

1 HONG KONG LEGISLATIVE COUNCIL -- 28 February 1990

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 28 February 1990

The Council met at half-past Two o'clock

PRESENT

HIS EXCELLENCY THE GOVERNOR (PRESIDENT)

SIR DAVID CLIVE WILSON, K.C.M.G.

THE CHIEF SECRETARY

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

THE FINANCIAL SECRETARY

THE HONOURABLE SIR PIERS JACOBS, 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 STEPHEN CHEONG KAM-CHUEN, C.B.E., J.P.

THE HONOURABLE CHEUNG YAN-LUNG, O.B.E., J.P.

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

THE HONOURABLE MARIA TAM WAI-CHU, C.B.E., J.P.

THE HONOURABLE CHAN YING-LUN, O.B.E., J.P.

THE HONOURABLE MRS. RITA FAN HSU LAI-TAI, O.B.E., J.P.

THE HONOURABLE PETER POON WING-CHEUNG, O.B.E., J.P.

THE HONOURABLE CHENG HON-KWAN, O.B.E., J.P.

THE HONOURABLE CHUNG PUI-LAM, J.P.

THE HONOURABLE HO SAI-CHU, M.B.E., J.P.

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

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

THE HONOURABLE DAVID LI KWOK-PO, J.P.

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

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

THE HONOURABLE POON CHI-FAI, J.P.

PROF. THE HONOURABLE POON CHUNG-KWONG, J.P.

THE HONOURABLE TAI CHIN-WAH, J.P.

THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING, J.P.

THE HONOURABLE TAM YIU-CHUNG

DR. THE HONOURABLE DANIEL TSE, O.B.E., J.P.

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

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

THE HONOURABLE GRAHAM BARNES, C.B.E., J.P.
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.
SECRETARY FOR TRANSPORT

THE HONOURABLE EDWARD HO SING-TIN, J.P.

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE MICHAEL CHENG TAK-KIN, J.P.

THE HONOURABLE DAVID CHEUNG CHI-KONG, J.P.

THE HONOURABLE RONALD CHOW MEI-TAK

THE HONOURABLE MRS. NELLIE FONG WONG KUT-MAN, J.P.

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

THE HONOURABLE DANIEL LAM WAI-KEUNG, J.P.

THE HONOURABLE MRS. MIRIAM LAU KIN-YEE

THE HONOURABLE LAU WAH-SUM, J.P.

DR. THE HONOURABLE LEONG CHE-HUNG

THE HONOURABLE LEUNG WAI-TUNG, J.P.

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

THE HONOURABLE KINGSLEY SIT HO-YIN

THE HONOURABLE MRS. SO CHAU YIM-PING, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, J.P.

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

THE HONOURABLE PETER WONG HONG-YUEN, J.P.

THE HONOURABLE YEUNG KAI-YIN, J.P.
SECRETARY FOR EDUCATION AND MANPOWER

THE HONOURABLE MRS. ANSON CHAN, J.P.
SECRETARY FOR ECONOMIC SERVICES

THE HONOURABLE PETER TSAO KWANG-YUNG, C.B.E., C.P.M., J.P.
SECRETARY FOR HOME AFFAIRS

THE HONOURABLE ALISTAIR PETER ASPREY, O.B.E., A.E., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE NIGEL CHRISTOPHER LESLIE SHIPMAN, J.P.
SECRETARY FOR HEALTH AND WELFARE

ABSENT

DR. THE HONOURABLE HENRIETTA IP MAN-HING, O.B.E., J.P.

THE HONOURABLE SZETO WAH

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

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR. LAW KAM-SANG

Papers

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

Subject

Subsidiary Legislation

L.N. No.

Boilers and Pressure Vessels Ordinance

Boilers and Pressure Vessels (Exemption)

(Consolidation) (Amendment) Order 1990..... 56/90

Public Health and Municipal Services Ordinance

Designation of Libraries (Regional Council

Area) Order 1990.....

57/90

Public Health and Municipal Services Ordinance

Designation of Museums (Law Uk Folk Museum)

Order

1990..... 58/90

Registration of Persons Ordinance

Registration of Persons (Invalidation of

Old Identity Cards) Order 1990.....

59/90

Adoption Ordinance

Adoption (Amendment) Rules 1990..... 60/90

Dutiable Commodities Ordinance

Dutiable Commodities (Liquor Licences)

(Specification of Fees) (Regional Council

Area) Notice 1990.....

61/90

Sessional Papers 1989/90

No. 56 -- Occupational Safety and Health Council

Activities Report and Financial Statements
for the period from 21 July 1988 to 31 March 1989

Address by Member

Occupational Safety and Health Council Activities Report and Financial Statements
for the period from 21 July 1988 to 31 March 1989

MR. HO SAI-CHU (in Cantonese): Sir, it is my pleasure to table the first report of the Occupational Safety and Health Council (OSHC) here today. The Activities Report and Financial Statements of the Occupational Safety and Health Council for the period from its inception on 21 July 1988 to 31 March 1989 have now been made available for the perusal of this Council.

The OSHC is responsible for the important task of improving occupational safety and health standards in Hong Kong. As chairman of the council, I fully recognize that the safety and health of workers is fundamental to the creation of wealth in our community. The council hopes that industrial accidents will eventually be reduced and a safer and healthier working environment will be provided for employees in various trades of our industry sector through OSHC's unremitting efforts, co-operation between employers and employees and co-ordination with the Labour Department and other government departments.

The OSHC was well supported by the Labour Department and the various government departments concerned in the initial stage of its establishment and embarked rapidly on its course of work. To start with, a grant of \$5.5 million was provided by the Government for its operational expenses upon establishment. The initial period of its operation was later extended to enable the OSHC to make well-conceived plans on the spending of the fund to purchase useful equipment, books, publications and other articles, thus laying a good foundation for the provision of various services in future.

The OSHC is now serviced by its own staff. It has taken over the relevant responsibilities previously looked after by the Labour Department as well as the work of the former Industrial Safety and Health Committee and is now fully prepared to carry out all of its objectives. The promotion of occupational safety and health in Hong Kong is by nature an involving and sophisticated task which requires strenuous

efforts before any results can be reached. In the initial stage of its establishment, the OSHC concentrated on devising various policies and regulations, recruitment of staff at all levels and publicity activities. It has already been over a year since the OSHC was established. Looking ahead, the council, apart from continuing with its efforts in promotion and publicity, will organize various safety training programmes and carry out research jointly with other organizations such as the universities, polytechnics and labour organisations. The council will introduce a consultant service and also provide various kinds of relevant information to the general public. I hope that the Government will continue to support the OSHC so that it can fulfil its role in every sense as its name suggests.

Sir, may I take this opportunity to pay tribute to the Labour Department and the relevant government departments which have given the OSHC their full support, the former Industrial Safety and Health Committee which by virtue of its good work has provided valuable experience to the OSHC as well as members and staff of the OSHC for their dedication and hard work.

Oral answers to questions

Unsafe toys

1. MRS. LAU asked: In relation to toys on sale in Hong Kong, will the Administration inform this Council:

(a) of the number of children who sustained injuries through the use of unsafe toys over the past three years;

(b) whether any prescribed safety standards for toys are required to be adopted by local toy manufacturers or importers; if not, what measures are being taken to ensure that the safety of children will not be jeopardized by unsafe toys; and

(c) whether there is any plan to introduce legislation to cover safety in toys?

FINANCIAL SECRETARY: Sir, there are no separate statistics as to the number of children who sustained injuries through the use of unsafe toys. The number of complaints received by the Consumer Council concerning toy safety was: 39 in 1987,

26 in 1988 and 33 in 1989. These figures do not, however, represent actual cases of injury, since the majority of complaints concerned the potential dangers of unsafe toys.

Toys for sale in Hong Kong are not subject to any specific safety control. Most of them, however, whether imported or locally made, are manufactured to internationally recognized safety standards, since very often, the same products are intended for sale in other markets where compliance with safety standards is required.

As part of its regular monitoring programme, the Consumer Council conducts testing of products considered to be of high risk and the results are widely publicized. Toys are included in this programme. In addition, education campaigns have been mounted to promote consumer awareness regarding the safety aspect in the choice of toys for children.

Nevertheless, the Administration recognizes that in the absence of control, the public can be exposed to unsafe toys and children's products. A working group was therefore set up in April 1988 to consider the need for mandatory safety standards for toys and children's products offered for sale in Hong Kong. The working group, comprising government and industry representatives, has completed a comprehensive review, and has concluded that internationally accepted standards should be prescribed by legislation for such products. The working group is finalizing its detailed recommendations and I hope to be able to introduce a Toys and Children's Products Safety Bill into this Council during the next Session.

MRS. LAU: Sir, is the Administration aware that the Consumer Council has recently identified a large number of toys capable of causing real bodily harm to young children? And where a toy is actually known to cause injury to children, will the Administration take steps to see to it that such a toy is withdrawn from the market? If not, why not?

FINANCIAL SECRETARY: Sir, we are aware that the Consumer Council has done a great deal of work in this particular area. As far as withdrawing the toys from the market is concerned, we could only do so if we had adequate legal powers and, of course, that is what the legislation will be about.

MR. MARTIN LEE: Sir, does the Administration accept that the relatively small number of complaints about unsafe toys may be just the tip of the iceberg because many potential hazards associated with toys are not appreciated by parents and because many parents simply throw away dangerous toys without making a complaint?

FINANCIAL SECRETARY: Yes, Sir, we are aware of what Mr. Martin LEE has said and we accept that we probably are dealing with the tip of the iceberg. Again, that is exactly why the working group was established, and that is exactly why we are proposing to introduce legislation into this Council. We would not be proposing to introduce legislation into this Council if there were only just a very few number of cases.

MR. MICHAEL CHENG (in Cantonese): Will Government carry out extensive education and promotion work through the mass media, such as television, radio, newspapers, magazines and so on, in order to give guidance to parents in making a correct choice of safe toys?

FINANCIAL SECRETARY: Yes, Sir, I would certainly consider making more use of the media, in particular television. My hope is that parents will also take the opportunity to pay due regard to what has been said in this Council this afternoon. Parents do owe a duty to their children.

MRS. LAU: Sir, as a follow-up on my previous question, can the Administration inform this Council why it will not encourage the relevant manufacturer or importer to withdraw the product from the market instead of seeking to introduce legislation?

FINANCIAL SECRETARY: Sir, we certainly would not mind telling manufacturers that facts had been drawn to our attention. But it would be very difficult for us to compel manufacturers to withdraw products from the market until we have the necessary legislative powers. Nevertheless, I take note of what Mrs. LAU has said.

MR. MCGREGOR: Sir, if the Government comes to the conclusion that standards should

be applied to the toy industry in terms of safety and hygiene through legislation, will the Government consider giving the Consumer Council powers to carry out investigations, and even prosecutions, within that legislation?

FINANCIAL SECRETARY: Sir, I think it is more likely that the enforcement agency will be the Customs and Excise Department.

Marble wall facing of Supreme Court Building

2. MR. CHENG HON-KWAN asked: Will Government inform this Council of the cause of the dangerous situation whereby extensive marble wall facing is liable to becoming detached in the Supreme Court Building?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, four marble tiles became detached from their mortar backing on the lower ground floor of the Supreme Court Building and a further two on the seventh floor. As a result we have prised off the tiles which we suspect might become detached, and temporary hoardings have been erected in all the lift lobbies to make it impossible for any tile which might, despite prising, be so inclined to fall down on anyone.

There are several possible causes for the tiles becoming detached. These are being investigated now and we expect to complete restoration work in about six months. I can assure you, Sir, that the situation is not dangerous, and I would also like to assure this Council that it is no impediment to the conduct of justice.

MR. CHENG HON-KWAN: Sir, judging from the extent of the restoration work which will take six months to complete, may I ask the Secretary who is responsible for the defects and who is going to pay for the remedial works?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, this must depend upon the results of the investigation which is going on at present.

MR. MARTIN LEE: Sir, does the Administration appreciate that the temporary hoardings which are now erected are liable to pose even greater hazards to barristers than the marble tiles themselves because a barrister has a wig to protect himself or herself from a falling tile, whereas the same wig affords no protection to a barrister's foot against these temporary hoardings?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, we have always prided ourselves on the intelligence and commonsense of our Bar whose members, I am sure, will look after this contingency. (Laughter)

MR. MICHAEL CHENG (in Cantonese): Sir, in view of the fact that the former Acting Director of the Building Development Department Mr. MOK Wei-tak, who was responsible for the approval of the construction plan as well as final inspection of the Supreme Court Building, was convicted of corruption in 1985, will the Government inform this Council whether the detachment of marble tiles in the Supreme Court Building might be due to the shoddy work and use of inferior materials by the people concerned and as a result somebody should be held responsible for it?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, as far as I am aware, there is no corruption suspected in this case.

MR. CHENG HON-KWAN: Sir, will the Secretary be prepared to inform Members of the outcome of the investigation in due course?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I will be very happy to inform Members of the outcome of the investigation.

Control of monopoly by non-franchised commercial corporations

3. MR. CHOW asked (in Cantonese): Will Government inform this Council whether it will introduce legislation or set up a body to regulate certain non-franchised commercial corporations such as the Hong Kong and China Gas Company Limited, which

operate in a monopolistic manner, so as to ensure that the interests of the public are protected?

SECRETARY FOR ECONOMIC SERVICES: Sir, Government has an overall interest in ensuring the reliable provision of essential services to consumers at a reasonable price. Where the private sector companies can provide such services efficiently, Government believes that they should be allowed to do so with the minimum of government interference, with the companies themselves remaining directly accountable to their consumers as far as possible.

However, Government recognizes that such companies cannot be allowed to exploit their monopoly or quasi-monopoly position at the expense of the consumer. Where it is evident that the charging of excessive prices or other forms of undesirable monopoly behaviour would result, some form of Government regulation is usually necessary.

The way in which this regulation is exercised in cases in which it is applied depends on the size of the company, its position in the market, and the nature of its operations. The regulation may be by way of legislation, franchise and/or a scheme of control agreement but in all such cases the level of regulation is kept to the minimum compatible with public interest.

The ultimate control lies in the requirement for the charges levied to be subject to Government's approval. In approving such charges, the basic considerations are that the company should have made every effort to achieve cost economies for the benefit of consumers, and that having done so, it should be allowed to recover the full cost of providing the service together with a reasonable profit so as to encourage further investment to meet changes in demand and approved standards in service. It is essential to balance the interests of consumers on the one hand, and shareholders and investors on the other, and the present approach is in line with this objective.

As regards the gas supply sector, fuel gases for heating and cooking purposes are currently supplied either as towngas and synthetic natural gas (SNG) by the Hong Kong and China Gas Company Limited or as liquefied petroleum gas (LPG) by a number of oil companies. There are approximately 1.56 million gas customers in Hong Kong, of which about 689 000 or 45% use piped towngas or SNG, 225 000 or 15% use piped LPG and 610 000 or 40% use LPG in cylinders. The oil companies have a 55% share of the

market in terms of number of customers. But in terms of sales of gas energy, the market shares of LPG and Hong Kong and China Gas Company are roughly in the region of 40:60.

Government recognizes that Hong Kong and China Gas Company is the sole supplier of town gas in Hong Kong. However LPG provides an alternative choice of fuel gas and both types have respectable market shares. Consumers can also choose electricity as a source of energy supply. It is therefore not considered necessary to introduce legislative control over Hong Kong and China Gas Company or to put it under a scheme of control.

However, Government will monitor the situation closely. Should the company increase its market share to such an extent that it became a virtual monopoly in the gas supply sector and it is found to be operating against the public interest, then consideration would be given to putting the company under some form of control.

MR. CHOW (in Cantonese): Sir, since there is at present no body to monitor or assess the operations of such corporations, oil prices and premium of vehicle insurance and so on are very often determined by consultation between several large companies, amounting virtually to a cartel monopoly. So will the Government plan to establish a body to look into this sort of problems? As the Consumer Council is now prepared to set up a group to examine if there are monopolistic activities by commercial institutions in Hong Kong, will Government enact anti-monopoly legislation to get in line with the work of the Consumer Council?

SECRETARY FOR ECONOMIC SERVICES: Sir, as I have stated in my main reply, the Government already has existing means of control where there is evidence that a particular company has a monopoly or quasi-monopoly and that it is operating against public interest.

MR. MARTIN LEE: Sir, does the Administration not appreciate that the Hong Kong and China Gas Company Limited enjoys a number of privileges -- firstly, the company has been given the first option to participate in all new development projects of the Housing Authority with the result that about 76% of all public housing use town gas; secondly, the company is allowed to enter into the market where it chooses, unlike

the bus companies which are required to operate unprofitable routes; and thirdly, the company is not under any scheme of control, or indeed any control at all, by Government?

SECRETARY FOR ECONOMIC SERVICES: Sir, I am indeed aware of the towngas company's privileged position, as Mr. Martin LEE put it, in so far as new public housing estates are concerned. I should point out, however, that the Housing Authority is an autonomous body with full discretionary power to make its own policy on fuel supply for public housing estates. As I understand that policy, the Housing Authority feels that, in so far as gas provision is concerned, where towngas is available then it should be used. Where towngas is not available at present but the Hong Kong and China Gas Company gives assurance to provide it by the completion date of the development, it should also be used. Bulk LPG piped supply will only be considered by the Housing Authority where towngas is not at present available and will not become available by the date of completion of the estate, for example, estates on the outlying islands.

That policy, I understand, was laid down on the grounds of higher safety standards of towngas, continuity of supply during peak demand, and the need to use scarce land for storage tanks if LPG piped systems were installed.

As regards the second part of Mr. Martin LEE's question, I am of course aware and have acknowledged that the Hong Kong and China Gas Company is not currently controlled. In view of the fact that there is competition in the entire field of supply of gas, we do not consider at present that such regulation is necessary. I have, however, pointed out that if the company assumes a predominant position in the market and where it is found to be operating against the public interest, then Government would consider the need for such regulation.

MR. CHOW (in Cantonese): In paragraph 6 of her reply, the Secretary for Economic Services mentioned that it is not considered necessary to introduce legislative control over Hong Kong and China Gas Company because consumers have the choice of electricity as the other alternative of energy supply. But why does the China Light and Power Company have to be under the scrutiny of the Governor in Council while the Hong Kong and China Gas Company can enjoy a different treatment?

SECRETARY FOR ECONOMIC SERVICES: Sir, consistent with Government's policy of free competition in the market, if there is no evidence that market forces are not operating efficiently, then there are no grounds for the Government to seek to interfere in the operation of that market mechanism. However, if there is evidence that there is a monopoly or quasi-monopoly situation, then the Government will consider means of regulating the activities of that particular company.

MR. PETER WONG: Sir, can the Secretary inform this Council of the rate of return enjoyed by the Hong Kong and China Gas Company and whether, in her opinion, such rate is reasonable?

SECRETARY FOR ECONOMIC SERVICES: Sir, as we do not seek to regulate the activities of the Hong Kong and China Gas Company, I am not able at present to say what its rate of return is. But I assume that, to the extent that consumers have a choice, presumably consumers would compare the relative prices of towngas and piped gas supplies.

MR. MCGREGOR: Sir, is the Government satisfied with the performance of the Hong Kong and China Gas Company in terms of efficiency and the public interest?

SECRETARY FOR ECONOMIC SERVICES: Sir, I have no grounds to conclude that the Hong Kong and China Gas Company is not operating efficiently. Nor has the Government received any complaints about it. And I believe that the Consumer Council has not received many complaints about the company either.

MR. MARTIN LEE: Sir, would the Secretary please refer to paragraph 7 of her main reply and inform this Council what steps the Government will take in seeking to monitor the situation closely?

SECRETARY FOR ECONOMIC SERVICES: Sir, the Government is watching carefully the relative share of the market occupied by towngas and other forms of gas supply. Should the towngas company assume a predominant position in the market and -- I do

stress this -- there is evidence that it is operating against the public interest, then we would consider some form of regulation.

MR. ARCULLI: Will the Secretary please inform this Council whether, other than the factors she has referred to that played a part in the Housing Authority's decision on the policy, cost is also one of the factors involved?

SECRETARY FOR ECONOMIC SERVICES: I am not able to say this but I shall be happy to ascertain this from the Housing Authority.

MR. Peter WONG: Sir, if one organization were to enjoy a very healthy rate of return, there would be no reason why other organizations would not seek the same rate of return. So would the Secretary please supply me with the rate of return presently enjoyed by the Hong Kong and China Gas Company?

SECRETARY FOR ECONOMIC SERVICES: Yes, Sir, I shall do my best. (Annex I)

Written answer to question

Pharmacy service in regional hospitals

4. MR. CHOW asked: With the extension of the pharmacy service in some regional hospitals to 10 pm, will Government inform this Council whether the establishment of dispensers has been increased and, where some dispensers are still required to work overtime to cover the extended dispensary hours, how Government ensures that their efficiency is maintained for providing patients with proper care?

SECRETARY FOR HEALTH AND WELFARE: The hospital pharmacy service at Queen Elizabeth Hospital and Princess Margaret Hospital has been extended from 9.00 am - 5.00 pm to 9.00 am - 10.00 pm on Mondays to Fridays, and from 9.00 am - 1.00 pm to 9.00 am - 5.00 pm on public holidays. On Saturdays and Sundays, the hours of operation remain from 9.00 am - 5.00 pm.

Representatives of pharmaceutical staff were consulted on the Hospital Services Department's plans, including the additional manpower requirements, prior to implementation. In recognition of operational requirements, the following additional posts have been approved:

Queen Elizabeth Hospital		Princess Margaret Hospital	
1	Pharmacist	1	Pharmacist
2	Senior Dispensers	2	Senior Dispensers
5	Dispensers	4	Dispensers
1	Workman II	1	Workman II

However, on account of a general shortage of dispensing staff in the Department, it has been agreed with the staff associations that the dispensers in these two hospitals should continue to undertake paid overtime work on a voluntary basis to cover the extended hours. This arrangement has allowed staff to be redeployed to fill vacancies in other important areas of service. It is hoped that overtime work will be gradually reduced as improvements are made to overall staffing levels.

Apart from the regular supervision by field supervisors, an operational working group was set up in May 1989 specifically to monitor the scheme with the object of maintaining an efficient service, while at the same time guarding against undue staff fatigue.

To ensure continuity of service to patients, a duty roster for dispensers has been agreed with staff in the hospitals concerned. This roster will be instituted in the event that staff resources for overtime cannot meet service requirements.

It is the intention to introduce the extended pharmacy service to the other two regional hospitals subject to availability of staff, and the staff concerned will be consulted on the arrangements in due course.

First Reading of Bills

PROTECTION OF NON-GOVERNMENT CERTIFICATES OF ORIGIN (AMENDMENT) BILL 1990

LIMITATION (AMENDMENT) BILL 1990

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

Second Reading of Bills

PROTECTION OF NON-GOVERNMENT CERTIFICATES OF ORIGIN (AMENDMENT) BILL 1990

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to amend the Protection of Non-Government Certificates of Origin Ordinance."

He said: Sir, I move that the Protection of Non-Government Certificates of Origin (Amendment) Bill 1990 be read the Second time.

The Protection of Non-Government Certificates of Origin Ordinance was enacted in 1967 and was last amended in 1982. It provides for the better protection of certificates of origin issued by Government-Approved Certification Organizations. This Bill seeks to update and refine selected provisions of the Ordinance in order to render it more consistent with the present origin certification system. I shall highlight the principal proposals.

First, the powers of authorized officers. The powers to enforce the Ordinance, including search, seizure and detention, are vested with authorized officers, that is, those authorized by the Commissioner of Customs and Excise, and the police. Since the powers given to the police have never been used in practice and the authorized officers have been able to carry out their duties satisfactorily on their own, the Bill seeks to amend section 10 of the Ordinance to delete all references to police powers.

Secondly, penalties. The Bill seeks to raise the penalties generally for offences specified in the Ordinance from the present level of either \$50,000 and one year's imprisonment or \$100,000 and one year's imprisonment to \$500,000 and two years' imprisonment. This serves to align the penalty levels with those for similar offences referred to under section 36 of the Import and Export Ordinance. The

uniformity in the penalty level would in turn facilitate administrative efficiency in prosecution work.

Lastly, new offences. The Bill seeks to add three new offences to the Ordinance in order to enhance the deterrent effect of the legislation against malpractice and damage to the integrity of the Hong Kong certification system. The first offence relates to organizations dishonestly representing themselves to be government-approved certificate issuing authorities. The second concerns the issuing of a document likely to mislead another person into believing that the document is a certificate of origin issued by government-approved certificate issuing authorities. The third offence concerns the omitting, with intent to deceive, of any material particulars in applications for a certificate of origin.

The Trade Advisory Board has been consulted on the proposed legislative amendments and has expressed its support.

Sir, I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

LIMITATION (AMENDMENT) BILL 1990

THE ATTORNEY GENERAL moved the Second Reading of: "A Bill to amend the Limitation Ordinance."

He said: Sir, I move that the Limitation (Amendment) Bill 1990 be read a Second time.

The principal object of this Bill is to amend the Limitation Ordinance to extend the time limits which are imposed upon the commencement of certain legal proceedings involving claims for damages. The Bill also amends that Ordinance specifically in relation to time limits affecting cases involving fraud, concealment or mistake. Finally, the Bill introduces special time limits for certain actions relating to land.

There have been important developments in this area of the law during recent years and in particular there have been changes to English legislation upon which the Limitation Ordinance is based. The provisions contained in the Bill are designed to reflect those developments.

Clauses 11 and 13 of the Bill are based on provisions contained in the English Latent Damage Act 1986. They are intended to deal with a situation where a person's negligence results in hidden damage to property and the limitation period expires prior to the discovery of that damage. An example would be where the foundations of a building are laid negligently and that negligence is only revealed many years later, perhaps after tell-tale cracks and bulges appear in the building. As the current limitation period of six years runs from the date on which the damage to the foundations occurred, it is possible that such period will have expired before the defect is discovered.

Clause 13 provides that the new limitation period in actions of this nature is to be either six years from the date on which the damage occurred or three years from the date on which the plaintiff acquired the requisite knowledge for bringing an action, whichever period ends later. However, in order to eliminate the possibility that someone is sued by virtue of this new provision a great many years after the negligent act or omission occurred, clause 13 of the Bill provides that no action shall be brought after the expiry of an overriding period of 15 years following the date of that act or omission which allegedly caused the damage.

Problems can arise where, on the date on which a plaintiff had the knowledge required for bringing an action, he is under a legal disability such as infancy. Clause 11 provides that in such a situation, an action may be brought within three years from the date upon which the plaintiff ceased to be under the disability, provided that this does not go beyond the overriding 15-year period.

Hitherto there have been difficulties where there are successive owners of a property which has a hidden defect. Clause 13 also provides that a person who acquires property so affected will be able to maintain an action against the responsible party provided that no previous owner has been aware of that latent defect.

The proposed changes to the law of limitation in actions involving fraud, concealment and mistake are contained in clause 12. Its effect is to postpone the commencement of any limitation period under the Ordinance so as not to prejudice a plaintiff who has suffered from fraud, the deliberate concealment of facts or from the consequences of a mistake. In such cases the limitation period will only commence

when the plaintiff has discovered, or could with reasonable diligence have discovered, the fraud, concealment or mistake.

The changes proposed in clauses 5, 6, 7 and 8 would reduce from 20 years to 12 years the period within which it is possible to bring certain legal proceedings affecting property, in particular actions to recover land or to redeem mortgaged land. The proposed changes are consequent upon changes effected by the Conveyancing and Property (Amendment) Ordinance 1988. During the course of the passage of that piece of legislation through this Council on 1 June 1988, I assured Members that the Administration would carefully consider a proposal reported by the late Mr. Peter C. WONG, which related to the statutory limitation periods for actions for the recovery of land. That proposal is fully reflected in the Bill.

Sir, I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

Members' Motions

FUTURE POLITICAL SYSTEM IN HONG KONG

HIS EXCELLENCY THE PRESIDENT: We will now consider Members' motions. Mr. Allen LEE and Mr. Jimmy McGREGOR have given separate notices to move motions on the future political system in Hong Kong. The two motions have both been printed in the Order Paper.

The content of the two motions relates to a similar subject, in other words, it is cognate, to use the technical parliamentary term. Unless Members dissent, I intend that they should be debated together.

MR. ALLEN LEE moved the following motion:

"That this Council expresses disappointment that the OMELCO consensus has not been adopted in the formulation of the future political model but urges the community, in the interest of Hong Kong, to be united in its efforts to achieve a successful democratic system."

MR. ALLEN LEE: Sir, I move the motion standing in my name on the Order Paper.

In all the years as a Member of this Council, I feel that this is the most difficult speech that I have ever made. I have decided that I must express myself without reservation and tell the Hong Kong people truly what I think.

In Hong Kong, we have never had any form of democracy until very recently. Our people have always been resigned to the fact that Hong Kong is a British colony and the Governor is always sent from London and he appoints his advisers as he wishes. No one has ever challenged the authority of the Governor. All this is fine as we enjoy all forms of freedom and our judicial independence provides absolute protection for our people who live within the boundaries of the law. Hong Kong has prospered and grown to become the miracle of the Orient. Were it not for the New Territories' lease, I believe the system would continue for some years. However, the fact is that by 1 July 1997, the lease will expire and the Chinese Government had no intention of renewing it.

As the socialist system practised in the mainland is so different from the capitalist system practised in Hong Kong, therefore through the Sino-British negotiations, it was agreed by the two governments that Hong Kong would enjoy a high degree of autonomy with Hong Kong people ruling Hong Kong for 50 years beyond 1997. The Hong Kong people should be ecstatic with joy that finally we will be reunited with our motherland. However, the fact is that this is not the case. The people of Hong Kong are worried about their future. Those people who have the means to leave are leaving in large numbers and we are facing a confidence crisis of an unprecedented nature. I often wonder whether the Chinese leaders and officials are aware of this situation. I have come to the conclusion that they must know what is happening in Hong Kong. Is Hong Kong useful to China? My conclusion is that Hong Kong is of great importance to China. Therefore, it is in the best interest of both parties to maintain Hong Kong's prosperity and stability. The question is how.

As a start, I believe we must establish a common understanding and basic trust with China. Let us do our part to close the gap. Many Members of this Council, including myself, have not given thoughts in this direction. If, as leaders of our community, we were to adopt an attitude of not trusting China, how could we expect China to trust us? If we think we can construct blockades in order to preserve our way of life, what do you think the Chinese reaction would be? In the case of the pace of democracy, we have failed the Hong Kong people. Of course I am greatly

disappointed that the OMELCO consensus model had not been adopted in the Basic Law after Members had made tireless efforts in scrutinizing and studying various options before finally reaching the OMELCO consensus. Although we have discharged our duties honourably, at the end, we are not masters of our own destiny. We relied on the attitude of the Chinese Government whilst there was definitely a lack of goodwill and trust. Should we continue to conduct our business in the same manner during this period of transition, the end result would be obvious. I believe, Sir, now is the time to start afresh. We should review what was happening in the past and look towards the future. It is in this spirit that I ask Members of this Council to consider carefully our future relationship with China and the future of our people. At the same time, I ask the leaders of China to understand Hong Kong and our way of life. I believe that only through mutual understanding will we be able to establish the system promised by the Chinese leaders of "one country, two systems". This concept has never been tried by mankind and in the case of Hong Kong, we must do our very best to ensure its success.

Sir, personally, I believe in democracy. The reason is simple. It is because people have the right to choose their leaders. Democracy is not perfect, but it is the best form of government. It provides the checks and balances and it gives the people the freedom to express themselves. In 1991, our people will have the opportunity, for the first time in our history, to directly elect 18 Legislative Council Members. Even though I would like to see more Members directly elected into this Council, the fact remains that it is a positive step in the right direction. I urge the people of Hong Kong to actively participate in the elections and to come out and vote for the people who they believe should be the leaders of our community. I also urge those who are qualified to be voters to register so that they can vote on the election day. The people of Hong Kong must determine who they want in the future government and the only way to do this is to go to the polls and vote. I would be most disappointed if the 1991 election had a poor turn-out.

Finally, Sir, I had intended to comment on Mr. MCGREGOR's motion. However, I have decided not to as I do not wish to influence the voting of my colleagues who have the freedom of choice to decide which motion they will support.

Sir, I beg to move.

Question on the motion proposed.

HIS EXCELLENCY THE PRESIDENT: As the Council has agreed that Mr. LEE's motion be debated together with Mr. MCGREGOR's motion, Members can now speak on either or both motions. At the end of the debate, we will vote on Mr. LEE's motion first. After the Council has voted on Mr. LEE's motion, I will call on Mr. MCGREGOR to move his motion. We will then vote on it without further debate at that point. Mr. MCGREGOR, are you rising on a point of order?

MR. MCGREGOR: Yes, Sir. On a point of order, I should be most grateful, Sir, if you could advise the Council whether there is no problem with voting for both motions.

HIS EXCELLENCY THE PRESIDENT: Members of the Council are free to use their votes as they wish. It is up to them to decide whether or not it is a contradiction to vote for both motions.

MR. CHEONG (in Cantonese): Sir, having gone through the drafting and consultation processes which lasted for four years and eight months, the blueprint of the Basic Law of the Hong Kong Special Administrative Region has eventually been finalized in the midst of controversy. It is the naked fact before us.

Looking back on the past few years the major subjects of contention in Hong Kong were guided by the developments on the issue of political systems. Many in our community were perplexed by the political models put forward by various sectors. For reasons unknown to us, it seemed that we were all entangled in a game of figures, from which we found it hard to extricate ourselves. We became tangled and seemed to have lost our bearing. When we calm down, probably we cannot help asking: "What has stifled our rational thinking?"

In the heat of the debate on the political system, many people expressed their stances in very strong terms, while other resorted to various actions to press home for their aspirations. Whenever proposals which might jeopardize the operation of Hong Kong were made, quite a number of people would become impetuous and reacted emotionally. Of course, I would not deny being one of them.

Judging from the present circumstances of our society, the divergence in

interests among China, Britain and Hong Kong has indeed been intensified. The frustration felt by the community is understandable. However, if we keep dwelling day and night on the cause of this state of affairs or analyse the present blueprint of the Basic Law in a way similar to a "coroner's inquest" and try to hold somebody responsible, then it would be somewhat unrealistic, time-consuming and yet unproductive. Hong Kong's success today is not attributed to its people's habitual mourning over past misfortunes, but to their determination and courage to forge ahead and their pragmatic attitudes. The road ahead is long. We should not set a particular year as the finishing line to our future.

The Basic Law presented to us now is the mini-constitution for the future Special Administrative Region. We, whether as community leaders or as ordinary members of the public, have the obligation to grasp the meaning of every clause in the Basic Law, and to contemplate the ways of implementing the spirit of "one country, two systems" and "a high degree of autonomy". Apart from discussing the political system, we should examine whether there are other aspects of materializing "a high degree of autonomy" which we have neglected. Some people consider the finalization of the Basic Law would bring this matter to an end, but I think this is only a prelude. Lots of follow-up actions on the practical work have yet to be carried out. Should we give up our efforts in other realistic aspects due to our discontent over the political model to be stipulated in the Basic Law, then we would be unworthy of this homeland of ours.

To realize the promises pledged to us in the Sino-British Joint Declaration, China, Britain and Hong Kong should trust and respect one another. Should these three parties continue to keep a wary eye on each other, the consequences and the price to be paid will be quite unimaginable.

At present, there is mutual distrust in three areas, namely between China and Hong Kong; China and Britain and Hong Kong and Britain. During the transitional period and the years beyond 1997, mistrust in these three areas can set off chain reactions. To uphold the prosperity and stability of Hong Kong, all these parties must live in harmony.

Firstly, the relationship between Hong Kong and China has been at the ebb in recent years and are showing signs of further deterioration. Because of Hong Kong people's anxiety over the uncertainty of their future and China's over-reaction to some politically sensitive issues, some people in the community have advocated the

independence of Hong Kong, in substance though not in name, in a bid to secure its survival. In fear of such an attitude, our future sovereign state has further tightened its policies in the hope that on resumption of Hong Kong in 1997, the territory would not have become a base of subversion against the central government or a threat to its authority. Surely this vicious cycle cannot be of benefit to the people of Hong Kong.

Irrespective of whether those engaged in the squabble will watch Hong Kong's predicament with indifference from abroad in future, people who are prepared to stay should begin to mend the broken relationship. After all, certain grey areas still exist in the Basic Law which are causes of concern to the people of Hong Kong. The immediate task ahead is to work out the ways for implementing the provisions of the Basic Law in order to allay the fears of our people. The exchange of abuses between China and Hong Kong should come to an end, and greater importance should be attached to securing a dialogue. Not only should both sides understand the operation of each other's political system, there should also be mutual understanding and adaptation in the administrative, social and other aspects. Otherwise the repercussion arising from misunderstanding during the transfer of sovereignty will harm only the people of Hong Kong. It would be more constructive to establish a frank, sincere and complementary relationship rather than to take a confrontational or flattering stand.

As regards the Sino-British relationship, many of us are weary of the megaphone diplomacy of both sides and the accusations hurled at each other just to gain the upper hand. On reflection, disputes on the stationing of troops and the right of abode in Britain arose possibly because both sides were unwilling to calm down and seek ways to ensure the prosperity and stability of Hong Kong. Britain and China should re-establish a tie on good terms, regarding the interest of Hong Kong people as the major premise. The two sides should also reopen negotiations on the unresolved problems concerning Hong Kong, through the channel of good communications. Regardless of any criticism levelled against the agreement reached between China and Britain over the political system, it is after all the first step made towards reaching agreements in recent years. In the next seven years, it is hoped that Britain and China will bring about a smooth transition for Hong Kong through mutual trust and respect, instead of leaving a tainted record in the scrolls of history.

During the transitional period, spates of political and social problems are expected to arise. Our trust in and support for the Administration will be all the more important, or else the functioning of the Government will be hampered and the

livelihood of our people adversely affected. However, the recent relationship between the public and the Administration leaves much to be desired. It is regretted that the people's trust in the Government is waning and some people are replaying the old tune of a "lameduck". If this spirit of distrust towards the Government continues to prevail in the community, the people of Hong Kong will be ones to suffer in the end.

To enable the present structure to lead Hong Kong more effectively towards a smooth transition and to pave the way for the future, we need to unite, organize our thoughts and efforts and present the public with well-considered views. In so doing, we could stimulate the people's concern in public affairs, so that they will commit themselves to taking part in building Hong Kong's future. Through organized efforts and participation, we can assist the Administration in formulating policies and measures with far-reaching effects on the people of Hong Kong. Then all of us can share the fruits of unity.

The elections in 1991 will be a practice session in participation. The OMELCO consensus sheds light on the road towards unity. Let us begin with this experience and prove by practice and participation that the perseverance of our people can enable us to weather storms and iron out obstacles. This would not only serve to boost confidence but also to establish a basis for mutual trust. So let us work towards this end together.

Sir, I support Mr. Allen LEE's motion.

MR. CHEUNG YAN-LUNG (in Cantonese): Sir, the late Governor Sir Edward YOUDE once said that political structure gives life to politics. That means politics would evolve along the lines where the political structure develops. I share his views on this. I agree that the political model plays a very important role in politics. Hence, if we have an ideal model for our political structure we must stand firm to it.

I have all along supported the OMELCO consensus. Thus I support the motion put forward by Honourable Allen LEE. I firmly believe that the OMELCO consensus will truly pave the way for democracy in Hong Kong and be able to ensure that the people of Hong Kong can practise a high degree of autonomy on the basis of democratic elections in the full sense. The OMELCO consensus not only conforms to the Joint Declaration in spirit but also takes into consideration the awakening and the aspirations of the Hong Kong people for democracy. I support in particular the

proposal that in the year 2003 all members of the legislature should be popularly and directly elected.

However, the OMELCO consensus, which we consider to be ideal, has not been accepted in the formulation of our future political model. I am deeply sorry because of this great disappointment.

The OMELCO consensus was reached after in-depth and thorough discussions over a long period of time. It has received unanimous support and endorsement of councils/boards at different levels which represent the views of various sectors of our community and it is therefore highly representative. Take the Regional Council which I represent as an example, the OMELCO consensus has got full support of its council members who in turn represent the views of almost 2 million residents in the Regional Council area. It is evident that the OMELCO consensus has received approval from the public. Members of councils/boards at different levels are veterans of public affairs and naturally they must have incisive and realistic ideas about the best political model for Hong Kong people. They have given their unanimous support to the OMELCO consensus too. It is certainly very disappointing that such a widely endorsed consensus was not adopted as a future political model and was not even considered at all from the beginning.

It can be seen that although the opinions of OMELCO and the community at large are unanimous, they are not accepted anyway. Today we must take this opportunity to point out clearly that politicians must be responsive to public opinion. Those who go against public wishes are either prophets or diehards.

As a matter of fact, the people of Hong Kong do not like confrontational politics. Nor are they happy with labels in politics. For years, we have adopted a democratic way to rule by consensus to sort things out in the spirit of give and take. What the people of Hong Kong are trying to secure today is simply a guarantee which enables them to live in peace and have a chance to develop their full potential and share the fruits of their hard work. The democratic ideal we are striving for is merely to create an environment which allows us to feel free to participate in public affairs and do our best to build a happy home.

Sir, I would like to remind the Administration that a conservative political model will be regarded by the community as outdated and regressive. I also wish the Government to know that in the light of the prevailing trend of democracy worldwide,

the people of Hong Kong are willing to do their best and support an innovative political model which responds to their wishes. Although the political blueprint for 1997 has now been hammered out and it is quite impossible to change the situation, what we need at the moment are some practical actions. For instance, during the transitional period, we have to join hands with members of councils/boards at all levels and the community at large to form stronger public opinion in our attempt to clarify in advance certain "grey areas" in the operation of our future political structure and exert our influence on these aspects. For example, there is still room for us to make suggestions on the composition of the Election Committee for the first Legislative Council, and the method for the selection of the Chief Executive and members of the Legislative Council and so on. It is more important that we should prove to the Chinese authorities that democracy will definitely have a positive effect on the prosperity and stability of Hong Kong and that in the days to come, economic developments in China and Hong Kong will be closely related and interdependent.

Sir, with the seats of the Legislative Council partly returned by direct elections next year, we should clearly recognize that any model put into practice will set a precedent and experiences of today may become a heritage for tomorrow. Therefore, we have to be prudent in every step we take during the transitional period and cast aside our personal views for the overall interests of Hong Kong. We should make concerted efforts in building a successful democratic political system for Hong Kong.

With these remarks, Sir, I support the motion moved by Honourable Allen LEE.

MRS. CHOW: Sir, the events in the past few months have been tragic for Hong Kong and we all feel it deeply. Those of us in OMELCO who have spent the last two years or so arguing and negotiating with one another to strive for a political model which we could accept as a good one for Hong Kong's transition into the future probably feel the pain more acutely than others. Having come to our consensus after much sacrifice and compromise on all sides, we discover that our model was the most unacceptable of all those put forward.

In hindsight, I suspect the consensus model was not considered not only because it came from OMELCO. After all when our previous recommendation of the "through train" concept was adopted, our so-called British connection was conveniently ignored. The OMELCO consensus was dropped, because of all the proposals it was the most liberal and would not have been preferred in any event no matter where it had been initiated.

After all, the "4-4-2" model which was put forward by members of the Basic Law Consultative Committee and enjoyed its own form of consensus was likewise ignored. So where did it go wrong? Some cynics would argue that the whole consultation process was futile. Many more are saying that the secret deal between the two governments on the political model has made a mockery not only of all the people who have submitted their views but also their own trusted advisers, be it OMELCO for the British or the drafting and consultative committees for the Chinese. Others would blame the British for not trying hard enough. In spite of strong pleas from OMELCO, the British desire to remain friendly with China seemed to have taken precedence over all other considerations. But then this should have come as no surprise. Had it not been evident from Day One when the Sino-British talks started? Mr. John SWAINE said in this Council during our debate on the Joint Declaration in October 1984, " I am not persuaded that she (Britain) has done all in her power for Hong Kong. I think she went to the negotiating table with one arm tied behind her back. She disabled herself a long time ago when she closed the door for Hong Kong".

It is a posture to which Britain seems to have grown accustomed. In all fairness, the ambivalence of all Hong Kong people has not helped our cause of fighting for a more democratic Hong Kong. Whereas most people would like to have the right to elect our own leaders and representatives, most of us wish that such right could be gained through gentle persuasion rather than acts of confrontation with China. This is only in line with a long adopted Chinese dictum that we must never argue with our elders. Besides, the reluctance to do so is greatly enhanced by the possible catastrophic consequences of raising the wrath of elders in Beijing. I disagree with them. But perhaps we should try and view the recent developments from the Chinese leadership's perspective. To them Hong Kong people are difficult to deal with. For one thing, we can never agree; when we do not agree, the only cause left seems to be a combination of the acceptable parts of all the acceptable models.

Such a decision is in fact no different from the many decisions taken by the Hong Kong Government, or any other government for that matter, in the formulation of various policies. What is unfortunate with this current decision taken by China is that she has combined some of the most unpopular parts of some unpopular models. So it is not altogether correct to say that China has ignored public opinion in Hong Kong. She just picked and chose to her liking. It is our misfortune that her liking does not coincide with ours. My attempt to analyse the thinking on all sides behind secret events is not to make them more palatable. Nothing can. But at the time when our people are suffering the worst crisis of confidence over our already prolonged

period of uncertainty, we have somehow to prevent ourselves from sinking further into a bottomless pit of despair. We must therefore view current events in the light of objectivity. But most important of all, we must throw our sight forward. In as much as we are not pleased with the models decided on, we have to form a judgment as to whether this is for the moment the end of the line. For if we are not careful we can waste precious time over futile crusades which we can otherwise devote to constructive actions that can become convincing inducements to change. This we can do by proving to China that Hong Kong is ready for democracy, that we can handle it without sacrificing our stability and that the peace-loving nature, reason and commonsense of our people will prevail over undignified demonstrations of dissent. We can illustrate how the thrashing-out of disagreement in the proper forum of this Council with a right attitude of maturity and objectivity can lead to better government. This is why the 1991 elections are so crucial. If we are successful then -- and by that I mean we participate peacefully, choose the representatives rationally and wisely and campaign sensibly -- the Legislative Council will be better for it. Then it would be so unwise as to block changes for the better.

Hong Kong is our home. No matter whether we decide to leave or stay, Hong Kong has been and is "us". And for those of us who do decide to continue to call Hong Kong home, whether it be for the next five or 50 years, home is home, for better or for worse. It is up to us to defend, protect and nurture it. Let us do the best we can to keep it prosperous and free by insisting on the three basic prerequisites, that is, the rule of law, a fair political system and the freedom of expression. Reality dictates that we can only achieve this with the goodwill and understanding of China.

Sir, I support Mr. Allen LEE's motion.

MR. CHAN (in Cantonese): Sir, the method for the formation of the legislature as specified by the final draft of the Basic Law has vindicated the veracity of our judgement that Hong Kong people are helpless. As a matter of fact, we have all envisaged such an outcome because Hong Kong drafters are outnumbered by mainland drafters in the Basic Law Drafting Committee. In other words, China can actually control the situation and decide unilaterally the future political system for Hong Kong.

In regard to the British Government, although there is a good opportunity for

her to negotiate for a more favourable political blueprint for Hong Kong people, we all know that she will not fall out with China for the sake of Hong Kong. Thus, we have not held out high hopes on the British Government too.

What I am dissatisfied at is that there is still a trace of the bicameral system in the final draft whereas the OMELCO consensus has been totally disregarded. According to media reports the Chinese leaders have to show some respect at least for the proponents of the bicameral system. I just wonder what the British Government has to say to OMELCO Members.

What makes me feel more discontented is that both the Wan Chai and Eastern District Boards, of which I am a member, have discussed and agreed to support the proposal that there should be 20 directly elected seats in the Legislative Council in 1991, and the idea has also won the support of other district boards. The above figure can converge perfectly well with the 20 seats announced for 1995. But now the 1991 legislature will fall short of two directly elected seats, and I cannot help but wonder whether the increase from 18 seats in 1991 to 20 seats in 1995 can really be regarded as making steady progress? I hold the view that if 20 seats are introduced for 1991, then at least 2 more persons wishing to serve Hong Kong can get elected into the Legislative Council and accumulate four years of working experience, which will be beneficial to Hong Kong during the transitional period. The British Government owes us an explanation and should clarify whether she has compromised with China in her own interest, as alleged by some people.

Sir, Hong Kong people are not keen to talk about the Basic Law; this is the mood of most people, for they have already seen through the matter, thanks to the frankness of the Hong Kong drafters. Anxious to tighten her control over Hong Kong, China adopted the separate voting system without making any consultation and completely ignoring the objection of Hong Kong people. I believe that apart from the Hong Kong drafters, all Hong Kong people have learnt a lesson too. Thus, although many people will not discuss the complicated provisions of the Basic Law, the question of who is right and who is wrong has become a favourite topic for discussion in the "talkabout" programme of Radio Television Hong Kong and among people of all social strata when they meet in public places. Hong Kong people have a better understanding of not only China, but also the views of all parties concerned. In short, they know what is going on.

Hong Kong people are in helpless position. Hong Kong has already started late

in the introduction of direct elections. Up till now, there is no directly elected seat in the Legislative Council. And the British Government is not in a position to speed up the pace of political reform. Otherwise, I dare say that we can find out immediately which political model for the draft Basic Law is supported by Hong Kong people, and the situation would not be manipulated by those persons "posing as" our representatives.

I think that after the June 4 incident, not many Hong Kong people are able to win the trust of the Chinese authorities, and after the Basic Law has been finalized, I am afraid there are even fewer representatives whom Hong Kong people can trust. We are in need of the right people to serve as an effective link between China and Hong Kong. It is only through holding elections that we can pick out the real leaders from the mediocrities and enable them to develop. This will contribute towards realizing the "one country, two systems" principle, and enhancing mutual support between China and Hong Kong.

It is my view, therefore, that we should press on with the OMELCO consensus. It is never too late to seek to speed up the pace of democratization in the Basic Law, 1991 will offer a good chance for Hong Kong people to prove their abilities. As the British Government has said, after the Chinese Government has witnessed the performance of Hong Kong people, efforts will again be made to persuade China to agree to raise the number of directly elected seats in the legislature after 1997 to meet the actual needs of our political development. This is an undertaking the British Government has publicly made to the Hong Kong community. We should all work towards this objective and must not give up easily.

Finally, I am very glad to learn that many prominent members of our society are prepared to participate in the direct elections in 1991, and that the demarcation of constituencies has become the hottest topic for discussion in district board meetings lately. Some press reporters have also asked me whether I would take part in future elections. All these make me feel that Hong Kong is full of life once again. However, in order to implement the principle of Hong Kong people administering Hong Kong, we must first of all ensure that our citizens will turn up to vote. I will certainly do my best to encourage residents of my district to participate actively in the 1991 election to make it a great success so as to justify our fight for the introduction of no fewer than 20 directly elected seats in 1995.

Sir, with these remarks, I support the motions moved by Honourable Allen LEE and

Honourable James MCGREGOR.

MRS. FAN: Sir, the Chinese and British Governments had once again decided the future of the people of Hong Kong. This time it is the composition of the legislature. The mainstream view among Hong Kong people, represented by the OMELCO consensus, which had been confirmed by various opinion surveys conducted by independent bodies, is not accepted. I witness with great regret the disappointment, the grave concern, and the further erosion of confidence in our community. Was all that frustration necessary? Could it not be handled in a more sensitive and understanding way? Is it not possible to be less heavy-handed? These are questions which will not be answered. What is done is done! We are realistic and pragmatic people. We have to accept that circumstances beyond our control is more overwhelming than our own efforts. In Chinese, the saying is " ". But accepting the reality does not reduce the deeply felt disappointment.

Most Hong Kong people are not experts of constitutional development and representative government. We have taken an interest in the future political model because we were repeatedly encouraged by influential figures both in China and British to express our views. We were also urged by the same people to reach a consensus. The importance of reaching a consensus, we were told, was that it can provide a basis for the future political model. Were we naive in believing them? Maybe we were. But if we have not tried it out, we will never be able to gain this experience.

I do not wish to apportion blame on any party. Much had already been said on this, and more will be forthcoming in this debate. I am however sadly disappointed by four factors. Firstly, the refusal of the Chinese side to consider the OMELCO consensus simply because they thought OMELCO was a British organization. Secondly, the apparent favouritism showed by the Chinese side to the suggestions of small groups of people over the mainstream view of the community. Thirdly, the inclusion of separate voting for Member's Bill and amendment which is not only cumbersome but also undermines the spirit of convergence. Fourthly, the British Government's willingness to compromise with the Chinese Government for a convergence in number but not in all respects. I cannot say that I am happy with the future political model as it now stands. But I accept that the main task ahead is to prove convincingly that those who blocked the progress of democracy in Hong Kong had been wrong in their assessment. Hong Kong people do deserve, and are capable of handling, a faster pace of democratic development. To demonstrate this to the world, in particular to China,

that democracy works well here, the elections in 1991 need to have a good turnout rate, and the 1991 legislature must enjoy more support and outperform the present one.

I therefore support Mr. LEE's motion.

MR. CHENG HON-KWAN: Sir, after over four and half years' work, the Basic Law Drafting Committee (BLDC) at its last meeting on 16 February eventually agreed on the final version of the Basic Law of the Hong Kong Special Administrative Region (SAR). Much attention has been focused on the political structure adopted for the SAR legislature, which has been the most controversial issue since the setting up of the Basic Law Drafting Committee. The majority of the people of Hong Kong, including Members of this Council, have been very disappointed by the political models finally adopted as they do not reflect the views of the community and largely jeopardize the future democratic development.

If I remember correctly, at the outset of the drafting of the Basic Law, the people of Hong Kong were urged to express their views eagerly and whole-heartedly and in this connection a Basic Law Consultative Committee was established. We were then encouraged to do our best to reach a consensus which would be seriously considered for acceptance. In good faith the people of Hong Kong have thus contributed considerably and indeed OMELCO has worked most enthusiastically together and successfully reached a consensus model for the political development towards a fully directly elected legislature in 2003. This follows the ultimate aim that all the Members of the Legislative Council shall be selected through general election as stated in the draft Basic Law. The OMELCO consensus model has since been overwhelmingly supported by many sectors of the community including even the liberal groups. However, it is most unfortunate and unfair that the OMELCO's views have been mistakenly regarded as initiated by the British Hong Kong Government and therefore not been taken into account as an option for consideration. The views of the Hong Kong people at large have been totally ignored.

Sir, if we look back to the various stages of formulating the political structure, there have been many fundamental changes which finally led to a so-called "mainstream" formula agreed at the meeting in December 1989 of the political sub-group of the BLDC, including a slow pace of democracy, a differential voting system, a category elected by the grand electoral college and an upper limit imposed on the number of Members

possessing foreign right of abode. This proposed package was not acceptable to the community, and professional bodies, including those within my own functional constituency, expressed their objection to the proposal.

In the very last moment during the Plenary Session of the BLDC, the results of a concession were incorporated in the proposed package of the political model. This concession emerged from the extensive discussions at a high level between the British and Chinese Governments with a view to achieving a smooth transition before and after 1997. This convergence is important in that it reflects an understanding reached between the two governments and may help maintain stability and prosperity of Hong Kong. I welcome the opportunity of high level dialogue between the two governments which facilitates easy solution to many problems and resumes a good Sino-British relationship.

Sir, although it is a grave disappointment that the final package of political structure falls short of what we would have preferred, it is high time for us to make the best efforts to demonstrate ourselves that we are capable of using this opportunity to participate actively in the next election in 1991 and make it a great success. To do so will ensure a solid foundation for further democratic development -- a trend prevailing nowadays in many more countries in the world.

Having said all these, I would like to refer to a recent survey which showed our confidence dropped to an even lower level than that immediately after the June 4 event. I am not at all surprised as this is not only a matter of detail of the political structure but also a reflection of a strong feeling that the wishes of the people of Hong Kong have not been well taken into account. In any event, we have to face the reality under the circumstances and strive for a successful implementation of our political reform although its formulation is not in our hand.

Sir, I support the motion moved by the Senior Member.

MR. HO SAI-CHU (in Cantonese): Sir, the political model for post-1997 Hong Kong, an issue of general concern to the people of Hong Kong, has been endorsed by the Basic Law Drafting Committee, pending consideration and approval by the National People's Congress in March. After more than four years of arguments and contentions, the matter has finally come to an end. Not surprisingly, the local population is divided in their reaction to the proposals. Some are in favour of them, some are not. But

undeniably, the political model endorsed is a product of accommodation and compromise among all the relevant parties. One of the objectives of politics is to take care of and strike a balance between the interests of all sectors of our community. If such a balance is upset, confrontation will arise, resulting in social unrest and a stagnant economy.

It is to the benefit of China, Britain and Hong Kong to ensure a convergence in political development before and after 1997 to bring about a smooth transition. During his visit to Hong Kong last month, the Foreign Secretary Mr. Douglas HURD said that in reaching a decision, the British Government had to give due consideration to the on-going development of our political system after 1997, apart from taking account of the general wishes of the people of Hong Kong. Now that the Hong Kong Government has decided to introduce 20 directly-elected seats in 1995 which tally with the number of seats proposed for the Legislative Council of the Special Administrative Region in 1997, smooth transition can be ensured. As a starting point, 18 seats will be returned by direct elections in 1991. This is in line with the principle of gradual and orderly progress. Besides, the number of directly-elected seats to be introduced far exceeds the 10 seats set out in the White Paper on the Development of Representative Government published in 1988. This is already a response to the call of the people of Hong Kong for a faster pace of democratization.

There are criticisms about a secret deal of sell-out that China and Britain have betrayed the interests of the people of Hong Kong. Whether such accusation is justified or not is open to dispute and comment. Although the Foreign Secretary Mr. Douglas HURD has mentioned that Britain could not unilaterally decide upon the issue of convergence and negotiations with China were necessary, the people of Hong Kong have likewise pointed out repeatedly that good Sino-British relationship would be a necessary guarantee for the faithful implementation of the Joint Declaration and the maintenance of prosperity and stability of Hong Kong. The less than harmonious relationship between Britain and China in the past few months has cast a shadow over Hong Kong. Now China and Britain are on good terms again and have been able to solve the problem of convergence in political system through friendly discussions. It should be seen as a desirable development to the benefit of Hong Kong.

Now the model of our political structure has basically been decided. Though it may not please everyone, yet many people find it acceptable. From now on we have to pull ourselves together and face reality. We should put into effect what we have won in democracy and select the right people for the Legislative Council in the first

direct election in 1991, thus realizing the democratic spirit of the Hong Kong people and making a steady step forward in the development of a democratic system of government.

Sir, for the sake of continued prosperity and stability in Hong Kong, I have all along subscribed to the need of convergence of our political system before and after 1997 and held the view that democracy should develop steadily to tie in with the civic consciousness of the people. I therefore support the respective decisions of the British and Chinese Governments on our political system and oppose any motion which undermines the convergence of our political system.

Sir, with these remarks, I reject Mr. McGREGOR's motion.

MR. HUI (in Cantonese): Sir, I am in support of the motion moved by the Senior Member, the Honourable Allen LEE, as I realize that milder wording has to be adopted to accommodate the different standpoints of all our colleagues. However, my feelings towards the rejection of the OMELCO consensus by the Basic Law Drafting Committee cannot be adequately described as "disappointment". Looking back at the performance of the Chinese and British Governments in the drafting of the Basic Law over the past four and a half years, I am overcome with deep regret, dissatisfaction and a sense of helplessness mainly due to the following two reasons:

Firstly, in respect of the British Government, when the Sino-British Joint Declaration was signed in 1984, Britain undertook to establish a democratic system in Hong Kong whereby "the executive arm would be accountable to the legislature", and the officials concerned pledged time and again that Britain had a constitutional and moral obligation to govern Hong Kong and to maintain its prosperity and stability during the transitional period. Unfortunately, the more these slogan-like promises were chanted, the more we realized that they were just empty words. Some people even became upset and lost their faith in Britain's promise to fight for the interests of Hong Kong people.

I would like to quote a recent example concerning the development of representative government. In 1987 when our political structure was reviewed, there was already a rather clear popular support for introducing a number of directly elected seats into the Legislative Council in 1988. Unfortunately, the British Government was virtually scared off by a warning from the Chinese Government that

Britain should bear full responsibility if the political structure failed to converge with the one after 1997. As a result, Hong Kong was deprived of the first opportunity to introduce directly elected seats into this Council. Last year, after numerous discussions and consultations, OMELCO Members eventually reached a consensus on the political structure before the conclusion of the second round of consultation on the Basic Law. The OMELCO consensus subsequently won extensive support not only from all sectors in Hong Kong, but also from British politicians.

It is our belief that one of the important measures to restore the confidence of Hong Kong people towards the future after the June 4 incident in Beijing is to establish a truly democratic political structure before 1997. This view was in fact endorsed by the Foreign Affairs Committee of the House of Commons which came to Hong Kong last year on a special mission to collect local views. Thereafter, OMELCO sent several delegations to London to present to the British Government and Members of Parliament in detail the OMELCO consensus which could most faithfully reflect the wishes of the people and cater for the future development in Hong Kong. Such moves were made in response to the undertaking repeatedly given by the British Government that it "would respect the wishes of Hong Kong people".

Regrettably, when the Chinese Government adopted an unreasonably harsh attitude towards Britain and Hong Kong after the June 4 incident, the British Government lost all the courage initially displayed in the wake of the incident, when it condemned China and set new conditions for negotiations. Instead, Britain adopted an appeasement policy towards China. It was against this background that the OMELCO consensus was rejected by the Basic Law Drafting Committee. The so-called "agreement on the political structure reached through negotiations with China" was merely the result of efforts to urge China to make minor concessions over the separate voting mechanism in the Legislative Council and to slightly relax the restriction on the number of seats which might be filled by foreign nationals. But we should bear in mind that all these were new bargaining chips created by China out of its unfounded fear that Hong Kong would become a base of subversion to communism. They were in fact not a part of the draft Basic Law (for solicitation of opinions), nor could they represent the wishes of the majority of Hong Kong people. Is it possible that Britain was totally unaware of this fact?

The British Government had repeatedly gone back on its words in regard to the political structure of Hong Kong. It had sold out the interests of Hong Kong people and undermined the Hong Kong Government's credibility to govern the territory. This

is indeed deplorable and distressing. Thus, for the sake of justice and in order to let Hong Kong people know the story behind the "secret agreement", I think the British Government ought to tell us the causes for abandoning the OMELCO consensus.

The second reason for my disappointment is concerned with the Chinese Government. China had always stressed that it would not tolerate a "three-legged stool" type of relationship among the Chinese, British and Hong Kong Governments. As a result, the wishes of Hong Kong people could only be conveyed to the Chinese Government via the weak and timid British diplomatic channel and the Basic Law Consultative Committee with its highly selective approach. Under such circumstances, the genuine aspirations of Hong Kong people, including the OMELCO consensus, simply could not get a fair and reasonable treatment.

What is most regrettable and unsatisfactory was the attitude adopted by the Chinese Government in handling public opinion. It was not sheer luck that the OMELCO consensus could win extensive support from the general public. On the premise of the overall interest of the community, 49 non-official members with different political backgrounds and ideologies, who were accountable to different groups and holding different stands on the development of democratic political structure, had eventually united together to arrive at a consensus under the spirit of mutual understanding and mutual accommodation. Some colleagues even had to give an explanation to their constituencies or groups for the concessions they had made.

However, the Chinese Government had all along regarded OMELCO as a part of the British political system and treated with contempt the consensus which was the fruit of our hard work. Frankly speaking, our consensus on the political structure did not carry any trace of British influence. China just used this as an excuse to reject our model for fear that an unanimous view of the Hong Kong people might force her to go by our wishes. If this is the case, why should China bother in the first place to undertake to respect the consensus of Hong Kong people?

I am of the opinion that if the Chinese Government decides whether or not to accept a proposal on the basis of her relationship with the proponent, there are bound to be serious deviations in the formulation of policies on Hong Kong. Take the proposals concerning the separate voting mechanism and the restriction on the number of foreign nationals sitting in the Legislative Council as examples. These proposals were eventually endorsed by the Basic Law Drafting Committee without adequate discussions by Hong Kong people, apparently because the proposing body visited the Chinese leaders

in Beijing before-hand. Last week, a market research agency conducted a random survey of views on the final draft of the Basic Law and the findings revealed that 52% of the interviewees did not think that the final draft reflected the general wishes of Hong Kong people. Those who thought otherwise constituted less than one-quarter of the respondents. After the new mainstream model was endorsed by the political sub-group under the Basic Law Drafting Committee, I conducted a questionnaire survey among the supervisors and representatives of voluntary agencies. According to the results, 75% of the interviewees considered that out of all political models, the OMELCO consensus could best reflect the wishes of Hong Kong people, whereas the new mainstream model together with three amended models could only muster the support of a little over 10% of the respondents. The results of these opinion polls are concrete evidence and forceful deprecation.

On the other hand, regarding the practice of gauging the degree of acceptance on the basis of the rank of Chinese leaders who receive the visiting body, I am worried that the result will be an undesirable trend of Hong Kong people trying to curry favour with those in power. Moreover, a secret channel may gradually be evolved through which Hong Kong people can attack their opponents by making false accusations against them before the Chinese leaders in Beijing. Such a development will certainly not be in the interest of China and Hong Kong. The Chinese leaders should consider the matter carefully for the consequence could be very serious.

Sir, both the Chinese and British Governments have sold out the interests of Hong Kong people through hypocritical and despicable means. They have totally disregarded public opinion and have actually dealt a severe blow to the enthusiasm and confidence of Hong Kong people in expressing their views. For this reason we should not blame Hong Kong citizens for their apathy towards the drafting and consultation of the Basic Law.

Nevertheless, we should not let the matter rest or give up any opportunity to fight for our cause, for if we had not exerted pressure on both the Chinese and British Governments, the Basic Law final draft could have been even more unfavourable to Hong Kong. There are only 18 directly elected seats in the Legislative Council in 1991. Although this may fall short of our aspirations, we have to resign ourselves to the realities of politics. I hold that Hong Kong people should brush aside their negative attitude and helpless feelings, they should instead actively take part in the 1991 direct elections. Whether they are going to run for election, help in conducting election campaigns, register as voters or take part in voting, they should abide by

the fair election regulations and behave in a mature and cautious manner, so as to prove to China that the call for a faster pace of democratization in the development of the political structure is really justified by political awareness of Hong Kong people. I believe that if Hong Kong people demonstrate the courage, faith and spirit of participation which they had once displayed when they took to the street during the Beijing student movement, they will be able to elect Legislative Councillors who are true representatives of the people and are willing to be accountable to the public, and these councillors will lead Hong Kong people to tide over the difficult times.

Sir, with these remarks, I support Honourable Allen LEE's motion.

MR. CHUNG (in Cantonese): Sir, I support the motion moved under the name of our Senior Member Honourable Allen LEE. Though I am disappointed that the OMELCO consensus has not been accepted by the authorities concerned outright, I do not think our proposals have been entirely overlooked in the formulation of the future political model of Hong Kong.

I am of the view that the political model provided in the draft Basic Law, which takes its present form after a series of debates and amendments, serves to prove that the OMELCO consensus and public opinion of Hong Kong people will continue to carry positive weight in whatever important decisions to be made between China and the United Kingdom over our future.

I, therefore, support the motion of Honourable Allen LEE, mainly on the point that we should "urge the community, in the interest of Hong Kong, to be united in its efforts to achieve a successful democratic system". I particularly hope that everybody will speak up on the developments of this issue.

As a matter of fact, the final version of the draft Basic Law which has recently been announced is clearly the result of agreements reached between China and Britain lately. Before that, our two Senior Members Honourable Dame Lydia and Honourable Allen LEE, flew to London again on our behalf to give a direct and full expression of our consensus to the British Prime Minister. Highlighting on the OMELCO consensus, which is a package of proposals to reflect the wishes of Hong Kong people, they urged the British Government to proceed therefrom to secure suitable arrangements with the Chinese Government regarding the political system of Hong Kong before and after 1997 and the necessary convergence in all principal areas. Sir, as we go through the

course of events and the revised Basic Law, there is every reason for us to believe that the effort put in by our colleagues and the public to ensure the common interests of the territory has not been futile.

On the other hand, we may affirm that those who represent Hong Kong and participate in the formulation of the Basic Law and those in Hong Kong who voice their opinion on this matter have played a useful role in helping to overcome the difference between China and Hong Kong created by the Chinese members at the Guangzhou session of the sub-group on political structure. Public opinion in Hong Kong has created a timely force to help the Chinese Government decide its course of action in solving the Hong Kong problem. In other words, their effort to ensure our interests as far as the Basic Law is concerned is not the least futile.

Suppose we ask a simple question: if the OMELCO consensus did not exist; if the Hong Kong delegation did not put forth our requests at the London meeting with the British officials; if the Hong Kong representatives at the Guangzhou session on the Basic Law did not persist with our demand; all in all, if our wishes and proposals had never been given any expression, would there be any "revision to the draft Basic Law that brings its provisions closer to the demand of the people of Hong Kong through Sino-British agreements"?

The main proposal of the OMELCO consensus is: to speed up democratization of the local political system with a view to increasing the number of directly elected seats to be introduced to the Legislative Council in 1991 to 20 as compared with 10 in the original proposal, and to look forward to further developments in 1995 through which directly elected seats may take up a greater proportion in the composition of the legislature. The most distinctive feature that wins public approval in this proposal is the "through train" approach which suggests that in order to maintain our prosperity and stability in the change of times, it is imperative that all incumbent members on the 1995 legislature should, along the basic lines of the existing institution, take a "through train" at "the 1997 crossing point" and carry on with their duties according to the role they play.

It is understood that a number of agreements have been reached by China and Britain. Apart from drawing up a timetable governing the political development of Hong Kong after 1997 and putting it into the final draft of the Basic Law, both parties have agreed on the pace of democratization for Hong Kong in the following seven years and the "through train" concept for the transfer of power in 1997. Both the Hong Kong

and the British Governments announced on 16 February 1990 that there would be 18 seats returned by direct election in the Legislative Council in 1991 and "not less than" 20 in 1995. Though the number of seats as announced is slightly less than that proposed by the OMELCO consensus, it is, after all, a more favourable offer than that set by the Hong Kong Government in 1988, which was only 10, and also more favourable than that proposed by Beijing which "hoped it would not be more than 15". It proves that the OMELCO consensus has not been overlooked altogether. The Sino-British agreement has admittedly been shaped by public opinion and actual circumstances in Hong Kong. Yet the most important thing is that this arrangement which has been worked out by co-operation under the spirit of compromise and accommodation will certainly go a long way in facilitating convergence in 1997.

The separate voting system proposed by China has also been revised in the midst of strong objection from Hong Kong. According to reports, the separate voting method has been revised and will be applicable to Private Members' Bills only. Bills introduced by the administration will be free from this restriction and collective voting will apply. This revised formula on the power of the legislature appears to indicate that the Chinese Government does not intend to control the operation of the Hong Kong Special Administration Region legislature through the HKSAR Government or the Chief Executive. As for Private Members' Bills, Beijing refuses to give in and insists on a split-voting system. She may have her own reasons. Maybe she wants to immune the HKSAR from any domineering party politics. But we still have to see whether "split voting" is socially divisive or favourable to maintaining a balance.

Sir, you told us in your policy speech last year that the Basic Law might have significant impact on our policies and measures before the establishment of the HKSAR in 1997. Like many people in Hong Kong, I can realize the inter-action involved. It is believed that the Hong Kong and British Governments will continue their negotiations with Beijing on practical issues relating to the Basic Law and the development of our political system.

Turning to Hong Kong, there will be elections for district boards, the two municipal councils and the Legislative Council in March, June and September next year respectively. 1991 will not only be a new "election year" for Hong Kong, but will also usher the political system of Hong Kong into a new phase of epoch-making development by having 18 directly elected seats in the Legislative Council for the first time.

In view of the present situation, I would like to call upon the general public to pay more attention and give more opinions on the affairs of Hong Kong. In addition, they should engage themselves in politics realistically and lawfully, for example, to be physically involved in election activities, stand in election, support election campaigns or turn out to vote. In the foreseeable future, the demarcation of constituencies of the Legislative Council will be finalized and the new registration exercise for voters will soon begin. I hope that the people of Hong Kong will actively involve themselves in the development of our representative government and contribute to achieve a successful democratic political system.

It is firmly believed that the introduction of a specific number of directly elected seats to the Legislative Council in 1991 will consolidate the foundation of democratic reforms in Hong Kong. The political objectives laid down by the draft Basic Law for the post-1997 years can thus be achieved on time in a spirit of gradual and orderly progression.

With regard to the Hong Kong-London-Beijing relations, there is much for us to attend to. As we have already embarked on the course towards democracy, we should be concerned with the composition and the membership qualification of the Grand Electoral College to be established in 1995. It will be an aspect in our development which is bound to fall under the influence of the Basic Law and we should not keep silent. We have to echo the responses given to the Sino-British Joint Declaration and the final version of the draft Basic Law to fully demonstrate the power of public opinion of the 6 million people of Hong Kong in our attempt to safeguard the interest of the territory.

We should understand that the Basic Law is in effect laying down 10 years in advance a mini-constitution for the HKSAR. We cannot tell whether our needs will remain the same as those today 10 years later or whether the Basic Law once formulated will enable Hong Kong to remain unchanged for 50 years. None the less, we have to take note of the realities. When the drafting of the Basic Law began four years ago, who could foresee the June 4 incident that took place three years afterwards that led to the revision of the first draft of the Basic Law? My point is, though the draft Basic Law has now been finalized, yet the people of Hong Kong should continue to watch closely at the development of the situation in Hong Kong, and express their views on the rationale and the soundness of the Basic Law as long as the action taken will not jeopardize the Sino-British agreement and is favourable to the future of Hong Kong.

In fact, China and Britain have identical interests in Hong Kong. Their interlocking relationship has been built mainly upon Hong Kong's economy. Politics and political systems here are only statutory means to enable economic activities. Therefore, any debate on political developments, and any opinions on the political structure and other aspects of the Basic Law must take into prime consideration the important factors of improving the livelihood of the people and promoting prosperity and stability of our society. Democratic reform on the legislature and the administration must not depart from the local people's pragmatic demand for prosperity and stability.

The Chinese Government maintains that a set of Basic Law should be laid down on the basis of the Sino-British Joint Declaration for the people of Hong Kong. This set of laws should abide by the "one country, two systems" principle, and the people of Hong Kong should enjoy a high degree of autonomy for 50 years under a democratic system. It must be noted that the two signatory countries, that is Britain and China, have a common responsibility to ensure that the Basic Law fully falls in line with the Joint Declaration. The two governments, therefore, should regard their further co-operation to foster the future development of Hong Kong as a contractual commitment.

As for the Chinese Government, it is beyond doubt that Beijing hopes Hong Kong will change for the better. On the one hand, it should be considered reasonable that the Basic Law enacted for Hong Kong should not go against the wishes of Hong Kong people. When the Chinese authorities are handling matters relating to the Basic Law or Hong Kong, it is hoped they will seriously consider the basic principle of "one country, two systems" laid down by themselves. While taking care that her sovereignty will not be jeopardized, China should adopt flexible measures to help restore the confidence of the people of Hong Kong and facilitate our long-term development.

Sir, with these remarks I support Honourable Allen LEE's motion.

4.25 pm

HIS EXCELLENCY THE PRESIDENT: With several Members still due to speak in the debate this afternoon, Members might welcome a small pause at this point.

4.55 pm

HIS EXCELLENCY THE PRESIDENT: Council will now resume.

MR. MARTIN LEE: Sir, the motion proposed by the Honourable Mr. Allen LEE urges "the community, in the interest of Hong Kong, to be united in its efforts to achieve a successful democratic system." The implication of the motion, particularly its mild language and the word "but" which negates the entire first half of the motion, is that it is in the interest of Hong Kong for everyone to quietly accept the anti-democratic political model set out in the final draft of the Basic Law although it has disappointed members of this Council.

The attitude of some of my honourable colleagues seems to be that, notwithstanding our long-standing support for our own consensus political model, we ought now to accept the secret deal reached two weeks ago by Britain and China and try to make the best of a bad deal. There is nothing we can do, we are told, so we ought to take what we are given and not complain (). This line, which has the warm endorsement of both Mr. Douglas HURD, the British Foreign Secretary, and Mr. LI HOU, Secretary General of Basic Law Drafting Committee, contends that any confrontation with China will be bad for Hong Kong. Since we cannot change anything, we should not risk any ill will with China by trying. Rather, the people of Hong Kong should concentrate on making money and cooperate in making a success of the arrangements Britain and China have chosen for them, even though we might feel disappointed or even betrayed.

To many people in Hong Kong, this argument has some appeal, and no doubt, many of them will continue to work to provide for their families. Yet, at the same time, if they have the resources to do so, they will look for a way to secure a passport and leave Hong Kong. They will join the tens and tens of thousands who have already left and the hundreds of thousands who plan to leave before 1997.

This attitude of , which is implicit in this motion, and all the talk about making the Sino-British deal work simply will not fool the people of Hong Kong into believing that stability has been achieved. The essence of the OMELCO consensus model is that it is the bottom line, the very minimum of democratic reform that must be implemented if people's confidence in the future of the territory is to be restored. But, it is a very modest plan and it falls far short of the proposal of the Foreign

Affairs Committee of the House of Commons for one half of the Legislative Councillors to be directly elected in 1991 and all in 1995.

This Council knows very well that if people are not allowed to focus their energies in building a democratic future for Hong Kong, they will spend those energies in finding an escape route. Indeed, our consensus was achieved on this basis. It would be highly disingenuous for this Council now to suggest that the people of Hong Kong should simply abandon our aspirations and make the best of what we have ourselves said was below the bottom line. For us to accept this Basic Law model is to encourage our people to flee Hong Kong.

No, the interest of Hong Kong does not lie in giving up and passively accepting what Britain and China tell us our future will be. The moment that we give up, the moment we stop trying to realize our aspirations, that moment will be the end of Hong Kong.

Nor is it in the interest of this Council to accept meekly what we are offered. Indeed, if the Basic Law had offered only 16 directly elected seats in 1997 instead of 20, would Members' attitude of be any different? Or 10 seats?

The duty of this Council is not just to advance a political model for discussion purposes only; rather, as the public's representatives, our duty is to attain what we believe is best for Hong Kong. If we were to give up our fight and abandon our own proposal, which the public has so strongly supported, the people of Hong Kong would question whether we have courage in our own convictions.

On the issues of both the right of abode and democracy, the OMELCO initially took on an impressive leadership role, thus earning widespread public support and credibility. But when the British Government announced the nationality package which represented less than 5% of what the OMELCO had asked for, we meekly told our people that they should nevertheless accept it, for fear that Britain might not even enact such a limited plan. Now the British Government has again come forward with a proposal that falls far short of our legitimate aspirations, will the OMELCO again betray the public's trust and "pragmatically" accept the British proposal?

But before we answer this question, let me pose a number of questions for honourable Members' consideration:

-Who proposed the OMELCO consensus model?

-Did not the Chief Secretary, Sir David FORD, welcome the OMELCO model immediately after its release?

-Who said that the OMELCO model was good for the people of Hong Kong and was in their interest?

-Who commended the OMELCO model to the people of Hong Kong including our district boards?

-Who went to the United Kingdom and told the British Government, the British Parliament and the British people that the OMELCO model was good for the people of Hong Kong and had their wide support?

-Did we tell our people that they should support some other proposal when the Chinese Government so brusquely dismissed the OMELCO model?

-And after the recent deal between the British and Chinese Governments was struck, did the public give up their support of the OMELCO model?

-Do we now feel that the OMELCO model is not after all in the interest of the people of Hong Kong and that we were wrong to have proposed it?

-If not, why then should we give up now?

My honourable colleague, Mr. Allen LEE, is indeed correct to stress the interests of Hong Kong people, for the crucial question we must ask ourselves is this: does the Basic Law accord with the wishes of the people of Hong Kong? Throughout the last eight years of negotiations over the future of Hong Kong and the drafting of the Basic Law, the overriding concern has been whether the Joint Declaration and the Basic Law were acceptable to our people here. Both the British and Chinese Governments have consistently claimed to be adhering to this position, and both have currently legitimized their secret deal on the basis that it reflects the opinions of the people of Hong Kong.

Indeed, both governments cannot maintain any other position: Sir, it is our future that is at stake; the government structure proposed by the Basic Law is our government.

Until very recently, the British Government has always sought to justify all its

decisions regarding the future of Hong Kong on the mandate of popular support. In 1984, after Britain had initialled the draft Joint Declaration with China, the Hong Kong Government was asked to conduct a consultation exercise here before Parliament would endorse the treaty. Similarly, in 1987, before publishing its White Paper on constitutional development, the Government conducted two opinion polls to gauge public opinion. Flawed though these two polls were -- since their results went against the other nine major territory-wide polls that were conducted independently during the same period -- the Government was at least concerned that it has the fig leaf of popular support to justify its actions.

The British Government still claims that it is acting in accordance with the wishes of the people of Hong Kong. After visiting the territory in January, Mr. Douglas HURD stated that the first prize would be a 1997 convergence that was in accordance with the wishes of the people of Hong Kong. If this could not be achieved, he said then Britain would forge ahead alone and honour the aspirations of the people here by implementing democracy in the next seven years.

And not quite a month later, after announcing the British surrender to China in last week's secret deal, the terms of which are still yet to be made public, Mr. HURD defended Britain's actions on the grounds that he was acting in the interest of Hong Kong. "Our main interest is the interests of Hong Kong," he declared; "we have no other major interest in the matter." Of course, Mr. LI Hou has also consistently claimed that the Basic Law Drafting Committee was acting in the interests of Hong Kong.

Despite all the rhetoric about following Hong Kong's interests, Britain shows absolutely no inclination to ascertain Hong Kong's opinion this time around. The Government are making no effort to cover their shameful capitulation to China even with the fig leaf of popular support that they went to such contortions to procure in 1987. British claims that they are acting in our interest have a brittle and hollow ring to them.

The OMELCO consensus model, which was approved unanimously by this Council and supported widely here in Hong Kong, could not have made more plain to Britain what Hong Kong's views were and still are. The British Government, however, in rejecting this Council's consensus, has told the whole world, first, that it would not be bound by the wishes of the people of Hong Kong and, second, that it attaches little weight to the advice of OMELCO.

Despite the fact that the debate over political structures has dominated media coverage of the Basic Law, I feel it is extremely important that this Council should debate the Basic Law as a whole and we should do this as soon as possible.

Some people have attempted to separate the Basic Law into convenient sections, and they tell us that 90% of the document is good; as if we need not worry about the other 10%. The Basic Law, however, is not a primary school student's test paper; it is our constitution.

To separate the political system from "the rest" of the Basic Law is a dangerous act of self-deception; for litanies of economic and civil freedoms are meaningless if no political structure exists to safeguard them. If the Basic Law does not provide for the highly autonomous and democratic Hong Kong as promised to us in the Joint Declaration, then its provisions for freedom of speech and other fundamental rights will have the same value and will suffer the same fate as those in the Constitution of the People's Republic of China.

The difference between the OMELCO consensus model and the political model in the Basic Law is not, as some would like us to believe, a matter of quibbling over a few seats. Under the Basic Law, we will not be able to democratically elect so much as half of the Hong Kong legislature until 2003 -- 13 years from now -- and there is no guarantee that more than half of the legislature will ever be democratically elected thereafter.

The limitation on the numbers of democratically elected members and the establishment of a so-called "Election Committee", through which Beijing hopes to appoint its own representatives, are clear violations of the pledge in the Joint Declaration that the HKSAR legislature shall be constituted by elections. Similarly, China and Britain's agreement on a ceiling on the number of legislators with foreign right of abode is another clear breach of the Joint Declaration, which spells out in detail which key positions in the HKSAR must be held only by Chinese nationals. These specified positions do not include legislators; and there is no mention of the right of abode in the Joint Declaration at all.

The imposition of a divisive split-voting scheme in the Basic Law relating to Private Members' Bills serves only to further undermine the influence of democratically elected legislators. The split-voting scheme, ill-conceived as it

is, is really unnecessary given the other provisions in the Basic Law, which render the legislature quite powerless vis-a-vis the Chief Executive.

The Joint Declaration promises that "the executive authorities shall be accountable to the legislature". But according to the Basic Law, the all-powerful Chief Executive will effectively be accountable to no one except the Beijing Government. Although the Chief Executive is supposed to be elected by the people of Hong Kong, the methods of election are such that it is obvious to all that he will be chosen by Beijing and can only be removed by Beijing.

The Chief Executive can prevent legislators from introducing virtually any Bill into the legislature, because his written consent is necessary for the introduction of any Bill "relating to government policies". If the legislature fails to pass any "important Bill," then the Chief Executive has the unilateral power to dissolve it.

Instead of requiring the executive to be accountable to a democratically elected legislature as promised in the Joint Declaration, the Basic Law envisions an all-powerful Chief Executive who will be able to control a toothless and undemocratic legislature. These provisions make a mockery of the Joint Declaration and constitute a clear breach of its spirit, if not also its letter.

I urge, then, the Members of this Council to consider carefully what are the true interests of the people of Hong Kong. If the people of Eastern Europe had allowed themselves to be bound by the self-defeating logic that they must accept what they are given, that they should not aspire for democratic change, the heroic events of the last six months would never have happened. And though the students of China were unable to achieve their noble aims last spring, would any Member of this Council have advised them not to aspire to democracy because "we are Chinese and we are different"?

The main difference between Mr. Allen LEE's motion and Mr. McGREGOR's motion is that there is no sense of commitment and no clear direction in the former, for it merely urges the community in the interest of Hong Kong to be united in its efforts to achieve a successful democratic system. It says nothing as to what this Council would do on our part.

For these reasons I cannot in good conscience support the motion put forward by my honourable colleague, Mr. Allen LEE. But I do commend Mr. McGREGOR's motion to my honourable colleagues. For we must continue to fight for what we believe to be

right; for ultimately we the people of Hong Kong will have the Government that we deserve.

Sir, Hong Kong is the eleventh largest trading country in this world. Its vitality is well-known and respected throughout the world. And yet our 5.5 million peace-loving people have absolutely no say in our own future. Many a tear has been shed for us because of that. But are we prepared to do more for our own people?

Sir, the reality of the situation is that both motions are before this Council, and we must vote on both at the end of the debate. So we must either tell the people of Hong Kong that we still mean what we have said, in which case we must vote for Mr. McGREGOR's motion; or we tell them we no longer mean what we have said, in which case we should vote against it. Of course we are entitled to change our minds, but the public who is still strongly behind us, is entitled to know why.

Sir, many people here feel that both the British and Chinese Governments have betrayed them. Will we also abandon them?

MR. PANG (in Cantonese): Sir, during your visit to Tsuen Wan last Monday, you disclosed the proposed future composition of the Legislative Council within the system of representative government. You said that there would be 18 directly elected seats in the Legislative Council in 1991, which would be increased to 20 in 1995 and further raised to 24 in 1999. Does this imply that our political development could only evolve within this perimeter and could not go any further?

During the last few months, the British and Hong Kong Governments have avowed time and again that they would respect Hong Kong people's wishes in formulating the future political system of the territory. But does the Government respect the consensus on the future political structure reached by OMELCO Members in accordance with the views of the majority of Hong Kong people? Has it been adopted? In fact, before giving a formal reply to OMELCO, the Government has already announced that in 1995, only one-third of the members of the legislature will be returned by direct elections (The total number of seats in the Legislative Council will have been increased to 60 by then.). This further proves that the Government does not attach importance to public opinion and the views of OMELCO Members. It gives me a feeling of being not only fooled but even insulted by the Government.

Sir, I still insist that the Government should adopt the OMELCO consensus on the future political model which caters to the interests and wishes of Hong Kong people.

Finally, I can hardly agree to the wording of either the motion moved by the Senior Member or the one moved by Honourable Mr. MCGREGOR. It is because the former has, however reluctantly, decided not to persist in the OMELCO consensus, while the latter appeals to the wrong people for the democratization of our political system. Due to differences in viewpoints, I shall abstain from voting on both motions.

MRS. TAM (in Cantonese): Sir, I support the motion moved by Honourable Allen LEE.

After the initialling of the Joint Declaration on the future of Hong Kong by the British and Chinese Governments in 1984, the Chinese Government has now completed the drafting of the Basic Law. This is an important milestone signifying that Hong Kong has entered the second half of the transitional period before 1997. Hong Kong people should have heaved a sigh of relief now that the Basic Law is finalized. However, regarding the proposed future political structure, the Basic Law has failed to reflect the general wishes of the Hong Kong people, neither has it adopted the OMELCO consensus in formulating on the future political structure. Such a political blueprint is far from being perfect. No wonder the people of Hong Kong are disappointed.

During the protracted discussions on the development of our political structure, Hong Kong people's involvement has resulted in different personal feelings known only to each person himself. Various views have been expressed on the future political structure, people holding diversified opinions eventually reached a consensus and those who initially kept silent finally spoke out their minds. Honestly speaking, I myself have also learnt a great deal and gone through memorable experiences.

Looking back at the whole process of political development in Hong Kong, we have left in history two important features and have also given Hong Kong people two far-reaching inspirations.

The first feature which will go down in history is the consensus on the political structure reached by OMELCO Members after going through many twists and turns in compromising different views.

I believe all my colleagues in this Council have fully appreciated the hardships involved. Sir, I think you will recall that there were heated arguments among Members during the debate on the White Paper on the Development of Representative Government held by this Council in 1988. However, in view of the long-term interests of the community, we have managed, not without difficulties, to come up with a political model which we believe can reflect the wishes of the majority of Hong Kong residents. It is envisaged that in the future process of democratization in Hong Kong, this kind of consensus politics is unlikely to reappear. The OMELCO consensus will no doubt leave an indelible mark in the history of Hong Kong.

Then, as regards the general public, they have done their part by indicating their aspirations for democracy and expressing their views on the development of the future political structure. We have heard people from all walks of life stating their different "stances" on the issue, which in fact demonstrates their awakening to politics. It can be said that they have played their parts in history. I feel, therefore, that in our efforts to strive for a consensus, we, Members of this Council, have fulfilled our duties and done our part. OMELCO Members have made proposals on the political structure which command the support of the general public.

It is true that we all hope to see a smooth convergence of the two political systems before and after 1997, but the attainment of this objective cannot cover up the desire of the vast majority of Hong Kong people in regard to the pace of democratization and the price that has to be paid. In short I think the community has been enlightened during the formulation of our future political model in the following manners.

First, Hong Kong people have learnt an invaluable lesson in politics. It is no easy task to come to terms with political realities and still be able to face the future positively. This experience of "being realistic" is indeed essential to the future political development of Hong Kong. Hong Kong people have learnt how to continue to pursue political ideals without losing sight of the reality.

Second, Hong Kong people have come to realize that it requires long-term efforts to fight for the interests of the community. Moreover, they have to continue standing together to shoulder the responsibility of building Hong Kong in order to establish a successful democratic political system. This is one major reason behind my support for Honourable Allen LEE's motion.

All along, Hong Kong people are basically not in a position to reject any decision on the future of the territory and its political system. However, it is dangerous

and incorrect to assume that their wishes can be disregarded just because they are inclined to resign themselves to their fate. Besides, in so doing the Government will run the risk of losing its credibility, whether Hong Kong is under Chinese or British rule.

It has always been the characteristic of Hong Kong people to be pragmatic. However, it would be regrettable if this is used as an excuse to reject Hong Kong people's request for political reform. As Hong Kong people are not completely satisfied with the adopted political model, I think they will certainly not give up any chance of seeking improvement or fighting for what they want.

The Sino-British agreement on the future of Hong Kong was the result of prolonged negotiations between China and Britain. The confidence of Hong Kong people towards the future hinges on the unswerving determination of the two governments to honour the solemn undertakings they have made in the Joint Declaration. Everyone of us has to be accountable to historical facts. To realize the principle of "one country, two systems", we must follow the charted and unalterable course of "Hong Kong people administering Hong Kong" and "a high degree of autonomy". Hong Kong people need greater patience and perseverance to pursue the road of democracy. At the same time, we must not lose sight of the ever growing aspiration for democracy among the younger generation who are the pillars of society.

Sir, if we take the young people's disappointment lightly, we may well be nipping in the bud their zeal to shoulder responsibility and make contribution to society. It will inflict immeasurable damage to the future development of Hong Kong.

The finalizing of the Basic Law marks a new phase in Hong Kong's development, but there is still much to be accomplished. Apart from encouraging the public to build for the future, it is more important that we have to be far-sighted in considering the future direction of our political development. I believe that if Britain is to maintain its effective rule in Hong Kong during the transitional period and China is to take over smoothly in 1997, the two governments must make concerted efforts to win the trust of the public, and convince them that the undertakings made in the Sino-British Joint Declaration will really be fulfilled.

Sir, with these remarks, I support the motion moved by Honourable Allen LEE.

DR. TSE (in Cantonese): Sir, upon the endorsement of the revised political model by the Basic Law Drafting Committee, I consulted all the members of the Kowloon City District Board on their views about the revised model. The findings indicated that about 30% of the respondents considered the revised model "considerably acceptable"; some 40% felt that it was "acceptable"; and roughly 30% found it "barely acceptable". In view of the findings of this survey which reflected the opinions of the Kowloon City District Board members, I am compelled to support Mr. Allen LEE's motion, and not the one put forth by Mr. McGREGOR.

As for my personal opinion, I have all along been in support of the OMELCO consensus. I believe that our future political structure should develop along a model leading to a clear and simple democratic system. However, I have to admit that mutual compromise and accommodation are necessary prerequisites to any successful political negotiation. As a matter of fact, there inevitably is a certain extent of variations between ideals and realities. Although I am not fully satisfied with the revised political model of the Basic Law, I have to resign to the fact that it is a political reality which I have to "accept" though with "reluctance".

However, to "accept with reluctance" is hardly an adequate expression to describe my views and feelings towards the future of Hong Kong, the developments in China and my participation in public service in the mist of debates on the future political system of Hong Kong during the past several months.

In early February this year, when the draft Basic Law was soon to be finalized, I had to undergo laser operations on my eyes and was forced to stay in bed. It just happened that I was inspired by a series of eight poems under the title "Autumn Moods" written by Du Fu, one of the greatest poets of the Tang Dynasty, during my leisure reading. Through these eight poems, the poet fully expressed his feelings and aspirations towards his own country. At that time, I was also deeply concerned about the problem of convergence with respect to the political system before and after 1997. I therefore wrote another eight poems of my own after the rhyming scheme of Du Fu's eight poems under the title "Autumn Moods". I would like to recite my poems here today as an expression of my emotion and response to the draft Basic Law and hope that you, Sir, as well as my honourable colleagues would lend me your ears:

A Response to Du Fu's "Autumn Moods"

A cement forest of iron frames and steel plates;
Fragrant City (Hong Kong) in the solemn air at the close of the year.
Hot was people's blood when they talked of politics in the streets;
Cold were the words of criticism from the North that veiled the land.
Heroes sadly shed their hot tears;
Mandarins' stern faces shielded their lead-loaded hearts.
Five years of consultation seemed to have no success --
 the delicious Peking duck was ready for the cutting board.

2

Whence came this sudden downpour that darkened the winter day?
Like hurricanes sweeping across the Capital.
The frost in June had frozen the seedings' growth;
The lunar eclipse on Yuan Xiao shook the laurel in the moon.
Crowded was the Pak Shek Centre with Vietnamese boat people.
The dirge in the Southern sky was accompanied by bugle sighs.
Disorders in the universe echoed in the chaos of our times.
April flowers blossoming in January.

3

Viewed from a mountain top the fading glow of the setting sun;
Scattered sails diminishing into spot before the eye.
The rustling imperial banners hurried the sun to set.
The migrating birds wailingly set flight towards the ocean.
Fleeing was the chance of a safe passage across the Magpie Bridge;
Impossible seemed the wish to return the Jade (Pearl of the Orient) undamaged.
If only there appeared a cloudless sky to brighten up the evening shade,
Why must the dancers be slim and the horses fat?

4

The Sino-British confrontation resembled a cold war in a game of chess.
Watching were the OMELCO members with hearts of sorrows.
When the Mandarin gentlemen sneezed with running noses,
 the Hong Kong citizens would share their common cold.

Flooding the European continent were torrents of democracy;
Eagerly waiting were the hundred stallions in China for the day of a free rein.
One could only hope that the two Systems would work together forever,
For infidelity was never known on this small island.

5

Beautiful mountains and rivers lost for over a hundred years.
Grand mansions and sky-scrapers numbered in thousands,
the "dragon ranges" were the dens for international finance;
the "tiger pass" was the door to East West trade.
The common folks had worked hard to bring prosperity to the place;
Tourists and travellers had found here moments of forgetfulness and joy.
A happy reunion with the Motherland had long been a dream --
Why awakened now to find a face stained with tears.

6

The year of the Horse replacing the Snake promised a year of good luck,
More desirable was the rain-cleansed sky than late autumn days.
A season dazzled by shimmering lights of silver and
gold added fortune to the city,
Leaving the young and the old little room for sadness.
Let's record Spring a revisitation in lines of verse;
Let's register the flight of gulls as the fishing junks sailed into the harbour.
A spectacular night of fireworks against a crescent moonlit sky.
Let's turn northwards for a moment of good wishes in prayer.

7

The drafting of the Basic Law seemed to have yielded no harvest;
Several years of hesitation and uncertainty in a stifling state.
Notables of the past slyly played their tricks;
Opportunists of our time eagerly followed in their wake.
Many heads turned grey in their efforts to offer sincere advice;
Some minds turned red in their disguise to offer solutions.
The "dust" finally settled after many hustles and bustles.
But nothing could disadvantage the billionaires in our society.

No end to dangers and no straight paths on the road to officialdom --
 Full of narrow and rugged tracks and steep slopes.
 Rats and ants often resided amidst moist and entangled stems;
 Fine Birds of quality yet preferred to nest on clean and upright branches.
 Firm and straight stood branches in the courtyard braving gusts of wind;
 Wavering were the dogs' barks at sounds and moving shadows.
 The so-called heroes drifted with the current and tide.
 Yet beware that a thousand years' notoriety might be the price.

HIS EXCELLENCY THE PRESIDENT: I cannot help congratulating you, Dr. TSE. We have never had a speech in verse in this Council before.

MR. ANDREW WONG (in Cantonese): Congratulations, Sir. We have a Poet TSE here.

I rise to speak in support of Mr. Allen LEE's motion as well as Mr. McGREGOR's. I cannot see any contradiction between the two motions.

Mr. Allen LEE's motion can be divided into two parts. The first part reads: "That this Council expresses disappointment that the OMELCO consensus has not been adopted in the formulation of the future political model". The whole of Mr. McGREGOR's motion elaborates on the first part of Mr. Allen LEE's motion. It uses the word "deplores" to express the sentiment of disappointment; it then reiterates the content of the OMELCO consensus and urges the Chinese and Hong Kong Governments to implement the OMELCO model. The terms in which Mr. Allen LEE's motion is couched might appear too guarded whereas Mr. McGREGOR's too overt. But the meaning of both motions is the same, that is, we must hold fast to the OMELCO consensus as it is an appropriate and correct model for political reforms.

The second part of Mr. Allen LEE's motion reads: "but urges the community, in the interest of Hong Kong, to be united in its efforts to achieve a successful democratic system." In his speech just delivered, Mr. Martin LEE rejected Mr. Allen LEE's motion simply because of the word "but". I am not inclined to take this attitude of over-generalization. I am not an expert in literature. Nor am I a linguist. When assessing the spirit of the whole motion, I simply take the word "but" as "and".

Mr. Allen LEE's motion does not connote, as Mr. Martin LEE would have it otherwise interpreted, that this Council has abandoned the OMELCO consensus but it "urges the community (mark these words) to be united in its efforts to achieve a successful democratic system."

Further political reforms would not be a forlorn hope should we be patient and unceasingly strive for it.

Sir, I have no verse to offer this Council but I would like, by way of exhortation, to draw your and Hong Kong people's attention to this saying: "the firmament is in constant motion; so should a gentleman make unremitting efforts to improve himself." Sir, I support the motions moved by Mr. Allen LEE and Mr. McGREGOR.

MR. EDWARD HO: Sir, I rise to speak in support of Mr. Allen LEE's motion.

Many Members of this Council have, in their different ways, expressed their disappointment over the recently announced future political model for Hong Kong.

Like them, I am disappointed.

The most important of all, the issues that would affect the future of the people of Hong Kong were agreed, behind closed doors, between the Governments of Britain and China, with apparently little regard to the aspirations of the people of Hong Kong.

It is true that over the last four years there have been divergent views in the community, and indeed in this Council, over the future political system of Hong Kong: not so much over the ultimate objective of the formation of a fully democratic government, but over the pace of development to that worthwhile objective whilst maintaining stability and prosperity through these troubled times.

The result of this divergence of views was that there was not a strong, clear and united Hong Kong position: a weakness that was easy to be manipulated or even exploited by those who have the power to influence its destiny. I said in the motion debate on the draft Basic Law in this Council on 14 July 1988 that it was "a highly unsatisfactory and regrettable state of affairs. For if Hong Kong people do not agree and cannot put forward a mainstream concept, these important issues will be decided

by others on their behalf."

This weakness was not unrecognized by conscientious opinion leaders. Thus, a group of 89 members of the Basic Law Consultative Committee, chiefly from the business and professional sectors, agreed on a consensus model in August 1986.

Much to the credit of this group and of other groups who held different and more liberal views, a compromise model was eventually jointly worked out, which was to become the so-called "4-4-2 model" in October 1989.

Before the "4-4-2 model" came into being, the need for unity and consensus was deeply felt by non-official Members of the Executive and Legislative Councils, and the OMELCO consensus emerged in July 1989 after some very intensive and soul-searching sessions. It should be properly recognized that the consensus did not come easily, and here I must acknowledge both the leadership and immense patience of the convener of the OMELCO in-house, Dame Lydia DUNN, as well as the willingness of Members who held widely different views, to put aside their personal interests so that a consensus could be achieved for the benefit of the community.

Both the "4-4-2 model" and the OMELCO consensus commanded wide support in Hong Kong. It is therefore disappointing that neither was even considered in the final working sessions of the Basic Law Drafting Committee, and that the present model falls short of the aspiration of the Hong Kong people on the pace of development of a democratic government. In addition, there are elements proposed in the Basic Law, such as the split-voting system and the restriction of the number of members of the future Legislative Council holding foreign passports to 20%, which can jeopardize the smooth running of the Council and, in the latter case, is undesirable and even unworkable.

But now, we should be honest with ourselves and with others. We have done our best to fight for what we believed was good for the future of Hong Kong. We should recognize that the promulgation of the Basic Law will now be a mere formality: there will not be further changes in the foreseeable future. As the saying goes, the die is cast.

The question that is before us is not so much whether we should accept the proposed political model that has been agreed on our behalf, but rather, how we can accept it and make it work to the benefit of our future.

It cannot be denied that the recent government announcement of the provision of 18 directly elected seats in the 1991 legislature is a vast improvement over the original number of 10. I believe that this can provide a working foundation for the building of a democratic government. Due to prevailing circumstances, China is intransigent in its position that there will be no further changes on the composition of the legislature in 1995 and beyond, from what is now proposed in the Basic Law.

It is not a matter of accepting what we are given as Mr. Martin LEE has said. At this very moment, it is simply futile and strategically wrong for us to adopt a confrontational attitude towards China and press for changes. Nor do I believe that the people of Hong Kong want Members of this Council to take that stance. That is the chief reason why I do not support Mr. McGREGOR's motion.

Sir, Hong Kong people's aspiration for greater democracy will not diminish, but I believe that the best way they can achieve that is for all sectors of our community to be united in their efforts in building up a democratic system from the foundation that has just been laid.

Thus, in 1991, there should be major efforts to ensure a maximum turnout of voters; and candidates of quality and integrity, having the overall interest of the community at heart, should be encouraged to stand for election.

The people of Hong Kong must commit themselves to maintain, with the help of their leaders and the governments concerned, the stability and prosperity of this wonderful city, their home. Their continued commitment to build up Hong Kong as a major international city in trade, industry, finance and tourism is the only assurance that Hong Kong will enjoy greater democracy and autonomy in the years to come.

Sir, with these remarks, I support Mr. Allen LEE's motion.

Suspension of sitting

HIS EXCELLENCY THE PRESIDENT: The debate on the two motions on the Order Paper will continue tomorrow afternoon. And now in accordance with Standing Orders, I suspend the Council until 2.30 pm tomorrow.

Suspended accordingly at twenty minutes to Six o'clock.

Note: The short titles of the Motions/Bills listed in the Hansard have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.