Mr TUNG Chee-hwa and his platform because Mr TUNG, unfortunately though, was on the front cover of *Time* magazine. Perhaps he is not happy with what Mr TUNG has said. It is permissible in this Chamber to criticize or attack anyone and Members will not be punished by law in so doing. That said, I believe that as Legislative Council Members, we should bear considerable responsibility for what we have to say.

While the election of the SAR Chief Executive is forthcoming, it is our hope that the elected SAR Chief Executive will endeavour to protect the interests of Hong Kong people. Many people have asked me: Is the SAR Chief Executive actually to be appointed or hand-picked? If the Chief Executive is going to be appointed or hand-picked, do you think that the four contenders will be so stupid as to carry out their electioneering work under the circumstance? I can see that the four of them have worked very hard. Some of them are no longer in their prime but they have made an effort to contest the election of the SAR Chief Executive. I believe that it is the wish of the four contenders to really do a good job of governing Hong Kong. I very much regret that Mr LEE Cheuk-yan should hurl such criticisms against them today.

I also have the feeling that Mr LEE Cheuk-yan is attempting to mislead Hong Kong people. It is because 75% of the people in Hong Kong have not read the Basic Law and they simply have no idea what the Basic Law is all about. This concerns our work in respect of education as well as the publicity of the Basic Law. The Hong Kong Government has refused to tell the people of Hong Kong in textbooks what the Basic Law is all about and how it was formulated before the transfer of sovereignty. Such being the case, people are not provided with education in this area. For this reason, when the issue of one person, one vote is brought up, they think there is nothing wrong with it. However, are they aware that this is unconstitutional and is not in line with the law? They do not know what is wrong with doing things not in line with the law.

Secondly, he may think that the people of Hong Kong find his attacks "appealing to listen to". However, is this constructive to the process of electing the SAR Chief Executive as a whole? He did not say whose opinions are to his liking and he may find the four contenders not at all agreeable. What should one do to meet his requirements? If his requirements are to be taken as the yardstick, some people should by all means take part in the election as contenders. It is a different matter whether the 50 nominations can be secured.

At present, the four leading contenders are going hither and thither around the territory, propagating their aspirations, platforms, views on Hong Kong and notions in respect of the governance of Hong Kong. Yet, to one's surprise, they are said to be "putting on shows". What is the difference between this instance of "pinning labels" on others and the Red Guards staging the Cultural Revolution? Why is he doing this? Why is he "pinning labels" on others? Today, I would say it here, that nobody qualifies better than Mr LEE Cheuk-yan as the champion in "pinning labels" on others.

**PRESIDENT** (in Cantonese): Honourable Members, I have to reconsider the question of "pinning labels" carefully. I will make a ruling in the next sitting.

**MR ALLEN LEE** (in Cantonese): Mr President, may I ask why do you have to reconsider this? What is there to be considered?

**PRESIDENT** (in Cantonese): I need to consider in detail whether this remark constitutes offensive language against another Member. I have to consider whether there is any problem with this term.

**MR ALLEN LEE** (in Cantonese): Mr President, then why did you not query the remarks that Mr LEE Cheuk-yan made in attacking other people?

**PRESIDENT** (in Cantonese): Mr Allen LEE, Standing Orders provide that Members cannot use offensive language against other Members but Standing Orders do not provide for the use of such language against other people. Now, I would like to consider whether there is any problem with the term "pinning labels" and I will make a ruling in the next sitting.

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan, is it a point of order?

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, I just want to elucidate. I do not think this is an attack.

**PRESIDENT** (in Cantonese): You have not raised any point of order. It is not time to debate whether the ruling or query I just put forward has any problem.

**DR YEUNG SUM** (in Cantonese): Mr President, the Honourable LEE Cheuk-yan moves a motion to criticize the election platforms of those candidates for the Chief Executive of the Hong Kong Special Administrative Region (SAR) for side-stepping the issues of democracy and human rights. Thus, he reiterates the demand for a legislature and a Chief Executive elected by universal suffrage. But the Honourable IP Kwok-him's amendment emphasizes that the election of the Chief Executive is based on the Basic Law and therefore he supports the way the Chief Executive is to be elected to facilitate a smooth transition. Mr President, Mr IP's amendment clearly deviates from the original motion in nature. But strangely, this amendment was accepted as a question for our debate today. Owing to the significant discrepancy between the amendment and the original motion in nature, the Democratic Party will not support the amendment. Under the principle of democracy, the Democratic Party will support the original motion.

Mr President, the amendment put forward by Mr IP Kwok-him on behalf of the Democratic Alliance for the Betterment of Hong Kong (DAB) aims at shifting the focus of the debate, so that it can convoy the election platforms of the candidates for the Chief Executive. At present, the entire pro-China camp has tried to put on a good show for the election of the SAR Chief Executive, and is working towards creating a scene of peace and prosperity to set people's

minds at ease.

However, Mr President, can people's minds be set at ease by deceitful tricks? I do not think so, because people's eyes are discerning. Can democracy and human rights in Hong Kong really be protected by the Basic Law? I believe the public know the answer already in their hearts.

In regard to democracy, as everybody knows, the establishment of a provisional legislature signifies a great retrogression in democracy. In 1995, the Legislative Council was fully elected. However, members of the provisional legislature surprisingly are to be appointed in a disguised form, totally depriving the majority of people of their election rights.

Besides, the provisional legislature also lacks a legal basis and violates the Sino-British Joint Declaration and the Basic Law. Under the principles of democracy and the rule of law, the Democratic Party is absolutely against the establishment of a provisional legislature. Members of the Democratic Party will not participate in the operation of the provisional legislature.

Mr President, the Basic Law is unusually conservative in controlling the pace of democracy in Hong Kong. It has totally disregarded the social conditions in the territory and the yearning for democracy among the Hong Kong people. There will only be 20 directly-elected seats in the first SAR legislature, 24 in the second term and 30 in the third term, which is only half the total number of seats in the existing Legislative Council. Through three terms of the SAR legislature, in addition to the term of the provisional legislature, the Hong Kong society will be devoid of a legislature returned by universal suffrage for 13 years after 1 July 1997. In fact in the years that follow, a legislature returned by universal suffrage may still not be there. It is because by that time, there will be a lot of conditions in the review of the political system and a lot of hurdles to jump over before a system of universal suffrage can be endorsed. This kind of democratic development in a snail's pace is completely detached from our society and a complete contrast to people's yearning for democracy. What kind of protection for democracy is this? We can say that the Basic Law has restricted the Hong Kong people's yearning for democracy and has forcefully imposed the wills of Chinese government officials on the Hong Kong people.

As for the Chief Executive, the Basic Law states that the term of office of the Chief Executive for the first three terms is five years, and each time the successful candidate is to be returned by the Selection Committee. All the shortcomings of this kind of undemocratic method of election have already been fully exposed in the current election. Mr President, have you ever seen any election where there are candidates before there are voters? Have you ever seen any situation where the candidates determine the identity of voters to support their running the election? Mr President, the social and economic development and the basis of democracy in Hong Kong have all the favourable conditions. Hong Kong has sufficient conditions to have a legislature and a Chief Executive elected for the SAR by universal suffrage as soon as possible. Only in this way can the principles of "one country, two systems" and "a high degree of autonomy" be implemented.

Mr President, it is undeniable that the election platforms of the candidates for the SAR Chief Executive have actually avoided the Hong Kong people's yearning for democracy. On the one hand, they have accepted the pace of democracy prescribed by the Basic Law; while on the other hand, they support the establishment of a provisional legislature and the restoration of appointed seats in the district boards and the two municipal councils. We can see that these candidates have totally disregarded the Hong Kong people's yearning for democracy and are only driving democracy backwards. No wonder the Chinese Government can accept these favourite candidates.

As regards human rights, Mr President, the favourite candidates have not urged that the Chinese Government should sign the international covenants on human rights and that the Chinese Government should submit the human rights reports of Hong Kong to the United Nations in future. Nor have they requested the Chinese Government to allow, if it is not able to sign the international covenants on human rights, the SAR Government to submit human rights reports on its own to the United Nations.

These candidates have not mentioned about setting up a Human Rights Commission to supervise and assist in the implementation of the Bill of Rights Ordinance in the SAR. Mr President, they have even proposed to reinstate the draconian laws. Most of the candidates have even suggested that the issue

of reinstating the draconian laws be handled by the provisional legislature which has no representativeness. This kind of approach has totally disregarded the voices of opposition among the Hong Kong people against the reinstatement of draconian laws. The Bill of Rights Ordinance will be weakened. How can the human rights of Hong Kong people be fully protected?

Mr President, WANG Dan has been heavily sentenced to 11 years' imprisonment. This is a miscarriage of justice based on an "unwarranted charge". But these candidates are avoiding to face up to the issues concerning the judicial system of China and human rights in the Mainland. How can we the Hong Kong people rely on them to defend our human rights? The DAB has great confidence in the protection of human rights as stipulated in the Basic Law. There is no doubt that the Basic Law has indeed incorporated two international covenants, namely the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. However, the Basic Law has also included the stipulation on subversion in Article 23. The scope of this stipulation can be very wide. When the democrats met with some candidates for the Chief Executive recently, the candidates specifically pointed out that freedom of the press in Hong Kong and whether assemblies commemorating the "June 4" incident can be held in the future is certainly a matter of the stipulation in Article 23 of the Basic Law. The case of WANG Dan being heavily sentenced for conspiring to subvert the Chinese Government has made the Hong Kong people worried about the protection of human rights and freedom in future.

As a matter of fact, Mr President, the Chinese Government can take the initiative to stabilize the confidence of Hong Kong people. For instance, it can abolish the establishment of a provisional legislature, give up its intention to weaken the Bill of Rights Ordinance and agree to amend the Basic Law to the effect that the first legislature and the Chief Executive of the SAR will be returned by universal suffrage. However, under the principle of "I be the centre" and the suppressive policy of the Chinese Government for the sake of stability, the above will indeed be something very remote.

Mr President, the Democratic Party has all along attached great importance to a democratic election system. The Selection Committee, which only comprises 400 members, is conducting an election in which only a few can take part. It is not a democratic and open election. Under this

undemocratic system of election in which only a few can take part, the candidates for the Chief Executive will only pay heed to the Selection Committee with 400 members and the Chinese Government which exerts influence on these 400 people instead of the Hong Kong people.

Furthermore, when we look at the platforms of the candidates, we can see that they have all laid particular stress on economic development but have neglected the Hong Kong people's demand in regard to democracy, human rights, freedom and the rule of law. Between "one country" and "two systems", they all pay particular attention to "one country", which means they will generally look at the Hong Kong society from the angle of the Chinese Government. They pay less attention to one of the "two systems", namely the demand from the Hong Kong society for a high degree of autonomy. In the eyes of the Chinese Government, public opinion, human rights, democracy and freedom of the press are all tools for ruling. Therefore, the Chinese Government will not think highly of them. For those candidates who adhere themselves to the powers of the Chinese Government, we can really see that they are toeing closely the political line of the Central Government.

Mr President, with these remarks, I support the motion and oppose the amendment.

**MR PAUL CHENG:** Mr President, mindful of the more practical and productive work this Council could and should be doing, it is with some reluctance that I stand to speak on this motion. However, I feel it is important to put the Chief Executive selection issue into the proper perspective.

The hectic merry-go-round of meetings with different groups all over Hong Kong currently being undertaken by the four most high-profile contenders for the Chief Executive post, together with the accompanying media frenzy, is reminiscent of the arrival in Hong Kong four years ago of the last British Governor.

There is, however, one key difference. The Governor's precedent-setting and highly successful "meet the people" campaign came only after the event. That is, after he became the Governor. The choice had already been made in what was a true one-man-one-vote "election". The one man was British Prime Minister John MAJOR and his vote went to Governor

PATTEN. As with our previous appointed Governors, there was no consultation with the Hong Kong people, and no Hong Kong people had the chance to vote.

How different things are today with no fewer than eight candidates campaigning before the event, and with 400 Hong Kong people from different walks of life able to vote for their preferred candidate.

While this procedure may fall short of the western concept of democracy, it nevertheless represents encouraging progress for Hong Kong at this stage of our constitutional development. And it is certainly more in keeping with the principle of Hong Kong people governing Hong Kong than anything we have had before.

To suggest, as the motion does, that "only a SAR Chief Executive elected through the one-person-one-vote system by the people of Hong Kong can effectively protect the interests of Hong Kong people" is an insult to all those who have put themselves forward as Chief Executive candidates and who are making great personal sacrifices in their bids to serve the community. It is also an insult to many of the Governors who have served Hong Kong faithfully over the past 150 years.

To expect that Hong Kong could and should make the jump in one fell swoop from appointed Governor to a Chief Executive elected by universal suffrage is unrealistic and foolhardy. Hong Kong has embarked on a dramatic and unprecedented period of transition and change.

In almost every other area, Hong Kong wants as little change as possible and as gradual as possible in order to facilitate a smooth and successful transition. But when it comes to democratic development, certain people want to rip up the blueprint. I do not believe they speak for the majority of Hong Kong people, who I am sure prefer the "steady as she goes" approach outlined in the Basic Law — including the gradual broadening of the electorate for the selection of the SAR Chief Executive. We should also remember that Article 45 of the Basic Law states that the "ultimate aim is selection of the Chief Executive by universal suffrage".

What is not mentioned in the Basic Law, but which I have found particularly encouraging in recent weeks, is the way in which the Chief Executive candidates have played a major part in opening up the whole selection process and issue. To their credit, they recognize that public confidence will not be best served by a closed selection process involving candidates hardly known to the general public. They are therefore not only canvassing the 400 Selection Committee members who will cast their votes next month, but are also going to great lengths to explain publicly their views and positions on key issues in the hope of gaining broader acceptance by the Hong Kong people.

For this, we can perhaps thank Governor PATTEN, whose own "meet the people" campaign ushered in a new era of more open government and raised the expectations of the Hong Kong people as to the accessibility and accountability of their government leaders. We should also be grateful to the media for the important part they are playing in ensuring that the candidates are better known and their viewpoints better understood by the Hong Kong people. As a Member of the Selection Committee, I am finding this extremely useful in helping me assess the various contenders.

The Honourable LEE Cheuk-yan claims that a number of candidates have avoided the issues of democratic development and protection of human rights in Hong Kong. From what I have seen, the candidates have been quite clear on those issues. My impression is that they support the Basic Law and the provisions contained therein — and that includes the many and detailed provisions on democratic development as well as the freedoms and rights of the individual. It is all in there.

There is a more worrying side to the motion — and that is the implication that we should start tinkering with the Basic Law by changing the selection process for the first Chief Executive. To give this serious consideration would be setting a very dangerous precedent indeed.

So I thank the Honourable IP Kwok-him and the Honourable Bruce LIU for attempting to bring a little more common sense to this discussion with their amendments.

At the end of the day, however, this debate is little more than an academic exercise and a vehicle for certain individuals to score a few political points. Should that be where our priorities lie at this time?

The people of Hong Kong are very pragmatic, and I am sure they would expect their Legislative Council Member to be spending more time on meaningful and productive tasks. They would prefer us to focus on livelihood issues, such as creating jobs, measures to improve training and retraining, helping the needy and worker safety..... issues that are much closer to the hearts of the Hong Kong people.

As a member of the Selection Committee, I can assure all of you that I will fully respect the wishes of the people of Hong Kong by voting for a Chief Executive with the qualities outlined in Mr Bruce LIU's amendment. They are the qualities I, too, as a Hong Kong person, am looking for in our Chief Executive.

I urge the Hong Kong community to rally behind the Chief Executive (Designate) when he is elected next month, so that we can sustain Hong Kong's continued prosperity.

With these comments, Mr President, I oppose the original motion.

**MR SZETO WAH** (in Cantonese): Mr President, this Council adopted the motion to demand for the release of WANG Dan last week with 29 votes in favour and 26 votes against with four absentees. Had the four absent Members participated in the voting, I believe that this motion would still have been carried by 30 votes in favour versus 29 against. This result reflects that the power of democracy and justice has been the mainstream of this Council returned in the 1995 election. This situation is bitterly detested by some. It is also the fundamental reason why this Council has to be disbanded on 1 July 1997 and all the incumbent Members have to "get off the train".

No matter who is to be elected the Chief Executive, he will not be able to evade the question: What kind of package will he put forward to amend the existing electoral provisions of the Legislative Council? However, all candidates for the Chief Executive post have avoided this question in their platforms because they are all too frightened to risk universal condemnation. Besides, there is little room for them to make their own decisions and neither have they much power and courage to exercise "a high degree of autonomy". Yet, we can predict that no matter whose package and what package it is, it

will not deviate from a supreme aim despite all variations as it has to fulfil an essential purpose, which is: use every means to restrict, weaken, curb and eliminate the power of democracy and justice in the legislature.

According to the "supreme aim" which they cannot deviate from despite all the manifestations, I am here to make a prediction and put it on record about how the present electoral provisions will be amended while at the same time I hope that it will not come true:

For the 20 directly elected seats, the present "single vote, single seat" system will be amended as "single vote, double seats" because compared with the multi-member preferential system and proportional representation system, this system should be more effective in limiting the number of seats which those representing the power of democracy and justice can win.

The 10 electoral college seats are now filled by district board members. But this system will be amended to resemble the present Selection Committee or may even be simply replaced by the present Selection Committee.

The nine new functional constituencies are now categorized by industries which have a voter population of between 100 000 and 300 000. This system will be amended as something like those functional constituencies among the existing 21 old functional constituencies which have had their candidates elected unopposed ever since election was first introduced to Hong Kong.

For the 21 old functional constituencies, a few voter groups where each group was considered one single voting unit were added to the voters in the 1995 election. There will be a retrogression to the election mode of the 1991 election.

Under the restriction of such new electoral provisions, those representing the power of democracy and justice will at most take about 10 seats. Besides, by that time, Members will be divided into two groups when casting their votes and the legislature will have an absolute risk control. By that time, there will be very few, if any, claims of division, not to mention lengthy and heated debates. Members will be able to go home early to sleep.

I invite the candidates to put forward as supplement to their political platforms any amendments to the electoral provisions that differ from my prediction.

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

**MR DAVID CHU:** Mr President, before stating my case, I must point out a few inaccuracies in the Honourable LEE Cheuk-yan's motion. The candidates' election platforms, on paper and in speech, do address human rights and democratic development. They also discuss "one country, two systems" and "a high degree of autonomy". The only question is whether their comments have enough perceived depth and substance to please everybody. Mr LEE should give credit where it is due.

Mr LEE also claims in his motion that "only platforms which follow the wishes of the Chinese Government are permitted". This is not true. The boundaries governing the actions and convictions of the candidates are not set by the Chinese Government, but by the Basic Law. Nobody can become the Chief Executive unless he abides by the Basic Law just as nobody can become the President of the United States by going against the American Constitution.

Mr LEE asserts that only through one person, one vote in the election of the Chief Executive can Hong Kong be best served. This is simplistic. I believe that in having the Chief Executive observe the Basic Law to the letter and its spirit can Hong Kong be best served.

My theme today is fairness. We should be fair and acknowledge that the Chief Executive candidates have done more to woo the public than any past Governor. We should be fair and admit that some of those legislators condemning the nomination process today have themselves to blame for their exclusion by rejecting an invitation for them to participate in the Selection Committee. We should be fair and applaud the candidates for pledging support for "one country, two systems", for a free Hong Kong and also for our rights. We should be fair and see that the candidates can never be all things to all people. We should be fair and understand that the Chief Executive cannot give himself only to those groups which happen to be the most forceful about getting their views across. We should be fair and work with the Chief Executive so that together we can all live up to the principles enshrined in the Basic Law.

We should be fair and respect the Basic Law for assuring us democracy through evolution, rule of law, an effective administration, and protection for our civil liberties. We should be fair and strive for a better future rather than

dredge up old arguments. We should be fair to ourselves by concluding our Council on a positive note of moderation and not a negative one of confrontation and aggravation. We should be fair to the Chief Executive, whoever he is, and appreciate him for being a leader chosen from among ourselves and not appointed by some distant monarch. We should be fair to our conscience by helping our people solve their problems rather than to add to their anxieties to advance some political objectives.

I want to be fair and will therefore vote for the Honourable IP Kwok-him's amendment and against the original motion. If we as a Council is not fair, it is hard for us to convince others to be fair to us.

Thank you, Mr President.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, as the saying goes, "foul grass grows out of a foul ditch". The Chinese Government had hand-picked the members of the Preparatory Committee, who then selected the 400 members of the Selection Committee. This same group of people will then nominate candidates for the Chief Executive. Under such an arrangement, how can the candidates' election platforms possibly exceed the limits approved by the Chinese Government?

**PRESIDENT** (in Cantonese): Mr CHIM Pui-chung.

**MR CHIM PUI-CHUNG** (in Cantonese): How are we going to explain the remark "foul grass grows out of a foul ditch", which has abused all Members of this Council who are also members of the Selection Committee? Mr President, please rule on that.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, please state whether that phrase refers to Members of the Legislative Council.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, could you please repeat?

**PRESIDENT** (in Cantonese): Please state whether the phrase you used just now refers to Members of the Legislative Council.

**MR LEUNG YIU-CHUNG** (in Cantonese): I was referring to members of the Preparatory Committee and the Selection Committee.

**PRESIDENT** (in Cantonese): There are Members of the Legislative Council among them.

**MR LEUNG YIU-CHUNG** (in Cantonese): I did not specifically refer to those Members of the Legislative Council.

**PRESIDENT** (in Cantonese): Did you include them as you used the phrase?

**MR LEUNG YIU-CHUNG** (in Cantonese): I did not specify who .....

**PRESIDENT** (in Cantonese): Did you include them?

**MR LEUNG YIU-CHUNG** (in Cantonese): I was referring to all members of the Preparatory Committee and the Selection Committee.

**PRESIDENT** (in Cantonese): But you included them.

**MR LEUNG YIU-CHUNG** (in Cantonese): You can say that.

**PRESIDENT** (in Cantonese): Are you willing to withdraw that phrase?

**MR LEUNG YIU-CHUNG** (in Cantonese): No, I am not.

**PRESIDENT** (in Cantonese): I cannot stop you from speaking, but I would like to ask you once more: Are you willing to withdraw the phrase?

**MR LEUNG YIU-CHUNG** (in Cantonese): No, I am not, because I have said what I said. I cannot withdraw.

**PRESIDENT** (in Cantonese): When you uttered the phrase, it would be recorded in the official record of proceedings. If, however, you are willing to withdraw, you may so indicate .....

**MR LEUNG YIU-CHUNG** (in Cantonese): I am not withdrawing what I said.

**PRESIDENT** (in Cantonese): Since you refuse to withdraw, please leave. Do not come back today.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, please explain how the phrase "foul grass grows out of a foul ditch" would smear those people?

**PRESIDENT** (in Cantonese): Could you explain what the phrase means please.

**MR LEUNG YIU-CHUNG** (in Cantonese): You should be the judge of what I said. I uttered the phrase. If you think it would smear Members of the Legislative Council, you have a duty to explain to me.

**PRESIDENT** (in Cantonese): I think you were insulting Members of the Legislative Council. But if you disagree, please provide another explanation for the meaning of the phrase.

**MR LEUNG YIU-CHUNG** (in Cantonese): The meaning of what I said is equivalent to another Chinese saying: "One can only get tung oil out of a tung oil container."

**PRESIDENT** (in Cantonese): Mr LEUNG, let me repeat. If you are not willing to withdraw the phrase and refuse to explain, would you please leave and do not come back today.

**MR LEUNG YIU-CHUNG** (in Cantonese): I have already explained, Mr President. My explanation was: "foul grass grows out of a foul ditch" means the same as "one can only get tung oil out of a tung oil container", as I said just now.

**PRESIDENT** (in Cantonese): What container?

**MR LEUNG YIU-CHUNG** (in Cantonese): The same meaning as "getting only tung oil out of a tung oil container", which means the nature of things will not change. One will always get tung oil out of a tung oil container. The nature of things will never change.

**PRESIDENT** (in Cantonese): What is the meaning of tung oil?

**MR LEUNG YIU-CHUNG** (in Cantonese): It is a kind of oil, contained in a kind of container which has the sole purpose of holding the oil. It will not be used to hold another kind of oil.

**PRESIDENT** (in Cantonese): Does tung oil sting?

**MR LEUNG YIU-CHUNG** (in Cantonese): No.

**PRESIDENT** (in Cantonese): You think tung oil smells good.

**MR LEUNG YIU-CHUNG** (in Cantonese): It has a kind of smell. I do not know what that smell is.

**PRESIDENT** (in Cantonese): So, "sweet-smelling flowers and grass grow out of a sweet-smelling ditch". Is that what you mean?

**MR LEUNG YIU-CHUNG** (in Cantonese): The meaning is close. That is to say, what is born out of something must have the same characteristics of that something.

**PRESIDENT** (in Cantonese): Is that the meaning you had in mind?

**MR LEUNG YIU-CHUNG** (in Cantonese): It is close in meaning.

**PRESIDENT** (in Cantonese): Well then, do you think it is foul or it is sweet-smelling?

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, I wish to explain. "Foul grass grows out of a foul ditch" means what is born out of something must have the same characteristics of that something.

**PRESIDENT** (in Cantonese): Mr LEUNG, if you are not willing to withdraw that phrase, I have no alternative but to ask you to leave because up to this moment you have also refused to sit down and listen to me. You are having a debate with me.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, you did not ask me to sit down.

**PRESIDENT** (in Cantonese): But you should sit down.

**MR LEUNG YIU-CHUNG** (in Cantonese): But you did not ask me to. Why should I?

**PRESIDENT** (in Cantonese): Mr LEUNG, please leave.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, why should I leave?

**PRESIDENT** (in Cantonese): Standing Order 34(2) provides that "The President, the Chairman of a committee of the whole Council or the chairman of any standing or select committee shall order a Member whose conduct is grossly disorderly to withdraw immediately from the Council or the committee for the remainder of that sitting; and the Clerk shall act on orders received by him from the Chair to ensure compliance with this order."

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, in what way was my conduct "disorderly"?

**PRESIDENT** (in Cantonese): I have made my ruling. I asked you whether you were willing to withdraw the phrase but you were not. I then asked you to explain .....

**MR LEUNG YIU-CHUNG** (in Cantonese): Did I not repeatedly explain that to you?

**PRESIDENT** (in Cantonese): But you cannot first say the grass is foul and then say it is sweet-smelling and conclude that the two meanings are the same.

**MR LEUNG YIU-CHUNG** (in Cantonese): What I meant was .....

**PRESIDENT** (in Cantonese): Did you mean the grass was sweet-smelling?

**MR LEUNG YIU-CHUNG** (in Cantonese): I was not trying to explain whether the grass was foul or sweet-smelling. I was trying to give the meaning of the phrase itself. I was trying to tell you that what is born out of something must have the same characteristics of that something.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, please sit down. Mr CHEUNG Man-kwong.

**MR CHEUNG MAN-KWONG** (in Cantonese): Mr President, I would like to seek your permission to ask a question. The Honourable Allen LEE directly named the Honourable LEE Cheuk-yan as a "champion in pinning labels". I am not trying to comment on your ruling and we respect you as the President. However, if Mr Allen LEE named names, clearly referring to Mr LEE Cheuk-yan as a "champion in pinning labels", then he must be a .....

**PRESIDENT** (in Cantonese): Mr CHEUNG, I must now make a ruling because there is a point of order. I found there was a problem in what Mr Allen LEE said and I need to consider the matter. Mr CHEUNG, please sit down.

**MR CHEUNG MAN-KWONG** (in Cantonese): Mr President, I only want justice, with your permission.

**PRESIDENT** ( in Cantonese): Mr CHEUNG, let me explain two points to you. A ruling is going to be made after a point of order has been raised. Of course, when I say there is a point of order, I may need to suspend the meeting to make deliberation but I need to make a ruling on the spot. Mr CHEUNG,

please sit down.

Mr LEUNG Yiu-chung, are you willing to withdraw what you have said just now?

**PRESIDENT** (in Cantonese): Dr LEONG Che-hung, is it a point of order?

**DR LEONG CHE-HUNG:** Mr President, I thought, if I may, with respect, that you should at least make your ruling to the Honourable LEUNG Yiu-Chung, that what he said is offensive, before asking him to withdraw. But I do not think you have done that, Mr President.

**PRESIDENT** (in Cantonese): Honourable Members, when I ask a Member to withdraw a statement, my ruling is that the statement is offensive. If the Member is unwilling to withdraw it, he or she may want to give an explanation. I would, therefore, give him or her an opportunity to explain it because he or she may not intend to be offensive.

**PRESIDENT** (in Cantonese): Mr NGAI Shiu-kit, is it a point of order?

**MR NGAI SHIU-KIT** (in Cantonese): Since you have just explained it, I do not intend to speak.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, are you willing to withdraw the statement you just made? I have ruled that it was insulting.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, I totally disagree with you when you said that the statement was insulting and when you ruled that my conduct was disorderly. I have not done anything in breach of the Standing Orders or the procedures of this Council. How could my conduct have been disorderly? I do not think we share the same views.

**PRESIDENT** (in Cantonese): Mr LEUNG, I have given you a lot of opportunities. I asked you to withdraw the statement you made. I asked you to explain. And I asked you to indicate whether you were referring to Members of this Council. Even if your speech was insulting, as long as you were not referring to Members of this Council, you would not be in breach of the Standing Orders. But first, you refused to comply with my ruling. Second, despite my ruling that the statement was insulting, there is no problem if you indicate that the statement did not refer to Members of this Council.

Mr LEUNG, please sit down.

**MR NGAI SHIU-KIT** (in Cantonese): A point of order. Even if he was not referring to Members of this Council, what he said was still insulting because that was what he said. It was a fact .....

**PRESIDENT** (in Cantonese): Mr NGAI Shiu-kit, my ruling on that is crystal clear. What Mr LEUNG has said was insulting but this does not constitute a violation of our Standing Orders so long as it did not refer to Members of this Council. Mr NGAI, please be seated.

Mr LEUNG Yiu-chung, are you willing to say that what you have said just now did not refer to Members of this Council?

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, I now suspend my speech for the time being and will talk to you later.

**PRESIDENT** (in Cantonese): A speech cannot be suspended, only the sitting can be suspended.

**MR LEUNG YIU-CHUNG** (in Cantonese): Fine.

**PRESIDENT** (in Cantonese): I can suspend the sitting for five minutes and then invite you to continue your speech when the Council resumes. That is possible. But if you want to suspend your speech now, you will not be allowed to speak again after the other Members have spoken.

6.20 pm

**PRESIDENT** (in Cantonese): I now suspend the sitting for five minutes.

*Sitting suspended.*

6.28 pm

*Sitting resumed.*

**PRESIDENT** (in Cantonese): I now repeat part of the ruling that I made on 27 March 1996: "Offensive and insulting language is regarded as unparliamentary language, which means language that should not be used in parliamentary proceedings, and, in the case of Hong Kong, the proceedings of this Council and its committees. Standing Order 31(4) says that it shall be out of order to use offensive and insulting language about Members of this Council. Standing Order 31(5) says that a Member shall not impute improper motives to another Member. Such objectionable language may fall into two kinds, one which reflects derogatorily on the character of other Members, and the other which is straightforward profane, abusive and indecent. I shall rule both kinds of language out of order.

In the event that a Member of this Council inadvertently uses in his or her speech language which is objectionable, I shall request him or her to rephrase that part of his or her speech that I regard as unparliamentary. If the Member concerned failed to take heed of such request, or failed to rephrase it in such a way as to make it unobjectionable, I would have to order that the relevant part of his or her speech be withdrawn forthwith, or an apology be offered. If my order were not observed, I would regard such conduct as grossly disorderly and order the Member to withdraw immediately from the

Council for the remainder of the sitting, under Standing Order 34(2)." At that time, I also added, "I hope the occasion for me to invoke Standing Order 34 will not arise."

Just now I have ruled that Mr LEUNG Yiu-chung's words at the beginning of his speech were insulting. Mr LEUNG, please explain whether these words referred to Members of the Legislative Council.

**MR LEUNG YIU-CHUNG** (in Cantonese) : Mr President, the saying "foul grass grows out of a foul ditch" has a number of meanings and interpretations.....

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, I ask you if you are willing to .....

**MR LEUNG YIU-CHUNG** (in Cantonese): If you ask me whether Members of the Legislative Council were included in the implication of my words, I think the answer is yes. Members of the Legislative Council were included.

**PRESIDENT** (in Cantonese): If Members of this Council were included in the implications of your words, are you willing to withdraw the statement?

**MR LEUNG YIU-CHUNG** (in Cantonese): I am not willing to withdraw it because I think your interpretation and your ruling are incongruous with my interpretation and my thoughts. I am totally dissatisfied with your ruling and find it totally unacceptable.

**PRESIDENT** (in Cantonese): Then I just have to invoke Standing Order 34(2) .....

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, before you make your final ruling, I should state that your interpretation is absolutely wrong and you do not understand the meaning of this saying. I am very dissatisfied with your ruling. So I now withdraw from the Council of my own accord as a

protest against your ruling.

**PRESIDENT** (in Cantonese): Clerk of the Council, please take action.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, I now withdraw from this Council of my own accord to protest against your ruling. You need not take any action.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, you may now withdraw from this Council but you are not allowed to return today.

**MR LO SUK-CHING** (in Cantonese): Mr President, in less than a month, the first Chief Executive of the Hong Kong Special Administrative Region (SAR) will be elected. Everyone in Hong Kong hopes that he will, by representing the wishes of the people of Hong Kong, lead us in the implementation of the mode of "one country, two systems" and "a high degree of autonomy", so that Hong Kong can maintain its prosperity and stability. In fact, the concept of "one country, two systems" is proposed by the Chinese side after taking into account the actual situation of Hong Kong. The method of implementation of this concept has already been prescribed in clear terms by the Basic Law. All that the Chief Executive has to do is to comply with what has been laid down in the Basic Law. However, it is regrettable that while people generally yearn for stability and look forward to a smooth transition, those who indulge in the empty slogan of "democracy" attempt to create chaos and divide the community of Hong Kong.

Section 1 in Chapter IV of the Basic Law stipulates that "The Chief Executive of the Hong Kong Special Administrative Region shall be selected by election or through consultations held locally and be appointed by the Central People's Government. The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by

universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." In the "Decision of the National People's Congress on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region", it is also spelt out clearly that the first Chief Executive shall be selected by a Selection Committee consisting of 400 Hong Kong people. Anyone who intends to engage in activities that run against the Basic Law overlooks the existence of the Basic Law and tramples upon this mini-constitution which enjoys a privileged position in the SAR. As the saying goes, "Persons being cultivated, families were regulated. Families being regulated, States were rightly governed. States being rightly governed, the whole empire was made tranquil and happy." How can a person being disrespectful of the law possibly pursue democracy and safeguard the rule of law?

"Everyone has his own dream." I believe different people will have different understanding about democratic development and the protection of human rights. The point is that we need to seek common ground on major issues. The drafting and consultation of the Basic Law have gone through a period of four years and eight months to the effect that, with collected wisdom and thoughts, the aspirations of various parties are well co-ordinated. A clear interpretation as regards democracy and human rights has also been come up with. This is an essential element in maintaining prosperity and stability. The contenders for the post of Chief Executive may have placed their policy emphases differently in their political platforms. They might not have deliberately highlighted democracy and human rights but they also have not sided with certain opinions and views. It is therefore too arbitrary to criticize them as evading the issues of democracy and human rights. The inference therefrom that they are lack of the determination to safeguard "one country, two systems" and "a high degree of autonomy" really goes too far. What is the logic behind such inference?

During the period when Hong Kong is under colonial rule, the people of Hong Kong have all along been given no choice but to accept any Briton the Queen might appoint to Hong Kong as the Governor. The entire process

involves no consultation over the opinions of the people of Hong Kong; however, those who claim to be democracy fighters have never sounded the clarion call of opposing such appointment. On the contrary, the Selection Committee, which draws members from every quarter and sector of Hong Kong, and allows the participation of every eligible person in Hong Kong. This is completely fair and just. The Selection Committee thus formed is also representative of the interests of the people of Hong Kong. However, these so-called democracy fighters oppose such a Committee. What is their purpose of so doing? As a matter of fact, in relative terms, the composition of the Selection Committee is really broadly representative. With its members drawn from different sectors, the purpose of balancing the interests of different parties is therefore achieved. The selection of the Chief Executive by such a Committee can better guarantee the selection of an ideal candidate who is prepared to stand up for the interests of the people of Hong Kong.

A recent survey shows that only 25% of the people in Hong Kong are aware of the fact that there are altogether eight contenders running for the first Chief Executive of SAR and only 40% of the respondents know that the minimum age requirement of candidates for the Chief Executive is 40. Against such a background, the implementation of "one person, one vote" universal suffrage may not guarantee the election of a Chief Executive who can really work for the overall interests of the people of Hong Kong and can give effect to the concepts of "one country, two systems" and "a high degree of autonomy". The progress of democracy should be gradual, orderly and in line with social development. It is stipulated in the Basic Law that a review on the method for selecting the Chief Executives will be undertaken after 2007 and the possibility of universal suffrage by that time is not ruled out. Before the people of Hong Kong have the actual experience, it should be a practical approach for them to gain experience gradually.

Mr President, last but not least, I would like to draw Members' attention to another point of concern. A recent survey shows that over 80% of the respondents claimed to "have no knowledge" or "have limited knowledge" about the Basic Law. When someone intend to criticize the Basic Law, would they please first put on their thinking cap and study the Basic Law because this

is the basic responsibility of every citizen. Otherwise, whatever the request for "Hong Kong people ruling Hong Kong" might be, it is still impractical.

Mr President, these are my remarks.

**MR ANDREW CHENG** (in Cantonese): Mr President, the four contenders for the SAR Chief Executive, namely Peter WOO, LI Fook-sean, TUNG Chee-hwa and YANG Ti-liang, have recently released their so-called platforms on "ruling Hong Kong by law", "Hong Kong people ruling Hong Kong" and "a smooth transition". However, their platforms not only unanimously support, without prior agreement, the establishment of a provisional legislature, which hampers the development of democracy in Hong Kong, but also evade in every way the issue of protecting the human rights of Hong Kong people after 1997. This has destroyed the promise of "a high degree of autonomy" and "Hong Kong people ruling Hong Kong" by both the Chinese and the British sides, and has at the same time undermined Hong Kong people's confidence in "a smooth transition" after 1997. From this we can see that while the Preparatory Committee and the Selection Committee are manipulated by the Chinese Government and work secretly all the time, the so-called SAR Chief Executive and provisional legislature cannot represent the wishes of Hong Kong people at all. So how can they say that they are defending the principles of "one country, two systems" and "a high degree of autonomy"?

Mr President, I shall now concentrate on discussing the candidates' platforms regarding the issues of the provisional legislature and human rights.

With regard to the setting up of the provisional legislature, what the contenders have advocated are disappointing. Peter WOO is the ultimate boot licker, LI Fook-sean puts up an attitude of helplessness, TUNG Chee-hwa endeavours to defend the views of the central authorities of the Chinese Communist Party, whereas YANG Ti-liang tosses away all the laws and principles. All their words are nonsense. For example, Peter WOO says that under special circumstances it is necessary to establish the provisional legislature and that is in fact a practical way of doing things. LI Fook-sean thinks that since the plan for a through train cannot be realized, it is necessary to set up the provisional legislature and he will only submit bills that are essential in the operation of the SAR to the provisional legislature. TUNG Chee-hwa does not see any problem at all in the legal status of the provisional

legislature, and calls on the Hong Kong Government to co-operate with it. YANG Ti-liang's view is even more startling. He believes that the establishment of the provisional legislature is necessary and further confirms that the legal bases employed by the Chinese side to set up the provisional legislature are valid. These legal bases have come from the resolution that "the SAR Preparatory Committee can organize the setting up of the first legislature and related matters" adopted by the National People's Congress Standing Committee in April 1990. He said that if measured on the basis of the Chinese legal point of view, the establishment of the provisional legislature should be acceptable. However, he also said that the wording in this resolution are relatively loose and incoherent. If they are to be interpreted by a Hong Kong court, problems may arise. The Hong Kong people who yearn for democracy and the rule of law are really disappointed by such nonsense uttered by them!

Mr President, Peter WOO, LI Fook-sean and TUNG Chee-hwa all speak along the same line as China does, stressing all along that the provisional legislature is the only alternative way to fill up the "legislative vacuum" in the early stage after the transfer of sovereignty. But up to now, it seems that they have never taken into account nor tried to answer the many queries about the provisional legislature raised by Chinese legal experts and the Bar Association. Moreover, Mr President, the three of them are themselves key members of the Preparatory Committee and are responsible for the preparatory work of the SAR. They should have known and sensed that there will be a "legislative vacuum" after 1 July 1997 and should have long ago sought co-operation between China and Britain so that the election of the first SAR legislature can be held in accordance with the Basic Law before 1 July 1997. But what have they done in this respect? Now that they have become candidates for the SAR Chief Executive, they must make a clean breast of what they have done to prevent the emergence of the provisional legislature! Previously, they have not worked for the continuation of the progress of democracy in Hong Kong and the realization of the ideal of "a high degree of autonomy" and "Hong Kong people ruling Hong Kong". Now they are obsequious and say that the provisional legislature is essential, down-to-earth and practical. The spirit of democracy accumulated through the past more than a decade in Hong Kong is now destroyed in one day. How can there be "a smooth transition" then?

As for YANG Ti-liang, who is a heavyweight in the judicial circles, since he finds questionable points in the setting up of the provisional legislature

when it is viewed from the Hong Kong legal perspective, why does he not clarify it? Before the doubt is cleared, why does he boldly support the establishment of the provisional legislature without regret? Obviously, YANG Ti-liang wants to please the Chinese side and the already-born Selection Committee. In order to be "selected" to be the SAR Chief Executive by members of the Selection Committee, he cannot but toss away the spirit and principles of the law that he is so familiar with, and tries his best to white-wash the provisional legislature.

Mr President, other than the provisional legislature, I would like to briefly talk about the platforms concerning the protection of human rights.

The protection of human rights for Hong Kong people after 1997 is also worrisome. Last year, the Preliminary Working Committee proposed to restore the draconic laws, and many members of the Preliminary Working Committee have joined the Preparatory Committee and the Selection Committee. In the future provisional legislature, the members will definitely be this same group of people! In this way, the nightmare of the draconian laws being restored will very likely come true. This year, the Minister for Foreign Affairs QIAN Qichen has said that Hong Kong people they must not organize any assembly to mourn the "June 4" incident and they must not attack the Chinese leaders. If things are done in accordance with the opinions of the Preliminary Working Committee and Mr QIAN, the freedoms of association, of assembly and of speech will surely be suppressed mercilessly after 1997! However, in the face of these situations which seriously affect the human rights of Hong Kong people, the candidates for the SAR Chief Executive dare not say a word to contradict. So how can we put the great responsibility of fighting for the interests of Hong Kong people on the shoulders of such candidates?

Furthermore, Mr President, the British Hong Kong Government has already submitted a number of reports on the human rights situation in Hong Kong to the Human Rights Commission of the United Nations. The human rights situation in Hong Kong is thus followed closely and monitored by the international community. China, however, is not a signatory of the International Covenant on Civil and Political Rights, and it does not have any obligation to submit reports to the Human Rights Commission for Hong Kong. In this case, how the international community can continue to monitor the future human rights situation in Hong Kong will remain an outstanding issue

after 1997. But the candidates for the SAR Chief Executive have remained silent on the issue, and of course they dare not suggest that the Chinese Government should sign the International Covenant on Civil and Political Rights.

We can see from the above that under the system of election by a small group of people, the SAR Chief Executive will not be monitored by the public. That is why the above four candidates are able to support the provisional legislature. They dare not care about the human rights of Hong Kong people, and need not and will not take the wishes and rights of the citizens into account. Therefore, I strongly support the Honourable LEE Cheuk-yan's motion and demand that China and Britain work together to plan as soon as possible for a one-person-one-vote election system to elect the SAR Chief Executive and the future first Legislative Council of the SAR.

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

**MR CHIM PUI-CHUNG** (in Cantonese): Mr President, the original motion today revolves around the issues of democracy and human rights. We have said long ago that everyone, including the Chinese Government, would claim that one is, by any standard, democratic and has great respect for human rights. Before liberation, there was still a slavery system in many areas in China, including many places in Tibet. Such being the case, how could one possibly talk about human rights? What kind of human rights does the Honourable LEE Cheuk-yan mean? What kind of democracy does he refer to? How well do we understand the situation of human rights in Europe and America? How far have we experienced it? Even if it is thought that the moon in the West is prettier and that democracy and human rights are better safeguarded in the West so we should keep pace with the West, somehow a standard ought to be set. Otherwise, one will only become increasingly opinionated, in which case human rights and democracy will be rendered a weapon to attack other countries or compel others to yield. The interpretations of human rights and democracy in some fairly advanced countries such as Singapore and Malaysia are different.

Now human rights and democracy are used to criticize other people. What expertise or qualifications do you have to criticize others as such? The United States, which is the epitome of a democratic country where freedom

and human rights prevail, has frequently gone to other countries, abducting the presidents there and making judgements on how much compensation their presidents should pay. Why do you not criticize these acts but instead, pick on the Chinese Government? It is claimed that criticisms are made because we, as Chinese people, hope that this will do China good and that China will accept these criticisms. However, since China refuses to take such criticisms, why do we still have to incite the citizens of Hong Kong to stir up troubles for themselves? What is the motive? What is the purpose? There was the so-called "through train" back in 1992 (as we could see from an episode of yesterday's *City Information*). I said at the time that I hoped we could have a smooth transition on the through train and that if elected to the last term of the Legislative Council in 1995, we could have a smooth transition so that we could join hands to create a better tomorrow for Hong Kong. Why did people raise objection then, making such remarks as the "red pig-cage vehicle"? Now, the fact is that there is no through train. China being the sovereign state which will exercise its sovereignty over the territory in future, how can the Chinese Government just resign itself to extinction and let you do whatever you like? The time to curry favour with the British Government has passed. Why do we, as Chinese people, have to look down on our own country? The Chinese Government, therefore, had no alternative and the provisional legislature thus came into existence. Its existence is followed by an even greater dissenting voice criticizing it as a violation of the rule. Why is it that whatever the British do is right? Have the British ever identified with you?

Just now some Members said that a few years ago, the term "pro-China" did not sound good. This is a point that we can definitely admit. Today, however, China has grown stronger over time and is capable of facing challenges from the world. Why do we still disapprove of the term "pro-China"? You have described others as "pro-China" but in pronouncing your own stance, you would not admit that you are "pro-British". Nor would you admit that you are "against China". Nor would you admit that you are a "communist bandit", to quote from Taiwan. Nor would you admit that you are a fundamental Leftist either. What are you exactly? Since you have the guts to brand others as "pro-China" and pin labels on other people, you have got to pin one on yourself to state your position, just as those "parading the streets" during the Great Cultural Revolution. Some people have gone through many ups and downs and they still qualify for their places here.

Therefore, Mr President, the existence of a diversity of political views in

Hong Kong is absolutely understandable. But politics changes with the development of society. We are Chinese people and the door of China is already open for us. We should try our best to express different beliefs or views by seeking more dialogues, more consultation and better co-ordination. We should not use democracy and human rights as our political capital. The population in Hong Kong accounts for a mere 0.5% of the population in China. So what do you think you are? If one should allow one's political belief to run exceedingly high, it will be detrimental to one's political party as well as the people of Hong Kong as a whole. Now is the best opportunity and we should seek more dialogues through a diversity of means despite the fact that we have different political views. We should not simply use the privileges of the Legislative Council to criticize others by hurling vilification at them, hoping for a more special treatment. Obviously, in hurling more criticisms at others, one may subsequently gain the qualification for emigration after 1997, but this is certainly detrimental to the general public in Hong Kong.

Just now the Honourable SZETO Wah has made a very good suggestion .....

**PRESIDENT** (in Cantonese): Mr CHIM Pui-chung, please resume your seat. Mr LEE Cheuk-yan.

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, I would like to raise a point of order. Just now Mr CHIM Pui-chung has said that some people are making severe criticisms because they are seeking emigration on political grounds. Does he refer to any Members of this Council? If yes, he is imputing an "improper motive" to other Members. May I have your ruling please.

**PRESIDENT** (in Cantonese): When Sir David WILSON was President of this Council, he made a ruling that one's effort to gain political capital is not an improper motive. Mr CHIM, please continue your speech.

**MR CHIM PUI-CHUNG** (in Cantonese): Mr President, the Honourable SZETO Wah has just made a very good suggestion .....

**PRESIDENT** (in Cantonese) : Mr LEE Cheuk-yan, is it a point of order?

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, I was not asking whether an effort to gain political capital would constitute an improper motive. I asked whether one's effort to seek emigration is an improper motive.

**PRESIDENT** (in Cantonese): You were not asking about political capital?

**MR LEE CHEUK-YAN** (in Cantonese): No, not political capital. Let me explain my point again. Mr President, just now Mr CHIM has said that some people are trying to gain political capital in order to seek emigration after 1997. In other words, to seek emigration after 1997 is the motive behind one's effort to gain political capital. I am now questioning whether what he alleged as the motive behind this means imputing an "improper motive" to other Members. Now I would like to ask two questions. Firstly, does he refer to any Members of this Council? If no, as what you have ruled, there is no problem. Secondly, there is the question concerning gaining political capital in order to seek emigration.

**PRESIDENT** (in Cantonese): Mr CHIM Pui-chung, did you mean Members of this Council?

**MR CHIM PUI-CHUNG** (in Cantonese): Mr President, what if I say I did not mean them but it proves to be the case in future? I do not want to be held responsible for this. It has to depend on the situation of individual Members. If they really do not have such intention, then I did not refer to them. If they really have such intention, well, I do not know how to explain this because what if I say I did not mean them but they really go away in future? How can I guarantee that?

**PRESIDENT** (in Cantonese): Mr CHIM, you only need to say whether you

were referring to Members. There is no need to give a detailed explanation.

**MR CHIM PUI-CHUNG** (in Cantonese): If it is out of order to say "yes", then I will certainly say "no". (*Laughter*)

**PRESIDENT** (in Cantonese): I have not made a ruling on whether making political capital for the purpose of emigration constitutes an improper motive. I will not rule on this. Just as the case earlier on when Mr LEUNG Yiu-chung made that remark in his speech and Mr CHIM Pui-chung raised a point of order, I only asked in the first place whether it was referring to Members. Mr CHIM Pui-chung, please go on.

**MR CHIM PUI-CHUNG** (in Cantonese): Just now the Honourable SZETO Wah has made some very good suggestions, namely the system of double seat, single vote; the electoral college and the nine new functional constituencies. But what are the demerits? He is very welcome to join the provisional legislature so that we can pool our wisdom for broader interests. Should there be views expressed, I believe that the Chief Executive of the Hong Kong Special Administrative Region (SAR) will not only accept these views and criticisms, he or she will even hope that the Democratic Party and members from the democratic camp can participate. What harm will it do to put forward views? It is most important not to create hostility among the people of Hong Kong. This also applies to our Legislative Council here. Why should we be hostile to one another? Who will benefit from such hostility? Therefore, Mr President, I very much hope that we can make a concerted effort to contribute to the territory's transition to the future SAR in a better way.

With these remarks, I oppose the original motion.

**MRS ELIZABETH WONG**: Mr President, I come not to praise or to condemn the candidates who contend for the post of the Chief Executive of the Hong Kong Special Administrative Region (SAR) for they are all, all Honourable men. Unfortunately, there is not one "honourable woman". Some of them are indeed my personal friends and they, I hope, remain to be

my friends after this debate. But unfortunately, Mr President, neither the election procedure nor the Basic Law itself nor the Hong Kong SAR Chief Executive will pass the test or will have the opportunity of passing the test of the ballot box, through either a referendum or universal and equal suffrage.

Now, I do not know what the meaning of democracy is, but I have a very simple person's definition. In a democratic country, when the government is wrong, people have the opportunity of kicking the government out. In a non-democratic country, when the government is wrong, the government has the opportunity of kicking the people out or locking them in prison. That is a very simple person's definition. And I think it is a great pity that the vast majority of Hong Kong people are left out in the cold, watching everything on the side line, even like betting on horses in an off-course betting centre. And some of us may even be betting on the wrong horse, more's the pity.

I have never also quite understood the concept of gradual, incremental democracy. It is like saying to a woman, you are going to be a little bit pregnant, so, more's the pity.

For before the impending transfer of sovereignty we could have the best opportunity to get rid of all the colonial vestiges. We have never elected our Governor. I expressed the regret two weeks ago in this Council, but at least we will have the opportunity of electing our own leadership. We have the only chance and this one opportunity before the transfer of sovereignty to make it right, to get it right. It is a great pity that our vision for the future is anchored in the past and cast in concrete. For I think that we have missed the opportunity to elect our own leadership now, a leadership who can be in fact truly and is seen to be truly representative of the people of Hong Kong, and effectively and seen to be effectively protecting the interests of Hong Kong people under the "one country, two systems" of Chinese sovereignty.

The absence of this opportunity casts in doubt, Mr President, the legitimacy of our future leadership, the validity of his representative status and, more's the pity, because he will not be blessed with a mandate from the people. He will not be seen to represent Hong Kong people, and his job will be made much more difficult. That is also a great pity. I think we should wish the Hong Kong future SAR chief the best of luck because, if he has not got anything else, he needs plenty of luck.

With these remarks, Mr President, I express my profound disappointment that we have foregone this wonderful opportunity of electing Hong Kong's own leadership and to be seen to have self-determination under Chinese sovereignty, and this unhappy situation I regret very much. And with these remarks, I support the original motion.

**MR CHEUNG HON-CHUNG** (in Cantonese): Mr President, originally I did not intend to speak on this motion. However, upon hearing the speech made by the Honourable LEE Cheuk-yan, I am compelled to say something.

Mr LEE Cheuk-yan described the election of the Chief Executive of the future Hong Kong Special Administrative Region (SAR) as a secular "horse-rigging case". As one of the members of the Selection Committee, so I am one of those who "rig the race". I feel that this is an extremely great insult to me. Never has there been any directive given to me on how to choose the Chief Executive of the future SAR, nor has there been any person giving me instructions. As such, how can I "rig the race"? And, how can the other members of the Selection Committee "rig the race"? The selection of the Chief Executive of the future SAR is a dignified and solemn process. All the members of the Selection Committee are taking up the historic mission of committing themselves to serving the people of Hong Kong. I feel greatly insulted and smeared by Mr LEE's remarks.

I so submit. Thank you, Mr President.

**PRESIDENT** (in Cantonese): Mr James TO, do you have a point of order?

**MR JAMES TO** (in Cantonese): No, Mr President. I just want to speak.

**MR CHEUNG MAN-KWONG** (in Cantonese): Mr President, I would like to respond to a number of opinions raised by Members. In today's motion debate, the Honourable IP Kwok-him said that "democracy is not a bowl of instant noodles", and there are already 400 Selection Committee members who will exercise their democratic rights to select the Chief Executive for the Hong Kong Special Administrative Region. He said that it is already a kind of

progress compared with the fact that we have never had any opportunity to choose our Governor in our past 150 years as a colony.

But I would like to say to Mr IP Kwok-him that democracy is not something like a bowl of longevity noodles for the privileged class to enjoy forever. The privileges in the colonial era have now been transferred, in this new era, through appointments to those who are close to the centre of powers and those who are pro-China. Through appointments, all these political privileges are handed over to a number of elders who are pro-China, or those who have suddenly become pro-China, or those rich and influential businessmen who are used to enjoying "political free lunches" as well as those shoe-shine footmen. Now what they are enjoying are the privileges like a bowl of longevity noodles, while the six million people, who are given short shrift, will not be given instant noodles at all. What they get is political deprivation. I am of the opinion that this is unethical and is contrary to the beliefs of a political party which claims to represent the grass-roots.

The Honourable Bruce LIU from the Association for Democracy and People's Livelihood (ADPL) said that it would not be pragmatic if one still insisted on having the Chief Executive popularly elected. What is the meaning of "pragmatic"? As the Chinese saying goes, "A wise man knows the prevailing situation". So "pragmatic" here means knowing the situation, changing with the prevailing direction and forgetting about the principles. What a shame if a political party often forgets about its principles! It is political amnesia.

I remember that the Honourable Frederick FUNG cast the only dissenting vote against the establishment of a provisional legislature at a meeting of the Preparatory Committee and because of this, he won the public's support. Now the ADPL has openly changed its direction and decided to join the provisional legislature. What is the reason? Because they are the "wise men who know the prevailing situation". But when they decide to be "pragmatic" in an undisguised way, they have forgotten their promises to the electors and their pledges to democracy. They have also forgotten the dissenting vote that they have cast which has once helped them win the public's support. They are content to be a vase in the political arena. Although this is the ADPL's own choice, it is, in my opinion, the sorrow of the electors who

have supported them. It is because they have put up a banner of democracy, but now they have trampled democracy and cheated their voters in the name of being "pragmatic". Pragmatism is in fact the disguise of many evil deeds.

The Honourable Allen LEE said that running for the Chief Executive post is not a show but a tough job because the candidates have to go to every corner of the territory. It is doubtless a tough job to run across Hong Kong Island, Kowloon, and the New Territories. But let me ask a basic question. What is the purpose of doing so? The purpose is to win the votes from the 400 members of the Selection Committee. Someone has visited the cage homes for the first time; someone has taken the Mass Transit Railway train for the first time; someone has eaten *pan tsai* for the first time and someone has boarded a fishing junk for the first time. But after all, they are nothing but a show, a show for the members of the Selection Committee who have the votes. For the general public, they can only be the spectators on the sideline watching such a spectacular show performed by a small number of people because they do not have the votes. Can one quench one's thirst by thinking of plums? Can a spectacular show be taken for real? Mr Allen LEE is a sympathetic person. But he is sympathetic only to the hard work of the performers who are staging the show but not to the helpless people who do not have any right to vote.

**PRESIDENT** (in Cantonese): Mr Bruce LIU, do you have a point of order?

**MR BRUCE LIU** (in Cantonese): Yes, Mr President. The Honourable CHEUNG Man-kwong has just mentioned that the ADPL used the banner of democracy to cheat the people of Hong Kong. I would like to ask whether such a statement is out of order.

**PRESIDENT** (in Cantonese): Mr CHEUNG Man-kwong, I did not hear you say that the Hong Kong Association for Democracy and People's Livelihood (ADPL) has cheated members of the public. Did you actually say that?

**MR CHEUNG MAN-KWONG** (in Cantonese): Mr President, with your permission, I will read it out once again for you to judge. What I have said is, the ADPL at one time carried the banner of democracy, but in the name of pragmatism, it has now trampled democracy and cheated its electors. So, I am referring to an organization and not any Member.

**MR BRUCE LIU** (in Cantonese): Mr President, four of the ADPL's members are Legislative Council Members.

**MR CHEUNG MAN-KWONG** (in Cantonese): May I have your ruling please, Mr President.

**PRESIDENT** (in Cantonese): Mr Bruce LIU, Mr CHEUNG Man-kwong has already indicated that he was not referring to Legislative Council Members from the ADPL. Please continue, Mr CHEUNG Man-kwong.

**MR BRUCE LIU** (in Cantonese): Mr President, through you I would like him to clarify whether what he meant was that there were Members from the ADPL who carried the banner of democracy.

**PRESIDENT** (in Cantonese): Mr CHEUNG Man-kwong, please be seated.

**MR BRUCE LIU** (in Cantonese): However, the four Members of this Council from the ADPL have not done what he said.

**PRESIDENT** (in Cantonese): Mr CHEUNG Man-kwong, please be seated. I believe Mr CHEUNG Man-kwong has just pointed out that he was not referring to any Member of this Council from the ADPL. Please continue, Mr CHEUNG Man-kwong.

**MR CHEUNG MAN-KWONG** (in Cantonese): Thank you, Mr President. I have just said that while we are taking such great care to sympathize with the tiring work of those candidates, we have forgotten the helplessness of members of the public who do not have the right to vote. As celebrities are crowding the capital, the people of Hong Kong are the only party left forlorn. The six million people are indeed helpless but are cared by no one as though they were political foundlings. This is really a drama, a shameful and awkward drama, a modern-day farce.

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

**MR AMBROSE LAU** (in Cantonese): Mr President, with the return of Hong Kong's sovereignty to China, Hong Kong will be implementing "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" under the principle of "one country, two systems". This is unprecedented in the history of Hong Kong and even in the history of the world. A Selection Committee composed of 400 Hong Kong permanent residents will select the Chief Executive for the future Hong Kong Special Administrative Region (SAR), who shall be a Chinese citizen and a permanent resident of Hong Kong. This is one of the most important manifestations of the concept of "Hong Kong people ruling Hong Kong" with "a high degree of autonomy". I believe the majority of people in Hong Kong will show concern, love and support towards the contenders for the post of the Chief Executive and towards the work of the Selection Committee.

Mr President, in the more than 150 years of British rule in Hong Kong, a total of 28 Governors have been appointed. Never has there been any consultation on the opinions of the people of Hong Kong, not to mention the selection of a Governor by the people of Hong Kong. However, with the return of Hong Kong's sovereignty to China and with the selection of the Chief Executive by the Selection Committee formed by the people of Hong Kong well under way, we should admit that it marks a healthy beginning in the history of democratic development in Hong Kong. The selection undertaken by a 400-member broadly representative Selection Committee which is

comprised entirely

of Hong Kong people shall not be regarded as an election in which only a few can take part. Hong Kong is the place where we live and work. It is in the interests of us all in Hong Kong that Hong Kong is well-administered in the hands of the people of Hong Kong and that its prosperity, the rule of law, freedoms and vitality can be preserved and enhanced. In this sense, we should consider the political platforms of the contenders for the post of Chief Executive earnestly by acknowledging their beliefs in serving the people of Hong Kong. In case people of grand and profound thoughts see any deficiency in their platforms, they may voice their opinions frankly and with good intention so as to allow the contenders to perfect their platforms through collective wisdom and efforts. However, the deliberate picking of mistakes in the platforms of the contenders or the attacking of a certain particular point without acknowledging the good points will only produce negative effects and serve no positive purposes.

Mr President, the democratic development in Hong Kong and the protection of human rights in the post-1997 era have been provided in the Basic Law in full and in good detail. The Chief Executive of the SAR should be able to give effect to the concept of "one country, two systems" by fully and faithfully implementing the Basic Law and by clearly knowing and mastering the factors that are conducive to maintaining the prosperity and stability of Hong Kong. One of these important factors is the principle of gradual and orderly development and balanced participation as laid down in the Basic Law regarding the democratic development of Hong Kong. Only in such a way can the post-1997 Hong Kong society preserve its stability and ensure the harmony of interests among different strata in the social hierarchy. The method of selecting the Chief Executive should also strictly comply with the provisions in the Basic Law, so as to effectively ensure the stability of the society and safeguard the interests of the people of Hong Kong.

Mr President, these are my remarks.

**MR JAMES TO** (in Cantonese): Mr President, first of all I would like to make an apology. In fact, it was because I had listened to the Honourable CHEUNG Hon-chung's speech that I wanted to give a short response, thereby causing a misunderstanding just then. I am sorry about that.

Mr CHEUNG Hon-chung and other Members have said just now that they are members of the Selection Committee, but no one has ever told or

instructed them how to vote. They truly and sincerely hope to select the best Chief Executive for the Hong Kong people from among the limited choices. My opinion is that regarding the "horse rigging of the century" as mentioned by the Honourable LEE Cheuk-yan, there are in fact many avenues to "rig a horse race". The most stupid way is for the Chinese side to explicitly direct someone to vote for one particular candidate. Frankly speaking, is there already a "horse rigging" now? Actually, Mr LEE Cheuk-yan was making a political forecast because if they intend to "rig the horse race", they need not be so stupid as to start doing it now. In fact, they can wait until the last moment when they come before the ballot box, and there is no need for them to do it now.

Some Members have indicated: I am a member of the Selection Committee and I am very sincere. Even if someone is going to give me an instruction, I will not follow it! I think it is still not enough if there are a couple of persons who are sincere, or if some members of the Selection Committee will vote sincerely for who they think is the best person or in accordance with the wishes of the Hong Kong people. We have to look at the whole composition because if there is an intention to "rig the horse race" among the 400 persons, as long as China is confident that they can later influence the decisions of more than 200 persons, or even less than 200 persons, they can already control the result. It is because all the favourite contenders, for instance, the present four favourite contenders, have their own support. Although it is said that one of the contenders may not be able to secure 50 votes, at least he can still secure dozens of votes. If only two or three candidates are left in the future, they will each have his own supporters. Under such circumstances, if China can subtly control and influence over 100 persons, or even less, for example 80 or 90 voters, they should be able to "rig the horse race" or control the outcome. Therefore, we cannot rule out that some members of the Selection Committee are really sincere in hoping to select the best Hong Kong Special Administrative Region (SAR) Chief Executive according to their own wishes under such an incomplete and undemocratic system.

The Honourable Bruce LIU was very anxious when the Honourable CHEUNG Man-kwong just now alleged that the Hong Kong Association for Democracy and People's Livelihood (ADPL) had misled or even deceived their voters. I cannot but state my view. Mr Bruce LIU has argued that the

system of one-person-one-vote is not pragmatic, but in fact, many of the policies and issues which they are fighting for are also impossible to materialize in the short run. If they refuse to take up those work that are not pragmatic and only do what is possible, then although there are many people in the ADPL who have very strong political and democratic beliefs, generally speaking, I will be very disappointed with these ex-comrades in the democratic camp. For the time being, I see no point in adopting a compromising attitude to show your sincerity. Their strategy of negotiating with and criticizing China at the same time has turned out to be a totally different thing. They are not negotiating with China but are turning to the Left and inclining towards the Communist Party, and making up excuses to put themselves in a better light afterwards. I am really very disappointed with their actions.

I have a different view on a point just raised by the Honourable LO Suk-ching. He said that many people had not read the Basic Law. And since the Basic Law is our fundamental law, if the system of one-person-one-vote is now implemented, it will be "a very big trouble". I think that this idea is open to question. In fact, if a candidate for the Chief Executive has a right of abode overseas or if he has not resided in Hong Kong for more than 20 years, he is simply not qualified. The election procedures prescribed by law have already done the screening for the public, what people have to vote on are the candidates' policy stances, democratic beliefs and requirements on the rule of law and human rights. And there is no need for the public to read the Basic Law thoroughly to make the selection. Also, under the present system of Hong Kong, there is no need for every person to read the full versions of the Letters Patent and the Royal Instructions. However, we should in fact be proud of the public's participation, and their knowledge and concern with the candidates from the indirect elections through functional constituencies since the 1980s to the direct elections in 1991 and 1995. I think we should not resort to the excuse that the public is not familiar with the Basic Law to suggest that it is not possible to implement the one-person-one-vote system to elect the Chief Executive.

**PRESIDENT** (in Cantonese): Dr LAW Cheung-kwok, is it a point of order?

**DR LAW CHEUNG-KWOK** (in Cantonese): Mr President, in regard to what the Honourable James TO has just mentioned that the Hong Kong Association for Democracy and People's Livelihood is inclined to the Communist Party, I .....

**PRESIDENT** (in Cantonese): Do you want to raise a point of order?

**DR LAW CHEUNG-KWOK** (in Cantonese): Yes, it is a point of order. He is sceptical of our motive.

**PRESIDENT** (in Cantonese): I now rule that as seeking political capital is a lofty motive, joining the Communist Party is also a lofty motive. (*Laughter*)

**MR TSANG KIN-SHING** (in Cantonese): Mr President, it is a lofty motive to join the Communist Party. I would like to talk more about the Hong Kong Association for Democracy and People's Livelihood (ADPL). Four Legislative Council Members from the ADPL have taken part in the election of the Selection Committee .....

**PRESIDENT** (in Cantonese): Mr TSANG Kin-shing, please wait a minute. The wording in the ruling just now may seem a bit frivolous. I would like to make an amendment. Just as seeking political capital is not a bad motive, joining the Communist Party should also not be viewed as a bad motive.

**MR TSANG KIN-SHING** (in Cantonese): Mr President, it is not a bad motive to join the Communist party. Mr President, how the members of the Selection Committee are elected is very clear to everyone. Take the ADPL as an example, the four Legislative Council Members from the Association took part in the election at the same time, how come only two of them were chosen? My explanation is simple. The Honourable Bruce LIU behaves like a street-fighter who makes objections all the time, whilst Dr the Honourable LAW Cheung-kwok is unruly in his words and he has once raised his hand at the wrong time. Only the Honourable Frederick FUNG and the Honourable

MOK Ying-fan were selected, since Mr MOK Ying-fan keeps quiet all the way .....

**PRESIDENT** (in Cantonese): Mr TSANG Kin-shing, please speak on the subject of the debate, that means the motion, the amendment, and the amendment to the amendment, but do not discuss the failure and success of Members from the ADPL in joining the Selection Committee.

**MR TSANG KIN-SHING** (in Cantonese): I am not discussing the Association. I am talking about the birth of the Selection Committee. In the process, only those who are willing to obey and never rebut are allowed to join the Selection Committee.

Similarly, the Honourable CHEUNG Hon-chung said a moment ago that nobody bought him over. In fact, he owes me a favour. During the debate on the motion about WANG Dan, he said that he would leave and would not vote, but subsequently he was forced to vote against the motion. It was because one's stance had to be decided by the Party, the Communist Party. The emergence of the Selection Committee is in fact not an honour for the six million people, as it is not elected by the votes of the 6 million people. Why was one elected as a member of the Selection Committee? Why were the others among the 5 700-odd people not chosen while one was selected? Why was Mr Bruce LIU not picked? He did enter his name to join, why was he not chosen? The reason is simple, the Communist Party wants only those who are obedient.

Similarly, after 1 July 1997, how will members of the provisional legislature be elected according to Article 23 of the Basic Law? They will all be chosen in a non-democratic election which admits only those from a small coterie and operates in the dark. Then they can work behind closed doors and produce draconian laws. How will the SAR Chief Executive be selected? Why does it take almost no time to pick eight persons out of over 30? Why do the media only report on the "four kings", and in such a way as if they were Andy LAU and Jacky CHEUNG? Why are the activities of the other four candidates not covered? While the media discuss whether the election is fair, the media themselves are not fair because the other four candidates have been totally ignored.

I just want to say one word, if such a Selection Committee is relied upon to form the provisional legislature and to select the SAR Chief Executive, the future of Hong Kong will be destroyed, the hope of Hong Kong will be destroyed, and the stability of Hong Kong will be destroyed.

Mr President, I so submit.

**MR JAMES TIEN** (in Cantonese): Mr President, the Honourable LEE Cheuk-yan used the example of "horse racing" in his speech on the motion today. I would like to use a similar analogy.

As a matter of fact, Governor Chris PATTEN's political reform package in 1995 might also be considered as horse racing in which nine of the seats were returned by the new functional constituencies. Let me quote a familiar example, that is, the Textiles and Garments Functional Constituency. In that Functional Constituency, the votes of the people in the trade became the votes of the workers and the Honourable LEUNG Yiu-chung was thus elected. As all can see, Mr LEUNG had no knowledge about the recent textile dispute with the United States. He could not represent the textiles sector at all. It is therefore evident that among the nine new functional constituencies in the political reform package, one or two Members elected therefrom simply cannot attain the objectives of functional constituencies at all. In that particular race, Governor Chris PATTEN arranged to the effect that 19 Members from the Democratic Party were elected. They, together with other Members associated with the Democratic Party, amount to over 30 Members in the Legislative Council. The Democratic Party and its associates claimed victory in that particular race. However, the Democratic Party might have bet on the wrong horse. Although it gained victory in that particular race, the basis of the electorate in the forthcoming election of the provisional legislature or even that in the election of the first Legislative Council of the Hong Kong Special Administrative Region Government might change.

**PRESIDENT** (in Cantonese): Mr James TIEN, please speak on the motion.

**MR JAMES TIEN** (in Cantonese): Thank you, I thought that you asked me to sit down. *(Laughter)*

**PRESIDENT** (in Cantonese): Mr TIEN, at the beginning, you talked about "horse rigging" and "horse racing" as mentioned by Mr LEE Cheuk-yan, so there was no problem for you to talk about "horse racing", but please speak on the motion now.

**MR JAMES TIEN** (in Cantonese): Mr President, maybe I will not talk about horse racing anymore. I would respond to several other points raised by Mr LEE Cheuk-yan. He seemed to be suggesting that the laws passed by this Legislative Council now are good laws while the laws passed before 1994 were draconian and the laws to be passed by the provisional legislature will definitely be draconian laws.

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan, is it a point of order?

**MR LEE CHEUK-YAN** (in Cantonese): A point of order. I would like to elucidate because that was not what I said just now.

**PRESIDENT** (in Cantonese): This is not a point of order, please sit down. Mr James TIEN, are you willing to let him elucidate?

**MR JAMES TIEN** (in Cantonese): That is all right. Just let him elucidate.

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, I would like to elucidate. Just now I did not say that the laws passed in and after 1995 are good laws and those passed in and before 1994 were draconian laws. I just want to elucidate this point. Just now I only said that there are good laws and there are draconian laws. I did not say that the laws are good if they are passed at a certain time and that they are draconian if they are passed at another time.

**PRESIDENT** (in Cantonese): Mr James TIEN, please continue. The 1995 political reform package as was mentioned by Mr LEE Cheuk-yan was incorrect. It should be the 1994 package.

**MR JAMES TIEN** (in Cantonese): Mr President, let us stop haggling on whether it is before or after. I think what is important is Mr LEE Cheuk-yan's allegation that the laws passed by the provisional legislature may become draconian laws. I believe my understanding on this is correct.

**PRESIDENT** (in Cantonese): Mr James TIEN, please speak to the Chair.

**MR JAMES TIEN** (in Cantonese): Sorry, Mr President. I should not have conversed with another Member. Mr President, I would like to continue with my speech.

Mr President, in regard to the legal aspect, I believe any law passed after a debate in the Legislative Council is bound to be a reasonable piece of law once it is enacted. Maybe for Mr LEE Cheuk-yan, those which are palatable to him are good laws and those which are not are draconian laws. This is, to me, an erroneous view. As far as the labour laws passed in the past two years are concerned, many people in the business sector may find the laws unsatisfactory, but no one has ever criticized them as draconian laws. Since the laws have been passed, all we can do is to support them. As such, I do not think there is such distinction as good laws and draconian laws in the law book.

Mr President, Mr LEE also mentioned appointment in a disguised manner. Of course, Mr LEE has never been an appointed Member of the Legislative Council. I still recall that in 1988 when I was appointed to this Council by Sir David WILSON, all I did was to meet Sir David for half an hour. I was asked a few questions at the meeting and I told him that I was willing to serve Hong Kong. And that was all that was about. However, there are altogether 400 members in the Selection Committee. Take the

commercial and industrial sector alone, many of them are unfamiliar faces to me. I believe it really takes some efforts and time for me to campaign for their support just by writing to them or calling them by phone. In this sense, the so-called "appointment in a disguised manner" might just be too simplistic. Mere talk cannot win one a seat in the provisional legislature.

Mr President, last but not least, I would like to talk about the demand of the people of Hong Kong. Many Members from the democratic camp have mentioned this point and they seem to be suggesting that the most important demand from the people of Hong Kong is to have the Chief Executive returned by a one-person-one-vote election. Is it the real situation? Recent surveys have revealed that the issue that tops the concerns list of the people of Hong Kong is housing, with employment coming second after it. Of course, we cannot deny that human rights and democracy are also the issues that the public feel more concerned about but I do not believe that the election of the Chief Executive by a one-person-one-vote system, as suggested in the original motion, comes first among the various demands of the people of Hong Kong.

Mr President, I so submit.

**MR FREDERICK FUNG** (in Cantonese): Mr President, the Honourable Bruce LIU has explained our views on this motion on behalf of me and the Hong Kong Association for Democracy and People's Livelihood (ADPL). He has also set out the grounds on which we move our amendment.

In fact, in the entire motion debate, one of the more controversial issues is the election of the provisional legislature by the Selection Committee as well as our attitude towards the provisional legislature and how we stand on this issue. I have reiterated time and again both within and outside this Chamber that we have maintained our original stance and attitude towards the Selection Committee and the setting up of the provisional legislature. Our attitude and stance have not changed. However, as regards the manner in which we face and handle the issue upon the realization of certain things, different people and different political parties may have different judgements and may employ different tactics to handle the case. Some choose to participate but some do not. There are boycotts. There are protests. There are confrontations. There are revolutions. Different political parties may have their own

decisions and choices at different levels.

It is still fresh in my memory when I took part in the fight for direct election in 1988. Some of those Members in the Legislative Council, whom I call "veteran democrats", also fought for direct election in 1988. Members of the ADPL also went on hunger strike with them at the pier in support of direct election in 1988. We also opposed functional constituency elections and the appointment system. In the election held in 1988, we could see that some of the "veteran democrats" won their seats in the Legislative Council through functional constituency elections. During the direct election held in 1991 .....

**PRESIDENT** (in Cantonese): Mr Frederick FUNG, please speak on the motion.

**MR FREDERICK FUNG** (in Cantonese): On the issue of how to deal with the existing Selection Committee and the provisional legislature, the point not only lies in whether the election is a large-scale election or one in which only a few can take part, but in whether, upon their formation, our participation will bring benefits or harm to the people of Hong Kong. I still hold that the participation of grassroots and democrats comes in line with the interests of Hong Kong. The absence of which will result in the absence of an alternate voice in this Council. For example, when we debated upon the Hong Kong Court of Final Appeal, the Democratic Party held that it contravened the Basic Law, but in 1995, at the meeting of the Finance Committee of the Legislative Council .....

**PRESIDENT** (in Cantonese): Mr Frederick FUNG, please speak on the motion. The motion does not require the ADPL to give an account of its stance.

**MR FREDERICK FUNG** (in Cantonese): We will support the amendment moved by Mr Bruce LIU.

**MR CHAN KAM-LAM** (in Cantonese): Mr President, many colleagues have already spoken on the election of the Chief Executive and the pace of democratic development in Hong Kong's political system as laid down in the Basic Law, and I do not want to repeat that. I just want to respond to the logic behind the Honourable LEE Cheuk-yan's original motion and the attacks on the election of the Chief Executive made by Honourable colleagues from the Democratic Party.

First of all, Mr LEE Cheuk-yan has said that the issues of the development of democracy and the protection of human rights in Hong Kong are avoided in the election platforms put forward by the contenders for the Chief Executive post, thereby indicating their lack of determination to uphold the concepts of "one country, two systems" and "a high degree of autonomy". In fact, his remarks have shown serious political fallacies. "One country, two systems" and "a high degree of autonomy" are the basic policies of the Chinese Government towards Hong Kong, they are not going to change because of the platforms of any contender for the Chief Executive. Furthermore, the contenders are only delivering their election platforms, not any policy address or policy paper. Therefore, only matters of principle will be mentioned and it is impossible for them to cover everything. What the platforms fail to mention does not mean that the Chief Executive will not do it. So if the platform does not put down the Chief Executive has to eat, can we just infer that there is no need for the Chief Executive to eat?

Secondly, Mr LEE Cheuk-yan and Members from the Democratic Party have strongly emphasized that the election of the Chief Executive is just an election by a small coterie operating in a black box. However, I hope Members from the Democratic Party will not suffer from lapses of memory so quickly. When Chinese Vice Premier QIAN Qichen openly said a couple of months ago that Hong Kong people from different sectors and with different political views should seek common ground on major issues while reserving differences on minor points, and urged members of the Democratic Party to also participate actively in the Selection Committee and the formation of the Hong Kong Special Administrative Region (SAR), your core members said that since the Selection Committee is responsible for electing the Chief Executive and the provisional legislature, although the Democratic Party acknowledged that the Selection Committee should be responsible for the election of the Chief

Executive as specified in the Basic Law, they refused to participate in the Selection Committee because they were against the setting up of the provisional legislature. While their words still ring in my ears, they have started to attack the election of the Chief Executive as an operation in a black box, and they have also organized a kind of mock SAR Chief Executive election in public. What sort of an attitude is this?

Not long ago, we have often heard people seriously criticizing that the SAR Government would be a puppet administration after 1997 and the election of the Chief Executive is just an election of a puppet. I do not know what all those words mean.

Furthermore, although the election of the Chief Executive is not a direct election by universal suffrage, from the open application to the result of 400 members being elected out of over 5 000 persons from all walks of life, it can be said that the process of formation of the Selection Committee shows a considerable degree of transparency and representativeness. On the contrary, the so-called mock election of the SAR Chief Executive conducted by the Democratic Party in public is indeed only a farce, of which they are the scriptwriters, directors and actors.

It is hard to understand what logic it is behind Mr LEE Cheuk-yan's remark that only a Chief Executive elected through the one-person-one-vote system by the people of Hong Kong can effectively protect the interests of the Hong Kong people! Whether the Chief Executive can protect the interests of the Hong Kong people or not has nothing to do with the election system. The most important thing is whether he can reasonably look after the different demands, balance the interests of different sectors and fulfill the pledges in his election platform after he is elected. How can he wear tinted glasses to view the election and have prejudice against the future Chief Executive, declaring that he will definitely not discharge his duties to strive for the interests of the Hong Kong people even before his election? How democratic is this sort of statement, and how is it different from a tyrant who will only give favour to those who yield and condemn those who resist?

Mr President, all in all, Hong Kong has made a big stride from colonial rule towards "Hong Kong people ruling Hong Kong" under the SAR. We

should not try to run before we learn how to walk. The election of the Chief Executive by Hong Kong people already reflects a significant step in the development of democracy under the concepts of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". Otherwise, it may cause more damages than it is worth if we attempt to attain the highest level in a reckless way.

With these remarks, I oppose the original motion.

**MR LEE WING-TAT** (in Cantonese): Mr President, I would like to, first of all, elaborate the Democratic Party's views on the Selection Committee. The Democratic Party's stance on the Selection Committee is very clear. We will not join the Selection Committee because firstly, it will select the provisional legislature; and secondly, the Basic Law has made it clear that the Selection Committee should be broadly representative but the existing practice of the Chinese Government or the Preparatory Committee simply cannot produce a broadly representative Selection Committee. As such, even if the Selection Committee is tasked with the election of the Chief Executive only, we still will not join the Committee because its composition does not comply with the provisions of the Basic Law. We of course hope that the Basic Law can be amended as quickly as possible so that the one-person-one-vote election system can be set in motion.

I do not quite understand the political logic of the Honourable CHAN Kam-lam. Why is there no relationship between the way that political representatives and people's representatives are elected and whether or not they will protect the interests of the people? Of course, there are those who are not elected by the people but they do work for the Chinese people. Examples are WANG Dan and WANG Xizhe. However, how can we, system-wise, ensure that those who claim to be the people's representatives will really safeguard the interests of the people? In all the democratic systems found in the world, we cannot find a better method than conducting elections on a universal and equal basis. The current Selection Committee is not so constituted. We are not saying that this election method can guarantee the election of a person who can fight for the interests of the people all the time. However, if we discover that this elected person is incapable of fighting for the people's interests, we can choose not to vote for him in the next election. This is the only way. The President has once said that elections do not solely

aim to elect a good person, but to lessen the possibility of electing a bad person, a bad government. If the performance of the elected person is not satisfactory, he will not have the chance to continue in his position because he will not be re-elected. Why was the colossal Chinese Communist Party (CCP) so bad as to allow the outbreak of the Cultural Revolution and the emergence of the Gang of Four? It is because it is not returned by election. If it gained its power through elections, the CCP would not have a second chance after having committed an error once. I feel really regrettable that Mr CHAN Kam-lam does not even know these very simple basics of politics.

The Honourable James TIEN has said just now that there should be no such distinction between good laws and draconian laws but I do believe that laws can be classified into good and draconian ones. The line is drawn neither by the Honourable LEUNG Yiu-chung nor by Mr James TIEN. I think there are two demarcation lines. The first is whether the law comes in line with basic human rights. It is impossible for the Legislative Council to enact a piece of legislation that prevents Mr James TIEN from eating because that runs counter to basic human rights. The second demarcation is whether the law is acceptable by the majority of people in the society. Mr James TIEN must be very unhappy with the many amendments we made to the labour legislation. I can understand your feeling but the legislation does not contravene basic human rights. The legislation only reduces the profits earned by the employers .....

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat, please speak to the Chair.

**MR LEE WING-TAT** (in Cantonese): Sorry, Mr President. I am just turning around a bit. *(Laughter)*

Mr President, what I mean to say is that the legislation itself does not seek to deprive the commercial and industrial sector of their human rights because we have no intention to "hang" or to "do away with" the commercial and industrial sector. All that we have done is to reduce its profits by a small percentage. Secondly, although the public has dissenting views, the legislation is acceptable in general. As such, I do not think that there is no demarcation line to draw upon the laws. There should be such a line.

What are draconian laws? They are those that run counter to basic human rights and run counter to the freedom of assembly and freedom of speech as contained in the human rights covenants acknowledged world-wide. If we seek to reinstate the six draconian laws, all those freedoms will be taken away and therefore we firmly stand against such reinstatement. This is the demarcation line and this is not a line drawn by us.

Mr President, I have two more points to raise. The first point relates to the analogy of "horses" which is connected with elections. Why do we say that it is a "rigged horse race"? We are not saying that there is no right of free choice in the process and it seems that free choice is available. However, as an analogy, we may say that there are four stables: the "pro-China stable", "industrial and commercial stable", "professional stable" and "democracy stable", but the "democracy stable" is not there to compete. As such, only three stables are available for people's choice. While there are horses and jockeys, the fourth stable is excluded from the race. The horses and the jockeys in the three stables can compete freely with one another but the stable with the mandate of the people is not allowed to join the race. That is why we call it a "rigged horse race" because the "stable with the mandate of the people" is deprived of its right to compete. This is something unreasonable.

Mr President, I would like to raise another seldom mentioned yet interesting issue. The CCP always stresses nationalism and it finds the behaviour of the British Government disgusting. Two or three years ago, if the democrats slammed the Communist Party in the television programme *City Forum*, some people would allege us as doing so for the sake of emigration, in the same way that the Honourable CHIM Pui-chung has criticized us just now. However, right up to this moment, none of us has ever emigrated! Being attacked for so many years as having a large number of members holding foreign passports, the Democracy Party finds that, as the results of several surveys reveal, only a minority of our members have foreign passports. From then on, this is no more a point at issue.

Strangely enough, many of the members in the Selection Committee may have foreign passports. The Communist Party and the many pro-China friends who have always been stressing nationalism have become silent on this issue. Why is it that, for a Selection Committee that is tasked with the selection of the Chief Executive of a region in the country, so many of its members or more than half of its members are foreign passport holders and yet they are entitled to vote? Why do the members of the Democratic Alliance for the Betterment of Hong Kong (DAB), the members of the Selection Committee and the Preparatory Committee, and the Hong Kong delegates to the National People's Congress and the Chinese People's Political Consultative Conference evade the issue and say nothing about nationalism? This is really a big insult. Why is it that this Committee, which is going to select — I repeat, to select but not to elect — the first Chief Executive of a region in the country, allows so many members to be in possession of foreign passports? Although I may not have any particular view on this particular issue, why is it that no one has taken any notice of this problem?

This reflects that if some people like to take this problem as a political yardstick, they will take it seriously. For example, when the Democratic Party criticizes the Chinese Government, we are labelled as "at odds with everything that China suggests" and lacking in national sentiments. When these people themselves enjoy the right to vote, then they play the issue down. I feel that some people have all along used only their own political yardsticks to measure what we think are the reasonable aspirations of the people.

The Honourable LO Suk-ching asked why we still propose the one-person-one-vote system when the Basic Law has made it clear that the Chief Executive shall be selected by a 400-member Selection Committee. Does it mean that we show disrespect for the Basic Law? Should we not sound out even this very simple aspiration of the people? What is the problem for me to have a view on the law and strive to have it amended in the hope that a better election method can be put in place? Does it constitute treason and heresy? Shall we remain silent even if we find that the existing law is problem-ridden? I really hope that our colleagues can think twice on this issue to see if the existing practice does come in line with the interests of the Hong Kong people.

Mr President, I so submit.

**MR IP KWOK-HIM** (in Cantonese): Mr President, the Honourable Bruce LIU has moved an amendment to the amendment under my name. The Democratic Alliance for Betterment of Hong Kong (DAB) in principle welcomes the election by the Selection Committee of a Special Administrative Region (SAR) Chief Executive who is concerned about the development of democracy, the protection of human rights and the livelihood issues of the grassroots people. However, Mr Bruce LIU's requirements are both inadequate and also incomplete for a SAR Chief Executive who has aspirations and great love for Hong Kong and its people.

The DAB is of the opinion that the first important task for the SAR Chief Executive is to act according to the Basic Law in ruling Hong Kong with the concepts of "one country, two systems" and "a high degree of autonomy", and to look after the interests and needs of different sectors in the society in a comprehensive way and balance their interests so that Hong Kong will have a bright future.

Mr President, the DAB thinks that apart from concerning himself with the development of democracy and the protection of human rights, the ideal SAR Chief Executive should work hard to maintain the present economic advantages of Hong Kong, uphold the spirit of the rule of law and integrity, and to solve the livelihood problems of the grassroots people, namely housing, social security, unemployment and so on. He also has to properly handle various infrastructure projects, the future planning and environmental issues of Hong Kong, so as to maintain the prosperity and stability of Hong Kong and gradually improve people's livelihood. The DAB therefore feels that Mr Bruce LIU's amendment is incomplete and we have reservations about it.

Mr President, with these remarks, the DAB will abstain from voting on Mr Bruce LIU's amendment.

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, the Chinese saying, "foul grass grows out of a foul ditch", has another implication. It means that worms will breed in decaying matter. People in a corrupt system will become

corrupt. When they have obtained special privileges, they will try every means to preserve their privileges. Members of the Selection Committee are the upstarts who are enjoying special privileges. As their powers originate from the Basic Law, they will have to uphold the Basic Law in order to uphold their privileges.

After listening to the speeches of the Honourable IP Kwok-him and the Honourable Bruce LIU a moment ago, I have an impression that their central idea is to pledge full allegiance to the Basic Law and uphold the Basic Law. However, we should not forget what is the most important thing and that is "a high degree of autonomy". A moment ago, the Honourable CHAN Kam-lam added that the promise of "one country, two systems" and "a high degree of autonomy" is a state policy, the policy of the state. But the question is: has anybody asked whether the Basic Law itself is in line with this state policy? What is "a high degree of autonomy"? What is the definition of "a high degree of autonomy" in people's minds?

I recall that in Chinese history someone had asked for "the Xiang people ruling Xiang". But MAO Zedong opposed the idea of "the Xiang people ruling Xiang". The reason for opposing "the Xiang people ruling Xiang", as he explained, was that it could be interpreted as having anybody in Xiang arbitrarily appointed the provincial governor. MAO Zedong asked: Can such an arrangement could be regarded as "the Xiang people ruling Xiang"? He therefore rejected the idea of "the Xiang people ruling Xiang" .....

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan, please wait a moment. There is a mistake in the English interpretation. "Xiang" is the acronym for Hunan province. Please continue.

**MR LEE CHEUK-YAN** (in Cantonese): MAO Zedong said that he opposed the idea of "the Xiang people ruling Xiang" but supported the idea of "autonomy of the Xiang people". How to achieve "autonomy of the Xiang people"? He said not any Xiang person should be arbitrarily chosen to rule the province. Instead, this person should be elected. Only through an election among the Xiang people would it be regarded as "autonomy of the Xiang people". In fact, the logic is the same as what we have now. We want to have "a high degree of autonomy". But how to achieve "a high degree of autonomy"? We need a guarantee entrenched in the system. In

my motion, I have highlighted the guarantee we need in the system. According to MAO Zedong's suggestion, "a high degree of autonomy" could only be achieved through a one-person-one-vote system in the selection of our Chief Executive. This is a basic concept. Some people have often quoted provisions in the Basic Law, but we should not forget that "a high degree of autonomy" is the most important thing.

Some people have also mentioned that democracy is not "a bowl of instant noodles" and should be implemented step by step. I think such a suggestion is an insult to the people of Hong Kong. Simply enough, this statement implies that the Hong Kong people are not yet ready to have an election. They do not know about election either. Hong Kong is an affluent society comprising a large section of the middle class. Moreover, the general education level of Hong Kong people is quite high. At this stage, how can anyone still argue that we are not ready to have an election? Of course, you can put your argument the way the Honourable Paul CHENG has said: in the old colonial era, the only one vote was cast by John MAJOR under such "one-person-one-vote" system. Now what we are trying to do is to sweep away the drawbacks under the colonial rule. However, the present situation is that only 400 people have the right to vote. The one-person system has now become a system with 400 electors. These 400 electors are now replacing the only Briton in the old system. Amongst these 400 people, some are British subjects, some are Americans and some are citizens of an unknown island in South America. These are the 400 people who will select our Chief Executive. Can this be regarded as progress? I think we should adopt a forward-looking view towards the concept of election instead of indulging ourselves in the old days.

I am also very disappointed by Mr Bruce LIU's amendment. He is, in fact, whitewashing this election by a small number of people because he is urging members of the Selection Committee to select a suitable man. Basically we do not believe in such a selection system. But Mr Bruce LIU is trying to give people a false impression that as long as members of the Selection Committee vote by their conscience, the system will be a successful one. But the problem is that the choice available is too limited. For instance, I really want to select Mr LIU, who, however, has been barred even from the Selection Committee, not to mention becoming a candidate. In my opinion, how can we expect to have a fair election in view of the fact that even Mr LIU, a suitable person for the post, is deprived of an opportunity to run the election,

not to mention becoming a candidate?

Thank you, Mr President.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Mr President, the Hong Kong Special Administrative Region (SAR) Chief Executive (Designate) will be selected next month. As we all know, the Chinese Government and the SAR Preparatory Committee are responsible for devising the selection method for the Chief Executive, as well as for its implementation. As stipulated in the Basic Law, the first Chief Executive, once selected, will be reported to the Central People's Government for appointment.

As the first Chief Executive will be playing a crucial role in the formation of the SAR and the SAR Government, it is perfectly natural that the community is concerned about the selection procedures for the Chief Executive as well as the candidates' platforms. It will not be appropriate for the Hong Kong Government to comment on the selection arrangements. But we share the community's expectation that the selection process should be open, fair, and transparent; and that the candidate chosen is able to command trust and respect both locally and overseas. We would continue to reflect the community's expectation to the Chinese side at every available opportunity. In this connection, Chinese officials have also, on many occasions, stressed that the Chief Executive should uphold the principle of "one country, two systems" and be acceptable to all sectors of the community.

Mr LEE's motion advocates election of the Chief Executive through the one-person-one-vote system. The method for selecting the Chief Executive is prescribed in the Basic Law and the Decision of the National People's Congress on 4 April 1990. Implementation of these provisions is a matter for the Chinese Government and the future SAR Government. I would, therefore, only want to state a point of fact here: Article 45 of the Basic Law provides that "the ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures."

The coming eight months will be a critical period for Hong Kong. The Hong Kong Government is fully committed to working towards a successful

transition by continuing its effective and accountable administration, and through practical co-operation with the Preparatory Committee and the Chief Executive (Designate).

We believe that the Hong Kong community will also look to the Chief Executive (Designate) to fully implement the principles of "a high degree of autonomy", "Hong Kong people ruling Hong Kong", and "one country, two systems" as stipulated in the Joint Declaration and the Basic Law, and lead Hong Kong towards a bright future.

**MR WONG WAI-YIN** (in Cantonese): Mr President, I would like to move a procedural motion. According to Standing Orders .....

**PRESIDENT** (in Cantonese): Mr WONG Wai-yin, the joint debate is over.

**MR WONG WAI-YIN** (in Cantonese): But what I intend to move is a procedural motion.

**PRESIDENT** (in Cantonese): Procedural motions should be moved in the course of a debate. Members may not be aware of this point. Please continue. I take your point.

**MR WONG WAI-YIN** (in Cantonese): According to Standing Order 30, I move that the current debate be adjourned.

*Question on the motion on adjournment of debate proposed.*

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the debate be now adjourned. Does any Member wish to speak?

**MR CHAN KAM-LAM** (in Cantonese): Mr President, I think that today's

motion debate has come to the final stage. I do not understand why the Honourable WONG Wai-yin moves to adjourn the debate at this moment because according to Standing Orders, this should be the time for us to proceed to vote. Does it mean that we do not need to vote now but wait for the President's ruling and then proceed to vote in the next sitting?

Mr President, I am against this motion.

**MR RONALD ARCULLI:** Thank you, Mr President. My reading of Standing Order 30(1) is that "a Member who has risen to speak on a question in the Council may move without notice that the debate be now adjourned". As I understand it, the Honourable WONG Wai-yin has not risen to speak on the question. He simply stood up to move an adjournment. Is that permissible?

**PRESIDENT** (in Cantonese): I have just now considered whether Mr WONG Wai-yin should be permitted to speak after the joint debate was finished as he had not spoken in the joint debate. The last speaker in the joint debate was a government official, and that is a practice of this Council. However, a Member who has not spoken on a motion has the right to speak and I do not have the right to disallow. I believe that Mr WONG Wai-yin actually wanted to move that the debate be now adjourned and he did not intend to speak on the question to waste the time of this Council. If he found it necessary, he could speak. Therefore, I said just now that I took his point and allowed him the right to move that the debate be now adjourned. I have proposed the question on the motion, and Members can speak because it is itself a motion. This is my ruling.

**DR LEONG CHE-HUNG:** As Standing Order 30(1) says that "a Member who has risen to speak on a question in the Council may move without notice that a debate be now adjourned", and following that it says "therefore the President shall propose a question on that motion. So shall there be a debate". But I thought the words following are "Thereupon the President shall propose a question on that motion", I thought that we would proceed to voting.

**PRESIDENT** (in Cantonese): I just said in Chinese that "the debate be now adjourned" so as to propose a question on that motion, to be followed by a debate. I therefore allowed the Honourable CHAN Kam-lam to speak just now.

**MR RONALD ARCULLI**: Mr President, is it your ruling that after the conclusion of the speech by the Secretary for Constitutional Affairs, the debate has not concluded, and is that going to be the position of the Chair in future debates?

**PRESIDENT** (in Cantonese): If a Member has not spoken in a debate, under the Standing Orders, I do not have the right to stop him from speaking even though the last one to speak should be a government official. The motion moved by the Honourable WONG Wai-yin just now was deliberated some time ago and I have heard of it before. If Members think that they should formalize the regulation which they have to observe as recently decided in the Subcommittee on Procedural Matters, that is, no Members shall speak after the government official has spoken, it must be written into the Standing Orders before it can be implemented. However, there is now no provision in the Standing Orders stipulating that a Member who has not risen to speak on a question must not speak after the speech by a government official.

*Question on the motion on adjournment of debate put.*

*Voice vote taken.*

**PRESIDENT** (in Cantonese): Council shall proceed to a division.

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam, is it a point of order?

**MR CHAN KAM-LAM** (in Cantonese): Mr President, you have not yet answered the question that I asked a moment ago. According to the Standing Orders, if a motion debate is adjourned, shall we continue to debate the motion or shall we proceed to have a vote in the next sitting?

Thank you, Mr President.

**PRESIDENT** (in Cantonese): I am sorry. I thought that you were just asking whether the arrangement that "the debate be now adjourned" was wise or not. If the motion on adjourning the debate is carried, Members may continue to debate the motion in the future sitting. However, only those Members who have not spoken on it will be allowed to speak.

**PRESIDENT** (in Cantonese): Mr TSANG Kin-shing, is it a point of order?

**MR TSANG KIN-SHING** (in Cantonese): There is nothing now.

**PRESIDENT** (in Cantonese): Mr TSANG Kin-shing, please stand up when you speak.

**MR TSANG KIN-SHING** (in Cantonese): May I ask, as a matter of procedure, whether Mr CHAN can pose a question to the President in the course of division and can the President invite him to speak?

**PRESIDENT** (in Cantonese): This is a point of order.

**PRESIDENT** (in Cantonese): I would like to remind Members that the question I now put to you is: That the debate be now adjourned.

Will Members please first register their presence by pressing the top button in the voting unit and then proceed to cast their votes by pressing one of the three buttons below?

**PRESIDENT** (in Cantonese): Before I declare the result, Members may wish to check their votes. Are there any queries? The result will now be displayed.

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael

HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr LEE Cheuk-yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mrs Elizabeth WONG voted for the motion.

Mr Allen LEE, Mrs Selina CHOW, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr CHIM Pui-chung, Mr Frederick FUNG, Mr Eric LI, Mr Henry TANG, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul Cheng, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr Bruce LIU, Mr LO Suk-ching, Mr MOK Ying-fan and Mr NGAN Kam-chuen voted against the motion.

THE PRESIDENT announced that there were 20 votes in favour of the motion to adjourn and 27 votes against it. He therefore declared that the motion to adjourn was negatived.

*Question on Mr Bruce LIU's amendment to Mr IP Kwok-him's amendment put.*

*Voice vote taken.*

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

Mr Frederick FUNG and Mr Bruce LIU claimed a division.

**PRESIDENT** (in Cantonese): Council will proceed to a division.

**PRESIDENT** (in Cantonese): I would like to remind Members that the question I now put to you is: That the amendment moved by Mr Bruce LIU be

made to Mr IP Kwok-him's amendment.

Will Members please first register their presence by pressing the top button in the voting unit and then proceed to cast their votes by pressing one of the three buttons below?

**PRESIDENT** (in Cantonese): Before I declare the result, Members may wish to check their votes. Are there any queries? The result will now be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Frederick FUNG, Mr Eric LI, Mr Henry TANG, Mr James TIEN, Dr LAW Cheung-kwok, Mr LEE Kai-ming, Mr Bruce LIU, Mr LO Suk-ching and Mr MOK Ying-fan voted for the amendment.

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kyong, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr LEE Cheuk-yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Mr LAW Chi-kyong, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mrs Elizabeth WONG voted against the amendment.

Mr LAU Wong-fat, Mr CHIM Pui-chung, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU and Mr NGAN Kam-chuen abstained.

THE PRESIDENT announced that there were 15 votes in favour of Mr Bruce LIU's amendment and 19 votes against it. He therefore declared that the amendment was negatived.

*Question on Mr IP Kwok-him's amendment to Mr LEE Cheuk-yan's motion put.*

*Voice vote taken.*

**PRESIDENT** (in Cantonese): Council will proceed to a division.

**PRESIDENT** (in Cantonese): I would like to remind Members that the question I now put to you is: That Mr IP Kwok-him's amendment be made to Mr LEE Cheuk-yan's motion.

Will Members please first register their presence by pressing the top button in the voting unit and then proceed to cast their votes by pressing one of the three buttons below?

**PRESIDENT** (in Cantonese): Before I declare the result, Members may wish to check their votes. Are there any queries? The result will now be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr CHIM Pui-chung, Mr Eric LI, Mr Henry TANG, Dr Philip WONG, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Mr LEE Kai-ming, Mr LO Suk-ching and Mr NGAN Kam-chuen voted for the amendment.

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr LEE Cheuk-yan, Mr Andrew CHENG, Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Mr LAW Chi-kwong, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mrs Elizabeth WONG voted against the amendment.

Mr Frederick FUNG, Dr LAW Cheung-kwok, Mr Bruce LIU and Mr MOK Ying-fan abstained.

THE PRESIDENT announced that there were 25 votes in favour of the amendment and 19 votes against it. He therefore declared that the amendment was carried.

**PRESIDENT** (in Cantonese): As Mr IP Kwok-him's amendment has been agreed, I declare that the motion moved by Mr LEE Cheuk-yan as amended by Mr IP Kwok-him's amendment has been adopted by this Council.

### **STRENGTHENING THE SUPERVISION OF HONG KONG AND CHINA GAS CO. LTD.**

*MR SIN CHUNG-KAI to move the following motion:*

"That this Council reproves the Government's reluctance to supervise the Hong Kong and China Gas Co. Ltd. (the Company), which possesses a monopolistic edge in the market, as this has resulted in the Company's arbitrary raising of its charges without regard to the interests of the public, and requests the Government to reconsider supervision of the Company, so as to enhance its transparency and accountability and safeguard the interests of the consumers."

**MR SIN CHUNG-KAI** (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper.

#### *Purpose of the motion*

Mr President, the Consumer Council published the Report on Assessing Competition in Domestic Water-heating and Cooking Fuel Market in July 1995. One of the recommendations in the Report is that "Before the full operation of a common carrier regime, the Government should include the Hong Kong and China Gas Company Limited (the Company) in a public utilities supervision scheme." This recommendation has led to many discussions. The Honourable LAU Chin-shek moved a motion debate on 22 November last year, urging the Government to promptly study and respond to the Consumer Council's Report and introduce legislation to supervise domestic fuel suppliers,

in particular the Company. This motion was carried by the Legislative Council at that time. I can still remember that those Members holding opposite views said it was not advisable to jump into conclusion at that moment as the Government had not yet made a response and it was still not known whether the Company was monopolizing the market or not. Some Members also noted that the major premise should be the interests of consumers. They said supervision was not feasible and this should be replaced by opening up the market and removing the market barriers by the Government in order to increase competition. Now the Economic Services Branch has already responded to the Consumer Council's Report, clarified a lot of controversial data, expressed its opinions on the feasibility of introducing new competitors and decided not to supervise the Company. Even the Company has announced the increase in charges for 1997. I therefore think that this is the right time for Members to judge whether to supervise the Company.

*Reproving Government's refusal to supervise the Company*

In February 1996, the Economic Services Branch formally rejected the recommendation of the Consumer Council. I find that actually the Government's assessment of the Company and the study results reached by the Consumer Council are mostly identical. In regard to market share, the Government acknowledges that the Company has a nearly 50% market share in the domestic water-heating and cooking fuel market, and that the market share is increasing steadily. In the domestic gas fuel market, the Company has also secured almost two-thirds of the market and is in the leading position. Its market share is growing steadily. The Report also points out that once the households have gas installations, there will be little incentive for them to switch to other sources of energy. On the other hand, the demand for gas may grow disproportionately with the rising affluence in people's livelihood and more new buildings. This factor has put the Company in an advantageous position in the market. However, because of the considerable amount of investment required and the high commercial risk, the Government has also agreed that unless some form of market franchise can be granted, it is unlikely that other companies will be willing to provide gas facilities.

The Government's assessment has clearly shown that the Company has already secured a "monopolistic edge". With the barriers to entry and the advantageous position in a competitive market, the market share of the Company will, I believe, continue to increase in the coming years. In other

words, the influence of the Company over the lives of people in Hong Kong will be greater and greater. It will become a company of natural monopoly.

In regard to the pricing of the Company, the Government has also recognized that the growth in the Company's unit revenue is faster than the increase in its unit operating cost. Over the last decade, the average growth rates of the Company's unit revenue and unit operating cost were 4.4% and 0.9% respectively, while its productivity was on the increase. I would like to point out that since the Company's total unit cost is decreasing while its productivity is on the increase, what criteria does it have to determine its annual rate of tariff increase and whether these criteria are in line with public interests? Unfortunately, the Government has not done any analysis on this question but only roughly indicated that the Company's rate of return is similar to those of the China Light and Power Company and the Hongkong Electric Company, and that this should prove that the Company has not abused its dominant position in the market. I believe the Government's conclusion is unfounded. The Company is a public utility organization that affects people's livelihood. That the Government, when assessing whether the charges are reasonable, only compares the Company's rate of return to those of the China Light and Power Company and the Hongkong Electric Company without looking at other factors like the economic environment of our society, the Company's financial situation, operating costs and increase in productivity and the interests of consumers is really something partial and unreasonable.

Meanwhile, I am also sceptical about the Government's policy and principle in regulating public utility organizations. It appears that the Government's principle is to supervise any public utility organization only when the organization concerned has any irresponsible action or even abuses its dominant position in the market to do anything detrimental to the consumers. I think that this approach is like putting the cart before the horse. Has the Government not learnt the lesson from the China Light and Power incident? The incident has exactly reflected that the Government is slow to react. The consequence is that the interests of consumers are affected as they have already paid the exorbitant electric charges. Any remedial measures would be too late. Therefore, I advise that the Government should take the initiative to protect

public interests. Once it is found that there are signs of any public utility organization monopolizing the market, the Government should take precautionary measures and formulate some kind of mechanism to supervise public utilities.

*Enhancing transparency and introducing supervision*

At the end of October this year, for the first time, the Company reported to the Panel on Economic Services of the Legislative Council that gas charges would go up by 5.2% in 1997. I welcome this approach. The Company probably knew that it is not subject to government regulation and so the paper submitted was very brief. The more important information on those issues of the utmost concern to Members and the public — namely the factors for consideration and criteria on the setting of gas prices, the impact of tariff increase on the Company's rate of return and the financial situation of the Company — was, however, not available. The Company mentioned at the meeting that the pricing of gas is led by market forces and has to take into account a reasonable return to the shareholders, reasonable remuneration to the staff, and acceptability to both the customers and the general public. Unfortunately, the Company has neither clearly explained what is meant by a reasonable return nor has it consulted the customers before the tariff increase. I really cannot understand how the Company could have deduced that the 5.2% increase would be acceptable to its customers. After the Company announced the tariff increase, the Democratic Party has raised a strong opposition. It has even collected more than 10 000 signatures from members of the public opposing the tariff increase within one to two days. It has given part of the signatures to the Company and another 7 000-odd signatures to the Secretary for Economic Services. May I ask the Company: does this mean acceptability to the general public?

The Company raises its tariff rashly simply because it knows that it is not subject to government regulation. It can totally disregard any questions from Honourable Members and the voice of opposition from members of the public. It is not necessary for the Company to explain to the public how the prices are set. This year, for the first time, the Company reported the tariff increase to the Legislative Council only as a favour, not an obligation. Even though Members were not satisfied and wanted the Company to submit more detailed information, the Company could simply say: sorry, that will not be provided. There is nothing that the Members can do.

It is indeed beyond the Democratic Party's tolerance that a monopolistic public utility organization can have such a low transparency in its operations. It fails to explain the grounds for the tariff increase to the public. As a result, the public are unable to assess whether the tariff increase is reasonable and is in line with public interests. In order to protect the interests of consumers and to enhance the Company's transparency, the most effective way is to supervise the Company.

*Unreasonable rate of increase for 1997*

In regard to the 5.2% increase in gas charges with effect from 1 January 1997 as scheduled by the Company, I think that it is a bit too high and unreasonable. Over the years, the rates of increase of gas charges have been below inflation. Between 1992 and 1996, the rates of increase were 2% to 3% below the inflation rates. The inflation rate starts to come down this year. In August, the Government revised the inflation rate for 1996 to 6.8%. However, the Company has proposed a 5.2% increase, which is very close to the inflation rate. Compared with the past five years, this rate is actually on the high side.

Besides, the number of towngas customers is constantly on the increase every year. With the Company's rising productivity and decreasing total unit cost, in addition to an increase in tariff every year, the Company has achieved a hefty 20% increase in its profit attributable to shareholders in recent years. The net profit of the Company for the year 1995 reached \$1.63 billion and profit for the first half of 1996 already reached \$979 million. It is estimated that the net profit for the year 1996 will reach \$2 billion. This has fully reflected that the Company's operations and financial position are very satisfactory. Nevertheless, I cannot see that the Company is sharing the fruit of its operations with the consumers. Instead of passing part of its profit to the consumers, it is raising its tariff every year. I think this is very unreasonable.

In order to prevent the Company from unreasonably increasing the tariff in future and to protect the rights and interests of consumers, I request that the Government reconsider supervising the Company.

*Views on the amendment of Dr LAW Cheung-kwok*

In regard to Dr the Honourable LAW Cheung-kwok's deleting the part on reproving the Government in my motion, I am a little disappointed. However, he still supports supervising the Company and bringing in new competitors, and this is supported by the Democratic Party.

*Views on the amendment of Mr CHAN Kam-lam*

The Democratic Party agrees that the long-term development target should be to bring in competition. However, judging from several reports, I can see that it is not easy to have effective competition in the short run. In regard to bringing in competition, there are still a lot of difficulties and problems awaiting solution and study at present. Therefore, the most urgent, necessary and specific measure is to introduce competition and supervision. However, the Honourable CHAN Kam-lam has deleted that very important point. The real intention behind is to do away with supervision but introduce competition. This is not acceptable to the Democratic Party. It is but a petty trick of the Democratic Alliance for the Betterment of Hong Kong (DAB).

Finally, on the basis of the amendment moved by Mr CHAN Kam-lam, I would like to discuss DAB's policy on people's livelihood.

In regard to its slogan, "Be led by people's livelihood and follow the road of liberal democracy", I think that it should be changed into "Be led by conservatism and follow the road of the capitalists".

I believe that members of the public would not have much expectation of DAB's work in fighting for democracy. Now even their expectation of DAB's work in people's livelihood has to be downsized substantially.

We only need to look at their stance towards regulation of public utilities and increases in fees and charges in a number of debates and examinations of the bills concerned to get a clear idea.

On 22 November 1995, this Council debated the motion moved by Mr LAU Chin-shek on the monopoly of the Company, requesting the Government to adopt positive measures to encourage competition, enhance transparency and protect the rights and interests of consumers. The DAB voted against the motion.

On 6 December the same year, this Council examined the subsidiary legislation pertaining to a fare increase by the Hong Kong and Yaumati Ferry Company. The DAB shielded the Ferry Company by making a token proposal to reduce the rate of increase by 1.6% but voted against having the fare increase frozen.

On 6 March 1996, the Star Ferry Company applied to increase its fares by 18.9% and the DAB gave its full support.

On 6 November this year, I moved a motion debate on a specific proposal of strengthening the supervision of statutory public organizations. However, the DAB moved an amendment of no substance to defend them. And in this debate on the supervision of the Company today, the DAB plays the same old trick again.

The following item is noted in the election platform of the DAB in September 1995:

"To set up a central department for monitoring fair trade in order to prevent monopoly and protect consumers' rights and interests."

People should have a pretty clear idea that between public utility organizations and the grassroots, whose interests are more important to them!

Not only is the DAB pro-China, it is now even pro-business. However, even the pro-business stance needs good packaging. Therefore, it advocates defending the interests of the grassroots only to act against the grassroots. The best proof of this line is that Members from the business sector will definitely support DAB's motions and will certainly vow to back its motions. There is a saying, "Fair without, foul within". It should become "Grassroots without, the business sector within" when applied to the DAB.

I can fully understand why having businessmen ruling Hong Kong will not be a problem to them.

**PRESIDENT** (in Cantonese): Mr SIN Chung-kai, please be seated. Mr CHAN Kam-lam.

**MR CHAN KAM-LAM** (in Cantonese): Mr President, I would like to know the implied meaning of "foul within".

**PRESIDENT** (in Cantonese): Is it a point of order that needs my ruling?

**MR CHAN KAM-LAM** (in Cantonese): I find the words insulting.

**PRESIDENT** (in Cantonese): Mr SIN, could you please repeat what you have just said?

**MR SIN CHUNG-KAI** (in Cantonese): Mr President, yes, I will. What I have basically said is that as the saying goes, "Fair without, foul within". It will be "Grassroots without, the business sector within" when applied to the Democratic Alliance for the Betterment of Hong Kong.

**PRESIDENT** (in Cantonese): Very tactful. Please continue.

**MR SIN CHUNG-KAI** (in Cantonese): Mr President, I have, in fact, already finished my speech. With these remarks, I beg to move.

**PRESIDENT** (in Cantonese): Mr SIN, in regard to what I have just regarded as a point of elucidation instead of a point of order, would you be willing to explain whether you have any intention to insult the Democratic Alliance for the Betterment of Hong Kong?

**MR SIN CHUNG-KAI** (in Cantonese): Mr President, just now Mr CHAN Kam-lam did not ask me whether I was insulting the Democratic Alliance for the Betterment of Hong Kong. He only asked me the meaning of my words. That was what I heard. What do I have to explain?

**PRESIDENT** (in Cantonese): That means you do not want to explain and elucidate.

*Question on the motion proposed.*

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam has given notice to move an amendment to this motion. Dr LAW Cheung-kwok has also given notice to move an amendment to Mr CHAN Kam-lam's proposed amendment. The two amendments have been printed on the Order Paper and Members have been notified by circular issued on 11 November. I propose that the original motion, the amendment and the amendment to the amendment be debated together in a joint debate.

Council shall debate the motion, the amendment and the amendment to the amendment together in a joint debate. I will first call upon Mr CHAN to speak and to move his amendment to the motion, and will then call upon Dr LAW to speak and to move his amendment to Mr CHAN's proposed amendment. After Members have debated the original motion as well as the two amendments, we will vote on Dr LAW's amendment to Mr CHAN's amendment to the motion first. I now call upon Mr CHAN to speak and to move his amendment.

***MR CHAN KAM-LAM's amendment to MR SIN CHUNG-KAI's motion:***

"To insert ", in view of the fact that the Hong Kong and China Gas Company Limited (the Company) has an enormous market share at present," after "That"; and to delete "reproves the Government's reluctance to supervise the Hong Kong and China Gas Company Limited (the Company), which possesses a monopolistic edge in the market, as this has resulted in the Company's arbitrary raising of its charges without regard to the interests of the public, and requests the Government to reconsider supervision of the Company, so as to enhance its transparency and accountability and" and substitute with "urges the Government to take active measures to encourage healthy competition and increase the operational transparency of the Company, so as to"."

**MR CHAN KAM-LAM** (in Cantonese): Mr President, this Council has

debated many times the supervision of operations in the local market, especially those involving the "public service operators". My basic stance is that the regulatory mechanism should be carried out from different perspectives and that its major direction should be to promote competition. All regulatory measures should be reviewed, revised and enhanced at an appropriate time in order to cope with the needs of the community and the social environment.

Mr President, today I have proposed a fairly significant amendment to the wording of the original motion, and I feel that it is necessary to give a detailed explanation.

*Free market operation should remain unchanged*

First of all, if this Council adopts a motion today to supervise in particular a certain company, it will actually convey an extremely negative message to the free economic market of Hong Kong! With regard to the interests of the society as a whole, Hong Kong has always insisted on a free economic policy in which the Government will not easily interfere in the normal commercial activities and healthy market operations. On the contrary, the Government formulates policies to encourage free competition among investors and opens up the market to facilitate business. To a certain company, or even a certain trade, too much or unnecessary regulation will only stifle its vigour and development.

*"Supervision" cannot effect a permanent cure*

Moreover, at present, the Government has adopted different and multifarious regulatory measures in various economic sectors. But for those concerning the "public service operators", it seems that the measures often employed are "controlling price increase". However, these are not exactly "regulatory" measures. For example, some regulations restricting the rates of return are, to tell the truth, just an arrangement to encourage investment and to guarantee profit. To cite another example, applications for price increase by some services have to be approved by the Legislative Council in the form of subsidiary legislation, but for some other services, they are not required. Unfortunately, under certain circumstances, the practice of examination and approval by the Legislative Council in the form of subsidiary legislation only produces opportunities for some political parties to fight for short-term political interests. In this case they would raise an objection for the sake of objection,

which deviates too much from the true meaning of "supervision"!

*The fundamental solution is to remove the obstacles and open up the market*

In fact, there are in total seven "liquefied gas suppliers" in Hong Kong. From the point of fairness, if a company is to be supervised, should all the others be supervised too? The Hong Kong and China Gas Company does have an enormous market share at present. But this is not due to protection by the law, nor is it a natural happening. It is in fact due to the characteristics developed recently in the Hong Kong domestic gas market, and more importantly, it is due to the stagnation in opening up the market by the Government. Therefore, in terms of the long-term interests of the public, the authorities should be urged to realize as soon as possible a common carrier system to supply other piped fuels, such as the introduction of natural gas. Also, it is necessary to remove the obstacles to opening up the market. For example, it should not be presumed that town gas enjoys a priority in the fuel supply for public housing, so that other suppliers can enter the market and participate in the competition more effectively. I firmly believe that opening up the market is the right direction to safeguard the interests of consumers. Therefore, the authorities should complete as soon as possible the study on the feasibility of a common carrier system and implement as soon as possible the measures to allow the general public to access relevant information so as to increase the transparency of the Company.

*It does not help to intensify the contradiction*

Mr President, different methods of regulation will generate different effects and each has its own advantages and disadvantages. Therefore, if we only shout about "supervision" and do not put forward a good system of "supervision", it will not help at all. On the other hand, if we think that once there is "supervision" and we can feel at ease forever, we are not only cheating others but we are at the same time cheating ourselves!

If we subscribe to the present social system and lifestyle, we should not attempt to change the essence of this system without a general consensus. When we find a conflict between the "public bodies or private sectors which

provide public services" and consumer interests, we should try to find a rational and balanced way to take care of the interests of both sides, instead of setting the two contradictory sides against each other and then stand on one side to attack the other relentlessly. Please do not think that we are only hitting out at a few investors, this measure actually shakes the confidence of many other investors and contradicts the spirit and operational principles of our present economic and social systems.

In spite of this, I am not saying that we should deliberately protect the investors and let them do whatever they want to earn unreasonable profits, tossing behind them the interests of the mass of consumers. As Members of the Legislative Council who supervise the Government, we should urge the Government to adopt positive measures to open up the market and create an environment that is favourable to business, to enable more investors to enter the market and increase the vigour of the market. In this way, the service providers can, in accordance with the needs of the consumers, renew their facilities, raise their productivity and reduce their costs to provide services of good value for money.

Mr President, the Democratic Alliance for the Betterment of Hong Kong (DAB) has always paid attention to the contributions of the "public service operators" in the public and private sectors to the whole society. When we assess them we take various factors into consideration. They include the consumers' opinions, the price, the quality of service, the future of the operations, the quality of company management and the social conditions. These are all very important factors. Unless we plan to have the Government take up the responsibility of providing these services eventually, or to have the general taxpayers subsidize the public services, otherwise regulation by merely "controlling the price" tends to be one-sided and irrational. The result will only lead to a distorted phenomenon in the operations of the market and the ultimate victims will be the public.

*Regulation has to be carried out cautiously, and competition is the right way*

Mr President, too many facts and experiences have told us that the

models of "price control" and "regulation" by the Legislative Council" are not panaceas anymore. In order to safeguard the interests of consumers, we should take positive and effective measures to encourage competition in the market, to increase the operational transparency of the service operators and to promote self-perfection in services and restraint on charges. The DAB has stressed many times that regulation has to be carried out cautiously, and that competition is the right way.

*The digital timer showed 0700*

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam, please propose your amendment.

**MR CHAN KAM-LAM** (in Cantonese): With these remarks, I propose the amendment.

*Question on Mr CHAN Kam-lam's amendment proposed.*

**DR LAW CHEUNG-KWOK's amendment to MR CHAN KAM-LAM's motion:**

"To delete "take active measures" and substitute with "directly supervise the Company and bring in new competitors"; and to delete "to encourage healthy competition and" and substitute with "as well as"."

**DR LAW CHEUNG-KWOK** (in Cantonese): Mr President, I move my amendment to the Honourable CHAN Kam-lam's amendment as set out under my name in the Order Paper.

As regards the operations of the Hong Kong and China Gas Company Limited (the Company), the Association for Democracy and People's Livelihood (ADPL) believes that in the short run, there should be direct supervision of the Company, while in the long run, the ultimate solution is to open up the market to introduce competition. When there is sufficient competition in the market, supervision may be lifted.

At present, the Company has secured an enormous market share. It has

a 47% share in the domestic water heating and cooking fuel market. If only the gas market is considered, the share is as high as 70%, and this percentage is still on the rise.

There can be a number of factors leading to a larger market share by an enterprises. A large market share is not a sufficient reason for supervision of an enterprise. The key issue is whether the enterprise is abusing its monopolistic power to unfairly affect the interests of consumers and competitors.

The Company has been stressing the keen competition it faces in its operations and the numerous choices available to consumers in the fuel market, so there is no need for government regulation. What is the actual position? The law imposes more restrictions on piped liquefied petroleum gas than town gas. In addition, starting from 1987, the Housing Authority has specified that where supply is possible gas pipelines should be laid in public housing estates. Furthermore, when developers construct buildings, they do not install three-phase power cables, making it impossible for residents to use instantaneous electric water heaters. Finally, the major shareholder of the Company is a sizeable land developer, which has a working relationship with a number of developers. All these are very conducive to the business expansion of the Company.

In terms of profit, over the past 10 years, the Company recorded a 20% growth in after-tax profit each year, and a high 20% rate of return on its fixed assets, which is higher than the 16% rate of return for public utilities in general. Revenue on sales (after-tax) rose from 19% in 1985 to 38.4% in 1995.

The Company made a profit of \$1.6 billion in 1995. Its profit is estimated to be \$2 billion in 1996. Despite the huge profits, the Company increases its charges year after year. While the average cost of production rose by only 13% between 1985 and 1994, the increase in charges was 42%. Hence, the Company does have the monopolistic power to increase its charges above costs to increase its profits, thereby directly affecting the interests of consumers.

I must admit, though, that the performance of the Company has been generally satisfactory in the past few years. Its rates of increase exhibit certain self-restraint. However, there is no guarantee that the Company will

exercise self-discipline in the future. Given the "established position" of the Company in the market, if it wants to increase its charges unscrupulously say, by 20%, it could still get the increase and there is nothing the Government could do about it. At most, the Company would only be severely criticized by Members in the Legislative Council and by the media. So, let us not rely on the self-discipline of the Company but on a system. Let us include the Company in the list of public utilities under direct government supervision for its quality of service, investment, charges and so on.

The ADPL is of the view that in the long run the Government should actively bring in new competitors, open up the market and eliminate the monopolistic position enjoyed by the Company. Opening up the carrier network and introducing piped natural gas are feasible suggestions. Of course, it would take some time to bring in new competitors. Therefore a short-term measure is to have direct supervision on the Company in order to protect consumer interests.

The wording of the amendment put forward by the Democratic Alliance for the Betterment of Hong Kong (DAB) is vague. I do not understand what is meant by "to encourage healthy competition". I think competition can be either fair or unfair but not healthy or unhealthy. I doubt how much understanding Mr CHAN Kam-lam has about the idea of free competition. I hope Mr CHAN can enlighten me on the definition of "healthy competition". How can there be any protection for consumer interests before there is any competition at all? The ADPL will oppose the amendment moved by the DAB.

As regards the original motion put forward by the Democratic Party accusing the Company of arbitrarily raising its charges, I think it goes too far and is therefore open to question. As I have noted earlier, the Company has exercised some self-restraint in increasing its charges in recent years. Furthermore, the Honourable SIN Chung-kai's motion is inadequate in that it advocates only supervision of the Company without mentioning the introduction of competition. It fails to put forward a most thorough and proper solution to the problem of the gas market being monopolized for an extended period of time. The reason why the ADPL has been going into great lengths for the supervision of the Company and the introduction of competition is that it hopes to protect consumer interests and open up the market. Although the Democratic Party's motion is inadequate and its wording is open

to question, the rationale and principle behind it coincide with those upheld by the ADPL. Therefore, the ADPL will support the Democratic Party's motion.

With these remarks. I move my amendment to the Honourable CHAN Kam-lam's amendment.

*Question on Dr LAW Cheung-Kwok's amendment to Mr CHAN Kam-lam's amendment proposed.*

**MR HENRY TANG** (in Cantonese): Mr President, I am really puzzled that, even up till now, some Members still blindly believe that government supervision by means of legislation will definitely provide protection to members of the public. As a matter of fact, that is a rather wrong concept. We should be able to see the light if only we look at the case of the China Light and Power Company Limited (CLP). The Government says that it has been closely monitoring the development of the CLP. However, it is surprising that the CLP has managed to develop excessive power generation capacity, resulting in the public having to shoulder unnecessary expenses. The Government is slow to become aware of this, and now it has suddenly waken up to demand the CLP to halt its development which is at full swing. This is tantamount to suddenly applying the brake of a sports car which is running at top speed, and this will lead to a car crash and death of people at any time. The so-called supervision amounts to nothing. Instead of relying on supervision by the Government, I think we would be better off relying on the free competition in the market.

Earlier this year, the Government announced a series of improvement measures, such as entering into an agreement with the Hong Kong and China Gas Company (the Company) with a view to enhancing the transparency of the Company's justification for tariff increase and its pricing mechanism; actively bringing in natural gas suppliers when there are already some private companies considering bringing natural gas to the market; commissioning a consultancy firm once again to study the "common carrier" regime so that different suppliers of the same kind of gas can transport and supply natural gas through the regime; and considering to adopt the recommendation of the Consumer Council to set up an Energy Authority to assist in formulating

energy policies in order to balance the interests of all parties. In regard to the recommendations mentioned above, I think that all of them are feasible. This is because I firmly believe that although the Company has got a high percentage of market share in the gas supply market of the territory, it has still not reached the stage of monopoly. With the introduction of natural gas, competition will be further enhanced.

The tariff increase by the Company has all along been quite mild. In the last decade, the annual rate of increase is merely 4.8% on average. There is no conspicuous sign that the Company is reaping extra profits with its dominant market share. Therefore, it is not a wise decision to arbitrarily curb by legislation the growth of an enterprise which is operating well. Mr President, once the Government legislates to supervise the Company and imposes a ceiling on its pricing, it is tantamount to recognizing that it has a monopolizing position. The Company may then request to have the same treatment and profit protection as the CLP and the Hongkong Electric Company Limited. This is an unwise strategy which will only hurl the Government into the net.

The amendment of the Honourable CHAN Kam-lam is more modest and progressive. It asks the Government to take positive measures to encourage healthy competition which is, in fact, the best approach for a free economy. Before and beyond 1997, we should stand firm on our position in maintaining the free economy of Hong Kong and in minimizing interference from the Government.

Mr President, I so submit. The Liberal Party supports the amendment of Mr CHAN Kam-lam.

THE PRESIDENT'S DEPUTY, DR LEONG CHE-HUNG, took the Chair.

**DR SAMUEL WONG** (in Cantonese): Mr Deputy, in view of the need to maintain a high standard of service and a reasonable profit, I find the explanation given by the Hong Kong and China Gas Company Limited to justify its price increase at the meeting of the Panel on Economic Services on 25 October acceptable. However, some colleagues have taken a different view and urged once again the Government to supervise the Company. They

believe that the Company, counting on its enormous market share and status at present, has totally ignored the interests of the consumers.

The crux of the matter is: Has the Company really totally ignored the interests of the consumers? I do not think so.

The adjustment of gas charges for the coming year is fairly mild. It is not only lower than the inflation rate, but also far lower than the average increase in salary. I therefore think that this adjustment is reasonable and affordable by the public. Since the Company is facing a market with keen competition, its price is restricted by market forces. The Company has to take a number of factors into account, including the pricing policy of its competitors and the acceptability to the consumers. In the light of inflation, it is impossible for any commercial organization to keep its price unchanged and to continue operating healthily when its competitors have raised their prices. At the same time, if a customer finds the price difficult to afford, he can choose other fuels. At the level of developers and construction companies, I can say that competition between town gas and electricity is very intense.

Moreover, we should notice that studies have all along shown that the consumers do not care only about the price, as safety and reliability of supply are also important points to ponder. We have to note that the Company has maintained an excellent safety record. During the past 10 years, the annual accident rate of the Company has all the way been declining. As a professional engineer, I can say unbiasedly that the high level of gas safety and reliability we enjoy today is in fact the result of the Company's investment with great foresight in the gas supply system and its insistence on strict staff training throughout the years.

To safeguard the interests of the consumers also involves providing the customers with service of good value for money. The Company has continuously expanded its scope of service, maintaining a record of very high standard of service in every respect. In the last sitting of the Legislative Council, some colleagues did praise the high-quality service of the Company.

Regarding the question of supervision, in respond to the report of the Consumer Council, the Government announced in February this year that it has

decided not to supervise the Company. The reason is that the profit of the Company tallies with that of the two supervised electricity companies, and that there is no evidence to show that the Company has abused its position in the market to charge the customers excessively.

As a matter of fact, the gas tariff has been maintained at a level permissible by the market because of free competition. Supervision will only abate and distort competition, cripple a successful company and convey the wrong message to the business sector. Supervision will not necessarily bring corresponding benefits to the consumers.

With these remarks, I support the amendment of Mr CHAN Kam-lam.

**MR LAU CHIN-SHEK** (in Cantonese): Mr Deputy, supervision of the Hong Kong and China Gas Company (the Company) is not a new topic of discussion to the Legislative Council. Less than a year ago, the majority of Members of this Council endorsed the motion moved by me on "supervision of the Company". Unfortunately, the Government has turned a deaf ear to the opinions of the majority of Members and also the recommendations contained in an earlier report of the Consumer Council. In February this year, the Government responded to the Consumer Council's report and refused to legislate on supervision of the Company. It only agreed to strengthen the consultation work with a view to stepping up the transparency of the Company's pricing mechanism and its justification for tariff increase.

Over the years, the Government has refused to legislate on supervision of the Company under the pretext that the domestic fuel market is already full of competition and that there are a lot of choices for members of the public, implying that the rights and interests of the consumers are already fully taken care of in market competition. However, as I have always pointed out, it is obvious that competition is basically non-existent in the domestic fuel market of Hong Kong. As a result, the Company possesses a monopolistic edge and on such basis, it can wilfully adjust its charges while the consumers can hardly have other choices.

The Company has emphasized that if members of the public do not like to use town gas, they can switch to electricity or bottled liquefied petroleum gas (LPG). However, as the Report of the Consumer Council points out,

Chinese people prefer open flame cooking and electricity can thus hardly totally replace gas fuel. In regard to water-heaters, electric water-heaters do not even have the merit of instant ignition as do gas heaters. Therefore, electricity cannot be regarded as an effective substitute for town gas. Regarding bottled LPG, frankly speaking, when you move into a flat with gas stoves already installed by the developers, how many people will purchase the very bulky bottled LPG instead of using the instantly available town gas?

It is proven by fact that due to technical reasons and customary practice, transferability among domestic fuels is, in fact, very low. The figures provided by the Company have also clearly verified this. 90% of the households with town gas installations have gas meters, and among them, 95% are active customers of the Company. At present, there are more than 1.1 million households using town gas, which account for more than half of the total number of Hong Kong households in Hong Kong. As regards the consumption of fuels, the consumption of town gas is on the increase in recent years, while the consumption of bottled LPG and piped LPG is declining.

The Company has often indicated that in the last decade, the average gas tariff increase is only half of the inflation rate. However, our assessment is different when we take into account the increase in the Company's operation cost. In the last decade, the real value of the Company's principal cost (namely fuel) has been decreasing. Nevertheless, the actual decrease in gas charges is less than half of the decrease in fuel prices. As a consequence, the proportion of net profit in the Company's turnover has been on the increase. Ten years ago, for every \$10 paid by the customer, the shareholders of the Company could earn \$2. But at present, for every \$10 paid by us, the shareholders can earn nearly \$4. May I ask whether this is reasonable?

The monopolistic edge of the Company is getting greater and greater, and the profit level of the Company is getting higher and higher, but the protection to consumers' interests has dwindled. All these are actual facts! I hope that in its response later, the Administration can clearly explain to this Council whether the Company's monopolistic edge has changed with the new measures announced by the Government in February this year. The Government has proposed to strengthen competition in the gas fuel market. But what kind of substantive progress has been made to date?

What is even more puzzling is that the Government thought that requiring the Company to give a briefing to the Panel on Economic Services of this Council before its tariff increase is tantamount to strengthening consultation work. However, we can observe from the briefing given by the Company to the Panel of this Council that it was actually not consulting the views of this Council but was announcing its tariff increase decision through this Council. Most of the Members on the Panel are against the tariff increase. Regrettably, under the situation that there is no supervision by means of legislation, the Legislative Council is only a "toothless tiger".

The amendment of the Honourable CHAN Kam-lam has deleted the part requesting supervision of the Company but proposes to encourage healthy competition instead. Nevertheless, I would like to ask whether the so-called healthy competition is possible if, after gas fuel pipes have been installed, the original company does not agree to have a "common carrier system"? In regard to opening up public housing estates for competition among gas suppliers, if a large LPG tank is going to be built in the housing estate of Mr CHAN Kam-lam's constituency, will Mr CHAN support and welcome this idea? Besides, is blindly advocating healthy competition merely a disguise of his stance in opposing the supervision of the Company?

Earlier, while discussing the case pertaining to the China Light and Power Company (CLP), the Honourable Henry TANG said that supervision was useless and suggested free competition instead. However, let us look at the case of the CLP, which is a giant company. How is it possible for other electricity companies to compete with it? Who dares to set up another company in Kowloon to compete with the CLP? It is no doubt that supervision is also defective. But how defective is it? It is defective in that the profit control scheme guarantees that under any circumstances, this electricity company can enjoy high profits. It is also defective in that the Government does not exercise sufficient and proper supervision. This does not mean that supervision should not be in place. If the CLP had not been subject to supervision, I think there would have been no question of the CLP postponing the commissioning of its other power generators sets.

I have to reiterate that the Government should have absolute responsibility to supervise on behalf of the public any public utility organization which has a strong impact on people's livelihood. As a matter of

fact, all public utilities are at present under some form of supervisory mechanism to a certain extent. Why, then, should the Company be treated as an exception? Why should a well-run company which provides high quality services be afraid of supervision?

Finally, I hope that the Government will legislate to supervise not only the Company but also the other domestic gas fuel suppliers, particularly various piped LPG companies. The Mobil Oil Hong Kong Limited announced a 7% price increase yesterday. Together with the price increase early this year, it has already increased its price by more than 12% within one year. This obviously is due to a lack of supervision on the part of the Government. I reiterate that the Government is duty-bound to supervise various public utilities in order to protect the rights and interests of consumers.

Mr Deputy, I so submit. Thank you.

**MR NGAN KAM-CHUEN** (in Cantonese): Mr Deputy, the Honourable SIN Chung-kai believes that the proposal of supervising the Hong Kong and China Gas Company (the Gas Company) will safeguard the interests of the consumers. I do have reservations about such a view. First of all, I would like to respond by asking: Is such a premise necessarily correct? If not, then the victims thereof might well be the consumers.

I understand that the proposal of supervising public utilities will surely attract public applause while the Democratic Alliance for the Betterment of Hong Kong's proposal of encouraging healthy competition will only be criticized as disregarding the interests of the consumers.

However, today I will still risk myself by setting out my views on how we believe the interests of the consumers can be truly protected. We will never suggest supervision in a rash manner. As a responsible Legislative Council Member, I am well aware of the price we have to pay for supervision.

If mishandled, it will, at the end of the day, victimize the consumers.

Mr SIN presumes that the Gas Company's lion share in the gas supply market will essentially push the price of gas up by an unreasonable magnitude. Is there necessarily a connection between the two?

The study undertaken by the Consumer Council last year showed that the market share of the Gas Company was 66%. Figure-wise, it seems quite convincing that the Gas Company has already monopolized the gas supply market and the consumers are therefore subject to their manipulation.

But is it fair to draw such a conclusion on the Gas Company just by referring to these figures? Let us make a comparison. In 1981 when town gas was not yet popular, the market share of liquefied petroleum gas (LPG) was 50% but its market share has now dropped to 37%, overtaken by town gas. What are the reasons for this? One of the key reasons lies in the Gas Company's ability in meeting the requirements of consumers. Since it is both convenient and safe, more people have therefore preferred town gas. Today's fruit of success is the result of earnest investment in this aspect on the part of the Company. What is wrong with such a development?

The market share now enjoyed by the Gas Company is brought about by free competition. The dominance does not come by itself. The point does not lie in the size of its market share but in whether or not the Company has abused such dominance. If the latter is the case, then it amounts to monopoly.

Hong Kong is a society that subscribes to free market economy and we must not suppress the investors by administrative means; otherwise, will any investors want to come to Hong Kong to invest?

In fact, in the past decade, the basic prices of bottled LPG and electricity have been respectively 60% and 30% more expensive than town gas. Is it justifiable to say that the Gas Company has monopolized the market and victimized the consumers?

Some Members may hold the view that since the Gas Company is also a public utility company, why should it be singled out from the other public utility companies and be free from supervision? It then involves another

question of whether or not the hasty move of exercising supervision will lower the prices and bring greater benefits to the consumers. If not, to exercise supervision just for the sake of supervision will only be lifting a rock only to drop it on one's own feet. Is it not a joke?

I believe supervision is not the only way out. The most appropriate method should be for the Government to take the lead so that a level playing field is provided to all gas suppliers. The United States gas supply market was opened up in a gradual manner in the 1970s and gas pipes in the United Kingdom were also made open for common use by all the smaller gas companies in the early 1990s. As a result, the price of gas has dropped and the consumers have thus benefited. That is what we are glad to see!

In the first place, I propose that section 17 of the Gas Safety (Gas Supply) Regulations, which states: "No person shall install a gas main for the conveyance of liquefied petroleum gas along or across a road", be amended. This provision reduces the competitiveness of LPG companies, making it impossible for them to set up territory-wide transmission pipes like the Gas Company.

Secondly, the Housing Authority issued an internal guideline in 1987 on choosing energy supply for its newly-erected public housing estates or Home Ownership Scheme flats, stating that town gas should be the first choice and piped LPG will only be considered in areas where town gas is not available, such as the outlying islands. In other words, a competitive edge is given to the Gas Company, resulting in its lion share in the gas market today. This is unfair to the other gas suppliers and I concur with the view that a level playing field should be provided. How can there be fairness if everyone is set at different starting lines?

The Government has tried to justify itself by asserting that the use of piped LPG might pose safety and administrative problems. However, the Government should not sit with its arms folded because that will transform the potential dominance of the Gas Company into monopoly.

We should never overlook the possibility that the Gas Company might monopolize the market. From 1985 to 1994, the average cost of production for the Gas Company rose by only 30% but its charges rose by 43%. The

benefits of lowering production cost therefore are not brought to the consumers. As such, if the Government ignores the seriousness of this problem, the problem may grow uncontrollably until it becomes an encumbrance. Who is to bear the consequence by that time?

What we are concerned about is not just the fate of LPG, but whether a healthy competitive environment can be provided to all gas suppliers. The opening up of pipes to facilitate the use of natural gas is another alternative. The Government therefore is bound to finish its feasibility study on the use of "common carrier regime" as expeditiously as possible so as to offer an additional option to the consumers.

At the same time, the electricity companies may also join in the competition, together with the introduction of compatible products appropriate to the market. The Government may engage itself in studies on some relevant electrical products. In that case, with the development of more fuel alternatives, the price of gas supply can be expected to adjust downwards. By that time, the quality of service will be enhanced.

In addition, the provision of a healthy competitive environment should run parallel with increased transparency on the part of the Gas Company. Members of this Council earlier requested the Gas Company to present to this Council with breakdowns of its production costs so as to indicate the cost variations of its raw materials. However, the Company refused to release such information on the ground that the information does not come under the financial information to be disclosed to the public by listed companies. That has really disappointed us all.

As a public utility company enjoying a major share of the market, the Gas Company should have the responsibility to explain to the public the changes in its operating costs if its charge increase is to be seen justified by the public.

Early this year, the Economic Services Branch promised to urge the Gas Company to enhance its transparency but what are the results so far? I hope that government officials can give us an account on this particular point.

With these remarks, I support the amendment of the Honourable CHAN Kam-lam.

**MR AMBROSE LAU** (in Cantonese): Mr Deputy, there are two contrary views on whether the Hong Kong and China Gas Company (the Company) should be supervised. We must strike a balance by comparing the reasons put forward by both sides, so as to look for a positive method to protect not only the consumers' interests but also the ventures of business organizations.

Mr Deputy, the main reason for advocating the supervision of the Company is that, except for the Company, public utilities in Hong Kong, from electricity to bus services, are all under the supervision of the Government. Also, the Company is enjoying a larger and larger market share in Hong Kong and it has already possessed a monopolistic edge in the market. Although the tariff increase of the Company over the last 10 years is lower than inflation, its profit after tax still increases year after year. The Company is thus suspected of abusing its advantageous position in the market at the expense of the consumers' interests. It is therefore considered necessary to legislate on the supervision of the Company.

However, the Company also has sound reasons to oppose the Government's supervision. It points out that in the face of keen competition from piped liquefied petroleum gas (LPG), bottled LPG and the power companies in the past 10 years, it has managed, with great efforts, to get over 50% share of the domestic gas fuel market. The Company also declares that despite the annual increase in its profit, the rate of return is only comparable to the two power companies which are under government supervision. Also, the gas charges are lower than the charges of electricity and bottled LPG, indicating that the Company has not abused its advantageous position in the market at the expense of the consumers' interests. Basically, the Company has all along managed to meet the requirement of providing a steady supply, maintaining a low accident rate and a qualified service standard. However, it is to be noted that apart from its efforts, the following reasons have also contributed to the success of the Company among its competitors: the bottled LPG is not so convenient to replace, there are restrictions on the safe transport of piped LPG and also difficulties in building storage tanks. Also, since there is no open flame in cooking with electrical appliances, it is difficult for this

method to become popular in the Chinese society. All the above factors have explained why it is impossible for the other competitors to threaten the Company and these are also the objective reasons for the continuous increase of its market share. Owing to these objective factors, I think it is fair that the tariff increase should be below inflation. In the past 10 years, the operating cost of the Company has risen only by 13%, but the charges have gone up by 43%, and this is the reason for the high increase in its profit. In view of that, I believe that a more appropriate method is to enhance the transparency of the Company. Before each tariff increase, the Company should consult and take into full consideration the views of all parties, so that the tariff increase can be kept at a reasonable level and that there will be a balance between the interests of the Company and those of the public.

Mr Deputy, in the long run, the Government should take positive measures to promote healthy competition in order to solve the root of the problem. At present, it is impossible for LPG and electricity to compete with town gas. However, introducing natural gas into the market can be a viable choice, and we may induce competition. At present, natural gas is used in the new power plant of the China Light and Power Company in Tuen Mun, and the supply of natural gas from the Mainland is abundant. The transport of natural gas is also as convenient and safe as town gas. Therefore, in the long run, the possible solution is to introduce natural gas to compete with town gas so as to enable the consumers to have a new choice. Legislative control of the Company is of course not proper; however, it is still necessary for the Company to enhance its operational transparency so that the public can be fully aware of the justification of its tariff increase.

Mr Deputy, these are my remarks.

**MR ALBERT CHAN** (in Cantonese): Mr Deputy, as regards the supervision of the Hong Kong and China Gas Company (the Company), several Members, in particular those from the Democratic Alliance for the Betterment of Hong Kong, have spoken against supervision. However, judging from what they have said, I feel that they, particularly the Honourable NGAN Kam-chuen, are not entirely against it. Mr NGAN has just now put forth the idea of common carrier regime and mentioned the possibility of developing natural gas supply in future. Indeed, a great deal of development and co-ordination are necessary in future if the existing pipelines are to be converted into a common

carrier system. Such development and co-ordination will require government intervention and supervision. So, I think, in reality, Members who have spoken against supervision do not harbour a spirit to exclude the need for government supervision.

Members who are against supervision have stressed the importance of healthy competition. But have they ever questioned the possibility of achieving healthy competition, given the present market mechanism and the existing laws? I think that a study as well as an objective look at the present positions of the Company and the supply of gas in Hong Kong in general will show clearly that healthy competition is impossible. The main reason is that the pipelines laid by the Company can reach most areas in Hong Kong. So, the market share of the Company will continue to increase. Competition from other sources will not diminish the Company's market share. As such, the Government is duty-bound to ensure that the services and charges of the Company will come under suitable supervision to protect the consumers' interests.

Mr Deputy, in so far as maintenance provided by the Company is concerned, I wish to point out why consumer interests are not protected owing to a lack of appropriate supervision. A number of Honourable colleagues have mentioned gas charges collected by the Company, but few have talked about the unreasonable maintenance charges collected by the Company. I have written to the Company and the Government to discuss the issue, and I have also talked to developers and management companies about the matter. I could only obtain vague answers. The Company's reply said the gas pipes in question were part of the public facilities of the premises, and maintenance was the responsibility of owners or the joint responsibility of owners and developers. In such arrangement, developers would award works for pipe-laying to contractors by way of ancillary contracts. When I pressed for legal documents formally signed between developers and the Company, the Company failed to provide such documents. Instead, it gave me a document containing brief information about the contractors for pipe-laying works. The document indicated that within 12 months of the completion of the works, the contractor, rather than the Company, should be held responsible. Such was the reply I received from the Company.

Afterwards, I made an inquiry with a professional property management

company — a company which was a subsidiary of a large-scale developer and was managing a housing estate of 3 000-odd units, with at least 10 years' experience in property management — about maintenance responsibility of gas pipes in public areas. Its reply was surprising. It could not provide any material which should be obtainable from a management company or a developer. As the management company was a subsidiary of the developer, it should be in a position to obtain such information from the developer if it wanted to. But it only provided a photocopy of a paragraph from the Building Management Ordinance (Cap. 344), telling me that under the Ordinance, "common parts" means "the whole of a building, except such parts as have been specified or designated in an instrument registered in the Land Registry as being for the exclusive use, occupation or enjoyment of an owner". That means responsibility for the common parts should be shared by all property owners within the estate. I do not think that is reasonable either. The Company carries out a commercial act when it lays a pipeline into an estate. It is not reasonable to ask the owners in the estate to share the responsibility of maintaining the pipelines in the commonly owned area. But then there is no legal document to prove that this arrangement forms part of the previously-signed agreement between the developer and the Company.

Then, I made an inquiry with the Government about supervision under the Ordinance. It was purely about maintenance, not charges directly collected by the Company. The Electrical and Mechanical Services Department responded, saying that according to advice from the Legal Department, there was no law directly related to responsibilities for maintenance, although, of course, the safety aspect is supervised by the Electrical and Mechanical Services Department. The response said the matter should be specified in the land lease or deed of mutual covenant or other relevant contracts.

Mr Deputy, I have done some research and data collection, but I have not been able to find out from various sources whether there are clear contractual provisions on the matter. What terms does the Company offer to the developers to enable it to install service equipment in many of the private housing estates, and public ones (I hope the Housing Authority can later give an answer to this) to provide service and to benefit from the arrangement? I think if the Government does not conduct a comprehensive review to strengthen full-scale supervision, the consumers would be prejudiced in a number of ways. To cite a simple example, the maintenance of a small gas

pipe, when it lies within the premises of the owners, costs over \$1,000. Although the owners are furious about this, they have no other choice but to obtain service from the Company. I think this is a very serious problem. I hope the Government will give due consideration to the proposal for supervision of the Company. Thank you, Mr Deputy.

**MRS SELINA CHOW** (in Cantonese): Mr Deputy, the motion moved by the Honourable SIN Chung-kai today is to reprove the Government for refusing to supervise the Hong Kong and China Gas Company Limited (the Company), which has gained a monopolistic edge. This topic has been debated before. I do not intend to repeat my arguments put forth in the last debate, as I already stated in depth and in detail at that time why I did not think the Company had a monopolistic edge. In fact, there are certain choices and competition in the market. In that respect, the consumers have absolutely the right to choose.

However, the other part of today's motion is that the absence of supervision has resulted in the Company's arbitrary raising of its charges without regard to the interests of the public. Is that really true? We have just heard not a few Honourable Members say that the tariff increase by the Company has for many years been below the inflation rate. But of course, it is not at all surprising to learn that, from the views of the Democratic Party and Mr SIN Chung-kai, this is not good enough. It is because the Democratic Party is against any increase in charges and fees. If the increase in charges is higher than the inflation rate, they will say that it should be linked to the inflation rate. When the increase is pegged to the inflation rate, they will say that it should be lower than the inflation rate. When the increase is lower than the inflation rate, they will then say that the charges should not be increased. A company cannot increase its charges when it is making a profit. But neither can it do so if it is sustaining a loss. There is basically not a single situation that they think an increase in charges is justifiable. Of course, it gives no cause for much criticism from the standpoint of consumers. If you ask any consumer, the answer will be that it is better not to increase charges, and that it would be more desirable if the charges are reduced. But the problem is that if pricing is pegged to the quality of service as it should be, we have to understand that in the business field, profit is an incentive for providing good services. Of course, this Council hopes that public utilities are seeking only reasonable profits. I think it is necessary that we demand certain transparency and accountability from public utilities, but we should not

oppose any increase in charges.

Moreover, the Democratic Party also wants to control any business. In short, they believe that if a business gets more successful or influential, it is better for the business to be controlled by legislation and supervised by the Government. But then the Government is subject to control by the Legislative Council. Demanding that the Government should control businesses means that they want to control any kind of business. Everyone can see that their demand is in violation of the free market economy. In such a case, when the Democratic Party tells the public that they are in support of free economy, you should not forget that they advocate controlling any business and that they are against any price increase.

In regard to the amendment of Dr the Honourable LAW Cheung-kwok, he has elaborated it in an interesting way a while ago. He has mentioned that he also feels that the Company has exercised self-restraint. But he does not believe that it will restrain itself in the future. Therefore, he suggests that it is better to control it now and to relax the control in future. That is really incomprehensible to me. He states that the Company should be supervised even though it is doing well at the moment. But then, when should the control be relaxed? Interestingly enough, he even asked (indeed I think Dr LAW should not have posed such a question, as he is supposed to have a profound knowledge of economics): What is healthy competition and what is vicious competition? I find it very interesting. Of course, I am not as well-versed as Dr LAW in economics. But I think that, to the ordinary people, healthy competition refers to the healthy influence of competition in the free market on the businessmen in general, the entire market and the customers' rights and interests. That is what we called healthy competition. However, when competition is so severe that the operation of business becomes very difficult, thus adversely affecting the customers' rights and interests as well as the quality of service, such competition is vicious. That is my simplistic view. However, I believe that my view is also felt by the general public, who may already have some experience in reality. I, therefore, think that Dr LAW may be very good at economics but he is only stating his pedantic views on business. We will not support his amendment. In regard to the amendment of the Honourable CHAN Kam-lam, we will, as a matter of course, support its spirit. Based on the above reasons, we will support the amendment of Mr CHAN Kam-lam and oppose the motion as well as the other amendment.

THE PRESIDENT resumed the Chair.

**MR CHAN KAM-LAM** (in Cantonese): Mr President, I have always held Dr the Honourable LAW Cheung-kwok in high esteem, looking up to him as an authority on economics. For this reason, I was particularly careful when I studied the wording of his amendment so as not to get the logic wrong, thereby jeopardizing the economic development of the territory. Dr LAW pointed out from the outset that the Hong Kong and China Gas Company (the Company) must be placed under direct supervision shortly. Yet, he clearly understands that supervision is by no means a long-term solution. The most thorough measure in the long run remains opening up the market and bringing in competition. Dr LAW may also understand that if we seek to supervise private companies indiscriminately, the ultimate adversities will be that the operation of the free market as a whole will be interfered with and the healthy development of the economy stifled. According to Dr LAW's theory of market management, supervision should be introduced first, to be followed by the opening up of the market. When there is enough competition, supervision will then be lifted. That is a somehow queer statement. According to my interpretation, this so-called supervision is actually protection, under which companies concerned are put into the market to freely compete with others only after they have become sufficiently capable. That is really wrong.

Dr LAW also stated that he could not understand what is healthy competition and what is unhealthy competition. Obviously, he was trying to quiz me. I remember that the price reduction war among newspapers last year created quite a stir in the community and that it was all moans for the press. While I do agree that price reduction is good in that consumers can pay less, we all know that operators who are financially vulnerable will have to close down and suspend their business as a result. Even if they managed to stay on they would be hard hit. Fortunately, the price reduction war ended eventually. What healthy competition refers to is that the trade concerned should step up its efforts to improve service quality and enhance productivity, thereby minimizing costs and providing quality services to customers at low prices. This is the most essential approach for managing market operation. Earlier, Dr LAW made a point with which I cannot agree more. He said that the relatively large market share that a company was capable of gaining could be attributed to a number of factors but that alone was not enough for demanding

that the company concerned be placed under supervision. What counted should be whether this company had inappropriately exercised its monopolistic power in the market to undermine the interests of consumers and competitors in an unfair way. Regarding the performance of the Company, Dr LAW could not but admit that it has been doing a good job in general over the past few years. Its service quality and efficiency are both acceptable and it has exercised self-restraint in increasing its charges. It can be said that Dr LAW has a very high opinion of the Company. Indeed, I believe that few private companies at present live up to such compliment by Dr LAW.

Dr LAW laid emphasis on the need to put the Company under direct supervision because he was not convinced that the Company would have self-discipline. That being the case, he would rather believe in a system. That is simply incredible and self-contradictory. Mr President, it will be extremely dangerous if we make a decision with a suspicious attitude in the course of considering the validity of a system. Should this be the mentality and logic of Dr LAW Cheung-kwok, I really would have nothing to say.

Indeed, the Democratic Alliance for the Betterment of Hong Kong had, during certain period in the past, supported applications for fee increases by certain public utilities. However, it was only after careful consideration that we made such decisions. We will not oppose something only for the sake of opposing it. Nevertheless, we are criticized by some people only because we do not want to join them in their evil deeds and echo their wrong perceptions of opposing all price increases and placing every business under supervision. I think this simply reflects that the critics simply have no idea of how a free economy functions.

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

**MR SIN CHUNG-KAI** (in Cantonese): Mr President, while I was listening to the reply made by the Honourable CHAN Kam-lam earlier, I thought that the director of the Hong Kong and China Gas Company (the Company) had come down from the public gallery to speak here. Mr CHAN's arguments sounded even more plausible than those presented by the Company to the Panel on Economic Services on the interests of the Company! The Honourable Mrs Selina CHOW said that the Democratic Party opposes any proposal of price increase but we have thrown our weight behind the increase of taxi fares.

Then, do we seek to have every business supervised? We have never proposed the supervision of such commodities as soap and peanut oil which everyone can buy and the market of which features fierce competition. Obviously, there are plenty of labels being pinned and it makes no difference if an additional one is pinned on us. However, I think that these labels are unnecessary and let us not pin labels on others arbitrarily any more. It has been said that free competition is better than supervision. I think it is logically a matter of order. Supervision is naturally unnecessary if there is competition. Supervision is warranted when there is no competition or when natural monopolies exist along with competition.

Just now someone asked whether the supply of liquefied petroleum gas (LPG) is viable in housing estates. The Honourable LAU Chin-shek said that if a central gas tank is to be built in the neighbourhood of a housing estate in Kwun Tong, which Mr CHAN Kam-lam represents, will Mr CHAN call on members of the public to stage a petition to voice their objection? Geographically speaking, Hong Kong is relatively cramped so it is very difficult to find an appropriate place which is far away from any housing estate and is therefore suitable for the installation of central LPG tanks. If such a place can be identified, colleagues who have been striving for the construction of more public housing, such as Members from the Association for Democracy and People's Livelihood, would rather have the location earmarked for building housing units so that citizens in the lower strata can have more chances to be allotted public housing.

Moreover, Members from the Democratic Alliance for the Betterment of Hong Kong said earlier that there would be considerable limitations, technical complications and dangers in practice and so on. For instance, the Gas Safety Ordinance will have to be amended to relax the installation of pipes for the transport of LPG because at present, such pipes cannot be installed across a road and if we fail to resolve even these problems, is it not pointless to talk about competition? We want to make it clear that if there is competition, it is not in the least necessary to propose supervision. The report of the Consumer Council tells us very clearly that the Company has a monopolistic status. The consumers were consequently made to bear a higher cost and I remember that last year, the consumers were made to pay over \$100 million or close to \$200 million more. It is under these circumstances that supervision is deemed necessary. It is not just a point that we uphold. It is also a point that the

Consumer Council made with detailed corroboration last year. I have no idea at all as to how such barrier in the market can be removed because the position of the Company is primarily very superior.

Lastly, Mr President, I would like to stress that I cannot agree with Dr the Honourable LAW Cheung-kwok in respect of some of his arguments, including the point that the Company, in his view, has exercised some self-restraint in increasing its charges. Just now the Honourable Ambrose LAU rightly said that there is every reason for the Company to increase its charges at a rate lower than inflation. This is, indeed, a good point to make. As a matter of fact, the Company manages to increase its charges at a rate lower than inflation due to the decreasing cost for fuel. Besides, we can also see that the rate of return on assets of the Company is roughly some 20%, which is a double-digit figure. Comparing this with the overseas public utilities of similar scale, the rates of return on assets in Europe and the United States are very often recorded at a single-digit figure of 8% to 9%. From this perspective, the Company has, in fact, made the public pay much higher charges. Under the circumstance, we feel that public interests should be protected, hence supervision should be introduced. Certainly, what we mean by supervision here is not the kind of supervision that the China Light and Power Company is subject to and we should, by all means, do better. This is not a misgiving of supervision. It only shows that the Government has performed its supervisory role poorly. In this connection, Mrs CHAN, the Secretary for Economic Services in 1992, should be held responsible for approving the financial plan of the China Light and Power Company to increase its charges. This is the result of a wrong decision made at that time so this cannot be taken to argue that supervision is undesirable. It only shows the poor performance of the regulator. It does not mean that supervision is undesirable in itself. Supervision is necessary and sound supervision is all the more necessary.

Mr President, I so submit.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Mr President, I have listened carefully to Members' views on the Honourable SIN Chung-kai's motion and the amendments of the Honourable CHAN Kam-lam and Dr the Honourable LAW Cheung-kwok.

*Major landmarks*

First of all, I would like to respond by saying that the Government has not turned a deaf ear to the views of Members. In fact, the Government is pursuing the same objective as Members, that is, to protect the consumers' interests. Of course, the Government's approach may be different from what is expected by Members and is therefore unacceptable to Members. I would like, first of all, to highlight some major landmarks achieved since the last motion debate in this Council on the Hong Kong & China Gas Company, Limited (the Company) on 22 November 1995.

Firstly, the Company has agreed to enter into an information and consultation agreement with the Government.

Secondly, the Energy Advisory Committee chaired by Professor Charles KAO was officially established on 15 July 1996 to advise the Government on energy policies and other relevant matters. Since its establishment, the Committee has met with personnel of the Company and heard from them at first hand their proposal on the Company's tariff revision and their reasons for it.

Thirdly, on 25 October this year, for the first time after its establishment 134 years ago, the Company explained to the Economic Services Panel (ES Panel) of the Legislative Council for the first time its tariff revision in 1997. That was a historic step that the Company made to enhance its transparency which was also a very important in the direction of even more transparency.

Fourthly, on 23 September this year, a consultancy firm was appointed to study the introduction of a common transportation system to supply gases to the users in Hong Kong.

Fifthly, the Company has promised to consult the Gas Safety Advisory Committee on matters such as the monthly maintenance fee, the way of charging and whether consumers should be given the choice. That is another important step the Company takes in accordance with the Government's advice to enhance its transparency through consultation.

*Policy*

The Government's economic philosophy is to let the market forces decide the distribution of resources. We consider that to be most beneficial to society. Past experience has shown that a free and fair market is the best tool to promote competition and fully utilize resources as well as lower the costs and prices. Of course, when there is a monopoly in the market which impedes the consumers' interests, the Government will have to intervene but there is not such a case yet.

### *Market share*

Let us look at some information and statistics. The Company's market share in domestic water heating and cooking fuels represent 47% and 70% of the domestic energy sales and gaseous energy sales respectively. The Company may have a dominant share in these two areas, but as the Honourable NGAN Kam-chuen has just said, its dominance in the market is earned by competing with others and it has to fight for it. That means consumers do have a choice. Examples of competition are as follows:

- competition with liquefied petroleum gas (LPG) in all uses;
- competition with electricity in water heating, boilers, and process heating;
- competition with diesel oil in restaurants and boilers.

Although the Company has a dominant share in the market of domestic water heating and cooking fuels, it has certainly not become a monopoly. We consider that at the present stage, there is no need for supervision over the Company because there is no proof of the Company's abusing its dominance. Also, the Company's rate of return is similar to those of the China Light and Power Company Limited and the Hongkong Electric Holdings Limited, both regulated by the Government. Nevertheless, we do agree that the process of the Company's tariff adjustment is not transparent enough and that there is much room for improvement.

### *Enhancing the transparency*

At the beginning of this year, when responding to the report of the

Consumer Council on regulating the Company, we pointed out that the Government did see a need to enter into an agreement with the Company on the consultation arrangements to enhance the transparency of the mechanism of determining the tariff and the reasons for the tariff increase. We were also of the opinion that all these arrangements should aim at protecting the consumers' interests in the simplest form.

The Company later entered into an agreement with the Government on the provision of information and consultation as recommended by the Government. Both sides have agreed in principle on the terms of the agreement and we hope that they will be able to sign the agreement in a few weeks. It involves the Company's agreement to provide the Government with confidential information and figures of its operations and to publish pamphlets to disclose its financial and operational information in more detail for reference by the public. The Company has recently initiated to report to the Energy Advisory Committee and the ES Panel of the Legislative Council its tariff increase in the year 1997. As I have said just now, this is a big step forward already.

As regards the promotion of competition, we firmly believe that this is the best way to ensure that the consumers will have a reasonable level of tariff. We have hired a consultancy firm to study the feasibility of using a common transportation system to carry the gases in the hope of promoting competition in the domestic, commercial and industrial gas markets through arrangements which take care of the consumers' overall interests while at the same time are fair to both the existing and future gas suppliers. The study result is expected to be available by April next year. We are planning on consulting the ES Panel of this Council and the Energy Advisory Committee about the study in due course.

I want to reiterate that it has always been Hong Kong's policy, which has been proved to be effective, to let private companies supply domestic fuels and allow market forces to determine the price levels, keeping Government's intervention to the minimal. I agree with Mr CHAN Kam-lam that encouraging healthy competition and enhancing the transparency of the companies' operations will help to bring about dependable supply of domestic fuels, reasonable prices, quality services and assured safety standards.

*Conclusion*

Mr President, I have already explained the positive measures taken by the Government to encourage healthy competition in the gas fuel market and to enhance the transparency of the Company; such measures include the signing of an agreement with the Company on the provision of information and consultation. In view of the important progress and the absence of a monopoly in the present market, I cannot agree to Mr SIN Chung-kai's motion on urging the Government to supervise the Company directly. As for Dr LAW Cheung-kwok's amendment, I thank Dr LAW for his fairness in the deletion of the words concerning the reproof of the Government and that he has justly pointed out that in the long term, there is no need for regulating the Company. However, as the Government does not see the need to regulate the Company directly for the time being, I therefore cannot support Dr LAW's amendment either. The Government is in support of Mr CHAN Kam-lam's amendment. We agree to his amendment. In fact, the Government is also taking positive measures to encourage fair competition and increase the operational transparency of the Company with an aim to protect the consumers' interests. Thank you, Mr President.

*Question on Dr LAW Cheung-kwok's amendment to Mr CHAN Kam-lam's amendment put.*

*Voice vote taken.*

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

Dr LAW Cheung-kwok and Mr SIN Chung-kai claimed a division.

**PRESIDENT** (in Cantonese): Council shall now proceed to a division.

**PRESIDENT** (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that the amendment moved by Dr LAW Cheung-kwok be made to Mr CHAN Kam-lam's amendment.

Will Members please register their presence by pressing the top button and then proceed to vote by choosing one of the three buttons below.

**PRESIDENT** (in Cantonese): Before I announce the result, will Members please check their votes? Are there any queries? There seems to be one short of the headcount. Will Members please check their votes? The result will now be displayed.

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr LEE Cheuk-yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr Bruce LIU, Mr MOK Ying-fan, Mr SIN Chung-kai, Mr TSANG Kin-shing and Dr John TSE voted for the amendment.

Mr Allen LEE, Mrs Selina CHOW, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Eric LI, Mr Henry TANG, Dr Philip WONG, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Mr Paul CHENG, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Mr LEE Kai-ming, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the amendment.

THE PRESIDENT announced that there were 22 votes in favour of Dr LAW Cheung-kwok's amendment and 22 votes against it.

**PRESIDENT** (in Cantonese): In accordance with my past ruling based on Speaker DENISON's decision of 1867, I now cast my vote in the negative.

THE PRESIDENT declared that the amendment was negatived.

*Question on Mr CHAN Kam-lam's amendment to Mr SIN Chung-kai's motion put.*

*Voice vote taken.*

Mr CHAN Wing-chan claimed a division.

**PRESIDENT** (in Cantonese): Council shall now proceed to a division.

**PRESIDENT** (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that the amendment moved by Mr CHAN Kam-lam be made to Mr SIN Chung-kai's motion.

Will Members please register their presence by pressing the top button and then proceed to vote by choosing one of the three buttons below.

**PRESIDENT** (in Cantonese): Before I announce the result, will Members please check their votes? Are there any queries? The result will now be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr Eric LI, Mr Henry TANG, Dr Philip WONG, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Mr LEE Kai-ming, Mr LO Suk-ching and Mr NGAN Kam-chuen voted for the amendment.

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr LEE Cheuk-yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr Bruce LIU, Mr MOK Ying-fan, Mr SIN Chung-kai, Mr TSANG Kin-shing and Dr John TSE voted against the amendment.

Dr LEONG Che-hung abstained.

THE PRESIDENT announced that there were 23 votes in favour of Mr CHAN Kam-lam's amendment and 22 votes against it. He therefore declared that the amendment was carried.

**PRESIDENT** (in Cantonese): Mr SIN Chung-kai, you are now entitled to reply, and you still have two minutes and 15 seconds out of your original 15 minutes.

**MR SIN CHUNG-KAI** (in Cantonese): Mr President, in my speech earlier I have clearly stated our views. In a nutshell, the amendment of the Honourable CHAN Kam-lam actually seeks to reject any regulation of fee increase by the Hong Kong and China Gas Company Limited (the Company). This is the most precise expression of the substance of his amendment. It is just window dressing to say that supervision of the Company should be rejected in order to facilitate competition. Just now it was mentioned that certain concrete measures should be taken to pave the way for competition in the foreseeable future. Obviously, that is impracticable. It is simply meant to conceal one's position of rejecting supervision under the pretext of competition.

Earlier on, the Democratic Party has repeatedly stated the justifications of our demand for regulating the Company. The justifications are very clear. Firstly, the Company has a monopolistic position in the market; secondly, its

position is due to become even more monopolistic in future; and thirdly, over the last couple of years the growth in the profit of the Company has been very hefty and a growth is recorded every year. Besides, a \$2 billion profit is estimated for the year 1996. Given these three factors, we consider that a company which has been making such hefty profits from the public should be regulated. I urge Honourable colleagues to vote against Mr CHAN Kam-lam's amendment. Thank you.

*Question on the amended motion put.*

*Voice vote taken.*

**PRESIDENT** (in Cantonese): Council shall proceed to a division.

**PRESIDENT** (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that the motion moved by Mr SIN Chung-kai as amended by Mr CHAN Kam-lam be approved.

Will Members please register their presence by pressing the top button in the voting units and then proceed to cast their votes by pressing one of the three buttons below?

**PRESIDENT** (in Cantonese): Before I declare the result, Members may wish to check their votes. Are there any queries? The result will now be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr Eric LI, Mr Henry TANG, Dr Philip WONG, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Mr LEE Kai-ming, Mr LO Suk-ching and Mr NGAN Kam-chuen voted for the amended motion.

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr LEE Cheuk-yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO , Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr Bruce LIU, Mr MOK Ying-fan, Mr SIN Chung-kai, Mr TSANG Kin-shing and Dr John TSE voted against the amended motion.

Dr LEONG Che-hung abstained.

THE PRESIDENT announced that there were 23 votes in favour of the amended motion and 22 votes against it. He therefore declared that the motion as amended was carried.

#### **ADJOURNMENT AND NEXT SITTING**

**PRESIDENT** (in Cantonese): In accordance with Standing Order, I now adjourn the Council until 2.30 pm on Wednesday, 20 November 1996.

*Adjourned accordingly at six minutes to Ten o'clock.*