

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 10 March 1993

The Council met at half-past Two o'clock

PRESENT

THE PRESIDENT

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

THE CHIEF SECRETARY

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

THE FINANCIAL SECRETARY

THE HONOURABLE NATHANIEL WILLIAM HAMISH MACLEOD, C.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 MRS SELINA CHOW LIANG SHUK-YEE, O.B.E., J.P.

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

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

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

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

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

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

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

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

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE VINCENT CHENG HOI-CHUEN

THE HONOURABLE MOSES CHENG MO-CHI

THE HONOURABLE MARVIN CHEUNG KIN-TUNG, J.P.

THE HONOURABLE CHEUNG MAN-KWONG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

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

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

THE HONOURABLE SIMON IP SIK-ON, J.P.

DR THE HONOURABLE LAM KUI-CHUN

DR THE HONOURABLE CONRAD LAM KUI-SHING

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE GILBERT LEUNG KAM-HO

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

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

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

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

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

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

THE HONOURABLE ANNA WU HUNG-YUK

ABSENT

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

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

THE HONOURABLE CHIM PUI-CHUNG

THE HONOURABLE LEE WING-TAT

IN ATTENDANCE

MR EDWARD BARRIE WIGGHAM, C.B.E., J.P.
SECRETARY FOR THE CIVIL SERVICE

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

MR MICHAEL LEUNG MAN-KIN, C.B.E., J.P.
SECRETARY FOR TRANSPORT

MR YEUNG KAI-YIN, C.B.E., J.P.
SECRETARY FOR THE TREASURY

THE HONOURABLE JOHN CHAN CHO-CHAK, L.V.O., O.B.E., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

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

MRS ELIZABETH WONG CHIEN CHI-LIEN, I.S.O., J.P.
SECRETARY FOR HEALTH AND WELFARE

MR RONALD JAMES BLAKE
SECRETARY FOR WORKS

MR CHAU TAK-HAY, J.P.
SECRETARY FOR TRADE AND INDUSTRY

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

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

MR MICHAEL DAVID CARTLAND, J.P.
SECRETARY FOR MONETARY AFFAIRS

THE CLERK TO THE LEGISLATIVE COUNCIL
MR CLETUS LAU KWOK-HONG

Sessional Papers 1992-93

- No. 64 — A Report of the House Committee of the Legislative Council on the Nationality of Non-Chinese Ethnic Minorities
- No. 65 — Consumer Council Annual Report for 1991-92
- No. 66 — Report of the Public Accounts Committee on the Report of the Director of Audit on the Planning and Financial Control by the Government on Building the Hong Kong University of Science and Technology March 1993 (PAC Report No. 17A)
- No. 67 — Securities and Futures Commission Approved Estimates of Income and Expenditure for Financial Year 1993-94

Miscellaneous

White Paper on the Annual Report on Hong Kong 1992 to Parliament

Address**Report of the Public Accounts Committee on the Report of the Director of Audit on the Planning and Financial Control by the Government on Building the Hong Kong University of Science and Technology March 1993 (PAC Report No. 17A)**

MR STEPHEN CHEONG: Mr President, on behalf of the Public Accounts Committee, I have the honour to table the Committee's Report No. 17A today.

This Report by the Public Accounts Committee responds to paragraphs 13.1 to 13.20 of the Director of Audit's Report No. 17 concerning the planning and financial control by the Government on building the Hong Kong University of Science and Technology.

The Director of Audit's Report was tabled in this Council in November 1991. In consideration of the subject at issue, our Committee had a total of 28 meetings including five public hearings during the past 15 months or so. We have examined in detail the specific areas raised by the Director of Audit in his report; considerable time and effort have also been spent looking into international architectural design competition for the HKUST held in the year 1987, so as to try to ascertain whether the selection of the design could have serious cost implications on the building costs of the University.

Mr President, it is not my intention this afternoon to go over all the conclusions and recommendations of our Committee. However, I think it would be appropriate for me to highlight some of the main recommendations.

First, we recommend that in future joint projects with outside parties, a formal agreement between the Government and outside parties should be drawn up before the commencement of the project, setting out the costs and scope of the project, the duties and responsibilities of each party. We also recommend that in respect of major capital projects, the Government should devise a mechanism whereby the Finance Committee of the legislature would be informed at the earliest opportunity of all instances where the approved estimates are likely to be exceeded significantly. Moreover, we consider that as a matter of principle the Government should not undertake any major project on a "design-as-you-build" basis. In those rare cases where this approach has to be adopted, full justifications must be provided to the Finance Committee beforehand, and great care should be exercised in controlling the costs.

It will be noticed in Chapter 4 of our Report that the views of Members of the Committee are very much divided on the issue concerning the architectural competition and the selection of the final project design. Yet, let me emphasize that apart from this issue, the Committee has reached consensus over all other conclusions and recommendations. I sincerely hope that Chapter 4 will not overshadow the other Chapters of the Committee's Report.

Before I close, I would like to emphasize that the criticisms in our Report are in no way intended to adversely affect the integrity or reputation of the HKUST, which we, as a Committee of the Council, firmly believe will play an essential role in Hong Kong's tertiary educational process. Indeed, as a member of the Council of the HKUST, I am personally very proud of having been associated with this institution right from the beginning. I have every reason to believe that HKUST will contribute significantly towards the future of Hong Kong.

Finally, on behalf of the Committee, I would like to take this opportunity to express our appreciation and gratitude to all the persons who gave evidence to the Committee, to the Director of Audit and his staff for the many services which he has rendered, to our Legal Adviser, our Secretary and his staff for their advice, assistance and hardwork throughout the Committee's consideration of this subject.

Oral answers to questions

Localization programme

1. DR SAMUEL WONG asked: *In paragraph 96 of his address to this Council on 7 October 1992, the Governor made reference to the development of the momentum of the localization programme in the Civil Service. Will the*

Government inform this Council whether the localization programme applies equally to statutory bodies such as the Mass Transit Railway Corporation and the Kowloon-Canton Railway Corporation, which are wholly owned by the Government, and if not, why not?

CHIEF SECRETARY: Mr President, statutory bodies established by the Government to carry out specific functions are empowered to appoint their own staff and determine their own employment policy. The objective must be to appoint the best candidate available for the relevant job. That said, the Government certainly likes to see these bodies giving priority to suitable qualified local candidates where available.

In the case of the MTRC and the KCRC, both corporations are committed in principle to a policy of localization. This means in practice that expatriate employees are not forced to make way for local successors, but when they leave the corporations, efforts are made to replace them with local employees, subject to the latter having the necessary skills and experience. Internal training programmes are in place in both corporations to increase the pace of the development of local employees as part of their career development and succession planning.

DR SAMUEL WONG: *Mr President, I have received several complaints in the past months from employees of one of these corporations that the same senior position does not carry the same salary package if it is filled by a local person. Could this Council be informed whether more attractive terms of engagement are still offered to prospective senior expatriate staff in these corporations?*

CHIEF SECRETARY: Mr President, let me repeat a point I made earlier, with perhaps more emphasis. These statutory bodies are established by legislation approved by this Council to allow maximum operational independence and managerial autonomy for the effective and efficient performance of their statutory functions. They are not government departments; we do not believe it is appropriate for the Government to intervene in internal administrative matters such as personnel policy.

MR STEVEN POON: *Mr President, would the Administration advise this Council of the executive directors in the MTRC and the KCRC how many are local and how many are expatriates? And with these numbers, is the Government satisfied that their commitment to the policy of localization has been a real one?*

CHIEF SECRETARY: Mr President, may I defer to the Secretary for Transport?

SECRETARY FOR TRANSPORT: Mr President, as the Chief Secretary said in his reply, the objective of creating corporations to run railways is to enable them to be autonomous in their managerial and financial affairs. The question as posed does not seem to be one in which the Government should intervene. I do not have the details available at hand but I will pass on the request to the corporations for them to consider in what form they would like to respond to this particular request. (Annex I)

MR ERIC LI (in Cantonese): *Mr President, will the Administration inform this Council how long has elapsed since the corporations were asked to commit themselves in principle to a policy of localization? In view of the fact that no marked effect has been achieved, are there any attempts to implement such policy from within through the directors on the boards appointed by the Government?*

CHIEF SECRETARY: Mr President, let me repeat again our position. It is not our policy to intervene in personnel management matters of these two authorities, and it is no part of the duty of the directors who are on the boards to try to enforce a policy from the Government. We would like to see, as I have said, those corporations encouraging local candidates where they are available, but we are not going to dictate to them how they manage their personnel relations.

MR FRED LI (in Cantonese): *Mr President, the Mass Transit Railway Corporation is wholly-owned by the Government and has been operating for over 14 years. Mr LEUNG said just now that he did not have the details concerning the executive directors of the MTRC but as far as I know, only one of them is local while the rest are expatriates. For a corporation which has been in operation for 14 years, may I know why the majority of its executive directors are still expatriates?*

CHIEF SECRETARY: Mr President, can I defer to the Secretary for Transport?

SECRETARY FOR TRANSPORT: Mr President, I believe that the MTRC has performed its duties faithfully and efficiently over the last 14 years in running a safe and efficient railway service in Hong Kong. The records are here for all to see. It was the Government's intention in the beginning, when the relevant Ordinance was enacted, that the corporation should run on fully commercial

principles. For this reason the corporation has been given the autonomy to run its own affairs and set its own fare policies. To the extent that these policies are applied to a commercially run corporation like the MTRC, the corporation must be able to make its own decisions to get the best people available to run its affairs, regardless of race or nationality. To the extent that the corporation has done so well in the last decade or so, I believe this policy is the right one and I do not think that one should unnecessarily intervene or enforce a policy outside the corporation's own objectives to ensure localization.

But that said, the corporations do have a policy of localization and they do offer training programmes for their own staff and they do have succession planning to ensure that local talents, when available, are trained to meet the objectives of the corporations concerned. And this policy will continue.

DR CONRAD LAM (in Cantonese): *Mr President, in his answers just now, the Chief Secretary said time and again that the Administration would not intervene in matters of personnel management of these corporations. But if problems of discrimination against locals do exist in the personnel management of these corporations, such as the unfair treatment in terms of salary package referred to by Dr Samuel WONG, is it the responsibility of the Government to consider whether it is necessary to revise its policies so that locals are given equal treatment?*

CHIEF SECRETARY: Mr President, I think it is a fact that in commercial operations in Hong Kong, and in statutory corporations, there are differences in the remuneration packages for expatriates and local officers. That is current practice, I think, in a very large number of organizations. Obviously, if the state of affairs my honourable friend refers to leads to unhappiness or a lack of morale in the corporations concerned which affects their efficiency, that would be a matter of interest to the Government and we would certainly take it up with the corporation concerned.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, the Government has clearly indicated that the localization policy is only confined to government departments and civil servants for the moment, but nonetheless we still find the Government employ expatriate staff on contract terms to fill some very important posts instead of giving due weight to localization. This the Government does quite frequently. Will the Administration inform this Council whether the localization policy applies also to contract staff employed by the Government?*

PRESIDENT: I am sorry, Mr CHEUNG. That question does not arise out of the main question or answer.

Before I turn to the next question, some Members are wearing stickers on their lapels or jackets. I think no matter how worthy the cause, we have got to draw the line at this type of exhibition and I would respectfully ask Members please to withdraw those stickers.

Central and Wan Chai Reclamation project

2. MR HOWARD YOUNG asked (in Cantonese): *Will the Government inform this Council of:*

- (a) *the present position regarding the extension of the validity of the tenders for the Central and Wan Chai Reclamation project; and*
- (b) *the implications of such extension, or of a re-tendering if no further extension is granted, on:*
 - (i) *the target date for completion of the reclamation project;*
 - (ii) *the cost of the reclamation project;*
 - (iii) *the financing plan for the Airport Railway; and*
 - (iv) *the Airport Core Programme as a whole?*

SECRETARY FOR WORKS: Mr President, in answer to the first part of the Honourable Member's question, Members will be aware that the Government announced on 8 March that the two lowest tenderers for the Central and Wan Chai Reclamation Phase 1 contract have agreed to extend the validity of their tenders for a further month from 8 March to 6 April 1993.

Phase 1 of the Central and Wan Chai reclamation will provide land for a number of purposes which will be of value to the development of Hong Kong. It is partly to accommodate the Airport Railway's Hong Kong Station; and is therefore included as one of the 10 core projects included in the Memorandum of Understanding(MOU). In the main however it is the first stage of providing new land for expansion of the central business district and long-term highway development along the north shore of the Island, under the Central and Wan Chai Reclamation land development strategy.

The Government's commitment to the Airport Railway, which is part of the Airport Core Programme, is undiminished. This extension of the tender validity period will give the Government more time to consider its options on the reclamation project. The decision to extend is therefore in line with the step-by-step approach that has been adopted to preserve the integrity of our timetable, which requires us to complete the Airport Railway to the maximum extent possible by 30 June 1997, in accordance with the MOU.

The second part of the Honourable Member's question raises four points as to the implications of the extension we announced on 8 March, which I will take one by one:

- (i) evaluation of the current tender proposals indicates that it will still be possible to complete the Central and Wan Chai Reclamation Phase 1 project by its target date of mid-1997. This will of course be subject to agreement with the tenderers before we are ready to make a contract award;
- (ii) the cost of the reclamation project as set out in the Government's overall ACP budget is \$2,827 million. We do not believe these consecutive extensions — this is the third — should result in a large cost increase given current market conditions. The exact amount will be a matter for negotiation and justification on a cost basis;
- (iii) the present extension may have some very limited impact on the financing plan for the Airport Railway; and of course
- (iv) the present extension has no direct impact on the Airport Core Programme as a whole, except that, as Members are aware, one purpose of the reclamation is to provide land for the Airport Railway's Hong Kong Station. Whilst design work on the Airport Railway including the Hong Kong Station is well under way, progress on the Airport Railway depends not only on this Phase 1 reclamation but also on reaching agreement with the Chinese side on financing arrangements for the Airport Railway.

MR HOWARD YOUNG: *Mr President, my question was not just on extension but on retendering, which fortunately has not happened. Now bearing in mind that allowing a contract to lapse and therefore to retender would, I think, be very costly and time-consuming, can the Government advise, should the extended validated date arrive and there still be no agreement from the Chinese authorities on the overall financing of the railway, whether it would then be possible for the whole Central and Wan Chai reclamation project to be segregated into two bits, so that the Wan Chai bit could proceed — because it has nothing to do with the railway — without holding up the whole project or causing a very costly retendering?*

SECRETARY FOR WORKS: Mr President, obviously this supplementary is going outside the terms of the original question, as the Honourable Member has indicated. I think I can only say that at this point in time this extension is intended to give the Government further time to consider all of its options, and of course these options will embrace the Honourable Members' suggestions and we will take them into account.

PRESIDENT: You are content with that answer Mr YOUNG because you did ask as to the implications of a retendering and your question was therefore within the text of your main question? Are you content with that answer?

MR HOWARD YOUNG: *Yes, Mr President, I am content. It was on retendering.*

MR ALBERT CHAN (in Cantonese): *Mr President, in the last paragraph of his reply, the Secretary has indicated that "the present extension has no direct impact on the Airport Core Programme as a whole". However should there be further extensions, I believe the reply would be substantially different. The Airport Railway will bring significant improvement to areas like Lantau Island, Kwai Chung, Tsing Yi and Kowloon. Now that the Administration extends the validity of the tenders for the Central and Wan Chai Reclamation project to 6 April, may I ask whether the Administration would seek, in the meantime, to resume talks with the Chinese side on the financing plan for the Airport Core Programme with a view to reaching a consensus so as to avoid further extensions due to China's unacceptance of the financing plan?*

PRESIDENT: That question does go beyond the main question and answer, Mr Albert CHAN.

MR ALBERT CHAN (in Cantonese): *Mr President, although in his reply the Secretary has given other reasons for the extensions, we understand that one of the most important reasons is the problems with the financing plan for the Airport Railway which makes it necessary to defer the Central reclamation project. And I think my question directly relates to the Central reclamation project since part of the reclaimed land forms the integral part of the Airport Railway.*

PRESIDENT: Could you just point to the specific part of the answer which you think ought to be elucidated, Mr Albert CHAN? Then your question would be in order. Which part of the answer requires elucidation?

MR ALBERT CHAN (in Cantonese): *Mr President, in subparagraph (iii) of the fourth paragraph of his reply, the Secretary mentions that "the present extension may have some very limited impact on the financing plan for the Airport Railway". May I know what is the "very limited impact" he refers to and whether the Administration would resume talks with the Chinese side on the financing plan for the Airport Railway in the light of that impact?*

PRESIDENT: The first part of the question is a request for elucidation, Secretary.

SECRETARY FOR WORKS: Mr President, so far as the impact is concerned, obviously the present extension is very short and so this should have very minimum effect, if any, on the timing of the Hong Kong Station. However, the cumulative effects of the extension will need to be assessed to see if they have any impact on the overall Airport Railway financing. Only then will we be able to take a final view and this would depend upon the dates for the contract award and contract completion being finally established. So we do need this further extension to give us time to consider all of these options.

MRS PEGGY LAM (in Cantonese): *Mr President, in the second paragraph of his reply, the Secretary Mr James BLAKE has mentioned that the Central and Wan Chai reclamation is to provide new land for expansion of the central business district and long-term development along the north shore of the Island. Will the Administration inform this Council, in developing the north shore of the Island, whether consideration will be given to allocating some land for building a town hall for that district? And, as Wan Chai is located between Central and Western district and Eastern district, there is in fact no more land available for development; coupled with the fact that commercial buildings will take the place of old buildings once they are demolished, the size of the population of the district will become smaller and smaller. Will the Administration inform this Council if it will devote some land for residential development?*

SECRETARY FOR WORKS: Mr President, I am pleased to give some information which I am aware of. The purpose of the Central and Wan Chai strategy is three-fold:

- (1) Extension of the business development.
- (2) For long-term transportation needs.
- (3) To upgrade and improve the areas of land along the north shore of the Island, which will be available for community purposes.

MRS PEGGY LAM (in Cantonese): *Mr President, may I ask whether land will be provided for residential development? The Secretary has not answered this question.*

SECRETARY FOR WORKS: I do not have with me the answer to that, Mr President.

PRESIDENT: Could an answer be supplied in writing?

SECRETARY FOR WORKS: An answer, I think, could be supplied, Mr President. (Annex II)

MR FREDERICK FUNG (in Cantonese): *Mr President, the last sentence of the Secretary's reply says and I quote "... progress on the Airport Railway depends not only on this Phase I reclamation but also on reaching agreement with the Chinese side on financing arrangements for the Airport Railway". My question is: whether the Administration has in mind when it will reach an agreement in this respect with the Chinese side? If yes, when? If no, how long can this reclamation project possibly be extended without delaying the completion of the Airport Railway beyond the target date of mid-1997 as mentioned in subparagraph (i) of the fourth paragraph of the reply?*

SECRETARY FOR WORKS: Mr President, this is a very complex question. I am afraid that as far as the negotiations with the Chinese side are concerned, I can only say that we are making every effort to ensure that these go forward and we have indicated our willingness to proceed with these negotiations and of course the progress of the Airport Railway itself does depend upon our reaching agreement with the Chinese side. So far as dates are concerned which have been asked for in relation to the Airport Railway, this is rather speculative until we can make a firm decision and commitment on the date for the Central Reclamation itself, or, as I indicated in my answer, until the Mass Transit Railway Corporation for their part are proceeding in accordance with our general step-by-step strategy which is to prepare everything at this stage that can be done to ensure that when the approval for funding is agreed upon, then the actual physical programme can proceed at the maximum speed possible.

MR JIMMY MCGREGOR: *Mr President, if it is impossible to agree on a financing time for the new airport with the Chinese authorities soon, will the Government press ahead with the letting of this particular tender by 6 April? And if not, is there a date beyond which the Government will find it impossible to proceed without the authority of the Chinese Government?*

SECRETARY FOR WORKS: Mr President, that, I am afraid, is a hypothetical question which I cannot give a hypothetical answer to. Thank you.

PRESIDENT: But you might ask, Mr McGREGOR, whether there is a policy awaiting that contingency.

MR JIMMY McGREGOR: *Yes, Mr President, is there a policy awaiting that contingency? (Laughter)*

CHIEF SECRETARY: Mr President, we do not make it a habit of having hypothetical policies to meet hypothetical questions. *(Laughter)*

Relocation of non-production departments of companies

3. MR LAU CHIN-SHEK asked (in Cantonese): *Will the Government inform this Council of the following:*

- (a) whether it has any statistics on the numbers of companies or factories incorporated in Hong Kong that have partly or wholly relocated their non-production departments, such as the accounting and personnel departments, away from Hong Kong in the past three years; if so, the number of such cases and the number of local workers affected by such relocation;*
- (b) whether it has assessed the impact of the above situation on Hong Kong's economic development and labour market; if so, what the findings are; and*
- (c) what the Government will do to ensure that the local economy and labour market will not be adversely affected?*

SECRETARY FOR TRADE AND INDUSTRY: Mr President, the Government does not have the statistics requested and has not carried out any specific study on the effects of the relocation outside Hong Kong of the non-production departments of Hong Kong companies or factories.

Nevertheless, the Government believes that such relocation would not adversely affect Hong Kong's economic development. On the contrary, we consider that the relocation of some labour-intensive non-production activities may help to maintain our competitiveness. It may also help economic development through a limited easing of the constraint engendered by the short supply of local labour.

We also do not consider that the local labour market would be adversely affected by such relocation. As the Financial Secretary has remarked in his Budget speech last week, Hong Kong's unemployment rate remains very low by world standards. There is steady growth in employment opportunities in the

services sector of the economy and there are considerable vacancies in many sectors of the economy. This is why the Hong Kong Government, in partnership with the private sector, is continuing to improve the efficiency of our labour force through education and training programmes so as to solve — at least partially — the problem of shortage of labour.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, according to the Secretary's reply, the Administration does not have the statistics requested and has not carried out any specific study. Redistribution of jobs abroad in the services sector has become a new trend which is in fact a further division of labour on a regional level instead of a manifestation of economic transformation, and is believed to be a hindrance to the technological development of Hong Kong. It will also affect the employees in this sector in terms of employment and salaries and may make them worry about their job prospect. According to the analysis of the Economic Monthly published by the Hang Seng Bank Limited, 7% of the jobs in the services sector can be redistributed abroad and the number of employees that might be affected is as high as 120 000. Will the Administration conduct an overall survey to assess the impact of the growing trend of redistribution of jobs in the supporting services sector on our economy and on our labour situation, and formulate accordingly a policy on human resources, instead of just acting on what it "believes" to be?*

PRESIDENT: That last remark was not in order, Mr LAU.

SECRETARY FOR TRADE AND INDUSTRY: Mr President, Hong Kong has a free market economy; it is a totally open economy. We do not control outward investment and so we do not have any mechanism to collect statistics in this area. We also do not consider it cost-effective to go to the time and expense of collecting and maintaining data bases that would enable us to provide the statistics on relocation. I believe, Mr President, that such a survey would be an expensive and time-consuming one to conduct and it would be out of date by the time we had collected the relevant statistics. So my answer is that we do not have such plans to collect such statistics.

MR VINCENT CHENG: *Mr President, can the Secretary confirm to this Council that it is not within the Government's power to stop companies moving part of their operations to China and that the Government has no right to intervene in such matters?*

SECRETARY FOR TRADE AND INDUSTRY: The answer to both questions is yes, Mr President.

MR MARTIN BARROW: *Mr President, given that labour shortages extend to the Government itself, I am very relieved that the Administration is not spending a lot of time digging out the statistics which Mr LAU has requested. Would the Secretary not agree that the only way to alleviate Mr LAU's implied concern is to allow an increase in the number of imported workers? And if so, what steps does the Government plan to take in this direction? And will the Secretary explain to the community as a whole why it is in everyone's interest to maintain our service standards in Hong Kong which can only be done if there is adequate supply of labour?*

SECRETARY FOR TRADE AND INDUSTRY: Mr President, with your permission, I would like to refer this question to my colleague, the Secretary for Education and Manpower.

SECRETARY FOR EDUCATION AND MANPOWER: Thank you, Mr President. We do allow the importation of workers from outside Hong Kong in a carefully controlled manner to alleviate manpower shortages in bottleneck areas. The current maximum level of importation is 25 000 at any one time. The Administration keeps this level under constant review in the light of developments in the labour market. As regards Mr BARROW's last point, I am sure that the service industries themselves are much better placed than the Administration to explain why it is important to maintain service standards in Hong Kong.

MR TAM YIU-CHUNG (in Cantonese): *Mr President, the Secretary said in his reply that there was no such "statistics", but may I ask if he has any "projection" as to whether the number of employees in the manufacturing industry will continue to fall in, say, the coming few years, and the extent of the fall?*

SECRETARY FOR TRADE AND INDUSTRY: Mr President, we do not have the data base necessary to make such forecasts. And especially since there is no control over the exportation of jobs, so to speak, and no control over outward investment, we have no means really of even forecasting what the likely number of manufacturing workers is going to be in the next few years.

DR HUANG CHEN-YA (in Cantonese): *Mr President, the Administration keeps under review the problems encountered by the manufacturing industry and releases report on them regularly. Will the Secretary inform this Council whether the Administration will conduct similar studies on the services sector or the services departments of the manufacturing industry in order to know better their situations, the move they are about to make and the problems they are facing, such that it can formulate assistance plans to help the services sector*

improve their productivity and lower their non-labour costs, rather than just laying all the blames on labour shortage?

SECRETARY FOR TRADE AND INDUSTRY: Mr President, as I have explained in reply to an earlier supplementary question, we do not consider it cost-effective to spend time and expenditure on collecting and maintaining statistics of the type referred to.

MR HOWARD YOUNG: *Mr President, is the Secretary aware that on 29 January 1992 in this Council when we were debating the importation of labour, in the presence of the Secretary for Education and Manpower, the Honourable Martin Barrow on that day said:*

"We must recognize that Hong Kong can only remain competitive in the service sector if there is labour available. For example, take tourism If we want overseas companies to continue to use Hong Kong as their regional headquarters we must show they can staff their operations at competitive rates at all levels.";

and that I also, at the same debate, said:

"Quite apart from the manufacturing industry there are other industries which can be relocated. If we cannot find a solution to the problems of labour shortage, then employers unable to find workers will be forced to give up Hong Kong as their operating base.";

and that such remarks might help the Government in finding ways to keep business and industry and jobs in Hong Kong?

PRESIDENT: Your question has either got to seek information from the Government or ask for official action, Mr YOUNG. Does your question do either of those things?

MR HOWARD YOUNG: *Mr President, I was asking the Secretary whether he was aware that remarks in that debate might help to prevent the sort of situation that the Honourable LAU Chin-shek is feeling, that is to say, to prevent jobs from going elsewhere and to keep jobs in Hong Kong.*

PRESIDENT: I am sorry, Mr YOUNG. I think that does stray beyond the type of permissible question, I fear.

MR HENRY TANG: *Mr President, will the Secretary confirm that while we have no regulations regarding the exportation of jobs or outward investment, we do however expend vigorous efforts to maintain and to uphold the integrity of our multilateral obligations as well as bilateral obligations to safeguard the integrity of our domestic regulations like Country of Origin? And furthermore, could the Secretary estimate, or guess, the contribution of this economic integration between Hong Kong and China with regard to our growth rate and job opportunities that it has created?*

PRESIDENT: Mr TANG, I am afraid you have lost me! *(Laughter)* Your question would have to be directed to seeking information or asking for official action, in the terms of Standing Orders. Could you just put the question again please?

MR HENRY TANG: *Mr President, would the first part of the question be within Standing Orders?*

PRESIDENT: So far as it makes the question intelligible, yes. But I am not sure what information you are seeking.

MR HENRY TANG: *I will rephrase the question, Mr President. Considering that there is no policy to prevent outward investment or to discourage outward investment, is there any policy to safeguard the obligations of our multilateral agreements as well as bilateral agreements, such as Country of Origin Regulations?*

PRESIDENT: That goes well beyond the original question and answer.

Loanshark activities in Tuen Mun and Yuen Long

4. DR TANG SIU-TONG asked (in Cantonese): *In connection with loanshark syndicates operating in Tuen Mun and Yuen Long offering loans to housewives in public housing estates at exorbitant annual interest rates, will the Government inform this Council:*

- (a) whether the police have collected sufficient information on these syndicates and whether the information indicates that their activities are now under control or becoming more serious;*
- (b) what police action was taken in the past two years against such syndicates and how effective such action was;*

- (c) *whether the police have worked out an effective plan to prevent loanshark activities in newly completed housing estates in Tuen Mun and Yuen Long, such as Tin Yiu Estate in Tin Shui Wai, since these are the favourite operating grounds of most loanshark syndicates; and*
- (d) *whether the existing penalty is considered adequate and effective as deterrent to these illegal activities; if not, what measures would be taken?*

SECRETARY FOR SECURITY: Mr President, the police have collected a considerable amount of intelligence about loansharking syndicates operating in the Tuen Mun and Yuen Long districts. The police assessment is that the problem is not deteriorating, although equally it cannot be described as being under control. The main problem which the police face in combatting loansharking is the reluctance of the public to report cases to them.

In the past two years, the police have received 12 reports of loansharking in Tuen Mun and five in Yuen Long. Two cases in Tuen Mun were prosecuted. However, because of the lack of evidence, the three defendants in these two cases were acquitted. All of the reports in Yuen Long were anonymous and could not be pursued. Apart from investigating all reports received, the police also take the initiative to mount special undercover operations against loansharks. But again, the effectiveness of these operations has been hampered by the reluctance of the public to give evidence for investigation and prosecution.

To prevent loansharking activities in newly completed public housing estates, the police and Housing Department staff have taken a number of measures. The Police Community Relations Officers liaise closely with community organizations to warn of the dangers of borrowing from loansharks, and to encourage residents to report loansharking cases to the police. At briefings for new tenants of housing estates, the danger posed by loansharks is highlighted. Estate staff also provide assistance to the police in operations against loansharks.

Under section 24 of the Money Lenders Ordinance, the maximum penalty for the offence of lending money at an excessive interest rate is a fine of \$100,000 and imprisonment for two years. The Organized and Serious Crimes Bill, when enacted, should provide more effective powers to the police to tackle loansharking, and heavier penalties for those convicted of loansharking offences, including confiscation of the proceeds of such crimes.

DR TANG SIU-TONG (in Cantonese): *Mr President, given the reluctance of the public in reporting cases and giving evidence in court, the undercover operation may well be an effective way of collecting evidence. Will the Administration*

step up its efforts in this respect? And according to the information available with the police, did these loansharking syndicates have the support of triad societies? If so, how will the police tackle this problem?

SECRETARY FOR SECURITY: Mr President, the loansharking syndicates are not necessarily triad societies but it is probably the case that the triads are involved in most such syndicates. Loansharking is, very often, a form of organized crime and therefore, as I said in my main answer, I do believe that the powers given by the Organized and Serious Crimes Bill, when enacted, will enable police operations against such syndicates to be much more effective.

MR VINCENT CHENG: *Mr President, could the Secretary tell us what sort of interest rates are charged by these loansharks because I suppose they would make bankers look like Mother Teresa in some sense? (Laughter)*

SECRETARY FOR SECURITY: Mr President, I do not have the answer to such a question. Certainly they are excessive in terms of the Money Lenders Ordinance.

DR LAM KUI-CHUN: *Mr President, in the first paragraph of his answer the Secretary for Security stated that the problem cannot be described as being under control. Does the Government have a plan beyond the Organized and Serious Crimes Bill to bring the problem under control? If yes, what is the plan, and if not, why not?*

SECRETARY FOR SECURITY: Mr President, the police are very anxious to tackle this problem and we do intend to provide them with additional powers to do so under the Organized and Serious Crimes Bill. But, as I have said, it is not possible for the police to prosecute most of these cases without evidence in the form of witnesses who are prepared to come forward and testify.

MRS MIRIAM LAU: *Mr President, bearing in mind that the main problem is the reluctance of the public to report cases, can the Secretary inform this Council whether the police have been able to ascertain the reasons for such reluctance and what efforts, other than that made by the Police Community Relations Officers as referred to in the third paragraph, have been made to address the concerns of the public and encourage them to come forward?*

SECRETARY FOR SECURITY: Mr President, I believe that the fear of reprisal must be a very big factor in the reluctance of the public to come forward to give evidence and to testify in court. The police and the

Fight Crime Committee and even the District Fight Crime Committees have put a considerable amount of effort into trying to persuade the public that it is in their interests to give information, to report such crimes and to be willing to give evidence, and these efforts will continue.

MR SIMON IP: *Mr President, would the Secretary for Security please inform this Council whether the Administration considers the maximum penalty under section 24 to be adequate and how the Organized and Serious Crimes Bill, if and when enacted, will impose heavier penalties for loansharking?*

SECRETARY FOR SECURITY: Mr President, the police have reviewed the penalty in section 24 of the Money Lenders Ordinance and their conclusion is that the penalty is adequate. The root of the problem is not the adequacy of the penalty but, as I have said, the difficulty of bringing cases to a successful conclusion in court and it is that problem that really must be addressed. As I said also in my main answer, the Organized and Serious Crimes Bill, when enacted, will provide much greater powers of investigation of organized crime, including money lending syndicates, and it will also enable much greater monetary penalties, in terms of the confiscation of assets, to be imposed on persons who are convicted.

MR GILBERT LEUNG (in Cantonese): *Mr President, the Secretary emphasized in the first paragraph of his answer that the police had collected intelligence about loansharking syndicates. In the second paragraph, however, he confirmed that up to now there had not been any successful prosecution of loansharking syndicates. Could the Administration inform this Council what positive measures it has in place to prosecute the persons concerned, or to review the present investigation procedures, so that the Administration will not be powerless as to what to do under such situation?*

SECRETARY FOR SECURITY: Mr President, there is of course a very great difference between intelligence and evidence; the police have a great deal of intelligence. It is very difficult to produce that as evidence in court without witnesses. That is the root of the problem and that is what we are going to seek to remedy.

REV FUNG CHI-WOOD (in Cantonese): *Mr President, the Secretary mentioned in the third paragraph of his answer that the police and Housing Department staff have taken a number of measures in newly completed housing estates. The ways loansharking syndicates go about advertising their services in housing estates are mainly through posting or painting advertisements onto walls or inside lifts. May I ask the Administration if there are any measures to reduce or prevent the posting or painting of such advertisements, for example by acting on*

the information contained in the advertisements or tracking down the relevant persons by using the telephone numbers appearing on the advertisements?

SECRETARY FOR SECURITY: Mr President, the Housing Department staff will take action to prevent or to remove advertisements put up in housing estates. It is true that that is a common form for loansharking syndicates to try to advertise their services. The Housing Department will also report to the police if there is any criminal action which has been committed and the police will then follow up and take action themselves.

Debt collecting agencies

5. MR FREDERICK FUNG asked (in Cantonese): *In view of a number of recent complaints from the public about debt collecting agents adopting modus operandi which pose serious threat to the people concerned and cause nuisance to their families and neighbours, will the Government inform this Council:*

- (a) whether it monitor the operation of debt collecting companies in respect of their methods of collecting debts and the background of the operators;*
- (b) whether it is permissible under the ordinances relating to the regulation of the banks and deposit taking companies for them to commission a third party (such as a debt collecting company) to recover outstanding loans; if so, whether such provision will be reviewed; and*
- (c) whether the undertakings concerned have any criminal liabilities if the companies or agents they commission to recover the debts commit a criminal offence (such as criminal damage or intimidation) in the course of providing the service?*

SECRETARY FOR MONETARY AFFAIRS: Mr President, debt collection is a legitimate activity and the Administration does not consider that there is any prudential need for monitoring or regulation. However, if individual debt collectors were to resort to illegal means to pursue their business, such as criminal damage, intimidation or violence, this would be a law and order matter that would fall to be dealt with by the police. I shall reply to Mr FUNG's questions against this background.

On the first point:

- (a) There is no supervision of the operation of debt collecting companies.

On the second point:

- (b) Hong Kong's banking legislation does not contain provisions dealing with the hiring of third parties by authorized institutions to assist in the recovery of outstanding loans. The system of banking supervision is not geared towards the regulation of the day-to-day operation of institutions, such as the way in which outstanding loans are recovered.

Finally,

- (c) Whether or not an institution can be implicated in criminal acts committed by its agents will depend on the circumstances of the case.

Legal advice suggests that a person in his individual capacity or a person acting on behalf of an organization will not normally be held liable for the actions of the debt collecting agents commissioned by him to collect debts for him or his organization. The person may, however, become criminally liable if he counsels, procures, aids or abets the agent to commit a criminal offence.

MR FREDERICK FUNG (in Cantonese): *Mr President, in the past three months there had been reports of banks and finance companies commissioning debt collecting agencies to collect debts which is not only a harassment to the people concerned, but also a threat and nuisance to their neighbours. Has the police or the Security Branch considered taking precautionary measures such as looking into the licensing of debt collecting agencies or finding out whether their employees have triad connections?*

SECRETARY FOR MONETARY AFFAIRS: Mr President, I defer to the Secretary for Security.

SECRETARY FOR SECURITY: Mr President, we have not considered any proposal to license or regulate debt collecting agencies. It is true that the police do receive complaints of criminal behaviour on the part of debt collecting agencies, threatening behaviour, intimidation or even criminal damage and these offences are investigated in the same way as for any other criminal offence. The police do not have any proposals to take any special action against such offences as distinct from other similar offences unrelated to debt collection.

MR RONALD ARCULLI: *Mr President, since the filing of this question, has the Monetary Affairs Branch actually gone into discussion with the Secretary for Security, or indeed the police, to ascertain the scope of the problem, and if not, why not?*

SECRETARY FOR MONETARY AFFAIRS: Mr President, certainly there has been contact between the Monetary Affairs Branch and the Secretary for Security. But, as I indicated in my main answer, there is no regulation or supervision over the activities of debt collectors and therefore there is no statistical base or data base on their activities. From the point of view of the Monetary Affairs Branch, I would say that it should be borne in mind that banks and other institutions are but one of the users of the services of debt collectors and if there were to be a genuine concern about criminal acts of debt collectors in general, it had to be addressed from a law and order angle.

MR JAMES TO (in Cantonese): *Mr President, I understand that many banks and credit card companies would have preferred not to commission debt collecting agencies to recover the outstanding loans. It is however very difficult for them to recover these debts through proper legal means, even with the help of a lawyer, or a judgement order from court. May I ask the Secretary and the relevant Government departments if the existing legislation has been reviewed to see if there are loopholes, making it difficult for banks and credit card companies to recover the money due even with the help of a lawyer or a judgement order from court, and they have to, as there is no other resort, but turn to debt collecting agencies to do the job for them? May we be advised if there have been such requests from the banking sector or credit card companies?*

PRESIDENT: I think that question does go outside the main question and answer, Mr TO.

MR JAMES TO (in Cantonese): *Mr President, we are talking about the behaviour of some debt collecting agencies here, and the way I see it is that there is no market for these agencies if finance companies and banks recover the loans themselves through legitimate or proper means. Will the Administration reconsider the issue in the light of this?*

PRESIDENT: It still goes beyond what is permissible because strictly a supplementary should seek only to elucidate the main answer and your question goes really quite beyond that.

MR JAMES TO (in Cantonese): *Mr President, may I ask another question?*

PRESIDENT: Yes.

MR JAMES TO (in Cantonese): *Mr President, the Administration has mentioned in its reply that debt collection is a legitimate activity and does not consider that there is any need for monitoring or regulation. Many debt collecting agencies however are stretching that a bit and turn a lawful activity to one that is close to being unlawful, that is, what we call the "marginal" behaviour, in order to recover the loans successfully. Does the Administration consider such behaviour warrant a study and monitoring?*

SECRETARY FOR MONETARY AFFAIRS: Mr President, certainly the Government is concerned that breaches of the criminal law by debt collectors should be dealt with properly by the police according to law. From the point of view of legitimate users of debt collectors and the legitimate operation of debt collection, and very specifically from the point of view of the banks, we would certainly agree that banks should exercise due care in their choice of an agent and should as far as possible ensure that their agents would not be using illegal or even improper means in rendering their service. The Hong Kong Association of Banks has been warned of the potential danger and the potential damage to the industry in general and the concerned institution, in particular, if authorized institutions are seen to be hiring debt collectors who use illegal means to recover debts. The Association has issued a circular to its members to the same effect. However, no specific complaints about the use of debt collection agencies by authorized institutions have been drawn to the attention of the Commissioner of Banking. But in view of the concern that has been expressed the Commissioner will be writing to the Hong Kong Association of Banks and the Deposit-taking Companies Association to remind them that he expects authorized institutions to take adequate steps to monitor and control the activities of agencies they are responsible for appointing to act on their behalf.

MR SIMON IP: *Mr President, so far as the activities of debt collecting agencies are sometimes allied with the activities of loansharks, will the Administration consider a coherent and common strategy to deal with both situations?*

SECRETARY FOR MONETARY AFFAIRS: Mr President, I refer this question, with your permission, to the Secretary for Security.

SECRETARY FOR SECURITY: Mr President, there is really a clear distinction between debt collection and loansharking. The collection of legitimate debts is, as the Secretary for Monetary Affairs has said, a perfectly legitimate activity.

Loansharking is not, and almost invariably loansharks will use unlawful means to try to collect their debts. So, I do not believe that the two questions are linked in the way that has been suggested.

MR MARTIN LEE: *Mr President, does the Administration not realize that a creditor would not go to solicitors to collect debts but go to these debt collectors because the former lack the necessary muscle and the latter have plenty of it and will the Administration continue to turn a blind eye to the obvious muscle?*

PRESIDENT: Could you try to reformulate that in a way which brings your question within Standing Orders where you seek elucidation of the main answer and seek information or ask for official action, Mr LEE?

MR MARTIN LEE: *I understand, Mr President, you do not like the word "muscle". I will rephrase the question. Does the Administration know that creditors go to these debt collectors and not to lawyers because they expect extra-legal means to be used by these debt collectors and that therefore it is irresponsible of the Administration not to do something about it?*

PRESIDENT: I think that is predicated on an opinion which I am not going to allow, Mr LEE.

Address

Consumer Council Annual Report for 1991-92

PRESIDENT: Miss Anna WU, owing to a misunderstanding I fear you are not on the Order Paper as addressing Council on your presentation of the Consumer Council Annual Report 1991-92. I would now rectify that misunderstanding. You do wish to address Council?

MS ANNA WU: Yes, I do. Thank you very much, Mr President, and I apologize for the misunderstanding.

My honourable colleagues, it gives me great pleasure to present the Annual Report of the Consumer Council for the year 1991 to 1992. This report marks the 18th year of the operation of the Consumer Council. During the year under review, the jurisdiction of the Consumer Council was extended in two respects. First, the authority of the Consumer Council was extended to cover immovable property transactions and tenancy matters which affect the lives of many. Second, Hong Kong and China Gas Company Limited and

Peak Tramways Company Limited were brought within the purview of the Consumer Council.

One of the important functions of the Consumer Council is to encourage service providers to be more responsive to the needs of consumers. One way of enabling this to be done is to have consumer participation in important matters such as the setting of charges. The Consumer Council's proposal for the establishment of consumer consultative groups has made a lot of headway. Hong Kong Telephone Company Limited and China Light and Power Company Limited have now set up consumer consultative groups to facilitate consumer representation.

Legislative measures initiated by the Consumer Council and accepted by the Government during the year included the recommendation to set up an independent fund to compensate clients of defunct tour agents and to raise the level of compensation payable to their clients.

The Toys and Childrens' Products Safety Bill was also introduced during the year and I am glad to say that this has been passed into law and will become effective in July this year.

In the area of property transactions, the Consumer Council has been successful in persuading the Government and the developers to adopt a balloting system in the pre-sale of property and to issue brochures containing essential information.

The Consumer Council has been and will remain a close ally of environment protection and green consumerism. Much of the Council's research, promotion and education effort has been devoted to these needs. In the years to come the Consumer Council will need to co-operate with various government authorities and organizations to further the interests in these areas.

Of growing concern to the Consumer Council are the areas of unfair trade practices and consumer redress. The Consumer Council is considering whether it is necessary and feasible to introduce fair trading law and consumer representative actions in Hong Kong. I am sure these measures, when introduced, will benefit the consumer greatly and enhance the competitive environment in Hong Kong.

Mr President, my honourable colleagues, my account would not be complete without a mention of the 13th World Congress of the International Organization of Consumers Union which the Consumer Council of Hong Kong co-organized and hosted in Hong Kong.

Thank you very much, Mr President. I am much obliged.

Written answers to questions**Status of Chinese medicine practitioners**

6. DR PHILIP WONG asked: *Will the Government inform this Council what measures have been or will be adopted to establish the professional status of traditional Chinese medicine practitioners since the publication of the Interim Report of the Working Group on Chinese Medicine in October 1991 so that they may contribute more effectively in their service to the public?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the Government is awaiting the final recommendations of the Working Party on Chinese Medicine.

Since publication of its Interim Report last year, the Working Party has received over 200 representations from professionals, professional and community organizations and members of the public. It has studied the views received and is now finalizing its recommendations. It is expected that the Final Report of the Working Party will be submitted to the Administration within this year.

Employment of handicapped workers

7. MRS ELSIE TU asked: *Will the Administration advise this Council whether it is aware that some handicapped workers are losing their jobs as a result of office automation and moving of factories across the border; if so, what efforts are being made to assist these workers in seeking alternative employment and how successful these measures are?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the Administration is aware that some handicapped workers have been displaced as a result of office automation and moving of factories across the border. However, many of those affected have found alternative employment in the growing service industries.

The main loss of jobs for disabled workers due to office automation has been in respect of blind telephonists. To assist those affected to seek alternative employment, the Vocational Training Council has changed its Telephone Operator Course to an Office Reception Course which incorporates training in computer skills related to office practice. These additional skills, when used in conjunction with special technical aids for the visually impaired, will enable them to perform a wider range of duties. For employers who wish to make the necessary office adaptation to accommodate disabled persons, financial assistance and technical advice are available under an Employaid Scheme funded by the Community Chest.

To take advantage of the increased demand for workers in the service sector, the Vocational Training Council has also introduced General Services courses for the mentally disabled. Graduates from these courses generally have no problem in finding employment in areas such as cleaning, fast food, general office work and messengerial service.

The Selective Placement Division of the Labour Department, in conjunction with the Vocational Training Council and the Rehabilitation Development Co-ordinating Committee, will continue to provide counselling, assessment and placement services and explore new employment avenues for the disabled. In 1992, the Division dealt with 2 705 disabled job applicants and succeeded in placing 1 366 of them in jobs compatible with their ability and aptitude.

Control of fireworks and firecrackers

8. MR GILBERT LEUNG asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the basis on which the Administration decided to impose a strict control over the letting-off of firecrackers and the display of fireworks in the late 1960s; whether the decision has been reviewed by the Administration since then; if so, what the findings of the review are; if not, of the reasons for not doing so; and*
- (b) *whether consideration would be given to relaxing such control during the Lunar New Year so that the letting-off of firecrackers and the display of fireworks would be allowed in designated locations; if so, when such arrangements would be put into effect and what the details would be; if not, of the reasons for not doing so?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, the existing controls on the discharge of firecrackers and display of fireworks were imposed in 1967 in the interests of public safety and security against a background with which the community is familiar.

We have periodically considered whether these controls should be relaxed. The ban on the public displays of fireworks was first relaxed in 1975 for the celebration of the Royal Visit. This policy was further revised in 1982 when the Governor in Council decided that displays of fireworks could be held on appropriate Chinese festival days as well as on occasions of special importance to Hong Kong. Indeed, since 1982, fireworks displays have been held annually with commercial sponsorship to celebrate Lunar New Year and also periodically to celebrate occasions of importance.

More recently, we have decided to relax the ban further to allow the use of pyrotechnics for film and television programme productions as well as for theatrical performances, subject to permit.

As regards firecrackers, the dangers of allowing easy individual access to them have become a matter of increasing concern worldwide. Fireworks are fire hazards. Additionally, every year, many people — particularly children — suffer serious burns and other injuries through mishandling of fireworks and firecrackers. Our existing regulations have thus served us well in preventing such hazards for over 25 years. Doing away with these regulations, even for designated locations, would be a retrogressive step. We have, therefore, concluded that, while the security considerations referred to in the first paragraph above may no longer apply, it remains in the interests of public safety to maintain the current restrictions.

Student unions in secondary schools

9. MR LAU CHIN-SHEK asked (in Chinese): *In view of the significance of organizing students' unions in secondary schools to the development of civic education, will the Government inform this Council:*

- (a) *of the number of secondary schools where students' unions have been formed, with a list of these schools provided;*
- (b) *how executive committee members of such students' unions are normally selected;*
- (c) *whether there are any policies or measures at present to encourage the formation of more students' unions in secondary schools; if not, whether consideration will be given to formulating such policies or measures; and*
- (d) *whether it will consider setting aside a specific allocation under the provisions for education for subsidizing students' unions in secondary schools in order to encourage and facilitate the development of students' unions?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the answers to Mr LAU's question are as follows:

- (a) There are at present 198 secondary schools with student associations. A list of these schools is annexed.

- (b) The Education Department (ED) has no specific information on the practice adopted by individual schools. The Department understands, however, that executive committee members of student associations are normally elected by the students themselves.
- (c) The ED actively encourages schools to set up student associations. Its "Guidelines on Civic Education" promote the formation of student associations as a means of developing the students' sense of responsibility as well as enhancing their social and political awareness. To assist teachers in advising their students on the operation of student associations, reference materials are available in ED's Civic Education Resource Centres.
- (d) Each secondary school in the public sector is given a School and Class Grant (amounting to \$400,000 a year for a standard-class school) to cover the cost of extra-curricular activities, including the setting up of student associations. It is not considered necessary to provide schools with separate funds for this purpose.

Secondary Schools with Student Associations
(as at 1.3.1993)

<i>Sequence number</i>	<i>School name</i>
1	Aberdeen Technical School
2	Belilios Public School
3	Bethel High School
4	Buddhist Hung Sean Chau Memorial College
5	Buddhist Sum Heung Lam Memorial College
6	Buddhist Tai Hung College
7	Buddhist Wong Fung Ling College
8	Buddhist Wong Wan Tin College
9	Caritas Chan Chun Ha Prevocational School - Fanling
10	Caritas Chan Chun Ha Prevocational School - Yuen Long
11	Caritas St. Francis Prevocational School

<i>Sequence number</i>	<i>School name</i>
12	Caritas St. Godfrey Prevocational School
13	Caritas St. Joseph Prevocational School
14	Cheng Chek Chee Secondary School of Sai Kung and Hang Hau District, N.T.
15	Cheung Sha Wan Catholic Secondary School
16	Cheung Sha Wan Government Secondary School
17	Chinese Y.M.C.A. College
18	Chinese Y.M.C.A. Secondary School
19	Choi Hung Estate Catholic Secondary School
20	Christ College
21	Chu Hai College
22	Chuen Yuen College
23	Chung Sang Middle Night School
24	Church of Christ in China Kwei Wah Shan College
25	Church of Christ in China Rotary Prevocational School
26	Cognitio College (Kowloon)
27	Concordia Lutheran School - North Point
28	Cotton Spinners Association Prevocational School
29	Delia Memorial Boys School (Mei Foo)
30	Delia Memorial School (Mei Foo)
31	Delia Memorial School (Taikoo Shing)
32	Delia Memorial School (Tsuen Wan)

<i>Sequence number</i>	<i>School name</i>
33	Delia Memorial School (Yuet Wah)
34	Diocesan Girls' School
35	Five Districts Business Welfare Association Seeto Ho School
36	Fukien Middle School
37	Fung Kai No. 1 Secondary School
38	General Chamber of Commerce and Industry of the Tung Kun District Lau Pak Lok Secondary School
39	Gertrude Simon Lutheran College
40	Good Hope School
41	Ha Kwai Chung Government Secondary Technical School
42	Heep Woh College
43	Heep Yunn School
44	Henrietta School
45	Heung to Middle School
46	Ho Fung College (Sponsored by Sik Sik Yuen)
47	Ho Tung Technical School for Girls
48	Hoi Ping Chamber of Commerce Secondary School
49	Holm Glad College
50	Holy Family Canossian College
51	Holy Trinity College
52	Hon Wah Middle School
53	Hong Kong Chinese Women's Club College

<i>Sequence number</i>	<i>School name</i>
54	Hong Kong Tang King Po College
55	Hong Kong Taoist Association the Yuen Yuen Institute No. 1 Secondary School
56	Hong Kong True Light College
57	Immaculate Heart of Mary College
58	Islamic College
59	Island School
60	Jockey Club Government Secondary Technical School
61	Jockey Club Ti-I College
62	Kei Long College
63	Kiangsu-Chekiang College
64	King's College
65	Kowloon Technical School
66	Kowloon True Light Middle School
67	Kung Lee College
68	Kwok Tak Seng Catholic Secondary School
69	Kwun Tong Government Secondary School
70	Kwun Tong Government Secondary Technical School
71	Kwun Tong Maryknoll College
72	La Salle College
73	Lai Chack Middle School
74	Lai King Catholic Secondary School

<i>Sequence number</i>	<i>School name</i>
75	Lam Woo Memorial Secondary School
76	Lee I Yao Memorial Secondary School
77	Lee Kau Yan Memorial School
78	Lingnan Secondary School
79	Lok Sin Tong Ku Chiu Man Secondary School
80	Lok Sin Tong Yu Kan Hing School
81	Lui Ming Choi Lutheran College
82	Lung Cheung Government Secondary Technical School
83	Lutheran Middle School
84	Madam Lau Kam Lung Secondary School of Mui Fat Buddhist Monastery
85	Marden Foundation Caritas Prevocational School - Chai Wan
86	Marden Foundation Caritas Prevocational School - Sha Tin
87	Maryknoll Convent School
88	Marymount Secondary School
89	Matteo Ricci College, Kowloon
90	Methodist College
91	Ming Kei College (Anglo-Chinese)
92	Ming Yin College
93	Mongkok Workers' Children School
94	Munsang College
95	Nam Wah Catholic Secondary School

<i>Sequence number</i>	<i>School name</i>
96	Newman College
97	Ng Wah College - Secondary
98	Ng Yuk Secondary School
99	Notre Dame College
100	NTHYK Southern District Secondary School
101	NTHYK Yuen Long District Secondary School
102	Our Lady of the Rosary College
103	Our Lady's College
104	Pak Kau English School
105	Pak Kau English School (H.K.)
106	Pak U Middle School
107	Po Chiu College
108	Po Kok Girls' Middle School
109	Po Leung Kuk 1983 Board of Directors' College
110	Po Leung Kuk C.F.A. No.1 College
111	Po Leung Kuk C.W. Chu Prevocational School
112	Po Leung Kuk Centenary College
113	Po Leung Kuk Lee Shing Pik College
114	Po Leung Kuk Tang Yuk Tien College
115	Po Leung Kuk Vicwood K.T. Chong Sixth Form College
116	Po Leung Kuk Wu Chung College
117	Po Leung Kuk Yao Ling Sun College

<i>Sequence number</i>	<i>School name</i>
118	Pooi To Middle School
119	Pooi Tun Secondary School
120	Precious Blood Girls' Middle School
121	Pui Ching Middle School
122	Pui Kiu Middle School
123	Pui Shing Catholic Secondary School
124	Pui Tak Canossian College
125	Pui Ying Secondary School
126	Queen Elizabeth School
127	Queen's College
128	R.T.C. Alumni Association School
129	Raimondi College
130	Rosaryhill School
131	S.K.H. Leung Kwai Yee Secondary School
132	Sacred Heart Canossian College
133	Salesian English School
134	Salesians of Don Bosco Ng Siu Mui Technical School
135	Sha Tin Government Secondary School
136	Sha Tin Methodist College
137	Shau Kei Wan Government Secondary School
138	Shau Kei Wan Government Secondary Technical School
139	Shek Lei Catholic Secondary School

<i>Sequence number</i>	<i>School name</i>
140	Sheng Kung Hui Bishop Mok Sau Tseng Secondary School
141	Sheng Kung Hui Kei Hau Secondary School
142	Sheng Kung Hui Tsang Shiu Tim Secondary School
143	Sheung Kwai Chung Government Secondary Technical School
144	Shun Lee Catholic Secondary School
145	Shun Tak Fraternal Association Tam Pak Yu College
146	Sing Yin Secondary School
147	St. Benedict's Secondary Technical School
148	St. Bonaventure College and High School
149	St. Catharine's School for Girls, Kwun Tong
150	St. Clare's Girls' School
151	St. Francis Canossian College
152	St. Francis of Assisi's College
153	St. Francis Xavier's School, Tsuen Wan
154	St. Louis School
155	St. Margaret's College
156	St. Margaret's Girls' College, Hong Kong (Caine Road)
157	St. Margaret's Girls' College, Kowloon
158	St. Margaret's Girls' College, Kwai Chung
159	St. Mark's School
160	St. Mary's Canossian College
161	St. Paul's Co-Educational College

<i>Sequence number</i>	<i>School name</i>
162	St. Paul's College
163	St. Paul's School (Lam Tin)
164	St. Stephen's College
165	St. Stephen's Church College
166	St. Stephen's Girls' College
167	St. Teresa Secondary School
168	Sung Lan Middle School
169	Sung Tsun Secondary School, Sai Kung
170	Tack Ching Girls' Middle School
171	Tak Nga Secondary School
172	Tak Oi Secondary School
173	Tang King Po School
174	Tang Shiu Kin Victoria Technical School
175	Textile Institute American Chamber of Commerce Woo Hon Fai Prevocational School
176	The Bishop Hall Jubilee School
177	The Church of Christ in China Mong Man Wai College
178	The Pentecostal Holiness Church Wing Kwong College
179	The South Island School
180	The True Light Middle School of Hong Kong
181	Tin Kwong Road Government Secondary School
182	Tsuen Wan Government Secondary School

<i>Sequence number</i>	<i>School name</i>
183	Tsung Tsin College (Shaukiwan)
184	Tuen Mun Government Secondary School
185	Tung Wah Group of Hospitals Chen Zao Men College
186	Tung Wah Group of Hospitals Kap Yan Directors' College
187	Tung Wah Group of Hospital Sun Hoi Directors' College
188	Valtorta College
189	Wah Yan College, Hong Kong
190	Wah Yan College, Kowloon
191	Wong Shiu Chi Secondary School
192	Yan Chai Hospital Lim Por Yen Secondary School
193	Yenching College
194	Ying Wa College
195	Ying Wa Girls' School
196	Yu Chun Keung Memorial College
197	Yuen Long Lutheran Secondary School
198	Yuen Long Merchants Association Secondary School

Monitoring of 26 of CMB routes

10. DR HUANG CHEN-YA asked (in Chinese): *As 26 routes operated by the China Motor Bus Company Limited (CMB) will be taken over by the Citybus Limited from September, will the Government inform this Council what monitoring plans are in place to ensure that the quality of service provided by CMB in respect of these 26 routes will not deteriorate during the intervening period?*

SECRETARY FOR TRANSPORT: Mr President, China Motor Bus Company Limited (CMB) is required under the Public Bus Services Ordinance to maintain a proper and efficient public bus service to the satisfaction of the Commissioner for Transport during the term of its current franchise. This commitment is reinforced by CMB's new franchise effective from September 1993 requiring CMB to continue to comply with such obligations relating to all its services including and up to the date of transfer of the 26 routes to Citybus Limited. Failure to do so renders the Company liable to financial penalty under the provisions of the above Ordinance.

CMB's bus services are always subject to close monitoring by the Transport Department. Central to the process are regular surveys conducted by the Department to monitor the bus turnout, occupancy, and frequency on all the routes. Results so far indicate that whilst there have been some shortage of buses on other routes where CMB has been asked to rectify, there has been no deliberate withdrawal of buses from any one of the 26 routes.

The Transport Department will continue to conduct surveys, with special emphasis on the 26 routes over the next few months at more frequent intervals until they are taken over by Citybus in September. Any service deficiency identified during these surveys or observed by the District Boards and the commuting public will continue to be promptly dealt with and rectified.

Relocation of the Hong Kong Cement Plant

11. MR LEE WING-TAT asked (in Chinese): *In the light of the Government's plan to relocate the Hong Kong Cement Plant adjacent to Greenfield Garden in Tsing Yi, will the Administration inform this Council:*

- (a) *whether there is a target date for relocating the plant, and if not, what the reasons are;*
- (b) *whether it has encountered any difficulties or problems in relocating the plant, and if so, what they are;*
- (c) *whether the Kwai Tsing District Board will be consulted on the relocation of the plant to ensure that the concern and interests of the local residents are taken into account; and*
- (d) *what interim measures it has adopted or will adopt to reduce the nuisance caused by the plant to nearby residents?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) The Government accepts that the Hong Kong Cement Plant on Tsing Yi is incompatible with its surrounding environment and is therefore negotiating with the plant owner for its relocation to a new site on the north Tsing Yi coast. Progress has been encouraging and the Government hopes to be able to finalize agreement with the owner in the next few months. Subject to agreement being reached, the existing plant will be decommissioned in 1996.
- (b) The process of relocating plants such as the cement plant on Tsing Yi includes, for example, identifying a suitable new site and negotiating the details of a mutually acceptable agreement with the owner. It therefore involves wide-ranging problem identification and resolution. The present case is no exception but progress has been positive.
- (c) The Kwai Tsing District Board and its Environment and Planning Sub-Committee have been and will continue to be kept informed on the relocation proposal.
- (d) Until the plant is removed, the Administration will continue to take strict enforcement action to minimize as far as practicable the dust and noise nuisances. According to Environmental Protection Department investigations, the noise levels from the machinery within the site do not provide the basis for an actionable complaint under the Noise Control Ordinance. As regards noise from barge operations, the management has been advised to take measures to avoid causing noise which disturbs nearby residents.

Since the occupation of Greenfield Garden began in December 1989, the Environmental Protection Department has been monitoring the dust problem. Frequent inspections have been carried out to ensure that dust emissions from the plant are reduced to a minimum. Following investigations in November 1992, the management was asked to improve its dust control measures further.

The plant will be kept under close surveillance and further enforcement action will be taken whenever necessary.

Localization of Policy Secretary posts

12. MR CHIM PUI-CHUNG asked (in Chinese): *In his reply to a Legislative Council question on 14 October 1992, the Secretary for the Civil Service pointed out that eight out of the existing 15 Policy Secretary posts were filled by local officers and that the percentage of local officers in such posts would increase substantially in future. Will the Government inform this Council:*

- (a) *when the remaining seven posts of Policy Secretary are expected to be vacant, and whether these vacancies will then be filled by local officers;*
- (b) *why a recently vacated Policy Secretary post was not filled by a local officer, and whether the progress of localization of Policy Secretaries would thus be affected?*

SECRETARY FOR THE CIVIL SERVICE: Mr President,

- (a) Seven Policy Secretary posts are currently filled by overseas officers. Four of these officers are likely to retire before the end of 1995 under the guideline that overseas Administrative Officers should generally retire at age 57. One other officer on agreement terms will complete his contract within the same time span. Of the remaining two, one is currently a substantive Secretary who is likely to be required to retire before 1997 under the terms of the Limited Compensation Scheme. The other is presently filling a Secretary post on an acting basis.
- (b) The appointment to which the Honourable Member refers was made on the basis of the best officer available for the post. Our policy is to consider local and overseas officers on equal terms for any vacancies which arise. This posting is therefore in line with current policy. No doubt Honourable Members will have noted further Secretary appointments, announced last week, which will mean that two local officers will assume Policy Secretary duties for the first time in the next few months.

Mr President, let me also repeat the reassurance that I have given in the past, that all Policy Secretary or future Principal Official posts will be filled by suitable local officers, who can meet the Joint Declaration and Basic Law provisions, in advance of 1997. This may require a departure from current policy at some point in order to give preference to qualified local officers. If this happens, any overseas officer adversely affected will need to be compensated — though I expect numbers to be small.

Compensation for AIDS victims

13. MR DAVID LI asked: *Will the Administration consider implementing a no-fault claim system as a means of compensating AIDS victims who have contracted the virus through contaminated blood products in government hospitals, and their dependents?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, as a caring and compassionate government, we have great sympathy for those haemophiliacs who contracted HIV through transfusion of blood and blood products prior to 1985, irrespective of whether they were infected through transfusion in government hospitals.

In this context, the Financial Secretary has announced in his Budget speech on 3 March 1993 the Administration's proposal to set up a special fund with \$350 million for providing, *inter alia*, *ex gratia* payments to these patients. The fund will be administered under trust by a special council to be appointed by the Governor.

A submission for allocation of funds will be put to the Finance Committee of this Council at its next regular meeting.

Inclusion of the Chinese political system in local school curriculum

14. MR STEVEN POON asked (in Chinese): *In view of the return of Hong Kong to China in 1997 to become its Special Administrative Region, will the Government inform this Council:*

- (a) *whether the study of the Chinese political system is included as a subject in the curriculum of local primary and secondary schools to help students understand such matters as the existing political structure and system in China and the relationship between China and the future Hong Kong Special Administrative Region;*
- (b) *if so, what the outline of the subject is, and whether the contents of the subject will be strengthened to keep pace with the needs of the community; and*
- (c) *if not, whether arrangements will be made expeditiously to include this subject in the curriculum of schools?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the Chinese political system is not taught as an independent subject in schools. However, elements of the Chinese political system are included in the school curriculum at both primary and secondary levels. Pupils' concepts and

understanding of the Chinese political system are strengthened progressively from a basic understanding of the growth and development of the Chinese nation to a more in-depth study of the existing political structure and system in China and the relationship between China and the future Hong Kong Special Administrative Region.

Topics relating to the Chinese political system are already included in the following subjects in the formal curriculum:

<i>Level</i>	<i>Subject</i>
Primary	Social Studies (P5)
Secondary	Chinese History (S1-S7) History (S3-S7) Social Studies (S3) Economic and Public Affairs (S4-S5) Government and Public Affairs (S4-S7) Liberal Studies (S6-S7)

A summary of the topics is annexed.

A new subject "General Studies" is being developed for the primary curriculum. It will embody basic knowledge of the Chinese political system as well as the relationship between China and the future Hong Kong Special Administrative Region.

Apart from the topics included in the formal school curriculum, pupils may acquire a better understanding of the Chinese political system through such cross-curricular civic education programmes as "The individual and the nation", and "The individual and society" as described in the "Guidances on Civic Education in Schools" produced by the Education Department.

The Curriculum Development Institute of the Education Department will continue to review the school curriculum to keep pace with the changing needs of the community and to reinforce pupils' understanding of the development of the political systems in China and Hong Kong.

Topics relating to the Chinese Political System and
the Relationship between China and the
Future Hong Kong Special Administrative Region
in Different School Subjects

<i>Level and subject</i>		<i>Topics</i>
<i>Primary</i>		
Social Studies	P5	China — the growth and the development of the Chinese nation
<i>Secondary</i>		
Chinese History	S1-S7	Political development of China up to 1976
History	S3	China as one of the communist countries
	S4-S5	The nature of China's communist rule in post-1949
	S6-S7	Socialist revolution and modernization in China (1949-80)
Social Studies	S3	Political development and future of Hong Kong
Economic and Public Affairs		The future of Hong Kong as a Special Administrative Region
Government and Public Affairs	S4-S5	Hong Kong and China
	S6-S7	The relationship between Hong Kong, Britain, China and the future of Hong Kong
Liberal Studies	S6-S7	Hong Kong Studies — Implementation of the Sino-British Joint Declaration
		China Today
		- Socialism vs Capitalism
		- The role of the Party in the process of government

Pollution caused by vehicle repair workshops

15. MR TAM YIU-CHUNG asked (in Chinese): *In view of the environmental pollution problems caused by vehicle repair workshops located on the ground floor of domestic premises, will the Government inform this Council whether measures will be taken to abate such pollution problems; and whether any administrative measures are in place to relocate such workshops away from residential areas?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the environmental problems normally associated with vehicle repair workshops located on the ground floor of domestic premises are noise and air pollution.

Noise pollution from activities of vehicle workshops such as hammering, grinding and welding of car bodies, maintenance and testing of engines and so on are dealt with under the Noise Control Ordinance (NCO). If the noise generated from such a workshop is found to exceed the limit stipulated in the relevant Technical Memorandum under the NCO, staff of the Environmental Protection Department (EPD) will give advice and warn the operator of the workshop to alleviate the problem. If the problem persists, a Noise Abatement Notice (NAN) may be issued requiring the noise to be abated within a specified period. Non-compliance of NAN requirements is an offence liable to a maximum fine of \$50,000 for the first conviction and \$100,000 for second or subsequent conviction and in any case a daily fine of \$10,000 for each day the offence continues.

The air pollution problems comprise mainly odour of paint mist. Upon receipt of complaints about air pollution from vehicle repair workshops and if found justified, EPD staff will serve a notice under the Air Pollution Control Ordinance (APCO) to require the abatement of the air pollutant nuisance. If after the service of such a notice the air pollutant nuisance continues, prosecution will be initiated under the APCO. Any owner of premises who fails to comply with any of the requirements of notification given to him commits an offence and is liable to a fine of \$50,000 and a further fine of \$100 in respect of every one quarter of an hour during the whole or any part of which the offence continues. Under the Air Pollution Control (Amendment) Ordinance 1993 which is expected to come into operation in mid 1993, a system of Air Pollution Abatement Notices (APAN) will be introduced to replace the existing notice system. Non-compliance with APAN requirements is an offence liable to a fine of \$100,000 on first conviction and to a fine of \$200,000 and to imprisonment for six months on a second or subsequent conviction and in any case a daily fine of \$20,000 for each day the offence continues.

With regard to the second part of the question, a vehicle repair workshop is generally classified as an industrial user. If it is operated in premises where industrial use is not permitted under the lease conditions, lease enforcement

action can be taken against it. Measures have also been taken to develop industrial buildings to provide accommodation for such purposes. A study on the Planning for Vehicle Repair Workshops, commissioned by the Planning Department, will be completed in mid 1993, the findings of which should enable the Administration to devise a strategy to deal with the environmental problems caused by such workshops.

Quality of education

16. MR TIK CHI-YUEN asked (in Chinese): *In the light of the Governor's Policy Address and the recommendations in the Education Commission Report No. 5 concerning improvements to the quality of education, will the Government inform this Council of:*

- (a) *the adjustments that will be made to the estimated requirements for primary and secondary school teachers in government, subsidized, and private schools in various districts in the next academic year; and*
- (b) *the supply of graduate and non-graduate teachers in primary and secondary schools in the next academic year, and whether there will be any shortfalls in supply?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the answers to Mr TIK's questions are as follows:

- (a) The improvement measures announced in the Governor's policy address and recommended in Education Commission Report No. 5 (ECR5) will require 785 additional non-graduate teachers in the 1993-94 academic year. Taking these into account and allowing for reduced demand due to population change (324 fewer teachers), the overall requirement for the new academic year will be 24 651 non-graduate and 12 976 graduate teachers in public sector primary and secondary schools. A breakdown of these figures by district is not readily available. Private schools are unaffected by the improvements involving additional teachers.
- (b) The supply of non-graduate and graduate teachers in public sector primary and secondary schools in the next academic year is expected to be 24 535 and 12 657 respectively. There would therefore be a theoretical shortfall of 116 non-graduate and 319 graduate teachers, representing 0.5% and 2.5% respectively of the demand. Given the size of the teaching force and in the light of past experience (when vacancies averaged 1% and 3.5% respectively over the past three years) the Education Department

estimates that there should be enough teachers to meet demand in the new academic year.

Safety standard of the Hong Kong Coliseum

17. MR EDWARD HO asked: *Will the Government inform this Council of the designed capacity of the Hong Kong Coliseum; whether, in the past three years, there were occasions when the Coliseum was filled beyond its capacity; and whether, in relation to present-day safety requirement laid down by the Fire Services Department and the Buildings Ordinance Office, the Coliseum can still cope with the number of people as originally planned?*

SECRETARY FOR WORKS: Mr President, the designed seating capacity of the Hong Kong Coliseum ranges from 10 545 to 12 455 depending on the type of stage configuration used. Since its opening in April 1983, it has never been filled beyond the designed capacity.

The fire service installations were approved by Fire Services Department in 1983. It is considered that for normal sports events, the fire services installation remains adequate under FSD's present-day requirements.

When it is used for other performances, the operators will have to apply for a licence under the Places of Public Entertainment Ordinance. Upon the receipt of applications, the authority will refer them to Fire Services Department for inspections and advice on fire safety matters. The applicant will have to comply with necessary safety requirements before a licence is granted. This ensures all performances at the Coliseum will comply with up-to-date fire safety requirements.

The Coliseum was designed in consultation with the Buildings Ordinance Office to ensure that it also complied with the safety requirements laid down in the Buildings Ordinance. In relation to the present-day safety requirements, it can still cope with the number of people as originally planned.

Lifting of embargo against financial support for Vietnam

18. MR MARTIN BARROW asked: *Given the Government's recognition that an improvement in the Vietnamese economy would encourage Vietnamese migrants to volunteer to return to Vietnam, will the Government inform this Council whether it is aware that Her Majesty's Government will publicly support a lifting of the embargo against the International Monetary Fund (IMF) and World Bank providing financial support for Vietnam, prior to the annual meeting of those organizations in April 1993, and if it will not, is it aware of why not?*

SECRETARY FOR SECURITY: Mr President, the position of Her Majesty's Government is well known; they have publicly expressed their support for a lifting of the embargo and normalization of Vietnam's relations with the international financial institutions and will continue to press for this.

Public rental housing

19. DR CONRAD LAM asked (in Chinese): *Referring to para. (b) of the reply of Secretary for Planning, Environment and Lands to this Council to the written question on "Land grant for public rental housing" on 14 October 1992, will the Government inform this Council:*

- (a) *of the breakdown, by year and district, of the 16 500 rental type flats for sale under the Home Ownership Scheme (HOS);*
- (b) *of the criteria used to designate certain blocks in the housing estates for HOS uses; and*
- (c) *how it will ensure that the designation of certain blocks for HOS uses would not reduce the supply of public rental housing units and unduly affect those applicants in the General Waiting List for public rental housing units in urban area?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) A breakdown, by year and district, of the 16 500 rental type flats designated for sale under the Home Ownership Scheme (HOS) is at the Annex.
- (b) The Government's objective is to promote home ownership for those eligible for public housing. Under this policy, the main criteria used to designate certain rental blocks for sale are housing mix and programme balance. While the demand for HOS flats is largely met by planned production, it is sometimes necessary to transfer one or two blocks in a rental estate for sale to achieve a better mix. Thus, sitting and prospective tenants, including those affected by redevelopment, can choose to buy in the same district when they can afford to do so. There are also occasions where programme adjustment in the production of sale flats requires the transfer of some rental type blocks for sale in a particular year. However, this is done only when the committed rental demand in the district is satisfied.

- (c) The designation of rental blocks for sale should not reduce the supply of rental units overall on a year on year basis. In particular, the designation is not necessarily followed by a corresponding reduction in the supply of rental flats. As sitting tenants move out after buying HOS flats, the recovered units are refurbished and allocated to other rehousing categories, including the waiting list.

The designation of rental type flats for sale should have little effect on waiting list applicants with an expressed preference for urban flats because the majority of the transfer flats are outside the urban area.

Annex

Rental-type Flats for Sale under the HOS

<i>District</i>	<i>1987-88</i>	<i>1988-89</i>	<i>1989-90</i>	<i>1990-91</i>	<i>1991-92</i>	<i>Total</i>
	<i>(No. of flats)</i>					
Hong Kong	-	-	-	607	-	607
Kowloon	-	-	-	-	2 242	2 242
Kwai Chung, Tsuen Wan, Tsing Yi	-	-	814	-	-	814
Sha Tin	-	-	610	1 222	-	1 832
Tai Po	-	-	2 443	2 036	1 224	5 703
Tseung Kwan O	-	-	-	814	-	814
Tuen Mun	-	-	-	1 425	2 448	3 873
Fanling, Sheung Shui	-	-	611	-	-	611
Total	-	-	4 478	6 104	5 914	16 496

Motions**PUBLIC FINANCE ORDINANCE**

THE SECRETARY FOR THE TREASURY moved the following motion:

"That -

1. Authority is hereby given for a sum not exceeding \$50,612,379,000 to be charged on the general revenue in advance of an Appropriation Ordinance for expenditure on the services of the Government in respect of the financial year commencing on 1 April 1993.
2. Subject to this resolution, the sum so charged may be expended against the heads of expenditure, and expenditure for each such head shall be arranged in accordance with the subheads, shown in the draft Estimates of Expenditure 1993-94 or, where such estimates are changed under the provisions of the Public Finance Ordinance as applied by section 7(2) of that Ordinance, in accordance with such estimates as so changed.
3. Expenditure in respect of any head shall not exceed the aggregate of the amounts specified in respect of each subhead in that head, by reference to percentages, in section 4(a) and (b).
4. Expenditure in respect of each subhead in a head shall not exceed -
 - (a) in the case of a Recurrent Account subhead, an amount equivalent to -
 - (i) except where the subhead is listed in the Schedule hereto, 20% of the provision shown in respect of it in the draft Estimates;
 - (ii) where the subhead is listed in the Schedule hereto, that percentage of the provision shown in respect of it in the draft Estimates which is specified in relation to that subhead in the Schedule; and
 - (b) in the case of a Capital Account subhead, an amount equivalent to 100% of the provision shown in respect of it in the draft Estimates,

or such other amount, not exceeding the provision shown in respect of the subhead in the draft Estimates, as may in any case be approved by the Financial Secretary."

SCHEDULE

	<i>Head of expenditure</i>	<i>Subhead</i>	<i>Percentage of provision shown in draft estimates</i>
22	Agriculture and Fisheries Department	452 Royal Society for the Prevention of Cruelty to Animals (Hong Kong)	25
		456 World Wide Fund for Nature (Hong Kong).....	25
91	Buildings and Lands Department	221 Clearance of Crown land - ex gratia allowances	50
28	Civil Aviation Department	170 Airport insurance.....	100
		281 Air passenger departure tax administration fees	30
43	Civil Engineering Department	255 Storage of explosives	30
31	Customs and Excise Department	010 Recruiting expenses	40
		292 Seizure management	30
40	Education Department	325 Direct Subsidy Scheme	30
		330 Assistance to private secondary schools and bought places.....	30
		350 Refund of rents and rates to kindergartens, private schools and study rooms	30
		489 Miscellaneous educational services	30
46	General Expenses of the Civil Service	013 Personal allowances	35

	<i>Head of expenditure</i>		<i>Subhead</i>	<i>Percentage of provision shown in draft estimates</i>
50	Government Land Transport Agency	225	Traffic accident victims assistance scheme – levies	100
53	Government Secretariat: City and New Territories Administration	211	Commonwealth Youth Exchange Programme.....	100
		285	Promotional activities on building management	30
		286	Activities to be organised by the Commission on Youth	50
60	Highways Department	273	Highways maintenance.....	30
62	Housing Department	228	Clearance.....	25
		232	Squatter control	25
72	Independent Commission Against Corruption	203	Expenses of witnesses, suspects and detainees.....	36
73	Industry Department	513	Hong Kong Quality Assurance Agency.....	25
76	Inland Revenue Department	002	Allowances.....	25
		149	General departmental expenses	25
		189	Interest on tax reserve certificates	35
		209	Special legal expenses.....	30
34	Internal Security: Miscellaneous Measures	195	Defence Costs Agreement: cash contribution	40

	<i>Head of expenditure</i>		<i>Subhead</i>	<i>Percentage of provision shown in draft estimates</i>
90	Labour Department	280	Contribution to the Occupational Safety and Health Council	25
92	Legal Department	234	Court costs	34
		243	Hire of legal services and related professional fees	25
106	Miscellaneous Services	258	Election expenses	30
120	Pensions	015	Civil, judicial service and police pension benefits and compensation	30
		016	Gratuities for officers on contract.....	30
		026	Employees' compensation	50
118	Planning Department	149	General departmental expenses	30
130	Printing Department	002	Allowances.....	25
160	Radio Television Hong Kong	102	Technical Services Agreement.....	25
165	Registry of Trade Unions	002	Allowances.....	25
170	Social Welfare Department	176	Criminal and law enforcement injuries compensation	25
		177	Emergency relief	100
		179	Public assistance scheme.....	25
		180	Special needs allowances.....	25

<i>Head of expenditure</i>	<i>Subhead</i>	<i>Percentage of provision shown in draft estimates</i>
	410 Rehabilitation services (grants)	30
	411 Social welfare services (grants)	30
	412 Refunds of rates	30
176 Subventions: Miscellaneous	416 Commonwealth Parliamentary Association (Hong Kong Branch)	45
	437 Hong Kong - Japan Business Co-operation Committee	25
	446 Law Society Legal Advice and Duty Lawyer Schemes	25
	475 Outward Bound Trust of Hong Kong	25
	487 Subventions for performing arts activities	30
	502 Hong Kong Archaeological Society	50
	503 Subventions to voluntary agency camps	25
	504 Hong Kong Council on Smoking and Health	25
	521 Skills centres for the disabled	25
177 Subventions: Non-Departmental Public Bodies	429 Consumer Council	25
	441 Hong Kong Productivity Council	25

<i>Head of expenditure</i>	<i>Subhead</i>	<i>Percentage of provision shown in draft estimates</i>
	443 Hong Kong Tourist Association	25
	444 Hong Kong Trade Development Council	25
	520 Vocational Training Council	25
178 Technical Education and Industrial Training Department	001 Salaries	25
	002 Allowances	100
186 Transport Department	449 Road Safety Association.....	25
188 Treasury	002 Allowances	30
	163 Write-offs	50
	187 Agents' commission and expenses	80
	190 Other miscellaneous items.....	100
	191 Payment to Cross-Harbour Tunnel Company Limited.....	100
	192 Refunds of revenue.....	100
190 Universities and Polytechnics	002 Allowances	25
	149 General departmental expenses	40
	169 Visitation	35
	492 Grants to universities, polytechnics, Baptist College and Lingnan College	30

<i>Head of expenditure</i>	<i>Subhead</i>	<i>Percentage of provision shown in draft estimates</i>
	496 Refund of rates - universities, polytechnics, Baptist College and Lingnan College	25
194 Water Supplies Department	223 Purchase of water	25

He said: Mr President, I move the motion standing in my name in the Order Paper.

The purpose of this motion is to seek funds on account to enable the Government to carry on existing services between the start of the financial year on 1 April 1993 and the enactment of the Appropriation Bill.

The funds on account sought under each subhead have been determined in accordance with paragraph 4 of the resolution, by reference to percentages of the provision shown in the draft Estimates. As the draft Estimates are changed from time to time, by the Finance Committee or under delegated powers, the provision to which the percentages are applied will also change. Thus the provision on account under each head is not constant but may vary, with every increase being matched by an equal decrease. The initial provision on account under each head is shown in a footnote to this speech. The aggregate total under all heads is fixed, however, at \$50,612,379,000 and cannot be exceeded without the approval of this Council.

The resolution also enables the Financial Secretary to vary the funds on account in respect of any subhead, provided that these variations do not cause an excess over the amount of provision entered for that subhead in the draft Estimates or an excess over the amount of funds on account for the head.

A vote on account warrant will be issued to the Director of Accounting Services authorizing him to make payments up to the amount specified in this motion and in accordance with its conditions. The vote on account will be subsumed upon the enactment of the Appropriation Bill, and the general warrant issued after the enactment of the Appropriation Bill will replace the vote on account warrant and will be effective from 1 April 1993.

Mr President, I beg to move.

Footnote

<i>Head of Expenditure</i>		<i>Amount shown in the draft Estimates</i>	<i>Initial amount of provision on account</i>
		<i>\$'000</i>	<i>\$'000</i>
21	His Excellency the Governor's Establishment	23,323	4,665
22	Agriculture and Fisheries Department	365,152	82,750
25	Architectural Services Department	1,268,767	254,234
24	Audit Department	73,601	14,721
23	Auxiliary Medical Services.....	40,946	8,278
91	Buildings and Lands Department.....	921,174	199,467
26	Census and Statistics Department	237,720	48,680
27	Civil Aid Services.....	56,075	11,359
28	Civil Aviation Department	395,983	92,524
43	Civil Engineering Department	422,170	93,662
30	Correctional Services Department	1,552,250	320,570
31	Customs and Excise Department	798,139	169,171
37	Department of Health.....	1,676,087	352,246
39	Drainage Services Department.....	536,598	113,207
40	Education Department	13,531,720	2,982,338
42	Electrical and Mechanical Services Department.....	807,573	195,319
44	Environmental Protection Department.....	933,407	333,591
45	Fire Services Department.....	1,512,162	364,701

<i>Head of Expenditure</i>		<i>Amount shown in the draft Estimates</i>	<i>Initial amount of provision on account</i>
		\$'000	\$'000
46	General Expenses of the Civil Service.....	3,552,545	767,911
166	Government Flying Service	118,897	56,316
48	Government Laboratory.....	105,854	28,242
50	Government Land Transport Agency.....	123,813	93,130
51	Government Property Agency.....	1,153,245	230,649
52	Government Secretariat	747,416	160,680
53	Government Secretariat: City and New Territories Administration	540,671	123,998
29	Government Secretariat: Civil Service Training Centre.....	62,094	13,139
96	Government Secretariat: Overseas Offices	177,675	43,273
56	Government Secretariat: Planning, Environment and Lands Branch and Works Branch	175,377	45,868
55	Government Secretariat: Recreation and Culture Branch	83,216	24,336
58	Government Supplies Department	116,487	23,425
60	Highways Department	1,072,550	280,605
61	Hospital Services Department.....	103,405	21,195
62	Housing Department	387,088	97,147
70	Immigration Department.....	1,127,126	228,956

<i>Head of Expenditure</i>		<i>Amount shown in the draft Estimates</i>	<i>Initial amount of provision on account</i>
		\$'000	\$'000
72	Independent Commission Against Corruption	386,003	77,456
73	Industry Department	99,789	42,294
74	Information Services Department	157,010	31,514
47	Information Technology Services Department.....	256,638	53,403
76	Inland Revenue Department.....	690,159	144,795
78	Intellectual Property Department	32,910	6,582
34	Internal Security: Miscellaneous Measures.....	1,715,416	673,674
80	Judiciary.....	428,955	91,780
90	Labour Department	293,555	59,423
94	Legal Aid Department	259,502	51,901
92	Legal Department	466,145	104,436
100	Marine Department	550,004	153,859
106	Miscellaneous Services.....	10,953,129	4,963,835
112	Office of Members of the Legislative Council	50,136	10,028
114	Office of the Commissioner for Administrative Complaints.....	13,745	2,749
116	Official Receiver's Office	57,026	11,606
120	Pensions	4,923,430	1,463,301

<i>Head of Expenditure</i>		<i>Amount shown in the draft Estimates</i>	<i>Initial amount of provision on account</i>
		<i>\$'000</i>	<i>\$'000</i>
118	Planning Department	203,701	70,560
121	Police Complaints Committee	6,297	1,260
122	Police: Royal Hong Kong Police Force	7,325,070	1,531,283
126	Post Office	1,873,448	384,092
130	Printing Department.....	149,351	34,163
136	Public Service Commission	11,659	2,332
160	Radio Television Hong Kong.....	303,328	74,838
162	Rating and Valuation Department	147,776	29,556
164	Registrar General's Department	145,800	29,496
165	Registry of Trade Unions	6,474	1,306
167	Royal Hong Kong Regiment (The Volunteers)	36,991	7,399
168	Royal Observatory	107,682	23,882
170	Social Welfare Department	7,409,011	1,898,741
174	Standing Commission on Civil Service Salaries and Conditions of Service	9,493	1,899
175	Standing Committee on Disciplined Services Salaries and Conditions of Service	6,061	1,213
173	Student Financial Assistance Agency	484,523	96,905
176	Subventions: Miscellaneous.....	211,772	67,382
177	Subventions: Non-Departmental Public Bodies	14,656,241	3,303,265

<i>Head of Expenditure</i>		<i>Amount shown in the draft Estimates</i>	<i>Initial amount of provision on account</i>
		<i>\$'000</i>	<i>\$'000</i>
178	Technical Education and Industrial Training Department.....	591	152
180	Television and Entertainment Licensing Authority	28,283	6,074
110	Territory Development Department	143,001	28,976
181	Trade Department	162,940	33,923
186	Transport Department	398,549	101,937
188	Treasury	268,908	74,546
190	Universities and Polytechnics	6,378,793	1,925,992
194	Water Supplies Department	2,694,129	608,218
		-----	-----
		99,303,730	26,162,379
184	Transfers to Funds	24,450,000	24,450,000
		-----	-----
	Total	<u>123,753,730</u>	<u>50,612,379</u>

Question on the motion proposed, put and agreed to.

MAGISTRATES ORDINANCE

THE SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS moved the following motion:

"That the Third Schedule to the Magistrates Ordinance be amended by adding -

"11. Housing (Traffic)

An offence against by-law 8(1)(a), 8(1)(b), 25(1)(a) or 25(1)(b) of the Housing (Traffic) By-laws (Cap. 283 sub. leg.)."

He said: Mr President, I move the motion standing in my name on the Order Paper. This motion seeks to incorporate four common parking offences under the Housing (Traffic) By-laws of the Housing Ordinance into the Third Schedule to the Magistrates Ordinance. These offences include for example: unauthorized parking on a restricted road; and parking inside the car-park other than in an appropriate parking space or in a parking space allocated for the use of pass holders.

The Third Schedule to the Magistrates Ordinance lists those offences in respect of which a defendant may plead guilty by letter without attendance at court. Operational experience indicates that many defendants would prefer to use this method of proceeding if it is available.

Thank you, Mr President.

Question on the motion proposed, put and agreed to.

Second Reading of Bills**PARENT AND CHILD BILL****Resumption of debate on Second Reading which was moved on 24 June 1992**

Question on Second Reading proposed.

MRS MIRIAM LAU: Mr President, the Parent and Child Bill was introduced into the Legislative Council on 24 June 1992. It mainly aims to reduce the legal disabilities associated with illegitimacy so that an illegitimate child will, as far as practicable, be treated in the law in the same way as a legitimate child. The Bill also provides for the determination of parentage in case of births resulting from medical treatment services such as artificial insemination by donor and

surrogacy, and for the use of scientific tests in proceedings where the question of parentage is to be considered.

A Legislative Council ad hoc group was formed in July last year to study this Bill. A total of 13 meetings were held by the group.

As regards the issues relating to illegitimacy, the ad hoc group entirely agrees with the principle that no child should be penalized or discriminated for reasons arising from the circumstances of his birth and therefore fully supports the provisions in the Bill which seek to remove, as far as possible, all discriminatory provisions from existing legislation.

The ad hoc group spent quite some time in studying those provisions in Part V of the Bill for the identification of the legal parents of children born as a result of medical treatment and the subsequent transfer of parentage in case of surrogacy in view of the very complex nature of the issues involved. Some Members considered that it would be more logical for this part of the Bill to be introduced after the ethics of these medical treatment services had been fully considered. The Administration explained that the issue of regulating arrangements for scientifically assisted birth was being looked into separately. The final report of the Committee on Scientifically Assisted Human Reproduction would soon be published for public consultation. However they reiterated that since these treatment services are not prohibited by law at present and are actually administered both locally and overseas, there is a genuine need to provide a proper mechanism to determine the legal parentage of children born as a result of such treatment services so that they would no longer be regarded as illegitimate. Members accepted the Administration's explanation but stressed that their support of the Bill does not necessarily mean that they have endorsed the practice, morality and ethics of such treatment services.

After very careful consideration of the clauses in this part of the Bill, the ad hoc group considered that they could be further improved in three areas.

The first one deals with the mechanism for the determination of the father of a child if the mother who received medical treatment has no husband. While Members were fully aware of the purpose of this provision, that is, to cater for cases where the couple, although not married, are both willing to have a child by means of medical treatment, they found the wording in clause 10(3) of the Bill to be ambiguous which might result in the wrong person being regarded as the father. For example, if the father of a woman accompanied her to receive medical treatment which resulted in the birth of a child, under clause 10(3) of the Bill, that man, who is actually the grandfather of the child, may be deemed in law to be the child's father even though that was never intended. This could be very confusing. Members considered that the relationship between the woman and the man should be more clearly spelt out in the clause if that man is to be treated as the child's father.

Another area which required amendment is the provision for cases where the sperm of a man was used after his death. Clause 10(6) specifies that if the sperm of a man was used after his death, that man should not be regarded as the father of the child subsequently born. The Administration explained that the rationale was mainly to avoid uncertainty in terms of succession of the man's estate because it could not be sure at what stage in the future another child might be born and claim against the estate. In view of the fact that gametes could be preserved for a rather long period of time, this means that succession rights may never be conclusive. While noting the Administration's concern, Members generally considered that it would not be fair to the child if he was to be treated as fatherless when he was actually, both socially and genetically, the child of his deceased father. In the light of Members' concern, the Administration agreed that the application of this rule to the child should only be confined to the succession of his father's estate.

Clause 12 of the Bill stipulates a number of conditions that have to be fulfilled before a parental order, that is, in layman terms, a permission for the transfer of parentage in case of surrogacy from the carrying parents to the commissioning parents, is to be made by the court. One condition is that no financial payment can be made between the parties concerned other than those already authorized by the court. While Members acknowledged the good intention of the rule, they considered it unnecessarily restrictive. This is because there may be some genuine cases where payments were made out of good will but the parties concerned just failed to apply for the court's authorization before payment. It would be unfair to them as well as to the child if an order were to be rejected solely for this reason. The ad hoc group considered that the final decision in these circumstances should be left to the court.

The Administration has agreed to the above proposals. Suitable amendments will be moved by me later in the Committee stage to amend the relevant clauses.

Another major amendment to be made to the Bill relates to the provisions for the maintenance of illegitimate children. In the Schedule of the Bill, amendments to the Affiliation Proceedings Ordinance (APO) are proposed to empower the court to make orders for maintenance of children not born out of marriage similar to those which may be made in respect of children born out of marriage under other Ordinances. However, in the course of scrutiny of the Bill, the Administration suddenly proposed to remove all the proposed amendments to the APO because there is some concern that the provisions of that Ordinance may be inconsistent with the Hong Kong Bill of Rights. Therefore, it would be necessary to conduct an overall review of the APO and pending the outcome of such review, the Administration does not wish to proceed further with the amendments to the Ordinance at this stage.

The ad hoc group did not favour the Administration's proposal because, in view of the usually long lead time required for the completion of a review of such magnitude, it would mean that illegitimate children could not receive those

benefits brought about by the proposed amendments for some time. Another more important factor is that, if the present provisions in the APO were really inconsistent with the Bill of Rights, there is a possibility that the Ordinance may be successfully challenged in court. If that is the case, a lacuna would be created so that until such time some other legislation is put in place, no order for the maintenance and benefit of illegitimate children could be made. Members considered that highly undesirable and insisted that suitable interim measures be introduced to fill up this possible lacuna.

I am pleased to say that the Administration also shared Members' concern and has reacted positively by agreeing to extend the scope of the Guardianship of Minors Ordinance (GMO) to allow parents of illegitimate children to apply for maintenance under that Ordinance and to incorporate those amendments originally proposed in the Bill for the APO into the GMO. The effect would be that either parent of an illegitimate child could apply for maintenance under the GMO without having to resort to the APO. The mother of the child may still apply under the APO if she so wishes.

The Administration has also undertaken to accord priority to the review of the APO in order to reduce any inconvenience caused to mothers of children who prefer to apply under the APO.

In view of the urgency of this matter, the Administration has agreed that the provisions regarding the maintenance of illegitimate children should take effect immediately upon the enactment of the Bill. Other provisions in the Bill should however become operative three months after the enactment to enable the Administration to publicize the change in the law.

The ad hoc group has also suggested some amendments to the Bill to reflect more clearly the intention of the provisions. Some technical amendments will also be moved by me to the Chinese version of the Bill.

Before closing, I must thank my colleagues for their time, patience and efforts in studying this Bill. I also wish to thank the Administration for their understanding and co-operative attitude in working out the amendments to be introduced.

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

DR LEONG CHE-HUNG: Mr President, I rise to speak in support of this Bill subject to the amendments to be made in the Committee stage.

Mr President, this Bill, amongst other things, provides for the determination of parentage for birth resulting from scientifically assisted human reproduction, such as artificial insemination by donor or "AID" as commonly called, genetic in-vitro fertilization or commonly called (test tube babies) and

surrogacy. It thus seeks to protect the child born, as it were, scientifically without "his or her own choice".

Mr President, but it is exactly on the enforcement of this principle behind this Bill that I would like to make some comments in the hope that the Administration would take early action. Mr President, I concur with the Administration that there is a dire need to have proper mechanism for the determination of the legal parentage of children born under such scientific procedures. Yet, these mechanisms could be made more realistic if they could be dovetailed with recommendations on scientific procedures that are agreeable to the community on ethical, moral, social and legal considerations.

In 1987, a committee was set up under the Health and Welfare Branch known as the Committee on Scientifically Assisted Human Reproduction and perhaps I should declare my interest as the chairman of that committee. This group, Mr President, amongst other things, were entrusted to study and make recommendations on ethical, moral, social and legal aspects of these procedures. An interim report was produced in 1990 and after wide public consultation and more detailed deliberation, a final report was presented to the Secretary for Health and Welfare in May 1992.

The final report in our mind, Mr President, made significant proposals and recommendations that would facilitate the deliberation and implementation of the current Bill in relation to the needs of this society. Some of these are:

- (1) Artificial insemination by donor (or AID) should not be performed on single woman.
- (2) Children born out of AID are considered the legitimate children of the husband of the woman receiving AID unless the man has objected to the procedure.
- (3) Only genetically related surrogacy should be allowed. That is, it must be the sperm of the commissioning father and the ovum of the commissioning mother and implanting the embryo so fertilized into the womb of the surrogate mother.
- (4) Commercialization of scientifically assisted human reproduction should be completely banned.
- (5) Strictest recommendation on storages and disposal of gametes and embryo.

But up to now, nothing is forthcoming from this report. This Bill before us today is therefore in my mind "putting the cart before the horse".

I would like also to turn to two other aspects in relation to the Bill.

- (A) I hail the recommendations of clause 12 which provides a mechanism for the gamete donor parents, that is, the commission couple in the case of surrogacy, to apply for a court order for a declaration of the child's parents at law. Such declaration will require the Registrar General of Births and Deaths to reregister this child. This is a welcoming move as it would remove the embarrassment of having to go through a procedure of adoption and the possibility of psychological effect on the child at a later life.
- (B) Certainly I am however disturbed by this grey area of "nationality" of the child so born which is not addressed by this Bill, but is recommended by the Law Reform Commission. I do understand that it is a matter for the United Kingdom but I would urge the Administration to do the utmost to pursue the issue with Her Majesty's Government to avoid another example of "split families" at the end of the day.

With those words I support the Bill subject to the amendments made in the Committee stage.

ATTORNEY GENERAL: Mr President, I am most grateful to Mrs Miriam LAU and the members of the ad hoc group for the careful consideration which they have given to this Bill and for their support of its principles. As a result of the group's efforts on what is the most complex subject, the amendments that will be moved later on this afternoon by Mrs LAU will further improve this important Bill.

Mr President, as I said when I moved the Second Reading of the Bill before this Council on 24 June last year, "the aim of this Bill is to ensure that an illegitimate child will, so far as is practicable, be treated by the law in the same way as a legitimate child." The Bill seeks to implement the recommendations of the Law Reform Commission's report on "Illegitimacy", recommendations which found strong public support. I would like to make just two points.

First, one of the purposes of the Bill was to ensure that the same range of maintenance orders is available in respect of both legitimate and illegitimate children. The Bill sought to achieve this by amendments to the Affiliation Proceedings Ordinance, as Mrs LAU explained. However, when the Bill was being studied, it became apparent that the Affiliation Proceedings Ordinance may contain provisions that are inconsistent with the Bill of Rights. The Secretary for Health and Welfare has therefore decided to carry out an overall review of that Ordinance as a matter of priority. In the meantime, it seems preferable to leave the Affiliation Proceedings Ordinance unamended. However, the intention of making the same range of maintenance orders available in respect of both legitimate and illegitimate children can be achieved in another way, by amending the Guardianship of Minors Ordinance.

Amendments to be moved later on this afternoon by Mrs LAU are intended to achieve this change in approach.

The second point I would wish to make relates to clauses 9 to 12 of the Bill, which refer to surrogacy and births brought about through artificial insemination or other scientific means. I know that this is an area of the law which raises sensitive issues of ethics and morality and that some members of the ad hoc group have expressed their reservations. Mr President, I would reiterate what I said to this Council in June last year:

"..... this Bill is not concerned with whether or not surrogacy and scientifically assisted birth is desirable, nor with considering the controls, if any, which should be applied. This Bill deals only with making provision to identify the legal parents where such births take place, and to provide a legal mechanism for parties to a surrogacy to apply to the court for an order as to the child's parentage which reflects the reality of the surrogacy arrangement. The extent to which such arrangements should be allowed, or how they should be regulated, are questions which fall outside the ambit of this Bill"

In view of the complex issues involved in this area, some of which have been touched on by Dr LEONG Che-hung, the Secretary for Health and Welfare intends to issue a consultative paper in the very near future on the subject of scientifically assisted human reproduction.

Thank you, Mr President.

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

Bill read the Second time.

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

TRADING FUNDS BILL

Resumption of debate on Second Reading which was moved on 18 November 1992

Question on Second Reading proposed.

MR PETER WONG: Mr President, the Bill before us today provides the general legal framework for the establishment of "trading funds" to enable a suitable government department, or part of a department, to adopt certain appropriate accounting and management practices common in the private sector while remaining part of the Government. A Bills Committee, of which I am the chairman, was set up to study the Bill.

The idea of establishing trading funds was first introduced to Members about three years ago when the Administration announced its proposals for public sector reform. This aimed at encouraging managers to get more from the resources they are consuming by giving them more of a say over the revenue they get from the services provided. The stated purpose of the trading fund concept is to improve quality of service in the public sector and to respond to fluctuating demand. It is expected that the department concerned will be able to respond to the changing needs of the clients more promptly than under the existing system where funds are allocated at the beginning of each financial year. Members of the Bills Committee welcome the introduction of trading funds for appropriate services, which is considered a step forward in the right direction.

Members have been assured by the Administration that there is no intention of setting up trading funds for areas such as social services, which require heavy subsidy from the Government. The Lands and Companies Registries of the Registrar General's Department have been identified by the Administration as the first candidates for trading funds. Resolutions for establishing the trading funds will be presented to Legislative Council for approval, together with the draft framework agreement containing detailed specifications of the services involved. The Administration will also be issuing information pamphlets concerning the trading funds when these resolutions are introduced. Although the resolutions for establishing trading funds are to be presented by the Financial Secretary, the relevant Policy Secretary supported by the general manager of the trading fund will be accountable to Legislative Council for its activities.

In the course of discussion with the Administration, a number of amendments to the Bill have been suggested by Members, and I wish to take this opportunity of thanking my colleagues for their valuable contributions. The amendments will be moved by the Secretary for the Treasury at the Committee stage.

Members have also suggested to the Administration that in changing over to the trading fund status, the services provided would be compared against that provided by the private sector which can compete to provide those services. Equally, it is possible that such services could be provided to the public in competition against existing providers. Members have also pointed out the importance of the quality of management and management strategy for successful operation of the funds, and suggested that in the long run, flexibility should be allowed for recruitment from the private sector. Staff could be employed on contract terms and made directly responsible for the profitability of the enterprise, but the contract terms would have to be clearly stated to avoid unnecessary payments in the event of the closing of the fund. The Administration has agreed to consider these suggestions.

With these remarks, Mr President, and subject to the amendments to be moved by the Secretary for the Treasury, I support the Bill.

SECRETARY FOR THE TREASURY: Mr President, I am grateful to Mr Peter WONG and his colleagues on the Bills Committee for their wise counsel and the time they have spent in examining the Bill. As a result, I shall be moving a number of amendments that we have agreed with the Bills Committee.

I agree in general with Mr WONG's description of the aims underlying the creation of trading funds. I would wish only to highlight three points.

Firstly, the Bill before us is an important part of the public sector reform initiative. It establishes a means by which certain public services can be run more like a business and behave in a more business-like manner. This will enable the government departments concerned to provide a more effective and responsive service to their clients.

Secondly, the Bills Committee has taken a close interest in the accountability of trading fund departments. I can assure Honourable Members that clear working relationships will be drawn up between the relevant Policy Secretary and the general manager of a trading fund. These will be embodied in a framework agreement. In general terms, the framework agreement will provide that the Policy Secretary will prescribe the aims and objects of the trading fund, while the general manager will be made responsible for the actual delivery of services to those aims and objects. The Policy Secretary's position in relation to the trading fund department is thus similar to that which he holds in relation to other, vote-funded departments within his policy area. The Policy Secretary will answer questions in the Legislative Council, and he and the general manager will also brief Honourable Members as required on the operations of the trading fund.

Finally, I can confirm that following the enactment of this Bill, the Government plans to introduce trading funds first into the Companies Registry and the Land Registry of the Registrar General's Department. Our aim is to achieve this by the middle of this year. Resolutions for the establishment of these trading funds will, of course, be put to this Council separately.

Mr President, with these remarks, I commend the Trading Funds Bill to Honourable Members.

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

Bill read the Second time.

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

AUDIT (AMENDMENT) BILL 1993**Resumption of debate on Second Reading which was moved on 10 February 1993**

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

Bill read the Second time.

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

Committee stage of Bills

Council went into Committee.

PARENT AND CHILD BILL

Clauses 1, 3, 4, 14 to 17 and 19 were agreed to.

Clauses 2, 5, heading of part IV, section heading of clause 6, clauses 6, 7, section heading of clause 8, clauses 8, 9 to 13 and 18

MRS MIRIAM LAU: Mr Chairman, I move that the clauses specified be amended as set out in the paper circulated to Members.

Clause 6(1)(a) is amended to add "in law" after the word "was". This seeks to make clear that the clause is concerned with the legal parent of the child. As the law only recognizes one father and one mother of a child, the amendment would avoid any misinterpretation that a person can apply to the court under this clause to declare another person to be his father or mother if he has already got a legally recognized father or mother.

Subclause (3)(a) of clause 10 deals with the question of who is to be treated at law as the father of a child born as a result of medical treatment if the mother who received the treatment has no husband. The ad hoc group considered the original drafting of the subclause could be misleading. The amendment now proposed gives a much clearer indication of the relationship between the woman and the man concerned if that man is to be treated as the child's father.

Amendment to subclause (6) of clause 10 is proposed so that the application of the rule that a man will not be treated as a child's father, if his sperm is used after his death to produce the pregnancy, will be confined to purposes of succession only. I have explained during the Second Reading debate of the Bill the reasons for the amendment.

Amendment to subclause (7) of clause 12 seeks to empower the court with the authority to subsequently approve those financial payments made between the parties concerned in the application of a parental order under this clause. The reasons of the amendment have also been outlined in my speech made earlier in the Second Reading debate.

The other amendments, including those to the Chinese text of the Bill, are minor editorial amendments for the purpose of clarifying the meaning of the terms used and maintaining consistency in Chinese translation with other legislation.

Mr Chairman, I beg to move.

Proposed amendments

Clause 2

That clause 2 be amended, in the definition of "treatment services", by deleting "provided to the public or a section of the public for the purpose of assisting women to carry children" and substituting "administered for the purpose of assisting a woman to carry a child".

Clause 5

That clause 5(3) be amended, by deleting "該次" and substituting "是次".

Heading of IV

That the heading of part IV be amended, by deleting "宣示" and substituting "宣告".

Section heading of clause 6

That the section heading of clause 6 be amended, by deleting "宣示" and substituting "宣告".

Clause 6

That clause 6(1) be amended, by deleting "宣示" wherever it occurs and substituting "宣告".

That clause 6(1)(a) be amended, by adding "in law" after "was".

That clause 6(3) be amended, by deleting "宣示" wherever it occurs and substituting "宣告".

That clause 6(4) be amended, by deleting "宣示" wherever it occurs and substituting "宣告".

That clause 6(5) be amended, by deleting "宣示" wherever it occurs and substituting "宣告".

That clause 6(6) be amended, by deleting "宣示" wherever it occurs and substituting "宣告".

That clause 6(7) be amended, by deleting "宣示" wherever it occurs and substituting "宣告".

That clause 6(8) be amended, by deleting "宣示" wherever it occurs and substituting "宣告".

Clause 7

That clause 7(1) be amended —

(a) by deleting "宣示" and substituting "宣告".

(b) by deleting "有關文件" and substituting "該申請所需的文件".

That clause 7(2) be amended, by deleting "不論上述有關文件有否向律政司送交" and substituting "不論與本部的申請有關的文件有否送交律政司".

Section heading of clause 8

That the section heading of clause 8 be amended, by deleting "宣示" and substituting "宣告".

Clause 8

That clause 8(1) be amended, by deleting "宣示" where it twice occurs and substituting "宣告".

Clause 9

That clause 9(1) be amended, by deleting "已經" and substituting "曾經".

That clause 9(1) be amended, by deleting "treated" and substituting "regarded".

That clause 9(2) be amended, by deleting "treated" and substituting "regarded".

Clause 10

That clause 10 be amended —

(a) by deleting "treated" wherever it appears and substituting "regarded".

(b) by deleting subclause (3)(a) and substituting -

"(a) the woman and her male partner together obtained treatment services in the course of which the embryo or the sperm and eggs were placed in the woman or she was artificially inseminated; and".

(c) by deleting subclause (6) and substituting -

"(6) Where the sperm of a man other than -

(a) the other party to the marriage; or

(b) the man referred to in subsection (3),

was used, that man is not to be regarded as the father of the child.

(6A) For the purposes of the law of succession, where -

(a) the sperm of a man was used after his death; or

(b) any embryo was used after the death of the man with whose sperm the embryo was created,

that man is not to be regarded as the father of the child."

That clause 10(1) be amended, by deleting "已經" and substituting "曾經".

That clause 10(7)(a) be amended, by deleting "存在" and substituting "存續".

Clause 11

That clause 11 be amended, by deleting "treated" wherever it appears and substituting "regarded".

That clause 11(3) be amended, by adding "(不論是在何時制定或訂立)" after "文書或文件".

Clause 12

That clause 12 be amended —

- (a) in subclause (1), by deleting "treated" and substituting "regarded".
- (b) in subclause (7), by adding "or subsequently approved" after "authorized".

Clause 13

That clause 13(2)(b) be amended, by deleting "意義" and substituting "價值".

That clause 13(4) be amended, by deleting "所作" and substituting "作出".

Clause 18

That clause 18(2)(a)(iii) be amended, by deleting "宣示" and substituting "宣告".

Question on the amendments proposed, put and agreed to.

Question on clauses 2, 5, heading of part IV, section heading of clause 6, clauses 6, 7, section heading of clause 8, clauses 8, 9 to 13 and 18, as amended, proposed, put and agreed to.

Schedule

MRS MIRIAM LAU: Mr Chairman, I move that the schedule be amended as set out in the paper circulated to Members.

The amendment to the item relating to the Guardianship of Minors Ordinance concerns the issue of maintenance of illegitimate children. I have already explained during the Second Reading debate of the Bill the background and purpose of the amendment.

The proposed deletion of those items relating to various Ordinances concerning civil service pensions is consequential to the passage of the Pensions Modification Bill 1992 earlier this year. The latter has incorporated those amendments relating to civil service pensions originally included in the Bill.

Mr Chairman, I beg to move.

Proposed amendment

Schedule

That schedule be amended —

- (a) in the item relating to the Guardianship of Minors Ordinance (Cap. 13), by deleting paragraphs (e) and (f)

and substituting -

"(e) in section 10(2) -

- (i) repeal "or both" and substitute "or more";
- (ii) in paragraph (b), repeal the full stop and substitute a semicolon;
- (iii) add -

"(c) an order requiring the securing to that person by the parent or either of the parents excluded from having that custody, to the satisfaction of the court, of such periodical sum towards the maintenance of the minor as the court thinks reasonable having regard to the means of that parent;

(d) an order requiring the transfer to that person for the benefit of the minor, or to the minor, by the parent or either of the parents excluded from having that custody, of such property, being property to which the parent is entitled (either in possession or reversion), as

the court thinks reasonable having regard to the means of that parent;

- (e) an order requiring the settlement for the benefit of the minor, to the satisfaction of the court, of such property, being property to which the parent or either of the parents excluded from having that custody is so entitled, as the court thinks reasonable having regard to the means of that parent.";

(f) in section 10(4) -

- (i) repeal "or" where it secondly appears and substitute a comma;
- (ii) add "or for the transfer of property" after "been paid";

(g) in section 11(1)(b) -

- (i) repeal "or both" and substitute "or more";
- (ii) in subparagraph (ii), repeal the full stop and substitute a semicolon;
- (iii) add -
 - "(iii) an order requiring the surviving parent to secure to the guardian, to the satisfaction of the court, such periodical sum towards the maintenance of the minor as the court thinks reasonable having regard to the means of the surviving parent;
- (iv) an order requiring the surviving parent to transfer to the guardian for the benefit of the minor, or to the minor, such property, being property

to which the surviving parent is entitled (either in possession or reversion), as the court thinks reasonable having regard to the means of the surviving parent;

- (v) an order requiring the settlement for the benefit of the minor, to the satisfaction of the court, of such property, being property to which the surviving parent is so entitled, as the court thinks reasonable having regard to the means of the surviving parent.";

(h) in section 11(2) -

- (i) repeal "or" where it secondly appears and substitute a comma;
- (ii) add "or for the transfer of property" after "been paid";

(i) in section 12(b) -

- (i) repeal "or both" and substitute "or more";
- (ii) add -

"(iii) an order requiring the securing by the surviving parent, to the satisfaction of the court, of such periodical sum towards the maintenance of the minor as the court thinks reasonable having regard to the means of the surviving parent;

(iv) an order requiring the transfer for the benefit of the minor, or to the minor, by the surviving parent, of such property, being property to which the surviving parent is entitled (either in possession

or reversion), as the court thinks reasonable having regard to the means of the surviving parent;

- (v) an order requiring the settlement for the benefit of the minor, to the satisfaction of the court, of such property, being property to which the surviving parent is so entitled, as the court thinks reasonable having regard to the means of the surviving parent;"

(j) in section 12(c) -

- (i) repeal "or" where it secondly appears and substitute a comma;

- (ii) add "or for the transfer of property" after "been paid";

(k) repeal section 21 and substitute -

"21. Application to illegitimate children

For the purposes of sections 5, 6, 7 and 11, a person who is the natural father of a child who is illegitimate shall not be treated as the father of the minor unless -

- (a) he is entitled to the custody of the minor by virtue of an order in force under section 10(1); or
- (b) he enjoys any rights or authority with respect to the minor by virtue of an order in force under section 3(1)(d),

but any appointment of a guardian made by the natural father of an illegitimate child under section 6(1) shall be of no effect unless the appointor is entitled to the custody of the minor as under paragraph (a), or to enjoy any rights or authority with respect to the minor as under paragraph (b), immediately before his death."."

- (b) by deleting the items relating to the Widows' and Children's Pensions Ordinance (Cap. 79), the Pensions Ordinance (Cap. 89), the Pension Benefits Ordinance (Cap. 99), the Affiliation Proceedings Ordinance (Cap. 183), the Royal Hong Kong Auxiliary Police Force (Pensions) Regulations (Cap. 233 sub. leg.) and the Pension Benefits (Judicial Officers) Ordinance (Cap. 401).

Question on the amendment proposed, put and agreed to.

Question on schedule, as amended, proposed, put and agreed to.

TRADING FUNDS BILL

Clauses 1 and 11 were agreed to.

Clauses 2 to 10 and 12

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

Clause 2 is amended to include, first, a definition of a trading fund. This will make it clear that a trading fund by itself has no separate legal existence. It is merely an accounting entity within the Government which can be managed and operated more like a business.

Secondly, the title of the person responsible for the control and management of a trading fund will be changed to "general manager". This accords with the views of the Bills Committee.

Thirdly, to avoid ambiguity, the term "certified statements" is defined to mean the statements of accounts that the Director of Audit has certified.

A new subsection (4) has been inserted into clause 5 to provide that an appropriation from the general revenue can be treated as income of the trading fund.

A number of amendments have been proposed to clause 7 to clarify the accounting and auditing arrangements relating to trading funds. In particular, they require the accounts of the trading fund to be prepared in accordance with generally accepted accounting principles. They also spell out the scope of the Director of Audit's report.

The other amendments to the Bill are largely technical refinements to meet suggestions made by the Trading Funds Bills Committee.

Mr Chairman, I beg to move.

*Proposed amendments***Clause 2**

That clause 2(1) be amended —

- (a) by deleting the definitions of "chief executive" and "public dividend capital".
- (b) by adding -

"certified statements" (經證明的報表) means the statements of accounts that the Director of Audit has certified that he has examined and audited under section 7(5).

"general manager" (總經理) means the general manager of a trading fund designated under section 6(2);

"trading fund" (營運基金) means an accounting entity within the Government (but not having a separate legal existence) established under section 3(1)."

Clause 3

That clause 3(1) be amended, by deleting "finance the operation of a government service which has the financial objective of funding" and substituting -

"manage and account for the operation of a government service for which the Government has the financial objective that the service shall fund".

That clause 3(2)(b) be amended —

- (a) by deleting "other".
- (b) by deleting "revenue" and substituting "income".

Clause 4

That clause 4(2) be amended —

- (a) by deleting "public dividend capital" where it twice appears and substituting "trading fund capital".
- (b) by deleting "opening".

That clause 4(3) be amended, by deleting "chief executive" and substituting "general manager".

Clause 5

That clause 5(2) be amended, by deleting "other".

That clause 5(3) be amended —

- (a) by deleting "chief executive" and substituting "general manager".
- (b) by deleting "transfer funds into and out from" and substituting "make transfers into and out of".

That clause 5 be amended, by adding —

"(4) In this section, "income" (收益) includes a grant from the general revenue."

Clause 6

That clause 6(2) be amended, by deleting "chief executive" and substituting "general manager".

That clause 6(3) be amended —

- (a) by deleting "chief executive" and substituting "general manager".
- (b) by deleting "under the funding provided".

That clause 6(4) be amended, by deleting "chief executive" and substituting "general manager".

That clause 6(5) be amended, by deleting "chief executive" where it twice appears and substituting "general manager".

That clause 6(6) be amended —

- (a) by deleting "chief executive" and substituting "general manager".
- (b) in paragraph (b) -
 - (i) by deleting "other";
 - (ii) by deleting "revenue" and substituting "income".

(c) by deleting paragraph (c) and substituting -

"(c) achieving a reasonable return, as determined by the Financial Secretary, on the fixed assets employed."

Clause 7

That clause 7 be amended, by deleting subclause (5) and substituting -

"(5) The Director of Audit shall examine and audit the statements of the annual accounts of the trading fund and prepare a report on his examination and audit and certify that he has conducted the examination and audit of the statements.

(6) The Director of Audit shall state in the report whether in his opinion the statements -

- (a) give a true and fair view of the state of affairs of the trading fund at the end of the financial year;
- (b) give a true and fair view of the results of the operations of the trading fund for the financial year then ended; and
- (c) have been properly prepared in accordance with the manner provided in subsection (4)."

That clause 7(3) be amended, by deleting "chief executive" and substituting "general manager".

That clause 7(3) be amended, by deleting "庫務署署長的要求" and substituting "庫務署署長可予以規定的方式".

That clause 7(4) be amended —

- (a) by deleting "chief executive" and substituting "general manager".
- (b) by adding "prepared in accordance with generally accepted accounting principles and" after "fund".
- (c) by deleting "audited accounts" and substituting "certified statements and the report of the Director of Audit".

That clause 7(4) be amended, by deleting "呈提交" and substituting "提交".

Clause 8

That clause 8(1) be amended —

- (a) by deleting "chief executive" and substituting "general manager".
- (b) by deleting "audited annual accounts" where it twice appears and substituting "certified statements".
- (c) by deleting "the annual accounts" and substituting "the certified statements".

That clause 8(2)(b) be amended, by deleting "audited annual accounts" and substituting "certified statements".

Clause 9

That clause 9(1) be amended —

- (a) by deleting "chief executive" and substituting "general manager".
- (b) by deleting "in the name of the".

That clause 9(1) be amended, by deleting "出" where it secondly appears.

That clause 9(2) be amended, by deleting "chief executive" and substituting "general manager".

That clause 9(2)(b)(ii) be amended, by deleting "短期" and substituting "暫時".

Clause 10

That clause 10(1) be amended —

- (a) by deleting "funded" and substituting "undertaken".
- (b) by deleting "moneys" where it first appears and substituting "surpluses in the nature of distributable profits disclosed in the certified statements".
- (c) by adding "including the repayment of loans" after "the service".
- (d) by deleting "moneys" where it secondly appears and substituting "surpluses or a part of the surpluses".

That clause 10(2) be amended —

(a) by adding "including a reasonable return as set out in section 6(6)(c)," after "service,".

(b) by deleting "a proportion of the fees collected" and substituting -

"the whole or part of the fees as determined by the Financial Secretary to be more than the cost of the provision of the service, including a reasonable return as set out in section 6(6)(c), shall, after collection,".

Clause 12

That clause 12 be amended, by deleting the clause and substituting —

"12. Closing of trading fund

(1) The Legislative Council may, on the recommendation of the Financial Secretary, resolve to close a trading fund.

(2) The Financial Secretary shall set out the arrangements to be made for the closure of the trading fund in the proposed resolution."

Question on the amendments proposed, put and agreed to.

Question on clauses 2 to 10 and 12, as amended, proposed, put and agreed to.

AUDIT (AMENDMENT) BILL 1993

Clauses 1 to 6 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

PARENT AND CHILD BILL and

TRADING FUNDS BILL

had passed through Committee with amendments and the

AUDIT (AMENDMENT) BILL 1993

had passed through Committee without amendment. He moved the Third Reading of the Bills.

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

Bills read the Third time and passed.

Members' motions

PRESIDENT: I have shared the view of the House Committee that we might dispense with the supper break. At an appropriate time, therefore, I will step down and the President's deputy will preside in my absence. This will be timed so as not to take place when a division is likely. After an appropriate interval, I will resume the Chair.

I have accepted the recommendations of the House Committee as to time limits on speeches and Members were informed by circular yesterday. The mover of the motion will have 15 minutes for his speech including his reply and other Members will have seven minutes. Under Standing Order 27A, I am required to direct any Member speaking in excess of the specified time to discontinue his speech.

POLITICAL APPOINTMENT OF PRINCIPAL GOVERNMENT OFFICIALS

MR ANDREW WONG moved the following motion:

"That this Council urges the Government to appoint principal officials in the form of political appointment so that only such officials will be politically accountable and that civil servants on the permanent establishment can remain depoliticized."

MR ANDREW WONG (in Cantonese): Mr President, I move the motion standing in my name on the order paper. First of all, I would like to state that the idea of "appointing principal officials in the form of political appointment" has been a cause which I have been championing for years, that I have always been an advocate of political appointment, and that the idea is certainly not just a sudden whim of mine. As a matter of fact, political appointment is an issue which I took up in my political platform. One slogan I used as an election candidate was: "Government officials should be accountable and the monitoring of their performance is the joint responsibility of both legislators and the public at large". I would have liked to move this motion much earlier than at this point in time. I was thinking of presenting it to this Council during the legislative year 1991-92. As a matter of fact, a debate on my motion as it were,

was originally scheduled for July 1992. It has been, however, postponed with priority given instead to the debate on the Report of the Select Committee on Legislative Council Elections. I agreed to the postponement. Regarding the legislative year 1992-93, decision has been taken to cancel all of the motion debates on the schedule. That is the reason why it is not until today that I have been able to move this motion in the Council.

Mr President, my motion has aroused to considerable, though admittedly not a whole lot of, discussion since it was publicized. I would like to take this opportunity to elaborate my motion a little bit and clear up some misunderstandings. My motion reads.

"That this Council urges the Government to appoint principal officials in the form of political appointment so that only such officials will be politically accountable and that civil servants on the permanent establishment can remain depoliticized."

The first clause relates to the means of achieving the result and effect mentioned in the second and third clauses. Put in another way, it is through political appointment, which is to say the appointment, not on a permanent basis, of principal officials for an indefinite period of time, that the first objective will be achieved that the principal officials of the Government should bear responsibilities for political and policy decisions. The second objective, that the rank and file of the civil service will not have to worry about retribution and suffer from sinking morale, will also be achieved. It is in this way that the civil service will not become totally politicized and will be able to retain its political neutrality.

Mr President, there is a view that political appointment will effectively result in the Policy Secretaries becoming the scapegoat of the Governor and the Executive Council for their wrong decisions. That is probably a misunderstanding which has arisen as a result of the ambiguous wording of the motion. I have to point out that both the Governor and the Appointed Members of the Executive Council are appointed for an indefinite period of time. That is a form of political appointment. My intention is not only to make Policy Secretaries bear responsibilities for political and policy decisions, but it is for the whole upper echelons of the Government, including the Governor, the Executive Council, the Policy Secretaries, as well as individual officials in some cases, to be politically accountable.

Mr President, this kind of reform, while necessary, is not quite enough in itself. It is only the first step which we should take in the direction of reform, and I like to stress, if I may, that this step is absolutely necessary. It is a matter we should accord top priority. We should actually take it further by making it obligatory for Members of the Executive Council to become politically accountable in terms of taking certain kinds of reform and political decisions. It is for this reason that we should have such political appointment. In this regard, reconsideration should be given to appoint legislators as Members of the

Executive Council again to assume responsibilities in respect of certain policy areas. And it goes without saying that there is all the more reason for the head of the executive to be returned to office by democratic election.

Mr President, there is also a view that the political appointment of Policy Secretaries will result in the politicization of the entire civil service and consequently, in compromising its neutrality. That is, incidentally, not a misunderstanding of my original intention, but it is certainly a misunderstanding of my analysis and the conclusion which I have been able to draw on that basis. Let me say categorically that, if we fail to draw on the wisdom behind the political systems practised in other parts of the world, or if we fail to have a system which corresponds to the political appointment of principal officials, then it will be quite inevitable that the entire civil service, or at any rate its middle and upper echelons, will become totally politicized. The reason is very simple indeed: everyone will try to outmanoeuvre the others in a bid to please whoever happens to be the Chief Executive of the time so that he or she may eventually be favoured with accelerated promotion.

Mr President, I wish to be allowed to elaborate. There is no doubt that we need judges who are fair and politically neutral. To maintain their fairness and political neutrality, the appointment of judges should be made for their talent. And it is a life appointment.

Likewise, it is equally plain to see that we also need fair and politically neutral administrators. And the way to uphold their fairness and political neutrality also rests with appointment by merit and permanent appointment.

However, Mr President, there is a big difference between the job nature of an administrator and a judge. A judge hands down judgement according to the law and has nothing to do with politics. Yet, an administrator, whether in the role of a policy maker or just one who implements a policy, has to take into account the overall policy being pursued at the time. He has to be wary of whether the policy in question has the support of the public or whether it is opposed by the public at large. His job is inevitably and inherently political. It is quite natural that the public will want the Government as a whole, and the individual officials for that matter, to be politically accountable. The taxi episode and the saga of the electronic road pricing scheme which both happened while Mr Alan SCOTT served as the Secretary for Transport in 1984; the closing of the stock market which happened while Sir Piers JACOBS was the Financial Secretary in 1987; and the current political row; all of these are good examples of the point I am trying to make here.

Insofar as the present administration is concerned, we can see that everyone from the Policy Secretary down to the junior clerical officer and the police constable, is invariably appointed as part of the permanent establishment. There are a few exceptional cases of contract staff, but even contract officers are hired for some definite periods. There is no question of arbitrary dismissal of either category of civil servants. They cannot be dismissed either on a whim

of their senior officer, or under the pressure of public opinion, or even by the Government as their employer acting on public opinion.

This kind of arrangement is correct insofar as it applies to the rank and file who carry out government policies, because it affords them protection and guarantees their neutrality on the one hand, while preventing them from engaging in intrigue against one another on the other. In the absence of such arrangement, the public service will degenerate into an arena for people vying for political gains or indeed a battleground. However, the same arrangement is not appropriate at all insofar as it applies to the policy makers within the public service. The Policy Secretaries cannot be anonymous or faceless. It is inevitable, because of the functions that they perform, the public at large will want them to be accountable and bear political responsibilities of their policies. The policies in question may not necessarily be misconceived ones at all. Nevertheless it is up to the Policy Secretary to bear the political responsibilities of what is essentially a correct policy which does not go down well with the public. It is very clear that the electronic road pricing scheme and the taxi licence fee increase, which were promoted by Mr Alan SCOTT, did not have the support of the public at the time, never mind whether these were acceptable proposals *per se*. At any rate, under the system which offered permanent appointment to civil servants, the last resort which could be adopted to deal with an unpopular public servant would be to transfer him to another branch, give him a promotion, or indeed to offer him a promotion through a posting outside Hong Kong, and I am sure Members know what I mean by that.

Mr President, if we take a look at the practice of other countries around the world, we will discover that their administration is invariably divided into two echelons. The upper echelon is a political class, made up of political officers, rather than what are customarily called administrative officers in Hong Kong. They owe their positions to political appointment and are not part of the permanent establishment. Indeed, it is only through political appointment that the political accountability of these principal officials can be guaranteed.

As a matter of fact, the political officers at the upper echelon form only a very small part of the bureaucratic structure. Most of the other officers are administrative/executive officers. They should be appointed on their merit and a permanent establishment. This will ensure that their role will continue to be one of carrying out policies and remain apolitical.

The political appointment of officers at the upper echelon will not only ensure that they will be politically accountable but will at the same time ensure that the rank and file of the civil service who are entrusted with the implementation of policies will stay de-politicized. The administrative/executive officers whose job it is to implement policies will not have to worry about future retribution either from members of the public, or their new boss. They will in this way be able to stay on and continue to function reassuredly in their respective positions.

Mr President, as for how to offer political appointment to the Policy Secretaries, my suggestion is that we leave it to the Policy Secretaries to make their own choice. On the one hand, posts of permanent undersecretary with a pay package which is comparable to that of the Policy Secretaries should be created. On the other hand, some politically appointed posts of Policy Secretary whose jobs it is to co-ordinate policy matters in specific areas should also be created. The appointees will each have a permanent undersecretary as their subordinate and they will receive the same pay package as the permanent undersecretaries. The incumbent Policy Secretaries should be allowed to choose between either post. For those who opt to leave the permanent establishment, they should be allowed to take early retirement with a suitably enlarged pension to meet the circumstances of each case. And the Governor and the future Chief Executive of the Hong Kong Special Administrative Region could also make their political appointments such that other suitable candidates will be able to become principal government officials at Policy Secretary level.

Mr President, with Hong Kong entering into the latter half of the transition period, it is about time public servants and the public administration structure began to follow the practice of other places in the world. The only question is whether we have the vision and the courage to take our first step forward.

Mr President, with these remarks, I move my motion.

Question on the motion proposed.

MR ALLEN LEE (in Cantonese): There is something quite equivocal about Mr Andrew WONG's motion, so it is very difficult for us to have an accurate understanding of its intended meaning. Indeed, the technical ramifications of his motion also elude us. And the question which confronts us is: what should we do to accomplish the purpose of this motion? Even if we make the assumption that the so-called principal officials mentioned in the motion refer to the Policy Secretaries, we are still unable, even with the benefit of Mr WONG's explanation a motion ago, to establish what after all is meant by "appointing principal officials in the form of political appointment". For the term "principal officials" has at least two meanings even if we go by his interpretation.

The first possibility is that the incumbents, which is to say the existing Policy Secretaries, will be obligated to switch to political appointment. The implication here seems to be that their status as civil servants will be completely transformed. The result is that whereas they will continue to serve as Policy Secretaries, they will no longer be part of the permanent establishment and consequently will have to be politically accountable for their policies which they are carrying out. And whether the officials involved will be willing to accept political appointment, one understands from Mr WONG's elaboration that this will be a matter which the officials have to decide for themselves.

Thanks to our civil servants who have always been noted for their apolitical role and professionalism, Hong Kong Government has been able to function effectively and smoothly, and to acquire the reputation for stability and consistency. If the government officials are forced to assume a political role, then it will not only be a departure from the tradition of our civil service but will also be tantamount to the forsaking of the principle of depoliticization which it has adhered to conscientiously through the years. The suggestion of Mr WONG entails that Policy Secretaries will be forced to make their choice half way through their career; it is going to be a very difficult choice for them to make. At any rate, what if some of them are willing to accept political appointment while some of them indicate the otherwise, how are we going to cope with this complicated scenario by means of a simple system?

The second meaning of the term "principal officials" is that it refers to the posts of principal officials. It is on the basis of this interpretation that Mr WONG has advocated the view that talents from outside the ranks of our existing Policy Secretaries be sought to fill these principal posts by means of political appointment. That is a completely novel concept which has never been raised in the constitutional history of Hong Kong. It is also something which we find most difficult to accept before it has been properly thought out and debated, or any public consultation has been carried out. In any case, even in its initial form, we have already found a lot of problems with this proposed arrangement. For example, who would be appointed by the Governor? Are they going to be the legislators, Members of the Executive Council, or others? How is the choice of candidates going to reconcile with the party politics which we are faced with today? These questions are certainly more complicated and more difficult to deal with. If political appointment of Policy Secretaries is to develop into the scenario of Members of the Executive Council taking up Policy Secretary posts, then are we effectively saying that the present practice of a collective responsibility rule for Executive Councillors should make way for a new arrangement whereby each Policy Secretary would mind his own business and assuming responsibility only for matters concerning his own policy area? Will they have the power to monitor the executive departments? If the Policy Secretary posts are to be taken up by Members of the Legislative Council, does it imply that the Legislative Council and the Executive Council will not remain separate?

Mr WONG's proposal is in essence an attempt to partially politicize the civil service. If Hong Kong is to go for the ministerial system, the appropriate time to do so would be after 1997 when the Basic Law is put into effect and the Chief Executive is returned to office by election. Political appointment is both premature and inappropriate at this point in time. Under the present circumstances, given the fact that no thorough consideration has been given to the idea of political appointment, it will not help the future constitutional development of Hong Kong if decision is hastily taken at this point to implement a half-baked ministerial system.

It is plain to see from the problems which have been identified even in this early stage of consideration that the political appointment of principal officials is not going to do us any good. What is more, while the Chinese and the British Governments are tackling the issue of convergence, it would seem that we will only add unnecessarily to the obstacles to their negotiation if we decide to bring up this complicated issue at this point in time. In any case, it is not going to be of any help in terms of the overall political development of Hong Kong. I understand that Mr Andrew WONG's point of moving this motion is to modernize the political system of Hong Kong in response to the political challenge posed by the advent of party politics. However, I do not consider that his proposed system which resembles neither mule nor horse, to use a Chinese saying, which will neither give us the ministerial system nor a modified form of collective responsibility system, would effectively give us a new public service system which will answer the needs of the present day political reality.

Mr President, it is for the above reasons that I and other Members of the Co-operative Resources Centre will oppose the motion of Mr Andrew WONG.

MR TAM YIU-CHUNG (in Cantonese): Mr President, it has always been the case that the appointees to the posts of Policy Secretary in the Hong Kong Government are regarded as the cream of the administrative grade. Theoretically speaking, these principal officials who have risen through the ranks of the administrative grade should be able to cope with any political challenges. However, with an increase of elected elements in the Legislative Council since 1991 thus making party politics the order of the day in this Council, and the poor Sino-British relationship since the appointment of the new Governor last year, the Policy Secretaries of the various branches have been facing ever greater challenges and adversities. One wonders whether our principal officials are able to deal with the new challenges posed by the rapidly changing political situation, whether their past training and administrative experience could stand them in good stead to rise to the occasion at it were. If they have not been properly equipped, what can be done to cushion the impact which the civil service is faced with?

Today, Mr Andrew WONG has proposed a system of political appointment for our principal officials in order to make them politically accountable for the policies which they pursued, as a solution to the aforesaid problem. According to the explanation given by Mr WONG to other Members of this Council on 1 March, "political appointment" means that principal officials will owe their positions to political appointment instead of remaining under the protection of the permanent establishment, that they will have to be held accountable for the political consequences of their policies, and that they as political officers may not necessarily come from the ranks of civil servants themselves — political appointments can be made entirely at the discretion of the head of the Administration. I think, as Mr Allen LEE was saying just now, that this proposal is tantamount to the ministerial system in some western

countries. I recall that there were a few suggestions made following the signing of the Sino-British Joint Declaration that Hong Kong should introduce a ministerial system after 1997. However, these suggestions were not accepted by the Basic Law drafters. It is clear from Article 101 under Section 6 of Chapter IV in the Basic law that principal officials of the future Hong Kong Special Administrative Region (SAR) will remain to be part of the civil service establishment. There is no question of anyone being appointed by the Chief Executive of the SAR to be "political officers". In this regard, the proposal which is now put forward again by Mr WONG may be discussed as an academic point but it should not be presented to a formal meeting of the Legislative Council for discussion today. What is more, it should not have been presented in the form of a motion, because it would entail significant changes to the political system, for discussion and a hasty decision by Members of this Council. This is indeed very inappropriate.

Mr President, I would nevertheless like to take this opportunity to present my analysis of some major problems faced by the Hong Kong civil service at this point in time. As a matter of fact, each and every official who may have a bearing on the Government's policy-making process has a very vital role to play if Hong Kong is to have a smooth transition and if we are to enjoy long-term stability and prosperity after 1997. The Government should not only assist them in coping with the various challenges posed by the liberalization of the political system. It should also consider making arrangements in such a way as to ensure that there is an adequate pool of talented personnel to head the policy branches in the future. One is sceptical, given the slow progress achieved in terms of localization in certain government departments, whether there is an adequate supply of competent local officers who will be available to take up the key positions in these departments in 1997. Meanwhile, given the provision that civil servants could take early retirement at the age of 50, there is always the possibility of principal officials doing just that. And this will result in some of the officers who have been groomed to head the policy branches resigning prematurely from the civil service. This will, incidentally, deprive the Government of its experienced personnel at this critical point. In this connection, issues like how to retain talents, and training more to fill the key posts, should be matters of priority for the Hong Kong Government. They are, incidentally, also issues which both the Chinese and the British Governments should deal with squarely and seek to resolve as soon as possible.

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

MR JIMMY MCGREGOR: Mr President, although I appreciate Mr WONG's sincere motives, I believe his motion is without merit and should be resoundingly defeated. In contributing to such a result, I suppose I am one of a rather unique breed of Councillor in this Chamber, one who was for many years a civil servant and who served in this Council as such from time to time, like a yo-yo. More recently I have been a half-baked politician helping to find a balance between the maintenance of a high-quality and dedicated Civil Service

and a recognition that civil servants are accountable to this legislature in the public interest. I can say hand on heart that civil servants are a different breed from politicians. The difference is somewhat similar to that between a collie dog and a doberman pincher. The collie, quiet and efficient, helps the farmer round up his sheep. The collie tends to work without barking and stays in the same job for many years respected by all around him. The doberman, despite determined training, is always an uncertain friend and very often a dangerous adversary, much given to using his temper, his bark, and his teeth to resolve arguments. The two do not work easily together and I have never heard of them being mated, (*Laughter*) at least not by conscious decision.

The civil servant is deeply involved in Hong Kong in formulating government policies, having them approved by Executive Council, giving them effect through legislation passed by this Council, and in regulating our daily lives. The Civil Service provides and maintains the fabric of our society through the quality and fairness of the public sector system. The civil servant is loyal to the community as a whole and although conscious of the political pressures which exist on the job he does, nevertheless does not apply politics to the work he does.

Indeed it would be quite disastrous if civil servants were to take positions and formulate policies based on their personal political orientation and perceptions. Civil servants, as their name implies, serve all of us without bias and with the greatest level of fairness and even-handedness. One of the greatest values contributed to Hong Kong by an apolitical colonial system is the absence of politics from the public service. That situation has not materially changed in the last decade although the Civil Service has had to take account of substantial changes in the political system which gives it direction and which monitors its performance. Senior civil servants have had to develop new skills in assessing and reacting their actions more transparent and accountable than ever before.

Let us not therefore misunderstand the role of the civil servant and the broad responsibilities of the Civil Service. They retain the responsibility for developing public policies taking the advice available to them through a wide variety of channels. Once these policies have been approved it is the Civil Service that must put them into effect and make them work efficiently. The introduction of politics at the highest level of the Civil Service would be, in my opinion, divisive and quite possibly destructive of the complementary relationship between the public sector and the political system.

Civil servants are entitled to be represented politically in this Chamber and I hope that in due course they will be directly represented. They should not, however, be encouraged to take political sides nor should their leaders, on whom we all depend for impartial judgment, be required to accept political appointments.

Mr President, I oppose this motion.

MR FREDERICK FUNG (in Cantonese): This motion regarding political appointment for top ranking government officials is moved, I think, for the purpose of strengthening the accountability of the principal officials in the Government on the one hand and maintaining the neutrality and continuity of civil service establishment on the other. It would appear that political appointment would prevent the choice of the head of the Administration, and the possible shifts in his policy, from impelling some civil servants to resign. Such undue influence will adversely affect the stability and continuity of the civil service as a whole.

There is no doubt in my mind that the motion is well-intentioned and that it is worthy of the most serious consideration. An open and democratic government which is really caring for its people should be more accountable to its people. It should make a point of explaining to its people every now and then what standards which its policies are designed to achieve, to what extent its policies have been successful. More importantly, it should be subject to public scrutiny. Statutory mechanism should be in place to enable the people to remove the delinquent officials and fill the posts with other suitable officials, if a major mistake has been made. It is for this reason that the attempt to increase the accountability of principal officials is undoubtedly all part of the new political climate.

On the other hand, in the context of the recent Sino-British row over the constitutional development of Hong Kong, one can see that government officials still have to take it upon themselves to actively and extensively explain the political reform proposals and their advantages to the people of Hong Kong. Both the disciplined forces and the civil servant unions have recently expressed their misgivings to China's officials in charge of Hong Kong affairs. We cannot but be rather concerned, in the light of these developments, that our civil servants will become helplessly entangled in the various political rows to the detriment of their neutrality. They will naturally worry about their career development and become quite restless. This will in turn adversely affect the stability of the Government in the run-up to 1997. It is in this regard that one can see that political appointment of Policy Secretaries may be a way to boost the morale of civil servants as well as safeguard their neutrality.

However, Hong Kong's unique circumstances and conditions are such that political appointment of principal officials to be Policy Secretaries will not work at this point in time as a simple means to increase the accountability of the Government and its officials. What is more, this method cannot be relied upon as a means which could significantly alleviate misgivings of civil servants. It is quite the contrary. If one looks at the issue of political appointment carefully, one can see that it is likely to have more immediate disadvantages than any long-term advantages.

First of all, let us examine the issue of increasing accountability. In some developed countries such as the United Kingdom and the United States of America, the chief executive of their government is invariably returned by

election. He will then name the policy making officials and heads of departments through political appointment. Given the fact that the chief executive has the mandate of the electorate and the power which they entrust with him, and given also that he may be removed in the next round of general election if the electorate is not happy with the way he is running the government, all of the principal officials whom he named in the form of political appointment will likewise have to step down in similar circumstances, along with himself and the rest of his team, if that is the wish of the electorate. It is in this regard that the accountability is increased as a result of political appointment.

Now, turning back to the situation in Hong Kong. The Governor is appointed by the Queen. Even if the principal officials were appointed in the form of political appointment people cannot remove the Governor by way of an election. And the officials appointed in the form of political appointment, if any, do not have to worry about having to step down as a result of public objection. In this regard, one is quite justified to be sceptical about whether political appointment can effectively increase the accountability of principal officials.

If the Chief Executive of the future Special Administrative Region (SAR) is to be handpicked from a small pool of candidates, then one may be equally sceptical about the accountability of the executive as a whole. Under these circumstances, the political appointment of policy-making officials will not effectively result in any real political accountability.

Furthermore, political appointment will quite inevitably open a Pandora's box, while Policy Secretaries appointed in such a way will not necessarily free themselves and other civil servants from being entangled in all kinds of complicated political rows. Quite the contrary, civil servants will be asked to openly state where they stand on political issues. It will be a departure from the existing practice we have today with regard to civil servants, who, acting as if they have reached a consensus, are supposed to go around explaining government policies and actively implementing them, not out of personal conviction or any political inclination, but rather simply in order to perform their duty as civil servants in a way which the public expect them to. There is a danger in such a departure from the traditional role of the civil service.

Imagine the scenario of the post of Secretary for Constitutional Affairs being offered to Mr Michael SZE as a political appointment. What will be the Government do if Mr SZE refuses to accept the appointment? And suppose Mr SZE is willing to accept the political appointment, does it imply that he totally identifies with the political reform proposals, and the strategies associated with them? Will he have to be held responsible for his dealing with China and all the relevant policies? Will political appointment translate into enormous pressure on the other Policy Secretaries of the same rank? What is more, the situation in Hong Kong is quite different from that of the other countries where appointment system is adopted. In Hong Kong, most of the

Policy Secretaries are promoted from within the ranks of the civil service structure. And this is fundamentally different from the practice of most foreign countries where political appointment is offered to people such as academics and chief executives of large private corporations who would weigh all the pros and cons of their political appointment before accepting it. In this regard, it would seem to be quite unfair to ask a civil servant suddenly at this point in time to decide whether or not to accept a political appointment.

Furthermore, the Chinese side has already expressed its understanding of the present situation in which the civil servants of Hong Kong do not have to be held responsible for the Government's political decision. If China is to keep her word, then there is no need for us to seek to reassure the officials concerned by means of political appointment. It is for this reason that I cannot see any attempt to change the *status quo* will necessarily give them any reassurance. Meanwhile, the Chinese side has already also reiterated that the incumbent Policy Secretaries will not have to worry about retribution after 1997. I hope that China will be able to keep her word.

Another problem surrounding political appointment of Policy Secretaries is that it will indirectly reduce promotion prospects for civil servants. It is admittedly true that overall public interest should take precedence on this issue. However, it is also up to us to take account of the rights and aspirations of civil servants for otherwise the stability of our civil service will be threatened.

It is for the above reasons that the right way to enhance the accountability of government officials is to strive for the future Chief Executive to be returned by a democratic, fair and open election. In this connection, the Association for Democracy and People's Livelihood and I have always been calling for amendments to be made to the Basic Law as soon as possible after 1997 so that the second Chief Executive of the SAR Government will be popularly elected on the basis of one man, one vote. In this way political accountability will be enhanced, and so will be the transparency of the Government and the public consultation channels. If the SAR Government carries out the election in good faith, then this will remedy the lack of accountability of government departments, a problem with which we are faced today.

While I am all for increasing the accountability of the Hong Kong Government, I also appreciate the conflict between the different roles of the civil servants and their worries during the transition period. However, we are also wary of the fact that too hasty an adoption of political appointment at this point in time will only add to the worries of civil servants without achieving its original purpose. On the contrary, this may affect the neutrality of civil servants and backfire, producing all sorts of negative effects. Whereas I can understand the underlying principle of the motion,

The buzzer sounded a continuous beep.

PRESIDENT: Mr FUNG, you must stop.

MR FREDERICK FUNG (in Cantonese): and support it, the timing of the implementation

MISS EMILY LAU (in Cantonese): Mr President, while I support the spirit behind Mr Andrew WONG's motion, I also agree with what Mr Allen LEE said just now that the proposal resembles "neither mule nor horse". I think Mr WONG's motion has not gone far enough; as the Cantonese colloquialism goes, it "reaches to the throat but not to the lungs". If the proposal is for a ministerial system, I think I will give it my full support. However, as pointed out by many colleagues, a ministerial system would be difficult to implement at the present stage. It is for this reason that it may not be a viable option under the present circumstances. However, for similar reasons, it is equally difficult for me to support Mr WONG's motion under the present circumstances. Mr President, I believe that Mr WONG has, in moving his motion, raised a very solemn issue before this Council, which both legislators and many government officials will find perplexing; the issue is how is the entire governmental structure operating at this point in time? How, for example, is the Government able to secure the support of Members of this Council? The Administration has now three votes in this Council, but in 1995, it will not have any votes. Many Policy Secretaries have confided to us that they had not been able to work any more, all they were doing from day to day was to lobby for supporting votes. Meanwhile, the lobbying has not been easy because their targets are not political parties, but rather individual members and splintered groups who tend to lend their support to all sorts of different causes.

Mr President, I would like to ask how many countries or cities in the world have the kind of odd political system which we have in Hong Kong, in which the Government has only three votes in the legislature and will stand to lose even these three votes in the year 1995? To be honest, who will be willing to run a government caught in such an odd system? It is not even a "lame duck". It is actually a "duck without legs". Previously, each time the Government introduced a bill or presented a paper to the Finance Committee for endorsement by legislators, they were literally assured of endorsement because they could always count on the "royalists" to give it a safe passage. However, now that the liberal parties have emerged along with democratic parties, the political situation has become rather chaotic. What could the Government do with no "royalists" to turn to?

In this regard, Mr President, I believe that we are faced with a problem, that is, what is the relationship between the Executive and Legislative Councils? The Governor decided in his policy address last year that the Executive Council is to be separated from the legislature. But I think it is a mistake to do so. We certainly hope that Hong Kong would develop in the direction of a multi-party system. I hope that Hong Kong will have its own ruling party in the not too

distant future. It does not really matter whether the ruling party will turn out to be liberal party or a democratic party. The important thing is that whichever party manages to secure the largest number of seats in the election to the Legislative Council scheduled for 1995 should become the ruling party and their members should of course be invited to join the ranks of Executive Councillors. Just in case no party manages to win a clear majority of seats, then a coalition government should be formed. For otherwise it would be very difficult for a decision emanating from the Executive Council to secure the support of legislators in this Council. You can just ask any Policy Secretary and the answer you get will surely be like this: each time the Government introduces a bill to this Council or a controversial paper to the Finance Committee, it is going to be a most difficult and painful experience. This is because many people are saying that the legislators would win more votes if they have the political wisdom to vote against the Government, and indeed there are many legislators who have ended up doing exactly that, to win more votes. Mr President, how could the Government continue to function under these circumstances? It is for this reason that I would support Mr WONG's motion, that Hong Kong should go for political appointment. I am also for the de-politicization of civil servants. However, some colleagues have just made the point that civil servants have always been politically neutral. I think that is essentially a myth. Our civil servants, our Policy Secretaries in particular, have never been politically neutral. The Hong Kong Government has always been the ruling party and the Policy Secretaries have been playing ministerial roles. They always complain to us that whereas they are expected to function as civil servants, they are also required to play the role of ministers in terms of coming forward to be seen to be publicly accountable. They are quite aware of their double role themselves. The problem is that the existing system is not a feasible one. I believe that both the Policy Secretaries and my colleagues in this Council are equally aware of this.

It is in this sense that Mr WONG's motion is after all only a very modest step forward in this direction. I believe that Hong Kong will be forced by circumstance to take the next step forward in 1995. Will a coalition government emerge in the Executive Council by 1995? Will the Governor appoint legislators in this Council to Policy Secretary posts in 1995? That is something which he has to decide for himself. However, suppose there are more Policy Secretaries in both the Executive and the Legislative Councils, then the Government can count on them to secure support for its decision in the two Councils. I believe that is the kind of relationship which should hold between the Legislative Council and the Executive Council, and that is the way the two Councils should actually operate.

However, given that Mr WONG's motion is "neither mule nor horse" and it has not gone far enough, I cannot give it my support. But I will not vote against it. Because I support the spirit behind his motion, I will just abstain from voting. Thank you, Mr President.

PRESIDENT: I would remind members of the public in the public gallery that under Administrative Instructions no person shall in the public gallery display any sign and that includes any sign on any item of clothing. I would therefore please request the members of the public concerned to remove those stickers.

MR GILBERT LEUNG (in Cantonese): Mr President, the motion before us today centres around the issue of political appointment. It is a proposal which is desirable but not practicable. As Hong Kong has entered into the transition period, politicization is an inevitable trend. On the one hand, we have political pressure coming internally from the emergence of democratic parties; on the other hand, we also have to deal with pressure from without, which is to say the disturbance resulting from disputes over Hong Kong between our present and future sovereign states, namely Britain and China. It is not difficult to understand the sort of pressure which confronts the civil servants who form the backbone of the Government at this critical point in the history of Hong Kong. I am referring in particular to the top-level Administrative Officers who are playing the dual role of civil servant and politician. Their situation deserves our understanding and sympathy on a personal level.

Political appointment for Policy Secretaries is desirable to the extent that its purpose is to alleviate the political pressure on the great majority of civil servants who have been politicized by the new circumstances. However, if political appointment is considered to be an answer to the problem which Hong Kong confronts at this point in time, that is, the problem of senior government officials contemplating resignation, or taking a play-it-safe attitude in the face of the political pressure, then I am afraid that it may not produce the desired effect and may actually backfire. It goes without saying that, if we go by the political principle, it is certainly desirable to have political appointment, which may be said to be a logical result of the political development in Hong Kong. This is so particularly in view of the fact that, after 1997, except for the Chief Executive who will be returned by election in accordance with the Basic law, the appointment of all Policy Secretaries will have to have China's endorsement.

Theoretically speaking, given the fact that the Chief Executive exercises power with the mandate of the public, it is paramount that in terms of political appointment of Policy Secretaries to head a new executive branch of the Government, whether we are talking about a ministerial system or cabinet system, the appointee has to identify with the political inclination of the Chief Executive before he/she should accept any offer of appointment because once appointed, he/she has to be both personally and politically accountable for the government policies. It is only natural and reasonable that political appointment should entail this consideration; that is the way it should be. Indeed, political appointment is also in keeping with collective responsibility, which is after all the spirit of democracy. However, it may as well turn out that we are dealing with a completely different issue altogether if we take a close look at the political situation of Hong Kong.

First of all, whatever the impact of party politics on Hong Kong, it is plain to see that under the present constitutional system of Hong Kong, the executive powers are still in the firm grip of the Governor. The Governor in Council is still the most important centre of power in Hong Kong. If we are to go for political appointment, then the first thing we should do is to make our Executive Councillors accept the offer of political appointment. But the problem remains as to what sort of political criteria are used by the Governor in appointing the Executive Councillors.

Furthermore, there have been significant changes made to both the policy making and policy implementation machinery of Hong Kong since the incumbent Governor, Mr Christopher PATTEN, has assumed office. It appears that Mr PATTEN, who is a politician by career and an advocate of democracy, is keener than any of his preceding colonial administrators on the manipulation of power. He has brought along with him a miniature think tank consisting of two private secretaries. For example, that political reform package of his which has become a matter of such controversy today has emanated from his think tank, which may just as well be a special Executive Council within his more conventional Executive Council. Mr PATTEN's private secretaries are apparently politically appointed but they do not have to be politically accountable to the Hong Kong public at large.

As soon as he assumed office, the Governor immediately went about scheming for the ousting of the original members of the Executive Council who did not see eye to eye with him. The important policy making machinery has been completely transformed. The traditional practice has been for veteran legislators to serve as members of the Executive Council. Although these members were not politically accountable in a theoretical sense, yet in real practice, they frequently found themselves having to explain and defend government policies (in the Legislative Council). The reason was that they were playing a very important role in the process of policy making. Under the old system, most of the Policy Secretaries were only responsible for the day-to-day running of their policy branches. They did not have to stand in the political front line and be made targets of criticism, or shall I say "cannon fodder", eventually. Now that the Governor has re-organized the Executive Council, it actually turns out that we have backtracked. There is more and more secretiveness, and less and less transparency.

Theoretically speaking, the Executive Council is still the paramount body in the constitution of Hong Kong; in real practice, one fears that it is not significantly different from the Business Council of the Governor. The present situation is that, with the exception of official members of the Executive Council, the unofficial members of the Executive Council are not required to answer publicly queries of legislators, to explain or defend government policies and their implementation. That responsibility has now shifted to the Policy Secretaries who are civil servants as well as politicians. If political appointment is made for certain Policy Secretary posts and Executive Councillors can continue to stay out of politics, then there is a distinct possibility of Policy

Secretaries being made to bear the political responsibility, which should not be theirs to bear, for policies which are not of their making. Put in another way, as the Chinese saying would have it, while the black dog gets the meat, the white dog takes the blame.

It is not my intention to absolve some of our Policy Secretaries from their responsibility. I only wish to make it abundantly clear that the duties of Policy Secretaries are a separate issue from political accountability, and that we should not confuse the two issues. While I am all for Policy Secretaries being held accountable for carrying out their duties, I cannot agree that they should become politically accountable. The fact is that Hong Kong is a British colony, that all important political decisions have to emanate from the sovereign state. Domestic affairs of Hong Kong should be arranged by the Governor on the advice of the Executive Council. It is neither fair nor reasonable for us to demand people who are not Executive Councillors, and Policy Secretaries for that matter to become politically accountable and being made scapegoat in the process.

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

MR FRED LI (in Cantonese): Mr President, I will, on behalf of four legislators, vote in favour of the motion of Mr Andrew WONG.

Meeting Point has always taken the view that a healthy civil service system should be one which is apolitical, and one which consists of politically neutral civil servants whose role is to implement government policies. However, the political function of policy making should be performed by politicians within the political system.

If we could have the political and administrative functions separately performed by politicians and civil servants, the advantage to be gained is that the two systems check and balance each other in a complementary manner in the operation of the Government.

On the one hand, the politician who engages in political activities will try to secure support for the Government, thus it will have public credibility and reconcile the conflict of interests within the community. On the other hand, the civil servants will adhere strictly to their apolitical role, offer expert and analytical advice to the policy-makers, and faithfully implement government policies in terms of producing and providing sound public service.

Admittedly, if we look at the operation of the Government from the dynamic point of view, politics and administration are by no means watertight compartments or separate spheres which cannot relate to each other. As a matter of fact, the two spheres can infiltrate and influence each other. However, the constitutional role of politician and civil servant should be clearly defined. Whereas the politician is accountable to the people politically, the civil

service as a whole is accountable administratively to the ruling government. There is no need for the latter to confront directly political disputes and conflicts arising from policy making.

It is quite inevitable that under the present system of Hong Kong, senior government servants have to assume a political role concurrently with their administrative role and they have to deal directly with the disputes and conflicts involving different community interests. They have to make policies and be prepared to bear the political pressure and consequences which may result from these policies. In the past, government servants were quite capable of handling this kind of situation because Hong Kong society was not as complicated as it is today. However, as a result of the rapid social and political changes ushered in since the 1980s, and given also the introduction of directly elected seats into the Legislative Council in 1991, the role of the government servant has become rather blurred. It is not possible for the civil service to become truly politically neutral due to the conflicting role of the civil servant.

There is a common wish for the Hong Kong civil service to remain truly politically neutral. That is the inclination of our civil servants. It is also the public stance taken by the Chinese side. As far as the public at large is concerned, there is no wish at all to see the politicization of their civil service. It is for this reason that the present practice of requiring the Policy Secretaries to assume also the role of policy-maker is neither in keeping with the wish of the parties concerned nor is it a proper and realistic arrangement under the present circumstances. It would appear that while we want them to remain politically neutral, we have nevertheless required them to be politically accountable for the policies they make.

We consider that one way to ensure that Hong Kong civil servants will remain politically neutral after 1997 is to separate Policy Secretaries who are responsible for policy making from the rest of the civil service. Political appointment for policy making Secretaries will enable them to become politically accountable for their decisions taken in respect of government affairs. Meanwhile, the other civil servants will remain to be "career" civil servants on the permanent establishment, meaning they can literally have their jobs for life, and they need only be administratively accountable for the implementation of government policies. It is in this way that there can be a division of labour and politicians and civil servants will be able to complement each other.

The Basic Law for the future Hong Kong Special Administrative Region has not ruled out the possibility of political appointment for principal government officials. As a matter of fact, according to the Basic Law, all of the principal officials are to be appointed at the discretion of the Chief Executive. Such appointment is in real practice political appointment. If before 1997 the Hong Kong Government already accepts the desirability of political appointment for Policy Secretaries, not only will there be no question of the Basic Law being

breached but also, this may be regarded as a good way to prepare for the future development of Hong Kong.

Political appointment does not automatically mean that the promotion opportunities will be reduced for senior civil servants. Suppose these senior civil servants are willing to become politically accountable, then they may as well leave the permanent establishment and opt instead for political appointment. That is the only way they could become a member of the political body which faithfully runs the government of the day.

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

MR STEVEN POON (in Cantonese): Mr President, we are prone to forget that Hong Kong is a British colony and that the Governor of Hong Kong is an appointee of the British Crown. The Governor has supreme powers and is only accountable to the United Kingdom. Given the fact that the Governor is neither elected nor appointed by the people of Hong Kong, there is no legal ground for him to have any political responsibilities towards Hong Kong. Even if he has done a very good job, Hong Kong people are not empowered to make him stay for another term. If he has done a bad job, there is no question of Hong Kong people forcing him to step down.

It is admittedly true that the incumbent Governor of Hong Kong, Mr Christopher PATTEN, is a political heavyweight who has a valuable reputation to protect in the United Kingdom. If he fails to govern Hong Kong properly and makes a mess of the place, then he will certainly pay a considerable price in terms of his political career in the United Kingdom. However, that remains an issue for the British electorate to decide. Misgovernment or not, there is nothing the Hong Kong Legislative Council can do about it.

Under the colonial system, all government servants are working under the leadership of the Governor and carrying out the wishes of the Governor. Since the Governor does not have to be politically accountable, there is no question of requiring government servants to be politically accountable. It is for this reason that the motion which Mr Andrew WONG has presented before this Council today, that the Government should be urged to offer political appointment to its principal officials, does not stand on legal ground at all; there is no question of enforcing political appointment at this stage while Hong Kong is still under a colonial system.

In October last year, the Governor announced his political reform package. It has not only given rise to much controversy within Hong Kong society and sparked off an apparently endless political row between China and Britain, but has also caused jitters among the ranks of civil servants who do not know how to deal with the situation. Some senior government servants worry that they may have to assume part of the political responsibility, at least to a

certain extent, for being made to promote the Governor's political reform package. While their jitters are quite natural, when we take account of the fact that the Governor himself does not have to assume any political responsibility, there is no reason, as I was saying just now, why we should require civil servants to assume political responsibility for promoting the Governor's political reform package. I would like to urge both the Chinese and the British Governments to clarify this point. They should make it absolutely clear that these senior government servants will not be penalized in any way for supporting the policy of the Governor.

Both the Sino-British Joint Declaration and the Basic Law have stipulated that Hong Kong will get rid of the colonial system and become a Special Administrative Region (SAR) of China in 1997. It goes without saying that this development represents a big step forward in terms of democratic development in Hong Kong. The Basic Law stipulates that, not only will all members of the legislature be returned by election, the Chief Executive will also be returned by election. The election for the Chief Executive and the election for the legislators will not be held in the same year and there is a difference in terms of the kind of election which will be held. With the emergence of political parties, leagues, coalitions and associations in Hong Kong, it is inevitable that the elections for both the Chief Executive and the legislators will be contested along political lines. And inevitably, the Chief Executive will have to assume political responsibility. That is to say, if the Chief Executive has done a fine job, then he may be able to win another term of office, thanks to his popular support. If however he has failed to perform satisfactorily, then not only will he not be able to win another term, he will actually be forced to resign as a result of impeachment by the legislature. Under this system, which will be implemented after 1997, given that even the Chief Executive has to be politically accountable, the other senior officials who assist him in the formulation of important policies will also have to be politically accountable. Political accountability in this context is quite inevitable. But the only question is, who are these principal officials who have to bear political responsibility and how are they to be held accountable? Mr President, that is a more complicated issue. It is not something which I can explain in a few sentences, or which can be adequately discussed in a few minutes. To a great extent, this issue is likely to be influenced by the personal aspirations and style of government of the person who assumes the post of Chief Executive at the time.

But when one looks at the provisions of the Basic Law, it is a matter of course that members of the future legislature will be politically accountable. When the Chief Executive of the Special Administrative Region assumes office, the pre-existing Executive Council will be dissolved so that a new Executive Council can be appointed. One can also further postulate that the Chief Executive will want to make political appointments to the posts of Chief Secretary, Financial Secretary and Attorney General, which is to say that candidates for these three posts will thereafter vary according to whoever is the Chief Executive of the day. Whether political appointment will be made to the posts of the other 19 Policy Secretaries is, of course, too early to say. But

suffice it to say that if a government servant is required to assume political responsibility, then he or she must be a political appointee, rather than a civil servant in the first place. The present situation is that the government officials are invariably civil servants and it is in view of this fact that it is not easy for us to translate into reality any time soon this concept of getting some of our government servants to become politically accountable. Political accountability is going to take time to develop gradually.

Mr President, what Mr Andrew WONG has raised are some of the problems which should be addressed by the future Hong Kong Special Administrative Region. There is a need for these problems to be discussed and dealt with. However, it is not appropriate to urge the present Hong Kong Government to consider these problems. As a matter of fact, it would be an act of disrespect to the future SAR Government for the present Government to make any changes in respect of political appointment at this point in time.

With these remarks, I cannot support the motion.

DR YEUNG SUM (in Cantonese): Mr President, Mr Andrew WONG's speech a while ago drew a blueprint for a democratic system for Hong Kong, but the salient points covered in part of his speech are nowhere to be found in his motion. He said that the Chief Executive should be returned to office by a fair election, the Executive Council as presently composed and its separation from the Legislative Council should be scrapped, elected Legislative Council Members should be appointed to the Executive Council and they should bear part of the responsibility for framing of policies, as is the case with the ministerial system of western countries. The United Democrats of Hong Kong (UDHK) are supportive of these three proposals. Unfortunately, these three points have not been included in Mr WONG's motion. Therefore, in considering the motion, we cannot simply dwell on these three points. If these three points were included in the motion, and the motion also proposed the political appointments of Secretaries, I believe that the UDHK would be only too ready to support the motion. However, as these three points are not part of the motion, we can only examine the motion *per se*.

The political appointment of Secretaries would have the advantage that civil servants would rise above political disputes, or in Mr WONG's words, need not worry about "the squaring of accounts" after 1997. This will enable our civil servants to serve the public wholeheartedly with their expertise backed up by their objective, professional experience. But under the current constitutional arrangements, many Secretaries, besides undertaking the duties of a civil servant, have to play the role of a minister in a western country by going around explaining government policies and undertaking political duties being assigned to them. So Mr Andrew WONG's worries about the Secretaries having to undertake such duties is fully understandable. Nevertheless, the UDHK think that the prime condition for supporting this motion is that the Governor before 1997 and the Chief Executive after 1997 should be returned to office by

election. But this is clearly impossible under the current arrangements. It is manifestly an unworkable option to have an element of accountability injected into such a constitutional system which is neither monitored by nor accountable to the public.

The UDHK support the political appointment of Secretaries, but under the current colonial system, the public cannot elect their own Governor. In these circumstances, we find it difficult to support the motion; so the 13 Members of the UDHK will abstain from voting.

SECRETARY FOR THE CIVIL SERVICE: Mr President, with every respect to Mr Andrew WONG, his motion, I am afraid, reminds me of one of those Irish stories, which has a foreign traveller lost in the Irish countryside. He sees an Irishman by the side of the road and asks him the way to a particular village. The Irishman thinks for a while, scratches his head and says to the traveller "If I were you I would not start from here". Mr WONG seems to want us to start from somewhere else. He ignores our present whereabouts.

I noted that a number of Members in rejecting his proposals did so at least in part, on the grounds that there is nothing very much wrong with our present system. They might have quoted a contemporary American philosopher "If it ain't broke, don't fix it!"

What sort of system do we have then? We have in Hong Kong executive-led government, established through constitution and practice, with our most senior officials coming from the Civil Service, almost invariably having been promoted through the ranks, with all the accumulated knowledge and experience that implies. At the top we have Policy Secretaries, responsible for the formulation of policy proposals. These proposals are then submitted to the Executive Council for formal policy consideration. If adopted, and if they involve requests for funds or legislation, the proposals then come to this Council.

Policy Secretaries also appear before this Council to answer questions from Members, and appear before the Council's many panels and committees to explain and defend government policies. Together, this adds up to a system of accountability, which ensures that there is very little that the executive does which is not subject to the careful scrutiny of the legislature — as it should be. This is a well-established, tried and proven system, and although I note Miss Emily LAU referring to it as an odd system which is not found elsewhere in the world, it is a system which works, and which will, as a result, be largely preserved in the Basic Law. Much of the thrust of the Joint Declaration and the Basic Law is an attempt to maintain those systems which have served Hong Kong so well. And I for one see comfort in this promised continuity.

I have expressed the view previously in this Council, Mr President, that at a time when all is changed — and I may say it perhaps especially given the

development of party politics referred to again by Miss Emily LAU — the community is entitled to look to the Civil Service for continuity and stability. And so in the Basic Law, the section dealing with the public service clearly provides that Hong Kong's existing system will remain basically unchanged. Article 101 envisages the Principal Official posts forming the mainstay of an executive-led government, accountable to the legislature — very much the system we enjoy at present.

Under our present system — and I see no reason why we should look for change — the Chief Secretary, the Financial Secretary and the Attorney General posts are the pinnacle of both the Administration and the Civil Service. Appointment to these posts has normally been by way of promotion from the level below, although there have occasionally been direct appointments from outside the Civil Service or transfers previously from other British territories. Whatever the method of appointment, these posts are quite clearly part of the Civil Service and are not "political" appointments. Branch Secretaries are normally promotion posts from within the Administrative Service, although there have been appointments from other grades and, very exceptionally, from outside the Civil Service.

The vast majority of these senior officials are therefore career officers who have risen to their present positions by dint of many years of experience and proven competence as administrators, managers and policy initiators. In the case of those who have risen through the ranks of the Administrative Service, they will have experienced a considerable number of postings in different areas of government activity, and early exposure to public issues. This is surely one of the strengths of our present system — and long may it continue. I am grateful to Mr McGREGOR and other Members for their recognition of the calibre, the standards, the loyalty and the impartiality of civil servants.

I agree with Mr WONG that these Policy Secretaries cannot be, as he puts it, "anonymous and faceless". But I see nothing wrong with that. At the very least they help to put a human face on the bureaucracy. The public has come to expect their senior officials to be able to stand up, in public and in this Council, to explain and defend government policies, once they have been adopted by the executive; and they should be able to do so without fear or favour, without wondering whether their advocacy of a particular policy will affect their career. This is what is meant by a neutral, apolitical civil service. And I certainly agree with Mr Fred LI and other Members who have emphasized this point that civil servants should remain neutral. Of course, "apolitical" does not mean that senior civil servants are not involved in areas of political controversy. Many of the issues with which they deal are indeed politically controversial. But "apolitical" means that they do not allow personal or party political beliefs or allegiances to intrude into their proper role and function, which is, in an as objective a way as possible, to put the public welfare above individual inclinations.

There may indeed be a fundamental misunderstanding here that Principal Officials dealing with policy and political issues means that the Principal Officials themselves are acting in a political role. That is not the case, it is the Government as a whole that takes full responsibility. Mr Allen LEE raised some valid questions in an attempt to clarify Mr WONG's ideas. One might indeed ask where, in Mr WONG's structure, is the source of authority of his proposed political appointees? What would be their legitimacy? What would be their relationship with the executive authorities — that is both the Governor in Council and senior members of what we confusingly call the Administration? What advantage would they enjoy over the senior officials they would be replacing in terms of getting legislative and financial proposals through this Council? With our executive-led system we do not have, and are not likely to have, the sort of conventional arrangement we see elsewhere, which produces politicians backed by majority party support to take up executive portfolios.

Mr President, the transition to 1997 is already upon us. The route is clearly mapped out in the Basic Law. The present system provides for an executive-led government accountable to the legislature. The system works well. There is no evidence that turning senior civil service appointments into political appointments would improve the existing system, make it work better, or in any way help maintain stability and continuity in the most senior ranks of the Civil Service. Indeed, Members will wish to consider most carefully the longer-term implications of political appointments of Principal Officials.

Continuity is indeed an important theme and Mr TAM Yiu-chung asked the question whether we, the Administration senior officials are ready for the transition. We are of course fully aware of the provisions of the Joint Declaration and the Basic Law relating to Principal Officials. We are, as the Governor stated in his address last October, developing the momentum of localization to ensure that a reservoir of talent is created upon which we can draw to select qualified and suitable local officers to fill all these posts before 1997. This exercise is very important to the stability and continuity of Hong Kong and we must seek to maintain maximum continuity to 1997 and beyond.

Civil service worries and wastage

Mr Frederick FUNG made references to worries on the part of civil servants. Of course, civil servants, and indeed Hong Kong people as a whole, have expressed various concerns about 1997. But it would, I think, be quite erroneous to assume that we in the Civil Service, as a result of those concerns, face a mass exodus of senior and middle ranking local officials simply because of 1997. The Joint Declaration and the Basic Law both provide specific guarantees for the continuation of the Civil Service on terms no less favourable than before and these cover, *inter alia*, terms of service, salaries, pensions and promotion arrangements. In addition the Chinese Government has repeatedly reassured civil servants that they should not fear the transfer of sovereignty in 1997 and that they will not be penalized after the transfer of sovereignty.

Whilst I have no doubt that the motion is intended as a genuine attempt to protect the Civil Service from political worries, I cannot help feeling that, if adopted, it would have the opposite effect. The existing system works well, and the sort of fundamental change implicit in the motion seems completely uncalled for. Far from reassuring civil servants, I suggest the introduction of political appointments at the top would have a destabilizing effect on the Civil Service and would militate against continuity at the senior levels. Our existing system is well tried and tested. Let us build on it as provided in the Basic Law, not imagine that we can start our journey from somewhere else.

PRESIDENT: Mr Andrew WONG, do you wish to reply? You have just over six minutes.

MR ANDREW WONG (in Cantonese): I wish to thank Members for speaking to my motion and I appreciate the reply of the Government to my proposal. I am delighted in particular to hear an academic discussion of my motion, notably by Members of Meeting Point. It is obvious that the academic perspective has something to do with Mr CHEUNG Bing-leung, the Chairman of Meeting Point, who is a lecturer of public administration. Incidentally, I am also a lecturer of public administration. I have no intention of giving a lecture in the Chamber, which is after all not a lecture hall. It is apparent, however, that Mr Frederick FUNG did not attend my lectures on public administration. *(Laughter)*

Obviously, civil servants can be divided into two levels. But no separation has ever been done in Hong Kong, apparently because there never was a perceived need for it. Now that we begin to feel the need, the question is really whether we have the courage to take that step forward. That is the essence of my motion. It is not my intention to respond to each and every point made by my colleagues. I only wish to give a brief reply to a couple of points which I have summarized.

It would appear that the debate today has been very engaging and lively. Some Members were telling us Irish tales. There were also reference made to animals, and "body parts" such as the throat and the lung, and also dogs. Perhaps I could take it from the dogs. The metaphor which Mr Jimmy McGREGOR has used is very interesting indeed. He mentioned two kinds of dogs, Collie, and the combative Doberman which can be used on hunting trips. He suggested that the two could perhaps copulate to produce a new breed. Now we are hoping to divide our civil servants into an upper level and a lower level, so let us call them Doberman and Collie respectively. The theory goes that they have their respective roles and they complement each other, but they do not copulate so that at end of the day a new breed of civil servant will be produced, and it seems that reference is made at this point to our Policy Secretaries. *(Laughter)* It is clear that I never made that suggestion.

Just now, Miss Emily LAU has made her point very clearly that the present practice for a civil servant in the post of Policy Secretary to double up as both minister and bureaucrat has resulted in the person involved being torn between conflicting roles. It is likely that such conflict will only increase. I hope we will be able to take the first step forward in terms of studying how these two roles can be separated. There are many ways to do so and incidentally, Mr Allen LEE was accusing me a while ago of not being specific enough on this issue. The motion I have put forward today is one which deals with principle, and I intend to confine myself to that precisely. If Members find the principle agreeable, then we can flesh it out when we sit down and talk about the whole thing. For example, an attempt can be made to add a political layer on top of the civil service establishment. It is possible for us to design that political layer in such a way that no civil servant will be involved. If this is done, then we need only ensure that these people will never become ministers themselves while at the same time creating ministerial posts which may be filled by Members of the Executive Council. In any case, I would consider that this may create some redundant posts, and given that many of our civil servants who have been appointed as Policy Secretaries have actually a good deal of political acumen, we might as well offer political appointment to them as an option. That is entirely a tentative proposal.

The principle is that we must be willing to take the first step. The first step is an essential step. It is admittedly true that the result of political appointment will initially be "neither mule nor horse". We may end up with neither a mule nor a horse. But what do we want after all? What we want is for the system to be able to function effectively. It is for this reason that unless we have decided to give up using a beast to carry our burden, which is to say unless we have decided not to have this political system, not to have this political framework altogether, we are going to have a need for such a beast, even if it turns out to be a donkey.

In this regard, what is the big principle at stake here? It is not the question of searching for a scapegoat. It is rather the wisdom to see that a good cat is one which catches mice, that it does not matter whether the good cat is of the colour black or the colour white.

The view that I have put forward is very simple. I hope to be able to hit two birds with one stone. I hope to be able, by means of offering political appointment to the principal officials, to ensure that the other civil servants on the permanent establishment will remain politically neutral. I hope also that the Hong Kong Government, including the Governor, the Executive Council and the principal officials, will become politically accountable. Let me appeal to Members again — even though you have already indicated your respective positions and delivered your speeches, and it would be very difficult for you to go back on your own word — I would like to appeal to you to vote for my motion instead of abstaining from voting. Thank you.

Question on the motion put.

Voice vote taken.

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

MR ANDREW WONG: Mr President, I claim a division.

PRESIDENT: Council will proceed to a division and the division bell will ring for three minutes.

PRESIDENT: Would Members now please proceed to vote?

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

Mr Andrew WONG, Dr LEONG Che-hung, Mr Eric LI, Mr Fred LI, Mr TIK Chi-yuen, Dr Samuel WONG and Mr WONG Wai-yin voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mr Stephen CHEONG, Mrs Selina CHOW, Mr TAM Yiu-chung, Mr Edward HO, Mr Martin BARROW, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Jimmy MCGREGOR, Mrs Elsie TU, Mr Moses CHENG, Mr Timothy HA, Mr Gilbert LEUNG, Mr Steven POON, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG, Dr TANG Siu-tong and Mr Roger LUK voted against the motion.

Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr Albert CHAN, Mr Vincent CHENG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr MAN Sai-cheong, Mr James TO, Dr YEUNG Sum and Ms Anna WU abstained.

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

NATIONALITY OF ETHNIC MINORITY

MISS EMILY LAU moved the following motion:

"That this Council supports the House Committee Report entitled "A report of the House Committee of the Legislative Council on the nationality of non-Chinese ethnic minorities" (LegCo Paper No. 1817/92-93), in particular the recommendation for the grant of full British nationality to those non-Chinese ethnic minorities in Hong Kong who are British nationals and urges the Hong Kong Government similarly to declare its support, both publicly and in representations to the British Government."

MISS EMILY LAU: Mr President, I move the motion standing in my name on the Order Paper. The motion reflects Members' support for the non-Chinese ethnic minorities' request for full British nationality and urges the Government to declare its support, both publicly and in representations to the British Government. For the record, I am tabling the report of the House Committee on the nationality of non-Chinese ethnic minorities which sets out their case.

On 19 February the House Committee endorsed a report by the Subcommittee on Nationality which I chair. The report highlights the plight of the ethnic minorities, who, through no fault of their own, are trapped in the transition of the colony from British to Chinese rule. Unlike the ethnic Chinese Hong Kong residents, who will all become Chinese nationals in 1997 whether they like it or not, there is no certainty to the ethnic minorities' nationality. Thus their situation is highly vulnerable.

According to the Government's best estimate, there are about 7 000 ethnic minorities, coming from about 2 000 families, who are Hong Kong British citizens with no other foreign nationality. After 1997, they will have some nominal British status, which gives them neither the right to live nor to work in Britain.

Such British status can only be transmitted for two generations. If they cannot acquire another nationality, their third generation would effectively become stateless.

Mr President, during the House Committee deliberations, two Members voted against supporting the ethnic minorities' request for full British nationality. Subsequently I spoke to them and found out the two Members were unhappy because they thought we were only fighting for several thousand ethnic minorities. They said we should be fighting for all the Hong Kong people, be they holders of Hong Kong British passports or mere Certificates of Identity.

Mr President, I could not have agreed with them more. I firmly believe Britain has an unshirkable moral obligation towards all the Hong Kong British subjects. If Members agree, I am most willing to take up this cause. But given

that Britain is determined to turn its back on the Hong Kong subjects, we must recognize that it is an uphill battle.

Mr President, the question of British citizenship for the ethnic minorities has been debated in this Council on several occasions in the past few years. In an emotionally charged sitting on 8 January 1986, Official and Unofficial Members of the Council voted unanimously to ask the British Government to make full British citizens those British nationals who were of non-Chinese descent.

Senior Unofficial Member Miss Lydia DUNN warned that if Members' requests were rejected, it would be seen by people around the world as a mean and unworthy denial of the just claims of Britain's most vulnerable and deserving nationals. In a rare move at the time, Mr President, the Council then broke into applause and that should show us the depth of feeling at the time.

However, seven years later today, Mr President, we are still fighting for these people and they have absolutely got nowhere. Apart from feeling exasperated and depressed, Britain's uncaring and niggardly attitude also fills me with horror and revulsion.

This afternoon I hope the Government will, as it did seven years ago, support our motion and convey Members' wishes to the British Government. I also hope the Government will not reiterate the argument that granting full British citizenship to the ethnic minorities might create an undesirable precedent for other colonies. This is because Hong Kong, unlike other colonies, is not to be given independence. The handing over of 6 million people to Chinese communist rule is not only unique but totally unprecedented in human history.

I further hope the Government will not try to hide behind the British Nationality Selection Scheme, from which 50 000 key people and their families are to benefit. As Members are well aware, the Nationality Selection Scheme was launched by Britain after the Peking massacre on 4 June 1989 in order to help the colony restore confidence. The scheme was not intended to address the moral question of nationality for Hong Kong subjects, let alone provide a solution to the problems faced by the ethnic minorities.

The Subcommittee on Nationality also thinks it is unfair to ask the ethnic minorities to compete with other Hong Kong people for the limited quota of the Nationality Selection Scheme. So far, we are told that more than 450 households with Indian or Pakistani surnames have applied and about 270 were successful.

Mr President, since the number of people involved are so small — only 7 000, we call on the British Government to be magnanimous and offer a separate arrangement for them.

Such a request was endorsed by the House of Commons Foreign Affairs Committee's Second Report on Hong Kong which was published in June 1989. The Foreign Affairs Committee rejected the British Government's undertaking that "in the unlikely event of any British national being forced to leave Hong Kong and having nowhere to go, we have made it clear that we would expect the Government of the day to consider sympathetically whether to admit such people on a case-by-case basis in the light of particular circumstances."

The Foreign Affairs Committee said that was insufficient assurance and that the British Government has an obligation to provide proper citizenship (that is, British citizenship) to this group of people.

Although the Hong Kong Government supported the ethnic minorities' case in 1986, it now argues that there is no reason to distinguish between the ethnic minorities and the majority of the population. Mr President, is there really no distinction between the two groups?

The Government only has to look at its own identity card scheme, which gives the three-star designation to ethnic Chinese residents to indicate their Chinese origin and, of course, to enable ease of travel into China. The ethnic minorities do not have this designation.

Furthermore, it is stipulated in the Basic Law that the non-Chinese nationals in Hong Kong are prohibited from becoming Chief Executive or filling senior civil service positions in the post-1997 Special Administration Region government.

Mr President, the Government may then argue that the ethnic minorities could apply for Chinese citizenship after 1997. In January, members of the Indian Chamber of Commerce discussed the matter with the State Council's Director of the Hong Kong and Macau Affairs Office, Mr LU Ping, when they visited Peking. Mr LU said the ethnic minorities could apply for Chinese citizenship after 1997. However as we all know there is no guarantee that their applications would be successful. Members of the Indian Community rightly feel that Mr LU's comment does not provide the level of certainty required.

Mr President, the plight of the ethnic minorities deserves our full sympathy and support. The British Government should not be allowed to escape from its moral responsibility. I call on this Council to speak with one voice as we embark on the difficult course of fighting for the rights of this small and vulnerable group in our community. Mr President, I beg to move.

Question on the motion proposed.

MR HOWARD YOUNG: Mr President, first of all, I would like to thank yourself and Members for bearing with me to allow me to speak first because the proceedings of today's meeting have gone so fast that if I were to proceed to

a ceremony and come back to speak last as planned, the meeting will have been finished.

I rise to support the motion, Mr President. I fully agree with what the mover of the motion has just said, namely, that we are facing an uphill battle and that we detect that the attitude of the British Government on this issue is both uncaring and niggardly.

In January, a nine-member delegation of the Co-operative Resources Centre went to London. Although the main purpose of the trip was to urge the British Government to come up with some active sincerity in order to help break the impasse on political reforms, there was another objective as well. That was to try and use the opportunity in the United Kingdom to lobby on behalf of the ethnic minorities whose situation we have fully debated in this Council. I went to the Home Office on behalf of the Co-operative Resources Centre on the last day of our trip.

First of all, I cannot say that I should complain about not being received because there was about one-half dozen of high-level civil servants and also Mr Charles WARDLE, the Minister for Home Affairs who saw me on this issue. Although it was the Home Office, after sitting down for two minutes I thought for a while that I had wandered by mistake into the office of the national archives because in front of these officers they had all of the Hansard records of our debates, they had known what we had said. In fact, they pointed out what I had said in that debate supporting the issue of British citizenship for the ethnic minorities. They had all the files and all the homework exactly like the archives.

As the discussion went on I then started to change my mind and felt perhaps I was neither in the Home Office nor in the Department of Archives; I was in the Department of the Environment because what I had met with was a continuous surge of recycling — recycling of the same arguments, the same text, even to the same word, that had been read out to us by officials from the Security Branch in our meeting, all excuses, and may I say some of them flimsy excuses, to get the British Government off the hook and not to take up their moral obligations to grant ethnic minorities in Hong Kong full British citizenship. At the end of our approximately half-hour meeting I had then concluded I was probably in the Department of Public Works because all I could see was a brick wall.

Mr President, I believe the issue of ethnic minorities is different from fighting for British passports for 6 million people, a subject on which we may differ as far as opinions go. I believe the ethnic minorities are faced with a unique dilemma. I notice that it has been mentioned that Mr LU Ping did say to the Indian community that they may apply for Chinese citizenship after 1997. But please take note: this is only after 1997. What about before 1997? And what if, by that time, the rules, the procedures, the success rate of applying for Chinese nationality by non-ethnic Chinese people is not as easy as it seems?

I myself, speaking as an ethnic Chinese, would think it would be a contribution to the Chinese nation if we were to accept outstanding members of the ethnic minority community in Hong Kong to become Chinese citizens and to continue to contribute towards Hong Kong, as they have done for generations, after 1997. But this is an unknown factor. Of course, should they be granted full British nationality now there is nothing to prevent them after 1997 from giving it up and choosing Chinese nationality if they so wish.

Mr President, I believe that we must not give the British Government the impression that they can shirk their responsibilities merely by saying that the ethnic minorities can either wait till after 1997 to apply for British nationality or by saying they may apply under the British Nationality Scheme. That is a totally different scheme altogether and in any case, the number of people we are talking about is very, very small. We are talking but a few thousand heads of households and judging by the results of the British Nationality Scheme even those people who do acquire full British nationality do not have the desire to go to the United Kingdom or reside there but they will want to remain committed to Hong Kong.

So, Mr President, in rising to speak for the motion I urge this Council speak with one voice and the Hong Kong Government throw its weight strongly behind this voice to Britain that they must undertake their moral responsibilities for these small numbers of ethnic minority residents of Hong Kong and offer them, without condition, full British nationality.

MR STEPHEN CHEONG: Mr President, the motion before us today is one that is worthy of our support in every aspect. I and my Co-operative Resources Centre colleagues will have no reservation to vote "aye" to Miss LAU's motion.

Since a lot of grounds have been covered by Miss LAU when she moved her motion I do not intend to go over old grounds. I would simply like to remind the British Government that Hong Kong, in the history of being the United Kingdom's colony, has contributed a lot in the interest of the sovereign state. Blood of our citizens, whether they were of ethnic minorities or otherwise, was shed in fighting Britain's war. Economic and trading interests were sacrificed in upholding the sovereign state's fight with other countries of the world. There should be no doubt that Hong Kong has fully lived up to the expectation of being loyal to our sovereign state.

Mr President, the call on the British Government to grant full British citizenship to approximately 7 000 ethnic minority citizens in Hong Kong is indeed very modest. Is it really too much to ask the sovereign state to discharge just a small part of their obligations and responsibilities? Would it be an honourable thing for Britain to do, if they were to deny our modest requests while granting full British citizenship to almost all who live in the colonies of Gibraltar and Falklands? Could it be that the differentiation of treatment of citizens of different colonies is due to just a different coloration of their skin?

One has no choice but to so wonder if the sovereign state government continues stubbornly to say no.

Mr President, I wholeheartedly support the motion.

MR MARTIN BARROW: Mr President, Miss Emily LAU has said it all in her articulate speech. I will avoid repetition. It is embarrassing to me as someone originating from the United Kingdom that there should be this repeated and disgraceful intransigence on the part of the British Government in not providing full passports for just 2 000 or so families. No doubt the Home Office will continue to argue that this would establish a precedent affecting those in various countries. Given Hong Kong's unique circumstances, that argument is totally unacceptable and redundant.

A resolution is not helped by the attitude of the Hong Kong Government who appear to remain inactive and on the fence.

Mr President, let me pass on some advice I was given recently by a former Home Office Minister who was visiting Hong Kong. He recalled some eight to 10 years ago that messages from the Hong Kong Government on nationality issues were usually not presented in a determined and forceful manner and until it did so it was his view that inevitably the British would take no notice.

If, as I hope, this Council will unanimously support the motion I urge the Government to pass on the result to London with a forceful covering letter.

With these words, I support the motion.

DR LEONG CHE-HUNG: Mr President, I rise to support the motion to request for full British nationality for the ethnic minorities in Hong Kong. In supporting this motion, I stress we are requesting full British nationality and not just the right of abode in the United Kingdom or the right to be admitted to the United Kingdom. For these do not technically resolve the stateless problem of these people.

Many reasons have been put forth by Miss Emily LAU and my honourable colleagues and the ad hoc group on this request and I do not propose to go forth with these. Suffice it to say the British Government, being a signatory of the Convention on the Reduction of Statelessness, should honour its legal and moral obligation to prevent these people from becoming stateless as a result of the transfer of sovereignty over Hong Kong to China.

The counter-minded would argue that it may be possible for these ethnic minorities to become Chinese nationals after 1997. Yes they can and yet they can, at most, only apply after 1997 and before then they remain in a state of

limbo. It should also be noted that these ethnic minorities would still remain stateless after 1997 should their application fail.

The Home Office and the Foreign and Commonwealth Office have always said that these ethnic minorities could always apply to be included in the British Nationality Selection Scheme of Hong Kong 1991. It should be remembered that this scheme was launched to restore confidence after 1989 and not as a solution for statelessness. These ethnic minorities should never be asked to apply and processed on an individual basis but rather nationality should be offered to all of them as a complete package.

Mr President, may I conclude by saying that in supporting this motion, I urge colleagues to come up with a clear consensus to press both the Hong Kong and the British Governments for a satisfactory solution to this problem in the shortest possible future.

MR JIMMY MCGREGOR: Mr President, this Council has a duty to ensure that people of non-Chinese ethnic origin, who have lived in Hong Kong all or most of their lives and who together with their families are contributing to the success of our economy and community, should as far as is humanly possible be given enough protection in regard to their nationality to ensure that they feel confident in continuing to live here after 1997.

In a different light, a deeply compassionate light, I also declare concern over British nationality for the ex prisoners of war and their aged spouses.

Miss Emily LAU has set out the case for the ethnic minorities and she has done so with eloquence and conviction. She has been an active and efficient convener of the Nationality Committee given the task of looking at the problem of the ethnic minorities. I will not repeat what she has said and will content myself by saying that our cause is a just one and that if we can successfully bind all or part of the ethnic minorities to Hong Kong by providing them with British nationality, we shall have done Hong Kong a great service.

I am personally grateful to the Indian Resources Group for information and for its strong and realistic support. I believe that the Indians, in particular, are well served by the Indian Resources Group.

The endorsement of the Committee's report by this Council and its adoption by the Hong Kong Government will strengthen our hand in seeking assistance from the British Government.

Mr President, I urge all our Councillors to support the report and the motion.

MR HENRY TANG (in Cantonese): Mr President, at the beginning of this year in Beijing, in receiving the representatives of the Indian Resources Group, the Director of the Hong Kong and Macau Affairs Office Mr LU Ping verbally promised that the non-Chinese ethnic minorities in Hong Kong may after 1997, if they so wish, apply for the Chinese nationality and Chinese passports. Concerning the matter of ethnic minorities, we have very limited information. For example, after acquiring Chinese nationality, will these 20 000-odd non-Chinese ethnic minorities enjoy the same civil rights as those of the ordinary Chinese citizen; will their nationality be full nationality; and can their descendants inherit Chinese nationality and also become holders of Chinese passport? These questions are awaiting further clarification by the Chinese Government. But anyway, I welcome this undertaking made by the Chinese Government.

On the contrary, the attitude of the British Government on this matter is certainly disgusting. The officials of the Security Branch told the Subcommittee on Nationality of this Council earlier that the proposal of the Chinese side was heartening to the Hong Kong Government. It is especially so because the 7 000-odd Indian and Pakistani descendants living in Hong Kong will not become isolated and stateless after 1997. Mr President, I certainly understand why the British and Hong Kong Governments are so excited. They think now that China has offered to take "the can", the British Government will have good reason to "duck it" and refuse to issue British passports to these non-Chinese ethnic minorities.

In fact, we have long seen clearly the ugly face of the British Government. As early as the 1960s and 1970s, Britain started its plan to deprive the 3.5 million British nationals in Hong Kong of the British nationality to which they are entitled. I believe that the majority of the Hong Kong people do not look forward to living in Britain which is poor and humid. Living in such a place, even if I do not get mildewed, my brain will! This attitude has been reflected by the number of applicants under the British Nationality Scheme which is far lower than expected. Nevertheless, going or not going is our free choice, but to be suddenly deprived of a legal right which we originally possess is another matter. It is a matter of principle. So we have good cause to demand that the British Government grant the right of abode to all British dependent territories citizens, that is the great majority of the people of Hong Kong, including the non-Chinese ethnic minorities.

Although the Chinese Government is willing to let the non-Chinese ethnic minorities living in Hong Kong apply for Chinese nationality, and Article 24 of the Basic Law has clearly stated that "persons not of Chinese nationality who have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence can become the permanent residents of the Hong Kong Special Administrative Region (SAR)", we cannot exclude the possibility that some of these persons may not like to stay in the SAR. Moreover, they came to Hong Kong at the outset because it was a British colony. Many of them even relinquished their

Indian nationality to become British. So we should respect their right of choice. If they choose not to apply for Chinese nationality, then even though they can have the British National (Overseas) Passports after 1997, their BNO status can only be transmitted for two generations, and their third-generation descendants will not be entitled to that status and will become stateless without any passport. How can that be?

Mr President, I understand that the Hong Kong Government has no say in this matter, but I am adamant that it has the responsibility to keep striving for these non-Chinese ethnic minorities by demanding the British Government to give them their entitled rights and fulfil its moral obligations.

Mr President, with these remarks, I support Miss Emily LAU's motion.

MR JAMES TO (in Cantonese): Mr President, the United Democrats of Hong Kong (UDHK)'s position with regard to the request of the non-Chinese ethnic minorities in Hong Kong for British nationality is very clear. We will definitely give them our full support.

Over the years we in this Council have, through debates, discussions and statements, made our view clear that all British citizens in Hong Kong — whether they are British Dependent Territories Citizens (BDTCs), British Nationals (Overseas) (BNOs) or formerly citizens of the United Kingdom and Colonies (CUKCs) or whatever — should possess the right of abode in the United Kingdom for that was a right that many of us were born with and which was subsequently taken away from us by a series of revisions to the United Kingdom nationality laws. Anything less than full British citizenship represents a failure of the United Kingdom's moral obligation to her own citizens. We may certainly opt the Chinese nationality and the UDHK also call on the people of Hong Kong to have the courage to opt the Chinese nationality in this transition period. However, if some people want to get back the right they were born with, their wish should be satisfied. Because of the aforesaid points, the UDHK have, on the nationality issue, all along fought for the people of Hong Kong, including the non-Chinese ethnic minorities, for the political right to which they are entitled. We have already stated this point clearly in our platform for the 1991 Legislative Council Election.

The British Government's position has been marked by an excessive legalism by which it has sought to cover its shameful intentions with a welter of legal technicalities. According to the Convention on the Reduction of Statelessness, to which the United Kingdom is a signatory, each contracting state is under an obligation to ensure that no person shall become stateless as a result of a transfer of sovereignty over a part of its territory. With an attempt to comply with the Convention (I have to emphasize the word "attempt"), the United Kingdom has invented two new categories of citizenship: British National (Overseas) and British Overseas Citizen. This would enable the British Government to tell others that, as the holders of such British passports in

Hong Kong, including the ethnic minorities, will still have the so-called British nationality after 1997, they will not be left stateless. From the stand of the people of Hong Kong, we certainly do not support the idea of giving them only incomplete "nationality" after 1997. We are also more concerned about the fact that a certain group among the population and their children may become stateless as they may be denied of such incomplete nationality.

Furthermore, as there is no specific provision regarding any arrangement for the non-Chinese Hong Kong residents in both the annexes of Sino-British Joint Declaration and China's nationality law, they cannot, like the Chinese Hong Kong residents, automatically become Chinese citizens after 1997. Even though Mr LU Ping said that these non-Chinese ethnic minorities were welcomed to apply for Chinese citizenship when he met a delegation from the Indian Resources Group, they are apprehensive about the prospect of becoming Indian or Pakistani; ethnic minorities within the realm of China. Without any other alternatives available they may have to accept the so-called citizenship of British National (Overseas). But how can the mere right to enter a particular region be mentioned in the same breath with a nationality and a full passport? It will practically create a group of stateless people. This is in breach of the spirit in which the United Kingdom signed the Convention and a blatant ignorance of the plight of a group of people who have dedicated themselves to the success of Hong Kong. This is indeed disappointing and exasperating! I do not intend to repeat Miss Emily LAU's detailed analysis and arguments. The UDHK fully support her views.

We would like to call on the world community (not only the Hong Kong Government because it is powerless), especially the signatories to the Convention, to put pressure on the United Kingdom to comply with this international agreement. Mr President, the UDHK strongly urge the British Government to unconditionally grant full British citizenship to these people immediately and not to keep on shirking and deferring its moral and legal obligations.

Yet, apart from this group of non-Chinese ethnic minorities, I would also like to bring up the problem confronting the Special Branch of the Royal Hong Kong Police Force. After the disbanding of the Special Branch, a large number of its staff will actually have to run great risk of retribution simply because of the title of the branch. Some government officials think that their worries are groundless since the Special Branch has not been assuming any special duties but merely serving as bodyguards and the like. However, this group of officers will likely be persecuted through interrogation or torture, or subject to other forms of questioning simply because they have worked with the "Special Branch". The questioner, to dig up information on the whole intelligence network, may ask them: It is fine that you have done nothing but has so-and-so done anything? Even in its own interests, there is no reason for the United Kingdom not to grant full British nationality to the officers of the Special Branch. In addition, we share Mr Jimmy McGREGOR's concern over

the ex-prisoners of war in Hong Kong and their spouses. For these reasons, all Councillors of the UDHK and I fully support Miss Emily LAU's motion.

SECRETARY FOR SECURITY: Mr President, the Administration is grateful to Miss Emily LAU and the Subcommittee on Nationality for their report, and appreciates their efforts on behalf of the ethnic minorities. This subject was debated in this Council last November. But the Subcommittee has succeeded in clarifying and focussing the issue. It concentrates, rightly in my view, on the estimated 7 000 Hong Kong permanent residents who are not Chinese, but who have right of abode only in Hong Kong. The great majority of these people are of Indian origin, holding BDTC or BN(O) passports.

I agree with the point made in the report that the British Nationality Scheme does not provide the solution which would meet the concerns of all members of the ethnic minorities. Their position was considered when the British Nationality Scheme was introduced. As the report acknowledges, the British Nationality Scheme is intended for a different purpose and not for a specific ethnic minority group. It would not be possible to accommodate the 7 000 members of the ethnic minorities, comprising perhaps 2 000 to 2 500 families, within the second tranche of the British Nationality Scheme, without greatly distorting the allocation and changing the objectives of the scheme.

The Administration has passed to the British Government the views they expressed on this issue last November. We have also been reporting the deliberations of the Nationality Subcommittee. And I am aware that the chairman of the Subcommittee and other members discussed the subject with the Home Office Minister, Mr WARDLE, at the Home Office in January this year.

The British Government has again considered the question of the ethnic minorities in Hong Kong, and has asked me to use this opportunity to pass on more formally their response to the November debate. First, the British Government has asked me to stress against that there can be no question of increasing the scale of the British Nationality Scheme beyond the agreed total of 50 000 principal beneficiaries, in order to accommodate the ethnic minorities.

Secondly, the British Government has confirmed that it is not possible to grant British citizenship to the ethnic minorities in Hong Kong under the British Nationality Act 1981. New primary legislation would be necessary if special treatment were to be accorded to this group. The British Government, however, is not persuaded of the case for fresh legislation to give British citizenship to the ethnic minorities. It believes that this community's position in Hong Kong is secure: neither their children or grandchildren will be stateless; they are eligible to apply for citizenship under the British Nationality Scheme, and some have applied and been successful; and the British Government stands by its undertaking to consider their case for admission to the United Kingdom with particular sympathy if, contrary to expectations, they were in future to come under severe pressure to leave Hong Kong.

This is not new, and I recognize that it will come as a disappointment to Members of this Council and to the ethnic minorities. I would not, however, wish to raise expectations of a more favourable response in future.

As regards the position of the Hong Kong Government on this issue, I should like to spell this out with reference to the points in the report itself.

The report refers to the fact that the ethnic minorities are deeply rooted in the Hong Kong community. I acknowledge this, and their wish to remain in Hong Kong where they have prospered and made their homes. I am sure that Hong Kong people, as well as the British, Chinese and Hong Kong Governments, wish them to stay in Hong Kong. That is why we sought and obtained the right of abode in Hong Kong for this minority in the Joint Declaration. This is reflected in the Basic Law.

It is not correct to call these people stateless. The change of sovereignty in 1997 will not make them stateless. All those who are now British Dependent Territory Citizens (BDTCs) will continue to have British nationality either by registering as British Nationals (Overseas) (BNOs) or automatically as British Overseas Citizens (BOCs). In either case, they can continue to hold British passports. They will be eligible for British consular protection throughout the world, including in the Hong Kong Special Administrative Region. Their status as British nationals will be transmissible to their children and grandchildren. Transmission by descent will not go beyond the second generation, but nor does it for any expatriate British citizen living outside the United Kingdom.

I agree, however, with Members that the ethnic minorities are in a special position, and I acknowledge the valuable contribution which they have made to Hong Kong. I accept that most members of the group have every intention of staying in Hong Kong, and are simply seeking a reassurance which will enable them to face their future in Hong Kong with confidence.

I recognize the strength of feeling of many Members of this Council that the existing assurances are not adequate for the purpose, and that full British citizenship should be granted. If the motion today is passed, we will certainly put the case once more forcefully to the British Government.

PRESIDENT: Miss Emily LAU, do you wish to reply? You have 5 minutes 50 seconds.

MISS EMILY LAU: Thank you, Mr President. Needless to say I am deeply disappointed and saddened and disturbed by the Government's response and I am actually at a loss as to how the Government is going to vote.

Mr President, it is very, very sad that the British Government should use this occasion to turn down our request. And of course I do not accept their argument that they cannot increase the quota of the Nationality Selection Scheme or they would need new primary legislation in order to give these ethnic minorities a new arrangement. If there is a will, there is a way, Mr President. Throughout the debate Members have repeatedly said that we know it is an uphill battle and it is very difficult. But I think the least that this Council and the ethnic minorities can expect is the full support of the Hong Kong Government. And the Secretary for Security did not tell us that. But I certainly hope that the three government officials will vote in favour of the motion and then after that, as suggested by Mr BARROW, they will take the case very forcefully to the British Government.

This morning, Mr President, I made a personal appeal to the Governor. I went to see him and I said this is a very important motion debate and I hope the Government will support us. And, of course, we repeatedly hear that one cannot put a piece of tissue paper between the Governor and the Prime Minister and if the relationship is really that close, I said to the Governor: "Please use your authority, use your friendship, to persuade the British Prime Minister to persuade the Home Secretary to do Hong Kong a favour". I told the Governor the Hong Kong people are very cynical and very suspicious of Britain. Why? Because Britain would never even make a small sacrifice for the benefit of the Hong Kong people. And I told him this morning saying: "Now is the opportunity for you to tell the United Kingdom Government — and it is not even a small sacrifice — to do something for the very, very vulnerable group in Hong Kong. We are not even asking you for 3 to 4 million passports, we are just asking full British citizenship for 7 000 people".

And I am very disappointed, Mr President, to hear the Government's lame, weak response. I think we, the Hong Kong people and the ethnic minorities, deserve much better. I certainly hope that all of us will vote in favour of the motion, and I mean including the three officials, and then together we will take this case to London. And I am sure if the Governor is behind it, if the Hong Kong Government is behind it and if the whole Council is behind it, we should have a fighting chance of helping these people to get what has been robbed of them. I mean we were all once British nationals, but Parliament by successive acts downgraded us and turned us into third, fourth class citizens. And now some of us are going to be Chinese nationals, but the ethnic minorities are going to be nothing. This British status is meaningless and, as the Secretary for Security said, it could not be transmitted to the third generation.

So I think, Mr President, we in this Council and the ethnic minorities have a very powerful moral case and Britain must be reminded, and reminded very forcefully, that she cannot turn her back to her subjects and I certainly hope that all the three officials will vote in favour of the motion. Thank you.

Question on the motion put and agreed to.

Adjournment

CHIEF SECRETARY: Mr President, I move that this Council do now adjourn.

PRESIDENT: Mr Moses CHENG has given notice to raise a matter for reply by the Government. Members have been advised by the House Committee that Members speaking should keep their speeches within five minutes. This is for Members themselves to observe. The total time available for Members to speak remains at 45 minutes.

I will at this point invite Mrs TU to take the Chair in my temporary absence.

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

Wife abuse

MR MOSES CHENG (in Cantonese): Madam deputy, we can see people from all walks of life enthusiastically celebrating the international Women's Day since Monday. At the same time, we also see people launching protests, demanding abolition of laws and activities that discriminate against women. Amid these celebrations and protests, I propose this adjournment debate today, hoping to remind people from all walks of life and the Government of the need to acknowledge and pay attention to the wife abuse problem. Although work is being done by the Government and the voluntary agencies to look after battered women, CRC colleagues and I were very amazed by the lack of concern over the wife abuse problem by various sectors during my discussion with CRC colleagues on the this problem over the past weeks.

First of all, I find that the information and statistics concerning the wife abuse problem are very incomplete indeed and they cannot indicate the impact of this problem on the Hong Kong society as a whole.

From the experience gained in the course of my work and my service with various voluntary agencies, I know that the wife abuse problem in Hong Kong can never be fully assessed by means of the number of cases handled by the Harmony House or the government-run Wai On Home for Women. Nevertheless, it is not difficult for us to realize that the problem is getting serious from the ever rising figures every year. Then how come the whole wife abuse problem is not taken seriously?

One of the main reasons is that ordinary people still cling to the traditional Chinese thinking that a dispute between a husband and a wife is but a lovers' quarrel which is settled in no time; and that one would rather teach another person how to chastise his son than to separate from his wife.

Therefore, whenever a battered wife seeks help or lodges a complaint, her case is considered as an ordinary family dispute. After giving advice to both parties, no further action will be taken. As for the Government, departments involving in and dealing with the wife abuse problem are many. Generally speaking, the police are at the front line to receive complaints. The Social Welfare Department subsidizes and manages the agencies that provide services to abuse victims. Offices serving in other departments such as the Legal Aid Department, the Department of Health and the Hospital Authority, the Housing Department and even the Education Department also come across the wife abuse problem in their work. In today's adjournment debate, several CRC colleagues will speak on the inconsistent way of handling the wife abuse problem by various government departments. From their speeches, we can see that every government department is doing things its own way and there is a lack of co-ordination and overall planning. Not only does this phenomenon explain why we are unable to have a thorough understanding of the wife abuse problem, it also leads to the piecemeal and superficial services and protection provided to the abused women.

If we can pay more attention to the wife abuse problem, we can understand the pressure that the victim is under and the predicaments she is in. For us, the home is usually considered the safest and warmest place. But for these abuse victims, their homes are neither safe nor warm. On the contrary, their homes are the places where they are liable to be harmed anytime. Let us ask what they are faced with. Let me also ask Members to imagine this: A woman, who has left home for a period of time to receive counselling, returns home; if her husband has not been given appropriate care and counselling during the same period and has not changed for the better, what will happen to her after her return to home?

Madam deputy, I hope that I can urge the Hong Kong people not to neglect the wife abuse problem any longer with today's adjournment debate. Or rather, I hope that everybody can view the wife abuse problem as a problem not only affecting the individual but the whole family. Moreover, I sincerely hope that the Government can actively co-ordinate and have overall planning for the services and protection provided to abused women. The Government should consider deploying an inter-departmental organization to examine the wife abuse problem thoroughly, so as to formulate a comprehensive set of policies to solve and prevent the problem. I definitely do not wish to see the Government finding remedy only after a tragedy has occurred.

MRS SELINA CHOW (in Cantonese): Madam deputy, tragic wife abuse cases in Hong Kong today are more common than we generally imagine in such a civilized and modern community. Such a social problem involving unfairness and cruelty has been overlooked because people always regard wife abuse as somebody else's family dispute and none of their business. This attitude has been exploited by the government departments concerned to justify their failure

to offer assistance to wives frequently battered by their husbands and work out a radical solution to the issue.

Professionals in many disciplines encounter wife abuse cases in the course of their day-to-day work. From the time a victim was being threatened by her husband to the first time he used physical violence to her, to repeated assaults, the case of the battered woman may have already been handled by many people, including social workers from family services centre, police officers arriving at the scene after receiving the report, medical and nursing staff tending the victim at hospital, Housing Department staff allocating public housing for the victim, lawyers assisting in divorce proceedings and teachers in touch with children of the affected family. However, they act in their own way without any co-operation or co-ordination when handling wife abuse case. This not only inhibits us from getting a full picture of the actual situation, but also renders services and protection offered to victims piecemeal, fragmentary and sometimes even not in agreement.

Among the above-mentioned professionals, social workers are most frequently in touch with battered wives. About 36% of the women staying at Harmony House are referred by social workers to it. Unfortunately, the social service training programme provided by the tertiary institutions do not offer special courses on wife abuse at the moment. Without the necessary professional knowledge and skills, a serving social worker may make wrong moves when handling wife abuse cases, such as arranging the victim to meet her violent husband against her will. Similarly family services centres do not have social workers with special training to handle wife abuse cases whereas existing available resources cannot be effectively utilized to assist the victims. Given the fact that even social workers are in such a helpless state, we just cannot expect much from other professionals, who have even less relevant skills and expertise, to have a grasp of, or to forestall this frightening social phenomenon.

I would like to urge professionals who have close working relationship with battered wives to take a proper attitude and draw on necessary knowledge to help this group of unfortunate women when offering them services. But the most important point is that it is imperative that the Government should adopt a right attitude and formulate a comprehensive strategy to tackle this increasingly alarming problem. It should no longer deal with it indifferently and evasively. I strongly request the Government to demonstrate its determination and show its *bona fide* intention to play a leading role by setting up a central working group on wife abuse comprising representatives from all the relevant government departments and voluntary agencies. The working group should formulate a set of effective strategies and implement the necessary measures. Only the Government has the authority and resources to pool together all efforts and to co-ordinate such an essential task.

During the motion debate of trauma to children on 10 February by this Council, there was a call for the Government to reconstitute the working group for the prevention of child abuse. Yet we were disappointed to learn that the

Government rejected the proposal in its reply dated 16 February. I hope that my proposal today will not meet the same fate. I have once mentioned the issue of wife abuse to a senior government official whose immediate response was that it fell within the jurisdiction of another branch. Such an irresponsible attitude plays a part in our failure to successfully forestall and resolve domestic violence. Government departments concerned should do a soul-searching to see how they can keep abreast with our social needs.

MRS PEGGY LAM (in Cantonese): Madam deputy, wife abuse is a long-standing problem in Hong Kong. In the past, wives who were abused used to swallow the insults either because they did not want to wash their dirty linen in public or there was no channel for them to make the complaint. The fear of being further abused, the lack of financial support and a sheltering place also account for their submissiveness. Since shelters for women such as Harmony House and Home for Women were established by voluntary agencies in 1981, temporary accommodation has been made available to battered wives. And their children can continue to be taken care of by their mothers. Psychological counselling and financial assistance are also available. Apart from encouraging battered women to stand up bravely to make known their plight so as to seek fair treatment, the above measures also serve as a deterrent to husbands with a tendency for violence. Voluntary agencies have indeed been of great help to many unfortunate women. Shelters run by such agencies offer round the-clock hotline services, tuition classes for children, casework counselling and so on. Their staff frequently visit ex-inmates to give assistance and encouragement to them, so as to help them to restore their confidence in the family and re-integrate into the community.

Funding is of course required for the provision of services. It enables the recruitment of an adequate number of social workers to render quality services. Regrettably, voluntary agencies concerned still fail to obtain full subsidy from the Social Welfare Department. Though these shelters offer the same kind of service as those run by the Government, the Social Welfare Department adopts different manning scale in determining their manpower requirement. As a result, their services are affected. Madam deputy, I hereby call upon the Social Welfare Department to review promptly its subsidy to these voluntary agencies so as to enable them to maintain and further improve a type of service which is extremely essential to women in Hong Kong.

Madam deputy, these are my remarks.

MRS MIRIAM LAU (in Cantonese): Madam deputy, how serious is wife abuse in Hong Kong? In the absence of complete statistics, it is difficult to have an accurate picture. However, the number of "battered wife" cases reported to the Social Welfare Department was 487 in 1988 and 172 in 1992. Besides, the number of women moving into Harmony House has increased from 105 in

1988-89 to 164 in 1990-91. Though these figures are piecemeal, they are sufficient to show that wife abuse is a problem which deserves our attention.

There is no clear definition of wife abuse in law. We know from actual life that wife abuse may include battering, mental cruelty, sexual abuse and so on. Under the Domestic Violence Ordinance, either party to a marriage may file an application to the court for an injunction to restrain the other party from molesting any child living with the applicant or exclude the other party from the matrimonial home. When the court grants an injunction, it may attach to it a power of arrest which authorizes the police to arrest any person who is in breach of the injunction. However, in attaching such a power of arrest, the court has to be satisfied that the applicant has received actual bodily harm. Insofar as this Ordinance is concerned, I would like to make the following three points:

Firstly, the Ordinance does not give any definition to the term "molest". Since the Ordinance is cited as "Domestic Violence Ordinance", many people think that the term "molest" must involve the element of violence. Therefore most of the applications filed with the court are mainly battering cases. Yet, we could see from past cases that the court adopts a broad interpretation of the term "molest". Apart from physical torture, it also covers mental cruelty. Unfortunately, at present, not too many women know that they can apply for an injunction when battered by their husbands. It goes without saying that there are fewer women who know that such application can also be made on grounds of emotional torture. I think the Government should step up publicity so as to educate women about their legal rights and the protection given by law.

Secondly, under the Ordinance, the applicant must have been battered by the spouse and sustained physical injuries. Otherwise, the court would not attach a power of arrest to enable the police to take action. There was a case in which the husband threatened to harm his wife. He even put a sharp weapon under the pillow to scare his wife. However, since the wife did not sustain any physical injury, the court only granted an injunction without attaching to it the power of arrest. As a result, the husband continued to go to the places frequented by his wife, causing her to live in fear and trepidation. Yet the police could do nothing about it. I think amendments should be made to the Ordinance so that women under the threat of violence can be protected by the attachment of a power of arrest without having to prove that she has sustained physical injuries.

Thirdly, the order excluding the other party from the matrimonial home and the power of arrest are usually valid for a period not exceeding three months. The time is too short to bring about a reconciliation between the two parties or for either party to institute divorce proceedings. Six months would be more appropriate. As the Domestic Violence Ordinance has been in force for six to seven years, it is time to conduct a review in order to plug loopholes and make up for its inadequacy.

I think the police should improve their attitude in dealing with the complaints made by the abused wives. Most women turn to the police for assistance in the first instance when they were battered or tortured by their husbands. However, most policemen still subjectively regard wife abuse as a family dispute, or just a storm in a teacup between the two parties. And they think it is not appropriate for them to intervene. Neither are they willing to take actively any law enforcement action against the husbands nor to give assistance to the victims concerned. We cannot put all the blame on the duty officer. In fact, the Police Force has never paid much attention to the problem of wife abuse. As far as I know, male police officers do not have any training on the handling of wife abuse cases when they were in the Police Training School. No detailed information is given in the police internal guideline to teach the police how to handle such cases. It only briefly mentioned that such cases may be referred to Harmony House and the Social Welfare Department. As a result, the police officers, in general, have little knowledge about existing services for the abused wives, and they do not understand much about the legal rights and protection enjoyed by the abused women. According to statistics, only 41% of the abused women were referred by the police to family service institutions, and only 20% are informed of the availability of shelters. As for women taking refuge in Harmony House last year, only 4% of them were referred by the police. Besides, of the women who approached the police for assistance, only 43% were informed of their legal rights. All these leave a lot to be desired. I think that the Police Force should as soon as possible enhance the officers' awareness of the problem of wife abuse and the related services; change the basic attitude of the police officers towards this problem; and update the internal guideline on the handling of wife abuse cases so that the processing procedures would be more systematic. The officers should also be told not to take a subjective view of the problem in order that every wife abuse case would be seriously looked into.

Madam deputy, these are my remarks.

MR ALBERT CHAN (in Cantonese): Madam deputy, I wonder if there is any symbolic meaning in the President inviting you to take the Chair the moment we came to this question of wife abuse. But I do not imagine it is because you have more experience than he does in this respect.

On the face of it, the term "wife abuse" induces fear and horror. I believe it should not be the behaviour of a normal person. But if we try to understand and study in detail its meaning against the actual social circumstances of the present day, we would have no difficulty in realizing that wife abuse is indeed a very common phenomenon. That wife abuse is a common problem does not in any way imply that it is normal and acceptable. Quite on the contrary, since the problem is so common the Government has to address the serious and adverse social consequences produced by this phenomenon or behaviour.

Abuse can be separated into two levels. The first is physical and is relatively easier to understand and generally unacceptable to the community. The other level is mental and emotional abuse. However, abuse at the emotional level is more abstract and generally difficult to define. Nevertheless, the harm done by emotional abuse is no less than that by physical abuse. In serious cases, the trauma and adverse consequences caused by emotional and mental abuse could be far more intense and long lasting than that by physical abuse.

In a westernized but predominantly Chinese community like Hong Kong, while the lifestyle may be obviously westernized, there is more or less some vestigial element of traditional Chinese feudalistic thinking within the Hong Kong community which is patently male-centred in terms of accepted values. In the man-woman relationship, men are usually in the leading position with women playing a secondary or subsidiary role. Under the influence of such values, the position and needs of women, particularly their social and emotional needs, are very often overlooked. In daily life, a husband would often infringe his wife's rights or hurt her pride either verbally or in the context of man-woman relationships. For example, many husbands have the habit of complaining about the inabilities of their wife, such as failing to do the household chores properly or failing to teach the children which results in the children having behavioral or study problems. This kind of complaints in fact constitute emotional abuse. One may say that the husband has committed the crime of wife abuse. I believe some of the honourable gentleman Members seated here today might have committed this crime.

In the presentday unique community of Hong Kong, wives find themselves in a very difficult situation. Bound by the so-called traditional Chinese virtues, they would normally resign themselves to being abused (including emotional abuse). From my years of experience as a social worker and the cases which I have come across, wife abuse is so very common in Hong Kong that the number of incidents is countless.

I feel that one's pride and rights are very important. Any offending act against a person must be criticized, censured and punished, while those who are victimized (emotionally as well) should be protected, compensated for and given assistance. However, government services for women are now obviously insufficient. Here I should like to call upon the Government to step up education on the rights of women especially on how men should treat the fair sex, and to provide diversified services for needy women (the abused in particular).

Madam deputy, I so submit.

MR FREDERICK FUNG (in Cantonese): Madam deputy, generally speaking, "wife abuse" is a rather sensitive issue in the Chinese community. Victims usually dare not seek outside help for fear of washing their dirty linen in public, becoming a laughing stock among relatives and friends or displeasing their

husbands. Sometimes, the victims would rather enduring the abuse than leaving their husbands because they are afraid that, if they do so, they will be unable to afford a livelihood.

The traditional Chinese notion that man is superior to woman and man is stronger than woman is so deeply rooted among the people that even though members of the public do not find it acceptable for husbands to vent the spleen on their wives by battering them, it is regarded as a kind of family dispute and does not attract much attention from others. This traditional thinking effectively encourages husbands to employ violence against their spouses as a means to settle problems.

Furthermore, when handling suspected wife abuse cases, police officers usually classify them as general family disputes. They even play the role of mediator in persuading both parties to reach reconciliation. The cases are then considered as settled. But actually, they are just sweeping the problem under the carpet.

Harmony House, an organization specifically set up to provide shelter for battered women only, received 1 786 hotline enquiries in 1992, doubling that of the same period in 1991 which totalled 825. As a matter of fact, the figures also show that the physical or psychological abuse cases by husbands accounted for most of the enquiries and the scale and gravity of the problem.

In view of the deep-seated traditional thinking, I am afraid that wife abuse is not a problem which can be solved overnight. Nevertheless, the Government should make available sufficient resources to the female victims. Harmony House which takes in battered women for temporary shelter can only accommodate 40 people at one time, always causing an excessive demand over supply. The Government should increase its subsidy in this direction.

Since police officers are frequently involved in handling battered wife or domestic violence cases, I feel that it should be incorporated into the police training course the ways how to handle domestic violence so as to help the officers to have a better understanding of the problem when they encounter relevant cases in their daily operation. It would be better to assign female police officers to handle such kind of cases because this could give the victims a sense of security and encourage them to report their cases to the police. An incidental advantage of this arrangement is that it could encourage more victims to come forward because many women may have the misunderstanding that male police officers would tend to be siding with the male.

If battered wives are to be truly freed from the control of their violent husbands, it is essential to put them under legal protection. At present, as long as a battered wife stays at a temporary shelter centre, she would be under no threat of her husband's harassment. However, as long as she returns home, she would have no right to apply for an injunction under the law. In view of this, I think the existing new family legislation warrants a review. And the Legal Aid

Department should increase its manpower to process divorce and domestic violence cases.

Meanwhile, the Government should introduce to Hong Kong the Convention on the Elimination of All Forms of Discrimination Against Women. To achieve equality between the sexes, it is essential for the Government to impose legal protection as a means to create the right social climate and rectify sexual inequality.

With the above-mentioned issues in mind, I propose to set up an inter-departmental working group to assist in solving the problem. Membership of the working group should at least include representatives of relevant departments (such as the Social Welfare Department, the Royal Hong Kong Police Force, the Legal Aid Department, the Education Department and the Hospital Authority) and representatives from social service agencies providing assistance to battered women. The main tasks of the working group are fourfold:

- (1) To enhance the co-ordination and co-operation among government departments on the issue of wife abuse.
- (2) To review existing domestic violence cases kept with various departments, in particular the records of wife abuse cases. Sort out the data concerning wife abuse in a systematic way and keep a more complete information record so that we may establish a more accurate picture of the gravity of the problem and make reference to it when developing our services in the future.
- (3) To formulate some clear guidelines, procedures and code of practice in the handling of wife abuse cases.
- (4) To ensure that relevant departments would have a better understanding and idea about wife abuse problem and take the necessary action to introduce relevant training programmes.

Madam deputy, these are my remarks.

DR LAM KUI-CHUN (in Cantonese): Madam deputy, fairy tales in the West usually have the happy ending, stating that "the lovers finally got married" or "they lived happily ever after". Nowadays, however, it is easy for a couple to get married after all, but difficult to live happily ever after. Some voluntary agencies provide temporary shelter for female victims of abuse and try their best to help. Nevertheless, it is against the time-honoured Chinese belief to help married women to desert their families and to encourage them not "to follow a cock after marrying it; not to follow a dog after marrying it" but to desert their families and their husbands. I guess that for a typical Chinese wife who is abused, the best ending, in the heart of hearts, is that her husband will come

round one day so that they can resume their happy lives again. With that in mind, if a woman is so unfortunate as to be "pecked by a cock after marrying it or bitten by a dog after marrying it", I think, as a sensible solution, apart from rendering support to the abused woman, appropriate assistance should also be offered to the "cock" or the "dog".

All those concerned who would deal with such cases in the course of their work should maintain vigilance and make suitable referral if and when such cases come to light. Usually a female victim will go to consult a doctor to receive the necessary examination and treatment. In this connection, a doctor is at a favourable position in terms of unearthing wife abuse cases. It is a pity, however, that most of the doctors are extremely busy. In wounding cases, they would only focus on the treatment of their patients without bordering to look into the causes leading to the wounds. In fact, quite a number of wife abuse cases are reported because the victims, after being given the treatment, are found lingering around the hospital, being too frightened to go home. Nor do medical schools offer courses on how to deal with the "causes of wounding cases resulting in non-fatal injuries". I think it is imperative on the part of the Government to urge doctors serving in the Accident and Emergency Departments to heighten their awareness about wife abuse cases. Meanwhile, when dealing with wounding cases, doctors with the Hospital Authority should all be required to pay attention to the causes leading to the injuries in such cases. They should refer the cases to social workers, where appropriate, so that counselling can be given to both the wife as well as the husband concurrently in the hope that a more comprehensive and reasonable solution for their problems can be obtained.

What is more important than providing remedy in the aftermath is to introduce precautionary measures for husbands to defuse any possible wife abuse cases. A large number of wife abuse cases are mainly attributable to the fact that the husbands, being exposed to excessive work pressure, become easily agitated. Returning home under such strain, when things do not turn out as they wish, the husbands tend to vent their grievances on members of their families. Conversely, recent reports in foreign countries have it that there is a new trend of highly agitated wives assaulting their husbands with knives, forks and sharp implements from the kitchen, due also to the excessive stress of life. Has the Government ever suggested to the Housing Department and the Recreation and Sports Service Division about establishing some "half-way stress relief centres" and providing facilities for mitigating people's work pressure after office hours and for promoting both physical and mental health, such as personal health programmes which are popular in foreign countries, sauna facilities, karaoke salons, and classes such as yoga and meditation originating from India? Indeed even a small amount of regular exercise after work will enable an irritable person to regain a peaceful mind. Should the Government put these proposals into practice, not only will it be possible for lovers to get married at the Marriage Registry, but couples can also "live happily ever after" with the help of the Recreation and Sport Service Division.

MR GILBERT LEUNG (in Cantonese): Madam deputy, wife abuse is an old social problem that still exists today. I think it is the Government's responsibility to look after abused women and their children, so that they may be given due protection and care while the children may grow up in a normal environment.

Today, I would concentrate on the provision of accommodation and counselling service for abused women. When an abused woman decides to separate from her husband, accommodation will undoubtedly be the most pressing problem for her. However, the existing criteria for compassionate rehousing for divorcees are so very stringent that some of the abused women are not provided with rehousing. But the majority of abused women do not wish to return to their original dwelling place as they are afraid of harassment by their husbands. When they apply for rehousing in another district with the Housing Department, the time taken for processing is so long that many of them dare not return home and they would rather rent a place, thus having to pay double rents. And even if the court orders that occupation of the public housing unit be awarded to the abused woman, the husband might keep menacing the woman out of hatred. Therefore, I think that the Government should increase the supply of singleton public housing units to satisfy the demand from divorcees. Moreover, the Housing Department should also give consideration to the special situation of abused women, simplify the application procedures for rehousing in another district and relax the criteria for compassionate rehousing.

As to counselling service, the present social work courses organized by the various tertiary institutions offer no special discussion on the question of wife abuse. As a result social workers face a lot of difficulties in handling wife abuse cases. At present, the various family service organizations have deployed no specialized social workers to handle wife abuse cases. These social workers are sometimes threatened by the husbands of their clients. Therefore, I suggest that professional training courses in the subject of wife abuse be organized by the tertiary institutions, while the Social Welfare Department should organize some in-service courses to train a group of social workers specially dedicated to the handling of wife abuse cases. In addition, non-profit-making voluntary agencies should assign experienced social workers to handle such cases. Moreover, a set of guidelines on handling wife abuse cases should be formulated to help social workers provide counselling for all parties concerned in a wife abuse case on how to confront sudden threats of violence. Besides, the Government should develop new services to provide some remedial counselling for wife abusers and their children.

Madam deputy, I so submit.

MR MAN SAI-CHEONG (in Cantonese): Madam deputy, wife abuse has become a social issue and should no longer be regarded as some trivial domestic fight. Abused wives are usually found to be in low spirits and numb with shock, caught in the painful dilemma of whether to desert home or stay behind.

Though ashamed of their husbands' behaviour, they would be reluctant to confide their problem to their friends probably for fear of washing their dirty linen in public. Abused wives usually feel their pride being hurt, lose their confidence in others and are unable to overcome misgivings in marriage and sex. In such circumstances, outside assistance and support are of paramount importance. However, in Hong Kong, we are yet to establish a set of widely accepted values and systematic services with regard to the handling of wife abuse cases. Now abused wives can only rely on some relatively small-scale and piecemeal services. As the Government has all along underestimated the gravity of wife abuse, the existing services provided by various sectors are evidently insufficient to meet the demand. For instance, agencies such as Harmony House have always been struggling to meet the demand.

In order to review the current policy on tackling the wife abuse problem, I support the call by a number of colleagues in this Council for the Government to set up an interdepartmental working group on wife abuse. Only by doing so can we remedy the existing situation where the services and protection are piecemeal and fragmentary, co-ordinate all related services and draw up an overall planning to solve the wife abuse problem. This interdepartmental working group on wife abuse could study the causes and explicitly define the meaning of wife abuse in order that the departments concerned could have a set of guidelines to follow when they handle wife abuse cases and need not resort to their own judgment alone. Take for instance, when the police handle such cases, they usually treat them as merely another assault case and fail to realize the complexity of the problem. As to social work counsellors, some of them, while handling cases of wife abuse, tend to talk the wives into returning to their homes where they have to confront their violent husbands, hoping that this would prevent their families from falling apart. In this connection, the interdepartmental working group may find some positive roles to play in the sense that it would offer more long-term and thorough assistance to the abused wives, strengthen communication and co-operation among departments concerned and consequently formulate a co-ordinate development package and a set of implementation procedures.

Furthermore, to some abused victims coming from the lower social strata, their most fundamental needs are indeed some financial support and accommodation. The Government should provide such a victim with the necessary resources in order to enable them to have sufficient time to reconsider their relationships with their husbands. It should ultimately be the victims themselves to decide whether to leave or stay with their husbands according to their own will. What is more, the Government should help them by providing them with financial support, home help service, temporary shelter, compassionate rehousing, legal aid and so forth. As for some special centres providing married couples with talks on psychological problems, psychological treatment and counselling, the Government should also offer them support and funding as they are also instrumental in resolving the problem.

MR JAMES TO (in Cantonese): Madam deputy, just now Mrs Miriam LAU has from a legal point of view explained how the problem should be addressed and reforms introduced. For example, improvements can be made to the current situation through the Domestic Violence Ordinance and other relevant legislation. I very much agree with her analysis and indeed commend it. However, there are a few points which I would like to add.

First of all, since the Domestic Violence Ordinance is applicable only to married couples, it means that divorcees cannot apply for injunctions under this Ordinance. Problems therefore arise where after a divorce the ex-husband is still obsessed with or inclined to some abusive behaviour, thereby posing a threat to his ex-wife. In these circumstances, if we are to resort to legal action, we have to follow the ordinary procedure instead of applying for an injunction under this Ordinance. However, the problem with ordinary injunctions is that the alleged victim cannot apply to the court for an injunction unless the alleged tortfeasor or wrongdoer repeatedly does the act complained of. Yet the wrongdoer cannot be sent to jail unless he is found guilty of contempt of court. But when the defendant is charged with contempt of court, he may plead guilty, saying that he will not commit the offence again. In such circumstances, the court will incline towards leniency in sentencing. The special feature and essence of the injunction under the Domestic Violence Ordinance is that it can, by way of its attachment of arrest power, empower the police to arrest the party who has acted contrary to the Ordinance. In other words, the Ordinance confers the power to arrest. I hope that the Administration will conduct a study on the relevant legal aspects to see whether provision can be made so that this special injunction with attachment of arrest power can still apply to divorced couples during a short period following the divorce in order to improve the situation.

The subject of this debate is wife abuse. However, once divorced, the divorced woman is no longer the wife. So how should we deal with the problem concerning her? Besides, there are still a lot of controversies as regards the question of right of access to the children. Earlier today, I read a submission by the Kwan Fook Women Concern Group, which has made two very good points; so good that I cannot find better words to express them. I am therefore going to read them out. It is argued in the submission that "the abusive husband's right of access to the children after the divorce has brought psychological pressure and fear to the abused party. At the request of the abused woman, some social workers of the Child Protection Services Unit will usually recommend to the court not to allow the father access to his children in supervised circumstances, for fear that a third party may interfere during the visit, posing a severe threat to the abused woman and the children". My practising experience has borne out the truth of this point. Nevertheless, we accept that the party denied the custody of the children should have the right of access. This is very reasonable. But if the behaviour of that party (usually the ex-husband) is harassing and threatening his ex-wife and children, his right of access should then be suspended as a penalty. I think that there are many cases where the abusive husband is very kind to his children and he will therefore not

give up the chance of visiting his children once a week. It will be a severe penalty for him if his right of access is forfeited or terminated. Will this make him abuse his ex-wife again or will this discourage him? I believe that the court may consider this question from a legal point of view.

I so make my submission.

6.56 pm

SECRETARY FOR HEALTH AND WELFARE: Madam President's deputy, I am most grateful for this adjournment debate on wife abuse, particularly in this week when we celebrate International Women's Day, and more particularly when the debate is moved by a man, the Honourable Moses CHENG. I am equally grateful to hear that we are in fact against wife abuse and will certainly consider some of the constructive suggestions. I need not repeat the arguments but I do wish to make a few points as to fact and to share with Honourable Members some relevant statistics.

Introduction

Abuse of any kind is a serious matter in that it endangers or impairs one's physical or mental well-being. Any abuse causes tremendous pain and suffering not only to those abused, but also to others around them.

Statistics

There has, in fact, in recent years, been a steady decline in the number of "battered wife" cases. The figures known to the Social Welfare Department have fallen from 455 in 1988-89, to 272 in 1989-90, 236 in 1990-91 and 209 in 1991-92. This decline has also been borne out by police statistics on female victims wounded or assaulted by their respective spouse. The figure has come down from 173 in 1991 to 160 in 1992. I hope sincerely that this downward trend continues.

I note that Honourable Members have focussed only on "wife" abuse. But it is not only wives who are abused or battered. There are sad and tragic child abuse cases the subject of which was debated in this Council not so long ago. Police statistics over the past four years indicate that domestic violence can also happen to men assaulted by their wives, although the figure in this respect is lower. The ratio of battered husbands to battered wives is 1:5. Could it be that men as a group are more violent than women? Or could it be that battered men are too ashamed to come forward?

Be that as it may, it is understood that domestic violence tends to be a much under-reported crime; and that it can happen to children, to men as well as women.

Services provided

Now I would like to inform Members of services available to victims of spouse abuse. As regards medical services, prompt medical attention and treatment at Accident and Emergency Department is given to victims of abuse. With the consent of the patients concerned, their cases are referred to Medical Social Workers for investigation, counselling and other appropriate action. The patients are also advised to file a report with the police. Other non-governmental organizations also provide supporting services for these victims.

Protection under the law, as was mentioned here, is given under the Domestic Violence Ordinance (Cap 189). The Ordinance lays down procedures for the granting of injunction and arrest of persons in breach of the injunction order. Where cases are reported to the police, they are investigated in the same way as in any other reported crime. It is a common fallacy to assume that domestic violence is treated lightly by the police as a family dispute or private affair. It is not so. Since studying the problem via a Working Group set up by the police on Domestic Violence and Child Abuse, the police have instituted measures to give advice and to provide information on the role and power of the police, avenues of legal redress available and details of services provided. However, the ability to prosecute the abuser is often hindered by the reluctance of the victim to make a statement incriminating the spouse.

Counselling

Counselling is provided to victims of domestic violence. They can approach family service centres of the Social Welfare Department or non-governmental organizations for help. The family service centres offer counselling, assistance in arranging temporary shelter, child care service and financial assistance. If necessary, a battered wife is referred to the Legal Aid Department for help. A victim can then seek an injunction from the courts against the spouse under the Domestic Violence Ordinance.

The Family Section of Legal Aid Department is introducing a morning clinic where any client may attend without appointment to deal with urgent concerns. It also has a hotline telephone referral to the Social Welfare Department and makes direct referrals to the police. In urgent cases, an injunction can be obtained within hours. The excellent liaison and co-operation which exists between government departments and non-governmental organizations will be further formalized through the formation of a Family Concern Clinic in the Family Section of the Legal Aid Department.

Temporary shelters for battered women

We all know that two shelters for women operate round the clock to provide temporary accommodation for battered wives and their children. Wai On Home for Women is operated by the Social Welfare Department and Harmony House is run by a non-governmental organization. Both shelters

receive direct applications and referrals from the police, hospital staff and social workers.

Assistance towards housing

In order to meet the urgent need for separate housing for separated or divorced couples, the grant of a conditional tenancy in a public housing estate is available to the aggrieved party with dependent children under the compassionate rehousing category, while he or she awaits the award of a divorce decree and custody of children. This scheme is meant to enable separated persons to move away from his or her spouse while awaiting a divorce.

Preventive measures

Family is the heart of society. It should be a place of love and security. Regrettably, it is sometimes not so. Prevention of domestic violence is always better than cure. Our family life education service will continue to focus on the importance of a harmonious family life and how it can be sustained. Family casework and counselling will remain the principal means whereby families are assisted to understand and deal with problems of interpersonal relationships. We will continue to work to preserve and strengthen the family as a unit and to help develop caring interpersonal relationships among family members.

Conclusion

Spouse abuse is a complex problem requiring a multi-disciplinary approach involving professionals such as doctors, social workers and clinical psychologists. More importantly, it is an issue that involves a whole family. There are studies to support the theory that an abusive spouse tends to come from a home where abuse was practised and that the pattern is repeated in the next generation. As a community, we should endeavour to break this vicious circle by promoting the importance of a harmonious family life and, in unfortunate cases, by helping those at risk.

Madam President's deputy, spouse abuse is not only restricted to women. It is not a gender issue. It is a social issue. Whilst much more needs to be done, the problem is nevertheless recognized. Perhaps what we need is not so much sporadic clarion calls to action. What we need, Madam, is heightened awareness and perpetual vigilance and sustained action against all forms of domestic abuse in the family. This is what we have done. This is what we will continue to do. Thank you, Madam President's deputy.

Question on the adjournment proposed, put and agreed to.

Next sitting

PRESIDENT'S DEPUTY: In accordance with Standing Orders I now adjourn the Council until 3.00 pm on Thursday 11 March 1993.

Adjourned accordingly at five minutes past Seven o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Parent and Child Bill and the Trading Funds Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

WRITTEN ANSWERS**Annex I****Written answer by the Secretary for Transport to Mr Steven POON's supplementary question to Question 1**

According to information supplied by the two corporations, the MTRC has at present seven executive directors of whom six are expatriates, and the KCRC has four executive directors of whom one is an expatriate.

Annex II**Written answer by the Secretary for Works to Mrs Peggy LAM's supplementary question to Question 2**

A small amount of residential development on the new reclamation to the northeast of the Wan Chai sports ground was proposed in the Central and Wan Chai Reclamation Feasibility Study, which was endorsed by the Land Development Policy Committee at its meeting on 22 September 1989.

This area can be subdivided into four lots for low density development and particulars are:

- | | |
|---|---|
| (a) Total site area | 41 900m ² |
| (b) Plot ratio | 5.3 (Average) |
| (c) Total gross floor area | 222 000m ² |
| (d) Total number of people accommodated | Maximum 7 000. Exact number cannot be known at this stage |