

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 13 October 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 MRS SELINA CHOW LIANG SHUK-YEE, O.B.E., J.P.

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

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

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

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

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

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

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

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

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

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, J.P.

THE HONOURABLE MOSES CHENG MO-CHI

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

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

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

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

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

DR THE HONOURABLE LAM KUI-CHUN

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

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

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

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

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

THE HONOURABLE TIK CHI-YUEN

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

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

THE HONOURABLE ALFRED TSO SHIU-WAI

ABSENT

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

IN ATTENDANCE

THE HONOURABLE MRS ANSON CHAN, C.B.E., J.P.
SECRETARY FOR THE CIVIL SERVICE

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

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

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

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

MR DONALD TSANG YAM-KUEN, O.B.E., J.P.
SECRETARY FOR THE TREASURY

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

MR LEUNG CHIN-MAN, J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

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

THE DEPUTY CLERK TO THE LEGISLATIVE COUNCIL
MR PATRICK CHAN NIM-TAK

Papers

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Road Traffic (Public Service Vehicles) (Amendment) Regulation 1993	382/93
Commissioner for Administrative Complaints Ordinance (Amendment of Schedule 1) (No. 4) Order 1993	383/93
Prevention of Bribery Ordinance (Amendment of Schedule) (No. 2) Order 1993	384/93
Hospital Authority Ordinance (Amendment of Schedules) Order 1993	385/93
Revised Edition of the Laws (Correction of Errors) (No. 3) Order 1993	386/93
Legal Practitioners (Fees) (Amendment) Rule 1993	387/93
Antiquities and Monuments (Declaration of Historical Building) Notice 1993	388/93
Travel Agents (Amendment) Ordinance 1988 (70 of 1988) (Commencement) Notice 1993	389/93
Travel Agents (Amendment) Ordinance 1993 (51 of 1993) (Commencement) Notice 1993	390/93

Sessional Papers 1993-94

- No. 1 — Land Development Corporation
Annual Report 1992-93
- No. 2 — Statement of Accounts and Report on the
Administration of the Travel Agents' Reserve Fund
for the year ended 31 March 1992
- No. 3 — Report by the Commissioner of Correctional
Services on the Administration of the
Prisoners' Welfare Fund
for the year ended 31 March 1992

- No. 4 — Report of Changes to the Approved Estimates of Expenditure Approved during the First Quarter of 1993-94
Public Finance Ordinance: Section 8
- No. 5 — Revisions of the 1993-94 Estimates Approved by the Urban Council during the First Quarter of the 1993-94 Financial Year
- No. 6 — Regional Council Revised Estimates of Revenue and Expenditure 1993-94
- No. 7 — Hong Kong Housing Authority Annual Report 1992-93
- No. 8 — Hong Kong Export Credit Insurance Corporation Annual Report for 1992-93
- No. 9 — Hong Kong Tourist Association Annual Report 1992-93
- No. 10 — The Government Minute in response to the Report of the Public Accounts Committee dated July 1993
- No. 11 — Twelfth Periodic Report on Hong Kong under the International Convention on the Elimination of All Forms of Racial Discrimination
- No. 12 — Report of the Public Accounts Committee on the Report of the Director of Audit on the Ex-Gratia Compensation for the clearance of the Kowloon Walled City (PAC Report No. 20A)

Addresses

Report of Changes to the Approved Estimates of Expenditure Approved during the First Quarter of 1993-94 Public Finance Ordinance : Section 8

SECRETARY FOR THE TREASURY: Mr President, in accordance with section 8 of the Public Finance Ordinance, I have tabled for Members' information a summary of all changes made to the approved Estimates of Expenditure for the first quarter of the current financial year 1993-94.

Supplementary provision of \$1,012 million was approved. This included \$394 million for the refund of contributions to civil servants opting out of the Widows and Orphans Pension Scheme and the Surviving Spouses' and Children's Pensions Scheme and \$350 million for a grant to the Financial Secretary Incorporated for establishing a Special Trust Fund for AIDS. The

supplementary provision was fully offset, either by savings under the same or other Heads of Expenditure, or by the deletion of funds under the Additional Commitments subheads.

During the period, non-recurrent commitments were increased by \$171 million, new non-recurrent commitments of \$908 million were approved, and approved non-recurrent commitments of \$740 million were revoked.

In the same period, a net decrease of 141 posts was approved.

Items in the summary have been approved either by Finance Committee or under delegated authority. The latter have been reported to the Finance Committee in accordance with section 8(8)(a) of the Public Finance Ordinance.

Hong Kong Tourist Association Annual Report 1992-93

MR MARTIN BARROW: Mr President, I am pleased to table the Annual Report of the Hong Kong Tourist Association for the financial year 1992-93.

In most respects, 1992 proved a satisfactory year for Hong Kong tourism. Recession in major long-haul markets, and the downturn in the Japanese market, did not prevent Hong Kong from achieving a record number of visitor arrivals and record tourism receipts.

The territory succeeded in retaining its position as Asia's most popular travel destination, in an increasingly competitive environment. And tourism climbed in Hong Kong's industry league tables to become the territory's second largest earner of foreign exchange.

There were nearly 7 million "international" visitor arrivals in Hong Kong last year — an increase of 15.8% over 1991. Tourism receipts totalled HK\$48 billion — representing a healthy 22% rise over the previous year.

Arrivals increased from all major markets. The general trend was that more people were travelling again after the impact of the Gulf War, but *per capita* spending figures reflected continued restraint in recessionary times.

Business remained sound for Hong Kong's hotels. Although the number of rooms available for sale per day increased by 10.5% to a total of 33 500 at the end of the year, average room occupancy rose from 75% in 1991 to 82% last year.

The Hong Kong Tourist Association pursued a comprehensive marketing programme, with a two-pronged strategy. The first was to maximize the number of visitors by developing new markets and market segments and by refining the traditional ones. The second was to increase visitors' stays by

planning and encouraging the development of the tourism product and actively marketing it.

The Hong Kong Convention and Incentive Travel Bureau continued to market successfully the territory as the ideal venue for conventions, exhibitions, meetings and incentive travel. Perhaps the highlight of 1992 was our hosting of the 75th Lions Clubs International Convention, which alone drew some 25 000 people, thus becoming the largest gathering ever hosted in the territory.

In relation to Hong Kong's tourism product, the HKTA also focussed attention on the important process of its continual expansion and development — which is essential if the territory is to stay ahead of the competition, and meet the needs of today's tourist — and introduced a number of new products aimed at broadening Hong Kong's appeal beyond the familiar.

Also in Hong Kong, we maintained our efforts to upgrade local standards of service and enhance public awareness of tourism.

Turning now to this year, many here today will know that in April this year we started including China nationals in our visitor arrival statistics. Although the number of such visitors had been growing significantly, it was only in March that regulations concerning taking currency out of the country were relaxed, thus enhancing significantly their economic contribution to Hong Kong.

So, combining those from China with those from elsewhere, total visitor arrivals for the first eight months of this year are up by 14%. Visitor arrivals from China increased by an impressive 67% to reach 1.1 million; this is now our second largest market, after Taiwan, and will undoubtedly be our biggest source of visitor arrivals in the near future. Tourism receipts from "international" markets in the first half of this year were up 8.9%, with visitor spending up from all major markets except Japan. The average hotel occupancy for the first eight months was 85%, an increase of four points in spite of a growth in capacity of 4%. Hong Kong's hotel room supply is in a period of consolidation. The hotel business is cyclical by nature and we urge the private sector to consider investing at this time, to reap the dividends in the future. The room stock is not likely to meet demand and the HKTA hopes the Government will offer incentives to the hotel business in the form of earmarked land on the future reclamations, such as West Kowloon, Central and Western, and Wan Chai. A specific allocation for hotels would provide tangible support for the tourism industry, at a time when land prices are becoming a deterrent to new projects.

The overall outlook for travel and tourism, the world's number one industry, is encouraging. We in Hong Kong are in a great position to take advantage of this, not least as a springboard to China. We will work increasingly closely with the tourism authorities in China, in developing mutually beneficial promotional strategies. Contacts have been made, but at this

early stage there is considerable groundwork to be covered and much to work out. As demand for China as a travel destination steadily mounts, Hong Kong will increasingly benefit.

We are confident that the industry will make an ever-growing contribution to the territory's economic prosperity in the years to come, as long as Hong Kong is tenacious in protecting its many tourism assets and is competitive in holding on to its top-destination status.

Thank you.

The Government Minute in response to the Report of the Public Accounts Committee dated July 1993

CHIEF SECRETARY: Mr President, laid on the table today is the Government Minute responding to the 20th Report of the Public Accounts Committee on the results of value for money audits completed between October 1992 and February 1993. The Minute reports the action taken, or about to be taken, by the Government upon the conclusions and recommendations contained in the report.

I would like to thank Mr Peter WONG, the Chairman of the Public Accounts Committee, for his kind comments on the Controlling Officers' co-operative and open-minded attitude and prompt response towards questions and suggestions.

Mr President, the Government appreciates fully the importance of the PAC's findings and recommendations, and will certainly continue to work closely with the Audit Department and the Public Accounts Committee in the quest for further improvements in the cost-effectiveness and efficiency of our public service. I am confident that the measures we have taken, or are planning to take, will go a long way towards achieving this end.

Report of the Public Accounts Committee on the Report of the Director of Audit on the Ex-Gratia Compensation for the clearance of the Kowloon Walled City (PAC Report No. 20A)

MR PETER WONG: Mr President, on behalf of the Public Accounts Committee, I have the honour to table the Committee's Report No. 20A today.

This Report by the Public Accounts Committee responds to paragraphs 5.1 to 5.20 of the Director of Audit's Report No. 20 concerning "Ex-gratia compensation for the clearance of the Kowloon Walled City."

The Director of Audit's Report No. 20 was tabled in this Council in April 1993 and the corresponding PAC Report No. 20 was tabled on 21 July 1993. Little was said in the Report No. 20 on the subject concerning "Ex-gratia compensation for the clearance of the Kowloon Walled City" because our Committee had yet to conclude our investigations on this topic. I am pleased to report that our Committee has now finalized our deliberations on this issue and our conclusions and recommendations are contained in our Report No. 20A tabled today.

Mr President, it is not my intention this afternoon to go over all the conclusions and recommendations of our Committee. However, on behalf of the Committee, I would like to highlight the concern of our Committee that there appears to be a tendency that when funding approval is sought from the Finance Committee for various projects, the Finance Committee has not always been provided with all necessary details in making its decision. This is an area in which our Committee considers immediate improvements are called for.

Mr President, I trust that the recommendations in our Report No. 20A will be accepted.

Oral answers to questions

Local Ordinances inconsistent with the Basic Law

1. MISS EMILY LAU asked (in Cantonese): *A study report drafted by the legal sector has pointed out that as many as 64 Ordinances in our existing local legislation may need to be amended before 1997 since they are inconsistent with the Basic Law. Will the Government inform this Council:*

- (a) how many local ordinances are inconsistent with the Basic Law;*
- (b) what specific plan is in hand to amend those Ordinances which are inconsistent with the Basic Law before the latter comes into force; and*
- (c) in this connection, whether the Government has any problem in the interpretation of the relevant provisions in the Basic Law; if so, how the Government solves such problems?*

ATTORNEY GENERAL: Mr President, the answers to Miss LAU's questions are as follows:

- (a) There are nearly 600 Ordinances on the Hong Kong statute book. Of these, the majority will require adaptation in varying degrees to ensure their consistency both with the language and with the substantive provisions of the Basic Law.

- (b) We have an adaptation of laws programme to amend the Hong Kong Ordinances that would be inconsistent with the Basic Law. Under this programme, an initial review of all the Ordinances by the respective policy branches is first carried out, followed by detailed study and analysis by the Localization and Adaptation of Laws Unit of my Chambers. Proposals for the adaptation of individual Ordinances are then drawn up and discussed with the Chinese side in the Joint Liaison Group. The proposals will form the schedules of a number of Bills for enactment by this Council in the next three years to take effect from 1 July 1997.
- (c) The Basic Law does not enter into force until 1 July 1997. Under its provisions, the Basic Law will be interpreted by the courts of the Hong Kong Special Administrative Region, or in certain circumstances by the Standing Committee of the National People's Congress. In preparing the required adaptations of our laws to achieve consistency with the Basic Law, we obviously have to take a view on the meaning of certain of its provisions. To ensure that our view coincides with that of the Chinese side we have undertaken to consult them. Clearly, if agreement can be reached with the Chinese side on the adaptation of Hong Kong's laws for compatibility with the Basic Law, that would be the best means of ensuring that none of our laws will be declared to be in contravention with the Basic Law by the Standing Committee of the National People's Congress under Article 160 of the Basic Law.

MISS EMILY LAU: *Mr President, in his reply, the Attorney General referred to discussions with the Chinese Government, in the Joint Liaison Group (JLG), on localization and adaptation of laws. Unfortunately, he did not go on to elucidate what the Governor meant in his policy address delivered last week when he told us that the work has been bogged down and there is a high risk that if the work is not finished before 1997, Hong Kong will face a legal vacuum. Mr President, will the Attorney General tell this Council whether there is a real likelihood of this legal vacuum which the Governor referred to? And more importantly, what are the possible disastrous consequences of such a vacuum?*

ATTORNEY GENERAL: Mr President, the work entailed in adaptation of our laws, and also localization of our laws, which Miss LAU has also mentioned in her supplementary question, is of a vast and complex nature. The British side in the JLG has consistently reminded the Chinese side of the need to speed up progress in dealing with these areas, which are of vital concern to the continuation of the legal system in Hong Kong. The work, as I say, is on a vast scale and much of it is complex. We have just over three years left to go before 1 July 1997. Clearly, it is in everybody's interest that these complex but technical subjects — technical and not political subjects — should be tackled on

both sides with a real commitment to seeing the job completed before 1 July 1997.

MR TAM YIU-CHUNG (in Cantonese): *Mr President, according to the Attorney General, the work concerned is very important and is on a vast scale. As this is such a mammoth task and the work itself is so important, when did the Administration actually start its work? Why does it give one the impression that the Administration has "started" it very late?*

ATTORNEY GENERAL: If I can confine that question to adaptation of laws, because I think that would help to put it into context, Mr President. The object of the adaptation of laws exercise is to ensure that our laws — our Ordinances, our regulations, the 20 000 pages, the 20 feet of bookshelves occupied by Ordinances — will achieve a smooth transition on 1 July 1997, and be in harmony with the Basic Law. It is important to ensure certainty and consistency in our laws so that those who use them can turn to the statute book in the sure knowledge of knowing what the law is and what it is going to be on 1 July 1997.

Clearly, work could not be undertaken until the Basic Law was promulgated. As Mr TAM would know, the Basic Law was promulgated in the spring of 1990. Although we had some preliminary work undertaken before that, work started in earnest in that year and consisted, as I have said, in an initial survey of all Ordinances and subsidiary legislation — 20 000 pages — to see where possible inconsistencies with the Basic Law are. So, far from starting this exercise late, we started it quite some time ago. We are now at that I call the second phase when the initial study has been completed. We are in the position of handing over to the Chinese side, in the JLG, position papers on Ordinances. And we will continue to ensure that there is a steady stream of papers going to the Chinese side, covering the matters that I have just described.

MR MARTIN BARROW: *Mr President, could the Attorney General tell us a little bit more about the work of the Localization and Adaptation of Laws Unit? For example, does it have enough staff to cope with this mammoth task and how many revised Ordinances have so far been drawn up and discussed with the Chinese?*

ATTORNEY GENERAL: The work of the Localization and Adaptation of Laws Unit in my Chambers, Mr President, is primarily concerned with, first of all, assisting branches in identifying those Ordinances, or those parts of Ordinances, which may be inconsistent with the Basic Law. Then having done that, the Unit will prepare papers for the JLG, describing the background, the provisions of the Basic Law that are affected and the revision to the Ordinances that need to be amended. Eventually — we have not got there yet — the Unit will also be concerned with the drafting of the Bills for presentation to this

Council. As for resources, I hope, Mr President, that what I have said this afternoon indicates, or gives the Council some indication of, the size of the task that is ahead of us. And as the Governor said in his address last week, we will be seeking additional resources for that Unit to ensure that this very important work is completed in good order, in an efficient manner and on time.

MR MARTIN BARROW: *Mr President, as to the last part of my question, could the Attorney General inform this Council how many revised Ordinances have so far been drawn up?*

ATTORNEY GENERAL: Mr President, I am sorry I did not make that clear. We have not yet presented any Bills to this Council. A number of papers, 10 to be precise, have been handed over to the Chinese side in the JLG.

MR SIMON IP: *Mr President, in relation to the adaptation exercise, obviously there would be a lot of amendments which will be very straightforward and non-controversial, such as removal of the word "Crown" or "royal" or even "the office of Attorney General." What does the Attorney General think would be the situation if no agreement can be reached in the JLG in relation to adaptation of laws? Can he give us some concrete examples of the specific areas which would be important and which may leave a legal vacuum to the detriment of Hong Kong?*

ATTORNEY GENERAL: Mr President, Mr IP is, of course, quite right in saying that a large part of the work does involve terminology or nomenclature, such as changing "Governor" to "Chief Executive" and getting rid of "the Attorney General" and replacing the term with "the Secretary for Justice". There are other substantive areas that go beyond terminology or nomenclature. Were there to be no agreement or were we not able to harmonize our laws with the Basic Law, then there would be a high risk of those laws being declared, by the National People's Congress, as being incompatible with the Basic Law and therefore being repealed. One would not wish to speculate but some of the Ordinances that go beyond terminology involve Crown land, Crown proceedings, the right of abode, nationality, postage stamps and so on. And these are matters which require considerable thought and discussion. But as I said, and if I may repeat, Mr President, provided we speed up progress in the JLG and have constructive dialogue, there is no reason why this work should not be completed on time.

MR JAMES TO (in Cantonese): *Mr President, the Attorney General has said in paragraph (c) of his reply that in considering the adaptations of our laws, we have undertaken to consult the Chinese side to ensure that our view coincides with theirs. I would like to ask what "the Chinese side" means to the*

Hong Kong or British Government? Does it mean the Chinese Government; or does it include the consultative bodies of the Chinese Government? If our understanding of the provisions of the Basic Law is different from that of the Chinese side, how should we handle such difference? Are we going to insist on our view as to whether certain existing provisions are to be amended or not; or are we going to follow the interpretation of the Chinese side in respect of amendments or no amendments to the provisions concerned? For example, the Chinese Government has made it clear that it has not excluded the possibility of repealing the Bill of Rights Ordinance. May I know what attitude of the Hong Kong Governemnt is in this regard?

PRESIDENT: Attorney General, are you able to answer?

ATTORNEY GENERAL: Yes, Mr President, thank you. Our discussions with the Chinese side are, of course, taken properly in the JLG and that is because these matters are those which, under the Sino-British Joint Declaration, are required to be discussed in the JLG. These are matters that affect — vitally affect — the smooth transition on 1 July 1997. So our dealings with the Chinese side are with our Chinese colleagues in the JLG.

Mr President, Mr TO has referred specifically to the Bill of Rights and I think he has asked me — but he will confirm it if I have got that wrong — whether the Bill of Rights will be consistent with the Basic Law. When we were drafting the Bill of Rights, we took great pains to ensure that it would be consistent with the Basic Law. Article 39 of the Basic Law provides for the continued applicability of the International Covenant on Civil and Political Rights to the Hong Kong Special Administrative Region (SAR) as it is currently applied to Hong Kong and that the Covenant should be implemented through the laws of the SAR. And, of course, that is precisely what the Bill of Rights does.

Discrimination against the disabled

2. DR CONRAD LAM asked (in Cantonese): *Will the Government inform this Council what specific measures it has in hand to solve the problem of discrimination now being suffered by the disabled?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, discrimination against persons on the ground of disability may be classified into two broad categories. The first one is direct discrimination which occurs when a person is treated less favourably on the basis of his or her disability than a person without the disability, in circumstances that are the same or not materially different. Here disability is used explicitly as the basis for the action taken. The second category is indirect discrimination which occurs when a condition or

requirement is imposed which unfairly impinges upon people with disabilities even if that was not its actual intention.

It is difficult to keep track of the extent and nature of the problem of discrimination against people with disabilities in the territory. But recent objection by local residents to the setting up of rehabilitation facilities in certain districts manifests clearly that discrimination is a real problem, albeit a localized problem. People with disabilities have a right to benefit from these rehabilitation services. I would like to pay tribute to them and to their advocates who have acted with dignity and restraint in the face of such discrimination.

There have been calls earlier this year for the enactment of anti-discrimination legislation to protect the rights of people with disabilities. Members may recall that during the motion debate on integration of rehabilitation services on 19 May 1993, I told this Council that public education is the most effective way to eradicate prejudice. I also talked about the issue of anti-discrimination legislation. I said that, and I quote, "it would, indeed, be a sorry day for Hong Kong if we had to resort to this big stick to try to change minds and attitudes". I did not, however, rule it out altogether and went on to say that "we may well have to do it".

The recent incident in which a Parents Resource Centre in Tung Tau Estate was vandalized is clearly unacceptable. It has called for a rethink on our way forward. To achieve integration and equal opportunities for people with disabilities, we are determined to do what can practically be done to eradicate discrimination.

We have strengthened, and will continue to strengthen, public education on rehabilitation. We have already secured \$11 million from various funding sources for launching more than 20 major public education activities over the next two years. As announced by the Governor in his policy address last week, we will spend an additional \$20 million on public education over the next three years. The increase in spending on public education between now and 1996-97, totalling \$31 million, is substantial. It underlines our resolve to eliminate prejudice against people with disabilities.

Our public education activities focus on the special needs of ex-mentally ill and mentally handicapped persons. These activities are targeted at district residents. In collaboration with non-governmental organizations, the Committee on Public Education in Rehabilitation has just reviewed its public educational strategy. The Committee has also put in place a comprehensive system for monitoring the progress, and evaluating the effectiveness, of public education activities. It is hoped that evaluation results will enable the Committee to target its resources with greater precision and effectiveness.

It is crucial to imbue young people in their formative years with proper understanding about and attitudes towards people with disabilities. The Education Department has over the years attached great importance to this aspect. Topics related to people with disabilities have been included in the existing curriculum at both primary and secondary levels. A new subject, "General Studies", will be introduced in primary schools in September 1996. Topics will include the nature, needs, rights and potential contribution of people with disabilities.

Schools are also encouraged to organize various extracurricular activities, including, the Sister Schools Scheme and Community Youth Club, to enhance students' understanding about people with disabilities. To promote the acceptance of people with disabilities, a new Education Television special programme is being prepared. It will be ready for transmission in schools in March 1994.

The most pressing problem we are facing is direct discrimination in the form of overt prejudice, which in some cases has taken the form of physical harassment. That is to say, people with disabilities, as distinct from, for example, the elderly and the young, are being obstructed from receiving rehabilitation services funded by the general public. To tackle this particular problem, I hope to aim at early next year for a decision to be reached on anti-discrimination legislation and the scope it should take to best suit local needs and circumstances.

Let me reassure this Council that we, in the meantime, will continue to take the lead to uphold the rights of people with disabilities. We will continue to proceed with those rehabilitation projects which have met with local objection. We will continue our efforts to bring concerned residents round to accepting those projects.

Finally, I would point out that to eliminate effectively discrimination against people with disabilities, we need firm support from the public at large. I would like to take today's opportunity to urge ordinary citizens to give us that support. Integration of people with disabilities into the community is, and will continue to be, in the best interests of all.

DR CONRAD LAM (in Cantonese): *Mr President, it was mentioned in the fourth paragraph of the Secretary's reply that the Administration's objective was to achieve integration and equal opportunities for people with disabilities. Would the Administration inform this Council what role it will play in the provision of jobs for the disabled?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, as I mentioned in my main reply, the most pressing problem we are facing is direct discrimination. Disabled persons are being excluded from, or denied, the

benefits of rehabilitation services because of concerned residents' discrimination. Anti-discrimination legislation, if enacted, would provide legal recourse to redress such discrimination. As regards employment, I believe more and more employers are willing to recruit disabled persons so long as they meet the job requirements. Statistics kept in the Selective Placement Division of the Labour Department reveal a record high of 1 366 placements for disabled persons in 1992, representing an increase of 25.3% over the 1 090 placements in 1991. But this is not any cause for complacency. I think we should continue to try hard. A lot of the money on publicity and education will be devoted to encouraging employers in Hong Kong to engage, at the work place, many more people with disabilities.

MR HUI YIN-FAT (in Cantonese): *Mr President, the Secretary informed this Council just now that the Administration would spend \$31 million on public education to eliminate prejudice against people with disabilities over the next few years. May I ask the Secretary how the Administration will encourage the disabled and the parents' groups concerned to participate in such public education and promotional activities?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, I am grateful for this question, which is a very important one. Broadly speaking, the objective of public education and promotional activities is to reach out, through certain programmes and publicity efforts, to all in the community to have people's attitude changed. May I also say that we should at all times ensure that in drawing up the programmes, whether for schools, for employment or for general outreach, the views of people with disabilities and their parents are very important and should be taken into account. Where possible, the programmes *per se* should involve the participation of people with disability and/or their parents, as appropriate. This not only is useful in drawing up publicity materials but is important in fulfilling the objective of full participation, as detailed in the Green Paper on Rehabilitation. My colleague, the Commissioner for Rehabilitation, who chairs the Committee on Public Education in Rehabilitation (COMPERE) which is responsible for the formulation of rehabilitation programme and I will ensure that such involvement will take place.

Karaoke lounges

3. DR TANG SIU-TONG asked (in Cantonese): *Some karaoke lounges are now excluded from the application of the Clubs (Safety of Premises) Ordinance or any other ordinances and are not subject to any inspection and control with regard to their fire safety standard. Their potential fire risk has presented a cause for concern. Will the Government inform this Council:*

- (a) *of the number of karaoke lounges that are not subject to any control in this territory as at the end of September this year; the kinds of premises in which they are mostly found;*
- (b) *whether inspections have been conducted by relevant departments to find out if these karaoke lounges are in compliance with the fire safety requirements; if yes, what the findings are; and*
- (c) *whether the Government would consider amending existing legislation or introducing new legislation to bring these karaoke lounges under legislative control?*

SECRETARY FOR SECURITY: Mr President, all premises are subject to fire safety requirements under the Buildings Ordinance and the Fire Services Ordinance. This is the case with all karaoke lounges, even though they may not be subject to any special fire safety requirements.

Furthermore, most karaoke lounges operate in restaurants which need to be licensed under the Public Health and Municipal Services Ordinance; or in private clubs which are regulated under the Clubs (Safety of Premises) Ordinance. They, therefore, have to comply with additional fire safety requirements imposed under these two Ordinances and are subject to inspection by the Fire Services Department.

We believe that, as at the end of September this year, some 727 establishments offering karaoke entertainment were in operation. Of these, 495 are operated as clubs or licensed as places providing food and liquor; the remaining 232 are operating only on the basis of a business registration certificate in both residential and commercial premises.

In general, there are no indications that licensed karaoke establishments are failing to comply with fire safety standards, or that they pose a greater fire risk than other premises or establishments. In 1991, there was no major fire in a karaoke establishment; in 1992, there was one major fire in a karaoke establishment, and there has been one so far this year.

As regards the third part of the question, an interdepartmental working group has been set up to study options for the regulation of karaoke lounges. Among other things, a licensing system will be considered, to tackle the problem of underage girls working in karaoke establishments, and to prescribe hygiene, fire and building safety requirements.

DR TANG SIU-TONG (in Cantonese): *Mr President, may I refer to the fifth paragraph of the Administration's reply in which it says that a licensing system will be considered to tackle the problem of underage girls working in karaoke establishments. Will the Administration inform this Council of the number of*

underage girls working in karaoke establishments at present? According to recent media reports, there have been incidents of prostitution in these establishments. What measures does the Administration have to deal with the problem?

SECRETARY FOR SECURITY: Mr President, I do not think it is possible to give a precise answer to the first part of that question. What I can say is that in the first six months of this year the police conducted over 1 000 raids on these establishments in West Kowloon and located nearly 900 underage girls in these establishments. I think that is the best I can do to give an indication of the extent of the problem. As I said, we are considering a licensing scheme. The main purpose of that scheme, I think, would be to extend the sort of controls that we have on bars to karaoke establishments. These would therefore include conditions regulating the minimum age, both of persons working in these establishments and of customers in these establishments. So that is something that we are actively looking at at present.

MRS PEGGY LAM (in Cantonese): *Mr President, I was to ask the Administration whether it would consider prohibiting underage girls from entering karaoke establishments, but that had been dealt with by the Secretary just now. At present some karaoke establishments are operating only on the basis of a business registration certificate in residential premises. If the licensing scheme is implemented, will the Administration prohibit karaoke establishments from operating in residential premises?*

SECRETARY FOR SECURITY: Mr President, I think that really concerns a matter of lease conditions which I am afraid I am not able to answer. But perhaps I could ask the Secretary for Planning, Environment and Lands if he would try to give an answer to that in writing. Certainly, in addition to controls on the employment and exploitation of children in these establishments, there would also be hygiene, building and fire safety requirements and the premises would have to comply with those requirements.

MR HOWARD YOUNG (in Cantonese): *Mr President, in response to Mrs Peggy LAM's question just now, the Secretary seemed to have passed the buck to the Secretary for Planning, Environment and Lands. But the main reply clearly indicates that 30% of the 727 karaoke establishments are not operating in restaurants or clubs so as to avoid the specific fire safety requirements. I would like to raise a supplementary on whether the Secretary has considered the fact that the equipment used and the capacity of these establishments are similar to those that operate under a special licence, and will he therefore seek the help of other departments or the Urban Council to formulate standard requirements for all karaoke lounges, so as to protect the safety of all the people concerned?*

SECRETARY FOR SECURITY: Mr President, I think I can only repeat what I have said, and that is that we are looking at a licensing scheme.

MR WONG WAI-YIN (in Cantonese): *Mr President, I would like to follow up Mrs Peggy LAM's question. At present, some karaoke lounges in residential premises are operating till midnight or even overnight. It is definite that the noise they cause is a nuisance to nearby residents. What measures does the Secretary have to prevent this?*

SECRETARY FOR SECURITY: Mr President, I believe that adequate provisions do exist to control noise nuisance under the Noise Control Ordinance.

Revised localization policy

4. MR HENRY TANG asked: *Will the Government inform this Council of:*
- (a) *the reasons for not consulting the relevant staff associations and the Legislative Council prior to the promulgation of the revised localization policy;*
 - (b) *the reasons for introducing the revised policy before the existing one has been tested in court vis-a-vis its compliance with the Bill of Rights; and*
 - (c) *the measures that will be taken to deal with the problem of division within the Civil Service caused by the introduction of the revised policy?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, the answer to these questions are as follows:

- (a) The subject of whether civil servants serving on overseas conditions who are permanent residents of Hong Kong should be allowed to transfer to local terms has been debated publicly and thoroughly since January this year. The views of the staff associations, the Public Service Panel and interested parties have been made known to us and we understand their respective positions very well. If we had proceeded to formal consultation this could only have been accomplished by introducing a moratorium on a significant part of the localization policy. It would simply not have been practicable to continue to enforce the old policy once the Government had taken a view, in public, that it was defective. We did not favour the moratorium route because it would have meant, effectively, a policy

vacuum. A better approach was to introduce an interim policy pending full consultation on longer-term arrangements. We still believe this was the correct decision.

- (b) Independent legal advice obtained both locally and overseas strongly suggested that the previous localization policy in so far as it applied to permanent residents of Hong Kong was not compatible with the Bill of Rights. It would have been irresponsible to ignore the advice and to continue to implement a policy which we believed to be defective.
- (c) We feel that the reaction to the interim arrangements has been out of proportion to their likely effect. Nevertheless the best ways to heal the divisions are to continue to implement the localization policy vigorously, but fairly, to devise a new package for civil service employment which removes the distinction between local and overseas conditions of service, and to work towards a longer-term solution in consultation with interested parties. As Members know, these are the directions in which the Government is moving. In other words we should look to the future and not to the past.

MR HENRY TANG: *Mr President, would the Secretary please explain the basis whereon the Government is definitively sure that the localization policy is incompatible with the Bill of Rights and how she intends to continue to vigorously and fairly implement this policy?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, the Bill of Rights requires that all permanent residents of Hong Kong should have equal employment opportunities with the Civil Service. Clearly, our previous localization policy, which required us not to offer an officer on overseas agreement terms a renewal of contract if we had a suitable local officer to take over, was in breach of that requirement in the Bill of Rights. And independent legal advice, both here and overseas, clearly suggested that if we continued with this selective localization policy then we would be in breach of the Bill of Rights. We intend to fairly and vigorously implement the localization policy by, on the one hand, offering those who are permanent Hong Kong residents an opportunity to apply to transfer to local terms for one contract, provided they meet certain criteria which are based first of all on their ability to establish permanent Hong Kong residence and on their establishing to our satisfaction that they are suitable in all respects, in other words, based on performance, physical suitability and conduct. And on the other hand, we intend in future, under the interim arrangements and pending consultation on the longer-term arrangements, to give permanent Hong Kong residents an equal opportunity to remain in the Civil Service if they are deemed to be suitable.

MR HENRY TANG: *Mr President, a point of clarification please. Article 21(c) of the Bill of Rights says, and I quote, "to have access on general terms of equality to public service in Hong Kong". It does not spell out that there are equal employment rights as the Secretary has said. Would the Secretary clarify that point, please?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, by equal employment access I meant that permanent Hong Kong residents should have an opportunity to apply. Whether that application is accepted by the Government is of course subject to the criteria that I have just now outlined and these are the criteria that we will stick to very rigorously.

MR FRED LI (in Cantonese): *Mr President, recently the Civil Service Branch has proposed, as an interim measure, an additional requirement of "Chinese Language proficiency" for expatriate officers applying for transfer to local terms. May I ask the Administration whether imposing such a condition will lead to an accusation of unreasonable measure against the Administration, or an allegation of breach of the Bill of Rights, by the expatriate officers' associations?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, we do intend to consider on a selective basis, having regard to requirements in individual departments, as to whether proficiency in the Chinese language should be required. And as the Governor has made clear in his policy address, in the case of the Legal Aid Department, because of the nature of their work we do believe it to be reasonable to require such language proficiency. This applies to the interim arrangements. As regards the longer-term arrangements, we have already stated on numerous occasions that we intend to consult interested parties on the longer-term arrangements and part of these arrangements might well include a language proficiency test. But we have first of all to determine whether a language proficiency test is desirable and, if so, at what level it should be pitched.

MR JAMES TIEN: *Mr President, in her reply to Mr Henry TANG, the Secretary mentioned that independent legal advice obtained both locally and overseas strongly suggested that the localization policy was incompatible with the Bill of Rights. Will the Secretary please inform us whether independent legal advice has been obtained, both locally and overseas, as to whether the conversion to local terms arrangement likewise amounts to a breach of the Bill of Rights in that it infringes on the rights of the local civil servants?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, there is no legal advice which says we have been discriminatory in so far as local officers are concerned. The legal advice we have so far obtained relates to the way we have currently been treating those on overseas agreement terms and such advice clearly suggests that if we continue with that policy we will be in breach of the Bill of Rights.

DR SAMUEL WONG: *Mr President, the matter in question seems to concentrate on localization rather than, say, on a civil servant engaged on contract terms or permanent terms. Am I not right in saying that in respect of a contract if one side wants to terminate it that will have nothing to do with the Bill of Rights?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, that is not correct.

MR TAM YIU-CHUNG (in Cantonese): *Mr President, Members of this Council are going to freeze this policy by moving a Private Member's bill. Will the Administration try every means to block the passage of the bill?*

PRESIDENT: I think that goes beyond the scope of the original question and answer, Mr TAM. Do you have another question?

MR TAM YIU-CHUNG (in Cantonese): *Mr President, if you think I have gone beyond the scope of the original question, may I raise another question?*

PRESIDENT: Certainly.

MR TAM YIU-CHUNG (in Cantonese): *Though the Administration has stressed that the current policy is an interim measure, civil servants consider that it would have long-term implications. What are the Administration's views in this respect? Moreover, may I obtain two figures in respect of firstly, the number of overseas officers who have their overseas contracts renewed since the implementation of this policy and secondly, the number of overseas officers who have applied for transfer to local terms?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, I do stress that the interim arrangements which we have announced are purely interim. We intend only, where suitable, to offer one contract on local terms which will not straddle 1997 and the intention of this interim arrangement is to give us suitable time to consult interested parties and to work out arrangements that are

acceptable to all parties concerned. Regarding the statistics which Mr TAM has asked about, I do not have the answer to the first part of the question and I will supply a written reply. (Annex I) As regards the answer to the second part of the question, as of 4 October, we have received 81 applications none of which has been approved so far, but they are being examined.

MR SIMON IP: *Mr President, paragraph (b) of the Secretary's reply says that legal advice obtained suggests that it would be contrary to the Bill of Rights not to allow overseas officers to convert to local terms. It would seem to me highly arguable that the fact that there are less favourable terms of employment for local officers is also discriminatory. Would it not be right to remove both discriminations at the same time?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, I am aware obviously that there are varying legal opinions. But the Government must act on the basis of the best legal advice it has obtained and that is what we have done.

MR HOWARD YOUNG: *Mr President, with regard to the reply just now about the 81 applications received so far, can the Secretary clarify whether this number is already past a deadline where it cannot increase or whether more applications can still be forthcoming?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, I think this will be an ongoing process. The 81 pertain to applications received as of 4 October. Obviously there will be more applications coming in, but I should take this opportunity to stress again that we do not believe that the net additional numbers that we will get under the modified criteria or policy will be very large.

Residential developments under IDPA and DPA plans

5. DR SAMUEL WONG asked (in Cantonese): *Since the introduction of Interim Development Permission Area Plans and Development Permission Area Plans for the New Territories, almost three years have elapsed during which these statutory planning controls have been extended to regulate building development in the New Territories. Will the Government inform this Council:*

- (a) *of the number of sites where planning applications for residential developments have been submitted by land owners;*
- (b) *of these sites, what is the total number of residential units proposed and the total gross floor area (GFA) involved;*

- (c) *how many such sites have been approved for building development and their total approved GFA; and*
- (d) *as the draft Outline Zoning Plans will soon be published to replace the Development Permission Area Plans, whether there is a policy whereby residential developments will be encouraged to generate a good supply of residential units to meet the high and continuing demand for such accommodation, as evidenced by the recent rampant residential property speculation?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:

Mr President,

- (a) Between August 1990 and September 1993, the Planning Department received 572 planning applications for residential developments in areas covered by Interim Development Permission Area Plans and Development Permission Area Plans.
- (b) Most of these applications were for small house development, but the precise number of residential units involved cannot be provided without a great deal of detailed research work. Some 2 million sq m of gross floor area were involved.
- (c) At the beginning of September 1993, 275 out of the 572 applications were approved, involving a total gross floor area of 124 380 sq m. 247 applications were rejected and 50 were withdrawn.
- (d) It is the Government's policy to provide an adequate supply of land for all types of development as far as possible. In preparing Outline Zoning Plans to replace the Development Permission Area Plans, the Administration will indeed take account of demand for housing, as well as the provision of infrastructure, accessibility and environmental, traffic and other planning considerations, in zoning land for residential development.

DR SAMUEL WONG (in Cantonese): *Mr President, 275 out of the 572 applications were approved accounting for about half of the total number, but they involved a total gross floor area of only 124 000 sq m, that is, about 6% of the 2 million sq m covered by all the applications; in other words, half of the applications were rejected and they represented approximately 94% of the total gross floor area. Will the Administration account for this? Is it the intention of the Administration to make things difficult for large-scale development plans?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the process of considering and approving applications for Development Permission in Development Permission Areas is a function of the Town Planning Board, as I believe the Honourable Member is aware. The reasons why planning applications are rejected of course vary widely: for example, incompatibility with surrounding land use and planning intention, problems in relation to traffic volume, environmental considerations and infrastructural support and, in some cases, insufficiency of information. I think the disparity between the amount of gross floor area (GFA) covered by approved applications and GFA in respect of applications has nothing to do with a fixed ratio of how many applications should be approved and how much GFA should be approved. It has something to do with the aspirations of applicants and, I think, something to do with a failure on their part to actually conduct sensible planning and feasibility studies before they submit their applications.

MR EDWARD HO: *Mr President, would the Secretary agree that a large number of the rejected applications were due to the lack of infrastructure and in that regard would he inform this Council whether the Government is prepared to construct the necessary infrastructure to facilitate residential development?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I do not have an exact figure in relation to the number of applications rejected for various reasons. In fact in many situations it is a combination of reasons. I think the question of inadequacy of infrastructural support for some of these areas is, in many cases, a result of their location. In other words, they are in places where roads of an adequate standard do not exist or water supplies will not be adequate or sewerage connections are not possible at this stage. As to whether we can actually programme in additional infrastructural projects to enable more of these applications to be approved, I think we shall have to wait until the Development Permission Area Plans are replaced by Outline Zoning Plans which, I believe, will then enable us to assess in a rather more organized way what we may need to do by way of infrastructural programmes to permit more development of this kind to take place.

MR EDWARD HO: *Mr President, since no infrastructure will be provided to areas where there is no development and since no development would be approved without infrastructure, can the Secretary inform this Council how this vicious circle can be resolved?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I think I actually covered that in the last answer I gave, which was to say that the provision of Outline Zoning Plans will actually enable us to take a rather more organized view of how we should prioritize demand for

infrastructure in the areas covered by the New Territories Outline Zoning Plans. At that point we will be able to say when infrastructure may be provided to different areas.

Investigation of the Allied Group

6. DR HUANG CHEN-YA asked: *In regard to the recent publication of the Government report on the corporate affairs of the Allied Group and its associated companies, will the Government inform this Council whether, and if so, when further action will be taken to ensure that the considerable resources (including \$46 million of public money) spent on the investigation will produce more of a result than just a report, so that the interests of minority shareholders and investors are protected?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, the Inspector's Report on the Allied Group of Companies was submitted to the Financial Secretary on 28 August 1993 and a substantial part of the Report was made public on 18 September. The Report was promptly referred to the law enforcement and regulatory bodies, as well as the 27 companies involved in the investigation. It is now for them to decide what actions to take within their respective areas of authority and to pursue those actions accordingly.

It would be inappropriate to judge the value of the investigation solely in terms of the amount of money it has cost or of whether any particular actions will be taken against any party involved. The inspector has completed his fact-finding mission meticulously and revealed extensive detail about the specific activities he was asked to investigate. The Report has elicited a positive reaction from both the local and overseas media and has in turn generated a higher level of public awareness regarding corporate governance. Even more importantly, the investigation demonstrates the Administration's determination to use the powers available to it to safeguard the interests of the investing public and to foster the integrity and reputation of the market. Clearly the investigation has already gone well beyond the production of "just a Report".

At this point Mr Jimmy McGREGOR declared an interest as the Chairman of Asia Securities International Limited, which was formerly one of the Allied Group and a company now under investigation.

DR HUANG CHEN-YA (in Cantonese): *Mr President, from the Secretary's answer, it seems he is telling us that the Government, by spending \$46 million in publishing a report, has already done its part and has not let the public down. If no further action is taken, will the Administration inform this Council what experience has been drawn from this and what recommendations it will make to maintain the good reputation of our financial market?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, I have not said that there will be no follow-up action, quite the reverse. The Report has been put in the hands of the respective enforcement authorities. It is in the hands of the Royal Hong Kong Police Force, the Crown Prosecutor, the Securities and Futures Commission, the Deputy Crown Solicitor, the Stock Exchange of Hong Kong, the Hong Kong Monetary Authority and the Hong Kong Society of Accountants and all of those are studying the Report with a view to deciding whether there is action for them to take and to pursuing such action. I certainly do not wish to belittle the very proper concern for the expenditure of public funds. But I do believe that the expenditure should be looked at in its proper perspective when it is looked at against the size of the markets that are involved in Hong Kong and the sheer volume of money that is in the hands of the companies that are registered here. We have a stock market which can have a turnover of up to \$8 billion in a single day. I would have thought that \$46 million set against that context was a small price to pay for policing in a small way the standards of corporate governance here.

MR MICHAEL HO (in Cantonese): *Mr President, may I ask a follow-up question on when and under what circumstances the Financial Services Branch is going to take further action, or what specific actions the Financial Services Branch is going to take at this stage?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, the Branch has remained, since the production of the Report, in close contact with the regulatory authorities and with the enforcement authorities that I have mentioned. And we are closely monitoring the progress, not only of their activities but also of the reaction of the 27 companies concerned. Those companies have been given until the end of October to let us know — that is to say, us on behalf of the Financial Secretary — what they are intending to do themselves about it before we consider taking any further action ourselves.

At this point Mr LAU Wah-sum declared interest as a non-executive director of the Allied Group.

MISS EMILY LAU: *Mr President, will the Secretary inform this Council when the rest of the Report will be published and also what steps have been taken to recover the \$46 million?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, the part of the Report that has not been published, which runs to some 140 pages or so, contains material which, if it were to be released now, would be prejudicial to the outcome of possible future legal proceedings. And for that reason it has been withheld for the time being. It is also for the same reason that I cannot

give details of precisely what action is in train at the moment, what charges are contemplated, against whom they will be brought and when. But Members can be assured that it is our intention to publish the full Report as soon as the risk of prejudicing the outcome of possible future legal actions has passed. As to recovery of costs, there are provisions in the Companies Ordinance for the recovery of costs, but these do have some limitations. They, for example, can be invoked against any persons convicted by a court or a magistrate on a prosecution instituted as a result of the investigation. And it is our intention again to exhaust every means to recover the costs in that way, but it will depend on the outcome of legal process and it is too soon to say yet where that will go.

MR JAMES TO (in Cantonese): *Mr President, in terms of interests of investors, very often minority investors have less negotiating power than entrepreneurs and leaders of big business groups and it is the interests of the former that the Government has to protect. The Secretary said in his reply that the investigation demonstrated the Administration's determination to use the powers available to it to safeguard the interests of the investing public. I would like to ask two questions in this connection. First, notwithstanding that there are already provisions under the Companies Ordinance empowering the Financial Secretary to look into a company's accounts, is the Administration going to conduct an overall review of the laws of Hong Kong to see if there are sufficient powers under our legislation to protect the interests of investors? I said this because the Government seems to be at its wits' end as to how to deal with complaints from investors in connection with "placement of shares" or "actions which dilute investors' interests". Second, this is a case evident enough that enabled the Financial Secretary to exercise this sort of power. But may I ask if the Administration has the resolve to investigate even isolated complaints from investors, and in the light of its findings, exercise such powers where appropriate to protect the interests of investors?*

PRESIDENT: I think your question goes way beyond the scope of the original question and answer, Mr TO.

MR JAMES TO (in Cantonese): *Mr President, I would like to clarify because the interpreter may have failed to get my point. In fact, this incident which concerned the Allied Group (referring mainly to the second part) was brought to light because there was someone capable of presenting to the authorities such facts and details in a convincing, systematic and logical manner that could satisfy the authorities that there was a prima facie case, and that there was a need to invoke the Companies Ordinance which confers such power to carry out investigations. The point I tried to make was that there were in fact many more such cases and complaints from individual investors than we might have known. The fact that minority investors may not have the money and resources to hire lawyers, or that they are incapable of presenting the case in a logical and*

systematic manner, may be the difficulties the Administration faces in using its powers to protect the interests of these investors.

PRESIDENT: I think you are still going beyond the scope of the original question which is really in relation to the cost of the investigation and its consequences.

Written answers to questions

Prosecution of newspaper vendors selling Class II articles

7. MR TIK CHI-YUEN asked (in Chinese): *Will the Government inform this Council of the number of newspaper vendors who have been prosecuted for selling Class II articles to young people aged below 18 since the enactment of the Control of Obscene and Indecent Articles Ordinance?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, no newspaper vendors have been prosecuted for the selling of "Class II articles" to people below the age of 18 since the Control of Obscene and Indecent Articles Ordinance was enacted.

"Cost rent" of public housing estates

8. MR TAM YIU-CHUNG asked (in Chinese): *The existing "cost rents" of public housing estates in the urban area and the New Territories are \$65.20 and \$60 per sq m respectively. Will the Government inform this Council why there is a difference in "cost rent" between the two areas; what methodology is adopted and what factors are taken into consideration in calculating "cost rent"?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, "cost rent" has no direct bearing on the rents set for the Housing Authority's estates which take into account such factors as tenants' affordability, comparative estate values, inflation, general household income trends, management and maintenance expenditure and rates. It is the theoretical level at which rents would have to be set to recover to amortized capital cost and operating expenses in the provision of public rental housing. In practice, the rents charged are lower than the cost rent figures which are used only as a point of reference for rent setting.

The cost rent figures for newly completed estates are derived from tender prices for individual building projects and their provisional rateable values. It follows that the cost rent figures for new estates, and hence groups of estates in the urban area and the New Territories, are different.

As regards methodology and factors taken into consideration, the capital cost comprises building cost, fees, overheads, as well as interest charges during construction. It is depreciated (on a straight line basis) over the expected life-span of the building over 40 years with interest at 5%. Added to this are the operating expenses made up of management, maintenance charges and provisional rates and so on. The two components put together become the annual cost needed to produce and upkeep a batch of estates, which is then translated into an average monthly cost rent for comparison purposes in rent setting exercises.

Effective use of funds

9. MR CHEUNG MAN-KWONG asked (in Chinese): *As regards the approval of funds by the Finance Committee (FC) of the Legislative Council, will the Government inform this Council:*

- (a) of the applications for funds approved by FC in respect of Public Works Programme in the past five years, the number of approved items under which funds have not been used or programmes unimplemented; the titles and scheduled dates of usage of funds or implementation/completion in respect of these items, as well as the amounts approved and their respective dates of approval;*
- (b) of the reasons for not using the funds or implementing the programme under each of these items; and whether the Government has consequently sustained any pecuniary loss or damage in credibility;*
- (c) whether the Administration intends to reapply to FC for funds in respect of those items mentioned in (b) above; if so, please state the reasons for reapplying and the amounts sought; and*
- (d) what mechanism the Government has to ensure the effective use of these funds and that the programmes will achieve the anticipated result and required quality?*

SECRETARY FOR THE TREASURY: Mr President, the Directors of the New Airport Project Co-ordination Office, Architectural Services Department, Drainage Services Department, Civil Engineering Department, Environmental Protection Department, Highways Department, Territory Development Department and the Water Supplies Department have reviewed all public works projects under their control where funds were approved by the Finance Committee in the last five years. In response to the four points raised in the Honourable Member's question,

- (a) there are 13 public works projects where funds approved by the Finance Committee remain as yet unused; further details are given in the table at Annex. Projects funded in 1993 have been excluded on the grounds that it normally takes at least six to nine months, following the Finance Committee's approval, to tender and award a contract and make the first payment to the contractor;
- (b) funds remain unused on projects because
 - (i) land resumption has taken longer than anticipated on two projects;
 - (ii) three projects have been entrusted to other agencies to carry out and payment is only made when the work has been completed to the Government's satisfaction;
 - (iii) four projects are Build-Operate-Transfer where staged payments are made against specified contract milestones. The first payment is typically only made nine to 18 months after construction commences;
 - (iv) two projects are awaiting resolution between the Chinese and British Governments; and
 - (v) two projects have been funded from other sources.

There are no projects that involve any pecuniary loss or damage in credibility for the Government;

- (c) there should be no need to reapply to the Finance Committee for extra funds, other than the usual fashion where extra work items unforeseen at the tender stage cannot be absorbed within the project contingency sums approved by the Finance Committee; and
- (d) where for any reason funds remain unused within a public works project, these are normally reallocated to fund new projects as part of the Government's annual resource allocation exercise. Actual expenditure of these reallocated funds is subject to the Finance Committee's approval to upgrading the new projects to Category A in the Public Works Programme. As regards delivery of projects, as announced in the Financial Secretary's 1993 Budget speech, the Secretary for Works has been made responsible for chairing the Public Works Progress Committee which has the specific task of monitoring progress on public works projects and introducing remedial action where this might be necessary.

Annex

<i>Project title</i>	<i>Cost \$ million</i>	<i>Date of FC approval</i>	<i>Forecast start date</i>	<i>Actual start date</i>	<i>Revised start date</i>	<i>Remarks</i>
Director of Architectural Services						
(a) 80 Correctional Services Department quarters at Pik Uk	73.9	July 1992	03/93		01/94	Land resumption time longer than anticipated
(b) Neighbour Community Centre in Sai Tso Wan	17.01	June 1988		09/91		Work entrusted to Ranon Limited — a subsidiary of Cheung Kong Holding Limited with first payment not due until 11/93
(c) Provision of social welfare facilities in Yau Ma Tei Six Streets Redevelopment	13.46	Jan 1992		09/92		Work entrusted to Hong Kong Housing Society with first payment due in 03/95
Director of Territory Development						
(a) Container Terminal No.9 — engineering works for back-up area and infrastructure	2 710	June 1992	11/93			Awaiting resolution of CT9 between Chinese and British Governments
(b) Duplicate Tsing Yi South Bridge	785	June 1992	11/93			- ditto -
(c) Sam Shing bus terminal	5.2	July 1990		10/91		Work entrusted to KCRC substantially completed but payment not yet made
(d) Sha Tin New Town — Stage II: Servicing and extension of Pai Tau Village in Area 6A	11.2	May 1992		03/94		Objections received to land resumptions which require resolution
Director of Environmental Protection						
(a) Development of Northeast New Territories Landfill	1 841	June 1992				BOT contract with first payment due in early 95. Tenders now being evaluated
(b) Sha Tin refuse transfer station	222	April 1992				BOT contract with first payment due in December 94

<i>Project title</i>	<i>Cost \$ million</i>	<i>Date of FC approval</i>	<i>Forecast start date</i>	<i>Actual start date</i>	<i>Revised start date</i>	<i>Remarks</i>
(C) Development of West New Territories Landfill	2 675	Nov 1991				BOT contract with first payment due in 12/93
(d) Development of Southeast New Territories Landfill	3 220	Feb 1992				BOT contract with first payment due in 9/94
Director of Highways						
(a) Container Terminal No.8 — land access and associated works	44	June 1990				Agreed that CT8 Grantee should carry out this work at no cost to Government. The item will be deleted from the PWP and the funds released for the new projects.
(b) Elevated road to Kennedy Town — advance works	10.1	Feb 1992				Agreed that franchisee of Western Harbour Crossing would carry out the work at no cost to Government. The funds released will be used for new projects.

Localization policy in tertiary institutions

10. MR FRED LI asked (in Chinese): *Regarding the implementation of a localization policy in tertiary institutions, will the Government inform this Council whether it is aware of the respective numbers of local and expatriate lecturers in these institutions at present; the disparity in the terms of employment between their local and expatriate staff; and the mechanisms and plans through which the Government encourages these institutions to employ more local staff?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the nine tertiary institutions in Hong Kong are statutory bodies and have institutional autonomy in the selection and management of their staff.

These institutions appoint their academic staff on the basis of their academic strength and expertise, professional qualifications, teaching and research experience, personal qualities and, for certain disciplines, international links as well. Some institutions give priority to local candidates where such candidates satisfy the institution's appointment requirements equally well as those from overseas. Others recruit their academic staff on an international

basis with no regard to such other attributes as race, nationality, or place of origin.

The table at Annex gives the number of academic staff employed in these institutions on local or expatriate terms for the 1993-94 academic year.

The differences in terms of employment between academic staff on local terms and those on overseas terms are mainly in eligibility for passage and baggage allowances, housing benefits and overseas education allowance. The terms and conditions of service for these institutions' overseas staff must be kept similar to those offered to expatriate staff in the Civil Service.

In April 1993, the Open Learning Institute became self-funding and is no longer required to keep its terms and conditions of service similar to those of the Civil Service. The OLI is currently in the process of reviewing its total remuneration package with a view to introducing a new remuneration package with common terms and conditions of service for local and overseas staff.

Annex

Number of local and overseas academic staff*
employed by tertiary institutions# in 1993-94

<i>Institutions</i>	<i>No. of local academic staff</i>	<i>No. of overseas academic staff</i>	<i>Total no. of academic staff</i>
CPHK	463	181	644
HKBC	218	60	278
HKP	744	159	903
LC	79	34	113
CUHK	450	265	715
HKUST	137	166	303
HKU	297	309	606
OLI	40	11	51
HKAPA	35	36	71
Total	2 463	1 221	3 684

* Local and overseas academic staff are defined by reference to their terms of employment which may vary slightly from institution to institution.

The tertiary institutions are:

CPHK	City Polytechnic of Hong Kong
HKBC	Hong Kong Baptist College
HKP	Hong Kong Polytechnic
LC	Lingnan College
CUHK	The Chinese University of Hong Kong
HKUST	The Hong Kong University of Science and Technology
HKU	University of Hong Kong
OLI	Open Learning Institute
HKAPA	Hong Kong Academy for Performing Arts

Automatic teller machines

11. DR HUANG CHEN-YA asked: *Will the Government inform this Council:*

- (a) *whether banks are required by regulation to ensure the proper functioning and maintenance of automatic teller machines; if so, please provide details; and*
- (b) *what measures are available to safeguard customers who use such machines against financial loss caused by mechanical or computer errors and whether an independent channel of appeal exists to settle disputes between the bank and its customers arising from the use of such machines?*

SECRETARY FOR FINANCIAL SERVICES: Mr President,

- (a) There is no specific industry-wide regulation on the functioning and maintenance of automatic teller machines (ATMs). Individual banks invariably have their own internal regulations to prevent mechanical failure or tampering, as it is in their interest to ensure the reliability and integrity of this important service mechanism.
- (b) The ATMs and the protection methods employed in Hong Kong are in line with those adopted by other leading financial centres. Standard safety features include the use of encrypted personal identification numbers, encryption of sensitive transaction data and other internal audit measures. These offer protection to the banks as well as their customers.

Incidents of error are few, but a customer in dispute with a bank over ATM transactions may in the first instance approach the Consumer Council. Customers may also seek redress through the courts, as in the case of disputes over other commercial transactions.

Filipino drivers

12. DR SAMUEL WONG asked: *Will the Government inform this Council:*

- (a) *how many Filipinos have been allowed to come to Hong Kong to work as drivers/chauffeurs during the last two years; of these, how many are male;*
- (b) *whether these Filipino drivers are required to under go a driving test in Hong Kong before taking up employment as drivers/chauffeurs; and*
- (c) *how many traffic accidents reported during the last 12 months have involved drivers/chauffeurs imported from the Philippines?*

SECRETARY FOR TRANSPORT: Mr President,

- (a) Over the past two years, only two persons from the Philippines have been admitted into Hong Kong under the Importation of Labour Scheme for employment as drivers. Both are male.
- (b) They were required to take driving tests, conducted by the Transport Department under the Road Traffic (Driving Licences) Regulations Cap 374. Both passed and were issued with a driving licence before they took up employment.

This same requirement will apply to Filipinos coming to Hong Kong for employment as drivers under the Importation of Labour Scheme in future.

- (c) Because traffic accident statistics do not show the ethnic origin of the drivers involved, such information is not available.

Application for operation of subsidized schools

13. DR PHILIP WONG asked (in Chinese): *Will the Government inform this Council of:*

- (a) *the conditions and qualifications required of an organization before it is eligible for making an application to operate a subsidized school;*
- (b) *the number of organizations which have submitted applications for the operation of subsidized schools and the time required to process each of these applications; and*

- (c) *the criteria for acceding to the request of an individual organization seeking priority in respect of its application?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) To be eligible to apply for operating a school under the Codes of Aid, an organization:
- (i) must be incorporated under the Companies Ordinance. Its Memorandum and Articles of Association must contain standard clauses specified by the Education Department. These refer mainly to prudential control and the appointment of the school management committee; and
 - (ii) must have obtained tax exemption under section 88 of the Inland Revenue Ordinance, that is the organization must be a non-profit-making entity.
- (b) As at 30 September 1993, 134 and 77 organizations have applied for the allocation of primary and secondary schools respectively. The time between the initial application and allocation depends on individual circumstances. Of the 211 applications received to date, 136 were submitted more than five years ago, 72 between one and five years, and the remaining three were submitted in the past year.
- (c) Each of the eligible applications will be considered on its own merits. The decision to allocate schools to individual applicants will be made having regard to the following criteria:
- (i) whether the allocation would result in quality education being provided. To ensure proper management and efficient operation, a new school would only be allocated to an organization with experience in education, proven competence, reliability and a sound financial footing;
 - (ii) whether the allocation would assist in the smooth implementation of approved policies. For example, it is the Government's policy to re-provision schools in areas of declining demand to areas of rising demand. In such cases, the claims of existing school operators would be considered;
 - (iii) whether the allocation would provide a wider range of choices for parents. Under normal circumstances, a new school would be allocated to a new organization, or to an existing sponsoring body which is not already operating another school at the same level in the same district. The

reputation and popularity of the applicants will also be taken into account; and

- (iv) the length of time for which the applications have been outstanding, when all other factors are equal.

Poisoning caused by Chinese herbs

14. MR HOWARD YOUNG asked: *Will the Government inform this Council:*

- (a) *how many cases of poisoning involving the use of Chinese herbs were reported in the past three years and the causes of poisoning in these cases;*
- (b) *whether the Government will release the names of the Chinese herbs which have caused poisoning; and*
- (c) *whether it will consider educating the public, including issuing information pamphlets, on the toxic effects of certain Chinese herbs and how they should be handled?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, *seriatim*, the reply is as follows:

- (a) Over the past three years, there have been 23 reported cases of poisoning involving the use of Chinese herbs. Of these cases, 22 were caused by the improper use of Chuanwu and Caowu due to overdosage, incomplete curing of the herbs or failure to comply with instructions on preparation. The remaining case was caused by the mistaken use of Naoyanghua instead of Lingxiaohua.
- (b) Yes, the Government does release the names of the Chinese herbs which have caused poisoning and will continue the practice so as to alert and educate the public on the proper use of these herbs.
- (c) The Government recognizes the need for educating the public on the safe and proper use of Chinese herbs. Through its health education programmes, the Department of Health provides information to the public on the toxic effect of potent herbs and on how they should be handled.

Reports on Hong Kong to the United Nations Human Rights Committee

15. MR SIMON IP asked: *Will the Administration inform this Council:*

- (a) *of reports on Hong Kong within the last five years which the United Kingdom Government has an obligation to make to the United Nations Human Rights Committee under all relevant treaties and conventions;*
- (b) *of such reports as mentioned in (a) above due between now and 30 June, 1997; and*
- (c) *whether it has been and will be the standard practice of the Administration to table such reports in the Legislative Council?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, the answers to Mr IP's questions are as follows:

- (a) The United Kingdom Government has an obligation to report on Hong Kong to the United Nations Human Rights Committee under the International Covenant on Civil and Political Rights. Within the last five years, the United Kingdom Government has submitted the Third Periodic Report on Hong Kong under the Covenant and an update of the Third Periodic Report (submitted in 1989 and 1991 respectively).

The United Kingdom Government is also obliged to submit reports on Hong Kong for the consideration of other United Nations treaty-monitoring bodies under a number of human rights treaties. Within the last five years, it has submitted the Second Periodic Report on Hong Kong regarding Articles 10-15 of the International Covenant on Economic, Social and Cultural Rights (submitted in 1993 for the consideration of the Committee on Economic, Social and Cultural Rights); and the Eleventh and Twelfth Periodic Reports on Hong Kong under the International Convention on the Elimination of All Forms of Racial Discrimination (submitted in 1992 for the consideration of the Committee on the Elimination of Racial Discrimination).

- (b) Reports due between now and 30 June 1997 are:
 - (i) Fourth Periodic Report under the International Covenant on Civil and Political Rights (due June 1994);

- (ii) Third Periodic Report under the International Covenant on Economic, Social and Cultural Rights (due June 1994);
 - (iii) Thirteenth and Fourteenth Periodic Reports under the International Convention on the Elimination of All Forms of Racial Discrimination (due April 1994 and April 1996 respectively); and
 - (iv) Initial Report under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (due January 1994). This report is to be considered by the Committee Against Torture.
- (c) We have, starting with the Third Periodic Report under the International Covenant on Civil and Political Rights, made it a practice to table such reports in the Legislative Council. We have today tabled the Twelfth Periodic Report on Hong Kong under the International Convention on the Elimination of All Forms of Racial Discrimination, and will shortly table the Second Periodic Report on Hong Kong regarding Articles 10-15 of the International Covenant on Economic, Social and Cultural Rights.

Obstetric services for non-Hong Kong residents

16. DR LEONG CHE-HUNG asked: *In view of fact that many female visitors from China seek obstetric services from our public hospitals during the period of their visit to Hong Kong, will the Government consider revising the current charging policy in order to recover the full cost of these services from non-Hong Kong residents?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, at present, the spouse of a holder of Hong Kong Identity Card who can produce a marriage certificate issued by a competent authority is charged fees on the basis of an entitled person when using services at our public hospitals and clinics. This policy applies without discrimination to all foreign nationals married to Hong Kong residents. Those who do not satisfy this criterion are classified as non-entitled persons and are required to pay the full costs of their medical treatment.

The present fee charging policy recognizes direct family ties as a major factor in determining the eligibility for subsidized medical treatment. This is a rational approach given the unique circumstances in Hong Kong as a cosmopolitan city. There is little justification to change the present policy without a thorough overhaul.

As the existing fee structure of our medical system is one of the key issues which we will address in the context of the Consultation Document "Towards Better Health", we will assess the need for change in the consultation exercise.

Protection for tenants of old buildings against harassment

17. MR STEVEN POON asked (in Chinese): *Will the Government inform this Council:*

- (a) *how many complaints were made to the police over the past year alleging intimidation, harassment and even violence by unlawful elements in their attempts to force tenants of old buildings to move out;*
- (b) *upon investigation of these complaints, how many cases were triad-related;*
- (c) *how many prosecutions were instituted in respect of the complaints referred to in (a) above and how many of the prosecutions were successful; and*
- (d) *what actions will be taken by the Administration to prevent such crimes and to protect the tenants concerned?*

SECRETARY FOR SECURITY: Mr President,

- (a) The requested statistics are not readily available. Complaints to the police concerning intimidation, harassment or violence are classified according to the nature of the criminal acts alleged. The police do not, at present, have separate statistics for complaints arising specifically from attempts by landlords to force tenants to move out of old buildings. However, the police, with effect from 1 January 1994, will begin to maintain separate statistics for offences against the Landlord and Tenants (Consolidation) Ordinance.

(b) and (c)

For the reasons set out above, this information is not available.

- (d) To prevent such crimes and to protect the tenants concerned, pamphlets are distributed through District Offices and Rating and Valuation Department offices to highlight the fact that to interfere with a tenant's right to remain in occupation of rented premises, to harass tenants or to force tenants to move out of rented premises are criminal offences which are liable to heavy penalties.

On receiving complaints of criminal offences, including those arising from landlord tenant disputes or repossession of premises, the police will conduct the necessary investigations. Where appropriate, charges will be brought against those having committed criminal offences. The police also have close liaison with the Rating and Valuation Department and have established procedures to deal with tenancy dispute matters. If there is no evidence of any offence, the police will refer the case to the Rating and Valuation Department to settle the dispute by mediation.

Environmental conservation

18. MR MAN SAI-CHEONG asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the major obligations which Hong Kong has to fulfil under international conventions and agreements on environmental conservation; and*
- (b) *whether Britain had at the Earth Summit meeting held in Brazil last year, made any pledge on behalf of Hong Kong for the fulfilment of commitments in future; if so, what the specific details are?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) The following is a list of international conventions and agreements on environmental conservation, to which the United Kingdom is a contracting party and for which ratification by the United Kingdom has been extended to Hong Kong, and a description of our major obligations under them:
 - (i) *Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention)*

The Convention aims to protect migratory species in danger of extinction by requiring contracting parties to conserve and restore their habitats, and to prevent any impediments to their migration. In Hong Kong, the Wild Animal Protection Ordinance (Cap. 170) provides for the protection of species and their habitats to fulfil the requirement of the Convention. The Mai Po Marshes are conserved and managed as an important habitat for migratory birds.

- (ii) *Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar Convention)*

Major obligations under the Convention include implementing planning mechanisms to promote the wise use of wetlands, establishing nature reserves for the conservation of wetlands and waterfowl and making adequate provision for their wardening. In Hong Kong, the Mai Po Marshes are protected as a nature reserve.

- (iii) *Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)*

Contracting parties to CITES are required to protect endangered and threatened species from over exploitation by regulating international trade in wild animals and plants listed in the appendices of the Convention such as elephants and crocodiles. In Hong Kong, the Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187) restricts the import, export and possession of internationally recognized endangered species and their readily recognizable parts and derivatives in accordance with the Convention.

- (iv) *Montreal Protocol on Substances that Deplete the Ozone Layer*

The Protocol requires each party to control the consumption, production, import and supply of ozone depleting chemicals. In Hong Kong, the Ozone Layer Protection Ordinance (Cap. 403) provides the legal framework for the necessary controls.

- (v) *London Convention*

The Convention requires each party to exercise control on marine dumping through licensing arrangements. Hong Kong's obligations under the Convention are currently provided for by the Overseas Territories Order (1975) which extends the provisions of the United Kingdom's Dumping at Sea Act (1974) to Dependent Territories. A licensing system which meets the requirements of the Convention is in place.

- (b) Britain made no pledge on behalf of Hong Kong for the fulfilment of commitments in future at the Earth Summit.

Gambling activities on vessels

19. MR CHIM PUI-CHUNG asked (in Chinese): *In view of the operation of vessels carrying passengers from Hong Kong to the high seas for gambling activities, will the Government inform this Council:*

- (a) *of the present number of those vessels;*
- (b) *how the Government would monitor the gambling activities on board those vessels; and*
- (c) *how the Administration's monitoring of such gambling activities differs from that which is exercised over the gambling activities on board vessels carrying passengers to the high seas for the sole purpose of gambling?*

SECRETARY FOR HOME AFFAIRS: Mr President, the Government policy on gambling is to restrict opportunities for gambling but to allow controlled outlets for such gambling activities as exist. At present the only forms of gambling which are permitted are mahjong played in licensed mahjong parlours, the Mark Six lottery and, of course, betting at the two race courses or through the off-course betting centre network on horse races organized by the Royal Hong Kong Jockey Club. No other forms of gambling are permitted. The restrictions on gambling extend to activities which take place on board ships within the waters of Hong Kong.

I can assure Members that the Government is concerned about unlawful gambling activities. However, there are particular difficulties with respect to Hong Kong's extra-territorial jurisdiction over activities which take place on board vessels carrying passengers from Hong Kong to the high seas.

I should like to point out that it is not government policy to attempt to control gambling activities which take place outside Hong Kong. In the case of vessels based in Hong Kong, the Government's first priority is to ensure the safety of all on board these vessels; crew and passengers alike.

With the enactment of the Merchant Shipping (Safety) (Amendment) Ordinance on 13 January 1993 all passenger vessels based in Hong Kong and engaged on excursion voyages have to be inspected and examined by Government Surveyors to the same safety standards as they apply to Hong Kong registered ships before they will be allowed to clear the port of Hong Kong.

The recent fire on the Panamanian registered passenger ship "New Orient Princess" has clearly demonstrated the risks involved. This incident demonstrated that the Government was correct in taking steps to control fire and marine safety standards on board all vessels based in the territory. The Government will continue to take firm action to ensure that foreign passenger

vessels based in Hong Kong and engaged on excursion voyages meet the same safety standard as apply to Hong Kong registered ships.

Currently, there are two vessels carrying passengers from Hong Kong for gambling activities on the high sea. Both have been inspected and passed examination.

In terms of the monitoring of activities which take place on board vessels outside Hong Kong territorial waters, the Government makes no distinction between vessels operating excursion voyages to the open sea and those plying between Hong Kong and other nearby ports.

Law enforcement agencies monitor the activities of all vessels using the port of Hong Kong, including vessels on excursion voyages. However, there is no evidence to suggest that unlawful gambling activities take place on board these ships within Hong Kong territorial waters.

Motions

OFFICIAL LANGUAGES ORDINANCE

THE ATTORNEY GENERAL moved the following motion:

"That the draft Official Languages (Authentic Chinese Text) (Summary Offences Ordinance) Order, proposed to be made by the Governor in Council, be approved."

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

The authentic Chinese texts of the Summary Offences Ordinance and the Complex Commercial Crimes Ordinance have been carefully examined by the Bilingual Laws Advisory Committee and the Legislative Council Subcommittee on the Authentic Chinese Texts and have their support. In accordance with subsection (4) of section 4B of the Official Languages Ordinance, draft authentication orders in respect of these texts have been prepared and are being put before this Council for approval this afternoon prior to being submitted to the Governor in Council for authentication. I now move that the first of these orders, that is the draft Official Languages (Authentic Chinese Text) (Summary Offences Ordinance) Order, proposed to be made by the Governor in Council, be approved.

Question on the motion proposed, put and agreed to.

OFFICIAL LANGUAGES ORDINANCE

THE ATTORNEY GENERAL moved the following motion:

"That the draft Official Languages (Authentic Chinese Text) (Complex Commercial Crimes Ordinance) Order, proposed to be made by the Governor in Council, be approved."

He said: Mr President, I move the resolution standing in my name on the Order Paper. This seeks approval of the draft Official Languages (Authentic Chinese Text) (Complex Commercial Crimes Ordinance) Order proposed to be made by the Governor in Council.

Question on the motion proposed, put and agreed to.

First Reading of Bills**FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) BILL 1993****BOILERS AND PRESSURE VESSELS (AMENDMENT) BILL 1993**

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

Second Reading of Bills**FACTORIES AND INDUSTRIAL UNDERTAKINGS (AMENDMENT) BILL 1993**

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to amend the Factories and Industrial Undertakings Ordinance."

He said: Mr President, I move the Second Reading of the Factories and Industrial Undertakings (Amendment) Bill 1993.

At the opening of this Council's Session, the Governor has made it quite clear that "we intend to get very tough with those, both employers and employees, who continue to believe that the laws to promote safety at work do not apply to them". The Bill put before Members today is a key component of our package of proposals for improving industrial safety. It seeks to raise substantially the penalties for offences under the Factories and Industrial Undertakings Ordinance, to empower the Commissioner for Labour to issue codes of practice and to transfer the power to amend the schedules of the Ordinance from the Governor in Council to the Commissioner for Labour.

At present, the maximum fines for offences under the Factories and Industrial Undertakings Ordinance and its subsidiary regulations range from \$5,000 to \$50,000 plus 12 months' imprisonment. These are now considered generally too low as most of the maximum fines have not been revised since 1981.

In order to maintain and increase their deterrent effect, we propose to increase the maximum fines having regard to the seriousness of the offences as minor, serious and very serious. In general, "minor offences" are mainly technical breaches of statutory procedural requirements such as failure to keep records or registers, absence of statutory warning notices or signs. "Serious offences" involve relatively serious breaches of safety regulations, but normally not causing very serious bodily harm. Examples are failure to mark the maximum speed of abrasive wheels, poor lighting of workplace and so on. "Very serious offences" are those which may cause imminent risk of fatality or very serious bodily injury. Such offences include lack of protection to prevent falling from height, outbreak of explosion and grave fire hazards.

We propose that minor offences should carry a maximum fine of \$10,000, serious offences \$50,000 and very serious offences \$200,000 with or without imprisonment.

The current safety and health regulations provide for safety requirements but may not contain sufficient details on procedures and standards for employers and workers to follow. To supplement the legal provisions, it is desirable to prepare codes of practice, written in layman's language, on specific regulations or subjects to provide for precise standards and practical guidance. While the Labour Department has issued codes of practice at present, they do not have any legal status.

We propose that the Commissioner for Labour be empowered to issue codes of practice under the Factories and Industrial Undertakings Ordinance. Failure to observe a provision of the codes of practice shall not by itself render a person liable to criminal proceedings, but in any criminal proceedings, the court or magistrate may take into account any provision of a code of practice which appears to be relevant to any liability in question.

At present, the power to amend the Schedules of the Factories and Industrial Undertakings Ordinance rests with the Governor in Council. As these schedules deal only with matters of a technical nature, we propose to transfer the power to the Commissioner for Labour in order to reduce the workload of the Governor in Council.

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

BOILERS AND PRESSURE VESSELS (AMENDMENT) BILL 1993

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to amend the Boilers and Pressure Vessels Ordinance."

He said: Mr President, I move the Second Reading of the Boilers and Pressure Vessels (Amendment) Bill 1993.

The Bill seeks to transfer the power of making regulations under 65(1) of the Boilers and Pressure Vessels Ordinance, relating to the safety standards, numbering of boilers and pressure vessels, control of their operation and fees, from the Governor in Council to the Boilers and Pressure Vessels Authority, who is at present the Commissioner for Labour.

The Authority is already given the power to make other subsidiary legislation under the existing Ordinance, namely, to prescribe the form of a certificate of fitness and a certificate of competency and of any other relevant document under section 67 of the Ordinance. The Bill, if approved, would reduce the Executive Council's workload in making subsidiary legislation of a technical nature. Any proposed amendment to the subsidiary legislation under this Ordinance in future will continue to be laid on the table of this Council, which may by resolution amend it.

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

Members' motions**ELECTION OF THE PRESIDENT'S DEPUTY**

MR ANDREW WONG moved the following motion:

"That the Honourable Mrs Elsie TU be elected the President's deputy of this Council."

MR ANDREW WONG: Mr President, I move that Mrs Elsie TU be elected the President's deputy of this Council.

Question on Mrs Elsie TU's election as President's deputy proposed, put and agreed to.

PRESIDENT: I congratulate you, Mrs TU, on your re-election as President's deputy.
(Clapping)

MRS ELSIE TU: Mr President, I would like, if I may, to thank my colleagues for this honour and to assure them and you, Sir, that I will fulfill my duty to the utmost and also my duty to you.

PRESIDENT: Thank you, Mrs TU.

HONG KONG ROYAL INSTRUCTIONS 1917 TO 1992

MRS ELSIE TU moved the following motion:

"That with effect from 13 October 1993 the Standing Orders of the Legislative Council of Hong Kong be amended -

(1) in Standing Order No. 4B -

- (a) in paragraph (1), by repealing "or committees or subcommittees of the Council" and substituting ", committees of the whole Council, the Finance Committee or subcommittees of the Finance Committee";
- (b) in paragraph (2), by repealing "a committee or subcommittee" and substituting "the Finance Committee or a subcommittee of the Finance Committee";

(2) in Standing Order No. 60C -

(a) in paragraph (7), by adding at the end -

", subcommittees constituted under paragraph (11) and Panels constituted under Standing Order No. 60E";

(b) by adding -

"(11A) A Member shall not be chairman or deputy chairman of more than one subcommittee at the same time.

(11B) The committee may refer any policy matter relating to the business of the Council to a Panel constituted under Standing Order No. 60E, may determine the terms of reference for the consideration of such matter and may request and receive reports on such matter from the Panel.";

- (c) in paragraph (16), by adding ", or any subcommittee," after "committee";
- (3) in Standing Order No. 60D, by adding -
- "(3A) A Bills Committee may appoint subcommittees for the purpose of assisting the Committee in the performance of its functions.";
- (4) by adding -

"60E. Panels

(1) There shall be such number of committees, to be called Panels, as the House Committee considers appropriate.

(2) The terms of reference of a Panel shall be determined by the House Committee.

(3) A Panel shall monitor and examine, to the extent it considers necessary, policy matters referred to it by a member of the Panel or by the House Committee.

(4) The members of a Panel shall be those Members (other than the President and the ex officio Members) who signify membership in accordance with procedural rules (which shall provide only for the manner and timing of such signification) decided by the House Committee.

(5) The chairman of a Panel shall be elected by the Panel from amongst its members. The Panel may also elect a deputy chairman. The chairman and deputy chairman of a Panel shall hold office until the first sitting of the Panel in the session next following that in which they were elected.

(6) A Member who is the chairman or deputy chairman of a Government advisory body in respect of matters which a Panel considers to be directly related to the terms of reference of the Panel shall not be the chairman or deputy chairman of the Panel.

(7) A Member shall not be chairman or deputy chairman of more than one Panel at the same time.

(8) A Panel shall consist of not less than six members including the chairman. The quorum of a Panel shall be three members including the chairman, or one third of the members including the chairman (a fraction of the whole number being disregarded), whichever is the greater.

(9) A Panel may, if it considers appropriate, form subcommittees to study specific issues and to report to the Panel.

(10) A Panel or its subcommittee may, if it considers appropriate, sit jointly with any other Panel or its subcommittee for the purpose of considering any matter of common interest to the Panels.

(11) A Panel and its subcommittee shall sit at the times (including any time during the period when the Council is in recess between the end of one session and the beginning of the next session) and at the place determined by the chairman of the Panel or its subcommittee, as the case may be. Written notice of the place, day and time of every sitting shall be given to the members at least three days before the day of the sitting but shorter notice may be given in any case where the chairman so directs.

(12) Sittings shall be held in public unless the chairman otherwise orders in accordance with any decision of the Panel or its subcommittee, as the case may be.

(13) All matters for the decision of a Panel shall be decided by a majority of the members voting. The chairman shall, if the votes be equally divided, have a casting vote in addition to his original vote. Such voting shall not be binding on any Member, whether in Council, in a committee of the whole Council or in the House Committee.

(14) A Panel may, where requested by the House Committee and where it considers appropriate, or on its own motion, make reports in writing to the House Committee for the purpose of informing Members of the progress of its deliberations.

(15) Where so authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382), a Panel or its subcommittee may call any person to attend before it and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.

(16) Subject to these Standing Orders, the practice and procedure of a Panel or its subcommittee shall be determined by that Panel. In any such determination, a Panel shall take into account any guidelines provided under Standing Order No. 60C(7)."

MRS ELSIE TU: Mr President, I rise to move the motion standing in my name on the Order Paper.

In July last year, I moved a motion to amend the Standing Orders of the Legislative Council of Hong Kong to implement a formal committee structure to scrutinize draft legislation. This year, I move a motion to amend the Standing Order again. The main purpose of the amendment this time is to make provision for the establishment of panels as formal committees of the Legislative Council.

The existing panels were formed under the former OMELCO system to provide a forum for Members to meet together to discuss government policies with the Administration. Following the dissolution of OMELCO last October, the present panel system was reviewed. On the recommendation of a working group, formed by Legislative Council Members to study various matters relating to the winding up of OMELCO, the House Committee decided in February this year that existing panels should be made formal committees of the Legislative Council with clear legal status. They should continue to be called panels and to perform their existing function of monitoring and examining government policies.

I would like to highlight the following main features of the new panel system:

- (a) panels shall be covered by the Legislative Council (Powers and Privileges) Ordinance (Cap. 382);
- (b) panels may form subcommittees of their own to study specific issues;
- (c) following the practice of the House Committee and the Bills Committees, a panel or its subcommittee, where so authorized by the Legislative Council (Powers and Privileges) Ordinance, may call any person to attend before it and to give evidence or to provide any document or record under the control of such person; and
- (d) there will be restrictions on the chairmanship and deputy chairmanship of panels. The restrictions are:
 - (i) a Member who is the chairman or deputy chairman of a government advisory body in respect of matters which a panel considers to be directly related to the terms of reference of

the panel shall not be the chairman or deputy chairman of that panel; and

- (ii) a Member shall not be chairman or deputy chairman of more than one panel at the same time.

With the hard work of my colleagues, the Legislative Council Secretariat and the Administration, necessary amendments to the Standing Orders are now ready to effect the changes. It is believed that with the new and formalized panel structure, the efficiency of the Legislative Council will be further enhanced.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

PRESIDENT: I have accepted the recommendations of the House Committee as to time limits on speeches for the motion debates on "Consultation Document on Medical Fees, Charges, Waivers and Insurance" and "Succession Rights in the New Territories" and Members were informed by circular on 11 October. The mover of the motion will have 15 minutes for his speech including his reply and another five minutes to reply to proposed amendments. Other Members, including movers of amendments, will have seven minutes for their speeches. Under Standing Order 27A, I am required to direct any Member speaking in excess of the specified time to discontinue his speech.

CONSULTATION DOCUMENT ON MEDICAL FEES, CHARGES, WAIVERS AND INSURANCE

DR LAM KUI-CHUN moved the following motion:

"That this Council urges the Government to take fully into consideration the views expressed by the community on its consultation document on medical fees, charges, waivers and insurance ("Towards Better Health"), so as to formulate a policy which ensures that the people of Hong Kong, in particular those who are less able to pay, can continue to have access to adequate health care at no more than nominal charges as befitting a welfare service, and that innovative means of additional funding are found to cope with the escalating costs of health care as well as to make available the highest possible quality of medical care for the future, without unduly burdening society."

DR LAM KUI-CHUN (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper.

Responding to Mr Peter WONG's motion moved in this Council last April, the Government in mid-July this year published a consultation paper entitled *Towards Better Health*. The paper seeks to lay down for our future health care services a funding structure which is acceptable to the public. The paper intends well. Unfortunately, many members of the public, as well as political parties, concluded from the outset that it was a paper to pave the way for higher health care charges; accordingly, they raised strong objections right away. As a step in the overall development of health care services, the Government initiated years ago primary health care services including healthy living. Then, 22 months ago, the Hospital Authority was set up. In doing so, the Government aims to put resources to more cost-effective use and to lower the costs of health care. At present, the Government has to face the following problems: the aging population's increasing demand for medical services; the need for expensive equipment to enable medical services to keep abreast of the times; and the fact that medical costs have risen at a much faster rate than the rate of inflation. Undoubtedly, the next step in government planning should be to cope with its spiralling expenditure on health care and at the same time to provide adequate health care services, charging fees in a way acceptable to the public. Accordingly, this consultation paper on health care charges, waivers and insurance was published for public consultation. Such a move comes at an opportune time. Unfortunately, "a wrong name is worse than a hard lot", as the saying goes. The consultation paper is entitled *Towards Better Health*. Therefore, it puts readers in such a frame of mind that they expect to find out from it how the Government proposes to achieve the goal of better health. However, it turns out that the substance of the paper should more appropriately have been entitled *Health Care Resources Development and Funding Structure*. No wonder that the public are worrying that the paper has been published solely for the "better health" of the Treasury. Against this background, officials of the Health and Welfare Branch are going around, trying hard to explain the purpose of the consultation paper. However, members of the public have already been prejudiced and they simply oppose to any increase in charges, rendering meaningless the consultation process.

In moving my motion in this Council today, apart from giving Members an opportunity to offer their invaluable comments, I also want the Government to listen to comments that are really balanced and to the point, comments that are not merely directed against higher charges.

Within the framework of the motion, I have first of all made it clear that the consultation paper is on "fees, waivers and insurance" and not on abstract health care principles. I say so in a positive response to the topics of the consultation paper and with a view to giving substantive support to the Government in formulating a practical policy.

On this new policy, the first point of my motion is to urge the Government to ensure that inexpensive but adequate health care services to the general public will be maintained. In making this point, my hope is to relieve the people of their anxiety that "they may not be able to afford medical treatment." As a matter of fact, the Government has been subsidizing acute general hospitals at between 97% and 98% of the operating cost. This is practically a kind of welfare service. Although charges have been pegged to the overall costs in recent years, the public still find it acceptable because the charges are low. Having a baseline as befitting a welfare service is of paramount importance to the poorer members of the public. Meanwhile, the Government should also look after the interests of people in the border-line cases, that is, those who stand on their own legs. Though they are not destitute, they will have difficulties meeting medical expenses and living expenses in case they fall ill. True, the Government has been emphasizing that no one should be denied adequate medical treatment through lack of means. Still, I hope that the Government will go a step further so that nobody will land himself in financial straits for seeking adequate medical treatment. In the areas of fees, waivers and medical subvention, the Government should give these people reasonable and compassionate consideration. My motion, as worded, does not restrain the Government from setting up mechanisms to charge patients in full or in part the cost of treatment under certain circumstances (for instance, when wealthy patients need the kind of treatment provided exclusively by public hospitals under the Hospital Authority).

After urging that inexpensive health care for the general public should be maintained, I must go on to emphasize that mere maintenance of the *status quo* financially will not suffice to take Hong Kong's health care standards into the 21st century. Mr President, let me tell you the stories of two heart disease patients, one called "Ah Fei" and the other "Ah Pang". Fifteen years ago, Ah Fei needed to pay only \$300 plus a daily rate of \$10 to \$15 for medicine. The examination he undertook was limited to the taking of one cardiogram. The doctor told him that he should avoid fatigue and excitement. After being discharged from hospital, he lived every day under the shadow of fear that he would sooner or later have a heart attack. Six years later, he did have a heart attack, and he died by the side of a mahjong table. Now look at Ah Pang six-odd months ago. After being admitted into hospital, he was not only given a cardiogram examination, but also a coronary arteriogram. His occlusive cardiovascular system was unblocked as well. Ah Pang still live an active and vigorous life today. He plays tennis regularly. He feels quite at home doing things that others consider as "stirring up trouble." His quality of life is of course much better than that of Ah Fei. But he had to pay a medical bill of \$50,000 or so, more than 160 times the amount paid by Ah Fei. The present consultation paper seeks to invite the public to make a choice. Do they want inexpensive medical treatment and then, like Ah Fei, live under the shadow of fear, or do they want expensive, up-to-date treatment and get the same salutary result as Ah Pang? The Liberal Party last week consulted the public for their views. 80% of them responded that they favoured up-to-date treatment. In view of the rising public expectations about standards of medical care and more

patients like Ah Fat and Ah Pang, where does the money come from? The second point in my motion deals precisely with this question. Health care costs continue to spiral. Should government medical services remain a welfare service and be kept abreast of the times, it is totally a cock-and-bull story that we may do without a reform of the present funding structure on the one hand and do not unduly strain our economy on the other. In his first policy address, the Governor promised to increase health care spending by 22% in real terms over the next five years. His words are still fresh in our memory. Then, last week, in his second policy address, he further committed \$850 million to the improvement of medical facilities. Although the Government has made additional commitments in health care, they still lag far behind the desired level. Let us ask ourselves: How can we expect the Government to appropriate more money for health care without make a radical change to our proven funding structure that has been in use for many years?

Under these circumstances, exploring new sources of funding is the only solution. To be precise, the bones of contention are fee increase, tax increase or the spreading of the cost of health care. I believe that Members will later on offer their brilliant comments on the question of new resources development. I would like to point out some principles:

Firstly, as to new resources development, it must be on a voluntary basis.

Secondly, a sound waiver system is required to assist members of the middle and low-income groups.

Thirdly, tax increase should be avoided so as to enable Hong Kong to maintain its economic merits.

Under the principle of voluntary contribution, the issues of semi-private rooms and medical insurance schemes, in which members of the public will be encouraged to participate, should be discussed in greater depth.

On the question of waivers, the Government must be flexible. While a definite system is necessary, rigid policies and standards will only invoke public dissatisfaction. I think that, while there should be a definite policy, it should be applied with great flexibility on an individual basis. At the same time, it is not worth the effort to incur huge administrative expenses to charge individual patients for scanty medical fees.

The question of medical insurance lies beyond the scope of the consultation paper. I think that it is imperative that the Government considers setting up a central medical insurance scheme to invite the voluntary participation by the public. If this task is assigned to commercial insurance companies, the elderly and the infirm may practically be unable to have any insurance coverage. Worse still, chances are that insurance companies may gain the final say over health care resources as in the case of foreign countries. As a result, hospitals may have to turn away patients with complications for fear of

their tight resources being eroded by them. This will frustrate the goal of "accessibility of medical treatment to every patient."

On the tax increase issue, the Government should take warning from the experience of developed countries. These countries impose high tax rates to meet their rising expenditures on medical welfare. Their economy is thus undermined. They run up huge national debts and their resources are abused. The result is that, despite their heavy spending on health care, the health of their citizens is not as good as that of the people of Hong Kong. According to a survey conducted by the Liberal Party, 96% of the people opposed to tax increase as a new source of health care funding. In view of the aspirations of the people of Hong Kong and the experience drawn from foreign countries, we must avoid taking the same disastrous road of these foreign countries. This is what I mean by "without unduly burdening society" at the end of my motion.

Mr President, today's motion debate seeks to urge the Government to formulate a policy which ensures that the people of Hong Kong can have access to adequate health care at nominal charges and, without creating a huge burden on itself, to explore new resources to cope with the escalating costs of health care as well as to introduce up-to-date technologies to Hong Kong so that our health care services may stride into a new era. I urge all Members to support the motion. Later on, other Members from the Liberal Party will elaborate on our ideas.

Mr President, with these remarks, I beg to move.

Question on the motion proposed.

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

DR CONRAD LAM moved the following amendment to Dr LAM Kui-chun's motion:

"To delete all the words from "take fully into consideration" to the end and substitute the following -

"work out as soon as possible a healthcare policy that is fair and acceptable to the public and to respect the wishes expressed by the public in response to the consultation document "Towards Better Health", in particular the wishes that:

- (a) charges for healthcare services should not be based on operating costs, nor should itemised charging be adopted; and
- (b) as healthcare is a social welfare service, the Government should take full responsibility for looking after the health of the general public and should in no way introduce the principle that patients should bear a greater burden of healthcare costs."

DR CONRAD LAM (in Cantonese): Mr President, I move an amendment to Dr LAM Kui-chun's motion as set out under my name in the Order Paper. The United Democrats of Hong Kong (UDHK) has three main reasons for moving the amendment:

Firstly, the motion fails to reflect the views expressed by most members of the public concerning the consultation document *Towards Better Health*. The public is particularly averse to, and concerned about, "pegging charges to costs" and "itemized charging".

Secondly, the motion obviously promotes the idea that "users pay", an idea contrary to the principle which states that health care is people's right.

Thirdly, UDHK's approach to public opinion is simply different from that of the Liberal Party. The Liberal Party merely urges that public opinion be "taken into consideration". In contrast, UDHK urges that public opinion be "respected" and not toyed with. Mr President, Mr Chris PATTEN talks all the time about adherence to three principles: "openness", "fairness" and "acceptability to the public". It is to be hoped that the Government will adhere to these three principles when laying down its policy on charges for health care.

Anybody who does not understand the true meaning of "specious argument" may find it very enlightening to read the full text of the motion. In its first part, the motion talks about welfare service and nominal charges but then goes on to rank members of the public according to their ability to pay, with the result that nominal charges turn out to be not what they seem. As for the rest of the motion, while it seems to urge the Government to find means of additional funding without unduly burdening society, what it really says is that a burden that is not undue will be acceptable. Interpreting it in its positive sense, one might have reduced the 112-word motion to 13 words: "Health care is a citizen right and the Government must foot the bill". Unfortunately, Dr LAM Kui-chun instead used ambiguous terms which not only caused confusion but enabled his motion to be interpreted differently depending on one's viewpoint. It seems that Dr LAM Kui-chun used ambiguity and verbosity to disguise his real intent. However, speaking a moment ago, he has made this intent clear. If we remove its ambiguity, we will see that his motion amounts to voicing implicit support for a mechanism based on the idea that "users pay".

I wish to point out where the motion is self-contradictory. If one is really talking about nominal charges, then one should not talk about pegging charges to the ability to pay. If one means that patients who can afford to pay more should pay more, then one is not talking about nominal charges, is one? The motion is full of equivocal terms. One example is "those who are less able to pay". As Dr LAM is advocating nominal charges, then I would like to ask: At what level should the charges be set? How much are the charges? Different people differ in ability to pay. Even the same person's ability to pay differs at different times. For instance, a wage earner's ability to pay before pay-day differs appreciably from that after pay-day. How do we define "less able to pay"? How should we quantify "able to pay"? The same amount of salary that is enough to support a family of two may not be enough to support a family of three or four, still less if there is a chronic patient in the family. The term "able to pay" is hard enough to define as it is. Adding the abstract word "less" to the term makes it even harder to define.

What does the motion mean when it says, ".... without unduly burdening society"? Where should the line be drawn in defining an "undue" burden? If an "undue" burden means a burden exceeding a specific percentage of GDP, then what is this percentage? And who is responsible for drawing the line? What criteria should be employed? Also, when the motion says, ".... continue to have access to adequate health care", it is assuming that existing health care is adequate, so there should be continued access to it. But the truth is that existing health care is inadequate in many ways. The motion is also difficult to understand when it says, ".... ensures that innovative means of additional funding are found." We are not opposed to innovation. But the motion assumes that existing health care is adequate; why then does it suggest that innovative means of additional funding must be found? Does the motion mean to say that we do not need a health care policy unless it ensures that innovative means of additional funding are found? The motion says, ".... make available the highest possible quality of medical care." It may as well have said nothing. If I tell Honourable Members that I am going to buy you the best meal "within my means", then what I mean by the best meal will probably include sharks' fin or abalone, yet, it will also merely be some peanut or some stale bread. Mr President, summing up the above, I find the motion full of "ambiguities", "contradictions in terms" and "equivocal signals".

Mr President, I once worked in a hospital. That hospital had more than 20 years of experience with regard to practices of "pegging charges to costs" and "itemized charging". I can tell you confidently that "pegging charges to costs" and "itemized charging" have certain adverse effects on the quality of life at the lower social strata.

Mr President, with these remarks, I move the amendment.

Question on the amendment proposed.

MRS SELINA CHOW (in Cantonese): Mr President, on behalf of the Liberal Party, I support Dr LAM Kui-chun's motion and oppose Dr Conrad LAM's amendment.

First of all, I would like to state the basic principles along which the Liberal Party examines the Government's consultation paper *Towards Better Health*.

In our view, given the fact that Hong Kong is a prosperous and sophisticated society, the people of Hong Kong deserve to enjoy health care services that are technologically advanced and equipped with state-of-the-art facilities. The Government should not allow our progress in medical services to fall behind other developed countries for financial reasons.

To achieve such a goal, the Government should make proper funding arrangements, arrangements that are accepted by the public as fair. Meanwhile, acknowledgement must be made that medical service is an essential social service (yes, social service, not social welfare). No one should be denied adequate medical treatment through lack of means. As for those with the means, they should contribute more than those without. Furthermore, the public sector should offer a wider range of service options, options which are not only fair and reasonable but also meet the diversified demands of our community.

What the public worries the most is whether the Government is using the occasion of the present consultation to raise charges sharply, to raise the traditionally low medical charges in the public sector, with the result that some people may be denied the services they need.

The Liberal Party considers this kind of worry to be understandable and that the Government should fully take it into consideration. We think that the existing fee-charging criterion which reflects only the cost of meals, is weird and sometimes unfair. The cost of each kind of health care services varies. It is therefore logical for patients to pay different amounts of fees for the different kinds of services they receive. However, in view of the general public's concern, the percentage of the costs that patients are now paying should remain as it is. In other words, the existing percentage which represents 1% or 2% of the operating costs, is an appropriate one. Government subsidy should, as far as possible, be kept at some 90% of costs. In addition, there should be a cap on the scale of cost increase, lest charges go up sharply with cost.

The public sector should offer more choices to patients. Those who want better beds should of course be asked to pay higher charges. At present, this kind of choice is only available in private hospitals and it is very expensive. We feel that it is incumbent on the Government to make available in the public sector such kind of choices to members of the public because it has the resources to do so.

All the revenue from the provision of health care services should be spent on health care development. None of it should go into the Treasury and be earmarked for other use.

In addition, we urge that resources spent on health care should be in a cost-effective way. Meanwhile, a patient-oriented culture of service should be instilled into hospital management.

Mr President, I am going to explain why we cannot accept Dr Conrad LAM's amendment to the motion.

In my view, what Dr Conrad LAM said just now was somewhat like swearing black is white. He mentioned about "duly or unduly," and "equivocal signals." His words were vacuous and basically not founded. They were just some impassioned or inflammatory words. In fact, his amendment is unacceptable for the following reasons:

Firstly, as I have said earlier, his amendment is totally negativist. He said that charges for services should not be based on costs and that there should be no itemized charging. Well then, what sort of fee-charging criteria should be adopted? He did not mention any. He objected for the sake of objecting, true to the oppositionist practice of the United Democrats of Hong Kong (UDHK). There is no positive intention to improve anything nor will any improvement result. Therefore, we absolutely disagree with him.

Secondly, it is most important that we do not agree that all health care services are unadulteratedly social welfare services to be funded solely by the Government. It cannot be denied that health care services are essential social services to be provided by the Government. However, if they are defined as social welfare services, it is we, the citizens, who alone must foot the bill, with the Government acting as a mere agent. That will be socialism in practice. In communist and socialist countries, all social services expenditures are borne by government on behalf of the people. The result is an ever heavier tax burden and the government's increasing indebtedness. It is inequitable that Dr Conrad LAM barred the introduction of the idea that "the patient should pay more." Suppose that a patient has the means and that he chooses better amenities. Suppose, for instance, that Dr Conrad LAM or UDHK chief Mr Martin LEE wishes to go to a Government hospital. Will he then, having the means, refuse to pay more in a better discharge of his citizen obligation? Will he, too, rely on financial assistance as the poorer members of the public do?

Hong Kong is a community of self-reliance people. We understand the rationale of the saying, "after all, the wool still comes from the sheep." If everybody wants the Government to pay for everything just like UDHK does, Hong Kong will really become a perfect utopia. Unfortunately, in reality, there is no free lunch, nor a government that "picks up every tab." UDHK must be more candid and tell us what kind of price we will have to pay, and how much, if we are to enjoy the fruit of their socialist policy. We know that "pennies

from heaven" are not available. If they tell us the truth honestly, then, despite our divergence in views, we will at least admire them for their honesty and candour.

MR HUI YIN-FAT (in Cantonese): Mr President, it is the basic right of each citizen in our community to receive medical and health services. The Government has the obligation and responsibility to provide the minimum care and ensure good service quality. For this reason, the consultation document should stress that no one will, according to the government policy, be denied appropriate medical services through lack of means, instead of whether there should be such a policy. The present problem we need to tackle is that on one hand we have to maintain a low tax system but, on the other, advanced medical facilities and drugs are very expensive. To improve public health care services in order to meet patients' high expectations, the Administration has to tap new revenue sources. I believe this is the background leading to the formulation of this consultation document.

The Hong Kong Council of Social Services (HKCSS), to which I belong, recently submitted to the Government its representations regarding the consultation document, so I do not intend to waste time commenting the document point by point in this debate. I would like to concentrate on only one point, that is, the Government's financial commitment to health care services. Statistics show that Hong Kong's expenditure on medical and health services over the past 10 years has constituted around 8% to 10% of the annual total public sector expenditure. This figure shows that the territory is still lagging rather far behind our neighbours with similar economic success. In this connection, I believe that the Government can actually afford to allocate more resources for health care services. The Government should, as a concrete expression before the public of its determination and sincerity to solve the problem, firstly increase the expenditure on medical and health services to a reasonable level.

In fact, the growing pressure on the health care expenditure may be due to the fact that the Government has all along lacked a forward-looking and longterm policy. At present there is a global trend of falling hospital expenditure in many advanced countries because patients' admission rate is gradually on the decline as a result of better primary health care. This is the most cost-effective way to reduce such expenditure because medical cost is, generally speaking, greater than that of primary health care. However, the Government is bucking this trend and, indeed, the public, especially the health care profession, find the situation very frustrating. In his policy address, the Governor mentioned the patient-centred health care services but failed to touch upon the implementation of the proposals in the report compiled by the Working Party on Primary Health Care and issued by the Government in 1990. We can see from this instance that the Administration has treated primary health care so slightly. I urge the Government to promptly formulate a well-defined health care policy and put in place a mechanism to monitor health care services by ensuring

service quality and controlling cost so that precious resources will not be wasted.

Mr President, the Administration has repeatedly reiterated that medical fees are pegged to the cost in order to arouse patients' awareness of the cost involved and thus mitigate any abuse of medical services. However, I have to stress one point. The medical fees paid by patients should never form the main financial source of health care services. And any additional revenue coming from the implementation of the new fee schedule must be spent on health care services. This definitely cannot be used as a means to cut public funds made available to medical care. As regards the Percentage Subsidy Approach, once the fees and the cost are pegged, with the expected surging medical cost, the public are worried that it will become a ready-made excuse for the Administration to increase the fees time and again even though the subsidy rate remains unchanged. For this reason, the HKCSS strongly opposes this proposal. The Government has pledged that waivers would be available to needy patients. Still, not too many people will be benefited. Families which are marginal cases for receiving public assistance or with income just above the limit for the eligibility of waivers, especially those with aged members or chronic patients, will certainly be hard pressed financially.

Mr President, the Compulsory Comprehensive Insurance Approach put forward in the consultation document is worthy of support and a feasible proposal because this approach can provide immediate protection for the whole community, including the poor and the rich, the strong, the weak and the infirm as well as the retired. Since the number of people participating in the insurance scheme is great in number, risk can be shared and the premium can thus be maintained at a low level. The Government, however, has yet to make any concrete financial commitment or thrash out a well-defined medical policy. Neither has the Government made any pledge in respect of the fee system to remove any misgivings among the public. Unless the Government promises to make amendments, having regard to public opinion, I think the proposals in this document are not recommendable to the public.

These are my remarks. For the above reasons, I support Dr Conrad LAM's amendment.

MR PANG CHUN-HOI (in Cantonese): Mr President, it should have been a piece of good news to the general public that the Government has intended to raise the standard of medical services in Hong Kong. However, a good many new fees proposed in the consultation document on health care have aroused public anxiety. They are worried that the Government will change its current medical policy and will no longer make any commitment to people's welfare in the context of medical services.

In the Green Paper, the Government highlights the public's extensive use of private sector facilities for preventive and minor curative treatment, with the public sector remaining the major provider of hospital services. For this reason, the paper adds that it is necessary to effect reform mainly in this area. In fact, the situation as portrayed in the Green Paper bears witness precisely to the fact that the public cannot afford the expensive medical services provided by private hospitals and medical services provided by the Government can relieve the public of the huge burden of medical fees when they have to be hospitalized.

Of the five approaches offered for consultation, the Government prefers a combination of the Target Group Approach and the Percentage Subsidy Approach but I really cannot support such a view. It was recommended in the consultation document that the percentage of overall cost recovery could progressively be increased to 15%-20%, that is to say, the daily fees for general class bed in casualty department or general ward may be between \$316 and \$421 and full waiver will be available to Public Assistance recipients. By taking such an approach, the Government undoubtedly intends to lower the living standard of the middle and lower classes further to reduce them to abject poverty.

Let us take a look at the following figures. In the year 1991-92, around 37% of the hospital beds are occupied by patients aged 65 or above while 47.3% of patients hospitalized in 1991 are people with less than \$10 000 of total household monthly income. Most of the elderly in Hong Kong enjoy no retirement protection benefits and often depend on their families for financial support. If the Government tries to "improve" the existing medical services by increasing the percentage of overall cost recovery and making full waiver available to Public Assistance recipients, this group of elderly who are the most in need of medical services will certainly become heavy family burdens and as a result, the living standard of Hong Kong's middle and lower classes will deteriorate.

The Government has all along stressed that under the existing policy no one should be denied adequate medical treatment through lack of means will remain paramount. Perhaps the Government can really achieve this aim. However, if the proposals in the consultation document are put into practice, not only inflation will get worse but heavy burdens will also be laid on families with aged members. What is worse, the elderly may even be abandoned by their families and thus fall victim to the Government's so-called improvement of the medical services.

Everyone in the community is pleased to see that the Government is determined to enhance the quality of medical services and, in fact, this is also the obligation of a responsible government. Yet, I believe changing the fee collection method is not the only means to enhance the quality of medical services.

I earnestly hope, and urge, that the Government should not shirk its responsibility for the provision of medical services as a form of social welfare. Today when Hong Kong has achieved remarkable economic success and the Government has made a huge surplus, I hope the general public can be provided with medical services as in the past, which are the only services made available to the people of Hong Kong regardless of their social or financial background.

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

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

MR TAM YIU-CHUNG (in Cantonese): Madam deputy, Hong Kong's present health care system obviously does not meet the public's requirement because patients often fail to receive proper care. The system needs reform if we look at its deficiencies accumulating over the past. Moreover, with rapid changes in view, the system needs a forward-looking reform plan. The consultation paper *Towards Better Health* carries, from the beginning to the end, the banner of reform. Regrettably, however, it is a disappointment as a reform plan.

I have high praise for the words said by the Secretary for Health and Welfare in the foreword of the consultation paper. Her words send a very important signal, which is that better health can come only from a combination of hospital services and primary health care. If we may take these to be the objective of our health care system, how to put this objective into practice under Hong Kong's actual circumstances is the kind of reform we need. However, in the consultation paper, we see no down-to-earth assessment of objectives or review of the existing operating system. Still less do we see any reform strategy of value.

The consultation paper provides a list of existing problems in the health care system, such as overloading, manpower constraints, inequitable fee structure, lack of choice and the lack of interface between the public and private sectors. But the questions are: What does "inequitable fee structure" have to do with the goal of "towards better health"? What does "lack of choice" have to do with it? These two questions are leading in nature. They lead to the conclusions that the Government wants to draw. The Government is more interested in the conclusions than in the problems themselves. It seems that the Government, in presenting the problems in such a way, is trying to justify higher health care charges.

The other three problems, that is, overloading, manpower constraints and lack of interface between the public and private sectors, have existed for a long time. They are due to the inefficiency of our health care system. The Government does not review our health care system in terms of resource allocation, organizational structure and management to find out why the problems have remained unsolved and where the inefficiency lies. Instead, it

treats the problems as if they were new ones. It seems that the Government is of the view that these problems can be solved only through an increase in health care charges. Such an approach is confusing and lacks sincerity.

The consultation paper not only reveals a confusing reform idea, but also a high degree of over-simplification. The consultation paper seems to conclude that the problems in Hong Kong's health care system are related to funding. It follows that cost control and a broader funding base will be the solution. It then goes on to say in a grossly simplified way that cost control and a broader funding base require a greater degree of cost-sharing by patients and the introduction of more market factors or privatization factors into the provision of health care services by the public sector. Such a highly simplistic logic has turned the consultation paper *Towards Better Health* into a consultation paper on health care charges. I consider such a highly simplistic approach to be a very irresponsible one. It covers up many problems that should be looked at squarely. It also causes other aspects of the reform to be overlooked. In fact, the greatest obstacles to enhancing cost-effectiveness are our over-reliance on hospital services and the problems due to the excessive emphasis placed on "hospital-based" policies in the provision of hospital services. Yet the consultation paper continues to grope along the "hospital-based" line of thinking in setting the direction for reform. It renders only a very sketchy account of the primary health care services that can effectively help to relieve the pressure on hospital services. The grossly overlooked primary health care services result in a fallacy, that is, the high operating costs of hospitals are tantamount to the high costs of the entire health care system. Yet the consultation paper seems to imply that patient-caused wastage is one of the reasons for the high operating costs of hospitals. It, therefore, says that enhancing patients' cost awareness will help cost control and that one effective way to raise patients' cost awareness is to raise the charges for services. When a patient feels the pressure of higher charges, he will have been inculcated with the concept of cost awareness. Cost control will then be achieved automatically. This method of cost control and the capping of hospitals' spending thus become the core of the reform covering the entire health care system. I think that such reform measures are obviously detrimental to the entire health care system.

I do not at all belittle the importance of cost-effectiveness. But I am against over-emphasizing cost-effectiveness. I am even more against neglecting the patients' needs for the sake of cost-effectiveness. Our health care services are deficient. Our trying to introduce more market factors or factors of privatization under these circumstances will only result in higher charges for one group of people and less services for the other. This is the last thing I want to see. Since the publication of the consultation paper, a very strong public voice has been calling for the keeping of health care services as a kind of social welfare service. I deeply share their views, in particular the views of the toiling masses, the elderly, the disabled and the chronically ill. These people have a special need for medical care protection. I hope that the Government will continue to provide them with full protection that is adequate and reasonable.

MRS PEGGY LAM (in Cantonese): Madam deputy, on the last page of the consultation paper *Towards Better Health*, it is said in print, "Our mission is to serve you." This undertaking by the Government is good and should be welcomed by the public. Yet, from the reaction of most members of the public to the consultation paper, it seems that they are somewhat afraid even though the Government is willing to provide them services. What are they afraid of? They are afraid that medical charges will be pegged to costs and that, at the end of the day, they will have to bear all the costs. Someone said to me, "The operating cost of an acute general hospital is \$2,105 per bed per day at the moment. The average patient spends 4.4 days in the hospital. The cost is \$9,200 or so. The median monthly income of an employed person is only \$7,000 (based on statistics for the current year). Should medical charges be pegged to costs, we will have to go into debt if we ever fall ill." Members of the public still hold such wrong notions despite my repeated attempts to explain the case to them. Actually, the Government has not said that it intends to recover in full the cost of health care. The Secretary for Health and Welfare has made the assurance many times in public. Still, the public cannot set their minds at rest. The reason for this may be that the initial rationale behind the consultation paper is not good enough or that its wording is inappropriate.

The public is further afraid that, as medical science advances and as the community expectations rise, the already expensive health care costs will rise even higher. Then, if the Government adopts the percentage subsidy approach recommended by the consultation paper, the burden on the public will become heavier and heavier. Therefore, many people have told me that, as long as costs are beyond patients' control, the public will not accept a policy that pegs health care charges to costs. I feel the same way.

I agree that health care services are social welfare services and that the Government should meet most of the expenses. However, health care services are different from other welfare services in that they are essential to everybody. Everybody, no matter rich or poor, may fall ill and be admitted into the hospital. Therefore, I am convinced that the principle which states that "those with the means should pay more" has a place in the area of health care charges. That is to say, we should ask those with the means to pay more and those with less means to pay less. However, how are we going to define "those with the means"? How are we going to determine the "extra amount to be paid"? These questions have yet to be studied by all.

Here, I venture to offer a few ideas to induce others to come forward with more valuable ones. For instance, we may rank families by their average household incomes for fee charging purpose. Where special circumstances warrant, a family may be charged at a lower level. However, one thing must be insisted on, that is, charges should not affect a patient's quality of life. Of course, we should take the cost of living index into consideration. In fact, a simple ranking system can help to cut the administrative expenses of complex waiver processing. As for the additional revenue collected, we think that it

should be earmarked for the improvement of health care services to benefit all members of the public.

Furthermore, I think that consideration may be given to charging a fee for accident and emergency services. Since the public are willing to pay for out-patient services, I really see no reason why users of the accident and emergency services are not charged for their service simply because they are for emergency only. While the collection of such a fee may not be enough to deter the abuse of the accident and emergency services, it will generate additional revenue without drastically affecting the quality of life of members of the public.

The consultation paper provides a list of target groups of patients who are eligible for waivers of charges. I think that there should be more than four eligible target groups. There are people who would rather work to the last breath to earn a living than apply for public assistance. This may be due to typical Chinese pride, or may be the amount of public assistance is too meagre. An elderly couple in Wan Chai recently came to me for help. The man was already over 80, but was still working as an agent. That is a real-life example. Many people will refrain from applying for public assistance as long as they are able to live from hand to mouth. But, in case an unexpected situation arises, such as birth, senility, illness or death, they have no savings to tide over the difficulties. I reiterate that, when setting up a system of waivers, the Government must take social realities into consideration. We do not want to see people who have reached the retirement age of 60 but are not yet eligible for waivers of charges until they are 70. Nor do we want to see those chronically ill being denied of financial assistance because they are still working.

I agree in principle with the idea of "B" class beds. However, the Government must do some careful calculation to make sure that the revenue from "B" class beds will justify itself for the resources consumed and any impact caused. For instance, "B" class beds will take up space and equipment, and they may cause nuisance to other patients. If it is found that the Government's subsidy to users of "B" class beds will be more than, or as much as, that given to users of general ward beds, I think that we may as well do without the "B" class beds. True, it is good to provide consumers with more choices. Still, now that health care services are still costly and not abundantly available, the Government should look after the interests of the majority and leave it to the private hospitals to provide "B" class beds.

The consultation paper also dwells on medical insurance. It is well known that insurers of medical insurance policies do not favour the elderly, the infirm, the handicapped or the disabled whereas the young and the healthy are most welcome. As a matter of fact, to encourage the public to take up medical insurance voluntarily through education is in the overall interests of the community, for, over the long term, private health insurance coverage will reduce the burden of financing health care by the Government. On the contrary, if compulsory insurance is to be implemented, the elderly, the infirm,

the handicapped and the disabled will probably find the premium hard to afford. The Government will have to subsidize them and incur extra administrative expenses. As a result, the premium paid by the public will partly go to meet the insurance companies' administrative expenses and partly become their profit.

Many critics have found the consultation paper *Towards Better Health* to be impressive but worthless and it solely deals with the issues of medical charges. However, I have noticed that the Health and Welfare Branch has put forward proposals for primary health care. The Hospital Authority, which was set up two-odd years ago, is beginning to implement gradually the initiatives for management and efficiency improvement that it has once promised. I hope that the authorities concerned will publish more reports for the information of the public. This will forestall unnecessary speculation and criticism among members of the public.

That the population is aging is an undisputed fact. Working in Wan Chai, I am especially aware of this problem. Therefore, I am relieved to learn that the Government will provide additional hospital beds for the elderly. Still, I hope that the Government will implement measures on primary health care soon.

The buzzer sounded a continuous beep.

PRESIDENT'S DEPUTY: Mrs LAM, it is time.

MRS PEGGY LAM (in Cantonese): Madam deputy, with these remarks, I support Dr LAM Kui-chun's motion.

MR LAU WAH-SUM (in Cantonese): Madam deputy, the availability of comprehensive medical services is often employed as one of the criteria to assess a modern society. Apart from food, clothing, shelter and transportation — basic necessities of life — people also attach great importance to medical services, health care and the prevention of disease. Now that the Government has released *Towards Better Health — A Consultation Document*, I hope that the general public will take an active part in voicing their opinions for the Government's consideration so that a more comprehensive medical policy may be formulated.

We have heard views concerning pegging medical charges to costs and on medical insurance during the consultation period. But the crux of the matter at the moment is that on the one hand, the advancement of medical technology and the expenditure on increasingly expensive equipment drive health care costs up dramatically, and on the other, people's expectations of medical services are rising as well. If we do not allocate sufficient resources, the quality of health care services in Hong Kong is likely to suffer as a result. There is one aspect

which we often overlook: The growth rate in the cost of providing medical services over the past few years has far exceeded that of inflation. On the face of it, the resources allocated by the Government have been on the increase but actually it cannot solve the real problem. Although it is the Government's plan to raise the recurrent spending on health care by 22% in real terms over the period from 1992 to 1997, however, according to the Hospital Authority's computation, such an increase in government spending will hardly meet the present level of medical expenses. Should the Government not provide additional resources, we shall not be able to achieve the kind of improvements that the community expects. As a matter of fact, the considerable increase in medical costs in recent years, which has posed a problem to Hong Kong, has crucial bearing on medical services worldwide. In the event that the Government, though it tried its best to maintain a highly efficient administrative system to improve cost-effectiveness and to spend more efficiently, still fails to solve the problems stemming from inadequate resources, then it must work out other feasible alternatives. Should we consider the idea of asking the patients to bear part of the medical costs in accordance with their affordability? This is the heart of the problem of our existing medical services policy and the theme of the consultation document as well.

Some may hold that medical service is a kind of social welfare and it is unjustifiable for the Government to raise the present medical charges. But we should bear in mind that at present, charges for public hospital beds account for only 2% of the cost, with the Government, or the taxpayers, footing 98% of the bill. This is a kind of social welfare, is it not? Free medical services are, as a matter of fact, likely to be abused. I feel that to meet the rising medical costs, apart from asking the patients to bear part of the costs in accordance with their affordabilities, we must also have in place a sound, well-structured, fair and equitable waiver system. With such a system, we may then live up to the principle that no one should be denied adequate medical treatment through lack of means. The waiver system should be simple, easy to implement and incur no additional administrative costs. Take for an example, the consultation document proposes that persons aged 70 and above in receipt of Old Age Allowance be granted partial waiver. Will the Government consider a regressive scale of waiver system, that is, taking 60 years of age as the starting point, the older a patient, the higher the rate of waiver and full waiver for those who reach 80 years of age? This system must be simple to operate and not be too rigid. All we have to do is to check a patient's identity card to ascertain his or her age. It will not add to the administrative costs. Furthermore, in case in a family there are more than one member being admitted to the hospital, is it possible for the Government to grant them partial or full waiver in the light of their length of hospitalization? As for the chronically ill patients, could the Government consider formulating a system whereby they could enjoy reasonable partial waiver or full waiver in view of the type of disease and length of hospitalization? The authorities concerned will certainly encounter many technical problems when this system is implemented. But the most important thing is that the public should find this system convenient in terms of submitting application and under the system, the Administration would find it easy to check

a patient's age such as verification of age by means of his or her identity card. Besides, a clear record on the length of a patient's stay in hospital and the accounts of hospitalization should also be properly kept. To keep the administrative costs to a minimum, the Government should scrap, if possible, the existing income and means test.

The consultation document is to seek public views so as to identify ways to upgrade the present level of services in order that the local public could continue to enjoy quality medical services. I hold that as a community, we should make available sufficient resources to ensure that those with financial difficulties should enjoy proper medical care. Against this background, we need to have a comprehensive waiver system in place.

Madam deputy, with these remarks, I support Dr LAM Kui-chun's motion.

MR JIMMY MCGREGOR: Madam deputy, I have to advise the Council that my comments on health care issues represent, as exactly as I can make them, the considered views of the Hong Kong Democratic Foundation (HKDF). These views do not necessarily represent the views of my constituency although I think a good many Members would agree with them.

In his speech to the Council last year, the Governor promised a real increase of 22% in spending on health care over the following four years and in this year's speech, he detailed some of the specific projects going forward. There is no doubt that the people of Hong Kong welcome the increased allocation of resources. However, there is concern that funds allocated are spent effectively and there is undoubtedly a strong feeling that this may not be happening to the full extent.

Hong Kong's present health care system consists of a mixture of public and private provision of services. The public sector provides about 90% of the secondary and tertiary care facilities. And conversely it is estimated that the private sector delivers as much as 85% of primary care. The facts that 85% of primary health care are provided by the private sector and that 40% of those using private sector secondary and tertiary facilities are below the \$14,000 per month household income level suggest a strong bias in the community towards private medicine.

Under such circumstances, we should be seeking to encourage the shifting of the burden of provision of secondary and tertiary services from the public to the private sector over a period of years. Initiatives are needed to facilitate this process. It is considerable scope, through better management practices and increased competition, for the providers of private health care services to become more cost effective, thus enabling more of the population to afford private medicine.

In this respect, a key requirement is the retraction of the prohibition by the Hong Kong Medical Council against the formation of closed panels of doctors by medical insurers, which effectively prevents the development of managed care groups such as health maintenance organizations and preferred proviso organizations.

Since the provision of effective primary care has a crucial bearing on the need for secondary and tertiary services, it seems an anomaly that the provision of this in the public sector should be left to a separate body. And it would be logical if this function was incorporated into the sphere of activity of the Hospital Authority, which could and should possibly be renamed the Health Authority.

The Department of Health ought to have no involvement in the provision of any type of health care service. Its role should be concentrated on the development of health care policy and the regulation and monitoring of all the provisos of services for health care needs. A policy should be developed to restrain the growth and the cost of the provisional public health care services.

The HKDF recommends four or five year plans be established, with a periodic review undertaken of the public view of the service provided and the future expectations to provide the basis for planning in the next cycle. Annual expenditure should be indexed to the inflation rate, with a proviso that improvements should always be sought to try to keep the cost of providing the existing services at least at the same standard, below the rate of inflation. The granting of additional funds, over and above the inflation factor, to provide for expanded or enhanced services should be governed by a formula based on, but not necessarily commensurate with, the rate of growth in GDP.

With regard to charging for public sector services, the HKDF does not believe that the community wishes to see any significant change from the present system. The Foundation does not support suggestions that the Hospital Authority should recover some of its costs through the provision of semi-private beds, as it believes it should focus exclusively on the role of provider of efficient low cost public medicine.

The HKDF believes that there is a good case to be considered for the Government to provide financial assistance to encourage the less well-off to take up medical insurance. At present medical insurance covering an adequate level of in-patient and out-patient service can be obtained for an annual premium of around \$3,000 per person. The Foundation proposes that the Government institute a pilot scheme whereby it issues vouchers for possibly up to 300 000 people not presently covered by health insurance, subsidizing the cost of purchasing a year's worth of insurance. If the Government was to offer a subsidy to these, for example 300 000, of a \$1,000 contribution towards the cost of the purchase of their private insurance, it would cost only \$300 million or at a subsidy level of \$1,500 per person, \$450 million for a year. However, it

could probably move at least 300 000 patients out of the public hospital system and considerably more out of the public out-patient system.

Based on the Hospital Authority's 1993-94 forecast expenditure of \$12.34 billion for a cost of \$300 million to \$400 million, depending on the level of subsidy, 5% of the present public hospital patient population could be switched to the private sector, effecting a worthwhile saving. On the assumption that the pilot scheme proved to be successful, it would probably be economic to extend the voucher private insurance subsidy scheme to well over 1 million people.

We must recognize that there is no such thing as a quick fix to the health care issue. Rather we need to work towards a steady implementation of improvements and reform in our system. We should seek to establish a framework that is flexible enough to accommodate at one end sophisticated private medicine and at the other a good standard, very low cost public sector service for those whose circumstances are insufficient to enable them to obtain private medicine.

Madam deputy, I support the amended motion.

MR PETER WONG: Madam deputy, the consultative document, pursuing a distinctive objective, has painted a glorious picture of the way forward for Hong Kong's health care services. Unfortunately, two thirds of the paper is devoted to describing the existing health services and delivery systems, leaving a disproportionate one third to explain just how that lofty objective can be achieved. As such, information gaps are left unfilled, questions remain unanswered, and the vision "towards better health" becomes obscure.

I shall address the health policy objective from an accountant's point of view.

Cost

I concur with the Government's view that in order to meet the health care needs of our ageing population, escalating medical costs, and rising expectations of Hong Kong people, a new financing structure of our health care services is needed. Without reform in financing and given a limited budget, medical and health costs cannot remain sustainable except in a buoyant economy and the quality of existing services is likely to deteriorate. At last year's motion debate on fee charging for health services, I emphasized the need for the Government to define the extent subsidized health services will be provided, so that the cost can be split between the taxpayers, service users, the private sector and medical insurance. The consultative document, however, has failed to tell us in concrete terms the projected cost increase up to the year 2000, based on which we can assess the adequacy of the proposed medical spending. The Government plans to raise the recurrent spending on health care, being 9.7% of the 1993-94 total

budget, by 22% in real terms over the next five years. However, can the 22% rise really catch up with the requirements of 30 660 projected public hospital beds in Hong Kong by the year 2000 — a 41% increase over the existing 21 684 beds? The cost of providing in-patient treatment to those aged 65 and above will increase from \$2,721 million in 1992 to \$3,838 million in 2001, also representing a cost increase of 41%. The lack of a clear commitment by the Government on the financial aspect of health care has given rise to the alleged cut-back in medical spending and the criticism that the Government is shirking its basic responsibility.

Accessibility

I fully support the proposal to trim down the total budget of the 80% to 100% government subsidy for public sector patients through good management practice, better organization structure and the inculcation of a business culture in the health sector so as to maximize resources and cost-efficiency. With improved service quality, higher fees affordable to the public could logically be charged, as outlined in the Percentage Subsidy Approach (Option A) of the Green Paper. I favour this logic based on my conviction that individual contributions where affordable will regulate demand for public sector services rationally, spread the cost of health care equitably and release funds for service improvement.

In calculating fees and charges, it is necessary to adopt a standard costing method based on comprehensive management information, pragmatic input and output indicators and rational pricing criteria. Fees should be pitched at a realistic, objective level in order to maintain a level playing field with the private sector in achieving partial cost recovery. The consultative document does not explain how it arrives at the percentage contributions which users are asked to make to the operating cost of general ward beds. Will a 5% contribution to the \$2,105 bed-day cost, being \$105, be affordable to the average household and how much extra revenue will it yield? Can the median annual household income be used as the sole criterion for setting fees without taking into consideration the type of treatment and the length of stay required? How does the waiver system operate without being abused and what administrative costs are involved? On such complex issue as the fee charging mechanism, it is unrealistic to expect that members of the public can shift through all the conflicting evidence and make the appropriate decisions.

Quality

Similarly, I also have reservations about the Target Group Approach (Option B) which offers convenience, superior comfort and the luxury of choice to those who can so afford. Even if patients of the semi-private rooms in public hospitals pay a higher fee ranging from \$800 to \$1,200 per day, the Government will still have to shoulder 40% to 60% of the operating cost. It would be disingenuous to upgrade our beds only to attract private patients and

to end up with a larger subsidy in having to provide the luxurious facilities of the Class B Beds that should also incur higher running costs.

The document has taken pains to emphasize the improvement of the quality of health services, the cause of public complaints. Option E in the Green Paper — Prioritization of Treatment Approach, in my view, falls far short of rationalizing the deployment of medical resources as a means to contain cost. The paper has not touched on the significant issue of co-ordination between in-patient and specialist out-patient treatments; nor has it shown us how to foster a closer relationship between hospital services and primary health care which serves the gate-keeper and after care functions.

Efficiency

Another funding strategy put forward by the Green Paper is the Compulsory Comprehensive Insurance Approach (Option D) to which I strongly object. Not only will risk aversion by insurance companies leave the elderly, chronic patients and the unemployed out in the cold, over-utilization due to moral hazard will bring cost escalation, as shown by health insurance in the United States. More importantly, in Hong Kong where medical services are essentially free and insurance is a new phenomenon, compulsory health insurance is bound to generate public Jiscontent. On the other hand, the Co-ordinated Voluntary Insurance Approach (Option C) is closest to my thinking of an ideal interface of government and free market systems. It promotes cost containment through government monitoring; provides equitable access by directing demand of those who can so afford to the private sector while retaining free medical service to those in need; enhances medical service quality through competition between the public and private sectors; and offers administrative efficiency using the management of a designated public body.

Madam deputy, it is commendable for the consultative document to try to change the traditional "doctors' sovereignty" by asking the public to participate in the decision making process. However, to be able to do this, the public must be informed about the soaring medical cost. In order to enable the public to make informed decisions on health matters, widespread public education with practical information, analytical data and comparative study should replace the high sounding principles and statements in the document that has taken the Administration almost two years to complete.

Madam deputy, with these remarks, I support Dr LAM Kui-chun's motion.

THE PRESIDENT resumed the Chair.

MR ALBERT CHAN (in Cantonese): Mr President, when the Government published the consultative document *Towards Better Health* on 14 July this year, controversy immediately arose in the community. What the public is most concerned about is the charging proposal for hospital services. This so-called "cost-pegged" method for calculating fees and charges has indeed caused worries to the general public, especially the middle and lower strata of society, the patients who have to use hospital services frequently but cannot afford higher charges, the elderly and the chronic patients. Although the Government has not yet decided upon any particular plan, we consider it necessary for the Government to make clear, before it has made any substantial decision, what public medical service is.

We think that public medical service is a kind of social welfare. During the past years, the Government has undertaken the responsibility for and expenditure of the medical service. In providing subsidy to public medical service, the Government should not apply the principles of "cost recovery" or "users pay". Although it has been argued that increase of charges would increase the choices provided by hospitals, public medical service significantly impacts on people from all walks of life and the public is entitled to a medical service that gives equal treatment to everyone in terms of charging. In this regard, we consider it inadvisable to subject part of the public to unequal treatment because of economic reasons.

In view of the close relation between medical policy and the daily life of the public, as well as the far reaching consequences of such a policy, I, together with some members of the Tsuen Wan District Board, launched a number of consultation forums and signature campaigns during the last two months. During these activities, leaflets were handed out to the public and many of them have signed their support. One of the main demands of the public is manifested in the opposition to the proposal of pegging fees to costs. Among our supporters, it is the elderly that are most active and enthusiastic, and they feel great discontent with such a proposal. So much so that many of them have even called for their neighbours to sign their support. The enthusiasm of these elderly persons has fully reflected their discontent with the proposal. Some of them keep complaining to us that medical fees will definitely surge if they are pegged to costs and will become a burden to them. Although the Government has retained some kind of waiver system, these elderly people as well as many other members of the public worry that they may not be under the coverage of the waiver system. If unfortunately accidents befall them, and the medical fees are beyond their affordability, they will feel that their lives are almost finished.

There will be criticisms that the arguments above represent the views of only part of the public and that they cannot represent the views of the general public. Indeed, what is the view of the people of Hong Kong? In order to further collect the public's views, a number of opinion polls have been conducted by organizations which are concerned with the consultative document. The United Democrats of Hong Kong (UDHK) conducted two opinion polls at the beginnings of August and September. The results of the two

polls are very consistent. Among the 1 078 persons polled and the 1 337 questionnaires returned, 90% are against the cost-pegged charging system proposed in the consultative document, and over 90% are against the proposal of "itemized charging". 70% of them said that they would not use the semi-private rooms. Only the higher income families have shown a willingness to use such rooms, and the percentage is not high. Among the families with a monthly income of over \$20,000, only one-fourth have indicated a willingness to use semi-private rooms. These opinion polls help us understand how the public regards medical charging. According to the results of the polls, an overwhelming 97% consider public medical service as a kind of social welfare which the Government should undertake to provide. They all agree that the Government should make a large one-time allocation of funds to support and maintain the public medical service.

Mr President, the title of the Governor's policy address this year is *Today's Success, Tomorrow's Challenges*. Among the various services provided, the medical service is the pillar of the public's health. If the foundation of this pillar is shaken, the public's health will be jeopardized. In such case, how can they meet the challenges of tomorrow?

Mr President, in order that the public can lead a healthy life, the Government should totally relinquish the policy of "pegging fees to costs".

The original motion of Dr LAM Kui-chun lacks a sense of direction and the courage to undertake the responsibility of providing medical service. In contrast, the amendment by Dr Conrad LAM reflects the demands of the public. Therefore, I am against the original motion of Dr LAM Kui-chun and will support the amendment by Dr Conrad LAM.

Before I conclude my speech, I would like to respond to a question raised by Mrs Selina CHOW. She asked whether members of UDHK, in particular Mr Martin LEE, would use the same medical service that the lower income groups use. Her question implied a contempt for the services used by the lower income groups. She seemed to imply that the members of the Liberal Party are not willing to use the same services that the lower income groups use. We take strong exception to such kind of contempt and disrespect for the lower income groups. Her words also revealed that she disdains to use the medical services currently used by the low income groups. If this is how she thinks, she should all the more demand the Government to improve the services now provided to the lower income groups such that these services can meet her standards.

Mr President, I so make my submission.

MR VINCENT CHENG: Mr President, I want to congratulate the Secretary for Health and Welfare on the consultation document. It is a good piece of work — readable, honest, and to the point. It proudly sets out Hong Kong's achievements in health care, and at the same time, highlights the problems we

have and hence the need for improvement. It has listed clearly the various options available, as well as their pros and cons. I sincerely hope that government papers in future would be just as readable. Some government papers, if printed in the form of a book, would be as thick as a dictionary. The difference is that they do not tell you what they mean.

I agree with the Government the problems we face or will face: aging population, more expensive medical technology, and rising community expectations on the quality of medical services. I also support fully the objectives set out as well as the commitment made by the Government that no one will be deprived of medical care because he cannot pay.

Health care financing is a problem in most countries, if not all. The United States is now debating intensively ways to control expenditure on medicare. For those who feel that a high medical expenses to GNP ratio is a measure of success, I would urge them to look at the United States experience.

We do not have any easy solution either. I would like to outline my own basic principles on financing health care:

- (1) We should provide high quality medical care and we need additional resources. The additional resources should not come from higher tax. Patients who can afford to pay should pay for part, if not all, of the cost instead of just paying for their meals;
- (2) Medical service for those who cannot afford should remain subsidized by taxpayers. I will go one step further. Elderly people should continue to receive free or heavily subsidized medical care, regardless of the savings they may have accumulated during their life. It would be wrong to ask elderly people to face the prospect of a bottomless medical pit into which they may have to pour their lifelong savings and end up depending on social security. This would be disgraceful.

According to the Government, the cost of providing in-patient treatment to those aged 65 and above will increase from \$2.7 billion in 1992 to \$3.8 billion in 2001 and \$4.3 billion in 2011 in today's price. They are not small sums. But they must be borne by society and paid out of general revenue. That is the least we should do.

The question is what should be the way ahead. Of the five options, I will write off the prioritization of treatment approach. This is a bureaucratic approach. It would be very difficult for the medical profession to determine priorities. It would be impossible for patients to determine whether they should or should not go to a public hospital for treatment. It would invoke the wrath of society because patients would be turned away.

The Government should perhaps go for a combination of the other options listed in the document:

On the level of subsidy:

- (1) Instead of just paying for food, patients who can afford to pay should pay while those who cannot will be paid for by general revenue, that is, taxpayers;
- (2) There should be a regressive scale for fees. Long-stay patients should, on a per day basis, pay progressively less than short-stay patients. I also feel that caps should be put so that patients would not have to worry about spending their life-long savings on medical bills; and
- (3) Semi-private rooms should be less subsidized than general wards.

Hong Kong's medical cost will have to be borne by the taxpayers as well as individuals rather than just taxpayers alone. Those who have a steady income must start to pay for at least part of the cost. It is their responsibility as well.

On the question of patients' affordability, some form of health insurance will be necessary.

I have doubts about depending entirely on private sector schemes as Hong Kong does not have a well developed medical insurance market. A dual system with some sort of government medical insurance schemes seems to me a better approach. It allows people to choose and introduces some competition to keep the premium down.

Mr President, time does not allow me to go into details. I could only outline my views on how health care should be financed. I hope we will hear more from the professionals in the medical as well as medical insurance field on this consultation paper. Employers, who should provide medical benefits to their workers, should also make their views known.

I disagree with the view that medical care should be treated solely as welfare, although the dividing line is rather blur. If we treat medical care solely as welfare, medical cost would have to be borne by taxpayers alone. Since we have a very narrow tax base, it is neither fair nor prudent to accept this philosophy and maintain the current system. Those who can afford must share the responsibility of paying for at least part of the medical cost. This is the only way ahead.

Mr President, I support the motion.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, many debates within this Council have now degenerated into struggles to win votes for the 1995 election. I personally think that this situation can in some respects be considered reasonable, while in other respects unreasonable. Why is it unreasonable? It is because many of the controversies under question may very often mislead the public. We have to understand the position of the Hong Kong Government. That Government is ours. In the run-up to 1997 particularly, the British will not make any commitment to Hong Kong. Therefore it would be wishful thinking if the people of Hong Kong expect the Government to have everything laid on for them. What we get is in fact directly or indirectly paid out of our own pockets. If the Government is to look after our living completely by providing "free lunches", "free dinners" or even "free late-night snacks", then what we will get is basically what the Government fleeces the public of. I therefore hope that the public will refrain from harbouring such a mentality. They should instead endeavour to fulfill their responsibilities as a citizen, a resident of Hong Kong and a human being. We should fight for our own rights rather than relying on the Government.

As regards medical and health care, we know that the United States conducted a so-called national survey which revealed that the country's expenditure on medical and health care had once reached 6% of GNP. Expenditure on medical and health care had been rising in tandem with social advancements to reach 13% to 14%. It is even forecast that United States' expenditure on medical and health care will reach 20% of GNP within the next few years. The United States is reportedly shocked at the figure. According to conservative statistics, Hong Kong's current expenditure on medical and health care stands at 5% to 6% of GDP. Under the circumstances, to make a reasonable adjustment and arrangement will be justified. The question before us is how to make the adjustment and do an assessment. It is grossly irresponsible of the Government to deal with the issue only when a problem arises. While to make hay when the sun shines, that is to say, to make an assessment well in advance, is reasonable, whether or not it may succeed or be supported by the people is entirely another question. We must understand that Hong Kong as a free society is composed of different social strata and different people. Private hospitals in the territory's hospital system are currently providing a first-class medical service and employing modern technologies, despite their small number and expensive charges. These private hospitals are a force to be reckoned with. Therefore as we all know, many Hong Kong people enjoy or make use of services provided by private hospitals.

The Government, in proposing this reform policy, has stated a number of times that people with financial difficulties will not be deprived of their rights. In the light of this, what is it that the public is still worried about? What more do they want? Of course, some of those who can afford as well as other irresponsible souls would say: Why do we have to pay in future when we do not need to now? Such mentality and thinking is selfish and manifest a total disregard for reality. Mr President, people may quite often be overcome with greed without their being aware of it, but still they have to shoulder their

responsibilities at the same time. As to Dr the Honourable LAM Kui-chun's motion, I hope of course that the Government will come up with a more generous estimate in reviewing the ratio of subvention in order that people currently in need can be catered for directly or indirectly and that the predicaments they are worried about and the difficulties or fears they face will not become reality.

There is no denying that the modern metropolis that is Hong Kong is advancing on all fronts. But while we are advancing, we need also to consider whether or not the governments of other cities and regions of the world are giving out "free lunches". Is society as a whole advancing after political parties have made this kind of promise to their voters (that is, their nationals)? As a matter of fact, we have seen many regions and countries being plagued by many different problems, economic recession in particular. Why do we not try to avoid such situation, having witnessed it ravishing other countries and regions? At present, many countries of the world have already taken up directly the responsibility of implementing in full a medical insurance system. As far as Hong Kong is concerned, I firmly believe that the Government has no such intention. But the lack of such an intention does not imply that the Government is being irresponsible. It should rather make use of the relevant Ordinances to properly help the insurance industry appropriately probe and study the matter, so as to have a policy formulated that requires both the Government and the people to fulfill their responsibilities. The insurance industry meanwhile has its share of responsibility to serve society. Mr President, as an indirect representative of the insurance industry, I feel obliged to express opinions on their behalf. Therefore, Mr President, I support the original motion.

MR FREDERICK FUNG (in Cantonese): Mr President, civic organizations and bodies, I believe, have already commented profusely on the consultation paper that is being discussed today. We have read in newspaper reports that the majority is clearly opposed to pegging medical charges to costs and the proposed percentage subsidy approach.

This consultation paper, entitled *Towards Better Health*, seems to be just a new version of the Scott Report of 1985. The difference is that the present Green Paper's emphasis is on the increase of hospital charges and not on better service quality, more effective monitoring or better primary health care service. The Green Paper emphasizes, "If the quality of health care services is to be improved, reform will be needed, particularly in the funding area." But this is not the reason why higher charges are proposed. The proposed higher charges are intended merely to lighten the Government's burden. If we compare the Singapore Government's spending on health care with that of the Hong Kong Government, we will see that the former equals 7.5% of the GDP, and the latter, only 5%. The Government's spending on health care is far from adequate; yet it is proposing to bleed the public further. Nobody, looking at the matter from whatever angle, can believe that higher charges are the only way to improve the medical services.

If one thinks that medical charges should be pegged to costs, then one is undoubtedly looking at the health care market as if it were a regular commodity market. But the Association for Democracy and People's Livelihood (ADPL) and I think that the two should not be mixed up. In a regular commodity market, the consumer has ready access to information that enables him to compare prices, and he can even choose to buy a substitute product. The health care market, in contrast, is a closed market. In this market, the consumer is always susceptible to the suggestion of the service provider, namely, the doctor. The service provider suggests the kind of service he needs and directly controls the price of the service. The consumer allows himself to be led along because he has no better information that he can act on. He has no choice. Because of this unique trait of the health care market, pegging health care charges to costs, as a principle, is absolutely unfair to the consumer.

Another problem with the consultation paper is that it stresses only the ever rising aspect of the medical costs. It fails to suggest a way to end this upward spiral. Instead, it suggests that medical charges in the public sector should be raised. It even suggests to adopt the percentage subsidy approach or the target group approach as the way of charging. This will fuel inflation, with consequences that will really be unacceptable. The private sector will follow suit, and it, too, will raise medical charges at a similar rate. ADPL and I think that the medical fee differential now existing between the public sector and the private sector should be maintained, so that members of the public will still have a choice.

Health care should be regarded as a welfare benefit to be funded by the Government as best it can. I have already talked about the unique trait of the health care market. For the protection of consumer interests, the Government should disseminate market information on health care. By this I mean that the Government should make it easier for members of the public to obtain information on doctors' fees and on the prices of the prescribed drugs. Such information will help them in choosing providers of health care.

The Government must enable members of the public to receive the information that they should have. Nor, of course, must the Government overlook the importance of a policy for monitoring health care charges. It must be realized that, in addition to inflation, an indirect cause of rising health care charges is the costs of the treatments ordered by health care providers. The Government must have the courage to get to the heart of this problem and review its policy for monitoring health care charges. I suggest that the Government should set a range of fees for each kind of service, highlighting the differential between the highest and the lowest fees. The Government should require private clinics to issue receipts to all fee-paying patients. In addition, the Government should set up an independent statutory body to see if the quality of health care services received is up to a reasonable standard and if the fees are reasonable. If there is thought to be a problem, the statutory body should be able to raise questions on behalf of consumers. Its role will be similar to that of the monitoring committee in Germany.

ADPL and I cannot agree with the prioritization of treatment approach as proposed by the consultation paper. The shortcoming of this approach is its being a departure from the existing policy. It will deliberately close the door to patients whose health problems are given low priorities. Such a recommendation is questionable both from the medical point of view and from the moral point of view. On the other hand, we think that the recommendation to provide semi-private rooms is acceptable. We insist that this should not be done at the expense of the resources for, or with adverse effect on the quality of health care for patients in the general ward. If a patient is put in a semi-private room because there is no vacancy in the general ward, he should be charged at the general ward rate.

In sum, better health care does not depend solely on better hospital amenities. Nor does it depend on higher charges. To improve the quality of health care service and achieve the better health goal, members of the public must be taught ideas of primary health care. The rigid waiver system should be reviewed. Attention should be paid to patients' right to know. Information should be made publicly available. Services should be easily accessible. Patients should have the right to choose and the right of privacy. The basic way to control cost is to speed up the pragmatic reforms recommended by the Scott Report, such as the establishment of a committee for monitoring and controlling unnecessary treatments and prescriptions. I reiterate that the Government should maintain the original fees and systems for the general ward. Health care charges must not be pegged to costs. As health care is a welfare benefit, it should be funded fully by the Government.

With these remarks, I support the amended motion.

MR MICHAEL HO (in Cantonese): Mr President, to begin with, I would like the Liberal Party to clarify a few points:

First of all, in his original motion, Dr LAM Kui-chun referred to a term "nominal charges" which, however, was not elaborated in his speech. Instead he used the term "inexpensive medical services". Will he please explain how inexpensive is "inexpensive"? How much should that be at 1993 level?

Mrs Selina CHOW mentioned that the Government should continue to bear some 90% of the medical expenses. Should the figure be 91% or 99%? She should be more specific.

Mrs Selina CHOW said that only in socialist countries do the governments stand all medical expenses. However, let us look at some countries in northern Europe or Britain. In Britain, the Government is responsible for the provision of national health service and expenses are paid with the tax revenue of the central government. It is incorrect to say that people who can afford to pay should not receive government subsidy. Under the present social system in Hong Kong, people are indeed "self-subsidized" because they pay taxes. They

do not get "free lunch". As for the concept of "free lunch" in the context of medical services, I must draw Members' attention to the fact that it is different from other commodities. If it were announced that tomorrow everyone could line up and get a flat for free, the queue would stretch from here all the way to Shenzhen.

However, even if this "meal" — medical services — is "free", if one is feeling well, one will certainly not try to join the queue to get such "meal". If it were announced that free consultation is offered at the Queen Elizabeth Hospital tomorrow, I believe none of us here would go to line up for prescription. As a matter of fact, if one is not feeling ill, one will not be admitted to a hospital either. Therefore the two cannot be mentioned in the same breath.

Mr Jimmy McGREGOR mentioned that 80% of the primary "health care" is provided by the private sector, but the accurate statistics should be that 80% of the primary "medical care" is provided by the private sector. I wish to point out that primary "medical care" is only part of the primary "health care". Primary health care covers certain other areas as well. We may compare this consultation document under the title of *Towards Better Health* with the Scott Report published in 1985. We find that the Green Paper now tactfully adopts a term "percentage subsidy" to replace "cost recovery", a term which was impolitically employed in the Scott Report. Where a 3% cost recovery was proposed then, now it is proposed at a rate as high as 15% to 20%. This is in fact aggravating the situation.

As a matter of fact, the non-subsidized aspects under the percentage subsidy approach mean exactly cost recovery in its very true sense.

"Itemized charging" is another idea advocated by the Scott Report and represents an effort to revive in a new guise the proposals contained in Chapter 11 of the report.

The Association of Hong Kong Nursing Staff and I have conducted a study on the Green Paper. And I hope to make use of part of the results of this study to respond to the announcement made by the Hong Kong Medical Association yesterday in support of the 5% cost recovery proposal.

In the course of the study, 256 in-patients from three public hospitals, namely, Queen Mary Hospital, Queen Elizabeth Hospital and Prince of Wales Hospital, as well as 214 in-service nurses were interviewed.

The study indicated that of those surveyed, 80.1% thought that a daily charge of \$43 is justified. And another 4.9% considered the fee at current level is too high. The findings basically reflect the stance of the public with regard to the fees charged. We must not forget that they are precisely the users of medical care provided by the public sector.

What I also discover from the survey is that nurses who earn a higher income than patients who are interviewed indicate that they can accept a higher rate of increase in respect of hospital fees. This indicates that people, simply because they earn a higher income, tend to support the proposed increase of medical fee. They may not necessarily understand the difficulties faced by low-income people. Their views are understandable. The average income of the members of the Hong Kong Medical Association is much higher than that earned by the nurses and patients surveyed. With this in mind, the Government, in its assessment of the views collected, must also take into account such factors like income and the structure of the social strata. Moreover, the increase in hospital revenues will in turn generate more financial resources for the Hospital Authority. The Hospital Authority, doctors, nurses and other staff members who will be the ones to benefit from such interests, in that sense, would likely to have vested interests. This is a factor which the Government must take into serious account.

What I said above must have appeared to be screwing up my own business. And this may lead some people to think that I am not going to run for the 1995 election. However, my position is that as a Member of the Legislative Council, I must act with a conscience and must tell the truth. It will be meaningless for me to be elected unless I act with a conscience.

I believe that more funds are required for our public medical service, but such resources must not and cannot rely entirely on the fees paid by the users, because the amount would be small. I am of the view that the Government should allocate more resources. Only when the Government allocates more resources will our services continue to expand. If we still try to impose more financial burden on the users, we shall be driving our public medical services to a dead end.

Finally, I have to point out that like other similar papers on medical service in the past, this consultation document shows a lack of determination and courage on the part of the Government to carry out reform on the medical services provided by the influential private sector. I demand that the Government show determination to conduct researches with a view to eliminating the so-called "unnecessary treatment" and "excessive charges" as pointed out by academics and the insurance industry. The Government should also promote the concept of health maintenance organizations in order to make real improvement to our public health.

Mr President, these are my remarks.

DR HUANG CHEN-YA (in Cantonese): Mr president, today's motion debate is about Hong Kong's health care funding policy. In other words, it is about how Hong Kong can have sufficient resources for providing the best health care service to members of the public. According to the Government's consultation paper and the Liberal Party, it seems that the answer lies in finding more money

for paying the higher costs of health care. In fact, finding new sources of funding is not the basic solution for the problem of rising costs. The United States spends 12% of its GDP on health care; still, millions of Americans feel that they do not receive adequate health care. The escalating costs of health care are due very largely to the failure, in many cases, to prevent diseases or treat them early; to soaring administrative costs; to expensive tests and drugs; and to improper surgery. Costs can fall sharply if they are brought under control. Therefore, if the search for new sources of funding is not accompanied by cost control, Hong Kong's health care funding problem will not be solved. Today's motion and consultation paper focus merely on hospital charges and itemized charging. This is worse than a case of "seeing the trees but not the forest." It is a case of "seeing the branches of trees but not the forest." If Hong Kong's health care funding problem is to be solved, the Government must do three things:

Firstly, the Government should set an overall objective. For instance, it should aim, through prevention or early treatment, to reduce the rate of incidence of cancer, cerebrovascular disease and heart disease, the three major killers, and, where they do strike, to make the conditions of patients less serious. This will reduce these diseases' drain on resources and consequently stop the upward trend of health care costs.

Secondly, it is more cost-effective to prevent diseases and to treat them early than to treat them in hospitals. At present, in the public sector, primary health care services and hospital services are separately managed. This seriously undermines capability and motivation in the area of disease prevention and early treatment. The result is the upward pressure on health care costs. The Government should act quickly to integrate primary health care services with hospital services.

Thirdly, the Government's role is now not distinct from that of the Hospital Authority. This is wrong. The Government should buy services for the public from the Hospital Authority. It should seek the best service for the least money. This will force the Hospital Authority to operate more cost-effectively. What the Government should not do is to act as the Hospital Authority's accounts department and ask the public to pay. In many countries, where the government buys health care services, it has been shown that this can lower the costs of health care. If one thinks that the most expensive services are the best services or that finding new sources of funding is the only way to cope with rising costs, one will in fact only encourage waste. A public health care policy that subsidizes the wrong things will be the "wrong prescription, based on wrong diagnosis" for Hong Kong's health care funding problem.

I must emphasize that rising costs are not inevitable and that costs are basically controllable. I even say that, if there is proper prevention, the rate of incidence will decline for many diseases. Health care costs will then of course fall. In fact, as far as resources are concerned, the outlook is bright because Hong Kong's economy is performing well. The Government's reserves are

ample. There is a budget surplus every year. The Government's spending on health care equals only 2% of the GDP. This percentage is on the low side compared with other parts of the world. Therefore, the Government actually is well able to invest more money in health care, thereby improving the quality of services. So it is hardly convincing to say that patients must pay more because more money is needed.

Where should new funding come from? Should it come from the patients or should it come from the Government or from insurance? This question simply has nothing to do with whether or not the Government has money. It has to do with whether an individual should pay for his own health care or everybody should chip in. Many people are worried that pegging health care charges to costs will by and by lead to a situation where each patient must pay for his own health care, that is, pay most or all of the cost. The experience of many countries has shown that, if this is the case, many patients will not be able to afford health care, and good health will become a luxury for the poor. The Secretary for Health and Welfare has said time and again that nobody will be denied medical treatment through lack of means despite the consultation paper's recommendation that "the patient should pay." Yet a person may be sick for a long time during which he needs special equipment or medicine or surgery. Then he must pay itemized charges for the services. His life may be saved in the end. But he will be bankrupt. How can we accept such a result?

The chances of catastrophic illnesses are probably very low. But everyone is exposed to such a risk. There is always a chance for a person to become seriously ill. The fairer and more cost-effective thing to do is to share the risk and thereby spread it, and to let all members of the public chip in and pay for the less fortunate ones. In other words, health care is a welfare benefit and the Government must pay for public health care services. Then, when a person becomes ill, he can fight the illness without being distracted by other worries. However, if the source of funding mainly comes from the Treasury, the problems are that health care must vie for funds every year with other government departments, and that the steady growth of the economy cannot be taken for granted. If the Government has total control over how money should be spent on health care for the public, it will be like any monopolistic business. Then it will not be motivated to innovate. Therefore, over the long term, a health insurance system should be set up with the participation of more than one insurance company. This insurance system, however, must be non-profit making, and health insurance must be universal and compulsory. Voluntary or profit-making health insurance will in fact not solve the problem.

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

MISS EMILY LAU (in Cantonese): Mr President, after the publication of the consultation paper *Towards Better Health*, I had several meetings in my constituency with voluntary workers and local people to seek their views.

I am speaking today to support Dr Conrad LAM's amendment motion and to oppose Dr LAM Kui-chun's original motion. I oppose the original motion because I feel that, while it urges the Government to take fully into consideration the views expressed by the community, it does not provide a clear direction or guiding principle. Therefore, I am more in favour of Dr Conrad LAM's amendment.

Mr President, members of the public in Hong Kong have all along been enjoying inexpensive services from government hospitals and clinics, but of course they have to face the problems of overcrowding of the wards and long queues. In view of the rising health care costs, the Government has to allocate its resources cost-effectively on the one hand, to live up to the promises made by the Governor in his policy address on the other, and to cope with the aging population problem as well. No wonder that the Government puts forward proposals to seek new sources of funding. I support Dr Conrad LAM's amendment because I think that health care is a social welfare which the Government should take full responsibility. Health care is also a social investment conducive to a vigorous labour market. Of course, it also performs the function of resources reallocation. I do not agree with those who say that low charges encourage the abuse of health care services by the public. (A moment ago, I discussed this issue with Mr Michael HO.) At present, government clinics are very crowded. I have reason to believe that many of those who are now using the services of government hospitals and clinics would rather consult private practitioners if they have the means. Maybe the so-called abuse of services problem refers to services provided by the accident and emergency departments where, on weekends, when private clinics are closed, many people visit these departments for medical treatment. Therefore, I do not find the alleged abuse of health care services to be a very serious problem. As several Members from the United Democrats of Hong Kong (UDHK) noted just now, Hong Kong's *per capita* spending on health care, as a percentage of *per capita* Gross Domestic Product (GDP), is lower than that in many countries in Southeast Asia, Europe or the United States. It is even lower than Singapore's 6.5% and South Korea's 4.3%. Therefore, I think that the Government should make a greater commitment and act expeditiously to lay down an effective health care policy to improve the existing services. I also agree with Mr Michael HO that we should exert more efforts to improve our primary health care services.

Mr President, the Government has been saying for many years that one of its achievements is the prevention of infectious diseases. Very ironically, however, we heard last week that 15 patients in the Castle Peak Hospital contracted dysentery. When I first heard the news, I was shocked. How could such an infectious disease spread in a hospital? I hope that the Secretary for Health and Welfare, when delivering her reply later on, will spend some time explaining why such a problem could occur in the Castle Peak Hospital.

Mr President, the consultation paper *Towards Better Health* contains recommendations on health care charges. These recommendations have aroused the concern of many members of the public. They are afraid that the Government will reduce its commitments to health care. I, too, have similar concern. The consultation paper mentions the percentage subsidy approach and many colleagues have pointed out that people were worried that charges would be pegged to costs. However, I understand that the Secretary for Health and Welfare has reassured us again and again that such a thing will not happen. In our meetings with her, we have pointed out that since such a thing would not happen, we had better not talk about the percentage subsidy approach because even if patients are going to pay only 2% or 5% of the cost, their medical charges will rise in case the costs increase.

There is another matter, Mr President. The Government says that the operating cost of an acute general hospital is \$2,105 per bed per day. Many of us cannot figure out how this amount is derived. We hope that Mrs Elizabeth WONG will give us an explanation later on. How come we have \$2,105? As I have said just now, because of the percentage subsidy approach, when cost rises, members of the public will feel that the part of the cost they bear, be it 2% or the 7%-8% favoured by the Liberal Party (which, I hope, will be clarified by them later on), will rise accordingly, and this will result in heavier burden on the people. Personally, I agree that those with the means should pay a bit more. That is not at all a problem. It is just like the case of public housing. The question is how the Government draws the poverty line and assures Members that people without the means will definitely be looked after by the Government. In fact, there was an analogous situation in 1989. The Provisional Hospital Authority at the time published a report proposing to peg health care charges to costs at a rate of 15% to 20% of total costs. I recall that the proposal invoked much public discontent. That was why it was not implemented at the time. Now it seems that the old tune is being harped upon. We are very worried because it seems that the Government has not given up and is still trying to reduce its commitments in the health care area. The Government's spending on health care is very low in Hong Kong compared with other countries. Against this background, it is incumbent on the Government to explain why more resources cannot be made available at a time when resources are so plentiful.

Mr President, if we want better health and better quality of health care services, resources allocation is a very important consideration. We think that our resources are sufficient. However, this point is not noted by the consultation paper. I hope that the Secretary for Health and Welfare will make a reply on this point later on.

Lastly, Mr President, I would like to talk about the impression that the consultation paper gives us. It seems that the Government considers western medicine to be the only means towards better health. Some may think that the Government is thus depriving members of the public of their right to choose. Chinese traditional medicine, for instance, has a long history, but our public

hospitals do not provide traditional Chinese medical service at all. As a matter of fact, foreign medical profession has recently advocated different kinds of therapies, such as alternative medicine, chiropraxis and hypnotherapy. They have all found support and acceptance. Of course, western medicine does not regard them as orthodox therapies. But these therapies do not require expensive equipment and drugs in application and may therefore be more cost-effective than western medicine. I hope that the Government will give thought to this.

The buzzer sounded a continuous beep.

PRESIDENT: I have to ask you to discontinue, Miss LAU.

MISS EMILY LAU (in Cantonese): With these remarks, I support the amendment motion.

MR ERIC LI (in Cantonese): Mr President, deliberately or inadvertently, the consultation paper has brought out two central themes. They are now the focal points of debate among members of the public and in this Council.

Firstly, is health care a welfare?

Secondly, where does the fund come from?

Is health care a welfare? This question is in fact not difficult to answer. According to the consultation paper, some 88.5% of all hospital beds are provided by public hospitals, but they are still short of demand. Income levels in Hong Kong, relative to living standards, are comparable to those in many countries in Europe and the United States. It, therefore, makes no sense to say that nearly 90% of the people of Hong Kong are still relying on welfare services. We can say at the most that health care is a social service provided by the public sector. As a social service, health care is available to all members of the public including those who do not have to be on welfare at all. This being the case, the public sector, in providing health care, is merely carrying out a welfare policy that is neither fish nor fowl. Before the Hospital Authority came into being, subvented hospitals were already providing services. Different hospitals used different fee charging methods, nor were their service standards uniform. There was no logical relationship between charges and services. This is a historical burden that we have to carry. Providing health care services is a hard but thankless job. Nowadays, most people in Hong Kong eat well and dress well and travel by private cars or taxis. But, in the absence of an alternative, they are still being required to accept health care services of an egalitarian type. I believe that no matter how well the Hospital Authority has done, picky people will still find fault with its services rather than to appreciate them. Hong Kong has a free market economy. If the private sector is able and willing to provide a kind of service at an acceptable standard of quality, in principle, the

Government should not intervene or interfere. But why are supply and demand now not in balance? why are private hospitals so expensive compared with public hospitals? In terms of quality of service, apart from beds and meals; there is basically no difference between the two. Why must the successes of our public hospitals be built on the ruins of private hospitals, with the result that members of the public will almost be left without an alternative? We must find a way to free ourselves of this historical burden. We must have the courage and the innovative spirit to develop services and to achieve a level playing field so as to give members of public more choices. This is the only way to move ahead.

Against this background, I am very much in favour of the recommendation to take a small step forward by providing semi-private rooms. Whether we are talking about a welfare or a service, the question of funding needs attention. As the saying goes, "You cannot make bricks without straw". Undoubtedly, not many Members have criticized the efficiency of the hospital services provided by the Hospital Authority. We recently visited Pamela Youde Nethersole Eastern Hospital. Its equipment is good and advanced, enough to put neighbouring countries and even countries in Europe and the United States to shame. I believe that, having witnessed this, we all realize that our hospital services are of a high quality and that nobody wants to bring the quality down. Nor has anybody proposed that the Hospital Authority should cut costs so drastically as will lead to a lower quality of services. If this is our unspoken understanding, the Government should let this Council know the truth. Then, we will have to see whether funding comes from the Government or from the service users.

Where services are provided by the public sector, a line must be drawn for members of the public to identify their level of affordability. But 90% of the population are receiving the services at the moment. This means that such a line simply cannot be drawn. With whom should the comparison be made, the wealthy, the middle-income or the poorest? If the argument continues, it will turn into a row. Can the Government bear the burden? The answer is obvious. Under the present health care system, we have to decide whether the Government or members of the public should bear the 9% of the overall health care costs. The level of subsidy seems to surpass the welfare benefit received by the needy.

Many colleagues have spoken with deep feelings and enthusiasm that, in their view, health care charges should not be raised. They say that this fully reflects the views of the public. However, these may not be forward-looking views. A constructive way to put it is that these views will not help preventing health care costs from falling into a bottomless pit. If we are not forward-looking enough, we will not be able to work miracles, and I believe that, after today's debate or even after the debates over the past months, we are still doomed to stepping in place.

I want to talk a bit about the public's right to know. I agree that the Government should consider the percentage subsidy approach. This approach makes both the payers and the taxpayers aware of the real costs. Hospital services are of many different types, particularly in convalescent homes for long-stay patients. Convalescent homes, private and public hospitals, and public hospitals in different districts have different kinds of equipment and provide different levels of services. Their operating costs are different as well. Where services are different and equipment costs are different, charges based on percentage subsidy will be fairer and may be less expensive for long-stay patients.

I agree with Mr HUI Yin-fat that the waiver system should be carefully deliberated, so that people in the border-line cases may get a satisfactory answer to their queries.

I do not want to repeat what other Members have already said. Maybe I do not see that the consultation paper is recommending a pegging. If something has to be pegged to something else, I think that "itemized charging" should be pegged to better service. At present, patients can be treated in a number of ways. If unnecessary treatments are eliminated, and if services are improved, service charges may be raised to boost government revenue.

With these remarks, I support Dr LAM Kui-chun's original motion.

MR TIK CHI-YUEN (in Cantonese): Mr President, Meeting Point finds that the consultation document, *Towards Better Health*, is disappointing. We even think that it does not come up to scratch as a document on policy since it fails to make forward-looking and comprehensive recommendations on the development of health care and medical service in Hong Kong. While it highlights a number of difficulties Hong Kong's medical service is now facing such as the ageing population, the higher public expectations and the escalating medical costs, the document only focuses its attention on the fee charging problem. But, is the increase in fees the panacea to all problems relating to the improvement of medical service in Hong Kong?

Meeting Point has held a number of public forums on the consultation document's proposals in New Territories North, New Territories West and Kowloon East and conducted a telephone survey to collect public opinion on matters such as cost recovery, itemized charging, class B beds and medical insurance.

Cost recovery

According to the findings of our surveys, 67.8% of the respondents were opposed to the pegging of medical fees to the costs. The reasons for their opposition are two-fold: firstly, if charges are to be calculated on the basis of costs, medical costs would be gradually shifted to the public who would have to

shoulder heavier burden. Secondly, the public, if denied any role in the monitoring of the level of medical costs, would be unable to ensure the charges to be maintained at a reasonable level. Moreover, Meeting Point is of the view that it is the primary responsibility of the Administration to improve medical service and as the fees collected only account for 3% of the medical expenditure, increase in fees is not an answer to the problem on financing the medical service.

Itemized charging

Among the respondents, 63.3% were against itemized charging of medical service since this would increase the financial burden of patients, in particular those suffering from chronic diseases and the elderly. The Administration puts forward the idea for itemized charging on the ground that it will bring the fees charged by former government hospitals in line with that of former subsidized hospitals. Meeting Point considers that the standardization of fees is necessary so as to avoid any confusion among the public. However it should be the other way round, that is to say, to have former subsidized hospitals waived the charges of all fee charging items as in the case of former government hospitals. It is because what the Administration can get for increasing the itemized charges is negligible yet the public would regard such move as a modified form of increase.

Class B beds

In the surveys, 40% of the respondents agreed while 30% disagreed to the establishment of class B beds. Meeting Point is always of the view that public medical service should be geared towards the general public. Beds in government hospitals should first and foremost be at the service of ordinary residents. It is improper for the Administration to have more class B beds and to charge patients more for using these class B beds. Meeting Point is of the view that prior to giving consideration to the provision of class B beds, the Administration need first to ensure: (1) the general public would not be forced to turn to the more expensive class B beds due to a shortage of beds in the general wards and (2) the level of public subsidy for beds in the general ward would not be lowered as a result of the creation of class B beds.

Mr President, Meeting Point has the following three recommendations to make on the future development of our medical service:

1. The Administration should conduct expeditiously a comprehensive review on medical service

The consultation document, *Towards Better Health*, sets out a number of issues which our medical service is now facing. Yet it falls short of advancing any workable solutions to these problems. The Administration therefore need to conduct a full-scale review and formulate a set of target-aiming and forward-looking reform policies. Areas for review should at least include, among

others, staff establishment, roles played by public and private services, the co-ordination between primary health care and hospital service.

2. Medical fees to be maintained at the present level

It is the Administration's responsibility to provide low-priced medical service. And to maintain the fees at a low level is a praiseworthy policy. I see no reason why the Administration has to raise the fees and to squeeze money from people of the middle and lower income groups to upkeep medical expenses. Meeting Point is opposed to the pegging of medical fees to the costs as this would increase the burden of the general public. We also strongly object to the Administration's intention to shirk its responsibility in medical service by way of increasing fees.

3. Setting up a central medical insurance scheme

Improvement in medical service necessitates a corresponding increase in resources. Charging the public would inevitably increase their burden. We also believe that the quality of medical service may not necessarily be improved if medical costs are to be borne by the Administration alone. We therefore must consider ways to finance health care service. Meeting Point has all along been advocating the setting up of a central medical insurance scheme. This on the one hand can enhance the effectiveness of the use of resources and on the other can promote positive competition between public and private medical service, which in turn can help control costs and raise service standard. From the surveys conducted by Meeting Point, we found that 65% of the respondents are in support of the setting up of a central medical insurance scheme. Mr President, Meeting Point is disappointed at the proposals put forward in the consultation document *Towards Better Health*. We indeed do not expect much from it since we do not envisage that the document would bring about any welcome reforms in medical service. Nevertheless, we would still continue to press the Administration to assume a more positive role in the provision of medical service and make a more reasonable commitment to its future development.

Mr President, with these remarks, I support Dr Conrad LAM's amendment.

MR JAMES TO (in Cantonese): Mr President, being a directly elected Member, I have the responsibility of gathering public opinion and reflect them. Between 1 September and 7 September, I distributed over 5 000 questionnaires on this topic in my constituency of Kowloon West which includes Tai Kok Tsui, neighbourhood of the district near the MTR Prince Edward station, Mong Kok and Yau Ma Tei. To my surprise, the response was very good. A total of 500-odd questionnaires were received, representing a return of more than 10%. The return rate was considered very high for a survey which depended on the respondents to send back the questionnaires voluntarily. The views of the

respondents were also one-sided. Of all the respondents, 98% agreed that medical service should be provided by the Government as a kind of social welfare. By the same token, 89% disagreed with the Government's proposal of "pegging medical charges to the costs", 95% disagreed with "itemized charging" in respect of medical service, while 90% requested the Government for allocation of necessary funds to cope with rising medical costs and maintaining the existing level of service. Only 7% thought that "the users should pay" or "those who could afford should pay more." I had also asked those surveyed whether they would choose to use the semi-private rooms proposed by the Government if and when they are hospitalized. Although the Government stressed that semi-private rooms offered a more comfortable environment than that of general wards, yet 70% of the respondents said that they preferred the general wards to these semi-private rooms which might have a more comfortable environment.

There is a Cantonese saying which goes like this, "Those with favus of the scalp surely would like to have it shielded with their hair." What the respondents considered was not whether they could afford the \$800 to \$1,200 hospital charges per day. In response to one of my questions whether they considered the hospital charge of \$43 per day at present was appropriate, 55% of the respondents thought that it was, only 27% thought that it was too low. I hope that the Government should gather opinions and take them into serious consideration. With regard to the question regarding the level at which the hospital charge should be set, 32% thought that it should be set at a level similar to the existing one, that is, \$44 to \$60. 15% of the respondents agreed that it should be revised upward slightly to the range of \$61 to \$80. Only a very small handful of respondents, 9%, were of the view that a hospital charge of \$200 or above was acceptable.

The results of this opinion poll are similar to those of a territory-wide survey conducted by the United Democrats of Hong Kong. Nevertheless, the findings of the poll conducted in Kowloon West may look even more one-sided. The reasons, it is believed, are that on one hand, citizens who took the trouble to complete the questionnaires were likely to be those more dissatisfied with the consultation paper on medical care and they might do so in the hope that Members of this Council could fight for them in the Legislative Council, and on the other, many Kowloon West residents belong to the middle-income to low-income groups. 40% of the respondents receive a monthly income of \$10,000 or less. The findings of the above-mentioned survey indicates that the vast majority, I stress "the vast majority" of the respondents, over 90% to be exact, were against "itemized charging" and against "pegging medical costs to charges". They urged the Government to allocate funds to maintain the level of medical service and to assume the responsibility of providing medical care.

Public opinion cannot be clearer. I am not sure how the Government this time would respond to public opinion on medical charges. If the Government promotes only models of which it is in favour on the pretext of public opinion, while using other excuses to brush aside opposing views that has strong public

support or put forward counter proposals, I would certainly have doubt about the Government's commitment to, and sincerity in, the promotion of democracy.

With these remarks, I support Dr Conrad LAM's amendment motion.

DR SAMUEL WONG: Mr President, I do not support the government suggestion of charging the public more for health services, because the consultative document *Towards Better Health* has not made the case. It is one-sided and incomplete. It has only considered the cost of sickness, not the cost of enhancing health, and even then, it has only evaluated the cost of sickness to the hospital services, not to society. As a manager, I could not use it as a basis for a decision.

As one of my constituents pointed out in a newspaper recently, the primary means of "health" is the well-being of mind and body and freedom from sickness. Surely this should be our primary concern through a greatly enhanced scheme of community health aimed at saving costs by reducing days lost through sickness and those spent in hospital. I would like to see a major and imaginative insertion in the curriculum of every school to teach natural ways to good health, especially coping with stress, including diet, exercise, breathing, posture, tai chi, meditation, self-healing and so on.

Our next concern should be to speed recovery, again saving on hospital costs as well as days lost. But the document only evaluates treatment by drugs or surgery. It actually suggests patients should pay more for extra comfort, which in many cases could help to speed recovery so it might pay for itself. On the other hand, complementary methods more commonly found in traditional Chinese medicine, often of a more holistic nature, have been overlooked.

Now it is a fact of life that the more expensive something, is, the more political attention it gets. As Earl BALDWIN said in a recent debate in the House of Lords, speaking of the influence on medicine of the drug companies, with their multi-billion pound turnover, and I quote: "The chief implication of this is that we suffer the dangers of a virtual mono-culture. And one of the principal dangers of a mono-culture is that you are not aware you are in it."

Linus PAULING, the Nobel Prize winning scientist, has told of the difficulties of getting good non-drug articles published in medical journals because of the editors' fear of losing drugs company advertising. Vitamins and minerals cannot be patented — nor can foods — which explains why so little research effort is put into those areas, and possibly why the Hong Kong Government has no time for them in its drive towards better health.

The United States have found that back injuries treated by chiropractic on average get patients back to work three times as fast as the more accepted therapy. But there is no money in it for the drug companies or those selling

expensive high technology. It is hardly surprising therefore that you will find no registered chiropractor in the Hospital Authority, who stick with the more costly treatment.

But Hong Kong is the world meeting point of eastern and western medicine. So it is altogether inappropriate that our health policy should be based exclusively on orthodox western concepts. I believe vast amounts of money could be saved by a more holistic approach.

Of course I am aware, as I am sure are many of my colleagues, that a start has been made. Two of the hospitals within the Authority have introduced complementary medicine on a small scale, one herbal and the other herbal and acupuncture. But this is minuscule for a country where a survey has shown that 60% of patients would prefer traditional Chinese medicine in the first instance, and where costs are apparently getting so out of control that the Government is suggesting that patients should pay towards their birthright of good health.

I therefore advocate an acceleration of the introduction of complementary medicine in hospitals. It usually employs a more holistic approach than western medicine. It makes greater use of the natural healing properties of the mind — the greatest healer known to man and it is FREE. Furthermore, hospital doctors are often overstretched and the presence of their eastern counterparts would relieve them of much of the holistic care often so essential to speedy recovery. In working together, they would come to respect each other better and the recognition of the genuine traditional healers would go far to undermine the activities of charlatans. It would cement Hong Kong's position as the meeting point of eastern and western medicine.

But most of all the inclusion of complementary medicine in our hospitals could save vast amounts of money as would effective community health education. Furthermore, the costs of western medicine are escalating with the technology, while the costs of complementary medicine are not. I suggest such innovation could save far more than could be gleaned from any acceptable charge on patients, leaving surplus for saving lives by expensive technology.

I therefore believe that it is premature to consider raising more money by charging patients when such an enormous potential of savings has not begun to be tapped.

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

DR YEUNG SUM (in Cantonese): Mr President, the consultation paper *Towards Better Health*, recently published by the Government, is a beautiful misunderstanding. The entire paper is devoted to discussing how to raise charges for health care. It says nothing about the important issue, which is health care policy. In the absence of a health care policy that is consistent with the needs of social development, Hong Kong's health care services remain in a

disorganized state. "The head is treated when there is a headache; the foot is treated when there is a sore foot," so to speak.

However, it is not true to say that nothing is right about health care in Hong Kong. I rarely praise government policies. But I will sing praise below. In Hong Kong, the population's life expectancy is getting longer and the infant mortality rate is low. Hong Kong is not much behind other industrial societies in these respects. I believe that this is due to the following direct causes: (1) In Hong Kong, the Government is the main provider of health care. Policy-making is relatively centralized. The public, through criticism and monitoring, has some influence over the Government's provision of health care. (2) The Government funds health care with tax revenue. In principle, it does not try to make a profit. Consequently, it provides health care services at a certain standard of quality to the entire population of Hong Kong. (3) Hong Kong's population density, plus district-based services, makes it easier for members of the public to receive health care.

In addition to the above, another point needs to be given special emphasis. It is the existing policy on charges for health care services. Up to now, a member of the public pays only \$43 for an overnight stay as an in-patient of a government hospital such as Queen Mary Hospital or Queen Elizabeth Hospital. This amount is enough only for meals. Some think that such a charging policy is totally unacceptable. They think that (1) this will lead to excessive use of health care services, since members of the public randomly use the services, which are cheap and subsidized; and (2) many service users can afford to pay more to help to reduce the Government's burden.

However, I think differently. Firstly, because health care services are cheap, members of the public use them readily whenever they are sick. They are not worried about their ability to pay for services where such worries may cause delays in seeking treatment. In other words, a member of the public, when ill, will not be financially inhibited from seeing a doctor even as his condition worsens. Secondly, because charging is at a uniform rate in all cases, the Government does not have to spend large amounts of money on administrative procedures to check on patients' family income. Even more importantly, uniform charges obviate the need to rank patients according to their social stations. All members of the public, rich or poor, receive health care services of the same quality. I believe that, though Hong Kong's health care is much criticized, there is a positive side to the charging policy that has remained in effect to this day. Members of the public generally are provided with a non-discriminatory and non-divisive safety net. Generally speaking, most users of the services of subsidized hospitals are members of middle or low income groups. Most of those with means go to private hospitals for health care services. Therefore, from the redistribution angle, Hong Kong's health care indirectly plays a role in redistributing social wealth. When receiving health care services, members of middle and low income groups receive a social wage. This narrows the disparity of wealth in society.

Mr President, the consultation paper published by the Government now proposes "pegging health care charges to costs." The United Democrats of Hong Kong (UDHK) are strongly opposed to this. As soon as health care charges are pegged to costs, the advantages of the present health care charging policy, which I described a moment ago, will disappear. Firstly, as health care costs continue to rise, the burden on members of the public will become heavier and heavier. The operating cost of one hospital bed is now about \$2,000 a day. A charge equal to 5% of cost already exceeds \$100. As cost continues to rise, the 5% charge will become a heavier burden. Pegging health care charges to costs will greatly add to the burden on members of the public. Therefore, UDHK are strongly opposed to it.

Pegging health care charges to costs will more than add to the burden on members of the public. The distribution and use of health care resources will also be affected. The disparity of wealth in society will worsen. Some say that the Government can waive the charges for all members of middle and low income groups. In fact, the consultation paper also suggests that members of middle and low income groups can apply for waivers. This still does not make the recommendation acceptable. For one thing, access to public health care services is a citizen right, and health care is a welfare benefit. True, no member of the public should be denied reasonable health care for financial reasons. Still, I want to elaborate on this point. In fact, while the Government is morally and politically obligated to look after the destitute, it may not as readily look after those who earn between \$4,000 and \$7,000 a month. These do not belong to high income groups. Nor are they destitute. True, the Government says that they can apply for waivers. Still, the Government must bear in mind that, if a lot of manpower is used to check on the income of patients, this in itself will increase the administrative expenses, even to the extent of making the exercise not worth the trouble. Secondly, members of the public will worry about health care charges and wait to seek treatment for illnesses until it is too late. Thirdly, patients will be ranked socially and a day may come when they will receive different standards of health care according to their different social stations.

Mr President, UDHK insist that the Hospital Authority should go for nominal charging for health care. UDHK are strongly opposed to pegging health care charges to costs.

In view of the fact that Hong Kong's population is aging and the fact that the public's need for health care services is increasing, UDHK suggest that the Government should increase its commitments to health care. As a part of public spending, more money in real terms should be appropriated for health care. This will help to cope with the rising demand for health care services as society advances. Pegging health care charges to costs is not a practical way to induce members of the public to take up health insurance. Private insurance companies have the following noteworthy problems: (1) Those who are often ill or prone to be ill cannot easily obtain health insurance coverage; even if they can, the insurance premium will be high. (2) Private insurance companies operate

mainly along principles of profit. If they are ill-managed and go bust, the insured parties will lose everything. Therefore, UDHK do not agree that private insurance will support the case for pegging health care charges to costs.

Mr President, for the above reasons, UDHK also take exception to "itemized charging" as proposed. The recommendation on Class B hospital beds can, in principle, provide members of the middle and low income groups with more choices. But UDHK draw attention to two problems. (1) The provision of Class B beds may lead to a decline in the quality of Third Class ward services. (2) Class B beds may take resources away from Third Class wards. If the Government decides that the Hospital Authority should provide Class B beds, then proper solutions must be found for these two problems.

Mr President, Mrs Selina CHOW said a moment ago that, in her opinion, UDHK were advocating a socialist health care policy. This puzzles me. UDHK only suggest that health care charges should not be pegged to costs. Such has been the Government's policy since Day One in Hong Kong. Can we say that the Government in Hong Kong has been following a socialist policy? Of course not. Therefore, Mr President, standing for the interests of members of middle and low income groups, I fully support Dr Conrad LAM's amendment.

The buzzer sounded a continuous beep.

PRESIDENT: You have to discontinue, Dr YEUNG.

MR HOWARD YOUNG (in Cantonese): Mr President, just now many Members have already spoken from different perspectives, so I would not repeat their arguments. However, I would like to say a few words on the wording of the amended motion.

Dr Conrad LAM's amended motion seems to call on the Government to respect public opinion and to take it into account when formulating the health care policy. On the face of it, the amended motion is unassailable. However, after careful consideration and having listened to some Members' speeches, I find that the amended motion is not only a sweeping generalization but also misleading.

Mr President, the amended motion emphasize the importance of respecting public opinion, in particular the two wishes that it mentioned. But what sort of public opinion deserves to be respected?

Mr President, I note that recently there was a phenomenon, both within and outside this Council, that amendment was made for the sake of amendment. Moreover, some Members often quoted the remarks of their opponents out of context. The misinterpreted statement would then be exaggerated and become a subject of criticisms. These people would then pose as heroes.

The results of some opinion surveys are sometimes one-sided. It all depends on how the questions are phrased, what method is used and whether it is conducted in a scientific way. If we distort the Government's intention and say that the pegging of medical charges to costs is equivalent to increasing charges, of course, nobody would accept it. The public will certainly object to it. Hence, we have to consider whether the survey has been manipulated or whether it is conducted in a scientific way.

The Liberal Party has also commissioned many opinion surveys. Before I cite some useful figures for Members' reference, I would like to describe a phenomenon first.

The Eastern Branch of the Liberal Party has organized a forum on the Consultative Document *Towards Better Health*. We have conducted two surveys by means of questionnaires both before and after the forum. Surprisingly, the results show that people changed their attitude after they had attended the forum. For example, before the forum, 51% of the people supported the idea that charges in public hospitals should be based on the cost of meals. However, after the forum, the percentage fell to 38%. As to the question of whether patients with better financial ability should pay more, the number of supporters increased from 21% to 36%. Therefore I think that we should give the respondents an opportunity to understand the situation. Only then can we get a more accurate and comprehensive answer. I also hope that when the United Democrats propose their policy, they would explain where the money will come from if they do not adopt the policy that "those who can afford should pay more". Should the Government levy more taxes? They have to explain to us in detail so that we can get the whole picture.

According to our survey, 65% of the respondents are in support of the idea that the charges in public hospitals should be based on the cost of meals. However, for those respondents with tertiary education, no less than 30% of them think that charges should not be pegged to the cost of meals. In some opinion surveys, 50% of the respondents think that charges should be pegged at 2% to 3% of the medical costs. Just now some Members asked what ratio (of the medical costs) the Liberal Party would support, and some even exaggerated that the Liberal Party supported a ratio of 15%. As far as I know, we all support the ratio of 2% to 3%.

In the debate just now, I do not know if a Member has misheard or distorted Mrs Selina CHOW's speech. She gave an example that if a party leader had to use public medical services, would he be willing to pay more if he could afford to do so. Yet this example was misinterpreted by someone as that we are looking down upon public medical services. I do not agree with such an interpretation. I myself and two sons have also used the services of public hospitals. On both occasions, we sustained serious injuries as a result of accidents. We went to the Casualty Department to seek medical treatment. One of my sons, who supported his broken arm with another hand, queued up with other people for an hour awaiting an operation. Members of the Liberal Party,

including myself, certainly have no reason to, and will not look down upon public medical services. On the contrary, I think public medical services are very good and deserve our respect. If you ask me whether I would be willing to pay more on the occasions if I could afford to do so, my answer is I would be more than delighted to do so. If it is not necessary for the Government to subsidize the patients, why should we force the Government to subsidize all of them? We should raise our voice in this respect.

I know that the Association of Hong Kong Nursing Staff has conducted a survey on medical charges. 45% of the respondents objected to the increase of hospital fees while another 45% agreed to increase part of the charges, but within the limit of \$100 per day. Moreover, 77% supported the voluntary insurance approach. Therefore, Mr President, when we consider the results of an opinion survey, we should find out whether they were obtained in a scientific way.

DR TANG SIU-TONG (in Cantonese): Mr President, the consultation paper *Towards Better Health*, published by the Health and Welfare Branch of the Government Secretariat, has become a favourite topic of discussion in the community. The discussions are focussed on the paper's recommendations concerning a sharp increase in hospital charges. The views expressed by members of the public accurately reflect their unhappiness with the recommendations. They are generally of the opinion that "pegging health care charges to costs" and "itemized charging" are ways in which the Government is backing out of its commitments to health benefits. That the public should have reacted so strongly is actually not hard to understand. Basically, health care is an important social welfare benefit, an obligation of the Government towards the community. As a matter of fact, most members of the public do not have the means to afford private hospitals or private rooms. They need inexpensive health care from the Government. It is said, "Everybody is afraid of higher hospital charges." This is certain. The Government has denied again and again that the purpose of the consultation paper is to pave the way for higher charges. The Government asks members of the public not to be "dollar-minded" and not to look at the consultation paper through coloured glasses. Regrettably, however, the paper's main substance emphasizes nothing but money. Yet it wants people to believe that the Government's good intention is reform.

About eight years ago, the Scott Consultants Company was commissioned by the Government to write a report on hospital services. That report also proposed "pegging health care charges to costs." It proposed that charges should equal between 15% and 20% of costs. At the time, the general public strongly attacked this proposal, and the Government consequently put it on hold. Little did one expect that the old proposal was to be revived eight years later under the title of *Towards Better Health*. This shows that the Government is now giving a new body to the old ghost of the Scott Report, that is to say, reincarnating it. Colleagues have already cited an abundance of evidence to refute the Government's case for higher charges as recommended by the

consultation paper. I do not intend to be repetitive. What I want to talk about is whether the Government has an ulterior motive in publishing the consultation paper.

In the consultation paper, the Government talks at length about what the health care system needs. It stresses the services that the public finds necessary, cost control and the more cost-effective delivery of health care. I am very much in favour of such direction in which the consultation paper addresses the subject. Yes, health care services should be reformed and there should be some co-ordination in the area of funding and in the policy area. These are essential. The question is how to lay down a suitable policy for the community regarding the source of funding, the use of resources and oversight. I believe that everybody agrees that mindlessly asking the Government to dole out "free lunches" is impractical. However, if the Government is to peg charges to costs in all areas of social welfare and public services, that will be tantamount to a "user pays" policy. It will not only be contrary to the principles of public services and social welfare but also indicative of the Government's responsibility-shirking attitude.

Unfortunately, the consultation paper *Towards Better Health* sounds the warning of "user pays." "Towards better health" becomes "towards the better health of the Government's coffers." The paper stresses that no one will be denied suitable medical treatment through the lack of means. After the health care charges are adjusted upwards, those in financial difficulty can still be granted waivers. This is good news. Personally, I believe that the Government's tendentiousness in the area of health care policy is quite obvious and that the Government intends to peg charges to costs in public health care services. The Government has changed its policy for social welfare and public services. This will have far-reaching repercussions.

Personally, I am concerned that the consultation paper *Towards Better Health* is the first of a number of steps whereby the Government is backing out of its commitments to the community. If the idea of pegging charges to costs finds acceptance, the same principle will be followed to change the charging policy for other public services. In due course, the Government's commitments to the community will become "less and less," while the burden on the lowly people will grow "heavier and heavier." In fact, the Secretary for Planning, Environment and Lands recently already announced a plan to levy a sewage charge on all households in Hong Kong. The Government wants the entire population to chip in and pay for sewage treatment equipment and operations. The Government ostensibly argues that "the polluter should pay." Beneath the surface, this plan is clearly "user pays" in disguise. I believe that many members of the public share my concern that the Government will gradually back out of its commitments to the community. I hope that the Government will make a firm pledge and a demonstration of its sincerity and thereby dispel our concern.

In my constituency, New Territories West, I together with several Councillors have gathered the responses of citizens to the consultation paper. I hope that the Government will attach importance to these responses which cover six points:

Firstly, opposition to pegging health care charges to costs.

Secondly, opposition to what the consultation paper hints at, namely, that the charge for an ordinary hospital bed, now \$43, will be raised sharply in phases. Citizens will not be able to afford the higher charge.

Thirdly, citizens think that the recommendation on "itemized charging" for health care will lead to an endless bloating of health care costs and an endless rise in charges.

Fourthly, the recommendation on "waivers" will benefit only a minority of people. Nor does it provide a clear guideline on eligibility assessment. In addition, it overlooks the financial difficulties of low income people.

Fifthly, the consultation document fails to promote primary health care.

Sixthly, the consultation paper emphasizes new sources of funding but not resource saving measures. It fails to provide a comprehensive plan for the improvement of health care.

Mr President, Mr HUI Yin-fat said a moment ago that the Government should slightly increase its spending on health care, and Mr Peter WONG mentioned a "voluntary health insurance scheme." Their ideas deserve consideration. The motion and the amendment share a common direction and goal. But the amendment is more precise and clearer in its wording. It deserves support.

Mr President, I so submit.

PRESIDENT: Mr Michael HO, do you wish to make an application to me?

MR MICHAEL HO (in Cantonese): Yes, Mr President, I would like to clarify some of the figures quoted by Mr Howard YOUNG in relation to the survey conducted by the Association of Hong Kong Nursing Staff.

PRESIDENT: Mr HO, you can be heard again if you wish to explain some part of your speech which has been misunderstood. Is that the case?

MR MICHAEL HO (in Cantonese): In my speech, I said 80.1% of the respondents thought that a daily charge of \$43 was justified. That is to say, they were not in favour of an increase of hospital fees. And this was quite different from the figure cited by Mr Howard YOUNG. He said over 40% (I cannot remember the exact percentage he quoted) of the respondents agreed to an increase of charges.

PRESIDENT: I am not very clear whether some part of your speech has been misunderstood or whether Mr Howard YOUNG's speech deals with figures with which you do not agree.

MR MICHAEL HO (in Cantonese): Mr Howard YOUNG quoted from part of my survey but his interpretation of some of the figures may lead to different understanding.

PRESIDENT: You may proceed to make your point, Mr HO.

MR MICHAEL HO (in Cantonese): I would like to point out that in my speech I referred to the survey conducted by the Association of Hong Kong Nursing Staff in which 80.1% of the respondents thought that a daily charge of \$43 was justified, 4.9% considered the fee at current level was too high, and around 5% thought it was low.

Mr Howard YOUNG also mentioned that over 40% of the respondents might opt for higher charges under certain conditions. This was in fact mentioned in another paragraph in which it said that the patients were asked with an "if" question that assuming that there were increasing medical costs to be met, would they accept the increase? It was only under this condition that 45% (I do apologize, I cannot find my speech), 44.4% to be exact of the respondents would find the increase acceptable. Mr President, I have finished what I have to say.

MR JAMES TIEN (in Cantonese): Mr President, in today's debate on the consultation document entitled *Towards Better Health*, most of the points relating to the medical area have been covered by many Honourable Members. I think another matter worth mentioning is the fees. In this so-called capitalist society of Hong Kong, should all public expenditure in favour of the general public be kept to a minimum or should public services, where possible, be free of charge? We should not lose sight of fact that we are discussing the issues of "the users pay", "the capable pay more" and "the incapable need not pay". We opine that those who definitely cannot afford the medical fees should be exempted. Those of us in the industrial and commercial circles pay a lot of tax. As we have employed so many workers, we certainly hope that our workers are

healthy because only then can we boost our production output. If they frequently fall ill, this would lead to a drop in production output, especially at a time when the labour market is so tight. We hope that all Hong Kong people are very healthy. To achieve this objective, we hope the Government can do its best to enhance the medical service quality. Yet, does it mean that all the services should be free of charge as well? Given that the medical charge of \$43 covers merely the meals, should it be pegged to the cost of medical services in certain way? I think it should be so. Certainly, "the capable" refers to industrialists and businessmen like us. When the Government provides us with any services, it imposes a 100% charge, or higher in some cases, on us. Take Export Licence as an example. The present fee is \$100 for each, a level well exceeding the costs involved. As what Mr Michael HO said, patients would certainly prefer to pay less and even regard \$43 an amount too much. I believe more people will give their support if it is proposed that patients should only pay \$40. To those of us in the industrial and commercial circles, we will, in the same vein, query whether we should pay \$100 for a piece of Export Licence if the Government comes to seek our views. Take another example. Sewage treatment and air treatment are also pegged to the cost, that is to say, we are fully charged. We are categorized as "the capable", so we should offer our support. When we use government facilities, we should, on top of the basic Profits Tax of 16.5%, pay whatever charges as requested.

Now I would like to talk about the less fortunate people in our community. The majority of them are the grass roots. They may be the target clients of services provided by our community and the Government. As they are the users, should we ask them to pay the full costs of the services they enjoy or how much should they pay? The issue we are discussing is how much we would like to get in return. Furthermore, the consultation paper made no proposal as to charging patients 10%, or whatever, of the costs, or in money terms, \$200 or \$100 if the costs amount to \$2,000. The consultation document merely seeks the views of the public as to whether medical fees should be pegged to the costs. I think it should be so.

Sometimes one tends to think that free services would not be as good as pay services. Those who are responsible for providing free services may also think that they need not bother to provide good services because the services are free of charge. Take a very simple example. How come the services presently provided in restaurants operated by those individual proprietors in China are much better than those in government-run restaurants? Is it because they think that they should somehow offer some good services in return because they have charged the customers? I do think so. For this reason, to secure quality medical services, we should charge a symbolic fee. The United Democrats of Hong Kong will certainly ask what "symbolic fee" means. Does it amount to less than 10 dollars or several dozens of dollars? These are precisely the issues for discussion as put forward by the consultation document. We should also decide whether a majority of citizens should pay what they can afford to pay and those who cannot afford to pay need not pay at all. In view of the present living standard, the low income group should be able to have a monthly income

of \$5,000 or \$6,000 or at least \$3,000 or \$4,000. With this in mind, I think they can afford to pay several dozens of dollars as medical fee per day when they are hospitalized, given that the \$43 covers merely the meals. I also would like to remind the public of our huge expenditure on medical services. For instance, the cost of maintaining a hospital bed is almost \$2,000 per day. Under such circumstances, medical fees should be to certain extent pegged to the costs.

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

MR SZETO WAH (in Cantonese): Mr President, in much the same way as what Mr Howard YOUNG had described a moment ago as "the gratuitous manner in which certain terms are being interpreted", Mrs Selina CHOW used in her speech the term "socialism" so many times that it stung my ear. Although her voice has now subsided, I still feel my ear hurts. Does she know what socialism is all about? She might think that socialism was very horrible and many people would turn pale upon hearing the word, and so she used it as a weapon to attack the United Democrats of Hong Kong.

Anyone using a weapon should at least know what it is; otherwise, one may end up either killing the wrong person or killing himself. In fact, there are many "brands" of socialism. Some are very horrible, some are not that horrible, and some are not horrible at all. Today, Mrs Selina CHOW has invented a new brand which adds novelty to the development of socialism. The special feature of her new variety of socialism boils down to this: to oppose the pegging of medical fees to costs means socialism, to oppose the itemized charging of medical fees means socialism, and to oppose increasing the burden of medical fees on the middle to lower income groups means socialism. The grass roots, the elderly, the chronic patients and their relatives are those who oppose most strongly the pegging of medical fees to costs, the itemized charging and the increase of their medical fees burden. So according to the logic of Mrs Selina CHOW, they are all supporters of socialism. Will they be deemed anathema by the Special Administrative Region which will practise the principle of "one country, two systems"? Is this not a very ridiculous weapon to use in mounting a very ridiculous attack? You may attack us, but please do not get your weapon from the litter bin. Use some better ones.

If they so wish, will those Liberal Party Members who will speak later explain on behalf of Mrs CHOW what she meant by "socialism"? I earnestly advise Mrs CHOW to read, if she has time, some books on political theory. If she wants quick results, she may consult the encyclopedia to find out what socialism is.

With these remarks, I support the amendment motion of Dr Conrad LAM.

PRESIDENT: Dr LAM Kui-chun, do you wish to reply to the proposed amendment? You have five minutes for the purpose.

DR LAM KUI-CHUN: Mr President, I do.

DR LAM KUI-CHUN (in Cantonese): Mr President, in moving today's motion on this consultation document my intention is to provide Members with an opportunity to express their views on the document such that the Administration can formulate a new and reasonable policy upon the basis of such views.

My original motion provides enough room for Members to express their own ideas. Unfortunately, the amendment motion has relegated the issue of medical policy to a political level, turning forcibly my originally non-partisan motion into a debate tainted with partisan stances. The first half of the amendment has made use of the "imperial sword" of public opinion. I think every Member will respect public opinion. But such opinion is of a very complex composition. The amendment motion betrays much too simplistic an understanding and portrayal of public opinion as to border on muddleheadedness. For example, while the result of one opinion poll is against the setting up of a medical insurance system, that of another shows that 77% of the people are for such a system implemented on a voluntary basis. The poll conducted by the Liberal Party even shows that nearly 95% of the respondents believe that there must be a way of attracting people to take up medical insurance. Should we respect the opinion for or against the medical insurance system? Both the majority and the minority are members of the public; should we respect the views of the former or the latter? Or should we respect only those which the Administration would like to hear? And if the question asked by a radical political party in its opinion poll is simply whether one is for or against the Administration increasing its fees and charges, should the result of such a poll be counted as representing the real public opinion on a social problem? Mr Howard YOUNG has given an appropriate analysis of these public opinion traps, but the amendment motion has not addressed this problem.

However, what has surprised me most is the latter half of the amendment. I find that there are three problems that are absolutely unacceptable to this Council. Firstly, the amendment motion imports a totally negative sense. The escalating medical costs is a worldwide problem. There are 18 countries that are conducting consultation on the problem of medical resources. Our Administration has spent one and a half years in putting together this consultation document and has spent another three months on extensive consultation. I know that the World Health Organization of the United Nations has also confirmed the value of this document. Now nearing the end of the consultation period, this Council is saying that we should not adopt the cost-pegged approach, the itemized charging and the principle of the patients pay more. Hong Kong is at an important crossroads. If we keep saying no and will not consider how to move forward, how can we hold ourselves accountable to

society, to this world and to history? Such kind of negative attitude will only frustrate our Administration, rendering it overcautious and not courageous enough to bring our medical system forward into the 21st century.

Secondly, the amendment manifests a total failure to give guidance as to the way forward. To formulate a policy, one may have to choose between different options. The Administration has listed five options and this Council should actively say which one is feasible, what should be the appropriate pace for implementation, how we should co-ordinate different schemes and how far should such schemes be carried out. Those who are really "smart" can propose their own schemes and convince the Administration to adopt them. The Liberal Party has on top of the proposals offered in the consultation document, suggested that the Hospital Authority should implement a medical insurance system of its own. There are also some members of the public who propose that the Administration should subsidize the medical service by way of selling lottery tickets. But the "three noes" amendment motion only manifests a muddled understanding of public opinion and gives no proposal whatsoever, not even a borrowed or plagiarized one. In such circumstances, what is there for the Administration to follow when formulating the medical policy?

Thirdly, in conceptual terms, the amendment shows a lack of understanding of where our resources come from. For example, it has been argued that the Administration has the responsibility to fully undertake the provision of medical services, but there is no mention as to how the Administration can create more resources — as if it can create unlimited resources from nowhere. We have to understand that the Administration's resources come mainly from tax revenue. The present amendment means virtually a call for tax increases. Although opposing the proposal which would make the patients pay more is supposed to be an act to strive for the welfare of the public, the introduction of a high tax system and the socialist practice of bringing everything under the control of the central government are both something that the people of Hong Kong would not like to see. Furthermore, in the public consultation forum held by the Liberal Party last weekend, 96% of the respondents were opposed to increasing medical resources by way of tax increases. Therefore, the amendment motion is in fact contradicting itself as it is requiring the Administration to respect and yet at the same time ignore public opinion. If Members compare the original motion with the amendment, they will find that the amendment in effect has retained the first part of the original motion's request in relation to a new policy but has removed the second part; yet it is the second part which is the key to bringing Hong Kong into the future.

The buzzer sounded a continuous beep.

PRESIDENT: You are obliged to discontinue, Dr LAM.

SECRETARY FOR HEALTH AND WELFARE: Mr President, I am grateful for a focused debate on the consultation document *Towards Better Health*. Health care reform all over the world has evoked such emotions and debate that a Canadian health economist, Dr Robert EVANS, has described it as "the issue from hell". This reminds me of the proverbial hero Don Quixote who was willing to march into hell for a heavenly cause and tilt at all the windmills in his way. We know that 18 out of 24 OECD countries have embarked on the rocky road to reform. The reason is simple: any responsible and caring government cannot blind itself to escalating medical costs, the needs of an ageing population, the changing aspirations of the community, and not react. We in Hong Kong are more fortunate in that we have the chance to diagnose our symptoms early and act to prevent them from getting worse. It is not radical surgery, but preventive medicine. This is precisely what we have attempted to do in putting forward possible options for change.

The need for change

As I said in this Council in July, while we have a good health care system with a "no turn away" policy, which provides guaranteed coverage for all, we still need to reform the structure so as to make it better. Thus the consultation document is not about fee increase but is about structural change. The health of our community is of paramount importance: we cannot leave its future to chance. Between chance and change, there is really very little choice. With new technology, rising expectations, health care is expensive business. It is everybody's business. Indeed, as many Honourable Members have eloquently argued, be it the taxpayer and/or the user, someone, somewhere, sometime, somehow has to pay. Let us in no way delude ourselves into thinking that government money is nobody's money. It is the taxpayers' money and taxpayers are also users of our health service.

Hence, change to our health care system, in order to take root, must have the support of the community. Change, in order to blossom, must be nourished by participation from politicians, providers, professionals and the public alike. Any change, in order to endure, must be a gradual, step-by-step process of implementation and evaluation. Every change has got to be carefully monitored.

The consultation process

The consultation process has been an unprecedented effort to reach out; to listen; and to explain. In the process, we have received over 300 representations, and met hundreds of community leaders and association representatives. We have consulted all district boards, and heard the voices of thousands at public forums organized by different political parties and patients' representatives. Their views have been often critical, sometimes complimentary, but always candid. The candidness with which our community has responded to health care reform and their belief that their voices will be heard has made this consultation exercise truly worthwhile, epitomizing the

spirit of Hong Kong. This is after all our reform. In the words of Dr Charles BENNETT, the world renowned health economist specially assigned by the World Health Organization to evaluate our health care reform options, and I quote, "Changes in Hong Kong, as in all countries, will take time. The process is headed in the right direction. Hong Kong offers lessons for policy makers who are working to improve health care in other countries."

Without wishing to disappoint the Honourable TIK Chi-yuen in any way, supporters for reform both in and outside this Council, including such important institutions as the Hospital Authority and the Hong Kong Medical Association, have not only supported the voluntary insurance option, but have suggested ways for early implementation of schemes such as the health maintenance organizations in Hong Kong.

Mr President, I take this opportunity to thank them all. Together we will reach our common goal of Health for All in the Year 2000. Together we must create a legacy for our children and our children's children. This is our mission. This mission transcends ideology. This mission transcends partisan politics.

Options

Turning now to specific options in the document, there have been clarion calls for the maintenance of the existing system. Indeed, dare I say, few governments could expect to receive such massive popular support for an existing system.

We have a safety net under our "no turn away" policy which ensures that no one is denied adequate medical treatment through lack of means. This is in the law. This is our policy. This will remain our policy.

As regards the options on itemized charges, there is fear that the introduction of such charges as detailed in the document would lead to patients being denied access to medical care. Such fear, dare I say, is based on ignorance and spread by convenient carping. At present and indeed for many, many years itemized charges have been levied widely in public hospitals. These charges are neither standardized nor uniformly applied. Thus the standardization of itemized charges will ensure consumer protection and transparency in our system. An ambiguous system could create opportunities for corruption. Ignorance is no bliss for patients. Therefore, we hope through clear, non-discriminatory, predetermined, uniform demarcation of itemized charges to standardize the existing plethora of different charges imposed by different public hospitals. We hope through a non-discriminatory, uniform, clear, open system to reduce uncertainty and anxiety of patients. We hope to make a good system better.

As regards the options for semi-private rooms in public hospitals and the co-ordinated voluntary insurance approach, I am happy to reinforce this

afternoon's debate that there has been a strong body of support for early realization of the concept and early implementation of various schemes so as to enhance consumer choice and to control costs.

Primary health care

Many Honourable Members have argued and I agree 100% that health care reform is incomplete without a sustained focus on primary health care. Primary health care is participatory care, a system which requires everyone's involvement. I said so two years ago in this Council, and I repeat it today. Lest Members should forget, we are, in fact, implementing the proposals contained in the Primary Health Care report. Of course, we will do more and we will do more in future years.

Mr President, I ask that we face up to the need for change, I ask that we have the courage to be part of the process. Our system is not so much one which is pegged to costs. It is a system which is pegged to the hearts and minds of the people.

Finally, as regards specific points on, for example, calculation of operating costs, or the whys and wherefores of cross infections in Castle Peak Hospital, or whether and how we are to encourage Chinese medicine, alternative medicine, acupuncture, it will take me hours to expand on each topic. I am sure Honourable Members will wish to be spared such pain. And therefore I undertake to respond to these questions separately in writing.

Thank you, Mr President.

Question on Dr Conrad LAM's amendment put.

Voice vote taken.

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

MRS MIRIAM LAU: Mr President, I claim a division.

PRESIDENT: Yes. Council will proceed to a division.

PRESIDENT: Would Members please proceed to vote?

PRESIDENT: Do Members have any queries before the results are displayed? The results will now be displayed.

Mr HUI Yin-fat, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Jimmy McGREGOR, Mr Albert CHAN, 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 LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr Samuel WONG, Dr YEUNG Sum, Mr WONG Wai-yin and Dr TANG Siu-tong voted for the amendment.

Mr Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr Andrew WONG, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mr Martin BARROW, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mrs Elsie TU, Mr Peter WONG, Mr Vincent CHENG, Mr Moses CHENG, Mr CHIM Pui-chung, Mr Timothy HA, Mr Simon IP, Dr LAM Kui-chun, Mr Eric LI, Mr Steven POON, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG, Mr Roger LUK, Ms Anna WU, Mr James TIEN and Mr Alfred TSO voted against the amendment.

The Attorney General and Miss Christine LOH abstained.

THE PRESIDENT announced that there were 24 votes in favour of the amendment and 28 votes against it. He therefore declared that the amendment was negatived.

PRESIDENT: Dr LAM Kui-chun, do you wish to reply generally? You have 4 minutes 14 seconds.

DR LAM KUI-CHUN: Yes, Mr President, I do wish to reply.

DR LAM KUI-CHUN (in Cantonese): Mr President, my purpose of moving this motion today is to provide Members an opportunity to express freely their views on the future arrangement for medical resources, and also to give the Government an opportunity to listen to our views in a focused debate and then make appropriate responses. Now my purpose has been achieved and I would like to thank the 26 Members for their active participation in the debate.

To sum up, Members almost agree unanimously that there should not be any drastic increase in the fees and charges for public health services generally. While most Members agree with the reasons for increasing medical resources as set out in the consultation paper, their views are divided as to the sources of new resources and the ways to cut down medical expenditures. This fully reflects the fact that in a dynamic body like this Council, it is bound to have divided views. It is not necessary for me to elaborate on the reasons. However, the

greatest divergence is that a great majority of the Members, especially Members of the Liberal Party, are in favour of identifying new resources, creating wealth and opposing tax increase, whereas the radical democrats and those Members representing the social services sector and the labour sector demand the Government to undertake full commitment for everything. What they advocate is socialism. The most disappointing of all is that Official Members will abstain from voting.

The Secretary for Health and Welfare has made it clear just now that there is indeed a need to reform the current financial structure of Hong Kong's public health services. The proposed amendment is tantamount to saying that there is no need to reform in this respect. No matter whether the Government has any preconceived ideas on the direction and priority of reform or not, it should not refrain from making any improvement and fold its arms as the consultation paper has affirmed the need to reform. If the Government does not even have a stand on whether to reform or not, can it still be said to be an executive-led government? I hope Members will support my motion.

Question on Dr LAM Kui-chun's motion put.

Voice vote taken.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Members please proceed to vote.

PRESIDENT: There still seems to be one Member short. Members are not obliged to press the "Present" button, though. We have headcounted 52 but we are registering 51.

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

Mr Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr TAM Yiu-chung, Mr Andrew WONG, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mr Martin BARROW, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Jimmy McGREGOR, Mrs Elsie TU, Mr Peter WONG, Mr Vincent CHENG, Mr Moses CHENG, Mr CHIM Pui-chung, Mr Timothy HA, Mr Simon IP, Dr LAM Kui-chun, Mr Eric LI, Mr Fred LI, Mr Steven POON, Mr Henry TANG, Mr TIK Chi-yuen, Dr Philip WONG, Mr Howard YOUNG, Mr WONG Wai-yin, Dr TANG Siu-tong, Mr Roger LUK, Ms Anna WU, Mr James TIEN and Mr Alfred TSO voted for the motion.

Mr HUI Yin-fat, Mr Martin LEE, Mr SZETO Wah, Mr Albert CHAN, 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 LEE Wing-tat, Mr MAN Sai-cheong, Mr James TO and Dr YEUNG Sum voted against the motion.

The Attorney General and Miss Christine LOH abstained.

THE PRESIDENT announced that there were 34 votes in favour of the motion and 16 votes against it. He therefore declared that Dr LAM Kui-chun's motion was carried.

SUCCESSION RIGHTS IN THE NEW TERRITORIES

REV FUNG CHI-WOOD moved the following motion:

"That this Council urges the Government to proceed expeditiously with the relevant law reforms by repealing those provisions in the legislation which are discriminatory against women in their right of succession so as to ensure that both men and women are entitled to equal claims and protection in their succession rights and to ensure that such reform has retrospective effect in regard to the non-indigenous inhabitants of the New Territories."

REV FUNG CHI-WOOD (in Cantonese): Mr President, I move the motion standing in my name in the Order Paper. My purpose in moving the motion today is very clear. I hope that the principle of equality between the sexes will be given effect to. It cannot be denied that, up to now, the indigenous women of the New Territories (NT) have been discriminated against in many ways. They have quietly lived with the many restrictions and yokes put upon them by conventional society. Traditions and customs have been hard to change; they have denied these women the benefits that all human beings should be entitled to. The indigenous women of NT, up to now, have had no property succession rights. A daughter cannot succeed to property even if she is the only child of the deceased. A woman cannot succeed to property even if she is the widow of the deceased. In these cases, the property in question all goes to male close relatives of the deceased.

Thus, traditions are often unjust. Many sufferings are caused in their name. Section 13 of the New Territories Ordinance (NTO) provides that the High Court and the District Court, when adjudicating on real property matters in NT, shall recognize and abide by Chinese traditions and customs in that regard. NTO enjoins respect for the customs of the indigenous inhabitants of NT. At the time when it was enacted, NTO was necessary. The fear of the community in those days was that the colonial government might deprive the

indigenous inhabitants of NT of their property rights. But NTO at the same time improperly legalized and so preserved customs that were discriminatory against women.

Firstly, is there inequality between the sexes in rural NT? The answer is quite clear. The women of NT, particularly the indigenous women of NT, are under all kinds of pressures in a social environment where men and women are unequal. Until recently, they have not dared to "stand up" for their rights. But now they are getting organized and their silence is broken. Today, outside the Legislative Council, in the rain, a group of women, including women from villages, handed Members a joint statement signed by 122 women from 40 indigenous villages. They want reasonably equal rights; they want the Government to repeal statutory provisions that are discriminatory against women. I congratulate the Anti-Discrimination Committee of the Indigenous Women of NT on its establishment. I admire these women's courage and resolve. I wish them quick success in achieving their goal. Their effort has just begun. Though their voice is weak, it is a poignant voice, a voice that tells of heart-felt expectations.

Secondly, now that some indigenous women of NT are speaking up against discrimination, people in NT should desist from suppressing their demand for equal rights. Men and women should have equal succession rights.

Thirdly, as society advances, so does the thinking of the people of Hong Kong. Most Chinese traditions and customs have changed in the course of time. In Hong Kong, for instance, legislation on monogamy was enacted in 1971. In sovereign country China itself, while there are laws enjoining respect for the customs of national minorities, these laws forbid discrimination within the minorities against women's right of succession. The indigenous inhabitants of NT should desist from discriminating against women, which compromises the latter's enjoyment of equal rights.

The Housing Authority announced in June that the Home Ownership Scheme (HOS) housing estates, Phases 1 to 14, in the new towns, are situated on NT land which is subject to NTO. The women living in such housing, like the women in the villages, have no right of succession to property. NTO applies to the new towns. Women have no property succession right there, be it in respect of an HOS flat or a privately owned home.

The Housing Authority's announcement not only shocked the new town inhabitants but also greatly embarrassed the Government and the legal profession. NTO has been in effect for more than 80 years already, but the Government until now was not aware that NTO applied to villagers and new town inhabitants in all of NT. In the new towns, the Government failed to grant exemption under NTO when letting land leases. The Government cannot hold itself blame-free for such negligence. Therefore, the Government must immediately remedy the problem by carrying out law reform.

Members of the public have suggested various ways for solving the problem of women's right of succession in NT. Some think that it is not even necessary to amend NTO, since those affected by its provisions can apply to the Governor for exemption. Others suggest that the problem can be solved by administrative means.

Firstly, subsections 7(2) and (3) of NTO provide that exemption may be granted under two sets of circumstances. When the Government is drawing up the terms of a land lease, the developer can apply to the Governor for exemption under NTO, and the Governor in such a case can grant it. When land has already been developed, all owners of the undivided shares in land can apply together to the Governor for exemption. They must apply together or the Governor cannot grant the exemption. In other words, in an HOS housing estate, unless all owners of flats apply together to the Governor, an exemption under NTO cannot be incorporated into the individual title deeds. One stands a very low chance of success if one tries to persuade all owners of flats in an HOS housing estate to apply to the Governor together. Besides, the procedure will require a huge amount of administrative manpower and time, making the result not worth the effort. The method of adding a schedule, suggested by some, is not feasible either, for what is needed is an exemption under NTO in respect of the entire site of a housing estate and not just in respect of an individual block. A schedule for exemptions would be very long and it would be getting longer all the time. Besides, it would be hard for all owners of flats in a housing estate to meet the same conditions to qualify for the same exemption. This is why the suggested method is hardly feasible.

Secondly and more importantly, administrative measures do not have retrospective effect.

Thirdly and most importantly, the suggested methods will not fully resolve the problem of unequal treatment of women under NTO. Women still would not, through legislative means, be given an equal right of succession. Therefore, law reform is the only long-term way to guarantee women's equal right of succession. Therefore, the United Democrats of Hong Kong (UDHK) think that the administrative methods suggested by Mr Frederick FUNG are in fact unfeasible and flawed.

Concerning law reform, I will separately discuss new town land and rural land.

I will discuss new town land first. The Government in 1971 enacted the Intestates' Estates Ordinance (IEO), which provides that women shall have an equal right of succession to a deceased person's estate where the deceased did not leave a will. However, IEO applies to Hong Kong Island and Kowloon but not to NT. The right of succession of the inhabitants of NT, including those living in the new towns, continue to be subject to NTO.

I believe that those who have moved to live in the new towns, be they indigenous or non-indigenous inhabitants of NT, never thought that they would be subject to NTO. None of them will accept that only male persons have the right of succession.

As for land in rural NT, the law reform urged for in my motion will not diminish the rights of the indigenous inhabitants of NT as a group. It seeks only the division of a deceased person's estate without regard for the legatee's sex. Women, too, are human beings. They should have the same right of succession as men.

Therefore, UDHK want NTO to be amended to provide that all NT women, whether they live in the new towns or in the villages, shall have the same right of succession as men. Discussion of the technical details of the amendment can be deferred until the legislative process begins. In sum, UDHK want new town land and rural land to be subject to IEO, which provides that a deceased person's estate shall be divided without regard for the legatee's sex.

With regard to retrospective effect, when HOS housing and private sector housing were developed in the new towns, the legal profession, the Government as well as the buyers of the flats all assumed that new town land had been exempted from the application of NTO. They proceeded on such an assumption. Nor have disputes over succession arisen in connection with new town property as they have in connection with rural land. Therefore, UDHK think that any legislation on women's equal right of succession to new town property must have retrospective effect. Without it, some men may later file property claims against their mothers or elder sisters. This will cause many disputes and lawsuits among the deceased's survivors. Therefore, UDHK think that retrospective effect should begin from the date of the grant of the land lease in the new town, and UDHK resist Mr FUNG's arguments against retrospective effect in regard to new town land.

In the case of the indigenous inhabitants of NT, estates have heretofore been divided under the terms of NTO. Such division has been based on common understanding and on law. Making it unlawful retrospectively by enacting legislation with retrospective effect will cause many disputes and affect many people. We would like very much to get back for the indigenous women of NT the real property of which they have been deprived. But in many cases, property succeeded to has already been sold to a new owner. Any new legislation, if it is to have retrospective effect, will make it necessary, in many cases, to revisit the ownership records in respect of the property in question and to challenge the title of the property holder. This is unfair to the new owners.

However, UDHK suggest that the Government should take special care of those women who have been treated unfairly because of traditions and customs and whose cases are special. The Government must immediately act to prevent cases from happening where a widow with a daughter (or daughters) but no son is unable to succeed to the real property of her late husband, which goes to

other relatives instead. The way to do so is to amend the Deceased's Family Maintenance Ordinance, extending its application to the indigenous inhabitants of NT, so that an indigenous woman of NT may apply to the court for an order enabling her to succeed to real property. She will then not lose her home.

Mr President, taking the home away from a widow whose husband has died or from a daughter whose father has passed away is in fact something that must never happen. This, however, is happening but the Government does not care. It is a disgrace. Today, in this Council, in this building which is the symbol of justice and fairness, we must win equal rights for women. If we want to free women from the yoke of discrimination, now is the time to act. Whatever we do will be the first step. Once we take the first step, there will be no turning back until we win true equality between the sexes.

I move the motion and ask Members to support it.

Question on the motion proposed.

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

MR FREDERICK FUNG moved the following amendment to Rev FUNG Chi-wood's motion:

"To delete the words" and to ensure that such reform has retrospective effect in regard to the non-indigenous inhabitants of the New Territories." and substitute the following

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"and furthermore, to take action as soon as possible on the applications from owners of land in New Territories for exemption from the New Territories Ordinance on women's succession rights by means of administrative measures.""

MR FREDERICK FUNG (in Cantonese): Mr President, first of all, let me make my position clear. The Association for Democracy and People's Livelihood (ADPL), including myself, fully support the first half of the motion, which urges the Government to proceed expeditiously with a comprehensive law reform exercise, so as to eliminate all provisions of law that are discriminatory against women in the matter of succession right, thereby realizing the spirit of equality. In addition, we strongly urge the Government to move expeditiously to introduce into Hong Kong the Covenant on the Elimination of All Forms of Discrimination against Women. However, we think that the second half of the motion must be amended in that it urges the Government to ensure that the law reform "has retrospective effect in regard to the non-indigenous inhabitants of

the New Territories." We think that the second half of the motion is incompatible with the first. For four reasons, given below, the motion must be amended.

Firstly, the motion is self-contradictory in its principles. Its first half talks about the ideal of equality. Yet its second half urges the Government to make a distinction between the indigenous and non-indigenous women of the New Territories (NT). This is a flagrant instance of self-contradiction.

Secondly, the motion causes confusion. The New Territories Ordinance (NTO) provides that all owners of NT land may apply for exemption from the Qing Law, no distinction being made between the indigenous and non-indigenous indigenous inhabitants. What reason is there for emphasizing that the law reform should have retrospective effect in regard to the latter alone? Many indigenous inhabitants of NT have bought Home Ownership Scheme (HOS) housing flats or private development flats, and some non-indigenous inhabitants of NT have bought "village small houses." Across the entire NT, indigenous and non-indigenous inhabitants are living together as neighbours. The motion suggests that the law reform should have retrospective effect in regard to the non-indigenous inhabitants of NT, including those living in "village small houses," but not in regard to the indigenous inhabitants living in newly developed housing there. Instead of being helpful as intended, the motion will be bothersome and confusing.

Thirdly, revisiting the records of the past 83 years will uncover countless litigable disputes. NTO was enacted in 1910. I believe that most Chinese in those days, be they indigenous or non-indigenous inhabitants of NT, would leave their estates to their male heirs when they died. This was the prevailing custom. The farther we go back into the past, the more prevalent will we find it to have been. If the law reform in question has retrospective effect as proposed, then all the non-indigenous women of NT, as well as their descendants, will be able to litigate to win back title to property, on the ground that they did not receive their due shares of estates, which all went to male heirs. How many court cases of this kind will there be? I do not know. The number may be infinite. Therefore, revisiting the old records will uncover potential causes for disputes between members of families. Before today's sitting, I talked with some members of the United Democrats of Hong Kong (UDHK) and the Liberal Party. They responded saying that "there presumably will not be too many such cases." This response hardly suffices to dispel the concerns of ADPL including myself.

Fourthly, setting a precedent of legislative retrospectivity will undoubtedly punch a hole in the principles of law and will constitute a serious inroad upon the prospectivity of the common law. People will wonder about the stability of the law. Society will be affected by unrest. If we can make law today with retrospective effect about a certain matter, the Government can make law tomorrow with retrospective effect about other matters. Lawful actions can become unlawful as government changes, if the new government can make law

to outlaw them retrospectively. If law can have retrospective effect, then we can all imagine the horrible things that will happen as scores are settled afterwards. I believe that UDHK are no less terrified by such a prospect as we are. I really do not understand the reason for this craze to set a precedent. Besides, until NTO is amended, both the indigenous and non-indigenous inhabitants of NT have certain rights. Though these rights are sometimes causes of disputes, it will be contrary to the spirit of law to take away these rights of the inhabitants of NT without their prior consent. I hope that colleagues from UDHK will think again.

The suggestions of ADPL, including myself, are absolutely valid in law. According to press reports, Secretary for Constitutional Affairs Michael SUEN said that, in theory, small owners of NT land cannot apply for exemption from NTO, the reason being that section 7(2) in Part II of NTO provides that only "the registered owner of the lease of any land," that is, only a big landowner, can apply for such exemption. I have discussed this point several times with the Legal Adviser of the Legislative Council. After several studies were made, it was found that paragraph 2 of Part I of NTO defines "land" as including "any undivided share in land," that is, any land owned by a small owner. Since this definition favours both big and small land owners, section 7(2) of Part II should be interpreted to mean that small landowners, too, have the right to apply for exemption from NTO.

One other point to make is that some think that my amendment will similarly lead to title disputes. They think that, if a small landowner applies today for exemption from NTO, so as to give a woman the equal right of succession, this will undermine all titles acquired previously on the basis of equality. They think that a male successor to a family estate can then file a property claim against a female successor who has acquired title to property prior to the application for exemption, on the ground that NTO was still in full force when she acquired title.

But such things basically cannot happen. I have consulted this Council's Legal Adviser and learnt that estates are succeeded to in three ways:

- (1) After a small property owner dies, his surviving family can apply to the court for probate, attaching an agreement among members of the family on how the estate of the deceased should be divided.
- (2) After a small property owner dies, his surviving family can apply to the District Office of the NT Administration (now the City and NT Administration) for registration as successors. The District Office would allow only the male members of the family to so register. The deceased's son(s) could then sign a document in a law firm, agreeing to give half of the estate or an equivalent amount in cash to the deceased's daughter(s).

- (3) After a small property owner dies intestate, if an elder to the surviving family or a lawyer, acting on the assumption that exemption from NTO has been granted, suggests that the estate be divided equally between the deceased's sons and daughters under the Intestates' Estates Ordinance (Cap 73) enacted in October 1971, and if this suggestion is accepted, then the sons may not file subsequent claims against the daughters. They may, however, file claims against the elder or the lawyer for having provided "misleading" information.

In the first two situations, no problem will arise since an agreement on the division of the deceased's estate has been signed irrevocably and it cannot be revisited. Problems can arise only in the third situation.

Finally, I think that a pre-legislation compromise solution would be to let small property owners apply for exemption from NTO and then let the Government use administrative methods to grant exemption from NTO to the more than 300 000 property owners. However, I have to tell colleagues that, if NTO is amended with retrospective effect, the people to benefit most will not be the non-indigenous women of NT but the elders and the lawyers.....

The buzzer sounded a continuous beep.

PRESIDENT: Mr FUNG, you have to discontinue, I am afraid.

Question on the amendment proposed.

MR MARTIN LEE (in Cantonese): Mr President, the Chinese have a rich cultural heritage made up of an abundance of traditions preserved from the past 5 000 years and more. However, there are good and bad traditions. Some help to glorify Chinese culture. Others hinder the forward development of our modern society. Development is a process of keeping the good and getting rid of the bad. We must take good care of and preserve those fine traditions of our heritage. Outdated customs are a cultural burden. We must discard them without the slightest hesitation.

In the area of human rights, an exalted article of faith of modern civilized society is equality between the sexes. Love between family members is an exalted moral principle of the Chinese. The Chinese at one time had many customs that were discriminatory against women. For instance, girls had to have their feet bound and a man could have many wives. These customs were abolished in the course of time. The Government of the Republic of China promulgated the Civil Code in 1931. The Government of the People's Republic of China, too, promulgated the Law of Succession and the Law of Protection of Women's Rights in 1985 and 1992 respectively, giving all women in China the same right of succession as men. The Government of Hong Kong put the

Intestates' Estates Ordinance (IEO) into effect in 1971. While IEO safeguards the equal division of the estate of a deceased person, rural land is made an exception to which the IEO does not apply.

Mr President, I am very puzzled. Why should Hong Kong, a colony about to be returned to China, preserve outdated customs which have already been renounced by governments in China and which discriminate against the indigenous women of the New Territories (NT) in the area of succession rights? Why do those men, those who speak all the time in favour of women's equal rights, discriminate against women in the name of respect for traditions? Are we to assume that love in a family distinguishes between the sexes? Why do those men, those who clamour for the preservation of Chinese traditions, not open their eyes wide and see that what they are really preserving are feudal customs found disgraceful by contemporary Chinese?

Section 13 of the New Territories Ordinance (NTO) was written on the basis of the Convention for the Extension of Hong Kong Boundary signed between the Qing Government of China and the British Government in 1898. Its intention was to protect the property rights of the land-owning inhabitants of NT of those days from the colonial government. But the Convention affirmed what the Qing Government of China called "traditions", which were discriminatory against women. These traditions not only permitted polygamy for men but also deprived women of their right of succession. The Qing Government of China was overthrown 80 years ago, and Hong Kong's colonial history is about to come to an end. But some people, while talking loudly about loyalty to the great national cause, are advocating the preservation of the provisions of an unequal treaty, the preservation of the bad customs of feudal society. All friends who care about Chinese culture are bound to feel indignant at this.

When farming was still the principal occupation in the rural areas, clans had to keep ancestral land intact so that posterity might continue to farm for a living. In those days, when society was built around male and paternal authority, people feared that, if women were given their shares of land, ancestral land would be broken up, with adverse effects on the livelihood of posterity.

Now, however, what is the real difference between rural areas and urban areas? Because of the electronic media and mass culture, any lifestyle difference between rural people and urban people is becoming indistinct. The purpose of owning real property, both in rural areas and urban areas, is to make money. I recall that, when I was small, people were still talking about "country people" with "feet covered with cow dung" and "illiterate". But today we see that the members of Heung Yee Kuk are all tycoons in smart suits and travelling in Rolls Royces. Containers are piled high on what used to be farmland. Rural children no longer have to work in the fields; like children in the urban areas, they receive nine years of free education. This being so, what

reasons do Members from Heung Yee Kuk have for insisting on keeping outdated customs?

Under existing law, rural women can succeed to property where such property is devised or bequeathed under a will. Why do the Government not take a further step forwards and revise all relevant Ordinances to give effect to the spirit of equality between the sexes?

Some Legislative Council colleagues say that rural people are indigenous inhabitants and, as such, should have privileges. But it is very doubtful that "indigenous inhabitants" is a term that fits China's definition of "natives" or "national minority." Even if we concede that the indigenous inhabitants of NT should have so-called "privileges" because of special factors in our colonial history, we must note that no developed area in any part of the world allows "natives" or "national minorities," by reason of such "privileges," to keep customs that are discriminatory against women. Even in China, the Law of Protection of Women's Rights applies to the autonomous regions of national minorities.

Some country squires have invoked Article 40 of the Basic Law to try to suppress voices calling for equality between the sexes, noting that "the lawful traditional rights of the indigenous inhabitant of NT shall be protected by the Hong Kong Special Administrative Region." But an amendment to NTO's provisions concerning succession to NT land will not affect male persons' right of succession at all. How can it be not "lawful" for rural women to have an equal right of succession? Besides, the Basic Law adopts as part of HKSAR's domestic law the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights to protect women's equal rights in all social matters. Amending NTO will not be in violation of the Basic Law at all.

Sovereignty over Hong Kong will revert to China in 1997. Let me ask: Which Chinese person wishes to see on Chinese soil residues of the Qing Law? If one insists that inequality between the sexes is "lawful," does one mean by this that the preservation of the evil feudal customs of the Qing Dynasty is "lawful"? Such views and doings are not acceptable to the Chinese in contemporary Hong Kong.

With these remarks, I support the Rev FUNG Chi-wood's motion and oppose Mr Frederick FUNG's amendment.

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

MR TAM YIU-CHUNG (in Cantonese): Madam deputy, equality between the two sexes is a goal pursued by the human race. In reality, sexual discrimination is still prevalent in our society in many spheres and takes many forms. Yet, our

society is heading towards the direction of eliminating sex discrimination. And suppression faced by members of the female sex is on the wane.

At the same time, we also notice the importance of cultural diversification when global modernization is under way. The promotion of mutual respect, cultural exchanges and cross references among various cultures becomes a goal pursued by all human societies.

The spirit of the New Territories Ordinance is that we should respect traditional customs and practices of indigenous villagers in the New Territories. This is something worth our support, because the Ordinance protects the culture of indigenous villagers from the gross violation by external cultures. However, this is not equivalent to blindly observing some obsolete and old-fashioned customs and practices such as the tradition of regarding men as superior to women. Moreover, I wish to point out that it is impossible to effect changes to the existing institutions simply by replacing arbitrarily one form of culture with another. Instead, this should be achieved through the promotion of mutual understanding and communication, and subtle influence in order to eliminate the bad customs while retaining the good ones.

Madam deputy, the pressing demand of the day is that we cannot allow the non-indigenous villagers in the New Territories to be bound by the New Territories customary law which should not be applicable to them in the first place. Actions should be taken to discontinue the application of the New Territories Ordinance and relevant court rulings in the context of the succession rights to the 77 Home Ownership Scheme (HOS) blocks in the New Territories. And there should no longer be any sex discrimination in terms of the succession rights of such properties. It is because, I believe, all those who live under the laws of Hong Kong have taken equality between men and women for granted. And no form of sex discrimination is tolerable under the law.

I suggest adopting the proposals put forward by the Democratic Alliance for the Betterment of Hong Kong. Firstly, to include in section 7 of the New Territories Ordinance an exemption clause which provides for all HOS estates from phase 1 to phase 14 in the New Territories to be exempted from the application of the New Territories Ordinance. Secondly, to consider relaxing the requirement that a beneficiary must obtain a probate within three month of the death of a testator. I think, if the first proposal is accepted, the female residents of the HOS estates in question will no longer be affected by the customary law in the New Territories, and will no longer be deprived of their entitled succession rights. The second proposal will make available more feasible opportunities for indigenous female inhabitants in the New Territories to fight for their entitled succession rights while preserving the integrity of traditions and customs in the New Territories as far as possible. Of course we should not stop here and think that is enough. In *Green Paper on Equal Opportunities For Women an Men*, the Government indicated its intention to review the land succession-related provisions in the New Territories Ordinance.

And I hope that in the near future, the New Territories Ordinance will such be amended that it can meet the presentday needs.

MR LAU WONG-FAT (in Cantonese): Madam deputy, when the New Territories was leased to the British Government, the then Governor Sir Henry BLAKE, for the sake of maintaining stability, pledged in a statement that the interests of the indigenous people in business and in their lands would certainly be protected and their traditions and good customs would in no way be interfered. On the basis of this pledge, the New Territories Ordinance (NTO) was enacted. The purpose of the legislation is to maintain the traditional rural system in which people of the same clan live together and to show respect for the customs and lifestyle of the rural people. Since then, this system has been playing a significant role in maintaining the stability of the Hong Kong society at large.

As a matter of fact, all democratic societies hold different traditions and customs in high regard. In countries like the United States, Canada and Australia, the traditions and lifestyle of the indigenous people are reasonably protected by law. This has contributed significantly to harmonious social development. To allow the co-existence of diverse cultures in the light of social reality is the very foundation of democratic, free societies. To alter the *status quo* regardless of the actual situation would ultimately result in social division and discontent.

The NTO has been in existence for over 80 years and has served us well. When the Hong Kong Government enacted this legislation, it had already taken into consideration the likely situations and changes that might emerge in the future development of society. It had also ensured property owners the right to dispose of their properties according to their wish. A flexible mechanism was therefore provided in the legislation whereby the Governor is empowered to exempt newly granted lands, including the superstructures on them, from the application of the NTO. Land owners or property owners on such lands themselves can also apply to have their lands or properties excluded from the NTO.

There is no clause in the NTO which deprives females of the right to inherit nor does it have any clause which bars a person from making a will to dispose of his or her properties as he or she wishes. Doubts have recently been raised over the right of non-indigenous people to inherit properties in the New Territories and this, I think, stemmed from the lack of full understanding of the NTO — that it has an exemption clause providing flexibility to the Ordinance. In the event that the prevailing administrative arrangements are still considered as insufficient to remove the doubts and a clearer definition is needed, I would suggest a new legislation be enacted to provide in definite terms that the NTO only applies to the indigenous population. This would be a simple and effective solution. It is entirely inadvisable to go so far as to amend the

NTO thus running the risk of triggering conflicts and unnecessary chaos that may ensue from so amending as the Ordinance is tied up with many other issues.

Madam deputy, as I have said a while ago, the perseverance of traditional rural customs, practices and rights in the New Territories is intended to enable the rural clan system to be maintained. This is based on an essential need and the spirit of respect for diverse cultures. It does not come into conflict with the notion of the equality of sexes. Many people or political parties who have given their views on the New Territories issue could not make head nor tail of the issue. Or, perhaps, they do not bother to understand the real situation in the New Territories. They may just want to grasp the opportunity to go all out for politicizing the issue and their motive is obvious to all. While I entirely agree with the principle of equality between men and women, the original motion and the amendment motion, whose wording is high-sounding, are actually misleading as they are based on a mistaken assumption.

The motion urges the Government to "proceed with the relevant law reforms by repealing those provisions in the legislation which are discriminatory against women in their right of succession". As far as I understand, the NTO as well as other ordinances in Hong Kong do not contain any single clause which is discriminatory against women. If such discriminatory clauses do not exist, there is nothing to repeal and the "law reform" is not called for. No cure is needed when there is no illness. And one should not make much ado about nothing.

Madam deputy, with these remarks, I oppose both the motion and the amendment.

MRS PEGGY LAM (in Cantonese): Madam deputy, recently, the Fire Services Department has successfully recruited two female Station Officers. This has broken the tradition of the fire services team which has hitherto had no female fire fighter. Such recruitment may be regarded as one of the results of a change of times. Inequality between the sexes should not be tolerated in presentday society because equality between the sexes is a basic human right. The incident mentioned above is an example of equal employment opportunity. And we still have to make concerted efforts to eliminate other social discriminations against women. I am, therefore, totally in support of equal rights and protection to both sexes in respect of succession.

The debate today, to a large extent, stems from the succession rights to Home Ownership Scheme flats in the New Territories. I am glad to know that the Government has made positive response to the matter. At a meeting of the Community and New Territories Affairs Panel last week, the Secretary for Home Affairs told us that an interdepartmental working group had been set up to draft a Bill to exempt non-indigenous inhabitants from the restrictions imposed by the New Territories Ordinance so that women may enjoy equal rights of succession to New Territories properties. I welcome the

Government's prompt response to take actions to allay any unnecessary anxiety of the residents of Home Ownership Scheme flats in the New Territories. As a matter of fact, the New Territories Ordinance does not specify that women cannot enjoy the right of succession. Section 13 of the New Territories Ordinance provides that in any proceedings in the High Court or the District Court in relation to land in the New Territories, the court shall have power to recognize and enforce any Chinese custom or customary right affecting such land. Section 17 empowers the Land Officer to register the name of the successor as successor to the land of the deceased person unless a grant of probate or administration of the estate of the deceased is made by the High Court within three months after such death. When the Land Officer enters the names on the register, he usually follows the Chinese custom that only male descendants are registered as successors. In view of the above-mentioned provisions, therefore, though the New Territories Ordinance has no sexual discrimination provisions, the New Territories residents still generally observe the custom that only male descendants are entitled to succession rights. However, one wonders that for a social structure which was established more than a century ago, should the custom move with the times? As a matter of fact, the present row with regard to succession right to Home Ownership Scheme flats in the New Territories shows that social changes know no border. Social developments in Hong Kong have seen many non-indigenous residents gradually move into the New Territories. The New Territories Ordinance should not be binding on these people. Now that the Government is drafting a Bill in response to matters arising from the right of succession in the New Territories to explicitly state that men and women enjoy same rights in succession with regard to the Home Ownership Scheme flats. Such a move not only meets the aspirations of the community, but also has its urgency. It is hoped that the Government will complete the drafting of the Bill expeditiously and have it tabled to this Council as early as possible so that property owners in the New Territories could enjoy the right of succession. It will help to allay any unnecessary anxiety and make it clear to the community that the Administration is in support of equality between the sexes. There is another point I would like to add, that is, to what extent inequality between the sexes exists in our community. This episode may serve as a trigger. One wonders if the Government is going to introduce in future the Convention on the Elimination of all Forms of Discrimination against Women to Hong Kong to protect our women? Or is it going to wait until problems pop up before taking any action?

I put a question to the Governor and asked him if he intended to set up a Women's Commission at last week's Governor's question session. I did not get an affirmative reply. However, I truly believe that it is necessary to establish an organization on women affairs whose job is to make a macroscopic study into all forms of discrimination against women in Hong Kong and to enhance their status so that they may enjoy equal opportunities and equal rights as those of men.

Madam deputy, with these remarks, I support Rev FUNG Chi-wood's motion.

8.00 pm

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

FINANCIAL SECRETARY: Madam deputy, with your consent, I move that Standing Order 8(2) should be suspended so as to allow the Council's business this evening to be concluded.

Question proposed, put and agreed to.

MRS MIRIAM LAU (in Cantonese): Madam deputy, when this Council was debating the Hong Kong Bill of Rights Bill in 1990, I already noted that traditions treating men and women unequally still existed in the New Territories (NT) and they should be changed in keeping with the times. Women's right to succeed to property in NT is a controversial issue that has emerged in recent days. It is really shocking to know how complex the issue is and how wide-ranging its repercussions are. What causes the greatest concern is that even the non-indigenous inhabitants of NT are subject to the New Territories Ordinance (NTO). This casts doubt on the validity of their title to property in NT. However, in the final analysis, the root of the problem is NT's traditional rural practices that are discriminatory against women. The Government can no longer evade the issue.

Section 13 of NTO provides that the court, when dealing with cases involving NT land, shall recognize and give effect to Chinese traditions and customs. Section 17 of NTO provides that the Secretary for Home Affairs (SHA) shall have the power to decide which persons are lawfully entitled to succeed to property. On the surface, NTO does not contain provisions that are discriminatory against women. The problem is that, so far, both the court and the SHA have followed the Qing Law in handling cases of probate that are subject to NTO. In other words, they have recognized that only men have the right to succeed to real property. Therefore, though there are no provisions that are explicitly discriminatory against women, there are those that require the recognition of traditions and customs discriminatory against women. As a result, NTO indirectly continues traditions that treat men and women unequally.

Madam deputy, the Liberal Party supports equality between the sexes as a major principle. Of course, we are in favour of law reform and the abolition of traditions discriminatory against women. However, we also think that the Government must approach law reform cautiously. Article 40 of the Basic Law protects the traditional rights of the indigenous inhabitants of NT. The law reform urged for will in fact affect the traditional rights of these inhabitants. Therefore, the Government must simultaneously resolve any potential inconsistency between any intended law reform and the Basic Law.

Members of the public are somewhat resistant to the abolition of old traditions. This happened before. For instance, when the system of concubinage was abolished in 1971, many objecting voices were heard. However, we must understand that, as the times change and as society advances, it is in fact difficult to preserve traditions that are not in tune with social realities. The inhabitants of NT are worried that an institutional reform may impact on their community. Even China today does not apply the Qing Law to matters of succession. China applies the Law of Succession, which provides that men and women shall have an equal right to succeed to estates. Is this impacting on Chinese society?

The greatest difference between the Rev FUNG Chi-wood's motion and Mr Frederick FUNG's amendment is that the former wants the law reform to have retrospective effect in regard to the non-indigenous inhabitants of NT while the latter wants the Government to act expeditiously to process applications for exemption under NTO by administrative means. I think that there are two basic problems with Mr FUNG's amendment. Firstly, it does not deal with the issue of retrospective effect. Secondly, will administrative means be feasible? We know clearly now that even real property in NT bought by people who are not indigenous inhabitants is subject to NTO except in cases where the Governor has already granted an exemption. Heretofore, a person's right to succeed to such real property has been handled in accordance with the Intestates' Estates Ordinance or the Probate and Administration Ordinance. However, these Ordinances provide that they shall not apply to estates subject to NTO. Consequently, where the estate of a non-indigenous inhabitant of NT was handled under the terms of either of the two Ordinances, the title of the present owner of the property may now be in doubt. Nor can it be determined easily who is the lawful owner. If we are to solve the problem, we must have a legal basis with retrospective effect. Otherwise, we cannot remedy the problem as to title. I agree that legislation with retrospective effect is a matter with far-ranging repercussions and that the Government must study and handle the matter very carefully to prevent unnecessary disputes and litigations. The purpose of law reform should be to legalize the *status quo* and not to create new rights or new conflicts.

Mr FUNG suggests that administrative means be used for solving the problem. However, under NTO, the Governor does not have the power to grant exemption under NTO in respect of an undivided share in land. Therefore, unless the owners of all the undivided shares in land in a housing development act in concert and apply for exemption together, it will be difficult to proceed. In fact, in many cases, one building may have dozens, even hundreds, of owners. It will not be easy to persuade them all to act in concert. Therefore, though Mr FUNG means well, though the intention of his amendment is to save trouble, it may cause more trouble in the end. I do not agree with Mr FUNG's amendment. But I agree that, pending the completion of the law reform, if a member of the public applies for exemption under NTO, the Government will have the responsibility to take administrative steps to process his application expeditiously.

The other day, the Government disclosed that it would soon introduce legislation to exempt from the application of NTO property in NT owned by non-indigenous inhabitants. I am very glad that the Government is dealing with the issue in a positive way to dispel the worries of non-indigenous inhabitants who own real property in NT. In drafting the new Bill, the Government should lay down objective criteria for determining what is meant by "real property owned by non-indigenous inhabitants." Title passes from owner to owner all the time. The same real property owned by a non-indigenous inhabitant today may be owned by an indigenous inhabitant tomorrow and again by a non-indigenous inhabitant the day after. Lawyers handling property transactions are responsible for making sure that the seller's title is valid and free from incumbrances. However, lawyers have no way of telling whether a previous owner of property was an indigenous or non-indigenous inhabitant of NT. Therefore, they have no way of making sure that title to the property passed lawfully upon succession, with the result that the seller's title is still suspect.

I urge the Government, when drafting the new Bill, to take into consideration the real difficulties that lawyers may encounter in title researching. I think that a more satisfactory way would be to include in the Bill a list of land lots proposed to be exempted from the application of NTO. These land lots would then no longer be subject to NTO. It is anticipated that there may be as many as over 30 000 land lots of this kind. Therefore, it may be necessary to publish the list in the Gazette.

Madam deputy, with these remarks, I support the Rev FUNG's motion.

MR JIMMY McGREGOR: Madam deputy, I would find it very odd indeed if this motion does not gain the full and heartfelt support of this Council. In every civilized country in the world including both developed and developing countries, the principle of human equality is accepted and acted upon by the development and application of custom and the law. In the international sense, the United Nations and its many functioning subsidiary organizations have set out in clear and unequivocal terms that the basis for establishing the rights and obligations of human beings towards each other is one of equality. Every woman has the same rights as every man. That is the position taken by the world body and by modern society.

There are, of course, countries which for one reason or another cannot or will not conform to the principle of human equality. It is usually the case that such countries have very considerable problems as women, who are treated as inferior, fight to establish their place in the sun as equal to their male counterparts.

Hong Kong prides itself on its enormous economic success and social progress. In 50 years we have progressed from an Asian backwater to become a major player, for example, in world trade. Our systems are the most modern that money can buy. We all recognize that it does not matter if the cat is black or white as long as it catches the mouse. It also does not matter whether the businessperson is male or female as long as the business prospers. Over a long period of time, we in Hong Kong have almost eliminated ancient restraints on equality of women with men. Government procedures have been modified and updated as courageous women officers, several of whom are here in this Chamber today, fought for equal rights, equal opportunities and equal pay. The principle now seems to have reached a very senior level. I remember Mrs Anson CHAN, for example, complaining bitterly to me, many years ago, about male chauvinism in our government departments. So things have actually improved.

There is however a seriously flawed area in the fabric of our society which continues to practise the customs of past centuries, discriminating against women in the worst possible way. The discrimination is, in my view, an insult to women and to the concept of the universality of human rights. To say, in this day and age in Hong Kong, that women born in the New Territories who happen to belong to long established family clans will never be able to inherit their proper share of land or property from their fathers simply because they are women is, to my mind, outrageous. To accept that legislation passed by the Hong Kong Government recognizes and entrenches this situation, indeed encourages it, is unacceptable.

I listened recently to a group of courageous ladies who had the guts to complain to Legislative Council Members about the iniquity of this denial of rights to women. Several had suffered severely in the application of custom and law, depriving them of their homes which were passed on through the male line. This included cousins and uncles who had no interest in fact in supporting these ladies and they had therefore lost everything they had. I can say without reservation that these indigenous villagers of the New Territories do not agree with the views of Mr LAU Wong-fat.

I have mentioned this historical aberration several times in this Council, at one time being scolded by New Territories District Board members, all of whom, of course, were male. My colleagues on this Council, including female colleagues, apart from you, Madam deputy, were strangely silent at that time. I did not hear much about human rights equality and so on at that meeting. Perhaps the fact that it took place before the 1991 election had something to do with the relative silence.

I do not accept the cultural argument that deprives many women of the right to succeed to land and property in the New Territories.

I believe that any legislation which discriminates against women in this way is abhorrent and must be abolished or amended in order to establish full and equal rights for women. If this Council endorses and supports the motion today, I would urge the Government to proceed without delay to take the necessary action.

Madam deputy, I support the motion.

MR ALBERT CHAN (in Cantonese): Madam deputy, residential flats in Hong Kong are small but very expensive. Many people have to labour and toil for the greater part of their life before they can own their property. This situation constitutes a heavy burden to which the people of Hong Kong have long been subject. Another new burden has been brought upon the many New Territories residents, women in particular, since it was disclosed by *Ming Pao* a month or so ago that the application of the New Territories Ordinance will affect women's rights of succession to property, because the Ordinance is binding not only on indigenous villagers of the New Territories. In fact under the New Territories Ordinance, the female family members of a non-indigenous property owner in the New Territories who dies intestate without a son to succeed him will have no right to succeed to the property. And ownership in the property concerned will pass to the deceased's brothers or their male kith and kin. Hence the implication is that women living in the New Territories might become homeless as a result of this Ordinance.

I believe we all recognize that the status and nature of people living in the new towns are no different from that of their urban counterparts. They therefore should enjoy equal rights. But the New Territories Ordinance deprives non-indigenous women residents of their succession rights. We think that the inequality between men and women which this unreasonable Ordinance has given rise to and the confusion over succession that may arise in the new towns must be rectified.

The scope of impact of this New Territories Ordinance is very enormous for it covers 120 000 residents (of 77 Home Ownership Scheme estates) and 300 000 residents living in private developments in the New Territories, in addition to the indigenous villagers. A number of political parties and organizations voiced their views after this problem came to light, accusing the Housing Authority and Housing Department of negligence, and proposing various remedial measures including amendment to the Ordinance and granting of exemption through administrative means.

The Heung Yee Kuk and some people in the New Territories are opposed to amending the Ordinance. They have objected to repealing the New Territories Ordinance and pointed out that there is at present no discrimination of any kind against women in the New Territories and that there is the need to safeguard the so-called legitimate traditional rights of indigenous New Territories residents. They also demand that we should respect the rural

traditions and customs. I should like to say that these arguments against amending the New Territories Ordinance are absolutely unjustified.

Tracing the historical background of the New Territories Ordinance, we can see that the objective of the Ordinance, promulgated by Britain in 1910, was to protect the lifestyle and interests of indigenous New Territories residents in accordance with the scope set down in "Qing Law". Unfortunately, we all know very well that "Qing Law" had never meant to protect the interests of women because of its very strong feudalistic concept of putting men before women.

The Qing government was overthrown in the 1911 Revolution, that is, the second year after the New Territories Ordinance came into effect, and subsequently the "Qing Law" no longer applied in China. The "Provisional Laws" promulgated by the government of the Republic of China explicitly laid down human rights equality irrespective of sex. And under the "Three People's Principles" advocated by Dr SUN Yat-sen, the status of women rose by the day and women were entitled to the same rights as their male counterparts, including succession to property.

When the communists assumed power in 1949, equality between men and women was recognized in the constitution of the People's Republic of China and once again the "Qing Law" no longer applied. Hence both revolutions did not consider "Qing Law" as legislation to be observed.

Therefore today in the 1990s, there is no reason for us to continue maintaining this long abandoned "archaic" and feudalistic piece of law. In the presentday world where equality, fairness and reasonableness are being talked of and pursued, the existence in Hong Kong of such an anachronistic Ordinance which is prejudicial to the people's interests should neither be tolerated nor glossed over by any Chinese.

In the New Territories, the indigenous women may not share the views of those people who are opposed to any amendment to the New Territories Ordinance. Women from the rural villages have petitioned the Complaints Division of the Legislative Council, demanding that certain sections of the New Territories Ordinance be repealed or amended, so that women in the New Territories may also enjoy equal rights, especially that of succession to property.

We do not think that the rights and interests of non-indigenous women residents in property succession should be discriminated against just because we have to respect rural customs. Of course, yet with greater reason, the indigenous women should not be discriminated against. While rectifying indigenous customs requires our concerted effort, amending the New Territories Ordinance to stop women's succession rights from being discriminated against is something that brooks no delay.

With these remarks, Madam deputy, I support Rev FUNG Chi-wood's original motion and oppose Mr Frederick FUNG's amendment motion.

MR SIMON IP: Madam deputy, the New Territories Ordinance discriminates against indigenous New Territories women. It may also have the unintended effect of affecting adversely the interests of non-indigenous New Territories women. The culprit is section 13 of the New Territories Ordinance.

When the then Governor, Sir Henry BLAKE, issued a proclamation in 1899 that set out the boundary of the New Territories, with the intention that the commercial and landed interests of its inhabitants would be safeguarded and that their usages and good customs should not be interfered with, it was made on the basis that the area was rural and sparsely populated by an agricultural community.

The New Territories Ordinance took effect in 1910 when China was still a feudal society. The traditional custom of leaving ancestral property along the male line was mainly for the purpose of retaining the surname of the clan and keeping property within the clan as women on their marriage moved to live with their husband's clan. This practice is now obsolete. In many cases the womenfolk have stayed while the men have moved away, some even overseas. Moreover, with urbanization of the New Territories and rising property values, properties are sold instead of being kept within the family. Profits on sale are distributed to male members of the family and the women have been deprived of a share.

In recent decades we have seen substantial economic, cultural and demographic changes in our society. Much as we have retained traditional Confucius thoughts, we have seen a recession of customary attitudes and a gradual acceptance of many western concepts as part of the way of life in Hong Kong.

Enactment of the Bill of Rights demonstrated the willingness of our community to accept universal standards of equality between the sexes. It is therefore time that the Government repealed legislation that has become outdated in modern Hong Kong.

The Secretary for Home Affairs has stated that there is no decided case law that would apply Chinese customary law to succession rights of women to multi-storey buildings in the New Territories. The Housing Authority, on the other hand, has expressed concern that the Ordinance may also cover inheritance of Home Ownership Scheme flats in the New Territories, even if non-indigenous New Territories women were involved. This situation, if correct, would be preposterous and would go far beyond what was intended back in 1910 when the Ordinance was enacted. It would mean that ownership title to land in the urban New Territories would be thrown into a state of utter chaos.

For the avoidance of doubt, however, legislation should be enacted urgently and with retrospective effect to ensure that non-indigenous women are excluded from the operation of the New Territories Ordinance. Administrative measures to exempt multi-storey buildings from the application of the Ordinance would be cumbersome and ineffective given the large volume of properties and buildings involved. I therefore do not support Mr FUNG Kin-kee's amendment.

Another argument against amending the New Territories Ordinance is that women can inherit landed property if it is left to them by will. The argument assumes that most persons in the New Territories will dispose of their property by will. In fact, most do not and will not. For those few who do, the Ordinance will only not apply if probate or administration is granted by the High Court within three months of death. Otherwise the property devolves according to Chinese custom. As the period for obtaining a grant of probate or administration usually takes more than three months, the female beneficiaries under a will risk losing their inheritance in most cases.

Members of the Heung Yee Kuk object to modification of the present practice. They say that a change would deal a blow to the stability of their community. They maintain that female indigenous inhabitants are quite content with the situation as they are properly cared for by their families. Yet this is not what this Council has heard. Last week some of us received a delegation of New Territories women who presented us with a signed petition. They told us of unfairness and discrimination. They told us of threats and pressure for daring to speak up. This Council cannot condone such inequities.

In my view, section 13 of the New Territories Ordinance is inconsistent with Article 22 of the Bill of Rights which guarantees protection against sex discrimination. To put the matter beyond doubt, new legislation should be enacted. A more comprehensive solution to the problem would be to introduce the Convention on the Elimination of all Forms of Discrimination against Women which embraces the protection of women's political, social, economic, civil and family rights. This Council has resolved to adopt this Convention which is already applied to Britain and China. There is no reason to exclude it from Hong Kong.

It seems absurd to me that the Chinese customary law that has already disappeared on the mainland of China should still be part of Hong Kong law. It is equally ridiculous that a modern and international city like Hong Kong preparing to enter the next millenium should be bound by customs which prevailed during the Qing Dynasty, a dynasty that was overthrown the year after the New Territories Ordinance was enacted.

If we allow this sort of so-called custom to continue, then I suggest that the gentlemen sitting here should wear pigtails and the ladies should bind their feet. Sir Henry BLAKE's proclamation spoke of good customs. It may have

been good custom to subjugate women 100 years ago, I do not know. But I do know that in modern Hong Kong today, it is quite distasteful and indefensible.

Madam deputy, with these words I support the motion. I do not support the amendment because it is impractical.

MISS EMILY LAU (in Cantonese): Madam deputy, I am the only female elected Member in this Council representing the New Territories residents and I speak in support of Rev FUNG Chi-wood's motion. Under the guiding principle of equality between the sexes, men and women should enjoy equal rights in terms of succession, may it be in the New Territories or otherwise. Therefore, I hope that the Government will act swiftly and take up the responsibility to plug any legal loopholes and amend the relevant Ordinances with retrospective effect so as to eliminate any inequities. Madam deputy, many Members are at the moment not in this Chamber. I am afraid that many ladies may have the impression that Members do not participate in today's debate because they are apathetic about the issue. I want to tell every lady outside this Chamber that the overwhelming majority of the Members in this Council really care about their unfair treatment. They may have other businesses to attend to so that they cannot participate in today's motion debate.

Madam deputy, women in Hong Kong have all along been discriminated against in the context of our social structure, our social system and our culture which have come into being over years of development. And it is unfortunate that certain pieces of existing law and social policies also help to intensify the problem of woman discrimination. A case in point is the succession issue arising from the New Territories Ordinance under discussion today. What many women ask for, in actual terms, is simply the right to lead an independent life under the principle of equality between the sexes. This, of course, includes the right to employment and an independent status in many other aspects. Their demands conform entirely to the Hong Kong Bill of Rights Ordinance and some international covenants on human rights.

To enable women to keep the initiative in their own hands requires the protection and support in the form of law and social policies. Yet, when did the Government tell women in Hong Kong that it has *bona fide* intention to safeguard women's right to lead an independent life and to ensure them rights identical with those enjoyed by men?

I am examining the statutes and all social policies which have a bearing on women's status from the perspective of maintaining women's independent status. The issue surrounding women's rights to inherit land in the New Territories is definitely going against the wishes of women and depriving them of their rights, not to mention respecting their rights to lead an independent life. Admittedly, the New Territories Ordinance does not have explicit provisions barring women from succession. Yet it has already been pointed out by several Members that these obsolete customs and practices are like fetters and chains that bind many

New Territories women. I would like to ask the Government and the Heung Yee Kuk one thing. How many indigenous women in the New Territories have ever inherited properties from their fathers? What is the figure for it? If there are really such incidents, will you (in particular Mr LAU Wong-fat) inform this Council how many there are? I even learned that some indigenous women in the New Territories who purchased land with their own money had their properties taken away by fellow male villagers. I would like to put it to Mr LAU Wong-fat: Will you inform the ladies outside this Council how many indigenous women have actually inherited properties over the years in the New Territories?

Mr LAU said that we are making much ado about nothing. I am somewhat disgusted with such remarks. Last week, when representatives of the Heung Yee Kuk met with the women's panel of this Council, Mr LAU said that they have all along been living in peace and harmony under the current system. He did not understand why Members of the Executive Council and the Legislative Council made a fuss over the issue. We then explained clearly to him that we had received complaints lodged by the New Territories residents to the Complaints Division of this Council and several Members' offices and it was incumbent upon us to handle their complaints. The case, in fact, was not something like what they described as "coercing one into taking western style breakfast and not allowing one to take Chinese porridge and deep-fried dough sticks as one's breakfast". I thought that the misunderstanding had been cleared up then. However, it is unfortunate to see that Mr LAU once again accuses Members who support this motion of making much ado about nothing. It is hoped that Mr LAU will give it a second thought and perhaps, if he sees fit to do so, apologize to Members of this Council. Better still, please apologize to the indigenous women in the New Territories.

Representatives from the Heung Yee Kuk told Members that in settling cases on estate, they often sought the views of women involved in such cases. Very often, it is the women who give up their right and let their uncles and cousins inherit the properties. Their generosity is being described as altruism, a self-sacrificing spirit, a supreme idea to sacrifice one's own interest for the sake of others. Maybe it is out of this kind of thinking that the indigenous women willingly surrender their own interests to others. Perhaps, by doing so, they can then be accepted by the community they belong to. They demonstrate a fine sample of self-sacrifice and their respect for traditional customs. But people against the notion of altruism may point out that altruism has often been abused to suppress women and to ensure that they are willing to play second fiddle in society and to sacrifice their own development potential for the sake of others, in particular their husbands, their sons or their brothers.

It has been pointed out by some Members just now that some New Territories indigenous women no longer choose to remain silent and let their friends in the Heung Yee Kuk lead them in the wrong direction. With today's motion, we hope that the Government will take courage to amend the

law expeditiously so that all women in Hong Kong, especially the indigenous women in the New Territories, can enjoy equal rights.

With these remarks, I support the motion.

MR LEE WING-TAT (in Cantonese): Madam deputy, a New Territories (NT) district board chairman (not Mr LAU but somebody else) asked why the United Democrats of Hong Kong (UDHK) moved this motion and wondered how much we knew about the problem. He also asked why we did not consult the indigenous inhabitants of NT first. First of all, UDHK know only too well the sorrows of rural women. Last week, at the Complaints Division of OMLEGCO I heard several representatives of village women talk about their problems. One of them wept as she spoke. The others wept with her. I think that the examples that they gave did not yet fully reflect the sorrows of the many village women in NT. I think that the representatives were very courageous. Despite the heavy pressure on them, they had the "guts" to come to OMLEGCO's Complaints Division to talk about their unhappiness and their sad experience. People who live in the urban areas probably do not quite understand the social, community and cultural pressures that the village women are under. We go home; we open the door; and we are in our own homes. We do not even remember the names of our neighbours. But those who live in the villages are different. You go back to your village; you meet village elders at the village entrance. The elders will certainly be displeased if they find out that you have been saying things against village customs. I can imagine the heavy pressure that the village women's representatives face.

Not only do I understand the sorrows of village women and how they are discriminated against, but I am indignant at the discrimination. The discrimination is in fact not confined to property succession. It also extends to village organization and village customs. When we talk about history's progress from feudal society to capitalist society, we often also talk about human rights and political rights. We talk even more about equality between the sexes. But what difference is there between the lot of village women in NT today and the lot of women in feudal society?

Some people from NT say that discrimination against women basically does not exist in the villages. Let me give you an analogy. A slave owner tied the two feet of a slave. The slave was in great pain. He had a sore on his foot as a result. The sore festered. The slave became a cripple. He could no longer work and make money for his master. The master then asked him, "Why did you not tell me that tying your feet caused you pain?" We must look at the question from the slave's point of view. If he had told his master that tying his feet caused him pain, the master would probably have used a heavier chain or even a whip. The village women in NT are like the slave. They simply cannot speak their minds. In fact, the present motion expresses UDHK's wish to work with the indigenous women of NT, as well as some progressive feminist

organizations, to try to break the chains that have shackled the village women for nearly a hundred years.

Madam deputy, in fact, before we talk about the problems in NT, we did communicate with Heung Yee Kuk and other rural organizations in NT. We very often hear them say that they are not opposed to the principle of equality between the sexes. We even heard Mr LAU Wong-fat say that the villages would soon introduce a system more progressive than that in the urban areas, namely, a system permitting 18-year-olds in all families to vote in the election of the village chief. I would welcome this very much. I greatly admire Mr LAU Wong-fat for his courage. This is because he is more progressive than the Chinese Government, which is still withholding its consent from the British proposal to lower the voting age in Hong Kong to 18.

Since Heung Yee Kuk and other rural organizations in NT agree in principle that men and women are equal, and since they want to introduce a voting system more progressive than that in the urban areas, why do they not act to realize this ideal in other matters, one by one?

I believe that, if Heung Yee Kuk, the rural committees and others in NT have the courage to face the challenge and accept women's demand for equality, if they can hasten the realization of this ideal in the villages, the village women and the people of the urban areas will be filled with joy.

When we talk about the problems in the villages, we never intend to destroy village culture or those village customs that are worth preserving. We merely think that, as society is poised to enter into the 21st century, inequality between men and women is intolerable. Still less is it acceptable to the village women.

Madam deputy, today's debate is just the first step towards solving the problem. I believe that many more steps are yet to be taken. I hope that Heung Yee Kuk Chairman LAU Wong-fat, members of Heung Yee Kuk and friends in the rural committees will really open their minds and look at the forward-moving world. They, too, must move forwards with the rest of the world and mitigate the problems gradually.

Madam deputy, with these remarks, I support the Rev FUNG Chi-wood's motion.

THE PRESIDENT resumed the Chair.

MR MAN SAI-CHEONG (in Cantonese): Mr President, at present, there are some discriminatory provisions against women in the New Territories Ordinance in that women, in disputes over succession, are not entitled to inherit land or property left by their parents or relatives. I consider such provisions

which spawn inequality between men and women as blemishes in the Hong Kong society. This is certainly a problem left over by the past in that succession is to be governed by feudalistic Chinese customs in favour of men. Yet, instead of retaining the outmoded provisions which go against women's interests and belittle women's status, the legislation should move with the times and be commensurate with social developments. Or else, that will be a disgrace to an equal society. Some Chinese practices such as foot-binding and polygamy in the past were discouraged and abandoned. Why, in the 1990s, anomalies such as the practice that only male heirs obtain title to property in the New Territories while leaving women in the cold, still exist? Are we going to take this piece of "foot-binding cloth" of inequality, as it were, to the 21st century? As stated in the Governor's policy address, legislation must be scrutinized to identify any provisions which are detrimental to Hong Kong's development in the direction of an open and fair society and permit inequalities to exist in Hong Kong. Therefore, amending the New Territories Ordinance will be a task requiring to be dealt with urgently by this Council in the coming one or two years. Members of this Council should demonstrate strong determination to support this task in today's debate.

Moreover, there is at present a lot of confusion regarding succession rights of Home Ownership Scheme (HOS) flats and private buildings in the New Territories. The Housing Authority has revealed that an agreement was reached with the Government that, from 25 June 1993 onwards, land granted by the Government for building HOS flats would be exempted from the application of the New Territories Ordinance. In other words, HOS flats in the New Territories developed before 25 June 1993 are subject to the New Territories Ordinance and the inheritance of these flats are restricted. Newly completed private buildings which filed no application for exemption during the development encounter the same problem. It was only subsequently that the Government identified this problem. To remedy the situation, the Government has made necessary arrangements so that crown land granted after 28 June 1993 would not be subject to the New Territories Ordinance. However, premises completed before 28 June 1993 are not exempted. Women residents in those premises who are also major contributors, in financial terms, both to families and the economy, are bound by these unequal provisions and cannot receive the fair treatment they deserve.

Article 40 of the Basic Law stipulates that "the lawful traditional rights and interests of the indigenous inhabitants of the New Territories shall be protected by the Hong Kong Special Administrative Region". The New Territories indigenous inhabitants refer to men and women as well. Women's rights and interests should be protected too. Besides, Article 25 of the Basic Law states clearly, "All Hong Kong residents shall be equal before the law." No Hong Kong resident should be deprived of the right to inherit the estate of his or her next-of-kin because he or she is of the wrong sex. Hence, amending obsolete and unequal legal provisions is certainly compatible with the requirements of Article 25 of the Basic Law. At the same time, modifying the existing New Territories Ordinance serves the dual purpose of putting an end to

the property succession problem faced by the New Territories indigenous inhabitants and residents of HOS flats and private buildings in the New Territories, as well as removing any provisions that discriminate against women in Hong Kong. This is a move that kills two birds with one stone. I hope that the Hong Kong Government and colleagues of this Council will join efforts to undo this "foot-binding cloth" which has been tying women down for nearly a century and give them the rights they are entitled to.

With these remarks, I support Rev FUNG Chi-wood's motion.

MR ANDREW WONG (in Cantonese): Mr President, I rise to speak against the original motion of Rev FUNG Chi-wood and the amendment motion of Mr Frederick FUNG. There are two points of controversy in this debate. The first one is equal succession rights between male and female non-indigenous inhabitants of the New Territories in relation to property in the New Territories. The second one is equal succession rights for men and women between the indigenous and the non-indigenous inhabitants of the New Territories in relation to property in the New Territories.

First of all, society is concerned about the first issue, namely, equal succession rights between male and female non-indigenous inhabitants. After studying sections 3, 13 and 17 of the New Territories Ordinance, I think that the problem of equal succession rights between men and women does not exist so far as non-indigenous inhabitants are concerned. Section 13 only provides that the court may refer to traditional customs when adjudicating upon disputes over property succession in the New Territories. Traditional customs, however, should only be applied to cases relating to rural villages where these rules and customs are applicable. Administratively speaking, the Administration never has — and never will — when applying section 17 applied traditional customs to cases concerning the succession rights of non-indigenous inhabitants, because there has never been any court case concerning succession rights of non-indigenous inhabitants in which traditional customs may have to be applied. The sole problem with the Ordinance is that section 13 of the Ordinance empowers the court to apply traditional customs to all cases concerning the succession rights to property in the New Territories, including the succession rights of the non-indigenous inhabitants. Although it is possible, but very improbable, for such a situation to arise, the validity of the deeds and instruments in respect of title to property such as the Home Ownership Scheme flats in the new towns of the New Territories has been called into question, and people are worried about it. Members of various sectors of society and the Administration have reached a consensus that this problem must be addressed immediately. I think it is necessary to enact another piece of legislation to clarify the point concerned and to state clearly that the provisions in question cover neither property unrelated to the rural villages nor property unrelated to non-indigenous inhabitants. That should suffice.

Mr President, both the original motion of Rev FUNG Chi-wood and the amendment motion of Mr Frederick FUNG aim to amend the New Territories Ordinance to the effect that the indigenous inhabitants, irrespective of gender, can also enjoy equal succession rights to property in the New Territories. That would mean revoking by legislative means the traditional customs relating to property succession among the male members or male relatives of the same clan or the same family. In the special circumstances of the New Territories, what is known as the Chinese traditional customs are similar to the common law which was known as the "law of the land" in ancient England. And the common law can of course be amended by way of legislation, by convention or by refinement through the court's application of the rules of equity.

Mr President, equality between men and women is an unrefutable principle and a common ideal cherished by the people of Hong Kong. What we have to consider are:

- (1) in respect of the property of rural villages whether the traditional customs concerning property succession among the male members or male relatives of the same clan or the same family should be allowed to continue.
- (2) whether the reform should be conducted by legislative means.

Mr President, under the traditional customs concerned, women have doubtlessly suffered many hardships. However, Article 40 of the Basic Law, which protects the traditional rights of the indigenous inhabitants of the New Territories, makes it possible for any new legislation in this regard to be repealed on 1 July 1997. Should we take this risk and go ahead with legislation or choose to refine the traditional customs concerned? This is the choice we have to make. I have chosen the latter course.

Mr President, with these remarks, I oppose the original and amendment motions.

MR HENRY TANG (in Cantonese): Mr President, China, with a cultural history as long as 5 000 years, has brought us some traditional customs and practices which have far-reaching impact on our lives. Many of them are worth being observed and preserved. Yet, with the change of times, it is undeniable that some aspects with regard to such customs and practices are obsolete according to the standard of the 1990s if we look at them objectively. In the days when the notions of justice and equality are generally valued in modern world, some obsolete practices have been regarded as excuses for subjecting some people to discrimination, depriving them of their rights and denying them justice. Human society is progressing and every corner in the world experiences changes every day. We cannot for whatever reason live in the past. This is very unrealistic.

Mr President, I have all along supported equality between the sexes and equal pay for equal work. To a certain extent, the New Territories Ordinance has unreasonably deprived indigenous women in the New Territories of their succession rights. However, it is clearly stipulated in Article 40 of the Basic Law that the lawful traditional rights and interests of the indigenous inhabitants of the New Territories shall be protected by the Hong Kong Special Administrative Region. For this reason, when we review the relevant Ordinances, we should adopt a step-by-step approach by addressing, first of all, problems concerning the non-indigenous inhabitants in the New Territories. As for the problems concerning the lawful rights of succession of the indigenous inhabitants, we should expeditiously make thorough studies and work out measures in compliance with the principles of the Basic Law to promptly bring an end to those problems.

Mr President, these are my remarks.

MR JAMES TO (in Cantonese): Mr President, I would like to respond to some Members' arguments.

Firstly, I would like to address Mr Frederick FUNG's amendment. In his speech earlier on, he tried mainly to explain why he moved the amendment and why he opposed the motion. For instance, he said that he opposed law reform with retrospective effect in regard to the non-indigenous inhabitants of the New Territories. He began by citing four reasons for his opposition. The first was that the motion was "self-contradictory" in its principles. He said that the motion espoused equality on one hand but, on the other hand, made a distinction between indigenous and non-indigenous inhabitants. He asked: If men and women can be equal, why can there not be equality between the indigenous and non-indigenous women of NT; why must they be treated differently; why should some provisions of law have retrospective effect but others should not? I would like to respond to these questions. Firstly, during the enactment of the New Territories Ordinance (NTO), during that entire process, NT had only indigenous inhabitants. In other words, society in NT at the time was society in its incipient stage of evolution. It was only after NTO had been enacted that many satellite towns sprang up in NT. Many non-indigenous people then moved to live in these towns. Legally speaking, the legislative intent was plainly that NTO should not apply to these non-indigenous inhabitants, specifically in matters concerning succession rights to land. Therefore, in making a distinction between indigenous and non-indigenous inhabitants, our purpose is to return to the true legislative intent. The principles of NTO are not intended to apply to land succession matters as far as non-indigenous inhabitants are concerned. This is why we make a distinction between the two. There is no contradiction in principles.

Secondly, Mr Frederick FUNG said that, while both indigenous and non-indigenous inhabitants could apply for exemption under the current Ordinance, the motion urged for action to ensure that the law reform had retrospective

effect in regard only to the non-indigenous inhabitants of NT, thereby enabling them to be granted retrospective exemption. I would like to respond to this point. In fact, the purpose of the exemption system is to avoid certain provisions in NTO as regards land succession being applied to indigenous inhabitants or to non-indigenous inhabitants, or, to put it more precisely, to the land in question. The motion moved by the United Democrats of Hong Kong (UDHK) will not cause the so-called right to an exempt status to be taken away, eroded or otherwise curtailed. Therefore, there is not likely to be confusion due to any variation in the right to apply for exemption.

Thirdly, Mr FUNG said a moment ago that revisiting the old records of the past 80 years would uncover countless litigable cases. Actually, I do not see the point of his argument. His first argument is that "the motion is self-contradictory in its principles." In other words, he thinks that the relevant law reform either should have retrospective effect in regard to both the indigenous and non-indigenous inhabitants of NT or should have no retrospective effect at all. But we see from his third argument that he is essentially not very much in favour of retrospective effect. Our view is that, where a law should not have applied at all to land succession matters affecting any non-indigenous inhabitant of NT, any move to ensure that the relevant law reform has retrospective effect will merely restore the original position.

Lastly, Mr FUNG said that it would in fact be very dangerous to set a precedent of legislative retrospectivity, which would turn something lawful today into something unlawful tomorrow. He hinted that this might have a bearing on certain act or matter of a sensitive nature. He asked why UDHK were not afraid. We think that the retrospective effect that we talk about will not set a bad precedent. There are many good precedents of retrospective tax legislation. There are many good precedents of retrospective laws intended to correct mistakes that should not have been made or mistakes of principle. Why are we in favour of retrospectivity? In fact, the Bill of Rights Ordinance does more than ensuring equality between the sexes. It in fact contains another principle which is that, in theory, laws should not have retrospective effect. Therefore, generally speaking, I agree with Mr FUNG. Wherever possible, we should avoid retrospectivity in terms of legislation. However, under exceptional circumstances, for instance, in the case of tax legislation that we referred to a moment ago, we may want retrospective effect. For instance, suppose that the Financial Secretary announces some measures for remedying a loophole in tax law. This tells the public that he intends to take these measures. Later, when the law is amended, the amendment will have retrospective effect beginning from the date of his announcement. On the basis of the above, we think that, while there are exceptions, the rule is that legislation should not have retrospective effect. Therefore, we insist that the law reform in question should not have retrospective effect when it applies to NT land owned by indigenous inhabitants.

Finally, I would like to respond to some of Mr LAU Wong-fat's arguments. He talked first about reasonable legal safeguards for natives in the United States and Canada. I will just mention only one thing. The Indian Civil Rights Act 1968 of the United States actually provided all kinds of safeguards for all American Indians, male and female. These safeguards are now in effect. Therefore, unlike what Mr LAU said, American law does not contain provisions permitting discrimination against American Indians or discrimination among ethnic minorities. As Mr Martin LEE said a moment ago, in fact, generally speaking, the legal safeguards in question mainly ensure that outsiders do not seize land from the natives or hinder certain types of their activities. But the indigenous inhabitants of NT know very well that they are subject to some restrictions. For instance, death by drowning used to be the punishment for adultery. But today, if any indigenous inhabitant of NT punishes an adulterous party with death by drowning, he will probably be charged with premeditated murder. Wife battering was probably permitted in the old days. If anybody does so now, he will be charged with wife abuse or assault, which is a serious offence. Therefore, I think that customs are not immutable but should be changed as society advances.

Mr LAU also said emphatically again and again that NTO did not contain provisions discriminatory against women. Mrs Miriam LAU, speaking earlier on, has in fact already answered the question. I agree very much with her view. There is no provision in the Ordinance that explicitly discriminates against women, but it is expressly written that the Ordinance shall allow the application of some extraneous laws which discriminate against women or treat them in a discriminatory manner. These extraneous laws must be changed.

With these remarks, I support the Rev FUNG's motion.

DR YEUNG SUM (in Cantonese): Mr President, despite the fact that Hong Kong has evolved into a modern society and we are approaching the 21st century, the Qing law continues to apply to Hong Kong today. As a result, women in Hong Kong are deprived of the right to succeed to land in new towns and indigenous villages in the New Territories. Such kind of law has certainly brought serious discrimination against women. It is very regrettable that the Government and the legal profession have failed to face up to this sex discriminatory law by taking positive actions.

Fortunately, Rev FUNG Chi-wood moves this motion in this Council this afternoon. Mr President, if the motion was carried by the Council, it would signify a step forward towards sexual equality.

Some people are of the view that customs in the New Territories should be respected. They, therefore, object to the motion. Mr President, I personally consider that while some customs should be respected, such as respect for the elderly, it does not follow that all traditional concepts and practices should be maintained. The Qing law which has been applied in Hong Kong has obviously

infringed upon Hong Kong women's right of succession to land. Unless we take an indifferent attitude towards sex discrimination, the Qing law should be repealed as soon as possible.

Mr President, as our society is forward-going, our traditional practices have to be updated accordingly so to cope with the development of our society. To abolish those laws which are discriminatory against women would mean that our society is moving towards a civilized society. I cannot accept laws which discriminate against women but protect the rights of men under the disguise of the preservation of customs and respect for indigenous villagers in the New Territories.

Mr President, with these remarks, I support Rev FUNG's motion.

MR WONG WAI-YIN (in Cantonese): Mr President, Meeting Point is always in favour of equality between the sexes. Both the Government and members of the public have a responsibility to make an effort to correct and mitigate problems wherever sexual discrimination is still found in our community.

A vivid example of discrimination lies right in front of us. It is none other than the New Territories Ordinance (NTO), which deprives women of their right of succession. NTO now applies to all structures built on New Territories (NT) land. Section 13 of NTO provides that the court shall respect Chinese traditions and customs when dealing with any case involving NT land.

What are "traditions and customs"? NTO does not specify. Yet, in the application of NTO, the feudal system of the male line of succession is protected. Only male members can succeed to a family's real property. Women have no right of succession under this system.

Meeting Point always questions the so-called "tradition or custom" of the male line of succession. We think that, as society continues to advance, the substance of so-called customs should be changed in the course of time. Legislation, to a certain extent, must reflect the cultural and moral values of contemporary society. Therefore, the changing habits of individuals and the changing values of society will require the amendment of outdated statutes. This is in fact quite normal and natural.

But NTO only protects what are vaguely called "traditions and customs." NTO was enacted at the beginning of this century. The traditional customs of those days were the feudal customs under the Qing Law of China. Since those days, Hong Kong has made progress economically, socially and culturally. Members of the public are aware of, and attach importance to, values such as human rights and equality. The so-called customs under the Qing Law of China oppress and discriminate against women. Members of the public in Hong Kong regard them as anachronistic and wrong. The Government in 1971 amended the

Marriage Ordinance and certain statutes on the right of succession. Monogamy has been enforced and affirmed since as have been the independent legal rights including the right of succession of married women. These were law reforms in keeping with the times. NTO, however, legally froze customs as they were more than 80 years ago. It stops society from developing and advancing naturally.

Mr President, most women in Hong Kong now have the same right of succession as men. But the women of NT have to remain victims of "traditions and customs." They are deprived of their rights by NTO, which violates the principle of equality.

Mr President, here in Hong Kong during the present 1990s, as we congratulate ourselves on the economic successes of Hong Kong, should we allow such inequality to exist openly in our society?

Concerning the application of NTO, members of the public until recently thought that the Ordinance applied only to the indigenous inhabitants of NT. Now, however, the Government has openly acknowledged that NTO applies to a geographical area. In other words, all structures built on NT land, be they private development housing or Home Ownership Scheme housing, are subject to NTO. In other words, more women than we previously thought are affected by this unequal law. The new towns in NT grew quite fast during the past decades. About 2.37 million people now live in NT, accounting for about 42% of the population of Hong Kong. NTO applies to the whole of NT, with the result that nearly half of the population of Hong Kong is subject to it. This is unacceptable to a society that protects rights and upholds justice. Meeting Point thinks that the Government must act immediately to end any discrimination against women found in law or in practice.

Mr President, in view of the problems faced by the non-indigenous inhabitants of NT in the matter of succession, Meeting Point thinks that remedies must be applied along three principles.

- (1) The problem must be solved quickly, as soon as possible. The effect on the numerous inhabitants of NT must not be prolonged.
- (2) The Government must take up the responsibility. The responsibility is not the public's.
- (3) The problem must be dealt through legislative means. Administrative means including that which requires members of the public to make wills or to apply for exemption under NTO is bothersome to the public. It amounts to shirking of responsibility by the Government.

Along such a principle, Meeting Point opposes Mr Frederick FUNG's amendment which proposes that the problems be solved by administrative measures.

Mr President, Meeting Point thinks that, for the solution of the problems, the Government must, over the short term, take the initiative to apply remedies and then, through legislation, solve once and for all the problems of the inhabitants of NT whose right of succession is subject to NTO. I am very glad to learn that the Government has been drafting a new Bill to dispel the concerns of NT families. I hope that the Bill will be tabled at this Council soon.

Over the medium term, the Government must make a careful study of the other parts of NTO, as well as other statutes, to find out if they contain provisions affecting the right to own land and property (including the right of transfer and the right of succession), the right to use property, the right to manage property and the right to earn a profit from property. If problems are found, appropriate remedies should be applied.

Lastly, I would like to stress that, since the Government supports the principle of equality between the sexes, it should not use any custom or tradition as a justification for unreasonably depriving women of their rights, be they indigenous or non-indigenous inhabitants of NT. The Government must review all relevant statutes, including NTO, and carry out a law reform exercise in a rational way and in keeping with the times.

Mr President, equality between the sexes is one of the basic elements in realizing human rights. Meeting Point stresses that giving effect to equality between the sexes in all social matters and protecting women from discrimination are important steps in implementing social progress.

With these remarks, I and Meeting Point support the motion and oppose the amendment.

DR TANG SIU-TONG (in Cantonese): Mr President, I have to declare an interest before I speak. My ancestors came to settle in the New Territories 800 years ago and I am a 27th generation descendant. Although Members with similar background belong to the minority in this Council, we, like the other Members, base our arguments on facts and are not arguing for argument's sake. We all know that today's motion debate arises out of the negligence of the Housing Authority in the course of construction of Home Ownership Scheme (HOS) buildings. Since the Housing Authority has failed to apply to the Governor for the exemption under the New Territories Ordinance, such failure has resulted in the confusion over succession rights in relation to these HOS flats. The Housing Authority has all along been unwilling to face the fact of its administrative error, which has subjected the New Territories Ordinance to unwarranted criticism. As the saying goes, "the black dog stole but the white dog took the blame."

We have listened to the speeches of many Members, and quite a number of them, like Mr Albert CHAN and Dr YEUNG Sum, have alleged the customary rules referred to in the New Territories Ordinance to be part of Qing law. As a matter of fact, these rules date back to times earlier than the Qing dynasty. I have found through my own research that these rules date back as far as the Tang Dynasty. Mr Martin LEE has criticized the New Territories Ordinance on the grounds that it has maintained the solidarity of the clan-based society, which is a bad phenomenon. I cannot agree with him. I consider that the solidarity of the clan-based society is a foundation of social stability. Rev FUNG Chi-wood and Mr Frederick FUNG have exhaustively canvassed the question of retrospective effect. It is evident from their analysis that retrospectivity is a very complex matter and is not clearly defined in law. If there is going to be retrospective effect in this matter, a precedent of "squaring accounts after the autumn harvest" will be set, and it will gravely impact on the future of Hong Kong. I agree very much with Mr TAM Yiu-chung in that cultural pluralism should be given a place in our society and be respected. I also agree that we should legislate to resolve the problem concerning the succession rights of non-indigenous inhabitants. The Secretary for Home Affairs, Mr Michael SUEN, indicated the other day that he has started work in collaboration with a number of government departments towards finding a solution which can allay the worries of non-indigenous inhabitants in relation to succession rights to property in the New Territories. I appreciate very much his practical attitude.

Mr LAU Wong-fat has just pointed out that the New Territories Ordinance seeks to maintain the customs and traditions of the New Territories such that the system of the clan-based society can continue. He has further pointed out that there is no question of the Ordinance being discriminatory against women. And I agree with him. The problems surrounding the succession rights of the indigenous inhabitants can be divided into two categories. The first category concerns personally owned property and the second one is about ancestral property. As regards the first category, namely, personally owned property, if the estate of a deceased person is to be divided among family members in the customary way, the family members can usually reach an agreement among themselves, which means that if there is no dispute between, say, the brothers and sisters within the family, the problem can be solved by agreement. However, if a person does not want his estate to be divided in the customary way, he can make a will, in which case his estate will be disposed of according to the will, and the question of equality between men and women will be irrelevant. I will now turn to the second category, namely ancestral property. Strictly speaking, the question of succession rights is irrelevant to this kind of property, because it belongs to the whole clan. The property is managed by an ancestral property management committee, the members of which are only trustees and not owners. In fact, the ancestral instructions have clearly stated that ancestral property cannot be sold unless in strict necessity and such property can only be used as ancestral halls or the income derivable therefrom can only be used for the purpose of worshipping or repairing ancestral tombs. The sale of any ancestral property must be approved

by the clan members, the ancestral property management committee and the district office. All the proceeds from sale can only be used for clan-related purposes, but sometimes there may be situations where some remaining proceeds are equally divided among those qualified within the clan, and their qualification is determined by the customary rules.

In fact, the customs and traditions of the indigenous inhabitants are the instructions laid down by the ancestors hundreds of years ago. In the eyes of the modern man, these instructions are the verbal wills of the ancestors. The indigenous inhabitants are only disposing of property of their ancestors according to the wills of their ancestors. As we keep on saying that we should respect human rights and personal wishes, how can we disrespect the wishes of the ancestors of the indigenous inhabitants and how can we alter presumptuously the will of our ancient ancestors? Will we be infringing upon the human rights of our ancient ancestors by doing so? There should not be a double standard in human rights. As we have to respect the human rights of our contemporaries, we have also to respect the human rights of our ancient ancestors. Say for an example, if I make a will today specifying how my property is to be divided among my children, and after a few decades, my "naughty" children alter my will, Mr President, will it be right for them to do so? The estate of a person consists of the possessions left by that person after his death, and succession to the estate should be according to the wishes of the deceased person concerned. Personally I am all for equality between men and women and respect of human rights, but I do not understand why some people should take on the power to interfere with how other people dispose of their estate. As the saying goes, "Water on the surface of a pond is rippled by the wind in spring, what has that got to do with you".

Finally, I would like to make my stance clear. I am all for respect of human rights and safeguard of equality between men and women. I also agree that a new Ordinance should be enacted to allay the worries of the non-indigenous inhabitants of the New Territories in relation to succession rights to property. But I cannot agree to infringement upon the customs and traditions of the New Territories nor to interference with private property succession and disposition. I appreciate very much the Basic law's respect for and its protection of the customs and traditions of the New Territories. In replying to a question raised by Miss Emily LAU, the Attorney General has also said that there must be convergence between the laws of Hong Kong and the Basic Law, which shows that there is no need to amend the New Territories Ordinance.

Mr President, I so make my submission.

MISS CHRISTINE LOH: Mr President, this Council has looked deeply into Chinese customary rights and the New Territories Ordinance. What we have learned has prompted today's timely debate.

Let me summarize perhaps my understanding of the present position:

- We have an Ordinance (Cap. 97) dating from 1905, which affects the great majority of land holdings in the New Territories. For the purpose of our present debate, this includes all land in Kowloon, north of Boundary Street, which has not been exempted from the Ordinance. This Ordinance affects someone owning a flat in Mong Kok, as much as it does a villager in Shalotung.
- The Ordinance was intended to permit Chinese custom to be applied to determine succession to New Territories land. Over the years, the courts have established that the application of Chinese custom is mandatory, not optional.
- The Chinese custom in question has remained almost unchanged since the Qing dynasty, and its effect is virtually to exclude women from succeeding land upon the death of a landowner.
- The Ordinance provides for exemptions by the Governor. Such exemptions have been granted haphazardly by the Administration for certain new grants of land.
- The Ordinance allows for a will affecting New Territories land which has received probate within three months to be registered, regardless of any custom; but in practice, such a tight timetable for obtaining probate on a will is almost impossible to achieve. The Probate and Administration Ordinance, and the Intestates' Estates Ordinance are specifically disapplied in the case of land covered by Part II of the New Territories Ordinance.

One thing becomes clear from a reading of the New Territories Ordinance itself, which does not come across so clearly in the wording of the Rev FUNG's motion. It is that the Ordinance itself does not discriminate against women. It is the old Chinese custom which the Ordinance and subsequent judicial direction impose on land which discriminates.

Having reached this point in my learning curve, I am now deeply concerned about two things:

Firstly, that a practice, which blatantly infringes the rights of women in the New Territories and most of Kowloon, has not only been allowed to continue by the Hong Kong Government, but is being hallowed and preserved for posterity by virtue of being protected by China in Article 40 of the Basic Law; and

Secondly, over the past 50 years, this miserable practice has been applied so haphazardly in the New Territories and Kowloon that few, if any, owners of property or undivided shares in property now know whether they have the freedom to bequeath their land in their will.

We have been told by the Administration that it intends to introduce a Bill into this Council in the near future to exempt non-indigenous women residents in the New Territories from the succession restrictions imposed by the New Territories Ordinance. But we must ask, Mr President, whether that is enough.

What is it, do you think, that would justify excluding the wives and daughters of indigenous villagers from the rights that they are guaranteed under the Bill of Rights and under the International Covenant on Civil and Political Rights?

What is surely called for is a measure which puts the concept of equal succession rights of all Hong Kong women above this antiquated local custom, which has not been condoned in China since 1949, and has never been accepted by the vast majority of the present residents of the New Territories and Kowloon.

There is nothing sacrosanct about outdated customs. The Hong Kong Government was willing to legislate in the late 1960s against polygamy in response to changing perceptions of morality. They should have the courage to do so now.

There has been suggestions that we should repeal the provisions relating to the application of Chinese customs to New Territories land. While the management of Tso and Tong in the New Territories has not been a model of emancipation either, those bodies do hold a great deal of land, and I see no virtue in sweeping them away as would happen if the customary right provision in the New Territories Ordinance, that is section 13, was repealed altogether.

What I would favour is an amendment to section 13 of the Ordinance, to the effect that custom should be applied except where doing so would have the effect of infringing rights protected under the International Covenant on Civil and Political Rights. This route should, in my view, provide sufficient protection to the equal rights of women to succeed to property, and finesses the question of possible future consistency with the Basic Law, as Article 39 of the Basic Law requires the future SAR Government to implement the International Covenant.

The spirit of the Honourable FUNG Chi-wood's motion is one which I support in full. The wording, however, I take issue with on two counts:

First, while I agree that the effect of the New Territories Ordinance is discriminatory against women, no specific provision of the Ordinance could be said to be so. I fear that if the Administration chose to take the wording of the motion literally, they would get too easily off the hook.

Second, however much I dislike the mechanism by which male heirs may have obtained title to property in the New Territories, I am forced to accept that they do have proper title now. To seek to undermine that title by enacting legislation with retrospective effect would be totally unproductive.

I regret that I am unable to agree with the Honourable FUNG Kin-kee's amendment. As far as I can see, there is no impediment to applications for exemptions from New Territories landowners at present. If New Territories people had been prepared to get over the inertia and the disinclination to think of wills and death, and had applied in large numbers for exemption, then there would be no problem to debate today. This situation calls for decisive surgery, not administrative acupuncture.

With that, Mr President, I support the motion but not the amendment.

MS ANNA WU: Mr President, I am afraid that I might sound like a broken tape recorder repeating some of the arguments already made.

Mr President, Chinese customary law which continues to apply in Hong Kong is the Qing law and custom of 1843. Despite the inequities and the ambiguities inherent in these laws and customs, they continue to be regarded as sacrosanct today. Indeed, Chinese customary law has such a hold over the New Territories that the Government in 1993 continues to provide the legal and the administrative framework for its continued enforcement beyond what was ever intended.

Until recently, it was widely believed that deprivation of the right of women to inherit land in the New Territories applied only to the indigenous population, that is, the villagers in the rural areas of the New Territories who can trace their history to the pre-colonial days.

This turned out not to be the case. The New Territories Ordinance, which entrenched the antiquated customary law, applies to all land in the New Territories and not just the indigenous population of the New Territories. Thus the tentacles of the Ordinance are considerably extended to cover all persons living on New Territories land, whether in new towns or rural villages and whether in multi-storey buildings or village houses.

While it is possible to exempt land from the application of the Ordinance, the Government has apparently forgotten to do so leaving vast tracts of residential land and urban development in the New Territories subject to the Ordinance. What is worse is that those who live on the land do not know that

they are subject to Chinese customary law of succession. Exemption under the Ordinance is also not available to individual owners of flats in a multi-storey building who hold undivided shares in land.

Until recently, it was also widely thought that making a will to bequeath land in the New Territories to a widow or an unmarried daughter would overcome the customary rule of succession by male line only. This also turned out to be wrong. Whereas the pre-1971 position permitted at least some women to acquire valid title to New Territories land through will, the 1971 Probate and Administration Ordinance took even that right away.

The Probate and Administration Ordinance and the Intestates' Estates Ordinance do not apply to non-exempt land in the New Territories and inheritance by the male line only would apply. The one exception to this is to obtain probate or letters of administration within three months of the death of a testator. In practical terms this is impossible.

The net result of these laws means the New Territories land, irrespective of whether financial contribution has been made by a woman, and irrespective of whether the land was purchased by and standing in the name of a woman, would devolve along the male line. It also produced the peculiar and unjust situation of a woman obtaining probate on a will which bequeathed to her the land in the New Territories with the Land Officer registering the male heir as the owner.

In 1971, a number of interlocking laws, the Probate and Administration Ordinance, the Intestates' Estates Ordinance and the Marriage Reform Ordinance, which abolished concubinage were passed. It is ironic that these laws, intended to improve the status of women, ended up removing the right of women to inherit New Territories land through a will. I should add that it took 17 years to put some of these laws to the Legislative Council for passage and these were based on the recommendations of the Committee on Chinese Law and Custom in Hong Kong made in February, 1953.

The Government established a working group to look into Chinese customary law in the New Territories between 1986 and 1988 and in an article entitled, *Everything you wanted to know about Chinese customary law (But Were Afraid to Ask)* by Stephen SELBY in 1991, the following observations were made.

- Land Officers appear to have accepted succession to property in New Kowloon by widows and/or daughters, notwithstanding a clear Chinese custom to the contrary.
- It would be unsafe to rely solely on a village representative's certificate as to custom in his village.

- Custom in a certain village cannot be said to have the force of law, indeed, it may only amount to idiosyncrasy.
- Different interpretations of custom are accepted from village to village.

The Government has been aware of these legal uncertainties and the consequential effect these have on individuals for many years. It is outrageous that nothing has been done. Perhaps the article should be retitled, *Everything you wanted to know about Chinese customary law (But Were Afraid to Answer)*.

Mr President, the source of these antiquated laws in the New Territories are stated to be the Elliot and Blake Declarations. The Elliot Declaration of 1841 was in fact disavowed by Foreign Secretary Lord PALMERSTON on the ground that Hong Kong had not yet been formally ceded to Britain. Despite that, it was referred to in subsequent court cases as a source. The Elliot Declaration in fact provided that the British Government had an overriding discretion to disallow the application of Chinese customary law. The Blake Declaration, pronounced by Governor BLAKE when Britain took over the New Territories in 1899, promised only that "usages and good customs would not in any way be interfered with".

Despite the qualifications that only "good" customs were to be preserved, the Hong Kong Government has allowed these provisions, which legitimize blatant social injustice, to remain in the statute book.

Indeed, since the application of the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights to Hong Kong in 1976 and the passage of the Bill of Rights in 1991, Chinese customary law relating to succession must be regarded as "bad" customs.

Mr President, I support the original motion with one reservation. Any law affecting retrospectively the complicated issue of land title should be most carefully considered. Thank you.

MR ALFRED TSO (in Cantonese): Mr President, I would like to make it clear at the outset that I am all for equality of rights between men and women. But as I understand it, there is no provision in the existing laws which is discriminatory against women so far as succession rights are concerned. Section 13 of the New Territories Ordinance only provides that the District Court or the High Court may, in cases where ownership of land is in issue, adjudicate in accordance with Chinese traditions and customs. This is precisely the spirit of the law of succession. As there is no discriminatory element in the provisions concerned, why should they be repealed?

I have to stress again that sections 12 and 13 provide that the District Court and the High Court may, in cases of disputes over land in the New Territories, adjudicate in accordance with traditions and customs. The coverage of the two sections is very wide, including the right to use land and so on, and we should therefore not be rash in amending the Ordinance. In amending the laws, it is unusual for any amendment to have retrospective effect unless a monumental impact is intended or there is a pressing and imperative need for it. The subject of this debate involves private property succession. There are many cases concerning property succession which are over and done with and the persons concerned may have already sold the property in question. If this Council approves an amendment which is to have retrospective effect, it may cause a chain of disputes over private property and consequently a chain of lawsuits. The impact is enormous. In this light, is there a practical need for amendment?

According to what Secretary for Home Affairs Michael SUEN has told this Council, the problem does not exist where the succession rights of female non-indigenous inhabitants are concerned. The Administration will later on propose to enact a new Ordinance which will state clearly that female non-indigenous inhabitants are entitled to equal rights of succession. It will be more effective to solve the problem by legislative rather than administrative means. I very much support the Administration's arrangement, and consider that the Administration should further review the implications on the indigenous inhabitants and make appropriate adjustments such that the objective of equality between men and women can be attained.

Mr President, I so make my submission. For the three reasons given above, I do not support the original motion nor the amendment motion.

MR CHEUNG MAN-KWONG (in Cantonese): Mr President, in regard to the feudal custom of discriminating against women in the rural communities, Dr TANG Siu-tong just now recited two poetic lines: "Water on the surface of a pond is rippled by the wind in spring, what has that got to do with you". If I should match it with a similar line, the hidden meaning of that would be: "Rural communities form a kingdom of their own, don't you complain". Without labouring the point that it is becoming increasingly difficult to distinguish between "urban" and "rural" communities in Hong Kong, and that human beings are not to be classified as "exalted" or "lowly" according to gender, let me argue the case this way: Granted that a distinction between "urban" and "rural" communities still exists and that some people obdurately impose a distinction of the "exalted" from the "lowly" between men and women, fairness and justice still exist in this world. The last thing that the privileged would wish to see would be someone coming along to "ripple" their otherwise "placid vernal pond"; it is because they hope that the rural communities will last forever as a kingdom on its own. However, I must tell Dr TANG this: the time for minding one's own business has passed; if you want other people "not to complain", you must be just — just in the sense of the law. Those who are depriving women of

their rights are saying that the practice dates back not only to the Qing dynasty but further back. This is precise proof that women have been deprived of their legitimate rights for centuries or even tens of centuries. Some people are practising this but are still pretending as if nothing has been happening. Worse still, they are accusing others of "rippling" their otherwise "placid vernal pond". But has it ever occurred to these people that to many rural women spring is still far away and they are still living in the winter of inequality between men and women? I cannot help but think unkindly of one who, faced with the rural women's predicaments and sufferings, is reciting poetry with total indifference.

With these remarks, Mr President, I support the Rev FUNG Chi-wood's motion. And I should like to take this opportunity to express my wish that his motion be spared further acrimonious criticism from so many people.

PRESIDENT: Rev FUNG, do you wish to reply to the proposed amendment? You have five minutes.

REV FUNG CHI-WOOD (in Cantonese): Mr President, many Members have responded to the amendment moved by Mr Frederick FUNG. I should like to thank them all for their comments, in particular Mrs Miriam LAU and Mr Simon IP for their very clear expositions with regard to the questions involved.

I would like to speak briefly again on the spirit of the motion. That I am demanding any law reform in connection with this question to be given retrospective effect in its application to the new towns does not mean I am engaging in recrimination. Quite the contrary, I am seeking to have the current practice ratified. I hope Members will understand this point.

Some Members have expressed the worry that any law reform we may introduce to give women succession rights may conflict with the Basic Law. In fact, Article 40 of the Basic Law lays down that the lawful traditional rights and interests of the indigenous inhabitants of the New Territories shall be protected by the Hong Kong Special Administrative Region. I wish to point out that we understand very well the word "lawful" to mean conformity with the laws and that these same laws should be fair and rational, and non-discriminatory against either sex. Article 25 of the Basic Law states: "All are equal before the law". I believe Members will agree that whatever is lawful should not be grossly discriminatory against women. Rural women are indigenous inhabitants, too. Why are their rights and interests not protected? They are also part of the indigenous population. They need protection as well. We do not seek to deprive the indigenous inhabitants of their overall interests and benefits. But we do wish to have a method of distribution of such interests and benefits, which is lawful, rational, fair and compatible with human rights.

It has also been pointed out by some Members that the New Territories Ordinance contains no provisions explicitly discriminating against women. While it is true that there are no such express discriminatory provisions, yet, as has been explained by some Members, women will as a result lose their succession rights when the provisions of the Ordinance are construed, for the purpose of determining succession rights, in reference to Chinese customs. This point is very clear. But why do some Members still not understand? The wording of my motion demands law reform, not necessarily amendment. Reform could be by way of addition to or deletion from the existing provisions of the statute, or, of course, by way of amendment. Therefore, even though there are now no explicit discriminatory provisions in the New Territories Ordinance, still we may have to add or delete some statutory provisions to give women succession rights.

I was flabbergasted when some Members of rural background claimed that there is no question of women being discriminated against in their respective villages. No wonder nobody would now come forward to uphold justice for these village women despite their many complaints, grievances and disputes. I am sorry for these women and shall collect more complaints from the indigenous inhabitants and refer them to the Heung Yee Kuk, hoping that the Kuk will handle them properly.

These same Members also pointed out that Chinese customs have it that women should have no succession rights and that this could be a good way to maintain the integrity and continuity of the clan system within rural communities. However, I have a question. Why are indigenous inhabitants selling the small houses and lands inherited from their fathers or forefathers? To maintain the continuity of the clan system, none shall sell any of the property of the clan as he pleases. Moreover, just as Dr TANG Siu-tong has pointed out, ancestral houses should not be sold randomly. But why are the surviving widows and daughters of the deceased owners not allowed to continue living in the ancestral houses? Why, under certain circumstances, are these women and their daughters forced to vacate the houses once the owners have passed away? Why is non-ancestral property other than small houses and lands not distributed on the basis of equality between men and women? In some instances, women who have property or land registered under their names were divested of their interests therein in favour of their nephews or adopted sons. I hope that the Heung Yee Kuk will consult the views of indigenous female inhabitants of the New Territories and give them a say, because I feel that they have been grossly deprived of their right to speak.

With these remarks, I hope Members will support my motion.

SECRETARY FOR HOME AFFAIRS: Mr President, the Government subscribes to the principle of equality between women and men. This has been made plain and clear in the *Green Paper on Equal Opportunities for Women and Men*, which was published in August for public consultation until the end of

the year. The purpose of the Green Paper is to provide an opportunity for members of the public to express views on the need for action to foster equal opportunities and the actions to be taken. The Green Paper also has a very important education value. By generating public discussion on the subject, it will promote public awareness of the status of women in society. In this connection, I am grateful to Reverend the Honourable FUNG Chi-wood for moving this motion, which focuses our attention on the right of succession of women. I would also like to thank Honourable Members who have just spoken on this subject for their views and I have listened to them very carefully. I understand that Members are contemplating moving a motion on the *Green Paper on Equal Opportunities for Women and Men* later this year. If this materializes, then we shall have another opportunity to discuss the issue in a wider context before the expiry of the consultation period.

Matters concerning succession are generally governed by the Wills Ordinance (Cap. 30), the Intestates' Estates Ordinance (Cap. 73) and the Deceased's Family Maintenance Ordinance (Cap. 129). These laws apply to all residents in Hong Kong irrespective of their gender and social origin. However, in relation to inheritance of land, there are certain customs and traditions observed by the indigenous population in the New Territories which lay down rules for the inheritance of ancestral land. These rules are given recognition in the New Territories Ordinance (Cap. 97) which provides that the court shall have power to recognize and enforce any Chinese custom and customary right in relation to land in the New Territories that has not been exempt from Part II of that Ordinance. I would like to take this opportunity, at this juncture, to clarify that no part of Kowloon falls within the definition of the New Territories in our laws. The normal rules of intestacy, set out in the Intestates' Estates Ordinance (Cap. 73), do not apply to land in the New Territories that has not been exempt from Part II of the New Territories Ordinance. That land continues to devolve upon intestacy in the way it did before the enactment of the Intestates' Estates Ordinance.

A registered owner of non-exempt New Territories land may apply for an exemption from Part II of the New Territories Ordinance. If such an exemption is obtained, succession to the land will be governed by the ordinary law of Hong Kong. Alternatively, an owner of such land may provide for succession to the land by will. However, in practice, there are difficulties in complying with the requirement that probate of the will must be obtained within three months of death.

The full effect of the provisions I have outlined may not have been fully appreciated by owners of new developments in the New Territories. However, as many Honourable Members have already elaborated on this aspect of the problem, I am therefore not going to repeat the arguments involved. Suffice it to say that the Administration is well aware of the concern expressed recently over possible doubts in title in the New Territories. Indeed, we have been actively pursuing measures to allay public anxiety and to address any potential problem which property owners in the New Territories may face. Contrary to

the views expressed by the Rev FUNG Chi-wood, we have already implemented administrative measures with effect from June this year to exempt all new grants of land in the New Territories from the application of the New Territories Ordinance, except for rural land granted to individual villagers under the Small House Policy or land owned by customary land trusts established by clans and families in the New Territories. An interdepartmental working group has also been set up recently to give active consideration to excluding all non-rural land from Part II of the New Territories Ordinance through legislative means. This follows our conclusion that there is no provision under existing legislation for the Government to use administrative means to grant exemption under the New Territories Ordinance to land already assigned as undivided shares to individual owners, unless all of them join together to apply. I agree with the Honourable FUNG Kin-kee that there is nothing to step individual owners from applying. But, as I have said, to be successful all of them will have to join together and therein lies the difficulty which renders it a less than satisfactory proposition. Subject to the advice of the Executive Council, I hope to introduce a Bill to this Council very soon. The purpose of the Bill is to exempt all land other than rural land from the application of Part II of the New Territories Ordinance. Honourable Members will note that we do not intend to make any reference to whether an owner is indigenous to the New Territories or not in the new Bill for the very reason so eloquently put forward by the Honourable Mrs Miriam LAU. The new legislation, once enacted by this Council, will have retrospective effect to remove any doubt in existing titles because of previous transactions relating to inheritance. I shall be urging for the full support of Honourable Members on the new Bill.

Customs of the New Territories, like those everywhere else, have evolved and changed over the years. This is normal in any community. We will need the wholehearted support of the community at large before contemplating any measures to change these customs. Tonight this Council has come out with a loud and clear message. I have listened very carefully to the views expressed by Honourable Members. I hope that tonight's debate will encourage more people to come forward with their own views on this very important subject before the end of the consultation period for the *Green Paper on Equal Opportunities for Women and Men*.

I think we all accept that the catalyst for change must be education. We believe that stepping up public education, as we are doing, will cultivate a balanced attitude towards the role of women and men in society. In this regard, the publication of the Green Paper and today's motion debate are moves in the right direction.

Question on Mr Frederick FUNG's amendment put and negatived.

PRESIDENT: Rev FUNG, do you wish to reply generally? You have 3 minutes 36 seconds.

REV FUNG CHI-WOOD (in Cantonese): Mr President, it is pointed out in the recently released consultation document on equal opportunities for women and men that women in Hong Kong are subject to some minor forms of discrimination. However, the succession rights problem concerning indigenous women in indigenous villages manifests a case of extremely blatant and serious discrimination against women. The Government must not turn a blind eye to such discrimination again. It has to listen to opinions voiced by women in indigenous villages and to take heed of the views and stances of Members in this Council. It should proceed immediately with the relevant law reforms in order to rectify such an absolutely unbearable custom which is a serious infringement of human rights.

Just now the Secretary for Home Affairs has said that a consultation exercise is under way. I hope that the relevant law reforms can be commenced right after the consultation period. I earnestly hope that those women in the indigenous villages who have been aggrieved can be treated fairly. I would not like to see such things happen again. It behoves the Government to uphold justice for the victims and ensure women equal rights. I have to point out again that restoring the right of succession to property to women in indigenous villages is the first step to protect women's rights. I say "restoring" because this is their overdue entitlement. Only with such an essential step taken can they gradually earn more respect, secure more chances to exercise their right of expression, live with more dignity and enjoy more freedom in their community. They have been bound for too long and they have suffered too much. Let our Members, citizens and indigenous villagers, be they men or women, help female inhabitants in indigenous villages make a new start.

Some people are worried that the amendments to these Ordinances will pound on people's lives in the New Territories. But I have to point out that this would produce positive effects. When indigenous women in indigenous villages have won their fellow villagers' respect, they will care more about their homeland and have a greater sense of belonging and, at the same time, receive fairer treatment and more care in their villages. I believe this will definitely be a good start.

Question on the Rev FUNG Chi-wood's motion put.

Voice vote taken.

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

MR LEE WING-TAT: Mr President, I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Would Members please proceed to vote?

PRESIDENT: Do Members have any queries? If not, the results will be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mr Martin LEE, Mr SZETO Wah, Mr Ronald ARCULLI, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Jimmy McGREGOR, Mrs Elsie TU, Mr Peter WONG, Mr Albert CHAN, Mr Vincent CHENG, Mr Moses CHENG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Mr Simon IP, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr Eric LI, Mr MAN Sai-cheong, Mr Steven POON, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Miss Christine LOH, Mr Roger LUK, Ms Anna WU and Mr James TIEN voted for the motion.

Mr Andrew WONG, Mr LAU Wong-fat, Dr TANG Siu-tong and Mr Alfred TSO voted against the motion.

The Chief Secretary, the Attorney General and the Financial Secretary abstained.

THE PRESIDENT announced that there were 36 votes in favour of the motion and four votes against it. He therefore declared that the Rev FUNG Chi-wood's motion was carried.

Adjournment and next sitting

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 20 October 1993.

Adjourned accordingly at fifteen minutes to Ten o'clock.

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

WRITTEN ANSWER**Annex I****Written answer by the Secretary for the Civil Service to Mr TAM Yiu-chung's supplementary question to Question 4**

We have subsequently checked within the Administration and with the Public Service Commission. Since 30 July 1993 when the interim measure was announced, a total of 20 offers of renewals of overseas agreements have been made.

Mr TAM may recall that when we announced the interim measure we stressed that the two major tenets of the localization policy would remain unchanged, that is, giving preference to local candidates on recruitment, and not renewing the contract of an overseas officer if a local replacement is available. Decisions on renewal or non-renewal of overseas contracts have therefore continued to be made on this basis, except in the Police Force where special arrangements remain in existence.

