

立法會

Legislative Council

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Paper for the Committee on Members' Interests' meeting on 19 April 2005

Deliberations of Members of the Legislative Councils of the previous terms on the proposal to empower the Committee on Members' Interests to monitor Members' conduct

Purpose

This paper sets out the deliberations of the Members of Legislative Councils (LegCo) of previous terms on the proposal to empower the then Committee on Members' Interests¹ (the Committee) to monitor Members' conduct.

Background

2. At its first meeting held on 3 November 2004, the Committee instructed the clerk to the Committee to circulate to members the verbatim transcripts of the two debates on proposed resolutions to amend the Standing Orders of the Legislative Council of Hong Kong (SOs) to empower the Committee to monitor Members' conduct. The verbatim transcripts of the two debates held on 19 July 1995 and 3 April 1996 are in **Appendices 1 and 2** respectively. This paper sets out for members' reference the origin and developments of the subject of empowering the Committee to monitor Members' conduct.

¹ At its meeting held on 6 February 1996, the Committee on Members' Interests agreed to change its Chinese name from “議員利益委員會” to “議員個人利益監察委員會”, as recommended by a working group chaired by the then President of the Legislative Council.

Origin of the resolutions moved to amend the Standing Orders of the Legislative Council of Hong Kong

3. At its meeting held on 30 May 1994, the House Committee invited the Committee² to deliberate on Hon Emily LAU's proposal that a committee be set up to monitor the conduct of LegCo Members. The Committee then held 11 meetings to look into the issue, with particular emphasis on the extent to which the conduct of the LegCo Members should be monitored. In the course of its work, the Committee studied the practice adopted by other legislatures in monitoring the conduct of Members of Parliaments. The study covered a number of Commonwealth countries as well as the United States. The Committee concluded that some general and specific standards of conduct should be drawn up. After several months' of deliberation on the issue, a set of the Guidelines on the standards of conduct for Legislative Council Members was drawn up in February 1995. A report was made to the House Committee and a public consultation exercise on the draft guidelines was launched from 24 February to 24 March inviting both members of the public and LegCo Members to give their views. No submission was received from the public, but there was one written submission from one LegCo Member.

4. The Committee then further deliberated on the matter and subsequently submitted a report to the House Committee for consideration at its meeting on 16 June 1995. The report recommended that:

- (a) the draft Guidelines on the standards of conduct of Legislative Council Members drawn up by the Committee should be adopted;
- (b) the Committee should be empowered to carry out investigation into complaints about misconduct of the LegCo Members;
- (c) no investigation into a complaint of misconduct may be carried out unless approved by not less than four members of the Committee. The Committee would comprise a total of seven members;
- (d) no single political party or grouping would command a simple majority of the membership of the Committee;
- (e) the name of the Committee should be changed to "Committee on Members' Interests and Conduct"; and

² Membership of the Committee of the 1991-1995 term:

Hon Mrs Miriam LAU Kin-yee (Chairman)
Dr Hon LEONG Che-hung
Hon Michael HO Mun-ka
Dr Hon LAM Kui-chun
Hon Emily LAU Wai-hing
Hon Eric LI Ka-cheung
Hon Christine LOH Kung-wai

- (f) the sanctions that may be imposed by the Council on a substantiated complaint of misconduct should be the same as those set out in existing SO 65A

5. As the House Committee failed to arrive at a decision on the recommendations of the Committee's report at the meeting on 16 June 1995, the Committee deliberated the issue again and agreed unanimously that a resolution should be moved, under Hon Mrs Miriam LAU's name as its Chairman, to amend the SOs to empower the Committee to consider and investigate complaints about LegCo Members' misconduct. The Committee considered that Members should debate this very important issue fully in the Council and decide whether they wished to be regulated by any such rules as they were proposed by the Committee.

6. At the LegCo meeting held on 19 July 1995, Hon Miriam LAU moved a resolution to:

- (a) add new SO 60B(1)(da) to SOs to empower the Committee to consider and investigate complaints about LegCo Members' misconduct;
- (b) add new SO 60B(6A) to specify that the Committee shall have regard to advice given and guidelines issued by the Committee when determining whether a recommendation for sanction should be made; and
- (c) amend SO 60B(1)(e) and the heading of SO 65A and add new SO 65A(2) to lay down the sanctions that may be imposed for misconduct.

The relevant SOs with proposed amendments marked-up as underlined/crossed out texts are set out in **Appendix 3** for members' reference.

7. The resolution was defeated by a vote of 28 to 20. The reasons for opposing the resolution, as summarized by Hon Miriam LAU subsequently, were principally as follows:

- (a) the Council would consist of all elected Members and that apart from monitoring by the mass media, a Member's conduct will in any event be subject to the scrutiny of that Member's own constituents;
- (b) there was fear of abuse and concern that the investigation alone may damage the Member's public image; and
- (c) there was some cynicism about certain Members assuming roles as monitors.

8. After the start of the new LegCo term (1995-1997) term, the newly elected Committee³ reviewed the matter in December 1995 and decided to conduct another round of public consultation on the proposal to introduce measures to monitor the conduct of LegCo Members. During the one-month consultation period, again no submission was received from the public, the LegCo Members of the Democratic Party made a submission. Their submission re-affirmed its opposition to the introduction of any formal measures to monitor the conduct of LegCo Members.

9. At the meeting of the Committee held on 6 February 1996, the majority of members present took the view that they did not support the proposal to introduce a formal mechanism to monitor LegCo Members' conduct. However they favoured the issuance of a set of advisory guidelines. Because of the new composition of the LegCo, the Committee also agreed that the whole issue should be re-submitted to the Council for a full debate in the form of a resolution as in the previous session. The purpose of the debate was to enable Members' views and their stand on the issue to be fully recorded, so that whatever the outcome of the resolution might be, there would be a useful reference in the future on this very important issue.

10. At the LegCo meeting held on 3 April 1996, Hon Miriam LAU moved a resolution which had the same terms as the one she had moved on 19 July 1995. The resolution was negatived again by a vote of 36 to 11. The reasons expressed by Members at the Council meeting for opposing the resolutions were:

- (a) it was difficult to define what "proper conduct" meant;
- (b) the proposed mechanism might be abused;
- (c) LegCo Members' conduct was already under public scrutiny and they would be subject to public censure if they misconducted themselves; and
- (d) the existing arrangement whereby the Council could by resolution appoint a select committee to consider complaints about LegCo Members' misconduct under SO 61⁴ was adequate.

³ Membership of the Committee of the 1995-97 term:

Hon Mrs Miriam LAU Kin-yee (Chairman)
Hon Michael HO Mun-ka
Hon Emily LAU Wai-hing
Hon Bruce LIU Sing-lee
Hon NGAN Kam-chuen
Hon Mrs Elizabeth WONG CHIEN Chi-lien
Hon Lawrence YUM Sin-ling

⁴ a) The wording of Standing Order 61 is essentially the same as Rule 78 of the current Rules of Procedure.

Advice sought

11. Members are invited to note the information set out in this paper.

Legislative Council Secretariat

24 November 2004

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- b) Under Article 79(7) of the Basic Law, a Member who is censured for misbehaviour or breach of oath by a vote of two-thirds of the Members present, the President of the Legislative Council shall declare that the Member is no longer qualified for the office.
 - c) The procedure for the sanction under Article 79 of the Basic Law is provided in Rules 49B and 73A of the Rules of Procedure. Where a Member considers that a fellow Member has breached the Oath, subject to the giving of a notice of a motion signed by him and three other Members, he may move a motion under Rule 49B. The matter will then be referred to an investigation committee unless the Council otherwise orders. The constitution and procedure of an investigation committee is provided in Rule 73A. An investigation committee is responsible for establishing the facts stated in the motion, and giving its views on whether the facts as established constitute grounds for the censure. The investigation committee is required to report to the Legislative Council. Under Rule 49(B)(3), the passage of such a motion requires a two-thirds majority vote of the Members present. Under Rule 49(B)(4), where the Legislative Council has decided to censure a Member, the President shall declare forthwith that the Member is no longer qualified for his office.

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 19 July 1995

The Council met at Nine o'clock

PRESENT

THE PRESIDENT

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

THE CHIEF SECRETARY

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

THE FINANCIAL SECRETARY

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

THE ATTORNEY GENERAL

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

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

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

THE HONOURABLE HUI YIN-FAT, O.B.E., J.P.

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

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

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

THE HONOURABLE PANG CHUN-HOI, M.B.E.

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

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

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

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

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

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

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

THE HONOURABLE LAU WAH-SUM, O.B.E., J.P.

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

THE HONOURABLE JAMES DAVID McGREGOR, O.B.E., I.S.O., J.P.

THE HONOURABLE MRS ELSIE TU, C.B.E.

THE HONOURABLE PETER WONG HONG-YUEN, O.B.E., J.P.

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE VINCENT CHENG HOI-CHUEN, O.B.E., J.P.

THE HONOURABLE MOSES CHENG MO-CHI

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

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

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

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

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

DR THE HONOURABLE LAM KUI-CHUN

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

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

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

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

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

THE HONOURABLE TIK CHI-YUEN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

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

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

THE HONOURABLE ANNA WU HUNG-YUK

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

THE HONOURABLE ALFRED TSO SHIU-WAI

THE HONOURABLE LEE CHEUK-YAN

ABSENT

THE HONOURABLE JAMES TO KUN-SUN

IN ATTENDANCE

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

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

MR RONALD JAMES BLAKE, J.P.
SECRETARY FOR WORKS

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

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

MR GORDON SIU KWING-CHUE, J.P.
SECRETARY FOR ECONOMIC SERVICES

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

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

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

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

MRS REGINA IP LAU SUK-YEE, J.P.
SECRETARY FOR TRADE AND INDUSTRY

MR KENNETH JOSEPH WOODHOUSE, J.P.
SECRETARY FOR SECURITY

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

THE DEPUTY SECRETARY GENERAL
MR LAW KAM-SANG

PRIVATE MEMBER'S MOTIONS**HONG KONG ROYAL INSTRUCTIONS 1917 TO 1993**

MRS MIRIAM LAU moved the following motion:

“That the Standing Orders of the Legislative Council of Hong Kong be amended -

- (1) in the enactment paragraph by repealing “1917 TO 1992 and substituting “1917 TO 1993 (NOS. 1 AND 2)”;
- (2) in Standing Order No. 60B -
 - (a) in the heading by adding **“and Conduct”** after **“Committee on Members’ Interests”**;
 - (b) in paragraph (1) by adding “and Conduct” after “Committee on Members’ Interests”;
 - (c) in paragraph (1) by adding -
 - “(da) to consider and, with the consent of not less than four of the members of the Committee, to investigate any complaint concerning a Members’ conduct in matters of ethics in his capacity as such.”;
 - (d) in paragraph (1)(e) by adding “and Conduct” after “Interests”;
 - (e) in paragraph (5) by repealing “All matters” and substituting “Subject to paragraph (1)(da), all matters”;
 - (f) by adding -

“(6A) The committee shall have regard to advice given and guidelines issued under paragraph (1)(d) when determining whether a recommendation for sanction under Standing Order No. 65A(2) (Sanctions relating to Interests and Conduct) should be made in respect of a Member who is the subject of a complaint concerning his conduct in matters of ethics in his capacity as such.”;

- (3) in Standing Order No. 64A(4)(g) by adding “which arise out of or are related in any manner to his membership of the Council,” after “his spouse”;
- (4) in Standing Order No. 65A -
 - (a) in the heading by adding “and **Conduct**” after “**Interests**”;
 - (b) by renumbering it as Standing Order No. 65A(1);
 - (c) by adding -

“(2) A Member may be admonished, reprimanded or suspended by the Council upon a motion moved by the chairman of the Committee on Members’ Interests and Conduct in accordance with a recommendation of the committee made under Standing Order No. 60B(1)(e) (Committee on Members’ Interests and Conduct).”.

MRS MIRIAM LAU: Mr President, I move the motion standing in my name on the Order Paper.

Before I elaborate on the proposed amendments to the Standing Orders relating to the Committee on Members’ Interests (hereunder called CMI), may I as the Chairman of the CMI explain the background to this resolution.

In May last year, the House Committee invited the CMI to deliberate on a proposal that a committee be set up to monitor the conduct of the Legislative Council Members. Since then, the CMI has held 11 meetings to look into the issue, with particular emphasis being given to the extent to which the conduct of the Legislative Council Members should be monitored. In the course of its work, the CMI has studied the practice adopted by other legislatures in monitoring the conduct of Members of Parliaments. The study covered a number of Commonwealth countries as well as the United States. The CMI concluded that some general and specific standards of conduct should be drawn up. These standards would serve to remind the Legislative Council Members of conduct which is generally expected of a member of a legislature bearing in mind the need to maintain the public interest vested in them. After several months’ deliberation on the issue, a set of draft Guidelines on the standards of

conduct for Legislative Council Members was drawn up in February this year. A report was made to the House Committee and a public consultation exercise on the draft guidelines was launched from 24 February to 24 March inviting both members of the public and Members of this Council to give their views. No submission was received from the public, but there was one written submission received from a Legislative Council Member, namely, the Honourable Ronald ARCULLI. Mr ARCULLI not only cared to put in his views to the Committee but he also took the time and trouble to appear before the Committee to make representations and to discuss the issue with the Committee for which I render my personal thanks as well as thanks on behalf of the Committee.

The CMI then further deliberated on the matter and subsequently submitted a report to the House Committee for consideration at its meeting on 16 June. The report recommended that:

- (a) the draft Guidelines on the standards of conduct of Legislative Council Members drawn up by the CMI should be adopted;
- (b) the CMI should be empowered to carry out investigation into complaints about misconduct of the Legislative Council Members;
- (c) no investigation into a complaint of misconduct may be carried out unless approved by not less than four members of the CMI. The CMI comprises a total of seven members;
- (d) no single political party or grouping would command a simple majority of the membership of the CMI;
- (e) the name of the CMI should be changed to "Committee on Members' Interests and Conduct" and the Chinese name would be "議員利益及操守委員會"; and
- (f) the sanctions that may be imposed by the Council on a substantiated complaint of misconduct should be the same as those set out in existing Standing Order 65A.

At that meeting, that is, the meeting on 16 June, Members of the House Committee suddenly expressed strong reservations on the recommendations set out in the report. Some Members felt that Legislative Council Members' conduct was already under public scrutiny and any misconduct by a Legislative Council Member would be subject to public censure, thus in their view there was no need to introduce any formal system to monitor the conduct of Legislative Council Members. Some raised queries on the wording of the draft Guidelines. A few expressed the view that they were not given adequate time to consider the recommendations of the report in depth. This came as a total surprise to me as well as Members of the CMI. The CMI has embarked on this exercise for over a year. Throughout this period, the CMI has adopted the principles of transparency and open-mindedness affording all possible opportunity for expression of views on the issue. At the House Committee meeting in February this year, I specifically appealed to Legislative Council Members to give their views on the draft Guidelines during the public consultation period which I mentioned earlier. Unfortunately, none except one cared to respond.

Members may wish to be aware that under its terms of reference set out in Standing Order 60(B)(1), the CMI can at present only consider matters of ethics in relation to the conduct of Members in their capacity as such, and to give advice and issue guidelines on such matters. It has no power to carry out any investigation into a complaint about a Member's misconduct, unlike the legislatures in most other countries where there is a formal mechanism to consider and investigate complaints about misconduct by Members. Under the present set-up of the Legislative Council, there is no mechanism to deal with allegations of misconduct by Legislative Council Members in an expeditious manner. Any formal investigation of a complaint about a Member's misconduct can only be conducted by a select committee appointed by resolution of the Council. This process, as Members of this Council well know, is cumbersome and time-consuming. The majority of Members of CMI are therefore of the view that the introduction of some formal measures to monitor the conduct of the Legislative Council Members would be a step in the right direction and would enhance the integrity of the Legislative Council.

At the House Committee meeting on 16 June, some Members have expressed concern that the CMI might operate like a secret police if it took up the role of monitoring the conduct of Legislative Council Members. Similar concern was actually raised by Dr LAM Kui-chun, a Member of the CMI during the course of the CMI's deliberations. Such concern was specifically taken on board by the CMI and it was exactly for this reason that the CMI decided that it would not carry out investigations on its own initiative but would only act in response to complaints. The CMI is also conscious of the need to guard against the danger of being overwhelmed with spurious complaints, thus it will not investigate complaints which are considered trivial, frivolous or vexatious. Furthermore, no investigation into a complaint about a Legislative Council Member's misconduct may be carried out by the CMI unless approved

by not less than four of its Members, that is the majority of Members of the CMI.

Mr President, as the House Committee failed to arrive at a decision on the recommendations of the CMI's report at the meeting on 16 June, the CMI has deliberated the issue again and agreed unanimously that a resolution should be moved, under my name in my capacity as its Chairman, to amend the Standing Orders to empower the CMI to consider and investigate complaints about Legislative Council Members' misconduct. Members will then be able to debate this very important issue fully in this Council and to decide on whether they wish to be regulated by any such rules as are now proposed by the CMI or at all.

I now turn to the proposed amendments to the Standing Order as set out in the resolution.

The amendments to the heading of Standing Order 60B and Standing Order 60B(1) will change the name of the CMI following the conferment of additional powers and responsibilities on this Committee.

New Standing Order 60B(1)(da) will empower the CMI to consider and investigate complaints about Legislative Council Members' misconduct. I have already explained the rationale for this new provision earlier in my speech.

The amendment to Standing Order 60B(5) is a consequential amendment as a result of the proposed addition of new Standing Order 60B (1)(da).

New Standing Order 60B(6A) will specify that the CMI shall have regard to advice given and guidelines issued by the CMI when determining whether a recommendation for sanction should be made.

The amendment to Standing Order 64A(4)(g) will make it clear that the requirement to register interests received from overseas organizations or persons only applies to interests received by a Legislative Council Member or his spouse arising out of the Legislative Council Member's membership of the Council, that is, actually in response to the request or query made by the Honourable ARCULLI.

The amendment to Standing Order 60B(1)(e), the heading of Standing Order 65A and new Standing Order 65A(2) will lay down the sanctions that may be imposed for misconduct.

Mr President, I beg to move.

Question on the motion proposed.

8.00 pm

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

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

Question proposed, put and agreed to.

MISS EMILY LAU (in Cantonese): Mr President, I rise to speak in support of the Honourable Mrs Miriam LAU's motion.

On 30 May last year, I put forward to the House Committee, and requested for the deliberation of this Council on, a proposal for the setting up of a committee to monitor the conduct of Members. I have also suggested that the functions of the Committee on Members' Interests (CMI), of which I am a member, be expanded to include this area of responsibility.

Mr President, you would perhaps recall that the incident was caused by the concern and criticism from the public on the way some Legislative Council Members used their allowances last year. Some of the public opined that the Legislative Council should consider setting up a committee to monitor the conduct and behaviour of Members.

According to Standing Order No. 60B(1)(d), the CMI is empowered to consider matters in relation to the ethics of Members but only in their capacity as Members exercising their duties. The Committee may also give advice and issue guidelines on matters concerning the ethics and conduct of Members. However, it has no power to carry out any investigation into such a complaint. Any investigation of a complaint about a Member's misconduct by this Council can only be conducted through inquiries by a select committee appointed by resolution of the Council. We can thus see that at present there is no standing mechanism in the Legislative Council to deal with complaints about Member's misconduct in a systematic, expeditious and effective manner. Just now, the Honourable Mrs Miriam LAU has clearly mentioned that such mechanisms have been established in parliamentary assemblies in other democratic and civilized states. Why is Hong Kong such an exception then?

Mr President, you may also remember the apart from the incident about how Legislative Council Members made use of their allowances, there was also another incident last year in which a Member made public remarks that were insulting to women. Such behaviour and statements have aroused much public uproar, but there was nothing that the Legislative Council could do. At that time, many people criticized the Council for taking no action at all in the wake of such incidents. Of course, some Members will say that this Council should in fact do nothing. I think when some other Members rise to speak later on, they will keep on telling us that the Legislative Council should not do anything because the Members would be censored by public opinion and ultimately, by their constituents (if they are elected Members).

As the Honourable Mrs Miriam LAU has said, some Members worried that a committee vested with the power to monitor the conduct of Members might become a secret police, while other Members said that such a committee might become a vehicle for instituting political persecutions. The present proposal put forward by the CMI is not about the tracking down of or investigation into those Members who have been the subject of complaints. The CMI should therefore in no way be regarded as a secret police. I dare not guarantee, however, what will happen after 1997. Mr President, with regard to political persecutions, something may occur in Hong Kong very soon, when elected Members will soon be expelled from this Council and some people may even be deprived of their eligibility to participate in elections. If someone really want to impose political persecutions on people and to spare no one, I do not think they need to make use of this trivial committee. Those people are endowed with infinite power and we should not associate this matter with the committee.

Mr President, as provided by Standing Order 65A, any Member who fails to comply with Standing Orders No. 64A or 65(1), (1A) or (1B) on declaration in interests may be admonished, reprimanded or have his Membership suspended by this Council on a motion moved by other Members to that effect. If someone want to victimize Members of this Council through political persecutions, they can actually do so now by invoking the above provision in the Standing Orders. For these Members who are concerned that such a problem might occur, why have they not taken any action to repeal this provision over the years? I really find it strange and I hope some Members would provide us with an explanation later on. Since this provision has always been in the Standing Orders, if some Members object to it, why have they not proposed any amendment for the past four years?

Mr President, the Honourable Mrs Miriam LAU has just now said that in order to avoid having the CMI, which is formed by seven Members, controlled by any single political party, the CMI has recommended in the draft guidelines that no single political party should have more than three Members serving in the committee. However, since at present there is no law on political parties in Hong Kong, the term "political party" does not have a legal definition and thus cannot be effectively regulated in the Standing Orders of the Legislative Council. However the CMI hoped that our recommendation will be accepted by Members so that such practice can become a tradition in the Legislative Council and the future CMI will not be controlled by a single political party. The CMI also suggests that the Standing Orders be amended to provide that any investigation into a complaint about a Member's misconduct may only be conducted with the consent of not less than four of its members.

Finally, Mr President, I fully concur with the grievances aired by the CMI's chairman, the Honourable Mrs Miriam LAU, in serving the committee. Much has been done by the CMI, but only the Honourable Ronald ARCULLI has cared to "respond and support". Actually, we all know that Members are very busy. But we still hope Members can respect the spirit of a parliamentary system. While it is common to have different opinions in the Council, I do hope that these opinions can be discussed or even debated in the meetings of our committees. But to my regret, no one has paid us any attention during the four-week consultation period and people just turned a blind eye to the CMI. Not until we finally put forward our conclusions did they raise strong oppositions. Can we truly exalt the spirit of discussing and debating public affairs in this Council in this way? Have the Members practised what they preached? We sometimes said that people ignore us. But if we do not respect even ourselves and the rules of the Legislative Council, how can we expect others to respect us?

Mr President, I have no idea how Members are going to vote shortly after. But I personally support the setting up of such a committee. I also feel that the community that expectations on this Council and wants to see a certain mechanism in place. Such a mechanism would neither serve as a means for instituting political persecutions against Members, nor a secret police which probes into their affairs; but rather, this mechanism would allow people, or for that matter Members, to lodge their complaints, if any, about a Member's misconduct. If Members negated the motion put forward by the Honourable Mrs Miriam LAU today, they would be telling other people not to make any complaint because there will be no mechanism even if they have done so. As I said at the outset, someone suggested that a select committee may be appointed by resolution of the Council after debates are held, just as in the case of the dismissal of Alex TSUI. But do we want things to go to such extent? I would therefore wish to urge Members to think about it. If we support the motion, we would be sending a message to the public that the Legislative Council is not above the law. Members do have rules to observe and there is a mechanism through which complaints can be lodged by the public and various quarters. Moreover, the process of handling complaints is very fair and open. Hence, I hope Members can thoroughly consider it again and support the motion.

MR MICHAEL HO (in Cantonese): Mr President, the Democratic Party will oppose the motion. I am also a member of the CMI.

There are in fact two parts to the motion this evening. The first part is a technical amendment which we support. However, since it will later on be voted upon as an integral part of the motion, we have to reluctantly reject it, pending a decision next week when we deal with amendments to Standing Orders.

The second part of the motion is concerned with an amendment to Standing Order 60B, that is, renaming the Committee on Members' Interests as Committee on Members' Interests and Conduct. We do not subscribe to this principle. In fact, the Honourable Miss Emily LAU has already stated our reasons. With all Members of the Legislative Council returned by democratic election in September this year, we believe that this Council will then be subject to censorship by voters, the mass media and the Hong Kong public. Just now, Miss LAU mentioned that the conduct of individual Members could indeed have gone overboard. Should someone's conduct be such and if he is elected as a Member of this Council, it would serve to indicate that there are problems with our election system. In a democratic system, should someone's conduct go excessively overboard, his voters could decide, by their vote, whether they should re-elect this particular person. Some has also asked: Why do we not amend the existing Standing Orders? The answer is that we do not seek amendments to or election of part of the existing Standing Orders does not necessarily mean we have to set up such a committee. Therefore, we do not subscribe to this principle. Nor do we agree that some Members should monitor other Members or conduct inquiries into their conduct.

The Democratic Party very much appreciates the considerable time that members of the CMI have spent in studying the issue. I can fully empathize the discontent and frustration felt by CMI members' for our present opposition to the proposal when we should have instantly expressed our opinions several months ago during the consultation period when this Council was approached for its views. The Democratic Party would like to apologize for not properly voicing our opinions in time during the consultation period, thus laying to waste all the time and effort that have been spent after the consultation. But in any case, since we do not subscribe to this principle, we will vote against the motion later on.

DR LEONG CHE-HUNG: Mr President, perhaps I have to declare my interest also as a member of the CMI. Mr President, whilst nobody, let alone Members of this and future Council should object to the fact that Members must behave in a mode befit of them, I still rise to speak against empowering the CMI with the investigatory role in complaints concerning Members' conduct in matter of ethics.

Mr President, in a few months' time this Council will consist of all elected Members. Each Member is thus accountable to his or her constituents and his or her actions, right or wrong, will be scrutinized by the people of Hong Kong. It is therefore right that it should be his or her voters who should apply the sanction and not Members of this Council whom he or she is not accountable to. Furthermore, even if sanctions should fail by his voters at that point in time, the people of Hong Kong can still cast a negative vote on that Member at the next election, producing thus a permanent censure. This, Mr President, is what democracy is all about.

Mr President, in these days of complete open legislature, any proposed investigations, no matter what the outcome may be, will tarnish the image of that particular Member who may face the unfair sentence of guilty although proven otherwise, even before a proper trial. In doing so, I am not implying that the Legislative Council is above all or above any laws, as implied by the Honourable Emily LAU, for there is still a machinery existing to censure Members both by this Council and by the public.

DR LAM KUI-CHUN: Mr President, I am also a member of the Committee on Members' Interests (CMI). I wish it to be noted that this motion is not an unanimous recommendation from the Committee.

Mr President, in a powerful body like the Legislative Council, I agree it is important that its Members' behaviour should be entirely in the interests of the community at large over and above their own individual interests. Where conflict of interest arises, the legislature should know about it and, where appropriate, the person concerned should abstain from exercising his power on the particular issue. Measurement of conflicts of interest is generally easy and straightforward. In the history of this Legislative Council known to me, this system has been working well.

Where I believe the CMI in this present Session has overstepped its boundaries is the monitoring of Members' conduct. A year's work follows the proposal by one of the Members of the Committee "that a committee be set up to monitor the conduct of Legislative Council members". The Committee eventually came to the conclusion "that the monitoring of the Legco Members' conduct should be undertaken by an in-house body." (Legco Paper Number CB532/94 to 95.)

Mr President, I have tremendous difficulty in accepting the attitude that some Members of this Council should view themselves so superior to the others that they assert for themselves the role of monitoring others' conduct. This "holier than thou" attitude is arrogance beyond civil acceptability. I would believe that all Members of this Council are equal. None more so than others. All Members should treat all other Members with respect. To monitor another's conduct with a view to bring on accusation and disciplinary action smacks of megalomania.

At his induction into this Council, each Member takes an oath to "conscientiously and truly serve the people of Hong Kong". For his action, he is responsible to his own constituents, not to a higher tier of Council Members. His constituents, through the mass media, monitor his conduct. His misbehaviour, if any, is sanctioned by the people of Hong Kong. To a responsible legislator, this is the gravest sanction of all.

I disagree with the proposal that this Council should run a monitoring system that may, no matter how remotely, be reminiscent of a secret police. I am a Member of the Committee on Members' Interests. I do not approve of the final conclusion leading to this motion. I have previously raised my objections to the Committee. Mr President, the wording of this motion seems innocuous. The thinking behind it is misguided. I oppose the motion.

MR LEE WING-TAT (in Cantonese): Mr President, the first thing that struck me as odd was that all five Members who spoke moments ago are members of the Committee. I am not a member of the Committee and so I am in a better position to avoid confusing my colleagues as to how they should cast their vote having regard to the widely different views expressed by the five committee members. Even within a political party views of individual members may differ. Mrs Miriam LAU and Dr LAM Kui-chun hold different views although they both belong to the Liberal Party.

Firstly, I am speaking against the present proposal. I hope Members will understand that there are already stringent provisions under Standing Orders to regulate, *inter alia*, declaration of interests. I believe that in Hong Kong, apart from the Executive Council, we, Legislative Councillors, declare our interests in the most comprehensive as well as specific manner. We are required under Standing Orders to declare, failing which we shall be subject to sanctions. There are objective standards with regard to declaration of interests involving pecuniary or other commercial dealings, for example, as to whether a Member has declared or whether the declaration is comprehensive. I believe the major problem about the proposal to set up a committee is that it will bear on personal integrity and conduct, which is a controversial problem indeed.

I would like to respond to Miss Emily LAU's argument to the effect that there are similar committees in many western countries while Hong Kong has none. There is nothing strange about this. Miss LAU should be aware that: first, Hong Kong's legislature is not wholly constituted by popular elections and so we do not have certain system which other countries have. In many countries with a western constitutional model of government, parliamentary committees monitoring the operation of government are chaired by members of the opposition party. But Hong Kong is different because not all the seats on the legislative body are returned by popular election. This is possible because our political culture has not fully matured.

Secondly, many of Hong Kong's Legislative Councillors are not members of political parties. This, however, is not the case with other countries where political parties themselves are the foremost checkpoint to monitor the conduct and integrity of their members who sit on the legislature. Hong Kong has no such checkpoint. There are many independent Members in Hong Kong's legislature. Who are to monitor them? Perhaps the electorate monitors them through observation of the proceedings of the Legislative Council. Before we have a first checkpoint, do we really need to jump to the next step?

Thirdly, the political culture of Hong Kong is, relatively speaking, in its incipient stage of development. As to how Legislative Councillors or party functionaries should go about monitoring their peers or their colleagues — including Legislative Councillors and party colleagues — and how political parties are to monitor their own members, the political culture in this regard has yet to develop and mature. I can even say that the public is unsure of how to exercise this right. Therefore, this is the simple answer to Miss LAU's question as to why most western countries have similar committees while we have none: It is because we do not have a legislature wholly constituted by popular elections. It might have been better if the present motion had been moved and carried last year.

I would like to turn to the second area of the subject. A moment ago a Member said that the present circumstances did not imply that in Hong Kong a Legislative Councillor could do whatever he liked in utter disregard of law and discipline. Through appropriate general monitoring as well as monitoring by the news media, the public has acquired a clear understanding of much of our work, particularly in regard to the conduct of public affairs. In this respect, the Legislative Council has made vast improvements. Our meetings are open and we have to be accountable for numerous matters. Legislative Councillors cannot evade such monitoring and accountability. They cannot behave or work in an unreasonable manner or contrary to social or moral norms or accepted codes of conduct. And therefore certain rules now exist to regulate the conduct of Legislative Councillors. The absence of such committee does not mean that Hong Kong's Legislative Councillors can act in a lawless way.

I am particularly worried about the present proposed amendment to the effect that after receipt of a complaint investigations can get under way if four members of the committee agree. Although Miss Emily LAU said she hoped that different political parties would participate in the committee in the future, yet it would be difficult to ensure that this would be the case. Would participation by different political parties mean that the work performed by the committee each time would necessarily be in the public interest? Let us not forget that the absence of the power of investigation exercisable by the committee would not necessarily mean that those Legislative Councillors whose conduct is grossly questionable would not be subject to appropriate sanctions. Standing Orders provide that the Legislative Council may, by resolution, set up an ad hoc committee to investigate a complaint. To some, this procedure may

seem drawn out and complicated. However, as the person under investigation is a Legislative Councillor, I agree with Dr LEONG Che-hung's comment that before the investigation findings are known the very fact of being investigated already hurts immensely. Therefore, the procedures and rules relating to the investigation must be stringent. Not only will this protect us, Legislative Councillors, it will also protect the overall dignity of the Legislative Council.

A moment ago Miss Emily LAU said that we had numerous problems these few years and she cited two examples. The first example involved the use of Members' allowances. Last year the Treasury and the Secretary for the Treasury introduced a number of amendments to address some of the grey areas with regard to the use of Members' allowances. We were urged to consult the Treasury in case of doubt as to the use of Members' allowances so that our way of using the allowances would meet the requirements of the law and taxpayers, that is to say, the allowances should be used on Members.

Miss LAU drew our attention to the matter of a Member making insulting remarks on women. Miss LAU rarely bothered to speak in guarded terms as she did on this occasion. She was referring to Mr CHIM Pui-chung. Mr CHIM may later speak in response to this. But I think that the question does not lie in what a Member says or what remarks he makes. We have a number of functional constituencies in our political system. If his functional constituents like what he says, he will be re-elected. But in a popular election, I am sure Mr CHIM will lose. As popular elections are not involved, it would not be right for Miss LAU to lump the two questions together. Therefore, Miss LAU should continue to insist on 60 directly elected seats, in which event many questions would disappear.

With regard to the recommendations in this report, I myself am worried about two points. The first point relates to the question of what constitutes personal interests and personal matters under the Members' code of conduct. During the last meeting of the House Committee, Mr Edward HO also broached this point, that is to say, how to define personal interests and personal matters and what would constitute a breach. Because of the vagueness of the terms in which the recommendation is couched, it is difficult to understand it. The second point relates to Members' appearances in commercial advertisements. A number of Members, such as Mr Ronald ARCULLI and Mr MAN Sai-cheong, did so. It was because of one such advertisement that I bought a pair of jeans. However, we can be rather subjective when we are defining what sort of advertisements are unbecoming of a Legislative Council Member. It is because individual Members' views with regard to morals and conduct differ. Some may take a strict view while others may take a lenient view. If Mr Andrew WONG has a couple of beers with a brewer or seller, what should we do? He likes to drink. Many questions in a variety of forms will emerge. The public

may take a view and immediately lodge a complaint with the committee. And an investigation will be undertaken. I do think there is no need for this.

I would like to add one point in response to Miss Emily LAU's question of why some western countries have such a committee. According to the usual practice of political parties in these countries, the party will taken disciplinary action against a member when irregularities of conduct are uncovered. The member concerned will resign. For example, a Tory MP recently asked a question in Parliament on an entrepreneur's behalf without declaring interest. He eventually resigned under pressure from his own party and from the public. Therefore I feel that at the present stage it would not be appropriate to suggest having such a committee.

I only agree with Miss Emily LAU in regard to her observation that under Standing Order 60(B)(c) and (d) the Legislative Council should deal with such a complaint and investigate it but that we have failed to do so. I would suggest that in the next legislative year we should roll up our sleeves and take on this matter.

MR FREDERICK FUNG (in Cantonese): Mr President, I am against some of the recommendations by this Committee, apart from certain proposed technical amendments. But as they are placed before us a package to be dealt with, I shall have to vote against it.

First of all, I feel that some points are open to question. Miss Emily LAU stated a moment ago that Standing Orders also require Members to declare their interests, failing which a resolution can be passed to subject the defaulting Members to sanctions. But it is obvious that the declarable interests consist of: (1) interests manifestly connected with the direct interests of the Members; (2) interests that can be counted; (3) interests that can be readily and specifically enumerated. Such declared interests can be easily dealt with and investigated.

As regards investigation of a Member's conduct, I have a few worries. Firstly, it would be difficult to define what constitutes improper conduct. A person's general conduct or moral conduct consists of a number of tiers. Society may not have a confirmed and objective definition of personal and moral conduct. For instance, pre-marital sex was not acceptable but current survey findings indicate that more and more young people are beginning to accept this concept. People used to smoke wherever they liked. But now many places are non-smoking areas. When past moral concepts permitted smoking wherever one liked, I had the habit of smoking. Now suddenly with so many no smoking areas am I to quit smoking? This is a standard not readily susceptible to definition. Secondly, different religions have different standards. Moral standards vary between Christians, Catholics, Taoists, Muslims and people with no religion. Even in the light of the two major factors aforesaid, personal

definitions of these standards vary. When two Christians are faced with the same problem, their standards of moral conduct may vary in terms of strictness or severity. In the face of so many imponderables, I feel that it would be difficult to vet the moral conduct of a Member.

Besides, if a Member does wrong or breaches the law, there are laws in Hong Kong that can be invoked and enforced against him. For example, if a person is found smoking in a place where smoking is not permitted, the anti-smoking law can be invoked against him. Another example would be the way we dress. We come to Council meetings on Wednesdays in suits and ties. Nowadays some Members are saying they will not be wearing ties. Would the failure to wear suits and ties when a Member attends Council meetings constitute a question of conduct? If I appear in a rather trendy outfit, would I be permitted to attend meetings? All these can constitute possible grounds for complaint against a Member. However, would such grounds be sufficient to justify meting out punishment against the Member concerned? I think that this is a matter open to question.

The second aspect concerns the question of implementation. If a cause for complaint arises, a complaint is lodged and four Members agree, how then are we to get on with the investigation? Would the getting on with the investigation constitute a problem already? If no investigation is undertaken, how can it be proved that the Member concerned did wrong? If an investigation is launched, how are we to go about it? Are we to undertake the investigation ourselves or to engage a team of full-time private detectives to do it for us? Moreover, this would involve the question of whether the process should be open. Miss Emily LAU said a moment ago that the process should be open, I believe we cannot get away with it now that there are more directly elected Members on this Council and society is becoming more and more open. Whether the system would prescribe an open process or a non-open process, I believe the investigation findings would be published anyway. To the person under investigation, the whole process would hurt and, after all, he might be innocent.

Thirdly, the consequences. If this Committee, after it is set up, investigates or holds an inquiry on a Member, it will damage the prestige of the Member — at least for as long as the inquiry lasts — no matter whether the process is open or not. There may emerge a scenario where today one Member is doing this to another and tomorrow that other Members may be doing the same to yet another Member. Today, a Member from a political party is being investigated. Tomorrow, this political party will be doing the same to yet another party. A state of affairs will emerge where parties will be persistently accusing one another and exposing the failings of one another. The side effects of negative effects will only worsen, never mitigated.

Therefore, I feel that since the 1995 Legislative Council will be constituted by elections, the moral conduct of Members will be subject to monitoring by the electorate and the media. I think Miss Emily LAU and Mr Michael HO need not worry about imperfections in the election system. The elections are not to blame if the election system changes the moral judgment of Members and the citizens. When the voters in a constituency find the conduct of a Member proper and acceptable, they can re-elect him. If, notwithstanding purported improper conduct, a Member is re-elected, this may be because his other merits outweigh his shortcomings. No one's conduct is one hundred per cent perfect. If the public, the media and the electorate know of certain conduct on the part of a Member, let them pronounce their judgement in the once-every-four-year elections as to whether they accept such conduct. I feel that this would be a better way.

Finally, a point I would like to reiterate is that this will have more negative effects than positive ones. It is particularly so in relation to conduct the propriety of which is not readily susceptible to definition. Miss LAU said that there would be no guarantee after 1997. If there are so many things to worry about, might it not be better to dispense with it altogether? Therefore, I am against this motion. I feel that Miss LAU is not too much in favour of it either because she dared not offer a guarantee.

MR ERIC LI (in Cantonese): Mr President, I am also one of the members of the Committee on Members Interests (CMI) but I only realize today I have never heard of the views given by three Members during the numerous meetings we have held. I am a bit surprised indeed. I understand that it is not easy for a legislature as unique as ours to accept the proposal put forward by the CMI. This is because the membership of this legislature is relatively small with less than 60 Members while there exists distinct political differences. In addition, if Members do not trust each other, it will not be easy for a Member to accept the notion of empowering others to govern himself or herself. I believe we are still quite far from treating ourselves of having a civilized and democratic legislature as referred to by the Honourable Mrs Miriam LAU.

Many Members are of the opinion that the Committee will produce a lot of negative effects. However, if seen from a positive angle and an angle of more confidence, we should see that there are a lot of positive effects indeed. Firstly, I entirely agree with the views of the Honourable Miss Emily LAU. The reason for our spending so much time and making so many efforts is only to respond to the mass media which have expressed disappointment or helplessness with our legislature. Because of the conduct of some Members (I do not wish to elaborate as some Members have cited numerous examples moments ago), a lot of critics from the media held that what this legislature could do was only to choose or not to choose. It would take a few years even if re-election was warranted and, in the interim, it was impossible to effectively monitor or respond to or even punish a Member, such as by issuing warnings. This legislature was entirely lack of a self-discipline or self-monitoring

mechanism. I believe the general critics at that time was that the options available were too limited when some relatively trivial or unimportant mistakes were made. I also believe what the media wanted at that time was we could take advantage of the development of incidents and make some responses. Obviously, they hoped the legislature could show collective conscience and responsibility.

Some of my colleagues said those belong to a political party would have to abide by the mechanism of his or her political party. However, there are still a lot of Members who do not belong to any political party. When something happens to them, nobody will give a helping hand. This is particularly the case as the public opinions usually have no conclusion or there is no chance for getting hold of the true picture of all the things involved. I agree with what the Honourable Frederick FUNG said regarding the expression of opinions or launching of investigations by the CMI. I hope that Members will not misunderstand that the CMI is trying to fight for power or seeing itself as superior to others. What we considered and debated at that time was open, obviously for the purpose of helping all the incumbent Members to tell the truth in a sober and objective environment. It was also hoped that Members could co-operate during the investigation so that all Members could understand and grasp all facts before presenting a report to the full Council for a decision. If a judgement can be made on the facts, there will at least be a general comment and verdict, no matter the Member in question or what he or she does is right or wrong or in between. The result is very important as far as Members are concerned. It is better than those general comments that have no argument and conclusion. Just as the examples I cited just now, it is still not yet known whether these are acceptable to the public or not. With the setting of examples, it can help our legislature to mature in future; furthermore, we can make judgements on the basis of these examples in future and even prevent other Members from doing the same thing or similar things.

It seems that it is not easy and quite hopeless to ask the legislature today to show collective conscience or responsibility. I would like to ask Mrs Miriam LAU not to be disappointed though a lot of efforts she made might have been wasted. But I hope our research and comments will serve as useful references when the Hong Kong Legislative Council develops into a legislature that is willing to be collectively accountable to the public one day. Thank you, Mr President.

MRS SELINA CHOW (in Cantonese): Mr President, I have a feeling that today's debate should have been held a year ago so that the invaluable time of the seven CMI members could have been saved; for in the interim, they have held numerous meetings, working hard for the rest of us to table a motion for debate. Their time could indeed have been saved for what we are discussing now is after all a matter of principle which many people seem to have found unacceptable. I take it that in any debate, "both sides would claim to be justified", and as the debate unfolds, there will definitely be a grain of truth in

both sides' arguments. However, this reflects to a very great extent the immaturity of this assembly as any mature assembly will have no fears for self-regulation. The American assembly has an "Ethics Committee", whereas its Canadian counterpart has a formal mechanism for self-regulation. This is because they protect the reputation, conduct and moral standard of the parliament as a whole very seriously and solemnly. I feel rather regrettable and heart-stricken that we lack in Hong Kong this standard of collective protection of the assembly's reputation as a whole, for there are certainly some fundamental ethical standards that each and every one of us would wish to protect, despite our diversity in political partyism, political backgrounds and political views.

Moreover, if we can elect some of our colleagues as chairmen of certain committees, or chairmen or leaders of certain special mechanisms, why can we not elect some colleagues to protect the overall reputation and ethics of this Council? That we are so fearful of giving power to some colleagues when what they would do is only helping us in our self-regulation and maintenance of ethical standards reflects distrust among ourselves, or the assertion that none of us is qualified for the job, or even the lack of confidence that someone could be qualified for the job. I think we should cast a reflection on this. As an assembly, day in and day out, we call for the setting up of various committees to knock down other people. But we dare not knock down ourselves once we become the target of suspicion. In fact, it is perhaps not a matter of only knocking down people, for indeed, there might be times when we would be arguing for the rehabilitation of innocent Members who have been treated unjustly.

As to the Honourable Miss Emily LAU's opinions, I have some disagreements. I do not think the CMI should discipline a male colleague who has made a rude remark about a female colleague for we all enjoy freedom of speech. Besides, this particular male colleague could have already been snubbed on his nose and drawn considerable flak upon himself. However, there must be a bottomline for certain conduct. While voters may not vote for the questionable Member next time, so the usual comment goes, there is a term for the Member's office. It is undesirable that if any problematic Member should have to hide himself or find all sorts of cover-up from the very start of his term. However, it could also be the case that a certain Member has been framed up, only to find no channel of redress to his avail. In fact be it a positive or negative revelation, what such a mechanism offers is an opportunity to present all the facts by way of the assembly which is trusted by the public and which observes certain ethics.

I personally support such a mechanism. But given the circumstances today, I believe that the motion may not necessarily be approved. Somehow it does not matter, for it is the maturing process of an assembly. I hope that one day — though I have no idea when this day will come — this Council could genuinely face itself squarely and shoulder the responsibility of self-regulation,

that it would have no fears or apprehension in giving power to colleagues, in facing the rest of the world and in making itself accountable.

Just now, a certain Member mentioned about secret police and the damage to a Member's reputation once such a case is disclosed. I feel that we should trust the judgement of Members, for reputation is very important to a person and Members would respect the other people's reputation. Nothing has shown that we would blatantly disregard other people's reputation in the transaction of Panel businesses. Members are held responsible, they have to be responsible to colleagues and to all the other people. If we were to exercise the power so conferred, we need to exercise it responsibly. Hence, I feel very regrettable that we could not have this mechanism in place. But I do respect your choice. However, I feel that honourable colleagues, especially those who have strongly opposed this motion throughout the debate, should follow the example of the Honourable Michael HO in apologizing to the Honourable Mrs Miriam LAU and members of the CMI for having wasted so much of their time and effort. All along, we have kept our silence, expressing no strong opinions and reserving our severe criticisms until after they have done so much work, and questioned at this moment the purpose behind this whole exercise, imputing ulterior motives upon them. I find this unfair to the CMI. I of course hope that this motion would gain majority support from the Members, but otherwise, Mrs LAU should not feel excessively heart-broke either.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, first of all, I want to express my strong objection to the setting up of the committee in question. If Dr the Honourable LAM Kui-chun is not going to stand in for the coming Legislative Council election, he will attend three more sittings only, but I think, the courage with which he boldly criticized some of his colleagues just now is indeed very admirable.

In fact, all of us are just fellow Members of the Legislative Council, however, some tend to regard themselves as "lady housekeepers" and want to meddle with everything. In order to show that they are superior, they show absolutely no respect for even Branch Secretaries of the Government. This attitude of theirs has very severely damaged the executive-led system in Hong Kong.

Mr President, first of all, let me defend what I said once again and let me make yet another apology in public. I did in fact remarked that "ten men out of ten are salacious", though, Mr President, I did not refer to you. However, why did I say so? As an ancient Chinese saying goes: Eating and sex are but the instincts of human beings. While it is considered proper for people in the past to say so, when again I expressed the message of the saying in the language of our time, everybody found it so unacceptable. Why? I did apologize for what I said many times before, and I also apologized to Miss M Y CHEUNG. However, she told me that she would not listen to me, saying instead that it was most appropriate for me to make an apology on television. Now that the

television camera should be focussing on me, I hereby make my formal apology in public. I hope that this would not affect my chance in the coming election because in my constituency, one must consider many factors, amongst them, ability and performance should have been the most important factors to be considered. Some people have said more discreteness is required in future. However, is not total silence even better? That way, they would not say anything wrong at all. The Honourable LEE Wing-tat remarked a moment ago that I would certainly lose if I stand in for the coming election. I think that is not necessarily the case. However, since I do not take part in the elections in geographical constituencies, I do not want to argue with him. That is the reason. I may not necessarily lose in the election, only that no one can tell because I am not going to take part there.

Mr President, the Honourable Mrs Selina CHOW said just now that the committee in question had been working for almost a year. Is not an ox even more hardworking? What is the use of labouring fruitlessly around when only results would count? I have no intention of opposing others. But, I must say that I can observe bias and pomposity inherent in the opinion expressed so far. Since people in the past had different criteria in regard to integrity, Elizabeth TAYLOR was still highly regarded in foreign countries despite her six marriages, but for a Chinese person, a record of six marriage would have made him the subject of much condemnation. Therefore, fundamentally there are differences, and in many cases, we have to conduct some self-review.

I myself believe that the main issue involved is whether Legislative Council Members are entitled to any privileges. MTR construction works are in progress everywhere in Central, and I want to tell you that so far I have been fined twice for traffic offences, each time having to pay \$450. I cannot do anything because Legislative Council Members are not entitled to any privileges over such things. The only special treatment is a quicker immigration clearance process at the airport. Apart from that, there are no other privileges. I can also tell you that despite my long service in the Legislative Council as a Member, the Securities and Futures Commission has been conducting investigations into the listed companies under my name all the time. So, do I have any privileges? Therefore, the only thing that should be done is that if Legislative Council Members want to be more elevated and more representative, they should draw up some mechanisms under which, for example, Members are required to behave properly in their private life. This is the only proper thing to do. What reasons can one advance to justify the supervision over other Members? Members who advocate this should first assess their own worth to see whether they are really capable of performing this task. Some of them may not even be capable of "controlling" their husbands, and yet they would want to control other people; or some others could not even manage their wives, but they want to manage others. I believe that this is merely wishful thinking which is absolutely infeasible.

Of course, I also appreciate that the committee has been working for quite a long time. However, their scope of study has been extremely over-specialized, and so, how can we make them regain their awareness? Then, even inside the committee, many people oppose the idea. I think we should respect these dissenting voices. Why did the two to three Members to whom we listened oppose the idea so strongly? Since their strong opposition is not a minority view formed overnight, I think we must give it our due respect. Hence, Mr President, if we are just talking about imposing more demands on Members, I would give my support. But, if there is no specific and defined scope, I would say that the whole thing is against the rules.

I recall that Governor Chris PATTEN's political reform package included a proposal on the setting up of a Government-LegCo Committee. I myself opposed the proposal very strongly at that time because it would reduce the powers of Members. I once said that if the Government really pressed ahead with the proposal regardless of opposition, I would institute appropriate legal actions. Of the nine proposals made by Governor Chris PATTEN, this is the only one that has failed to be put into practice. What we should uphold is a code and a kind of spirit that can serve a pre-emptive purpose. I do not think that it is appropriate at all to carry out investigations or take any other unnecessary actions after something has happened. With this standpoint in mind, I totally oppose the proposal contained in the Motion. However, I hope that people can understand the intention of my opposition. I oppose the proposal not because I want to be pompous and lax in the conduct of my affairs as a Member. Quite the contrary, I want Members to achieve a higher degree of self-discipline. To me, what matters most is that we must draw a clear line between our private and official capacities.

Just now, the Honourable Eric LI said that there were several examples. However, can he really give any good and appropriate examples? The Legislative Council Members of Hong Kong are not above the law, nor does their status exempt them from obeying the law. All of them must abide by the law. The only thing is that Members will not be held legally liable for the views and opinions they express at the sittings of this Council. Apart from that, in all other matters, Members do not enjoy any privileges which can enable them to break the law or commit an offence without being penalized. If they ever break the law or commit an offence, they would be subject to the control of the law as well. Hence, the whole matter under discussion today simply illustrates the pomposity of the Members concerned. Mr President, referring to the instances of some Members asking their Filipino domestic helpers to serve as their drivers, do you think such Members should be criticized? Some other Members have been openly advocating 60 directly elected seats in this Council. Actually, it is stipulated clearly in the Basic Law that the composition of the Legislative council returned by the election held in 1995 should be in accordance with the ratio: 30:20:10. Such an advocacy of 60 directly elected seats by a Member is in itself a violation of the spirit that the Basic Law should be supported. Therefore, I am sure that they will certainly have to "alight" after 1997, and

they will not be eligible for any elections. But, back to their advocacy, I can say with certainty that it is already a formal challenge to the law.

Mr President, perhaps I am a bit irritated today. But since some Members have misinterpreted what I said, I hope to take this opportunity to defend myself. Even though some people may not like my opinions, they still have to respect my right.

MR SZETO WAH (in Cantonese): Mr President, I want to clarify what is meant by “Eating and sex are but the instincts of human beings” so as to do justice to the saying.

The saying is a quotation from Confucious on the two major basic instincts of animals, and the message imparted is a very serious one. “Eating” refers to the consumption of food for the purpose of sustaining one’s physical life. One must consume food; otherwise, one will certainly be starved to death. On the other hand, one is bound to die, despite the food consumed, because for human beings, there is no such thing as eternal life. One’s life can be perpetuated only by one’s offsprings, and “sex”, as it is cited in this instance, refers to our reproductive capacity, something which is not as simple as being “salacious”.

The saying imparts a very serious message. It is my pleasure to do justice to its true meaning.

MRS MIRIAM LAU (in Cantonese): Mr President, it takes great courage for one to exercise self-discipline or to subject one’s conduct to a monitoring system, and it is by no means an easy task. The conduct of the Legislative Council Members has always been regarded as a sensitive issue by our colleagues, and they would try to evade the subject whenever the issue was being mentioned. I am well aware of this fact, and the Committee on Members’ Interests (the “CMI”) was therefore particularly cautious when deliberating on the issue. In addition to in-depth studies, the CMI has also adopted the principles of transparency and open-mindedness as far as possible, conducting consultation exercises and affording all possible opportunity for expression of views on the issue. We have invited Members to give their views, but no submission was received. It is our hope that the recommendations could accomodate colleagues’ views, and be recognized as well as supported by this Council after a comprehensive consultation exercise has been conducted.

Just now the Honourable Mrs Selina CHOW advised me not to feel so sad about the matter. After listening to the speeches delivered by the Members of this Council, I understand that the motion I am moving today will not be agreed to. Yes, I am sad, but not because of this understanding. What makes me feel so sad today is the attitude my colleagues have been adopting when handling this matter. The CMI has never volunteered to lay hands on this matter, it was the House Committee which invited us to deliberate on the issue.

Ten Honourable Members have spoken, and I would like to name three of them whom I am going to criticize. The three of them are members of the CMI, namely, the Honourable Michael HO, Dr the Honourable LEONG Che-hung and Dr the Honourable LAM Kui-chun. I will only have a few criticism against Dr LAM Kui-chun, because as I have pointed out in my first speech, he has already expressed his concern during the course of the CMI's deliberations. His concern was that the CMI might operate like a secret police. We have taken on board his concern and did try our best to make amendments in accordance with his views. I have also asked him in private if he was not in favour of what the CMI had been doing, his reply was to the negative. However, he did suggest us not to overdo anything and pointed out that what we had been doing was already enough. We have never been asked not to handle the issue so far.

Members of this Council have delivered their eloquent speeches today and Dr LEONG has voiced out his strong objection. In addition to voicing out his strong objection, Mr Michael HO also mentioned that the Democratic Party would also object to this motion. Just now I have looked over the Legislative Council Minutes no. 11, but nobody had ever mentioned this issue during that sitting. Could the way in which they have been treating their colleagues be considered as appropriate? Is it appropriate to function in this Council with such an attitude? They are in fact not paying any due respect to this Council and its Members. They themselves are members of the CMI and have discussed this issue with other members of the committee. All members of the CMI have agreed to the draft Guidelines and agreed that public consultation exercise should be conducted and followed up by further discussion, we have also agreed that the issue should be brought to the House Committee for consultation purpose. We have all agreed to these decisions in the CMI, the proofs could be found in the relevant records. I have never forced anybody to accept anything. I feel so sad today, because I have to criticize fellow members of the CMI like this. If you have such comments, why did you not raise them out in May last year, just like Mrs Selina CHOW has said? Why did you have to make the CMI members hold 11 hours-long meetings, read through numerous files, and spend hours at home reading papers and documents. What kind of a parliamentary system are we having? How are we going to describe this attitude of our Honourable Members?

Certainly, it is up to each Member to choose whether an motion should be carried or negatived, but I do think that the parliamentary system we are adopting should be reviewed in detail. One point which needs looking into, in particular, is that Members should be advised to read the relevant papers before rising up to speak and criticize. The Honourable Frederick FUNG has mentioned in his speech issues like social standard, moral standard, and even smoking as well as the requirement to wear a necktie. If he has read the draft Guidelines prepared by the CMI, he would not have said such things. Our draft Guidelines have absolutely nothing to do with those things. Our draft Guidelines concern only the enhancement of Honourable Members' credibility. Things like "keeping a mistress" are simply not our concern, we are not talking about that kind of moral standard.

The Honourable CHIM Pui-chung alleged us of being self-important, we are in fact self-abased. We are abased because our colleagues have been making a fool of us. I have a strong feeling that the CMI is very lowly, Members of this Council would make a fool of us like this. Yes, we laboured like oxen, but we are also Members of this Council. We do not mind working as hard as beast of burden like oxen and horses, yet we should be treated with due respect. Would this request be entertained? Some Members object to my views, I certainly respect their decisions. However, I wish they would have raised their objection in May last year, or during the consultation exercise conducted in February this year. I do not understand why we received no objection at that time, but are confronted with so many strong objection now. Why do you have to insult to such an extent?

I knew this motion would not be carried, and that was why I came here with the hope that you will be convinced to vote for the motion. Nevertheless, if there are Members who choose to vote for the motion, I would be very grateful, and I will also congratulate them for being courageous enough to subject their conduct to a monitoring system. I am sure the credibility of the Members of the Legislative Council will be greatly enhanced if this motion is carried; on the other hand, if this motion is negatived, everything said and done by each Member as well as each individual's choice would be noted down for record purpose. Should there be any complaint about a Member's misconduct in the future, Members who have voted for this motion as well as I should never be blamed for having done nothing to study the issue, to express concern, or for not devoting any effort to deliberate on this issue. Would Members be reminded that they should not complain about the absence of a mechanism to monitor the problem. If there are any criticism in the future, Members who are going to vote against the motion will have to be responsible for the consequence brought about by the decision they make today. Thank you, Mr President.

PRESIDENT: Mr HO, you have asked if you could speak again but that really is only if you have been misunderstood. Have you been misunderstood?

MR MICHAEL HO (in Cantonese): Mr President, I would like to make a brief elucidation. Just now the Honourable Mrs Miriam LAU, chairman of the CMI, mentioned that I had made some strong criticisms. I hope my colleagues would understand that my criticisms were made against the issue itself, not against the CMI in any case. I would also like to apologize for not giving any proper response during the consultation period.

Question on the motion put.

Voice vote taken.

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

MISS EMILY LAU: I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Would Members please proceed to vote?

PRESIDENT: We seem to be one short of the head count. Are there any queries? If not, the result will now be displayed.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mrs Elsie TU, Mr Peter WONG, Mr Vincent CHENG, Mr Marvin CHEUNG, Miss Emily LAU, Mr Eric LI, Mr Steven POON, Mr Howard YOUNG, Miss Christine LOH, Mr James TIEN and Mr Alfred TSO voted for the motion.

Mr Martin LEE, Mr SZETO Wah, Mr Andrew WONG, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Dr LAM Kui-chun, Dr Conrad LAM, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr Henry TANG, Mr TIK Chi-yuen, Dr Samuel WONG, Dr YEUNG Sum, Mr WONG Wai-yin, Dr TANG Siu-tong, Mr Roger LUK, Ms Anna WU and Mr LEE Cheuk-yan voted against the motion.

Mr TAM Yiu-chung abstained.

THE PRESIDENT announced that there were 20 votes in favour of the motion and 28 votes against it. He therefore declared that the motion was negated.

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

~~At this point, some Members started to leave~~

~~PRESIDENT: I think Members owe me the courtesy of remaining in place while I announce the position as to time limits. Other Members will have seven minutes for their speeches. Under Standing Order 27A, I am required to direct any Member speaking in excess of the specified time to discontinue his speech.~~

FORMULATION OF COMPREHENSIVE BROADCASTING LEGISLATION

MR MAN SAI-CHEONG moved the following motion:

~~“That this Council urges the Government to expeditiously complete the formulation of comprehensive broadcasting legislation and to lay down detailed guidelines deregulating the subscription television market, in order to secure a broadcasting environment which is well-planned, monopoly-free, competitive, and open, as well as to promote Hong Kong as a broadcasting centre in Asia.”~~

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 3 April 1996

The Council met at half-past Two o'clock

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.,

THE HONOURABLE MARTIN LEE CHU-MING, Q.C., 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 EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

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

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE 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 YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

THE HONOURABLE CHRISTINE LOH KUNG-WAI

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

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 MARGARET NG
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.

THE HONOURABLE LAWRENCE YUM SIN-LING

ABSENT

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE ANTHONY CHEUNG BING-LEUNG

IN ATTENDANCE

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

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 RECREATION AND CULTURE

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

MR GORDON SIU KWING-CHUE, J.P.
SECRETARY FOR ECONOMIC SERVICES

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

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

MR RAFAEL HUI SI-YAN, J.P.
SECRETARY FOR FINANCIAL SERVICES

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

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

MISS DENISE YUE CHUNG-YEE, J.P.
SECRETARY FOR TRADE AND INDUSTRY

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

MR LAM WOON-KWONG, J.P.
SECRETARY FOR THE CIVIL SERVICE

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

THE CLERKS TO THE LEGISLATIVE COUNCIL

MR LAW KAM-SANG, DEPUTY SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

The draft resolution to give effect to the amendment was endorsed by the House Committee on 15 March 1996. The Administration has been consulted and has indicated support for the amendment now before the Council. If the resolution is passed by the Council today, Mr President, the Second Reading debate on the bill may be resumed in Council after consultation of the Chairman of the House Committee. For the avoidance of doubt, may I, Mr President, seek your indulgence, and explain how this Standing Order will operate after being amended. First, if the House Committee recommends at its meeting and the President gives his permission, the debate on the bill may be resumed at the first Council sitting following the House Committee meeting provided that notice is given not later than two clear days after the House Committee meeting.

Alternatively, if the House Committee does not object, the debate may be resumed at the second Council sitting following the House Committee meeting provided that notice is given no later than two clear days after the House Committee meeting.

Finally, in all other circumstances, 12 clear days' notice of resumption is required. With these remarks, Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

HONG KONG ROYAL INSTRUCTIONS 1917 TO 1993 (NOS. 1 AND 2)

MRS MIRIAM LAU to move the following motion:

"That the Standing Orders of the Legislative Council of Hong Kong be amended -

(1) in Standing Order No. 60B -

- (a) in the heading by adding "**and Conduct**" after "**Interests**";
- (b) in paragraph (1) by adding "and Conduct" after "Interests" where it first occurs;
- (c) in paragraph (1) by adding -

"(da) to consider and, with the consent of not less than four of the members of the Committee, to investigate any complaint concerning a Member's conduct in matters of ethics in his capacity as such;"

- (d) in paragraph (1)(e) by adding "and Conduct" after "Interests";
- (e) in paragraph (5) by repealing "All matters" and substituting "Subject to paragraph (1)(da), all matters";
- (f) by adding -

"(6A) The committee shall have regard to advice given and guidelines issued under paragraph (1)(d) when determining whether a recommendation for sanction under Standing Order No. 65A(2) (Sanctions relating to Interests and Conduct) should be made in respect of a Member who is the subject of a complaint concerning his conduct in matters of ethics in his capacity as such.";

- (2) in Standing Order No. 64A(4)(g) by adding "which arise out of or are related in any manner to his membership of the Council," after "his spouse";
- (3) in Standing Order No. 65A -
 - (a) in the heading by adding "**and Conduct**" after "**Interests**";
 - (b) by renumbering it as Standing Order No. 65A(1);
 - (c) By adding -

"(2) A Member may be admonished, reprimanded or suspended by the Council upon a motion moved by the chairman of the Committee on

Members' Interests and Conduct in accordance with a recommendation of the committee made under Standing Order No. 60B(1)(e) (Committee on Members' Interests and Conduct).". "

MRS MIRIAM LAU: Mr President, I move the motion standing in my name on the Order Paper.

I would like first of all to explain the background to this resolution.

Under its terms of reference as set out in Standing Order 60(b)(1), the Committee on Members' Interests (hereunder called CMI) can at present only consider matters of ethics in relation to the conduct of Members in their capacity as such, and give advice and issue guidelines on such matters. It has no power to carry out formal investigation into a complaint about a Member's misconduct. Under the present set-up of the Legislative Council, there is no existing mechanism to deal with allegations of misconduct by the Legislative Council Members in an expeditious manner. Any formal investigation of a complaint about a Member's misconduct can only be conducted by a select committee appointed by resolution of this Council, but this process is both cumbersome and time consuming.

Against this background, the House Committee in the 1994-95 session invited the CMI to deliberate on a proposal from a Member that a committee be set up to monitor the conduct of Legislative Council Members. The CMI held altogether 11 meetings to deliberate the issue. In the course of its work, the CMI had conducted a study on the practices adopted by other legislatures in monitoring the conduct of members of parliaments. In order to be as open and transparent as possible about the issue, the CMI also conducted a month-long consultation exercise inviting the views of both the public and Legislative Council Members on the draft Guidelines on standards of conduct for the Legislative Council Members drawn up by the CMI. However, except for written submission by one Member, no views were received from either the public or Legislative Council Members. Eventually, the CMI drew up a set of recommendations regarding the introduction of measures to monitor the conduct of Legislative Council Members.

As Chairman of the CMI, I moved a resolution, which was same as the one now before Members, to amend the Standing Orders to empower the CMI to consider and investigate complaints bout Members' misconduct. The resolution was debated at the Council sitting held on 19 July last year but was negatived by a vote of 28 to 20. Despite failure of the resolution to carry, I wish to thank the Honourable Allen LEE, Selina CHOW, Emily LAU, Eric LI, Howard YOUNG, Christine LOH and James TIEN (who are now still in this Council) for their staunch support of me on that occasion. I hope that they will continue to give me their support today. I also wish that those who have not deemed it fit to support on that occasion will change their minds and support my today.

The reasons for opposing my resolution last year were principally as follows:

This Council will consist of all elected Members (as indeed it now is) and that apart from monitoring by the mass media, a Member's conduct will in any event be subject to the scrutiny of that Member's own constituents.

There was fear of abuse and concern that the investigation alone may damage the Member's public image.

There was some cynicism about certain Members assuming roles as monitors.

Before I reply to these views, perhaps it may be helpful to those Members who are not members of the CMI, if I briefly describe the practice in other jurisdictions. In the United Kingdom, there was already a Select Committee on Members' Interests similar to ours but several reports including the Bowen Report and the Nolan Report strongly recommended the setting up of formal mechanism to monitor MPs' conduct and the drawing up of codes of conduct for MPs. Following the revelation that a certain MP had asked questions in Parliament for reward, the pressure for change mounted and in November last year, the House of Commons passed a resolution for the appointment of Parliamentary Commissioner for Standards and the setting up a Committee on Standards and Privileges. The principal duties of the Parliamentary Commissioner shall be to receive and investigate specific complaints from MPs and from members of the public in respect of the

propriety of an MP's conduct. The duties of the Committee on Standards and Privileges includes, *inter alia*, overseeing the work of the Parliamentary Commissioner and considering any matter relating to the conduct of MPs including specific complaints in relation to alleged breaches in the code of conduct, as well as to receive reports from the Commissioner relating to investigation into specific complaints. At the same sitting of the House of Commons, a resolution was also passed specifically dealing with the issue of receipt of payment or award of advocating any cause or matter in Parliament. The House of Commons has certainly taken major steps forward in the areas of monitoring of MPs' conduct, albeit only after some bitter experience.

In Canada, the provinces of Prince Edward Island and Quebec have utilized both a parliamentary committee and an outside body to monitor Members' conduct. In Manitoba, New Brunswick and Nova Scotia, the Courts have jurisdiction to inquire into allegations of violations of codes of conduct by Members. In Papua New Guinea, the Ombudsman Commission, being the monitoring authority, has the power to undertake investigation into members' conduct on its own initiative. In Ontario, a Report recommended a Commissioner of Compliance to monitor, advise and investigate the conduct of Ministers. The proposed legislation provided for the appointment of a Commissioner as an officer of the Legislative Assembly to oversee the conduct of both Members and Ministers.

In the United States, both the Select Committee on Ethics of the United States Senate and the Committee on Official Conduct of the United States House of Representatives have the power to receive complaints and investigate allegations of improper conduct by Members.

It is clear from the above that many legislatures in other jurisdictions have seen fit to establish formal mechanisms for monitoring members' conduct. Why should Hong Kong be the exception? That question was asked by the Honourable Miss Emily LAU during the debate last July. The Honourable LEE Wing-tat, unfortunately, he is not here. The Honourable LEE Wing-tat's reply was firstly that Hong Kong is different from other jurisdictions because not all Members of this Council are elected by universal suffrage; secondly, not all Members belong to political parties and, thirdly, Hong Kong's political culture is not mature enough particularly in regard to

internal discipline of political parties. With respect, I fail to understand Mr LEE's argument. All Members of this Council are now elected, though not all by universal suffrage. But if universal suffrage is the crux, so much more is it necessary to have an internal monitoring mechanism within the legislative since public scrutiny may not effectively extend to all Members. Furthermore, I do not see how the effectiveness of party discipline is relevant. I would have thought that if party discipline is effective, then the need for an internal monitoring mechanism by the legislature would be that much lessened. However Mr LEE seemed to be arguing otherwise. If other jurisdictions having universal suffrage and effective party discipline see the need for setting up formal mechanisms for monitoring members' conduct, why does Hong Kong not see the need?

Whatever the arguments may be, it remains a fact that legislatures in other democratic countries which are politically mature, whose members are democratically elected and accountable to their constituents and scrutinized by the public and monitored by the mass media, have still found it necessary to formulate rules concerning Members' conduct and to set up formal mechanisms for implementing such rules. I wish to ask the question: Why should Hong Kong be different? Perhaps on this occasion, somebody may give me a more convincing answer.

In regard to the fear of abuse, I think that the concerns expressed by Members were quite legitimate but these concerns were not unknown to the CMI and they have actually been taken on board by the Committee. It was precisely because of these concerns that the CMI decided to recommend that it would not carry out investigations on its own initiative but would only act in response to complaints. The CMI was also conscious of the need to guard against spurious complaints thus it would not investigate complaints which are considered trivial, frivolous or vexatious. Furthermore, no investigation into a complaint about a Member's conduct may be carried out by the CMI unless approved by not less than four of its members, — that is the majority of members of the CMI. The CMI also recommended that no political party should be allowed to dominate or control the CMI in order to ensure fairness to all Members. The CMI has never said that the proposed mechanism recommended by it is final or perfect. If Members felt that the proposed mechanism can be further tightened to prevent abuse, the CMI was always willing to listen, but no suggestions were proffered. If Members have a better idea as to how Members' conduct should be monitored, let them speak up.

In regard to cynical remarks about certain Members asserting for themselves the role of monitors, I am sure that such remarks were not targeted at me, but I can assure Members that I have no aspirations whatsoever for such an unenviable role. In some other legislatures, the monitoring of members' conduct is carried out by an outside body. If Members prefer to have an outside body monitoring Members' conduct, rather than Members monitoring Members, let them say so. At least that would be a constructive view which we can further discuss.

Coming back to the resolution today, let me explain why it is before the Council again today. After the start of this Legislative Council session, the newly elected CMI reviewed the matter in December last year and decided to conduct another round of public consultation of the proposal to introduce measures to monitor the conduct of Legislative Council Members. During the one-month consultation period which ended on 31 January 1996, again no submission was received from the public, but Legislative Council Members of the Democratic Party made a submission. Their submission re-affirmed its opposition to the introduction of any formal measures to monitor the conduct of Legislative Council Members. Such views were already expressed at the debate in July last year. They will no doubt re-iterate the reasons for their objection when they give their speeches today, so there is no need for me to dwell on them now.

At the meeting of the CMI held on 6 February this year to discuss how the issue should be taken forward in the light of opposition from the Democratic Party, the majority of CMI members present took the view that they did not support the proposal to introduce a formal mechanism to monitor Legislative Council Members' conduct. However they favoured the issuance of a set of advisory guidelines. Because of the new composition of the Legislative Council, CMI also agreed that the whole issue should be re-submitted to this Council for a full debate in the form of a resolution as in the last session. The purpose of the debate is to enable Members' views and their stand on the issue to be fully recorded, so that whatever the outcome may be today, there will be a useful reference in the future on this very important issue.

Mr President, I wish now to briefly go through the main recommendations of the CMI's report which was considered by the House Committee in the last session, copies of which were distributed to all Members of this Council, vide Legislative Council Paper No. CB 296/95-96 dated 18th of December last year. The main recommendations were:

- (a) the draft Guidelines on the standards of conduct of Legislative Council Members drawn up by the CMI should be adopted;
- (b) the CMI should be empowered to carry out investigation into complaints about misconduct of Legislative Council Members;
- (c) no investigation into a complaint of misconduct may be carried out unless approved by not less than four members of the CMI;
- (d) no single political party or grouping would command a simple majority of the membership of the CMI;
- (e) the name of the CMI should be changed to "Committee on Members' Interests and Conduct" and the Chinese name would be "議員利益及操守委員會"; and
- (f) the sanctions that may be imposed by the Council on a substantiated complaint of misconduct should be the same as those set out in existing Standing Order 65A.

I also wish to explain briefly the proposed amendments to the Standing Orders as set out in the resolution.

The amendments to the heading of Standing Order 60B, and Standing Order 60B(1), will change the name of the CMI to take account of additional powers and responsibilities to be taken up by the CMI.

New Standing Order 60B(1)(da) will empower the CMI to consider and investigate complaints about Legislative Council Members' misconduct.

The amendment to Standing Order 60B(5) is a consequential amendment as a result of the proposed addition of new Standing Order 60B(1)(da).

New Standing Order 60B(6A) will specify that the CMI shall have regard to advice given and guidelines issued by the CMI when determining whether a recommendation for sanction should be made.

The amendment to Standing Order 64(A)(4g) will make it clear that the requirement to register interests received from overseas organizations or persons only applies to interests received by a Legislative Council Member or his spouse arising out of the Legislative Council Member's membership of the Council.

The amendment to Standing Order 60B(1)(e), the heading of Standing Order and new Standing Order 65A(2) will lay down the sanctions that may be imposed for misconduct.

Mr President, I realize that I am trying to achieve the impossible task of changing minds that are already fixed. However, I still hope to be able to persuade Members and I do urge them to consider the points which I have raised today. If at the end of the day, Members still feel that they cannot support my motion, I shall accept their decision with grace.

Mr President, I beg to move.

Question on the motion proposed.

MR BRUCE LIU (in Cantonese): Mr President, the Hong Kong Association for Democracy and People's Livelihood objects to the proposed amendments to the Standing Orders at this stage to change the name of the Committee on Members' Interests to the Committee on Members' Interests and Conduct and to making changes in accordance with what has been set out in the Annex. The reasons are two-fold:

First, it is difficult to define Members' conduct. What kind of a standard should the ethics and conduct of Members of the Legislative Council attain before they can be regarded as competent? Who should be there to set the standard? This is really something that cannot be clearly reasoned. Even

if some sort of definitions were to be come up with, these standards would only become the "magic band around the Monkey's head". While Members themselves are to put this band on, it would become a source of headache to them when the magic band is manoeuvred by someone who knows the Band-tightening Spell and mutters it whenever they want to put on a show.

It would be like poking one's nose into another's affairs once certain restrictions are imposed on Members' conduct. Members will also be at a loss, as they do not know whether or not the things they do today will become a subject of complaint tomorrow.

Secondly, under the existing Standing Orders, the Legislative Council is able to set up select committees by resolution to investigate into matters where Members have serious misconduct. In my opinion, this mechanism is already sufficient and I find it unnecessary to bring in a new mechanism which may create abuse.

In this open society of Hong Kong, Members' conduct and behaviour have always been the "focus" or talk of the media on programmes such as "Hong Kong Today". I believe Members are fully aware of this and will behave themselves. No Member will want to fall prey to public attack because of his behaviour and conduct. If there are such Members, they surely will have to pay for what they have done and become the target of attack or criticism in the next election.

I think if "the bull" really "lies on the rail", thus causing any public unrest or traffic chaos

PRESIDENT: Which "bull" are you referring to?

MR BRUCE LIU (in Cantonese): I withdraw my last sentence.

If there is anything wrong with Members' behaviour and conduct, it would be best to leave it to public opinion to judge.

One should be responsible for his own deeds. There is no need, therefore, for Members to play an extra "nosy" and "housekeeping" role.

Finally, the Hong Kong Association for Democracy and People's Livelihood supports the idea of this Council issuing guidelines in the form of advice for Members' reference.

I so submit.

MRS ELIZABETH WONG: Thank you, Mr President. I shall be brief. As a member of the Standing Committee on Members' Interests, I rise first of all to declare my interest and also to support the resolution. Far be it from me to be my brothers' keeper or my sisters' keeper, I think Honourable Members of this Council will agree that as a matter of ethics and conduct, it is best for Honourable Members' ethics and conduct to be reviewed and have the benefit of advice from their peers who are best placed to monitor complaints and to take action if needs be.

Let me also stress that we need a monitoring system which is sensible and to be absolutely fair to the subject of any complaint. We do not need witch hunters and we are not seeking witch hunters. We need to be fair and to be intelligent about what constitutes good conduct or not. I think this will be in the best interests of Honourable Members and of the general public as well. So the proposed resolution seems to me, as adequately explained by the Honourable Mrs Miriam LAU, to do just that and is worthy of support because it is entirely compatible with the original intention and the current spirit of the relevant Standing Orders.

Mr President, I support the resolution.

MR MICHAEL HO (in Cantonese): Mr President, I am speaking on behalf of the Democratic Party to express our stance on the Honourable Mrs Miriam LAU's motion.

On 19 July 1995, when the Legislative Council debated on the amendment to Standing Order 60B moved by Mrs Miriam LAU, we have made known our stance on monitoring the conduct of Members. Members from the Democratic Party opposed the recommendations of the Committee on Members' Interests (CMI) at that time. Upon discussion, we, the parliamentary group of the Democratic Party in this new term decided to

maintain our previous stance and oppose the amendment to Standing Order 60B to change the name of the CMI to the Committee on Members' Interests and Conduct.

First of all, as a matter of principle, the Democratic Party does not find it essential for a committee to be set up a committee to deal with complaints regarding the conduct of Members.

We believe that the existing monitoring mechanism has already kept the conduct of Members under certain constraints, these include:

1. The existing Standing Orders contain stringent provisions for the declaration of interests, and any Member who fails to comply with such provisions will be sanctioned;
2. The existing Standing Orders provide that a select committee may by resolution of this Council be appointed to investigate into cases of serious misconduct of Members. Mrs Miriam LAU has just mentioned that this is a cumbersome and time-consuming process, but then this is a relatively more stringent process;
3. In this new term of the Legislative Council in 1995, all Members are returned by election. I think that the Legislative Council is now an organization which is the most open and having the highest transparency. The media is given sufficient information to enable it to openly monitor this Council. If the conduct of certain Members is not accepted by members of the public, those Members may be criticized by the public and the possibility of their not being elected again would be the price for them to pay.

Therefore, we believe the existing monitoring mechanism has not presented too much a problem.

On the other hand, there are certain problems in the proposal of the CMI which may create some adverse effects on Members:

First of all, let us look at cases in which the monitoring system could be abused. An investigation may be carried out if approved by four members of

the CMI. We find this a fairly precarious arrangement which could easily be abused. If someone lodges a complaint with the CMI about something which someone has said, the complaint may be investigated upon approval by four members. This is not a stringent process. At present, if we want an investigation to be carried out, we must appoint by resolution of the whole Council a select committee. The whole Council of 59 Members must conduct an open debate before the eyes of the media before making a decision as to whether a select committee should be set up. We feel that this mechanism is more stringent than getting approval by four out of seven members of the CMI. Mrs Miriam LAU has mentioned some safeguard measures, for instance, no party should be allowed to occupy over half of the seats of the CMI. Nevertheless, it is in fact not too difficult to secure the support of four out of seven members.

In regard to the conduct of Members, it is highly controversial as to what should be the conduct and ethics of Members. Since this is so vague and difficult to define, it is absolutely not possible for the CMI to really perform its monitoring functions. If the rules imposed were too stringent, it will bring about unnecessary negative effects on Members.

In short, the Democratic Party thinks that, at this stage, it cannot support the recommendation to change the name of the CMI to the Committee on Members' Interests and Conduct.

Mr President, these are my remarks, and the Democratic Party will oppose Mrs Miriam LAU's motion.

MISS EMILY LAU (in Cantonese): Mr President, I rise to speak in support of the Honourable Mrs Miriam LAU's motion. Just now, Mrs LAU mentioned the names of those who lent her support last year. We hope there will be more Members giving their support, and I would like to echo what the Honourable Allen LEE has said, that Members should not be afraid of "changing tack" in giving us their support.

Mr President, I am a member of the Committee on Members' Interests. Recently, the Committee has changed its (Chinese) name to the "Committee on Monitoring Members' Personal Interests", which shows that it has, in fact, assumed a monitoring role. During the meetings of the Committee, I am one of the Members who has supported the staging of this debate today. We are bringing up this old issue today because many of the Legislative Council Members of this new term did not have the chance of taking part in the discussions on 19 July last year, so we hope they could have the chance to take part in this discussion, and to make a decision anew. Actually, Mrs LAU has already explained the background very clearly, and also cited the very funny viewpoint which the Honourable LEE Wing-tat brought up last year. As he made his statement after we had spoken at that time, so we could not have refuted him, but Mrs LAU has already refuted him in seriatim, and I have no intention of continuing with this.

I wish, however, to remind those new Members, who should know anyway, that Standing Order 60B(1)(d) has already stated that the Committee is empowered to consider matters relating to the conduct of Members, and is also empowered to give advice and to issue guidelines, that is to say there are provisions in this respect. As far as I know, maybe you know about that too, Mr President, because you are more experienced in the affairs of the Legislative Council than me, that they were added as a consequence of something that had happened. Hence, I have to respond to the view expressed by the Honourable Michael HO. He said there was no problem at present and everything was fine, and that if anything does happen, it could first be debated in this Council before any select committee is to be set up. If things were to be done this way, it would just be too unfortunate for the Member in question, for his reputation would already be damaged. Yet, would it be better if we were to have a mechanism established that could rapidly clarify what might be false charges? Otherwise, if a debate were to be held in this Council and a select committee to be set up upon voting, the reputation of the Member in question would surely be damaged after several months of hearing.

At the same time, we used to say that there are things which the Government has time and again failed to think of, why can't they do something beforehand instead of always "being the wise man afterwards"? However, we now say that there is no problem with the present mechanism. Frankly speaking, certainly I do not hope anything would happen, but what if one of these days a major incident occurs, and then after a round of debates, a certain mechanism ultimately is to be set up. Then, people would say, the Legislative

Council would not proceed to set up the mechanism when debate was held, but would have to wait until something has happened before considering it again. Honourable colleagues, I would like to ask you, do we have to wait until something happens before the mechanism is to be set up? Now, you do not really want to raise any objections, you only think that there is no problem with the present mechanism, which means, a debate could first be held in this Council and then set up a select committee. Our suggestion is comparatively more systematic; we propose to have a mechanism set up, and on receipt of a complaint — please note, the Committee will not initiate investigation, it is not a secret police, it will not keep track or conduct tapping and so on — which the Committee thinks that it warrants investigation, then it will be speedily proceeded with, and very fairly proceeded with. I hope it will be handled in this effective way.

In fact, this is done as a response to public concern — on whether or not the Legislative Council has been subject to monitor? Who is to conduct the monitoring? If this is said to be the "hard metal clamp", I would beg to disagree. I believe that the public would hope very much that the Legislative Council could set up a mechanism of its own, acceptable both to the Council and the public, which would deal with complaints in an open and fair manner. We would monitor ourselves and set up guidelines and rules. In this way, the Legislative Council can tell the public that we ourselves have set down the standards, be it conduct or ethics, and we can be answerable to anyone as well as to our own conscience, and that we are upright people. If any of the Members happened to infringe on the rules, we have a Committee which will conduct investigations through very open proceedings, and that is not political persecution of any kind. Thus, Honourable colleagues, especially colleagues in this new term (and old colleagues may "change tacks" too), I hope that you would think about how we should be accountable to the public? If, again, like last year, we were to vote down this motion by a great majority of 28 against 20 votes, people outside would say, you are really great, you do not need to be monitored by others; and we would only be regulated by public opinion and the outcome of the next election. Yet, do you realize that sometimes the electors can be very indignant, because they could only vote again four years after they have cast their votes this time. If anything happens in the interim, who would handle it? Then, certainly you would say, use the present way to deal with it, which means to have a debate and then set up a select committee.

Mr President, meanwhile, there is such a mechanism in the

parliamentary councils of other jurisdictions, Mrs LAU has already stated them clearly and indeed listed them out in detail. They have such mechanisms in civilized and democratic countries. Why should we be different from the others? The speech delivered by Mr LEE Wing-tat on 19 July last year was indeed "a curious thesis", and I do not subscribe to it. He is a democrat, and so am I, but I do not know why he has such a strange view. I do not subscribe to his view. I think we should consider setting up a mechanism. The mechanism will not be resorted to when there is no such a need, but in case anything happens, it could immediately demonstrate its effect.

Hence, Mr President, I support the proposal of Mrs LAU and would like to call upon all colleagues to ponder the possibility of its enhancing the credibility of the Legislative Council. We are not asking to set up a special police; I only hope to enhance the credibility of the Legislative Council, so that the public would feel that the Legislative Council is endowed with good sense and whenever anything happens, the Council could monitor itself.

Thank you, Mr President.

MISS MARGARET NG: Mr President, I will be brief.

I consider the autonomy of this Council to be a fundamental principle. Autonomy must mean self-regulation and an adequate framework of internal discipline. We enjoy certain powers and privileges under the law. We enjoy autonomy. We must therefore be prepared to meet a high standard of conduct and therefore submit ourselves for the investigation and scrutiny of a proper committee of our peers. We owe it to the public if we want to enjoy their trust and confidence.

As to the exact mechanism, our attitude to that must be positive, that is, we must work together to find the right mechanism, not to block it, not to find reason to say that it is impossible.

Mr President, I support the motion.

PRESIDENT: I have a request here, Honourable Members, from Mr Michael HO to speak again under Standing Order 28(2) to explain some part of his speech which has been misunderstood. Mr Michael HO, please confine your speech to only explanation of that part of the speech which has been misunderstood.

MR MICHAEL HO (in Cantonese) : Thank you, Mr President. I only want to explain that part of my speech which has been misunderstood. What I just said does not mean that we do not need a mechanism, it is only that we do not need a new mechanism. What I really mean is, the present arrangement about setting up a select committee is already a formal mechanism for monitoring the conduct of Members. The Honourable Miss Emily LAU seems to have misunderstood this part of my speech.

PRESIDENT: Mrs Miriam LAU, do you wish to reply?

MRS MIRIAM LAU (in Cantonese) : Mr President, it is very encouraging for me today because at least three Members have spoken in support of my motion. This is much better than that on 19 July last year because the Committee on Members' Interests (CMI) was then wrongly regarded as "a thief when he is actually a decent man."

Today two Members have spoken in opposition to my motion but they have not responded to the question I raised earlier in my speech, which is, why do other democratic and advanced countries establish formal mechanisms to monitor their members' conduct and differ from Hong Kong, where a select committee can only be set up by resolution of this Council? In fact, they all have their formal mechanism. If democratic and advanced countries have all set up such mechanisms, why does Hong Kong not see the need? None of the Members who oppose my motion today can suggest a reason.

Furthermore, I have invited Members to express their views if they think that the recommendations of the CMI are unsound, impracticable or flawed. However, I did not hear any such views. They just said that the existing mechanism is fine and there is no need to do anything else. Is this a kind of positive opinion?

Mr President, I come for today's debate with usual calmness, for the debate on 19 July last year has taught me a lesson and I do not cherish any hope that today's resolution will be passed, though my hope is ignited once again by the speeches of those three Members. Today, I do not have the feeling of being deserted, fooled around or betrayed. At least the Honourable Michael HO of the Democratic Party clearly stated their opposition to this resolution for the Democratic Party at the CMI meeting and the Members of the Hong Kong Association for Democracy and People's Livelihood also expressed their opposition at the CMI meeting, thus I am spared that awkward feeling I had last year.

However, I have a slight disappointment and a feeling of loss this year because two years ago, Members have actually confronted the issue of monitoring Members' conduct with a very positive attitude and seriously hoped that some ways could be found to handle the problems that arose. The CMI was authorized to study the issue. In the past year or so, it tried its best and called numerous meetings. The motion proposed last year was negatived and this motion may also suffer the same fate later on. In fact, I am very uneasy at this moment. On the one hand, I do hope that this resolution will be passed; while on the other, I am really worried that I will be forced to accept the truth that it will be negatived. If today's motion were negatived, this Council will have accomplished nothing in monitoring Members' conduct. All the work done in the past year will have been wasted. Of course, I do not expect every effort spent to bear fruit. At least, today, Members frankly tell their hearts — they do not want to be monitored. Today's debate will expose what they really think.

If Members do really negative today's motion and do not want to have any mechanism to monitor their conduct as Members, I will respect their decision. However, in case anything concerning Members' conduct arise in this Council in future, only to find that there is no mechanism to handle the relevant issues, I hope those Members who vote against this motion today would not regret it.

Thank you, Mr President.

Question on the motion put.

Voice vote taken.

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

MRS MIRIAM LAU: I claim a division.

PRESIDENT: Council shall proceed to a division.

PRESIDENT: I would like to remind Members that they are now called upon to vote on Mrs Miriam LAU's resolution to amend the Standing Orders to empower the CMI to take charge of matters on conduct as well. 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: We seem to be one short of the head count. Before I declare the result, will Members please check their votes? Are there any queries? The result will now be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mrs Miriam LAU, Miss Emily LAU, Mr Eric LI, Mr Howard YOUNG, Miss Christine LOH, Mr James TIEN, Mr LEE Kai-ming, Miss Margaret NG and Mrs Elizabeth WONG voted for the motion.

Mr Martin LEE, Mr SZETO Wah, Mr Ronald ARCULLI, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr LO Suk-ching, Mr MOK Ying-fan, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted against the motion.

Mr Edward HO abstained.

THE PRESIDENT announced that there were 11 votes in favour of the motion and 36 votes against it. He therefore declared that the motion was negatived.

MEMBER'S BILLS

First Reading of Bills

HOUSING (AMENDMENT) BILL 1996

HOUSING (AMENDMENT) (NO. 2) 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

PRESIDENT: Honourable Members, before I invite the Honourable LEE Wing-tat and the Honourable Bruce LIU to move the Second Reading of their respective bills, I would like to inform Members that having studied the two bills, I have ruled that the two bills are not substantially the same, having regard to the following:

1. Although both bills seek to change the composition of the Housing Authority, the proposed composition and method of nominating the members of the Authority are different in the two bills;
2. Mr LEE's bill proposes that the future membership of the Housing Authority be approved by resolution of this Council;
3. If I rule, in the event if I rule, that both bills are substantially the same, and if one bill is defeated at the Second Reading, the other

60B Committee on Members' Interests and conduct

- (1) There shall be a standing committee to be called the Committee on Members' Interests and conduct –
- (a) to examine the arrangements made for the compilation, maintenance and accessibility of the Register of Members' Interests;
 - (b) to consider any proposals made by Members or others as to the form and contents of the Register;
 - (c) to consider and investigate any complaint made in relation to the registration and declaration of Members' interests or any complaint of a failure to do so;
 - (d) to consider matters of ethics in relation to the conduct of Members in their capacity as such, and to give advice and issue guidelines on such matters;
 - (da) to consider and, with the consent of not less than four of the members of the committee, to investigate any complaint concerning a member's conduct in matters of ethics in his capacity as such;
 - (e) to report to the Council and make recommendations, including a recommendation as to a sanction under Standing Order No. 65A (Sanctions relating to Interests and Conduct).

[(2), (3), (4), (6) and (7) not listed out]

- (5) The chairman and two members shall form a quorum. ~~All matters~~ Subject to paragraph (1)(da), all matters before the committee shall be decided by a majority of the members voting. In the event that votes are equally divided, the chairman shall have a casting vote.

(6A)The committee shall have regard to advice given and guidelines issued under paragraph (1)(d) when determining whether a recommendation for sanction under Standing Order No. 65A(2)(Sanctions relating to Interests and Conduct) should be made in respect of a Member who is the subject of a complaint concerning his conduct in matters of ethics in his capacity as such.

65A Sanctions relating to Interests and Conduct

- (1) Any Member who fails to comply with Standing Order No. 64A or 65(1), (1A) or (1B) may be admonished, reprimanded or suspended by the Council on a motion to that effect.
- (2) A Member may be admonished, reprimanded or suspended by the Council upon a motion moved by the chairman of the Committee on Memers' Interests and Conduct in accordance with a recommendation of the committee made under Standing Order No. 60B(1)(e) (Committee on Members' Interests and Conduct).