

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 2 February 1994

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

THE FINANCIAL SECRETARY

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

THE ATTORNEY GENERAL

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

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

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

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

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

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

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

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

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

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

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

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

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

THE HONOURABLE MOSES CHENG MO-CHI

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

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

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

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

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

DR THE HONOURABLE LAM KUI-CHUN

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

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

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 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

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

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

THE HONOURABLE CHRISTINE LOH KUNG-WAI

IN ATTENDANCE

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

MR ALISTAIR PETER ASPREY, C.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

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

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

MR PAUL LEUNG SAI-WAH, J.P.
SECRETARY FOR RECREATION AND CULTURE

MR LAM WOON-KWONG, J.P.
SECRETARY FOR EDUCATION AND MANPOWER

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>
Boats and Wharves (Supply of Water) (Amendment) Regulation 1994	80/94
Prevention of the Spread of Infectious Diseases (Amendment) Regulation 1994	81/94
Quarantine (Measures on Departure) (Amendment) Regulation 1994	82/94
Dangerous Goods (General) (Amendment) (No. 2) Regulation 1994	84/94
Fire Service (Installation Contractors) (Amendment) Regulation 1994	85/94
Coroners (Fees) (Amendment) Rules 1994	86/94
Small Claims Tribunal (Fees) (Amendment) Rules 1994.....	87/94
Kowloon-Canton Railway (Restricted Area) Notice 1994	88/94
Animals and Plants (Protection of Endangered Species) Ordinance (Replacement of Schedules) Order 1994	90/94

Sessional Papers 1993-94

- No. 52 — Hong Kong Polytechnic Annual Report 1992-1993
with Balance Sheet at June 30 1993 and
Income and Expenditure Account
for the Year Ended on that Date
- No. 53 — City Polytechnic of Hong Kong Annual Report 1992-1993
with Financial Report 1992-1993
- No. 54 — Hong Kong Baptist College Annual Report 1992-1993
with Financial Report 1992-1993

- No. 55 — Lingnan College President's Report 1992-1993
with Lingnan College Financial Report
for the Year Ended 30 June 1993
- No. 56 — Urban Council Estimates of Revenue and Expenditure
for the Financial Year 1994-95
- No. 57 — Revisions of the 1993-94 Estimates approved by the
Urban Council during the
Third Quarter of the 1993-94 Financial Year
- No. 58 — Regional Council Estimates of Revenue and Expenditure
for the Year Ending 31 March 1995
- No. 59 — Regional Council Revised Estimates of
Expenditure 1993-94
- No. 60 — Report of the Public Accounts Committee on
the Report of the Director of Audit on the Accounts of
the Hong Kong Government
for the Year Ended 31 March 1993 and
the Results of Value for Money Audits
January 1994
PAC Report No. 21

Address

Report of the Public Accounts Committee on the Report of the Director of Audit on the Accounts of the Hong Kong Government for the Year Ended 31 March 1993 and the Results of Value for Money Audits January 1994 PAC Report No. 21

MR PETER WONG: Mr President, on behalf of the Public Accounts Committee (PAC), I have the honour to table the Committee's Report No. 21 today.

The PAC Report No. 21 covers the conclusions reached by the Committee in considering the Director of Audit's Report No. 21 on the accounts of the Hong Kong Government for the year ended 31 March 1993, and the results of value for money audits completed between March and September 1993.

The Director of Audit in his report raised a total of 10 issues. In considering the Director of Audit's Report, we noted that the Government had already taken expeditious remedial actions on the points brought up in the audit review concerning the issue — Court Costs relating to Fixed Penalty Proceedings, hence we did not consider it necessary to investigate further into

that particular case. It is therefore the investigation of the other matters raised in the Director of Audit's Report which constitutes the bulk of the Report tabled today.

Our Committee held a public hearing to hear evidence from the witnesses who are responsible for the various issues raised in the Director of Audit's Report on 22 November 1993. Since then our Committee had also held four closed meetings to discuss the evidence taken at the public hearing and to consider the further information provided by the witnesses after the public hearing. I am pleased to report that our Committee has now completed the deliberations on seven issues raised in the Director of Audit's Report. Our conclusions and recommendations on these issues are contained in our Report tabled today.

Regarding the remaining two issues concerning provident fund and superannuation schemes operated by subvented organizations and sale of a commercial site in Garden Road, raised in the Director of Audit's Report, our Committee has considered it necessary to hold a second public hearing to receive further evidence on these subjects before finalizing our conclusions and recommendations. This public hearing is being arranged and I shall, in due course, report back to this Council on the Committee's considerations on the subject.

Mr President, allow me to emphasize that our function as a Committee is not vindictive or punitive. Our job is to examine with the Administration issues raised in the Director of Audit's Report, to draw lessons from what has been done and to arrive at recommendations for the more efficient use of public funds in future.

Finally, I wish to reiterate that the Committee and the Audit Department will continue to closely monitor the performance of the Government with a view to achieving further improvements in cost effectiveness and efficiency of our public service. I trust that the recommendations in our Report will be accepted by the Administration.

Oral answers to questions

Security and fire prevention systems of banks

1. MR TAM YIU-CHUNG asked (in Cantonese): *Regarding the recent arson incident in the Shekkipmei Branch of the Hong Kong Bank, which resulted in a number of deaths and injuries, will the Government inform this Council whether a review will be conducted expeditiously on the security and fire prevention systems of banks in Hong Kong with a view to making recommendations for improvements to provide bank staff and the public with better protection?*

SECRETARY FOR SECURITY: Mr President, a review is now under way. A special investigation team has been set up by the Director of Fire Services to look into the cause of the fire and the circumstances leading to the resulting casualties. In the light of these findings, the team will consider and recommend whether any improvements should be made to fire protection measures in similar commercial premises. This review will, therefore, cover not only bank premises, but also commercial premises of a similar design and layout, such as off-course betting centres, pawnshops and jewellery shops. Once the review is completed, we will be able to decide what action should be taken.

In the meantime, the Director of Fire Services has been liaising closely with the Hong Kong Association of Banks and has been providing advice to the banking industry, through the Association, on measures which can be taken immediately to enhance fire safety in bank premises. These measures include the formulation of emergency procedures, training of staff in basic emergency precautions, provision of portable and chemical-based fire extinguishers and installation of manual fire alarms at strategic locations within the premises.

MR TAM YIU-CHUNG (in Cantonese): *Mr President, at present, banks or shops are so designed that they rely heavily on electric power, the failure of which would endanger the safety of staff. Will the Administration introduce legislation to provide that all security doors must have emergency battery, that they can be opened or shut manually, or that the spare key should be kept in a conspicuous place such as the glass box of the fire alarm?*

PRESIDENT: There are two questions there, Secretary.

SECRETARY FOR SECURITY: Mr President, until the investigation is completed, I would not wish to pre-empt the findings and recommendations. But, one of the interim measures which the Fire Services Department has been discussing with the Association of Banks is to ensure that security doors, when there is a power failure, can be opened easily without the need for a key and that they are open in the direction of exit. These interim improvements, I think, are being taken by many banks already.

MR NGAI SHIU-KIT: *Mr President, can the Government inform this Council as to the number of banks and shops which have a similar problem in their interior design, in particular, the sealing-up of the back door?*

SECRETARY FOR SECURITY: Mr President, I do not have that figure. I think what I would say, as a general point, is that the number of accesses into and exits from any premises, including commercial premises, is based on the travel distance for people within the premises to get to the exit. And there

would be a very considerable number of commercial premises which only have one entrance and one exit.

DR DAVID LI: *Mr President, will the Administration inform this Council how it plans to support the efforts currently being undertaken by the members of the Hong Kong Association of Banks to train banking staff to respond to threats to the safety of customers, staff and bank properties?*

PRESIDENT: In relation to fire, Dr LI?

DR DAVID LI: *Sorry.*

PRESIDENT: In relation to fire or in relation to matters generally?

DR DAVID LI: *To matters generally, Mr President.*

PRESIDENT: Well, so far as you are able to, Secretary.

SECRETARY FOR SECURITY: Mr President, the Director of Fire Services has always had very good liaison with the Hong Kong Association of Banks and certainly has been working with them very closely in recent weeks in planning interim measures to improve fire prevention in bank premises. I mentioned the sorts of interim steps that are being taken in my main answer. And the Fire Services Department has also been working together with the Housing Department and the Buildings Department for that purpose. The Fire Services Department has offered help to all banks in drawing up emergency plans if they do not have such plans and also in training their fire prevention staff.

DR PHILIP WONG: *Thank you, Mr President, in the Secretary's reply, which covers the measures for formulation of emergency procedures, I note that there is no mention of the periodic rehearsal of these emergency measures. I wonder if there is any reason why that should be left out.*

SECRETARY FOR SECURITY: No, Mr President, I think that that was meant to be included in the phrase, "training of staff in basic emergency precautions", that would include periodic rehearsals as well.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, all along the Administration is against extending the Factories and Industrial Undertakings Ordinance to cover all trades and industries. It seems that the Administration is of the view that there is not much occupational safety problem with the working environment of non-manual workers. But the Hong Kong Bank tragedy this time shows clearly that there are also hidden dangers in the working environment of clerical staff. Will the Administration inform this Council in what way it will introduce legislation to enhance the occupational safety of all trades and industries?*

SECRETARY FOR SECURITY: Mr President, I think this is hardly a question for me. It is really more a question for the Secretary of Education and Manpower. All I would say is this, as I have said before, until we have the findings and recommendations, I would not like to pre-empt them or to prejudge them. I would also like to point out that this case was a highly exceptional one involving a crime. It is a very different sort of danger and a very different sort of accident to that which occurs in industrial premises.

MR JAMES TO (in Cantonese): *Mr President, on the third day after the incident, the Sham Shui Po District Board held a meeting to discuss the matter. I asked an official of the Housing Department whether, under the existing legislation, the department would approve further applications if similar plans were submitted. I was told that as the plan had conformed to all the requirements of the existing fire safety rules, further applications for a licence would be approved. As efforts were made by the departments concerned to consult the Hong Kong Society of Accountants and the professional bodies concerned on fire escape rules in November 1993, will the Administration, in the interim, exercise extra care in approving the plans of such buildings or premises before the report of the special investigation team is published?*

SECRETARY FOR SECURITY: Mr President, I think what I can say is this, that the Buildings Department has been reviewing the regulations relating to access into and exits from various premises including commercial premises of this type. And I am sure that they will, in completing that review, take into account any lessons which we can learn from this particular incident. The Buildings Department is part of the special investigation team which is looking into the incident.

MR JAMES TO (in Cantonese): *Mr President, the Secretary has not answered my question. My question is: Under the existing legislation (I mean in the interim and not after the review), will the Administration exercise extra care or pay special attention when it approves the plans of these premises?*

SECRETARY FOR SECURITY: Mr President, I think, as Mr TO well knows, that under the regulations as they exist, in commercial premises of this design, of this layout and of this size, only one entrance and exit is necessary. The premises concerned did comply with the regulations and the plans.

MRS PEGGY LAM (in Cantonese): *Mr President, the main cause of the tragedy in the Shek Kip Mei Branch of the Hong Kong Bank was that the premises was sealed up and without a back door. Will the Administration consider introducing legislation to provide that all such premises should have a back door in future?*

SECRETARY FOR SECURITY: Mr President, I have to say again that, until we have the findings and recommendations of the investigation team, I do not want to pre-judge or pre-empt what those will be.

Drug-related cases on school premises

2. MR CHEUNG MAN-KWONG asked (in Cantonese): *In view of the concerns about students being involved in dangerous drugs and drug abuse in school premises, will the Government inform this Council:*

- (a) *of the number of dangerous drugs related and drug abuse cases involving students in school premises in the past year; the types of dangerous drugs/drugs involved. Whether such activities led to any prosecutions and, if so, the prosecution figures and the respective sentences passed upon conviction with statistics of each of the two previous years; and*
- (b) *of the plans in place to solve the problem of students being involved in dangerous drugs and drug abuse in school premises; and the measures that will be taken to effectively implement these plans?*

SECRETARY FOR SECURITY: Mr President,

- (a) Statistics on drug-related cases involving students on school premises are available only where there is a prosecution for a major drug offence such as trafficking. Statistics on minor drug offences such as possession are maintained on a broader classification which does not specify the defendants' occupation or the location.

In 1993, there was one prosecution of six students for supplying dangerous drugs on school premises. The principal drug involved was the tranquillizer, Midazolam. One student was convicted and

placed on probation for 12 months. The charges against the other five were dismissed.

In 1992, there were three prosecutions of students for trafficking dangerous drugs on school premises. The charge was dismissed in one case, which involved a Part I poison. In the other two cases, five students were prosecuted for trafficking of cannabis. Three were convicted and placed on probation for between 12 and 18 months. One was convicted for possession of cannabis and fined \$500. The fifth had no case to answer.

In 1991, there were two prosecutions of students for trafficking in a dangerous drug. Both students were dealt with under the Superintendent's Discretion Scheme. The particular drugs involved are not recorded.

- (b) As regards the second part of the question, the problem is tackled in two ways: first, through preventive education aimed at informing students of the dangers of drug abuse and helping them to refuse drugs; second, by assisting school authorities to respond appropriately to drug cases on school premises.

Drug education is integrated into the school curriculum in several places. Teachers are advised not just to provide information on substance abuse and its effects, but also to give emphasis to the development of healthy and positive attitudes and the learning of life skills such as handling of peer pressure. These messages are reinforced in regular school talks by the Narcotics Division in all secondary schools and to Primary VI students.

To assist the school authorities, the Education Department is in the process of drafting a set of *Guidelines for Secondary Schools on the Handling of Drug Abuse Cases*. The Guidelines cover signs which indicate drug addiction, preventive and other measures to deal with problems in school, and the resources and support available to schools.

The Government also encourages students confronted with drug problems to approach school social workers for counselling and assistance.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, regrettably the Secretary could not provide statistics on dangerous drugs related and drug abuse cases involving students and the types of drugs involved which are essential to our understanding of the drug abuse problem on school premises. Many of those who work in the educational field are of the view that the proliferation of drugs in some schools is connected with rampant triad activities in schools.*

Very often triads gather outside schools to establish rapport with students before they sell them drugs. Usually they start with soft drugs. In light of the fact that school authorities can do little about triads gathering outside schools, are there any long-term and effective actions to clamp down on triads gathering outside schools and their drug trafficking activities?

SECRETARY FOR SECURITY: Mr President, perhaps I should start by saying that although there are not any statistics kept specifically in relation to the number of students in question or to such offences on school premises, I think a good indication of the seriousness of the problem can probably be deduced from the statistics relating to drug abuse by young persons under the age of 21. And there certainly we have seen a significant rise in the number of persons reported as drug abusers in the last two years. So I would certainly not wish to minimize the extent of the problem.

As regards the reasons, I would only say this, that all the research that has been done on this in recent years indicates, and certainly it is the belief of those involved in the subject, that the main reasons for young persons and students to become involved in drugs are firstly curiosity and secondly peer pressure. Those are certainly the main reasons. Having said that, we do of course take action to try to prevent the activities of triads outside schools. The Fight Crime Committee has established a working group to tackle this problem. This has resulted in much better liaison, I believe, between the police, between schools and between school social workers. And there has been much more contact and much more exchange of ideas between all parties concerned.

MR TIK CHI-YUEN (in Cantonese): *Mr President, has the police identified schools in different districts in which a number of students are involved in drugs? Are there specific measures to tackle the problem, for example, by stepping up prosecutions to achieve a deterrent effect?*

SECRETARY FOR SECURITY: Mr President, there is very close liaison between the police and between all schools in all districts. And there is very regular exchange of intelligence, information and ideas on preventative measures. Certainly where there is reason to do so, the police will take action to arrest and prosecute any offenders.

DR LAM KUI-CHUN: *Mr President, in relation to paragraph (b) of the Secretary's reply concerning integrating drug education into the school curriculum, would the Administration inform this Council how much resource the Administration is committing into this activity? How extensive is the integration intended to be, in terms of the number of schools involved and the extent to which such integration is carried out into each school and whether*

non-government agencies, which actually carry out the main bulk of the work in demand reduction for drugs in Hong Kong, are, or will be involved?

SECRETARY FOR SECURITY: There are a lot of very in-depth questions there, Mr President. I do not think I could possibly attempt to answer all of them now, I will give a written reply. (Annex I)

DR LEONG CHE-HUNG: *Thank you, Mr President. From the Secretary's answer to this question, it seems that the problem of drug trafficking on school premises is small. Yet this must be only part of the problem. The Secretary also hints that the problem is actually getting more and more serious. Does the Administration have a projection of the possible size of the problem?*

SECRETARY FOR SECURITY: Mr President, no, we do not usually produce projections and guesses at what the situation might be in several years time.

MR WONG WAI-YIN (in Cantonese): *Mr President, from the main answer, it can be seen that prosecution figures for the past three years are on the low side. Just now the Secretary also mentioned in his reply that the figures did not reflect the true situation. This certainly requires the police and schools co-operating and taking positive measures if the problem is to be resolved. But we understand that some schools, for the sake of reputation, may not be willing to provide information about the actual situation in school. Will there be problems with co-operation between the police and schools if schools are not forthcoming because of fears for their reputation? If yes, how will the police cope with this?*

SECRETARY FOR SECURITY: Mr President, a point of correction first. I do not think I said in my main answer or anywhere else that the figures I quoted did not reflect the true situation. With regard to the specific question, as I have said in answer to previous supplementaries, we have established a working group to achieve better liaison between the police, between schools and between school social workers and I believe that this working group has improved greatly the co-operation and the exchange of information between schools and the police. It has come up with a number of useful ideas and I believe that we must strive to improve this co-operation in the future.

MR HENRY TANG: *Mr President, in the Secretary's reply, the Administration informs this Council that there were three prosecutions of students for trafficking dangerous drugs in 1992. I think that the figure actually fails to reflect the picture, or the intensity of drug problems in schools because they refer to the figure of prosecution of students, not that of the traffickers who are not students. Will the Secretary be able to supply the figure of prosecution of*

non-students for trafficking dangerous drugs on school premises, or near school premises?

SECRETARY FOR SECURITY: Mr President, I believe that the figures I have given relate to all trafficking cases which took place on school premises. But I will confirm that with the police. (Annex II)

As regards the second part of the question, the answer is "no". It would not be possible to breakdown trafficking cases as to whether they took place near school premises or not. The statistics certainly would not be kept on that basis.

Failure of the Crown's case

3. MR MOSES CHENG asked: *In relation to criminal and civil proceedings conducted at all levels of courts in Hong Kong in 1993, will the Administration inform this Council:*

- (a) in how many cases did the Crown's case fail on account of errors of law or legal procedures such as failure to obtain necessary consents before prosecutions, defective indictments or charges, as opposed to failure on the merits;*
- (b) in how many cases were costs awarded against the Crown as a result of counsel for the Crown not attending court at the appointed time;*
- (c) what is the total sum of costs awarded against the Crown in respect of cases falling within (a) and (b) above; and*
- (d) as regards any officers found to have been responsible for such errors or to have been negligent, what remedial actions have been taken?*

ATTORNEY GENERAL: Mr President,

- (a) In 1993, there were 2 211 criminal trials in the High Court and District Court. In addition, 445 623 summonses were issued and 129 363 cases listed in the magistracy. Convictions were quashed in 1993 as a result of legal errors in the following circumstances:
 - (i) one conviction for a forgery offence was quashed because the charge had been brought under a legislative provision that had been repealed and replaced; I would add, Mr President, for the sake of completeness that a total of 18 convictions for

forgery offences, all recorded in 1992, were the subject of pardons by the Governor for the same reason; and

- (ii) 142 convictions, mainly for immigration offences, were quashed because the Governor's consent to prosecute had not been obtained.

I am unaware of any other cases where defendants were acquitted or convictions quashed through errors of law or legal procedures on the part of the Government such as a failure to obtain a necessary consent to prosecute, or through a defective indictment or charge.

So far as civil cases in 1993 are concerned, 400 judgments involving the Government were delivered, of which all but 42 were in favour of the Government. We have reviewed all 42 cases. None of them involved legal error on the part of the Government's legal representatives.

- (b) I am not aware of any cases in which costs were awarded against the Crown as a result of counsel for the Crown not attending court at the appointed time.
- (c) No orders for costs were made against the Government in the cases mentioned in the first part of my answer. That is paragraph (a) in the printed answer.
- (d) In relation to the forgery cases to which I have just referred, the Director of Public Prosecutions has taken action to prevent a similar mistake occurring. He issues circulars to all staff about relevant legislative changes whenever they occur.

In relation to the requirement to obtain the Governor's consent to certain prosecutions, all prosecutors and relevant officers in the police, Immigration and Customs and Excise Departments were informed in March 1993 of the need to obtain this consent. In addition, arrangements were made for the Governor to delegate to the Director of Public Prosecutions, the Deputy Crown Prosecutor and the Senior Assistant Crown Prosecutor in charge of immigration matters the power to give the necessary consent.

MR MOSES CHENG: *Thank you, Mr President. Would the Attorney General inform this Council what is the system in place to monitor and review cases in which orders for costs were made against the Crown? Are lay prosecutors and Crown Counsel required to furnish a report on every incident in which the Crown is ordered to pay costs to the other party?*

ATTORNEY GENERAL: Mr President, if I can deal first of all with criminal proceedings. In the conclusion of every High Court trial and every District Court trial, prosecuting counsel is required to furnish a written report to the Director of Public Prosecutions and to his deputies. In the case of the magistracy, lay prosecutors at the conclusion of the trial minute their file to the Prosecutions Division, either to the Senior Court Prosecutor in charge of administration or to a directorate officer who has overall supervision of the lay prosecutors. In relation to civil cases, the reports are kept under the scrutiny of the Head of the Civil Litigation Unit. Those reports are scrutinized to see the conduct of the case and, in particular, to see what orders were made at the conclusion of the trial.

MS ANNA WU: *Mr President, with regard to immigration offences, will the Government inform the Council if any case had failed to be brought to court or had failed in court on account of an inability to secure the attendance of witnesses from China or on account of attacks on the reliability of evidence by reason of lengthy detention of witnesses under the powers of the Immigration Ordinance?*

PRESIDENT: Ms WU, which part of the Attorney General's answer does that seek to elucidate?

MS ANNA WU: *This is in connection with the part of the question relating to procedural failures. I therefore would like to pursue the matters relating to failure to secure witnesses and failure to produce credible witnesses under the procedural aspects of the question.*

PRESIDENT: I think this goes beyond the ambit of the question and it goes beyond elucidation. But are you able to give any sort of answer, Attorney General?

ATTORNEY GENERAL: Mr President, in relation to those matters, that of course deal with what I might call the merits of the case. That is a situation which the outcome or the verdict depended on what evidence was adduced in court. If Ms WU wishes to pursue that, may I respectfully suggest that I would need to have prior notice of that question.

MR MARTIN LEE: *Mr President, will the Administration please clarify whether, in respect of the convictions referred to in paragraph (a) of the Attorney General's reply, Counsel for the Crown was thought to be negligent or had been guilty at least of oversight in causing these results?*

ATTORNEY GENERAL: Mr President, if I can break that down into two categories, dealing first of all with the forgery cases. I believe that that was a case where the prosecutors were operating on the basis of a published text of an Ordinance which was not up-to-date. I have looked into the circumstances with the Director of Public Prosecutions and I would regard it as a systemic error rather than an error on the part of any particular individual. As I have said in my main reply, we have now reviewed procedures and, as a result, the Director of Public Prosecutions issues circulars to all members of his staff in the Prosecutions Division to notify them of legislative changes.

Turning to the consent case, the requirement for a Governor's consent in certain circumstances arose under an 1878 Act — the Territorial Waters Jurisdiction Act. The implications of that somewhat obscure provision had not been fully appreciated and this remained the position after the provision had been localized into our law in 1990. When the matter was raised in court, the Crown argued that the requirement did not apply because of particular provisions of the Immigration Ordinance. The point was argued both at first instance and in the Court of Appeal where ultimately that argument did not fail. Once again, Mr President, I would regard that as a systemic error rather than an error attributable to any particular individual.

MR MARTIN LEE: *A follow-up?*

PRESIDENT: I think only if your question has not been answered, Mr LEE. If you want a follow-up but it is really a supplementary, there are other Members on the list.

MISS EMILY LAU: *Thank you, Mr President. My question is on the 142 convictions quashed because the Governor's consent to prosecute had not been obtained. This seems to be a very big number of convictions quashed and we are told that they mainly deal with immigration offences. Will the Attorney General please inform this Council, are these very serious immigration offences? You are saying that it is a systemic error, so nobody can be pinned down as being responsible and hence reprimanded, I guess?*

ATTORNEY GENERAL: Mr President, most of the offences were offences under section 37 of the Immigration Ordinance, that is offences by the master or crew of a ship carrying unauthorized entrants. Many of them I would regard as serious offences that resulted in terms of imprisonment. As I have said in answer to an earlier supplementary, I would regard the error as one relating to the system rather than attributable to the fault of any one person. I do not think a question of reprimand or disciplinary action arises.

MR SIMON IP: *Thank you, Mr President. Can the Attorney General inform this Council whether he keeps records of cases where an accused is acquitted because of a defective indictment or charge, and if not, is that the reason why he is not aware of any such cases apart from those set out in this reply?*

ATTORNEY GENERAL: Mr President, there are two aspects to that question. First of all, it would be very rare indeed, although not inconceivable, that a prosecution would fail because of a defective indictment or charge. As the Honourable Member will be aware, the court permits the prosecution to amend an indictment or charge during the trial, indeed it can also be done during an appeal, so the circumstances under which a trial would be stopped because of a defective indictment or charge would be very rare indeed.

Turning to the second element in the question. Given the vast number of cases and the vast range of circumstances — factual circumstances relating to prosecutions — it is not possible to collate information in a meaningful statistical form from the returns. That said, once we have in place, as I hope we shortly will, new information technology on statistics, we hope to have a much better ability to capture more detailed information of the sort that the Honourable Member is seeking.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, Mr Moses CHENG's question has mentioned that the Crown's case failed on accounts of errors of legal procedures. I understand that there was another court case in which the judge stressed that the Crown's case failed because the evidence presented was insufficient. The Attorney General said in a written reply that he had given his consent for the prosecution of the case. Mr President, will the Attorney General advise us how big the chance of a conviction a case should have before he would decide to mount a prosecution?*

ATTORNEY GENERAL: Mr President, Members will be aware of, and I hope will have received by now, but if any Member has not received I will be happy to supply it, a booklet which I published in December last year, setting out my criteria for making prosecution decisions. And Members will recall from that the test is that there should be sufficient admissible and credible evidence to afford at the time when a decision to mount a prosecution is made a reasonable prospect of a conviction. The decision to prosecute is therefore based on a judgement of the evidence presented to the prosecutor as to whether on the evidence that he has in front of him, that will give a reasonable prospect of a conviction. As has been said many times before, Mr President, it is not the role of the prosecutor to strive for a conviction. That is not part of our legal system, nor should it be. It is the duty of the prosecutor to lay before the court, openly, fairly and objectively, the evidence which he or she has and for the court, our independent judiciary, to decide on the basis of that whether or not the accused is guilty or innocent.

MRS MIRIAM LAU: *Mr President, can the Attorney General inform this Council how the systemic errors of the type which he described can be avoided in the future because although he says that no officer is responsible, yet the taxpayer is being penalized?*

ATTORNEY GENERAL: Once again two elements in that question, if I may, Mr President. First of all, as regards the taxpayer being penalized, it is the cost of our system that we seek so jealously to defend and guard, that there will be a cost to the taxpayer every time a decision to prosecute is made, whether or not that results in a conviction or acquittal. And as I have said before, I do not think one should be too ready to put a price tag on justice because that would devalue it or devalue the rule of law. I am as anxious as anybody to avoid situations arising where, through errors, convictions, otherwise properly obtained, should be set aside. That is my wish and certainly the wish of the Director of Public Prosecutions and in the light of these cases, procedures have been reviewed and changes made in the way indicated in my main answer.

Compulsory retirement protection scheme

4. MR HENRY TANG asked: *With regard to the Government announcement last December that a compulsory retirement protection scheme would not be recommended to the public, will the Government inform this Council of the assumptions used to reach the conclusion that the scheme can only provide a retiree with a monthly pension equivalent to 12.7% of his pre-retirement income; and whether the same assumptions were used to arrive at the figure of 33.4% shown in Appendix V of the consultation paper on the subject issued in October 1992?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the Government has decided not to proceed with mandatory saving schemes for several reasons:

- first, for a long time to come, the bulk of the population would not have any meaningful benefit under these saving schemes because they take three to four decades to mature;
- second, even after a few decades, low-income contributors would still be worse off under mandatory saving schemes than under an old-age pension scheme because of their limited saving capacity;
- third, even on full maturity of these schemes, half of the population would remain unprotected as they are outside the workforce;

- fourth, mandatory saving schemes impose a heavy administrative burden on employers and employees, without the guarantee of commensurate benefits; and
- fifth, given the prevailing economic conditions in Hong Kong, it is unlikely that low-risk investment portfolios would yield meaningful returns. Significant exposure to high-yield investments such as equities would, on the other hand, lead to volatility and higher risk of investment losses, for which there is no viable insurance cover.

Let me now explain the monthly pension projections. The figure of 33.4% shown in Appendix V of the consultation paper A *Community-wide Retirement Protection System* was obtained from assumptions made in respect of the inter-relationship between three variables. These are:

- (a) investment returns;
- (b) rate of salary increases; and
- (c) rate of inflation.

Using a 10% contribution rate, and assuming that investment returns and salary increases are both held at 7%, with inflation at 5%, then an employee who enters the scheme at the age of 25 and retires when he is 65 might receive a pension equivalent to about 33.4% of his monthly salary. The assumptions were based on historical data from the United States, showing the relationship between inflation and other financial indicators. Historical data elsewhere, however, are not necessarily the best guide to the future, though they could be used as a reference indicator.

Hong Kong is currently experiencing price inflation which differs considerably from the long-term United States experience. Should such economic conditions remain unchanged for the foreseeable future, that is, assuming that price inflation would remain at 9% and salary increase at 11%, it is estimated that a low-risk investment portfolio could yield a pension as low as about 12.7% of monthly salary.

MR HENRY TANG: *Mr President, the consultation paper issued in October 1992 on compulsory retirement protection scheme stated that a compulsory provident fund scheme was the best way forward for Hong Kong as far as a retirement scheme was concerned. Fourteen months later, the Government admitted that it was wrong when it announced the policy intention on the Old Age Pension Scheme (OPS). However, the Old Age Pension Scheme announced on 15 December 1993, is sadly lacking in details as the Government has yet to find a consultant to advise them on the scheme. My question is: After the Government has engaged a consultant to study the way forward on the Old Age Pension Scheme, if it is discovered that the OPS is, after all, not the best scheme*

for Hong Kong — in other words, the Government is wrong again — would Hong Kong be then left with no retirement scheme whatsoever?

PRESIDENT: Some of that is hypothetical. Secretary, can you answer?

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, we intend to pursue the Old Age Pension Scheme as we believe that this is the most effective means of resolving the problem of financial security for old age. We intend to work out the details in the next few months and consult the public again. The Government does not usually prepare for defeat when it puts forward policy proposals. For this particular proposal, we look forward to a positive and fruitful process, and we all hope that Legislative Councillors will also look at this particular proposal with an open mind.

PRESIDENT: Not answered, Mr TANG?

MR HENRY TANG: *Mr President, actually the question was not answered. I could rephrase the question without the hypothetical part of my original one, and ask the Government this: Do you have any fall-back position in case this scheme is not workable?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the Government has accepted that we have got to look for a solution to the problem of financial security for the aged. For this reason, we have now put forward a proposed solution. I am not prepared to answer the hypothetical situation. But we do admit that even if the scheme is not to be pursued, we will still be faced with this particular problem of financial security for old age and we will still have to address that.

PRESIDENT: I think we will have to leave it there, Mr TANG.

MR MARVIN CHEUNG: *Mr President, will the Government please advise this Council when did the Government become aware of the reasons cited in the Secretary's reply for not proceeding with the mandatory saving scheme and why were these reasons not included in the consultative document issued in October 1992?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, as Members are well aware, since publication of the consultation document, we have gone through almost a whole year of very detailed consultations, listening

to the community's views and assessing the criticisms, balancing the pros and cons, considering suggestions by Members of this Council and looking back on previous options which the working group has ruled out. It is on the comprehensive and very detailed examination in the last year that we have finally come to this particular conclusion that the Old Age Pension Scheme is the best way forward.

MR NGAI SHIU-KIT (in Cantonese): *Mr President, according to the information provided by the Education and Manpower Branch to this Council, the Old Age Pension Scheme proposed by the Administration may not necessarily work in other countries. Which particular aspect is he referring to when he says it may not work in other countries? As the Administration is aware that the proposed scheme may fail after all, has the Administration seriously considered the consequences should the scheme turn out to be unsuccessful?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, I can assure Members that we will exercise great care in drawing up the Old Age Pension Scheme, and will look at the experiences of other countries. I would like to point out that the experiences of other countries in running the old age pension schemes are not, as some people put it, a total failure, because many countries have been running such schemes for more than a century. Whether viewing it as a whole or taking a negative point of view, there are nonetheless, I believe, a lot of economists or analysts in other countries who consider these schemes can bring social stability, provide financial security for old age and therefore have certain positive values. What we need to learn is the practices that have positive results, and what we need to avoid is the inordinate expansion of such schemes to cover too many areas, as in the case of many countries, leading to an increasingly heavy burden on the community. We will certainly consider these thoroughly in our feasibility study and we will also consider carefully the affordability of the community to run such a scheme on a long-term basis before formulating a scheme which we think is both acceptable and affordable by the community.

MR NGAI SHIU-KIT (in Cantonese): *Mr President, the Secretary did not answer my question.*

PRESIDENT: Could you point out what has not been answered?

MR NGAI SHIU-KIT: *Let me ask again?*

MR NGAI SHIU-KIT (in Cantonese): *Mr President, first of all, you said you still had no idea and were still learning from other countries, does it mean what you are doing is at the expense of the interests of Hong Kong people? Secondly, what are the consequences if the Old Age Pension Scheme turns out to be unsuccessful?*

PRESIDENT: Yes, you have to address your question through me, of course, Mr NGAI.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, I believe it is not necessary for a legislature to answer those "if" questions as they are hypothetical in nature. I have said we will certainly look at the experiences of other countries, both the successful and unsuccessful cases, and then assess the affordability of the Administration to run such a scheme. As for consequences, they will be included in our assessment which will definitely take into account such factor as implications of the scheme.

DR YEUNG SUM (in Cantonese): *Mr President, just now the Secretary explained that if the Government goes ahead with the mandatory pension scheme, those who have retired before the scheme commences will not be covered. So the Administration thought up the Old Age Pension Scheme to cover those people aged 65. Will this decision of the Administration lead to incompatibility between old age pension and our retirement system? In other words, if the Administration can provide security to elderly people who have retired, will it also consider setting up another retirement protection scheme for the working population of some 2 million people, that is, in such a way that allows the two systems to exist side by side?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, of course the two are not incompatible. We do believe that the Old Age Pension Scheme can only provide a minimum income protection. Members of the public who want to make better arrangements for their retirement should make an effort themselves. Also we encourage firms and companies to provide retirement protection scheme for their staff. Only we do not believe that a centrally-run or mandatory saving scheme will be more effective than a privately-run or voluntary one. Therefore, we do not support the idea of providing retirement protection by way of mandatory saving schemes.

MR TAM YIU-CHUNG (in Cantonese): *Mr President, I would like to ask a question which is not hypothetical but about facts of the past. The Government has given five major reasons for not proceeding with the mandatory saving schemes but there is nothing new in them. The Governor in Council put*

forward this scheme in 1992, does it mean that it was not well thought out or that the Governor in Council had made a wrong decision then?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, the policy decision was taken after openly canvassing opinion and positively listening to the views from different quarters. What we put forward at the end of 1992 was only a policy proposal, not a policy decision. The policy proposal generated a lot of comments and responses from the public. We had an overall assessment of all these responses and opinions, and taking the sound advice, we formulated another scheme which we consider is better. I believe Members will also agree that this is what an open and liberal government should do.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, in response to Dr YEUNG Sum's question, the Secretary mentioned the five reasons for not introducing mandatory saving schemes which also are the rationale for not developing the two schemes side by side. But I understand that the provident fund scheme in the private sector also has to face with these five problems. Why then should you pass the problem to the private sector? You have already told us the deficiency of a private provident fund scheme, are there any contradictions between the two schemes? How then can you convince us that what you have said is true, and that the proposed scheme can protect employees who have retired or will retire?*

PRESIDENT: I would remind Members of Standing Orders that questions are to be addressed to the Chair.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, compulsory savings and retirement schemes that take into account the affordability of employers and employees are basically two different things. In the case of the former, I believe the Government at least has a moral responsibility, if not a legal one. When people contribute, whether under a centrally-run or other compulsory schemes, the return they expect should at least be not lower than the inflation rate. We believe a centrally-run scheme definitely cannot achieve this objective. Likewise, a privately-run scheme will also have a lot of problems, because there are different ways of running them, some are better ones while others are not. This we must admit is a fact. But the Old Age Pension Scheme we propose this time is one that is outside the privately-run and voluntary schemes, offering a minimum income protection to people. That is to say, even if members of the public incur losses in their investment or that eventually they are not happy with the size of pension, there is still a minimum safety net to protect them against the worst scenario of having no source of income after they retire, that is, it provides people with a minimum income protection.

Appointment of heads of departments

5. MR EDWARD HO asked: *With regard to the recent appointment of an Administrative Officer to be the Director of Buildings, will the Government inform this Council:*

- (a) *the rationale for not appointing a professional to head the department which deals mostly with professional matters; and*
- (b) *whether the appointment would affect the promotion prospects, and hence the morale, of the professional staff in that department?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, let me first put this matter into perspective by making it clear that the Director of Buildings is a new post resulting from the reorganization of the former Buildings and Lands Department whose last two substantive Directors were both Administrative Officers.

- (a) When it was decided to establish a new Buildings Department, procedures were set in train to identify who should be the first Director. The objective was to find the best candidate for the job. This person would need to possess all-round leadership qualities, well developed management skills, and considerable political acumen. It was also recognized that it would be desirable for the person selected to have a professional background. For this reason, we developed a clear preference to appoint a professional officer.

All eligible candidates in the Planning, Environment and Lands and Works groups of departments (including those in the Buildings Department) were then considered on this basis. In the event, however, no one was considered fully ready to take up the new post at this stage. It was accordingly decided that, as an interim solution, an experienced Administrative Officer should be posted to head the new department.

- (b) The appointment of an Administrative Officer should not affect the promotion prospects of the professional staff in the Buildings Department. As has been explained to senior professional staff in the department, these arrangements should be necessary only until such time as a suitable professional officer can be identified and groomed to take over.

MR EDWARD HO: *Mr President, according to the Buildings Ordinance, the Director of Buildings is the Building Authority who is the ultimate authority in the interpretation of the Buildings Regulations. If the Building Authority is not*

a professionally trained person, will his decision on interpretational matters be subject to legal challenge?

PRESIDENT: I think you will have to rephrase that question, Mr Edward HO. You are asking for an opinion. You are questioning the competence of a non-professional to head this department, whose function includes the interpretation of the Buildings Ordinance.

MR EDWARD HO: *Yes. And one of the reasons why I am questioning the rationale of appointing a non-professional to this particular post is that the post is the Building Authority.*

SECRETARY FOR THE CIVIL SERVICE: Mr President, the Building Authority, as I understand it, is an office. And as an office, it does not necessarily mean that the person who heads that department needs to interpret the Building Regulations or to perform the professional duties. Recalling my own experience, Mr President, as Director of Marine, I, too, was the Pilotage Authority and I do not know how to pilot a ship.

MR MOSES CHENG: *Thank you, Mr President. Will the Secretary inform this Council whether the current difficulty in promoting a professional officer indicates a serious flaw in that there is not an orderly succession plan in the Civil Service? If so, what measures is the Government taking to address the problem?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, given the expanding functions of the Government and the complexity of running such a sophisticated city as Hong Kong, the Civil Service is under pressure in finding the right leadership at the right time, and I think that is definitely a problem. But I would not necessarily subscribe to the word "serious". We do have succession planning for all departments and this is done with varying degrees of success. And I certainly accept that this would be a priority item for me as the new Secretary for the Civil Service.

MR LAU WAH-SUM: *Thank you, Mr President. According to the Secretary's reply, this is only an interim measure. May I ask how long this interim period will last? In other words, how much longer we have to wait before the Secretary will be able to find a suitable professional officer to fill the post?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, it is not wise at this stage to put a definitive time frame on the exercise.

MR STEVEN POON (in Cantonese): *Mr President, the Administration says in its reply that this is only an interim measure. Will the Secretary inform this Council if there is any plan to allow a serving professional officer to fill the post upon the retirement or resignation of the existing head of the department?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, one of the first tasks of the new Director of Buildings would be to consider and to review the succession planning in that department, in consultation with the Secretary for Planning, Environment and Lands, Secretary for Works and also myself. So I think action will be put in train to find a success or as soon as possible.

MRS MIRIAM LAU: *Mr President, will the Secretary please confirm whether the appointment of an Administrative Officer from outside the department was against the recommendation of the Selection Board whose members have a much closer knowledge of the capabilities of the candidates, and which has already made a selection of a potential candidate who is a professional officer? If so, was the final decision a political one that overrode other more pertinent criteria such as professional and administrative experience?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, I do not think it would be appropriate to go into the details of the operation of the Selection Board. The Selection Board is only one stage in the appointment process as a whole; it makes recommendations which may or may not be accepted. The result of that process is what I have just outlined. And I can assure Members that the appointment, as an interim measure, of an Administrative Officer, was not due to any political pressure but to the facts that I have just revealed.

DR CONRAD LAM (in Cantonese): *Mr President, the Secretary mentioned in his reply just now that a department head should have "considerable political acumen". Will the Administration elaborate what is "considerable political acumen"? Will it give an example?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, any intelligent observer of the proceedings in this Council and in its committees would understand and accept that the head of the department which has to deal with this Council will need to have that political acumen. *(Laughter)*

MR ANDREW WONG (in Cantonese): *Mr President, can the Secretary confirm that since the 1970s, all posts at directorate level and above are in fact "open directorate" posts? In other words, Administrative Officers can be appointed to take up these posts while some Administrative officer's posts can be filled by professional officers?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, an open directorate is what we aspire to, but have not been able to achieve. There has been cross-fertilization. And I think the distinguished predecessor to our current Financial Secretary was a professional officer.

MR PETER WONG: *Mr President, one of the reasons of turning the Buildings Ordinance Office into the Buildings Department was that it would help to motivate the professional staff in the department. Will the Secretary please inform this Council whether appointing a non-professional to head the department will negate one of those reasons?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, I have not had the benefit of being aware of the details of the review which led to the recommendations of the setting up of a separate Lands Department and a separate Buildings Department. But I am very sure that any such recommendations would not be solely based on the argument which the Honourable Member has just deduced.

MRS SELINA CHOW: *Mr President, would the Secretary inform this Council how many government departments which deal with technical and professional matters are now being headed by non-technical or non-professional personnel, and what is the time-scale that he is giving himself to try and remedy this undesirable situation?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, I do not have at my fingertips the answer to the first question. As I have said in my main reply, in appointing a head of department, we look at the best person for the job, and not just one single attribute. The second part of the question is based on an assumption that certain departments must be headed by a certain type of officer. I do not think that I have an answer to that particular question.

Airport railway

6. MR LEE WING-TAT asked (in Cantonese): *In relation to the Airport Railway, will the Government inform this Council:*

- (a) *whether the railway can still be completed by mid-1997;*
- (b) *whether there is already delay in the granting of some works contracts; if so, whether such delay will increase the costs of the railway;*
- (c) *whether consideration has been given to constructing the section of railway between Tsing Yi and Central first; if not, why not; and*
- (d) *lastly, what transport contingency plans will be implemented to cope with any delay in the completion of the airport railway?*

SECRETARY FOR TRANSPORT: Mr President,

- (a) The Airport Railway is a key component of the overall Airport Core Programme. It remains the Government's firm intention to complete this project to the maximum extent possible by mid-1997 in accordance with the Memorandum of Understanding concerning the construction of the New Airport. And indeed, to achieve the target date the Administration has repeatedly sought an early meeting of the Airport Committee to take this forward.

As has been indicated before, the delay in the award of the Central Reclamation contract means that it will not now be possible to complete the Hong Kong Central Station before mid-1998. But it remains our aim to have the section from Kowloon to Chek Lap Kok and Tung Chung of the Airport Railway completed and in operation by mid-1997.

- (b) The delay already experienced in the award of the Central Reclamation Contract has resulted in an increase in the money-of-the-day (MOD) cost estimate for the railway construction from \$33.5 billion to \$34 billion. Indications are that every six months' delay in reaching agreement would result in an extra \$2 billion in construction costs for the Airport Railway.

The Administration is taking every possible step in keeping with the MOU to ensure that works continue as far as possible. Papers have issued seeking Finance Committee approval the day after tomorrow, in addition to the \$4 billion (MOD) already approved, for a further \$328 million (MOD) for advance works to protect the railway

alignment, so as to minimize increase in costs for the project and avoid disruption to government ACP works along the railway route.

- (c) The Airport Railway will provide two services: a fast direct service to the airport; and a domestic service from Hong Kong Central to Tung Chung via Tsing Yi. We have indeed considered the option of constructing the Central-Tsing Yi section first. But the fact remains that this section alone would have a negative rate of return, since the bulk of passengers would be drawn from the existing Tsuen Wan line. As such the Mass Transit Railway Corporation would face tremendous difficulty in raising loans without agreement from the Chinese for the entire financial package. We therefore believe that the best way forward at this stage is still to reach an early agreement with the Chinese on the Airport Railway as a whole.
- (d) Our primary objective is to complete the Airport Railway to the maximum extent possible by mid-1997 and there are good prospects, provided agreement is reached soon, for the Kowloon to Chek Lap Kok section to be completed when the airport itself is ready for operation. However, should a delay occur, alternative arrangements would include the enhancement of bus and ferry services, and other traffic management measures, so as to meet passenger demand.

MR LEE WING-TAT (in Cantonese): *Mr President, the Secretary said in his reply that one year's delay in the construction of the Airport Railway would result in an increase in cost by \$4 billion. However, if we build the Tsing Yi-Central section first, our earnings will be \$0.7 billion less in the first year because we do not have passengers going to the airport. In other words, early construction can cut losses by \$3.3 billion. Why does the Administration still consider further delay will be more cost-effective than building the Tsing Yi-Central section first (and then the Tsing Yi-Airport section half a year later)? Does construction of the Airport Railway by sections mean that loans cannot be raised from outside?*

PRESIDENT: Secretary, have you got all the parts of the question?

SECRETARY FOR TRANSPORT: Thank you, Mr President. Mr President, as I have explained, the Airport Railway perhaps can best be described as having one set of tracks to provide two services. The first one is the Airport Express to provide a direct service to the Airport, and that is where Cash Flow will be generated from new passenger traffic. The Tsing Yi line, whilst it is an important line to relieve pressure down the Nathan Road Corridor, in itself is not economically viable. The Government remains convinced that the best and most pragmatic approach is to obtain early Chinese agreement for the Airport

and the Airport Railway, and it is not cost-effective to proceed with the Tsing Yi section in isolation.

PRESIDENT: Not answered, Mr LEE?

MR LEE WING-TAT: *The second part of my question.*

PRESIDENT: Yes, just repeat that please.

MR LEE WING-TAT (in Cantonese): *Mr President, the second part of my question is: If construction is by sections, does it mean that loans cannot be raised from outside?*

SECRETARY FOR TRANSPORT: Mr President, our assessment is that the Tsing Yi line has a negative rate of return and if there is a negative rate of return it would be very difficult to interest financiers. So, to answer Mr LEE's question, we believe that, for the Tsing Yi section alone, it would be very difficult for the MTRC to raise equity.

MR ALBERT CHAN (in Cantonese): *Mr President, the Executive Council has just passed the fourth financial package for the New Airport. In just one year or so, the Government has amended the airport financial package three times which gives the feeling that these proposals are not serious enough. If the Chinese side ultimately accepts the fourth financial package, will there be any implications for the financing of the New Airport Railway when it is implemented? And when completed, will there be any effects on the charges of the two services provided by the Airport Railway, that is, the Airport Express and the Lantau Line?*

SECRETARY FOR TRANSPORT: Mr President, I do not agree with Mr CHAN's comment that the earlier proposals put forward by the Administration were not carefully thought out. The fact remains, as the Financial Secretary has said, that we are trying our hardest to respond to Chinese concerns and we hope that this fourth package will address these concerns. Obviously, we look to the Chinese for early agreement, and once this is forthcoming, we believe that the MTRC, in particular, would be well placed to raise money for the Airport Railway. The MTRC has a first-class record in fund-raising and I think its creditworthiness is as good as any major corporation in the world. As regards future fares for the railway, it is far, far too early to assess them at this moment.

MR STEVEN POON (in Cantonese): *Mr President, it was reported that the Executive Council approved a new package yesterday which would see an injection of \$60 billion into the Airport and the Airport Railway project. This gives the Government much optimism about the prospect for the project. This definitely is the wish of my Liberal Party colleagues and mine too. Will the Administration inform this Council whether it has set a deadline after which if the Chinese side still fails to agree to this financial package, the Kowloon to Chek Lap Kok section cannot be completed by mid-1997? If yes, is the Chinese side informed of such a deadline, the date beyond which the Airport Railway cannot be completed by mid-1997?*

PRESIDENT: Mr POON, this question was drafted before yesterday's announcement. Some of your question goes beyond elucidation of the answer, but Secretary for Transport, do you have an answer?

SECRETARY FOR TRANSPORT: Mr President, I think some parts of the various supplementaries that the Honourable Member asked are hypothetical. I think as far as the Government is concerned, obviously, we are optimistic that the fourth package will bring a favourable positive response from the Chinese side. It will be put to the Chinese very soon and I think we have to await the outcome before we can take this further.

DR SAMUEL WONG: *Mr President, on the assumption that we are going ahead with the construction of the railway, will the Secretary for Transport consider taking some action to speed up the completion of the Hong Kong Central Station so that passengers from the Tsuen Wan line could change trains at Lai King in order to get to Hong Kong Central quickly?*

SECRETARY FOR TRANSPORT: Mr President, the Central Reclamation Project is, of course, one of the 10 major ACP Projects. Agreement for this particular item to proceed was obtained later than was anticipated and consequently, works commenced later. The current estimated completion date is mid-1998. However, the Honourable Samuel WONG's point is well made and appreciated and I am sure that the work agencies concerned will do their utmost to try to accelerate the completion date. I shall certainly take this up with the Secretary for Works.

MRS MIRIAM LAU: *Mr President, can the Secretary inform this Council, other than increases in construction costs, whether Hong Kong will suffer any economic loss as a result of delay in completion of the Airport Railway?*

SECRETARY FOR TRANSPORT: Mr President, obviously, the airport is very important for a variety of reasons in terms of, for instance, economic growth and freight. And if there is any delay there will be some adverse effect.

REV FUNG CHI-WOOD (in Cantonese): *Mr President, both the Mass Transit Railway and the road traffic in Nathan Road are very busy at the moment and we have no other alternative mode of transport to alleviate the situation. If the Airport Railway project continues to be delayed indefinitely, does the Administration have any plan to meet the traffic demand in this respect?*

SECRETARY FOR TRANSPORT: Mr President, I must say that, personally, I am very confident that the Airport Railway will be built, and I am optimistic that Chinese agreement will soon be forthcoming to allow us to proceed with all possible haste. Looking at it from another point of view, Route 3 and the Western Harbour Crossing project are well advanced and these should be completed by mid-1997. This will provide us with a dual three-lane carriageway and, in turn, allow us to provide fast bus shuttle services, for example, to deal with this particular problem.

Written answers to questions

Slope maintenance

7. MR ALFRED TSO asked (in Chinese): *During the heavy rain on 5 November 1993 there was flooding in Chi Lok Fa Yuen, Tuen Mun as a result of the silting of the stormwater drains by mud washed down from the slope adjacent to Alpine Garden. As the Owners' Corporation of Alpine Garden and Tuen Mun District Board had drawn the Government's attention to the maintenance problem of the slope on many occasions before the incident without receiving a definite reply, will the Government inform this Council:*

- (a) *whether any department has been assigned the responsibility of carrying out regular maintenance and preventive works for the slope which was built by the Government; if not, what are the reasons and who is responsible for the maintenance of the slope; and*
- (b) *whether the flooding in Chi Lok Fa Yuen was caused by the lack of maintenance of the slope; if so, who should be responsible for compensating the affected residents and for taking measures to prevent recurrence of similar incident in future?*

SECRETARY FOR WORKS: Mr President,

- (a) Under current arrangements, slopes formed by the Government falling within land allocated to or utilized by government departments, or affecting the government installations/offices will be maintained by relevant government departments. Slopes which are the responsibility of private lot owners will be maintained in accordance with the conditions for the sale of the lot. There is no regular maintenance programme for other slopes, including the slope adjacent to Alpine Garden, but urgent repairs, if found necessary, will be carried out by the Government. This arrangement is designed to ensure that government's resources for slope maintenance are deployed in the most cost effective manner possible. This arrangement is reviewed every few years and it is currently being reviewed in the light of the experienced gained.

It should be noted that the cut slopes behind Alpine Garden were inspected and their design reviewed after the flooding incident. The investigation confirmed that their overall stability is satisfactory and it does not pose a risk to life or property.

- (b) Due to the rainfall intensity and slippage of material obstructing flow along the waterworks catchwater which is at a higher level but not part of the formed slope above Alpine Garden, water was discharged by an overflow weir which is designed to protect the catchwater. Most of the water then flowed down a natural water course into drainage channels to the east of Alpine Garden. This water together with rainfall on the slope surface, was collected by drainage channels on the slope.

Partial blockage of the drainage channels on the slope resulted again in overflow leading to surface erosion of the face of the slope, silting of lower drainage systems and flooding of the Alpine Garden. Responding to the incident government departments undertook emergency clearance work. These works have continued so as to make good erosion of the slope face and the drainage channels.

A review of the drainage system in the light of the circumstances described above has shown the need for change and this will be accomplished by works starting in February for completion before the onset of the raining season.

The circumstances described were however exceptional, and the resulting flooding cannot be attributed solely to lack of maintenance.

Facilities for the physically disabled at the new airport terminal building

8. MR ERIC LI asked (in Chinese): *Will the Government inform this Council of the facilities to be incorporated in the design of the Chek Lap Kok new airport terminal building to facilitate usage by the physically disabled, including the low-visioned and the blind, just as other people can use airport facilities; and when organizations for the physically disabled will be consulted on the detailed design?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, the Provisional Airport Authority (PAA) has taken great care in planning the passenger terminal in order to ensure that disabled people find it as simple as possible to use. The design of the terminal takes account of the objectives outlined in the 1992 Hong Kong Government Green Paper on rehabilitation policies and services as well as the need for complying with recognized international standards and guidelines concerning facilities for the disabled. The PAA's policy has been to establish the requirements of the disabled at the earliest possible stage in the development of the new airport. All categories of disability are being considered in the planning process. These include provision for those with walking difficulties, the wheelchair-bound, the blind and partially sighted and the deaf and hard of hearing.

A wide range of features to accommodate the needs of the disabled has been incorporated in the design of the terminal. For instance, where level changes are unavoidable lifts and escalators will be provided. Ramps will be provided at the entrance to the terminal from the roadside kerb and the integrated ground transportation centre incorporating the airport railway platform. They will be equipped with handrails on both sides of their entire length. The quality of light in the building will be an aid to people with poor vision. Whenever possible, automatic doors will be used for main entrances and exits. The floors within the passenger terminal will be so designed as to minimize any risk of slipping. All building levels will be accessible by lifts. All lifts will be equipped with an automatic safety reopening device. All passenger lifts will be provided in a form that is suitable for use by wheelchairs. There will be raised buttons in the lift, together with visual and audible signals of the lifts' arrival and travel directions. The airport will allow wheelchair-bound passengers to use their own chair right up to the cabin door, though wheelchairs will of course be subject to screening by airport security. Steps or narrow passages will be avoided on passenger bridges connecting the aircraft to the terminal. Vehicles with mobile lifting devices for disabled passengers will also be available for aircraft which are parked on remote stands. Since any airport can be a challenging environment even with the most careful design, escort arrangements, from check-in to aircraft, will be provided, as at Kai Tak, by the airlines.

Information desks will be close to and visible from the building entrances, so that information and any necessary help can be provided early. Routes to information desk and check-in counters will be direct and clearly visible from the entrance. At least one section of an information desk or counter group will be of a height that people in wheelchairs can reach. A sufficient number of toilets for people with disabilities will be made available in the processing halls and gate areas. These designated toilets will be located adjacent to the general washroom facilities. Toilets for the disabled will be usable by members of either sex. There will be an adequate number of telephones suitable for wheelchair users. These telephones may also be equipped with hearing aids to help those who are hard of hearing.

Accessibility, in a broad sense, also relates to convenience in services like shops, restaurants, banks and post offices. Most of these will be on the same level as the passenger handling facilities so that they can be readily accessible to passengers with disabilities. Drinking fountains and vending machines will be accessible to wheelchair users. Seats with supportive back and armrests will be provided throughout public areas. Visual and audible fire warning alarm systems will be installed at strategic locations. All switches and controls will be easily detectable and of a height that people in wheelchairs can reach. Amenities that cater for passengers with disabilities will be marked with the international symbol of access. Public information signs will be clearly legible and strategically located to define the access routes through the terminal. There will be airport staff at the information desks who are trained to communicate with the disabled and help them. Other staff who are in contact with passengers will be given similar training. The PAA will also consider providing additional technical aids at the airport information desks; tactile maps indicating the terminal layout at public entrances and information desks; directional tactile signs at strategic locations; as well as induction loops for the hard of hearing in selected areas of the terminal.

In addition to taking into account the above requirements for the design of the terminal itself, the PAA is making similar provisions for the disabled in the design of public areas outside the terminal, including arrangements for access to transport facilities to and from the new airport.

In order to ensure that the needs of the disabled can be taken into account in planning the terminal facilities, the PAA has in recent months held a series of meetings with several of the societies representing the disabled in Hong Kong including the Hong Kong Society for the Blind, the Hong Kong Association of the Deaf and ReHab Aid. The PAA is also liaising with the Access and Transport Subcommittee under the Rehabilitation Development Co-ordinating Committee. These various meetings have proved very helpful to the PAA in planning the design of the terminal and liaison will continue as the planning process goes forward.

Degrees awarded in China and Taiwan

9. MR FREDERICK FUNG asked (in Chinese): *Will the Government inform this Council in the employment of civil servants:*

- (a) *whether consideration has been given to recognizing the academic degrees awarded by certain universities in China and Taiwan which are accredited by the governments of Britain and the United States, so that Hong Kong residents holding such degrees can be employed as recognized degree holders; if not, what are the reasons; and*
- (b) *apart from China and Taiwan, what are the other countries whose academic degrees awarded by their universities have not been recognized by Hong Kong despite accreditation by the Governments of Britain and the United States?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, for appointment to Hong Kong civil service posts which require a local degree for entry, the Government accepts degrees from overseas tertiary institutes if their standard is comparable to that of local degrees. Assessments are made on a case-by-case basis having regard to the standing of the institute, the content of the degree programme, as well as advice of the accreditation authority in the country of the institute in question.

We are not aware of any formal academic accreditation exercises undertaken by foreign governments in respect of courses leading to the award of degrees in China or in Taiwan. Even if such arrangements exist, it would still be necessary for the Government to assess these degrees individually, for the purpose of appointment to the Civil Service to ensure that their standard is comparable to that of local degrees.

Power supply for government computer systems

10. MR ROGER LUK asked: *Will the Administration advise this Council of the current policy on providing uninterrupted power supply systems for computer hardware installations at various government departments and public organizations (such as Housing Authority) and whether such policy has been fully implemented?*

SECRETARY FOR THE TREASURY: Mr President, the current policy is to provide uninterrupted power supply (UPS) systems for all computer hardware installations in government departments and public organizations which carry, or are expected to carry, critical software applications. The assessment of the criticality of the applications to be run on the hardware is made by the user

departments involved during the system development stage of a computer system. Guidelines have been established for all system designers to follow.

This policy is fully implemented in the Government, except in one case. The ITSD recently expanded its production bureau in Wan Chai Tower Government Offices. Certain critical applications of the expanded bureau are yet to be supported by UPS. However the necessary UPS equipment has been ordered and is expected to be delivered and installed in the next few months.

The Housing Authority currently relies on emergency generator power in case of a failure in the mains supply. This provides for restoration of power within a few minutes. However, as the Authority is now in the process of implementing an on-line system to housing estates, it is assessing the criticality of the system and the need for UPS.

Electronic autotoll system at Cross Harbour Tunnel

11. DR CONRAD LAM asked (in Chinese): *With regard to the electronic autotoll system that has been introduced at the Cross-Harbour Tunnel since August 1993, will the Government inform this Council:*

- (a) of the respective daily average number of vehicles using the autotoll lanes and the other toll lanes;*
- (b) how the approach lanes at the toll plaza are fairly allotted for use by vehicles which have been equipped with the autotoll device and those which have not; and*
- (c) whether the implementation of the autotoll system is intended to pave the way for the introduction of the Electronic Road Pricing Scheme?*

SECRETARY FOR TRANSPORT: Mr President,

- (a) In January this year, an average of 21 600 vehicles used the Cross Harbour Tunnel autotoll lanes each day while 104 400 vehicles used the other lanes.
- (b) Seven toll lanes are provided in each direction at the Cross Harbour Tunnel. For south or Hong Kong bound traffic, only the lane at the extreme left of the toll plaza is designated for autotoll use. For north or Kowloon bound traffic, there are two such lanes, one at either end of the toll plaza. Two autotoll lanes are necessary northbound because of the configuration of the road system at that end of the tunnel, and the need to avoid extensive lane changing by vehicles. Regular checks carried out by the Transport Department

have revealed that traffic queues in the non autotoll lanes are no worse than before autotoll was introduced. The present arrangements are working well.

- (c) The autotoll system has been implemented by the Cross Harbour Tunnel Company Limited on its own initiative as a cost effective means of collecting tunnel tolls. It is not in response to any government request and certainly has nothing to do with any electronic road pricing scheme. Indeed the latter is but one of many proposals that will be studied as a way in which to tackle the traffic congestion problem.

Rectification of design of public housing estates

12. MR FRED LI asked (in Chinese): *Will the Government inform this Council whether it is aware of any remedial measures to be taken by the Housing Authority to rectify a faulty design of the linear blocks of public housing estates which enables burglars to break in from kitchens easily?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, all windows of flats in linear blocks of public housing estates built by the Housing Authority are provided with anti-burglary bars. A movable anti-burglary grille cum drying rack, which can be padlocked, is installed on each balcony to provide a fire escape or rescue point as required by the Fire Services Department. It is for the tenants to ensure that the windows are shut and grilles locked when their flats are unattended.

As further measures to prevent burglars from climbing over external walls to gain access to adjacent flats, the Housing Department has erected anti-burglary grilles on the first floor and additional grille block walls in the lift lobby areas of linear blocks.

The Housing Department has also set up a Working Group to study the provision of security measures in existing estates, including linear blocks. The Working Group will complete its studies this summer.

Airspace of Hong Kong

13. DR HUANG CHEN-YA asked (in Chinese): *In view of the planned construction of several major airport projects within the Pearl River Delta area, will the Government inform this Council:*

- (a) *what measures will be taken to prevent accidents in Hong Kong's airspace arising from an excessive heavy volume of air traffic in these airports; and*

- (b) *whether negotiations will be made with the Guangdong Provincial Authority for the setting up of a joint air traffic control centre to co-ordinate the flight paths of aircraft landing on and taking off from these airports; if not, why not?*

SECRETARY FOR ECONOMIC SERVICES: Mr President,

- (a) The Administration is committed to maintaining the highest standards of safety in the management of Hong Kong's airspace. A number of measures are being implemented by the Director of Civil Aviation to ensure that Hong Kong's air traffic control systems are able to cope with the increasing volume of traffic landing and taking-off at Hong Kong's international airport and passing through Hong Kong's airspace en route to other destinations.

These measures include:

- the regular review and updating of operational procedures;
- upgrading of air navigational systems and equipment;
- enhancement of staffing standards and opportunities for staff development training for air traffic controllers.

As regards upgrading of equipment some \$245 million has been earmarked for the purchase of new air traffic control equipment during the period 1993 to 1995. As regards staffing, additional funds have been provided to the Director of Civil Aviation in the 1993-94 and 1994-95 Resource Allocation Exercises to enable him to recruit and train additional air traffic control staff both to cope with the increasing number of aircraft movements at Kai Tak and to prepare for the opening of the new airport at Chek Lap Kok.

- (b) The proximity of a number of existing and planned airports in the Pearl River Delta Region will necessitate increasingly careful co-ordination of airspace management. A joint air traffic control centre is one of several options which will be explored.

In the meantime, agreed procedures have already been established for Kai Tak and Shenzhen airports and there is direct communication between the two air traffic control centres. Regular meetings are also held between Hong Kong and Guangzhou air traffic control managers to enhance co-ordination.

In a recent development, an agreement to establish an air traffic control exchange training programme has been signed by the Director of Civil Aviation and representatives of the Civil Aviation

Administration of China on 1 February. This agreement will make an important contribution to promoting further cooperation and understanding, as well as exchange of technical expertise between air traffic control staff and aviation authorities in Hong Kong and China.

Judgement on the case of conspiracy to defraud Tin Tin Yat Pao

14. MR CHIM PUI-CHUNG asked (in Chinese): *In the court judgement delivered on 9 November 1993 in District Court Case No. 589 of 92, in which all defendants were acquitted of conspiracy to defraud Tin Tin Yat Pao (International) Limited, its shareholders and creditors, the judge criticized the prosecution's presentation of the case as being uncertain and unclear as to how the evidence called supported the charge.*

Will the Government inform this Council:

- (a) on what grounds was the Legal Department satisfied that the available evidence supported the charge;*
- (b) what was the decision-making process in Legal Department which led to the initiation of the prosecution;*
- (c) who finally made the decision, and what responsibility must he shoulder for any mistakes made;*
- (d) what are the results of the review, if any, conducted by the Legal Department including whether the same prosecutor was present throughout the trial; and*
- (e) what was the total cost of the trial in public money terms, including costs awarded to the defendants?*

ATTORNEY GENERAL: Mr President,

- (a) On the material that was available to my department, it was considered that there was sufficient admissible, substantial and reliable evidence to support the charges.
- (b) Following a police investigation, a decision to prosecute was made within my department in accordance with the principles set out in the booklet *Prosecution Policy: Guidance for Crown Counsel* published in December 1993.
- (c) The charges were laid by a Deputy Crown Prosecutor, following consultation with the Director of Public Prosecutions and me. The

fact that the case resulted in acquittals does not mean that mistakes were made either in the decision to prosecute or in the conduct of the prosecution.

- (d) The prosecution of this case was conducted by a senior and experienced counsel who was present throughout the trial. I see no reason to carry out a review of the case.
- (e) The cost of the prosecution, in terms of the staff cost of prosecuting counsel during the trial, was approximately \$565,000. The defence costs, which the Crown was ordered to pay, have not yet been agreed.

Complaints over medical services handled by the Consumer Council

15. MR MICHAEL HO asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the number of complaints received by the Consumer Council over the past three years in respect of services provided by doctors, dentists, practitioners of traditional Chinese medicine, chiropractors and veterinarians (please give a breakdown by each of the above categories);*
- (b) *of the methods used by the Consumer Council in handling such complaints; and*
- (c) *whether any of these complaints were not dealt with; if so, what were the number and the reasons involved?*

SECRETARY FOR TRADE AND INDUSTRY: Mr President,

- (a) The number of complaints received by the Consumer Council during the past three years in respect of services provided by the following groups of practitioners is as follows:

	<i>1991</i>	<i>1992</i>	<i>1993</i>
Doctors	24	31	29
Dentists	24	13	18
Practitioners of Traditional Chinese Medicine	5	5	2
Chiropractors	0	0	1
Veterinarians	1	2	3

- (b) Generally speaking, in handling these complaints, the Consumer Council would first request the party under complaint to provide an explanation. If in the light of the explanation the Consumer Council considers the complaint to be justified, the Council would take follow-up action on behalf of the complainant with a view to securing appropriate remedies.

For complaints involving professional conduct of doctors or dentists, the Consumer Council would normally refer the complaint to the relevant professional organizations, for example, the Medical Council and the Dental Council. For cases not involving complaints about professional conduct but on which expert opinion is required, the Council would consult the relevant bodies such as the Hong Kong Medical Association, the Dental Association and other Chinese herbal medicinal associations. Where appropriate, the Council would assist the complainants in seeking remedies.

- (c) The Council had dealt with all such complaints (including referral cases) which fell within its purview received in the past years.

Vegetable wholesale market in Yuen Long

16. DR TANG SIU-TONG asked (in Chinese): *The Hop Yick Road vegetable wholesale market in Yuen Long (commonly known as Tin Kwong Hui), starts business before daybreak every morning, causing much nuisance to the residents nearby. Though the Yuen Long District Lands Office agreed in mid-1992 to remove this market, its relocation has not yet taken place. Will the Government inform this Council:*

- (a) *what progress has been made with regard to the re-provision programme of this market;*
- (b) *when this market is expected to move out of its present site; and*
- (c) *whether there is any plan to provide a permanent site for this Tin Kwong Hui?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) The Tin Kwong Hui has been in operation for more than 10 years. It opens between 3 am and 6 am every morning. With rapid residential development in the vicinity in recent years, the market's operations have caused environmental and traffic problems. An inter-departmental working group, chaired by the District Officer (Yuen Long) and comprising representatives of the various

departments concerned, was established in 1987 to identify solutions to the problems and consider the relocation of the market.

A possible site for the temporary relocation of the market in Ma Tin Road was identified in 1992. Vegetable traders agreed in September 1992 to form an association to take up management responsibility for the site. However, the proposal to use the site was dropped in 1993 on the grounds that the market would adversely affect the operation of a civic centre to be built adjacent to the site.

An alternative temporary site in Tung Tau Industrial Estate, which is currently a playground managed by the Regional Services Department, has recently been identified as suitable for the relocation of the market. Consultations with the vegetable traders and nearby residents on the acceptability of the newly identified site will be carried out soon. The approval of the Regional Council to use the site temporarily will also be required.

- (b) Relocation of the market is subject to agreement being reached with the vegetable traders on the latest site, there being no serious objections from residents in the vicinity and the approval of the Regional Council. It is not possible at this stage to confirm the exact timing of the relocation.
- (c) A permanent site near the Yuen Long Light Rail Transit Terminus is reserved in the Yuen Long Outline Zoning Plan for a permanent vegetable wholesale market. However, implementation of the layout plan will require the resumption of private lost. The earliest possible completion date of the permanent market is the year 2000.

Refurbishment of Victoria House

17. MISS EMILY LAU asked: *It was recently revealed that the cost of refurbishing Victoria House will be around \$3 million. Will the Administration inform this Council the reason for the refurbishment and how the money will be spent?*

SECRETARY FOR THE TREASURY: Mr President, the estimated cost of the refurbishment work at the Chief Secretary's Official residence, Victoria House, is \$3.1 million.

This work is principally required for necessary maintenance which should have been carried out earlier, but which for the sake of convenience was deferred until there was a change of resident.

This involves the replacement of the air conditioning plant and ducting, upgrading and replacement of electrical works, the replacement of defective floor tiles and paving, the replacement of ceilings and defective wood panelling, the external and internal redecoration, as well as other minor works.

The Administration is satisfied that the refurbishment work is both necessary and reasonable.

Performance pledges

18. MR TIK CHI-YUEN asked (in Chinese): *Will the Government inform this Council of:*

- (a) the number and nature of complaints about non-fulfilment of performance pledges by Government departments over the past year, and whether this information is published periodically;*
- (b) any improvement measures taken by the department concerned in response to substantiated complaints; and*
- (c) the channels available to members of the public for seeking redress or compensation for the loss they have incurred?*

CHIEF SECRETARY: Mr President,

- (a) According to the complaint records of the 36 departments who have published pledges:
 - Ten departments have received a total of 62 complaints concerning their performance standards. The complaints were mainly about waiting time and response time to correspondence.
 - Twenty-six have not received such complaints.

Departments also receive complaints and suggestions on a wide range of topics, from staff attitudes to work processes.

We do not currently publish information on complaints. But such information would be made available to users committees monitoring matters covered by a department's pledge. Any trend of complaints provides departments with valuable management information as a guide to where services need to be improved as they review performance against their pledges each year.

- (b) Action is taken where possible to improve the delivery of service where complaints reveal shortcomings. Examples of such action are training schemes for front line staff, and provision of easier payment methods like autopay and payment by telephone.
- (c) Under the Performance Pledge programme, a member of the public is entitled to a full and prompt explanation from the department concerned if the standard of service provided to him does not meet the target set by the department. He may also write to the head of the department concerned if he thinks that his case has not been handled adequately.

Cases may also be referred to the Commissioner for Administrative Complaints to determine whether there has been any maladministration.

Pledges do not of course affect the legal rights of, and remedies available to, members of the public.

Airport facilities and services

19. MR TIMOTHY HA asked (in Chinese): *The facilities and services provided by the Hong Kong International Airport are deteriorating in standard and becoming increasingly inadequate, for example, the arrival and departure halls are already too small for the large number of users. Yet many people are using these areas as a resting place or study area. Washroom facilities are insufficient and inadequately cleaned and maintained and taxi service cannot meet the demand of airport users resulting in the malpractice of overcharging by some taxi drivers. Will the Government inform this Council:*

- (a) *which government advisory bodies are overseeing the provision of airport facilities and services;*
- (b) *whether these bodies have paid any attention to the above problems; whether the Government has taken any improvement measures in accordance with the advice of these bodies; if so, what these measures are; and if not, what are the reasons for not doing so; and*
- (c) *whether consideration has been given to privatizing more airport services for the sake of improvement; if not, what the rationale is for not making such a move?*

SECRETARY FOR ECONOMIC SERVICES: Mr President,

- (a) The Airport General Manager is assisted in the day to day management and oversight of services at the airport by the Airport

Facilitation Committee which includes representatives from the airlines, the commercial organizations providing services in the passenger terminal, the Hong Kong Tourist Association and officials from the Customs and Immigration Departments. The Committee acts promptly on suggestions and complaints received from members of the public and other airport users and improvements to service standards and facilities are implemented, wherever possible.

The Aviation Advisory Board, which is chaired by the Director of Civil Aviation, also takes a close interest in the facilities and standards of service at the airport. Membership of the Board includes representatives from the aviation and tourism industries as well as the general community. It advises on all aviation policy matters including plans for further improvement or expansion of facilities.

- (b) Recognizing that facilities at the Hong Kong International Airport would come under increasing pressure as it reaches its design capacity of 24 million passengers per annum, the Government has undertaken a major programme of expansion and improvement to facilities at Kai Tak. Since 1988 nearly \$3 billion has been spent on refurbishment of the airport terminal, extensions to the airport apron and aircraft parking bays, roadworks to improve traffic flow into and out of the airport and enlargement of bus and taxi boarding areas.

During 1994 there will be further improvements to the terminal approach roads and road traffic circulation. Work will also be carried out to provide for a substantial increase in size of the airside departure lounges.

- (c) Every attempt has been made to maximize the opportunities for privatization of airport services. For example, cargo and baggage handling services are provided by Hong Kong Air Cargo Terminal Limited (HACTL) and Hong Kong Air Terminal Services (HATS) respectively under franchise agreements. The airport carparks are managed by Wilson Carparks under a management agreement, while airport cleaning is contracted out to commercial cleaning companies. All catering is provided by quality, experienced restaurateurs and the retail shops and duty free concessions in the passenger terminal are all let on a fully commercial basis.

Use of Chinese in the teaching and practice of law

20. MR SIMON IP asked: *Apart from the Law Translation Scheme and the formation of Working Groups to consider the promotion of bilingualism in the Courts, will the Government inform this Council whether it has any long-term*

comprehensive policy to promote the greater use of Chinese in the teaching and practice of law and if so, what resources will the Government commit to ensure its early implementation?

ATTORNEY GENERAL: Mr President, the Administration considers that the best way it can promote the greater use of Chinese in the teaching and practice of law is by completing its bilingual laws programme as soon as possible and by supporting studies by two working parties established by the Judiciary. Those working parties are considering not only the promotion of bilingualism in the courts but also the promotion of the greater use of Chinese in the law generally.

Both the bilingual laws programme and the studies of the working parties will have significant ramifications. As more and more of our legislation becomes bilingual, authentic Chinese equivalents of English legal expressions will emerge, and this will facilitate the greater use of Chinese in the teaching and practice of law. Similarly, the recommendations of the two working parties are likely to have significant implications for those who teach and practise law.

First Reading of Bills

LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES) (AMENDMENT) BILL 1994

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 1994

COPYRIGHT (AMENDMENT) BILL 1994

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

Second Reading of Bills

LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES) (AMENDMENT) BILL 1994

THE CHIEF SECRETARY moved the Second Reading of: "A Bill to amend the Legislative Council (Powers and Privileges) Ordinance."

She said: Mr President, I move that the Legislative Council (Powers and Privileges) (Amendment) Bill 1994 be read a Second time.

The Bill seeks mainly to extend the immunities and privileges enjoyed by Legislative Council Members to the Governor and designated public officers,

currently all Branch Secretaries, when they attend sittings of the Council and its committees.

The Legislative Council (Powers and Privileges) Ordinance provides Legislative Council Members with immunities and privileges to assist them in carrying out their parliamentary duties. These include the immunity from civil or criminal proceedings for words spoken before, or written in a report to, the Council or a committee; immunity from arrest for any civil debt whilst going to, attending or returning from a sitting of the Council or a committee and for any criminal offence whilst attending at a sitting of the Council or a committee.

The Governor and Branch Secretaries used to enjoy such immunities when they were Legislative Council Members. Although they are no longer Members of Legislative Council, they still need to attend sittings of the Council and its committees to transact government business. Therefore, we consider it appropriate to extend the above immunities and privileges to them when they attend the sittings of the Council and its committees.

Another purpose of the Bill is to cover proceedings of Legislative Council panels and subcommittees under the Ordinance. As a result of amendments to the Legislative Council Standing Orders on 13 October 1993, Legislative Council panels and subcommittees are now formal committees. It is only logical that the Ordinance should be amended to cover their proceedings as well.

The opportunity is also being taken to amend the definition of the "precincts of the Chamber". The existing definition only refers to the hours while the Council or a committee is sitting. This makes it difficult for the staff of the Legislative Council Secretariat to carry out security control of the Legislative Council premises outside those hours on days when Legislative Council business is transacted. To enable better management of the Legislative Council premises, we propose to amend the definition of the "precincts of the Chamber" to refer to the day when there are sittings of the Council or its committees.

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

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BIL 1994

THE SECRETARY FOR HOME AFFAIRS moved the Second Reading of: "A Bill to amend the Public Health And Municipal Services Ordinance."

He said: Mr President, I move that the Public Health and Municipal Services (Amendment) Bill 1994 be read a Second time.

The Commonwealth War Graves Commission maintains independently in Hong Kong two war cemeteries, namely the Sai Wan War Cemetery and the

Stanley Military Cemetery. The sites for the two cemeteries were made available to the Commission by two Deeds of Appropriation in 1953 and 1957 respectively. Subject to certain terms and conditions, the Deeds provide for the exclusive and continued use of the land as war cemeteries under the control of the Commission. The Director of Urban Services has acted as the Commission's agent since 1954 in respect of the day-to-day administrative matters concerning these two cemeteries.

All cemeteries in Hong Kong, whether public or private, are regulated by and controlled under the Public Health and Municipal Services Ordinance and its subsidiary legislation. Little distinction is made between the powers of the authorities in respect of public cemeteries and those of the Commission in respect of its cemeteries. However, in practice, there has never been any interference with the Commission's independent operation. All essential operational and management functions relating to the running of the two cemeteries in question are determined by the Commission. The amendment bill before Members is intended to give legislative effect to this established practice.

The Bill vests the general management and control of the two Commonwealth War Graves Commission cemeteries in the Commission by a new section 115(1A) in clause 5(b).

Clause 4 provides that consultation with the Commission is required for the withdrawal of plans of the Commonwealth War Graves Commission cemeteries and the drawing up of new plans or amended plans.

Clause 6 of the Bill makes it clear that no order shall be made to remove or dispose of any human remains, urns or other receptacle from or within any Commonwealth War Graves Commission cemetery unless the removal or disposal is in the opinion of the Governor in Council necessary in the public interest. Six months' notice of intention to make such an order must be given in writing to the Commission.

Clauses 7 and 9 provide that under other circumstances, the consent of the Commission has to be obtained before any human remains may be buried in a Commonwealth War Graves Commission cemetery by the relevant authority.

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

COPYRIGHT (AMENDMENT) BILL 1994

THE SECRETARY FOR RECREATION AND CULTURE moved the Second Reading of:
"A Bill to amend the Copyright Ordinance."

He said: Mr President, I move that the Copyright (Amendment) Bill 1994 be read a Second time.

The primary objective of this Bill is to provide copyright protection for the subscription television service which was launched by Wharf Cable Limited on 31 October 1993. The Bill has been designed as an interim measure to give Wharf Cable Limited the necessary copyright protection, pending the enactment of an omnibus copyright legislation.

In order not to pre-empt the outcome of the comprehensive copyright reform exercise being undertaken separately under the aegis of the Secretary for Trade and Industry, this Bill is intended to introduce a regime following closely what was introduced in the United Kingdom by the Cable and Broadcasting Act 1984, making necessary amendments only where they are required to suit the special circumstances of Hong Kong. The Bill would achieve largely the same purpose as would have been accomplished if the 1984 Act were to be extended to Hong Kong by an Order in the Privy Council as originally envisaged.

I wish to emphasize that this Bill will not affect the final shape of the omnibus localized copyright legislation intended to be introduced into this Council in due course by the Secretary for Trade and Industry.

The Bill incorporates into Hong Kong copyright law provisions of the 1984 Act concerning copyright in cable programmes, inclusion of copyright works in cable programmes, the right of cable operators to simultaneously retransmit copyright works (including broadcasts) in their services, and minor and consequential amendments to the Copyright Ordinance. I would like to speak briefly on the main provisions of the Bill.

Clause 3 repeals section 4 (transmission of authorized broadcasts by a diffusion service) of the Copyright Ordinance. The re-transmission exception in the repealed provision is re-enacted in a modified form under item 18 of Schedule 2 to the Ordinance.

Clauses 2 and 4 are operating provisions which introduce, via a new schedule 2 to the Ordinance, copyright protection for cable programmes in Hong Kong.

Items 10 and 18 of schedule 2 set out the five sets of circumstances under which the cable operators, for broadcasting and telecommunication reasons, can receive and simultaneously re-transmit broadcasts without infringing the copyright of these broadcasts.

Item 13 of schedule 2 is the main provision which introduces copyright protection for cable programmes provided by a qualified person in Hong Kong. The duration of copyright protection is 50 years from the inclusion of a cable programme in a cable programme service. The cable programme service provider has the right to restrict unauthorized reproduction, unauthorized performance in public, unauthorized broadcasting and unauthorized inclusion in another cable programme service. "Cable programme service" is defined to

include a cable programme service transmitted by a distribution system which has a multi-point microwave distribution system as a component.

Other than providing copyright protection for Wharf Cable's programmes, the Bill will protect the interests of television viewers in that the existing rights of non-subscribers to Wharf Cable's service will be preserved. In other words, these non-subscribers may continue to receive TVB, ATV and satellite broadcasts through communal aerial broadcast distribution or satellite master antenna television systems, or broadcast relay services currently operated by Rediffusion (Hong Kong) Limited. The Bill will also provide consumer convenience to Wharf Cable's subscribers so that they may select TVB/ATV and Wharf Cable programmes from a single decoder and therefore there is no need for duplicate entry cables into their homes.

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

HONG KONG SPORTS DEVELOPMENT BOARD (AMENDMENT) BILL 1993

Resumption of debate on Second Reading which was moved on 26 May 1993

Question on Second Reading proposed.

MR JIMMY MCGREGOR: Mr President, the objective of the Bill before us is to create a single statutory body with overall responsibility for the promotion and development of sports in Hong Kong. This will be achieved through an integration of the Hong Kong Sports Development Board and the Hong Kong Sports Institute.

There is little dispute about the objective of the Bill, even from those who have made representations to the Bills Committee. Other concerns have however been expressed to us, such as the need for prior consultation on issues affecting the sporting community, the organizational structure of the Board and its relationship with other organizations involved in sports development, also the question of the localization of the Board's management staff. These concerns have been reflected to the Administration or to representatives of the Board and the Institute.

Members have been assured that with the proposed integration, the Institute's separate image and identity will be recognized and maintained. The Bill provides for the establishment of a separate Management Committee for the management and control of the Institute, and the Chairman will be appointed directly by the Governor. Subject to broad policy parameters laid down by the Board, the autonomy of the Institute in its day to day management will be maintained, with responsibility for the development of programmes for elite athletes and coaches.

Members have also been advised that there will be no change in the working relationship of the Board with sports organizations and the Amateur Sports Federation and Olympic Committee of Hong Kong. The latter will continue to decide on Hong Kong's participation in overseas competition, and select potential team members for training at the Institute.

On the suggestion of introducing elected representatives from sports bodies on the Board, the Administration has informed the Bills Committee of the practical difficulty involved, and will no doubt explain once again today its stand on the issue. Members have nevertheless received the Administration's assurance that it will adhere to the principle of ensuring representation of different interests of the sporting fraternity on the Board. Members are of the view there should be no lack of communication between Board members and the "constituents" that they represent. The Administration has been urged to take an active interest in the dissemination of information based upon which the sports community can be properly consulted.

Concerns have also been expressed about the possible overlapping of responsibilities between the municipal councils and the Board, and that the communication between them should be strengthened. The Bills Committee considers that this issue, together with other general issues, merits further discussion by the Recreation and Culture Panel of this Council.

As for the specific provisions in the Bill, the Bills Committee has paid particular attention to the land development power of the Board. Members are adamant that there should be sufficient restrictions to preserve the land available for sports purposes. The Administration has explained that there are existing mechanisms to ensure that the Board acts sensibly and prudently while embarking on any form of land development. Besides, the Board cannot legally go beyond the purposes as specified in section 4 of the Ordinance. Nevertheless, in the light of Members' concern, the Administration has agreed to move amendments to further reinforce the checks and balances available.

On the provisions regarding the establishment of a Committee of Trustees to administer the Institute, Members have suggested that at least two of the trustees should be non-Board members, and that the size of the Committee and the quorum should be correspondingly adjusted. Appropriate amendments will be moved by the Administration at the Committee stage.

Mr President, the Bills Committee is grateful to the organizations and individuals who have put forth their views on the Bill and to the Administration for their co-operation throughout. May I therefore take the opportunity today to express my warm appreciation of their efforts. I am also pleased to acknowledge the very great interest shown by all the members of the Bills Committee and their contribution to meaningful consideration of the Bill. We will also be guided by our most efficient convener Christine LOH.

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

MRS ELSIE TU: Mr President, first, I wish to declare my interest as a member of the Urban Council.

In the course of our deliberations on this Bill, it became clear that although most of those involved in sports were happy that the SDB had been set up for the further development of sports, there were many serious reservations. The amendments proposed may dispel some but not all of the fears expressed.

The amendments require that changes in the use of property will require the approval of the Financial Secretary and land will be used for the purpose for which the Crown lease was granted and be subject to the terms of the lease.

There was considerable criticism by various sports organizations that their views had not been sought and that they feared the SDB was taking over their work. Those fears have probably not been entirely removed by the amendments, and the SDB should make every effort to ensure that consultation between the Board and the organizations is improved. To that end, an amendment was made to require that two of the Trustees must not be members of the SDB. However, this amendment does not remove the doubts of the local sports associations who propose that the two additional Trustees should be appointed by agreement with the ASF&OC.

Local sports associations and the municipal councils have worked long and hard to build up interest in sports in the community, and their efforts should be encouraged and enhanced, but should not be usurped by the SDB.

My functional constituency, the Urban Council, is among those concerned that the relationship with the SDB should be complementary and not in competition, and that the Council should continue to operate at the grassroots level while the SDB should concentrate on the pursuit of excellence.

Before closing, I feel that I must emphasize that there is a strong desire for the localization of the upper ranks of the SDB. This desire is not to be regarded as racism. It is the natural desire by local people who have for so long had to play second fiddle in all centres of activity and government in Hong Kong. The local people will never be able to take the lead so long as they are deprived of the experience to lead. Language is the most important means of communication, so the job of leadership should be left to those who speak Chinese or to those who are bi-lingual.

Mr President, I trust that all these points will be addressed during the implementation of the Bill.

And with these words, I support the Bill.

MR CHIM PUI-CHUNG (in Cantonese) Like the Honourable Members who spoke just now, I am also a member of the Bills Committee set up to study this Bill which aims at integrating the Hong Kong Sports Development Board and the Hong Kong Sports Institute. This is quite a well-Intentioned proposal. However, "integrating" may not be the right word. Rather, I regard it as "taking over". Having said that, I must say that, the proposal is practical and sensible.

As far as I understand, every year the Government allocates huge funds to the Sports Development Board for the purpose of training top athletes. In addition, the Government encourages athletes, by way of sponsorship, to participate in international events. As a matter of fact, their performance would, to a certain extent, determine the territory's status in the international sports scene. However, at the moment selection of athletes to represent Hong Kong in overseas competitions lies entirely with the Amateur Sports Federation and Olympic Committee of Hong Kong. I have not the slightest intention to be critical of the body — some of its members enjoy life membership — which is recognized by the International Olympic Committee. However, I demand that with the integration of the Hong Kong Sports Development Board and the Hong Kong Sports Institute in an effort to pool resources in the sports sector, the Government should also vest the new body with the power to select athletes to take part in international competitions. In other words, there should be co-ordination and exchange of idea between the Amateur Sports Federation and Olympic Committee of Hong Kong and the sports Development Board in the training and selection of athletes for participation in competitions. Furthermore, rules and regulations governing the selection of athletes to participate in international events should also be formulated with a view to mitigating any possible discontent about this among those in the sports sector. Incidentally, some members of the Amateur Sports Federation and Olympic Committee of Hong Kong have served in that body for quite a long time. Times have changed; we must adapt to new trends and make changes accordingly.

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

SECRETARY FOR RECREATION AND CULTURE: Mr President, may I first thank Miss Christine LOH for chairing the Bills Committee and members of that Committee for their careful examination of the issues arising from the Bill. I am also grateful to Mr McGREGOR, Mrs Elsie TU and Mr CHIM for their valuable comments this afternoon.

The Bill has given rise to considerable interest, not only in its rationale but also its effects. Mr President, the primary purpose of the Bill is to merge the Hong Kong Sports Development Board (SDB) and the Hong Kong Sports Institute so as to provide an efficient and cost-effective machinery for the development of sports in Hong Kong.

The Bills Committee earlier expressed concern that the merger might compromise the autonomy of the Hong Kong Sports Institute. I would like to assure Members that the separate image and identity of the Hong Kong Sports Institute will be preserved. The Hong Kong Sports Institute will be managed by the SDB through a Management Committee formed specifically for the purpose. The Chairman of this Management Committee is appointed by the Governor. Its members can be drawn from both within and outside the SDB. The Institute will be able to operate independently within the overall policy parameters laid down by the SDB. It will continue to work closely with the Amateur Sports Federation and Olympic Committee of Hong Kong, as well as the national sports associations, in the pursuit of excellence in sports.

In response to the unease expressed by some members of the sports community, I should mention that the intended merger notwithstanding, the important role of the Amateur Sports Federation and Olympic Committee and national sports associations as the sole representatives of Hong Kong sports in the international arena will be upheld. We have no intention whatsoever of undermining their role in this respect. Their continued independence will not be affected.

Concern has also been expressed that there should be minimum overlapping of activities between the SDB and the two municipal councils. This concern is understandable. Again, I can assure Members that the work of the SDB will complement rather than infringe or duplicate the functions of the municipal councils. The municipal councils will continue to be responsible for the promotion of sports and recreation at the grassroots level, and for the provision and management of facilities in their respective regions. This said, I will ask the SDB to liaise closely with the municipal councils with a view to, among other things, further streamlining their division of responsibilities, where appropriate. With such closer liaison, I am confident that better communication and co-operation will ensure.

Another matter brought up during examination by the Bills Committee was the representativeness of the SDB membership. In deciding the Board's membership, it has always been our policy to have a good mix of people representing a wide cross-section of the sports community. We intend to follow this policy when considering future appointments. We do not, therefore, consider it necessary to introduce an elected element into the Board. In any event, the present organization of the sports community does not lend itself readily to the drawing up of a satisfactory electorate.

The Bills Committee has suggested that the SDB should be subjected to checks and balances in developing, or disposing of, its land. Mr President, adequate measures actually exist to ensure that any land development is undertaken with prudence. Specifically, any development proposal having policy implications will need to be cleared with the Executive Council in the first instance. The Town Planning Board and the Lands Department will then need to be consulted on any intended change in the land use and modification of

the lease. However, to address Members' concerns, I shall be moving an amendment at the Committee stage whereby any development proposal which will involve the sale or disposal of any immovable property the SDB holds, or any charging of its property as security for the repayment of loans for capital expenditure, or the development or redevelopment of the property so charged, will require the approval of the Financial Secretary. Development must also be in accordance with the purpose for which the Crown lease is granted. I am confident that these measures will ensure that on the one hand the interests of sports are not lost sight of, and on the other the SDB has the necessary flexibility to work out the best option possible.

There is also a proposal by Members that the size of the Committee of Trustees should be expanded to include two non-SDB members. This is to allow for greater impartiality in the investment and application of the Hong Kong Sports Institute Trust Fund, set up with a generous endowment by the Royal Hong Kong Jockey Club. I endorse this proposal. At the Committee Stage, I shall be moving an amendment to reflect this suggestion. In making appointments of the trustees, I am sure the SDB will take into consideration the views expressed today by Mrs TU.

Finally, we have discussed with the Bills Committee a number of issues not directly related to the detailed provisions of the Bill. These include the appropriateness of the existing Chinese title of the SDB, the need to provide for an effective communication channel between the SDB and relevant bodies and the question of localization of senior SDB staff. These issues will be further addressed by the Administration in conjunction with the SDB and the Legislative Council Recreation and Culture Panel, as appropriate.

With these remarks, Mr President, I recommend the Bill to Members.

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

Bill read the Second time.

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

Committee stage of Bill

Council went into Committee.

HONG KONG SPORTS DEVELOPMENT BOARD (AMENDMENT) BILL 1993

Clauses 1 to 5, 8 and 9 were agreed to.

Clauses 6 and 7

SECRETARY FOR RECREATION AND CULTURE: Mr Chairman, I move that clauses 6 and 7 be amended as set out in the paper circulated to Members.

Clause 6 is amended to allay the concern that land granted for sports purposes may be developed for other purposes to the detriment of sports development. With the proposed amendments, if the SDB wishes to develop or dispose of any land it holds, and if the development involves the sale or disposal of any immovable property, the approval of the Financial Secretary must be obtained. The proposed amendments also state more clearly that the Sports Development Board may only develop any land it holds for the purpose for which the Crown lease is granted, subject to the terms and conditions of the Crown lease.

Clause 7 is amended to specify that the Committee of Trustees for the administration of the Hong Kong Sports Institute Trust Fund will consist of seven to five members instead of three to five members and that at least two of the members will come from outside the SDB. The quorum for meetings of the Committee will be correspondingly increased from two to three trustees. This will provide for greater impartiality in the application and investment of the Trust Fund.

Mr Chairman, I beg to move.

Proposed amendments

Clause 6

That clause 6(1) be amended —

- (a) by deleting paragraph (a).
- (b) in paragraph (e), by deleting "and" at the end.
- (c) by adding -
 - "(ea)in paragraph (j) -
 - (i) by repealing "or immovable property"; and
 - (ii) by repealing "such" and substituting "movable";

(eb) by adding -

"(ja) acquire, take on lease, purchase, hold and enjoy immovable property and lease or, with the approval of the Financial Secretary, sell or otherwise dispose of immovable property;" and".

That clause 6(2) be amended —

- (a) in the proposed section 5(3), by deleting "any purpose" and substituting "the purpose for which the Crown lease is granted, subject to the terms and conditions of the Crown lease,".
- (b) by deleting the proposed section 5(4).

Clause 7

That clause 7 be amended, in the proposed section 5H —

- (a) in subsection (2) -
 - (i) by deleting "3 or more than 5" and substituting "5 or more than 7";
 - (ii) by adding before paragraph (a) -
 - "(aa) not less than 2 shall not be members of the Board;"
- (b) in subsection (6), by deleting "2" and substituting "3".

Question on the amendments proposed, put and agreed to.

Question on clauses 6 and 7, as amended, proposed, put and agreed to.

New clause 7A Power to borrow

Clause read the First time and ordered to be set down for Second Reading pursuant to Standing Order 46(6).

SECRETARY FOR RECREATION AND CULTURE: Mr Chairman, I move that new clause 7A as set out in the paper circulated to Members be read the Second time.

The proposed new clause provides an additional check on development proposals to be undertaken by the Sports Development Board; the Financial Secretary's approval will be required in case the Board wishes to charge all or a part of its property as security for the repayment of loans for capital expenditure, or the development or redevelopment of the property so charged. This is in line with the rationale for the proposed amendments to clause 6.

Mr Chairman, I beg to move.

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

Clause read the Second time.

SECRETARY FOR RECREATION AND CULTURE: I move that new clause 7A be added to the Bill, Mr Chairman.

Proposed addition

New clause 7A

That the Bill be amended, by adding —

"7A. Power to borrow

Section 7 is amended by adding -

"(3) The Board may with the consent of the Financial Secretary, but not otherwise charge all or a part of its property as security -

- (a) for the repayment of money borrowed under subsection (1);
or
- (b) for the development or redevelopment of the property charged."."

Question on the addition of the new clause proposed, put and agreed to.

Council then resumed.

Third Reading of Bill

THE ATTORNEY GENERAL reported that the

HONG KONG SPORTS DEVELOPMENT BOARD (AMENDMENT) BILL 1993

had passed through Committee with amendments. He moved the Third Reading of the Bill.

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

Bill read the Third time and passed.

Members' motions

PRESIDENT: I have accepted the recommendations of the House Committee as to time limits on speeches for the motion debates and Members were informed by circular on 28 January. The mover of the motion will have 15 minutes for his speech including his reply; other Members will have seven minutes for their speeches. Under Standing Order 27A, I am required to direct any Member speaking in excess of the specified time to discontinue his speech.

COMPREHENSIVE SOCIAL SECURITY ASSISTANCE

MR WONG WAI-YIN moved the following motion:

"That in view of the robust financial position of the Government in recent years, this Council urges the Government to actively consider raising, with effect from the next financial year, the existing standard rate for a single person under the Comprehensive Social Security Assistance Scheme to an amount equivalent to 30% of the median wage, so as to improve the quality of the recipients' basic livelihood."

MR WONG WAI-YIN (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper, that is, "That in view of the robust financial position of the Government in recent years, this Council urges the Government to actively consider raising, with effect from the next financial year, the existing standard rate for a single person under the Comprehensive Social Security Assistance Scheme to an amount equivalent to 30% of the median wage, so as to improve the quality of the recipients' basic livelihood."

Mr President, I move the above motion in view of the widening gap between the haves and the have-nots. The income of the public has been generally on the rise with the economic prosperity of Hong Kong in recent years. This is evident in the Administration's budget surpluses which accumulated to tens of billions of dollars over the past few years. This year's budget was supposed to be a deficit one, but it appears we shall have surplus all the same. Unfortunately, behind this rosy picture of prosperity there is a group of people in the community who are continually living in poverty, helplessness, loneliness and distress; they are recipients of Comprehensive Social Security Assistance (CSSA) struggling for survival below the poverty line!

In July last year, the Governor, Mr PATTEN, revised the Public Assistance Scheme to become the "Comprehensive Social Security Assistance Scheme" and raised the standard rate by 15%. But the so-called 15% increase of the standard rate is in fact a mere increase of \$135, or \$4.5 a day. What could an adult do with the extra \$135 a month, for an extra piece of garment or for private medical consultation for sudden sickness?

According to the statistics provided by the Census and Statistics Department, the current year's median wage stands at approximately \$7,000, but an able-bodied adult will receive only \$1,035 as CSSA. Hence the living standards of an average worker and a CSSA recipient differ by more than poles apart. With a little more than \$1,000, one has to pinch and scrape to meet the expenses on food, not to mention the daily travelling expenses. Should one fall ill suddenly and is unable to make it to the public hospital, then there is the medical expenses to meet. Hence a copy of newspapers or a haircut is entirely out of the question. Can we call such kind of a living human in a community as prosperous as Hong Kong?

In his second policy address, the Governor mentioned quite a lot about the financial, medical and housing problems confronting the elderly people. He also made a number of proposals and set up a working group to study a "policy for the elderly people". But considering the CSSA pittance elderly people are receiving, it is not any where near "A Secure Old Age, A Protected Old Age" as described in the policy address.

Recipients of CSSA are now mostly elderly single people who live alone, and many of them are lonely and "in crippling discomforts" and have no one to depend on. How heart breaking and compassionable they are! Whenever they fall ill, they have to queue up at public hospitals for outpatient treatment early in the morning. But if the illness is acute or if they fail to get a chip for treatment, then they have to resort to private medical practitioners! It costs something over \$100 for a single consultation. How many private consultations can an elderly person make with only \$1,550 a month? Sometimes they have to scrimp and save in food to make it. Under these circumstances, these elderly recipients of CSSA have to "take a meal for several meals", or reheat food that have gone bad and rotten. Such are what I have experienced in my 10 years of service for the elderly. Sometimes these elderly people have to scavenge the streets to bring in whatever little more money when they are out of it. How sad it is to bear and learn of it!

According to statistics, an average of over 200 elderly persons commit suicide every year. This is a very alarming figure which maintains steadily from year to year. Most of the causes for suicide are being weary of their miserable lives, or being weary of sufferings from chronic illness. If this affluent community of ours can give better care and move benefits to these elderly people of the lower class and who are living below the poverty line, so that their livelihood is protected, I believe these elderly people will live much happier.

Recipient families of CSSA, especially single-parent families, have to rely on a meagre sum of CSSA to make a living. Very often, they cannot make both ends meet. Should they have worked and be found out by the Social Welfare Department, then there would be the "prosecution, apprehension and deduction". As a result they have to resort to borrowing. However, very often the friends of these CSSA recipient families dread to come upon them. Life is badly off, and especially so when children are going to school and expenses are great. The children's needs are generally not met by the family. Therefore, it is not uncommon that children of single-parent families receiving CSSA are emotionally unstable or anti-social in behaviour. Later on, another Member from the Meeting Point, Mr TIK Chi-Yuen, will elaborate on the problems confronting single-parent families, young children and the disabled.

In fact, we would find out the living standards of CSSA recipients, if we look at the CSSA rate as a portion of the median wage. During the 1970s, the standard rate of Public Assistance (PA) disbursement was 25.9% of the median wage. But since then this ratio has been on the fall. At present, the new CSSA rate is only 14.7% of the median wage, which shows that the living standards of CSSA recipients are lower than that of PA recipients in the 1970s! This kind of irrational reduction in benefit, which has made the CSSA recipients "even poorer", indeed contravenes the objective of providing PA.

Hong Kong's economy has been booming by leaps and bounds over the past decade, so has been inflation. The cumulative rate of inflation from 1983 to 1993 is 72.8%, but the standard rate of PA has grown by only 58.6% during the same period, resulting in effect a negative growth of 14.2% in real terms! With prices on the high and the PA rate being continually nibbled away by inflation, the living standards of the recipients are made to drop continuously. As a result the recipients cannot even break away from the financial plight they are facing, not to mention enjoying the fruits of economic success of our affluent community nowadays.

What is more, when the Social Welfare Department first calculated the PA Index of Prices, the base figure adopted was on the low side. Therefore, even if it is adjusted along with inflation, such as the 15% increase in real terms last year which appears to be a considerable increase, the additional payment will amount to only \$100 or so and will be of little help to the recipients. So how can such a meagre sum improve the living quality of these CSSA recipient who are struggling under the poverty line?

In making a statement on retirement protection at the Legislative Council sitting on 25 December 1993, the Secretary for Education and Manpower, Mr LAM Woon-kwong, said that in economically developed regions, it is common practice to pitch the pension rate at 30% of the median wage, and that the Administration would also propose that reference would be made to this rate should the Old Age Pension Scheme be implemented. In other words, the actual rate would be \$2,100. The Administration also admitted that in order to give protection to citizen who has no working capacity to live with dignity, he must

receive a sum not less than 30% of the median wage, or \$2,100, to meet his basic needs of living.

People might worry that should we adjust the standard CSSA rate to 30% of the median wage, we would be encouraging some members of the public to retire early or to deliberately stop working in order to receive CSSA, thus becoming parasites of the community. But I think this is an unfounded sort of worry and also uncalled-for. In fact, if we look at figures of the past — figures indicating the contribution by the people of Hong Kong, we will see that they will not give up their work and contribution to the community for the merest payment of CSSA. According to statistics, the number of low income earners who applied for PA in 1985 was 1 975, but the number dropped to 416 in 1990. And according to the statistics of 1985, the number of unemployed people who applied for PA was 1 794. But the number dropped to 1 246 by 1990. From these figures, we can see that the number of applications by low income earners and the unemployed decreases by the year. We therefore have absolute confidence in the people of Hong Kong and trust that they will not deliberately stop working in order to receive the of CSSA payment. Besides, applicants of CSSA have to undergo an elaborate and strict means test. If the applicants are unemployed able-bodied adults, they have to register with the Local Employment Service of the Labour Department, and jobs will be referred to them. So given the stringency of the existing test, there is really no need to worry that they will become dependent on CSSA.

Mr President, the Lunar New Year is drawing near. At this time of the year when the whole community join in jubilation and families reunite to celebrate, all the families would try to refurbish their homes, or to buy some new furniture or new clothes one way or the other, or to plan for some tours abroad. But at the other corner of the community, we have these CSSA recipients who are not only unable to join in for the joy, but also cudgelling their brains about how to raise money for the New Year.

Mr President, we often hear people say "After winter, there is spring." But looking at these recipients who need better care by the community, one cannot help asking "Where is their spring?"

With these remarks, I move the motion.

Question on the motion proposed.

MR ALLEN LEE (in Cantonese): Mr President, we always think that protection must be given to the less fortunate in our society to maintain their quality of life. Such protection should be made very much in the context of the overall situation of Hong Kong; it must not be unrealistic nor over generous. In its manifesto, the Liberal Party has stated in no uncertain terms that it will "initiate regular reviews of the level of public assistance to ensure that the recipients will enjoy a decent standard of living".

The motion moved by Mr WONG Wai-yin now before us seeks to increase the standard rate of single person under the Social Security Assistance Scheme. We strongly feel that this is necessary and we would support the motion.

Firstly, we think that in view of the rising cost of living in this thriving community, the present rate under the Social Security Assistance Scheme is actually inadequate to enable the recipients to meet the daily living expenses and it has failed to enable the needy to live decently and with dignity. We therefore urge the Government to raise the rate so as to ensure that the level of the social security allowance would not be divorced from the recipients' practical needs.

Secondly, regarding the level of increase, Mr WONG proposed to peg it to 30% of the median wage. We think this proposal is of highly referential value as wages are closely related to people's living standard in society. However, we think that there are also other indicators or factors such as the consumer price index and the increase in property prices which could show how our living standard is affected. Thus, in-depth studies must be conducted to help us consider the relevant matters. We understand that the Hong Kong Council of Social Services and the Hong Kong City Polytechnic are now carrying out an independent study on social security. The study is not yet completed but we are certain that it would pool the wisdom of all the parties concerned. With more statistics and information available for our reference, we will be able to set a level of assistance for the needy, which is both justifiable and reasonable.

Thirdly, it has been our belief that Hong Kong's success owes much to our industrious and forward-looking people who are loath to rely heavily on social welfare provided by the Government. As such, the rate of social assistance must not become a disincentive to work. Moreover, good administration lies in long-term and comprehensive planning which takes the well-being of future generations into account. Therefore the Government's long-term financial position and commitment, though not the only point of consideration, is surely a factor not to be neglected. Only after we have a thorough understanding of this factor can we work out a comprehensive social security policy which is reasonable and not too much on the emotional side. The Liberal Party is of the view that we must have a strong grip of the reality of our society, provide a decent living to the needy and encourage the people of Hong Kong to strive for progress. We hold fast to our beliefs and hope that we can also tie such beliefs in with the data and recommendations expected to be contained in the study concerned. We would like to see business in this Council would be conducted in this manner.

Mr President, with these remarks, the Liberal Party supports Mr WONG's motion.

MR HUI YIN-FAT (in Cantonese): Mr President, the welfare service sector, including the Welfare Services Panel of this Council and the Hong Kong Council of Social Service (HKCSS), of which I am a member, has been paying much attention to the welfare benefits of the poor, particularly to the levels of benefits available to them under the various social security schemes. These benefits ensure that they can maintain a basic standard of living. We think that the levels of benefits, set as they are according to the formula now in use, have long been outstripped by the rise in inflation. The result has been the declining quality of life for the recipients.

The HKCSS, therefore, has been urging the Government to revise the formula in light of the social changes that have occurred, particularly in the areas of consumption patterns and habits, since the formula was first adopted in 1971. We are frustrated because the Government has continued to use the formula which bases annual adjustments on the Consumer Price Index A. Each time, we have had to do something extra in order to fight for a bigger increase. Needless to say, this is not a satisfactory solution.

Notwithstanding that, I cannot support Mr WONG Wai-yin's motion for the following five reasons.

(1) The Welfare Services Panel acted in 1992 in response to civic groups' demand for a higher standard rate for a single person under the Public Assistance Scheme. In the end, we successfully persuaded the Government to appoint a group of neutral bodies, namely, the HKCSS and the Department of Public and Social Administration of the City Polytechnic of Hong Kong, to conduct a comprehensive review of the method for calculating Public Assistance benefits. The Government even agreed to study the preliminary report of these bodies, which is expected to be completed in the middle of this year.

In fact, the groups calling for higher Public Assistance benefits are satisfied with such an outcome. I think that no decision should be taken now pending the completion of the report. I know that the political reality is such that people often go ahead and do what they want regardless of consequences. But should Members not show a minimum degree of respect for the decisions reached by the Panel? If the decisions of a standing panel of this Council are often overturned, the Government and members of the public will have nothing that they can rely on. Policy stability will then go out the window. This is why I firmly uphold the parliamentary spirit of this Council.

(2) We usually suspect that government-appointed consultant companies merely produce "tailor-made" reports supportive of the decisions that the Government has already made. But this time the nature of things is different. Therefore, I think that the utmost must be done to keep the study in the present case independent. I will absolutely support the motion if it means to say that the study must be speeded up and its findings must be subjected to public consultation. True, the bodies responsible for conducting the present study can ignore this direction-setting debate. However, nobody can guarantee that the

motion, if carried, will not ultimately affect the degree of the report's acceptability to the Government and to the public. Therefore, I am greatly against using any political ploy to complicate the issue.

(3) We always think that, regardless of its financial position, the Government has a responsibility to ensure that the rates of Public Assistance are sufficient to cover recipients' basic living expenses, including expenses to make life spiritually gratifying. However, looking at the wording of the motion, we find that the motion is occasioned by the "robust financial position of the Government in recent years." This makes no sense in logic. Similarly, can we accept that the Government may, on the ground of financial tightness, lower or freeze the levels of Public Assistance benefits during the period of recession? We will indeed be ill-advised to set a dangerous precedent in return for a short-term gain.

(4) The motion suggests that the standard rate for a single person under the Public Assistance Scheme should be raised to an amount equivalent to 30% of the median wage, that is, \$2,100. This is in fact still a far cry from the levels (between 40% and 45% of the median wage) that, in our opinion, are sufficient to support a reasonable standard of living. However, for the sake of the two principles cited above, I do not intend to vote for the motion in order to strive for higher levels of benefits. Another point is that Mr WONG's motion fails to explain whether the standard rate is for a single elderly person or for a healthy adult. If it means the latter, then we are talking about more than a doubling of existing benefits. This will have a triggering effect. For instance, it will trigger demands for similar-size adjustments in other benefits, such as school children's meal allowances and allowances for the disabled. I am afraid that it will be even harder for these wishes to come true. But the real question is not the size of the adjustment. The crux of the matter is the method of calculation, as suggested by the motion, may not be the most appropriate to Hong Kong's needs. We should not promote the method of cutting up benefits into pieces and winning them piecemeal, lest we neglect to fight for the improvement of the entire benefit package.

(5) If the motion is carried, it will undoubtedly mean that this Council agrees that the standard rate for a single person under the Public Assistance Scheme should be equivalent to the amount mentioned in the Old Age Pension Scheme recently put forth by the Government. On the surface, it may appear that those who support the motion will have something in their hands should the Government eventually decide against the Old Age Pension Scheme. They will then ask for an adjustment of the Public Assistance benefits. However, members of the public, particularly the low-income groups, cannot help wondering: Why not retire early since the Public Assistance benefits are as good as pension benefits? Although the Public Assistance is means-tested, I cannot help getting the impression that the motion will lead to chaos.

Mr President, I stress once more that the HKCSS, including myself, is not opposed to a higher standard rate for a single person under the Public Assistance Scheme. In fact, we think that the rate should be even higher than is proposed in the motion. I even think that at some opportune time pressure should be brought to bear on the Government. However, there is something wrong both with the motion's wording and with its timing. In addition, I have a moral obligation to defend the decisions of the Welfare Services Panel and the work of the HKCSS. Since it is my principle neither to abstain from voting nor to propose an amendment, I have no choice but to vote against the motion.

These are my remarks.

MR TAM YIU-CHUNG (in Cantonese): Mr President, last week, this Council debated the retirement protection scheme and today we are debating the Comprehensive Social Security Assistance (CSSA) Scheme. Both schemes come under social policies within the scope of social security. According to the statistics in October last year, of the 89 000-plus Public Assistance cases in Hong Kong, over 57 000 of them, accounting for 64% of the total, were cases involving old people aged 60 or above. There were over 460 000 Special Needs Allowance cases and 390 000 of them, accounting for 86% of the total, were cases involving old people aged 70 or above. From these statistics, we can see how old people need, and depend on, social security. In fact, when we talk about comprehensive social security, we are already talking largely about retirement protection.

In my opinion, it is the right approach to develop the issue of social security for old people in the direction of a territory-wide pension scheme. But the Government must not shirk the financial responsibility which it has assumed. Besides, even if the element of social security for old people is removed from the CSSA Scheme, it should not be shrunk as a result. Instead, it should be further expanded.

However, is it true that the CSSA Scheme can be expanded only when the Government's financial position is robust? Is it that it will be adequate to raise the standard rate for a single person to an amount equivalent to 30% of the median wage? I do not think so.

First of all, it is said that the development of the CSSA Scheme should be pegged to the Government's financial position. I think that people's demand for social security do not change according to the Government's financial position. The Government's financial position is affected by various factors but people's demand for social security is relatively stable. If the development of the Scheme is pegged to the Government's financial position, does it mean that the Government, when its financial position is not sound, can cut the demand for the CSSA Scheme? Does it also mean that other kinds of public spending have priority over the spending on the CSSA Scheme? Does it mean that, when some major social project is underway, the Government can use it to justify its failure

to honour its commitment to pay social security benefits? Obviously, spending on the CSSA Scheme is the Government's basic responsibility, the shirking of which cannot be justified under any circumstances.

Secondly, can a recipient maintain a reasonable living standard if the standard rate for a single person under the CSSA Scheme is raised to an amount equivalent to 30% of the median wage? There is no doubt that the existing standard rate, which equals only 15% of the median wage, is far from adequate. But what percentage of the median wage should the standard rate be set? I think that this percentage must not be set whimsically. At present, 30% of the median wage equals \$2,100. Whether \$2,100 is a reasonable amount does not depend on the ratio of 30%. To see if \$2,100 is a reasonable amount, we must find out whether it is adequate to meet the basic living expenses at today's consumption levels. Besides, if the median wage is taken to represent the general level of income, then, making the standard rate equal to 30% of the general level of income will only widen the gap between the level of benefits under the CSSA Scheme and the general level of income. The living standard of the recipients will decline more and more compared with the living standard of the rest.

Many people, when assessing the adequacy of the rate of increase of the Public Assistance, only take into account the factor that whether the adjustment is able to keep up with inflation. In fact, the same inflation rate can affect different groups of people in different ways. The poorer you are, the more inflation will affect you. Undoubtedly, the Public Assistance recipients are the group of people who are most affected by inflation. Therefore, one should not be satisfied and think that the adjustment is sufficient if the rate of increase is on a par with the rate of inflation. One should go out to experience real life and find out by how much the benefits must be increased so that the recipients may live decently. I will never agree if the purpose of adjusting benefits is merely to make them equal to 30% of the median wage, which is the minimum global standard, or merely to offset the effect of inflation. One must not ignore the fact that the recipients must not only survive but also be able to live decently. Therefore, I think that, when the CSSA Scheme is under review, we must look not only at the costs of clothing, food, housing and transport, which are the basic necessities of life. We must look at other things as well, such as health education, continuing education, family life, cultural life and social life, which are essential to individual development.

Mr President, my speech above has responded to two major points in the motion. Of course, I fully support the motion's principal spirit, that is, to improve the quality of the recipients' basic livelihood. However, I do not approve of the approach taken by the mover of the motion and Mr HUI Yin-fat has already dwelled on this.

Mr President, these are my remarks. I support the motion, but with some reservations.

MRS PEGGY LAM (in Cantonese): Mr President, in a brief interval of only a few months since the beginning of this legislative year, this Council has held motion debates on questions such as single-parent families, senior citizen cards and retirement protection. Certainly these questions are also covered in the Motion of Thanks. All these debates have highlighted, both directly and indirectly one point that, the Comprehensive Social Security Assistance Scheme (CSSA) payment is too low, particularly in relation to single elderly persons. The allowance is on the low end as means an adult recipient of public assistance now has only \$8.6 to spend on each meal and he cannot afford to ride on public transport more than once each week, otherwise he will have to walk on the return trip. This means that low public assistance payments would also curtail public assistance recipients' participation in social activities.

Hong Kong was ranked sixth in the world by the *Economist* in 1991 in terms of average wealthiness.

On the basis of this ranking, some local economic commentators then forecasted that Hong Kong people's *per capita* income in real terms should climb to the world's top spot in 1992 and 1993 when the other countries went into economic recession.

But just as I said earlier, some people in Hong Kong do live in abject poverty. Looking back at the seventies, public assistance payment amounted to 25% of the median wage. But it has now dropped to less than 15%. In other words, while the overall living standards of the Hong Kong community have improved, there is a group of underprivileged who are desperately in need of help as their quality of life has been on the decline.

In fact, irrespective of the financial strength of the territory, the Government is obliged to meet these needy people's basic needs. At any rate, given the steady economic growth in Hong Kong over these years — an achievement rarely seen in other parts of the world I believe the public would approve of the Government's setting aside more resources in favour of the most needy amongst us. Besides, the welfare policy of Hong Kong looks after only those who cannot help themselves. Increasing the CSSA payment is only a response to changes in living standards, not a disguised re-distribution of wealth. I have to stress again that we should help those with genuine needs. We are not giving out free lunches like some welfare states do.

We all know that the majority of public assistance recipients are elderly persons as well as single-parent families. We need not hold protracted discussions on their plight as it is already there for us to see. Here I should like to refer to the report on a recent survey conducted by the Boys' and Girls' Clubs Association of Hong Kong, the findings of which are indeed heartrending.

The survey was targetted at children of families receiving public assistance. One of the interviewed children described himself as having an open

and sanguine disposition. But when the surveyor asked him what his wish was if a miracle should come along his way, he just said "I do not want any miracle!", as tears rolled down his face involuntarily.

A nine-and-a-half-year old kid, whose family is in financial difficulties as a result of his father's death, has no illusions about his future. He did not express any discontent during the interview though. But if only he could be provided with a better material life, at least he could grow up in a stable environment, thus restoring his confidence in life. If only it had been the case, his mother would not have felt any sense of guilt for being unable to give him better food and to pay for his private tuition.

Finally, Mr President, in tandem with the provision of public assistance, the Government should do more in terms of vocational training and encouragement in the hope that people, who cannot be engaged in paid employment not because of old age, can work in society, thus refraining from reliance on public assistance.

With these remarks, I support the motion.

MR JIMMY MCGREGOR: Mr President, I am concerned to ensure that there is no misunderstanding here in this Council or in the community generally about the limited and specific extent of the Comprehensive Social Security Assistance (CSSA) Scheme. There is a substantial difference between the CSSA Scheme, which is a form of public assistance for those at varying levels of poverty and desperation and with no age restriction, and the Old Age Allowance Scheme which, although still a form of social charity, represents a non means tested allowance scheme for the elderly. It is the latter scheme which I hope will become a formally established contributory old age pension scheme for all qualified Hong Kong residents over 65 years of age. I understand Mr WONG's intention to seek some form of financial improvement in the payments granted under the CSSA. He seeks, as far I can understand it, a level of 30% of the median wage which would be about \$2,200 a month. But I am unclear as to how he proposes such an increase to be applied. At present there is a caseload of over 91 000 receiving a wide range of benefits under the CSSA. All of these are means tested and over 58 000 of them involve aged people over 60 years of age.

The funds estimated to be disbursed on CSSA cases in the financial year 1993-94 is \$2,460 million. A simple division indicates that the average monthly payment to those 91 000 in the caseload is just over \$2,200. Now, I am well aware that some payments may be up to \$6,000 for a family and less than the average for a singleton. But even a single elderly person at the standard rate will receive \$1,550 per month which with other allowances, may provide a total of \$1,965 a month.

So I am not quite sure where the 30% median wage is to be applied and how, if it is to be applied to the standard rate for, say, a single elderly person, the increase will affect all the other allowances that can be claimed. I hope we can be advised so that we are not voting on this motion without essential information.

The CSSA scheme is, I believe, an essential element in Hong Kong's support for those whom life has treated harshly. It must be predicated upon social consciousness and based on social justice. It should be managed and financed as generously as possible and therefore in agreement with the principle inherent to Mr WONG's motion.

I am in some doubt, however, about the extent and cost of Mr WONG's proposal. I will therefore not vote personally on the motion.

MR CHEUNG MAN-KWONG (in Cantonese): Mr President, children are the future masters of society. Therefore, a far-sighted government pays close attention to children's growth and development and, when laying down social policies, gives full consideration to the needs and well-being of all children.

The Hong Kong Government, however, does not seem to be far-sighted, for it overlooks the needs of the children at the bottom of society. The Government only takes care of these children's basic material needs while dodging its unshirkable responsibility and turning a blind eye to their physical and mental health.

About 16 000 of those who now receive benefits under the Comprehensive Social Security Assistance (CSSA) scheme are children. Most of them came from broken families with divorced parents, single parents, chronically ill parents or family members, or family members who are victims of industrial accidents.

Under the recently introduced CSSA Social Security Scheme, the standard rate of benefits for a healthy child is \$1,260 if he has no family or only \$995 if he has a family. In his policy address this year, the Governor said that the standard rate under the scheme would be increased by \$100. Notwithstanding, the Government still fails to satisfy the true needs of the children.

Many recent studies by civic groups and academic circles note that the current standard rate is just enough to stave off hunger and cold. For instance, a survey conducted by an ecumenical development centre finds that a family eligible for benefits under the public assistance scheme spends 70% of the benefits on basic necessities such as food and housing. A family of four which receives public assistance has only \$75 a day for food. Therefore, every meal for this family is a simple one, consisting of food like vegetable and bean curd. If it manages to save some money, then it perhaps can prepare some meat broth at the end of the month. How can there be enough nourishment for a growing

child in such a family? How can such a child grow up in good health? He is like a stunted young tree, which grows up deformed.

Another thing is that, because they have to save money, children in receipt of public assistance benefits have to cut down on, or eschew, social life. They have no money for recreation or the usual pastimes. For the same reason, they have to shun school picnics or other extra-curricular activities. Here, let me cite a real life example. A girl wanted very much to go to a geography field study camp organized by her school. However, as this was not classified as "essential" extra-curricular activity, the Social Welfare Department refused to pay the \$200 fee for her. The girl, at her wits' end, cried for two whole days at home. Finally, her mother agreed to let her go to the camp. The camp fee came from saving by having the entire family tighten its belt.

How devastating the constraints are on the normal physical and mental growth and on the schooling of the children who are full of vitality and curiosity and are quick learners as well! They grow up mostly in cloudy days on which the sun does not shine. There is no sunshine to cheer them up.

Financial difficulties cause more problems for these children than the ones that I have mentioned. There is a lot of red tape in government departments. People who need benefits under the public assistance scheme do not know how to apply for them. For instance, under the scheme, a child is supposed to be reimbursed by the Social Security Department for receipted expenses on approved school activities. This means that he has to ask his teacher for a receipt when he pays "say" \$5 in class due or \$10 or so in miscellaneous fee. Doing so, he would stand out from his classmates. Often, he would rather spend less on food and pay the money out of his own pocket than ask for a receipt and draw inquisitive stares from his classmates.

It is no wonder that children who are recipients of benefits under the public assistance scheme have more of an inferiority complex than normal children. A survey conducted by the Hong Kong Paediatric Society and the Hong Kong Psychological Society finds that children of low-income families tend to feel inferior because their families cannot adequately meet their daily needs. On their first day in school, they either panic or are listless. When they grow up, they are likely to have a pessimistic outlook, feel helpless and be in a funk. They shun company and may even be cynical and rebellious.

According to an international declaration on children's rights in 1959, children should be given special protection and be provided with opportunities and facilities by legal or other means so that they may grow up and develop normally and be healthy in physical, mental, moral, spiritual and social terms.

Mr President, when I was young, I used to sing a song called *The Dance of Youth*. Its lyric goes like this: the sun always rises on a new day after setting; flowers always blossom in a new year after withering; yet one's youth never returns after it is gone. Indeed, a person is young only once. A far-sighted

government is obligated to ensuring all children, rich and poor, have a joyful and happy childhood.

The Hong Kong Government has run a budget surplus in every recent year. Instead of hoarding its resources, the Government should use some of them and invest them in the children, helping particularly those who do not live well, giving them what they need to develop their potentials and enabling them to work and to compete on an equal footing and to create a bright future for themselves and for society.

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

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

MR FREDERICK FUNG (in Cantonese): Madam deputy, the public have been vociferous in their request for better social security system in recent years. However, the Government has been passive and half-hearted in its response to the call. The Comprehensive Social Security Assistance Scheme introduced last year failed completely to respond to the public request. It is only a combination of the basic rate and old age allowance, plus a 15% increase over this. This reflects that the Government has not addressed any questions raised by the public in respect of public assistance. The new scheme is only new wine in old bottles. In last year's policy address, the Governor announced only a negligible increase in the special allowance for children. And the Social Welfare Department refused to conduct a survey to gain an insight into the real living conditions of public assistance recipients. These facts speak for themselves; the Government is still sticking to the calculation formula that has been used for well over two decades, turning a blind eye to the falling living standard of the low-income families in Hong Kong. The general public find this disappointing and outrageous! Although 1997 is just around the corner, we should not continue to drag on over the question of improving the poor's lot, with the intention of leaving this question to the post-1997 government.

The Hong Kong Association for People's Democracy and Livelihood, including myself, has come to the view that where improvement of public assistance is concerned, whether public coffers are bursting at the seam or not should not form the principal consideration. The public assistance system is Hong Kong people's collective commitment to the poor. The idea of the system is that poverty is a problem not out of an individual's own making but a result of misfortunes in life or social developments. Public assistance indeed epitomizes the willingness among members of the community to care for and look after each other. Therefore, in considering any increase in the rate of public assistance, we should not merely look at whether or not the Government has fiscal surpluses. We should first ask instead what the fundamental living standards for the poor should be.

The Hong Kong Association for People's Democracy and Livelihood, including myself, supports the motion entirely because we concur that a poverty line should be drawn in Hong Kong as soon as possible. Given the territory's economic success, the poverty line should have been drawn anywhere above absolute poverty. Unfortunately, the existing average public assistance payment is a little over \$30 a day. And the living index for public assistance recipients, formulated by the Social Welfare Department, reflects that the Government has required the recipients to spend almost 75% of their allowances on food, with other expenses of urban living accounting for a very low percentage. This evinces that the Government's policy is only to ensure that the poor will not die of starvation, while not allowing them to lead a decent life closer to that of ordinary citizens. Honourable Members should bear in mind that Hong Kong's low income households spend on average only a little over 40% of their earnings on food, with more than 50% spent on buying daily necessities and on entertainment. We can make a simple comparison. How much is left for public assistance recipients who have to spend 75% of their allowances on food? The percentage is already very large compared with the low income earners, let alone the middle class or the rich. From this simple comparison, we know clearly there is a big discrepancy in terms of standard of living between public assistance recipient families and the lowest income group. Is it not a show of hypocrisy when the Government keeps talking about caring for the poor's livelihood?

The poverty line must therefore be drawn at a level somewhere nearer an ordinary man's living standard. Any member of the community, if and when his income is below this level, should be given assistance by the Government. This is what a caring community should basically do. Therefore, the Hong Kong Association for People's Democracy and Livelihood, including myself, supports that the poverty line be drawn at 30% of the median wage, the context of the public assistance recipients. However, it must be stressed that by 30% of the median wage, we mean the basic allowance. The various types of allowances under the current public assistance system, such as special allowances provided for patients to cover their travelling expenses and meals, should be calculated independent of the basic assistance allowance. This is to ensure that the quality of living of public assistance recipients who have special needs would not be lowered.

With these remarks, I support the motion.

DR LAM KUI-CHUN (in Cantonese): Madam deputy, when it comes to social welfare spending, the Government and the public often do not see things eye to eye. Social workers have now produced figures for the past 11 years to support their assertion that public assistance benefits have fallen behind inflation by 14%. Their conclusion is that public assistance recipients have seen their living standards fall further below the poverty line. I believe that the Government will counter by saying that the way benefits under the public assistance scheme is adjusted is not to catch up with general inflation, but to catch up with the

inflation that affects them, that is, the inflation of prices not including the prices of luxury goods; and that the benefits are adequate because there are other allowances on top of the standard rate of benefits.

To end such disagreement, I suggested, at a meeting of this Council's welfare panel, that the Government should use some objective criteria for judging if benefits were adequate. The Government subsequently agreed to conduct an objective survey jointly with the Hong Kong Council of Social Services (HKCSS) and the City Polytechnic of Hong Kong. This survey has the blessing of the welfare panel, and its findings are expected to be released in the middle of this year.

I agree with the motion's point about improving the quality of the basic livelihood of the recipients of public assistance benefits. But how, and by how much, should it be improved? We believe that it will be the best for us to wait until we have studied the survey's findings in depth before we answer this question. It is undeniable that one can act rationally and responsibly only if one's judgments are based on sound arguments.

We believe that some principles should be laid down at this stage for our consideration of the survey's findings and recommendations when they are available:

First, the community must decide what living standards public assistance recipients should be able to enjoy. At one extreme, we may provide so for benefits that recipients do not eat well or sleep well and their health suffers. At the other extreme, we may provide as many benefits as were once provided by the Scandinavian countries, which allowed the unemployed to travel to as far as Spain to enjoy the sunshine, the hotels and the beaches. Hong Kong must strike a balance somewhere between these two extremes. The Government introduced the additional public assistance items in the middle of the 1970s. Since then, benefits have been adjusted upwards every year, according to the public assistance linked inflation; the recipients simply do not have an extra dollar to spend or to improve their living standards, still less to change.

Durable goods, transport and services, being yardsticks for people's quality of life, are factored into the Comprehensive Social Security Assistance Scheme Index. This index is 60% to 70% lower than the Consumer Price Index (A) which excludes factors such as housing, tobacco and alcoholic beverage. In other words, Consumer Price Index (A) is an index of the prices of daily necessities. From this comparison, we will see that recipients of public assistance benefits really cannot talk about any quality of life. Meanwhile, however, public housing generally regarded as housing for the non-affluent has gradually evolved from very crude resettlement estates into park-like modern housing estates over the years. This shows that the community generally holds the view that living standards for middle and lower social strata should not remain as they were in the 1970s.

I think that, for this problem to be resolved sensibly, the community should widely discuss what living standards recipients of public assistance benefits should be able to enjoy and how much taxpayers should be required to contribute to that end. Public views should be made known to the Government and to politicians. The Government should, on the basis of these views, consider and decide on a reasonable level of allocation for its public assistance Scheme.

However, before deciding whether to raise public assistance benefits substantially, the Government must make sure that sufficient incentive will be given to the recipients so that, while receiving public assistance the benefits they would be encouraged, to find work and better paid jobs. With higher income, their living standard would be improved; they could in turn make contribution to the community. Such incentive is already embedded in the existing system but does not seem to be widely understood. The Government must help recipients of public assistance benefits to understand how the system works, lest they would have misconception that their public assistance benefits will be reduced if they secure remunerative employment. The incentive should be made more attractive so that people will be induced to help themselves. Thus, they will not only improve their own living standards but also make contributions to the community.

Lastly, there is another important point of consideration. It is that the mistakes of socialist welfare states must not be repeated. They levied heavy tax to finance high welfare benefits. The welfare system was open to abuse. Wage-earners were demoralized. The business community became so frustrated that they stopped investing. Their Governments went deeply into debt. Fortunately, the people of Hong Kong have retained some traditional Chinese virtues. They work hard. They do not like to be on the dole. There is no widespread abuse of the welfare system in Hong Kong. Still, it seems that the Government during the past two years were disposed to be too generous in providing welfare benefits. It should take warning by the socialist welfare states' failure.

Madam deputy, I am in favour of improving the living standards of public assistance recipients. However, I hope that more thought would be given to the motion's approach and haste. We must take more data and factors into account. We must study the recipients' material needs, the community's ability to pay the bill, the median wage and the City Polytechnic's report to be released in the middle of the year.

Madam deputy, these are my remarks. I support the motion with some reservations.

MR TIK CHI-YUEN (in Cantonese): Madam deputy, when we propose more spending on welfare or ask for a higher rate of benefits under the Comprehensive Social Security Assistance (CSSA) Scheme, we are very often criticized as trying to chart the Western welfare state course or rebuked for

promoting undesirable social trends, that is, encouraging people to live on "social assistance" instead of leading productive lives. But how much do these critics know about the poor at the bottom of society? According to Social Welfare Department statistics, there are now in Hong Kong about 120 000 cases under the CSSA Scheme. Most of these recipients have long been hard pressed by poverty or illness or beset by the hardships of old age or disability. Many are even children who have no family or who have single parents. As the saying goes, "Nobody with a head of hair will want to look bald." So nobody with a viable alternative will want to receive social assistance.

If I were to describe the plight of all CSSA recipients I think I could go for on 10 days and nights. So I will focus on the hardships of single-parent families, children and pneumoconiosis patients only.

As I recall, Mr Fred LI of Meeting Point moved a motion debate in this Council in December last year about a policy on single-parent families. Many Members agreed at that time that the major difficulty besetting single-parent families was low income, which was insufficient to meet living expenses. According to Social Welfare Department statistics, 5 800 single-parent families in Hong Kong are now living on CSSA, accounting for 30% of all CSSA recipient households; and more than 50% of the 23 000 children receiving CSSA are children from single-parent families. Hence it is evident that most single-parent families are experiencing serious financial difficulties and pressures. At present most CSSA recipient single-parent families have two to three children, with an average CSSA disbursement of \$2,100 to \$2,900 a month. Such meagre sums are not even enough to pay for food. Is there money left for the children to spend as pocket money to enrich their lives?

The Chinese New Year is approaching. In many families, parents are buying new clothes and new shoes for their children. The children in these families will also be munching away New Year candy, cakes and so on. But the children living off CSSA payments cannot afford even to buy one bar of chocolate. The standard rate of CSSA payment for a healthy child is \$1,260 if he has no family, but only \$995 for each child of a recipient household. This rate is hardly enough to pay for the normal needs of a growing child.

At the current rate of payments under the CSSA Scheme, a recipient child can afford only one pair of pants and two shirts for the winter. If his old clothes become threadbare, he cannot afford to replace them. Besides, he can afford just two pairs of shoes a year. It is no wonder that surveys have found that many children receiving benefits under the CSSA Scheme have relatively low opinion of themselves. How can children, with such living standards, grow up with self-confidence?

For children to grow up in good health, they need normal extra-curricular and social activities in addition to sufficient nourishing food. With only \$995 a month, they simply cannot live with dignity. The Governor said in

his policy address last year that an additional allowance of \$100 would be paid out to these children, but this is really chicken feed. How helpful can it be?

Recipients of CSSA experience hardships which are too much to be told. In addition to single-parent families and children, patients suffering from pneumoconiosis also need CSSA. Upon contracting this disease, they will gradually lose their ability to work. As a result, they have to live off CSSA payments on a long-term basis. With a little over \$2,000 a month, they have to support themselves and also their families. Is such a meagre amount sufficient to meet the high cost of living? If a member of their families should suddenly become ill or should an accident befall them, they would be at their wits' end and driven into desperation.

Among the cases I have come across, there is this 50-year-old man who lives off CSSA as a result of pneumoconiosis. He contracted the disease in 1985. But his conditions continued to deteriorate until he had to stop working two years ago. He has since lived on CSSA. In addition, he has to support his wife and three children living in China. I really cannot imagine how he survives.

In fact, the Government has an inescapable responsibility to spend on welfare to safeguard the livelihood of the people. This is the Government's responsibility whatever its financial position. But because its financial position has been improved in recent years, the Government really has no excuse to reject an increase in CSSA disbursement. The Government has so far maintained the rate of payments under the CSSA Scheme (formerly the Public Assistance Scheme) at a very low level. It considers its obligation discharged if nobody dies from starvation.

With the rapid economic development in recent years and an improved living standard of the community as a whole, there is even stronger justification for the Government to allow the CSSA recipients, who have long suffered from poverty and many other hardships, to share the fruits of economic success. Therefore, we think that the Government should expeditiously raise the rate of payments under the CSSA Scheme to help improve their standards of living.

With these remarks, Madam deputy, I support Mr WONG Wai-yin's motion.

DR YEUNG SUM (in Cantonese): Madam deputy, our debate today is about public assistance. In fact, what lies behind and at the very core of this policy is Hong Kong's problem of poverty. The Public Assistance System as we now know was set up in 1971 originally to look after the destitute's needs of living.

The system has been in operation for more than 20 years. Hong Kong has meanwhile joined the ranks of affluent societies. In his Budget speech last year, the Financial Secretary proudly told us that, in terms of *per capita* GDP, we had already overtaken Spain and New Zealand and almost caught up with the United

Kingdom and Australia, two advanced economies. Turning back to examining our existing rates of public assistance, were it not for the concrete figures proving that Hong Kong has indeed become one of the advanced economic area, I would not have believed the Financial Secretary's words.

Where should we start to deal with the public assistance system which is riddled with gaping wounds? First of all, I think our public assistance policy should be reviewed in terms of concept and policy objectives.

When the public assistance system was first set up, its fundamental objective was to solve the problem of "absolute poverty". The so-called "absolute poverty" meant the provision of the most basic material conditions necessary for survival. Thus, until now, the primary objective of the public assistance policy has been "to provide cash assistance to needy individuals and families so as to satisfy their basic needs." This kind of public assistance, planned with such a "basic needs approach", can only provide for people in object poverty their basic needs of living. Truly, in developing countries such as African countries and India, a government is considered to have accomplished a great feat if it can protect its people from starvation and maintain their fundamental right of survival.

I find it unacceptable of Hong Kong to claim on the one hand that it has caught up with advanced territories such as the United Kingdom and Australia and broken away from the developing area ranks, while on the other hangs on to the basic needs approach in dealing with the problem of poverty. In developed areas, we should plan against and deal with the problem of poverty from the "relative poverty" approach. "Relative poverty" means poverty should be defined in relation to the community's overall economic development. Although in such areas where the basic needs of survival is no longer a problem and absolute poverty a thing of the past, there are still people in the community who earn relatively low income and who are indeed entitled to share the fruits of prosperity. As the economy grows, they should be benefited by way of an upward adjustment in social security payments. In the example cited by Mr CHEUNG Man-kwong earlier, the child who receives \$900 or so in public assistance is certainly very poor compared with his school-mates. While growing children like him will not be starved to death as the \$900 or so is adequate to pay for his basic needs of living, they will certainly face a lot of inconveniences or problems compared with other children. The example illustrates that we must not say that all is well enough if nobody is starving. When the economic conditions of society turn for the better, there should not be too wide a gap between the living standards of these people and the ordinary members of the community.

Once we have established the resolving of relative poverty as the fundamental concept behind the respective policy, we must first revise the policy objective of public assistance provision. The purpose of public assistance should no longer be mere provision of basic needs of living. It should come as

a so-called "income support" for people whose income is inadequate to maintain reasonable living standards.

And once "income support" is recognized as the policy objective, we need to devise a mechanism whereby the level of protection will rise with economic growth. So far, public assistance benefits have barely caught up with inflation. But they are far behind where they should be if we take into account the real term economic growth rate. For example, if payments under the Public Assistance Scheme had been adjusted annually to catch up with both economic growth and inflation, then the standard rate for a single person, before the implementation of the Comprehensive Social Security Assistance (CSSA) Scheme, should have been \$1,611 and not \$825. And calculating on the new rate, it should be \$2,400 instead of the current \$1,550 for single persons. This shows that public assistance payments have not increased as fast as the economy has grown. Here, I mean "relativity". Truly the amount has increased, but it remains at the '50s level relative to the growth in real terms. To solve this problem specifically, we must revise the so-called "food package" method of calculation that has been used since 1971. The "food package" method can only identify a rate that will provide for the basic needs of living, But this basic rate of protection can hardly solve the problem of so-called "relative poverty."

Here I think the calculation should be pegged to the median wage. Many countries such as Japan, Canada and the United States have used this method to calculate the rate of assistance, and have been met with little controversy. Most importantly, the rate of assistance will rise in unison with wage increases, thus recipients may share the fruits of economic success. Now that the Government has proposed that people who have reached the age of 65 should receive old age pensions equivalent to 30% of the median wage so that they may be able to afford reasonable living standards after retirement, I fail to see why the same method cannot be used to calculate the rate of public assistance payments. Of course, the Government can turn around and say that the proposal is not its, and that it was initiated by certain organizations. Summing up the above, there is every need for us to plan anew the entire public assistance system, in terms of concept, policy objective and the mechanism for setting the rates of assistance, in order to meet the demands of the 1990s.

In order to pursue the policy objective of public assistance as a form of income support, the Government should relax the eligibility requirements for application for public assistance. Eligibility should be open not only to the truly destitute, but also to members of the low income groups, such that they may maintain a reasonable standard of living with the help of income support.

The disparity between the rich and the poor in Hong Kong has become wider and wider over the past 10 years. The Gini Coefficient reached 0.48 in 1991, higher than that of other regions with similar level of development. This is an alarming level. I urge the Government to review its public assistance policy expeditiously and to raise the standard rate of assistance to an amount equivalent to 30% of the median wage. This will enable the relatively low

income group to afford a reasonable standard of living, thereby ending the poverty problem in the affluent Hong Kong society.

I wish now to respond briefly to Mr HUI Yin-fat's question. He said that he opposes the motion from the standpoint of the Hong Kong Council of Social Service (HKCSS) and the Legislative Council Welfare Services Panel. I am greatly surprised for the social security subcommittee of HKCSS at one time proposed that the rate of assistance under the Public Assistance Scheme should equal to 40% to 45% of the median wage, which is even higher than what Mr WONG Wai-yin is proposing. Why is Mr HUI, then, opposing Mr WONG's proposal?

The buzzer sounded a continuous beep.

PRESIDENT'S DEPUTY: Please discontinue, Dr YEUNG.

DR TANG SIU-TONG (in Cantonese): Madam deputy, the Comprehensive Social Security Assistance Scheme was put into effect on 1 July last year. Benefits under the scheme consolidated public assistance benefits, old age allowances and other special allowances, and the rate of benefits was also adjusted slightly upward. The Scheme was met with strong public reaction and regarded as a farce. Benefits under the scheme are simply too meagre to support minimum living standards for their recipients. The increase in the rate of benefits is but a numbers game. Hong Kong can be counted as an affluent society in terms of financial activities, *per capita* GDP, *per capita* income and the level of consumption. While multi-millionaires abound in Hong Kong there is no lack of destitute people either.

According to statistical data in 1991, the total income of the richest 20% of Hong Kong's families were 12 times as much as the total income of the poorest 20%. Hong Kong's disparity of wealth had no rival among the surveyed 12 Asian countries. It was wider than even that of India or the Philippines. This shows that, while Hong Kong's economy has grown fast, social wealth has not been distributed evenly. The poor are getting poorer, and the rich, richer. Worse still, the number of applications to the Social Welfare Department for public assistance benefits has increased steadily over the past 10 years. There were about 45 000 such applications in 1981. The number rose to 70 000 in 1993, up 64%. A survey conducted by the Social Welfare Department in 1990 found that 80% of all recipients of public assistance were old and infirm people or single parents; that only 2% were people of an employable age who were unable to work or who were out of work; and that only 3% were new immigrants from China. Clearly, most recipients of benefits are residents with roots in Hong Kong who made contributions to Hong Kong's development in the past.

In a free and open economy, many factors affect a person's ability to accumulate wealth. The Government must not use high-handed measures to interfere with the distribution of social wealth. Still, the Government has the responsibility to look after those struggling near the poverty line, and those who need public assistance benefits, and to ensure that they may maintain minimum living standards. Regrettably, the public assistance scheme fails to meet this goal.

In 1973, the standard rate of benefits under the public assistance scheme equalled 29% of the median wage. However, in 1993, the ratio fell to 21%. That is to say, benefits under the public assistance scheme have not been adjusted sufficiently to meet the rising living standards. A survey conducted by an ecumenical development centre in July and August last year found that an average family receiving public assistance benefits received only \$4,420 a month, or 25% less than the \$5,880 figure given by the Governor in his policy address. It is far less than, and indeed less than 50% of, the median family income of \$11,590. The same survey found that 75% of the families receiving public assistance benefits spent more than they received, the monthly deficit amounting to about \$1,550 in average. Each of these families has only \$75 a day to spend on food to feed four mouths. Clearly, no matter how hard it may try to save on food and clothing, such a family has great difficulty in meeting minimum living expenses, let alone in improving the quality of life.

The Government often plays up the point that social welfare and public assistance benefits must not be increased in such a manner as will encourage indolence, lest members of the public would lose interest in earning their livelihood and improving their quality of life with their hands. This idea is basically acceptable. On the basis of this belief, the Government sets the rate of public assistance benefits in the following fashion. It conducts a survey every five years on the spending patterns of families receiving the benefits to find out, among others, how much is spent on consumer items and the expenditure rate; it would then work out the size of the annual adjustment to the basic rate of benefits after taking into account the inflation rate of these items. This is not a good method. The spending pattern of a family receiving public assistance benefits is affected by the rate of the benefits. It certainly cuts its coat according to its cloth, so to speak. I am sure, from its spending pattern one cannot judge its real needs. In this connection the Government should conduct a full review of its method of setting the rate of benefits.

Today's motion seeks to link the rate of benefits to the median wage. It is well worth the Government's consideration. Many developed countries use similar methods to ensure that living standards of recipients of welfare benefits would not slip and their actual social needs could be met. Is it really appropriate that the rate of public assistance benefits should equal 30% of the median wage? I would like to draw Members' attention to the fact that when the Government put forth its territory-wide retirement protection scheme, it also set pension payment at a third of the median wage. If we believe that the figure suggested by the Government is sufficient to support the minimum living

standard for a single person, then the motion's request is, after all, reasonable. However, the Government is always cautious about the way public money is spent. When figuring how much to spend on any welfare programme, it tends to set the amount rather too low than too high. Therefore, the Government should seek extensively the views of interested social bodies and the recipients of public assistance benefits themselves in order to set the benefits at a reasonable level and to enable all families receiving them to maintain minimum living standards.

Madam deputy, these are my remarks.

MR FRED LI (in Cantonese): Madam deputy, in fact the idea of today's motion, namely, pegging the standard rate for a single person to 30% of the median wage, was to a certain extent proposed by Mr LAM Woon-kwong. His idea was then adopted by Mr WONG Wai-yin of Meeting Point as the basis of his motion today. I remember that since many years ago, the Hong Kong Council of Social Service and many other community organizations have been demanding for an increase of public assistance payments. I think Dr YEUNG Sum will also remember the many discussions he has had with the Administration in connection with pegging public assistance to median wage. Surely, the Administration does not agree to such a principle. The Governor has stressed time and again that a family of four can receive public assistance (or CSSA as it is called now) amounting to over \$5,000 a month, which is equivalent to a certain percentage of the median wage. I think that it is misleading of him to have frequently used a four-person family as an example because there are not so many families of four among the CSSA recipients. In fact, two thirds of the recipients are elderly persons over 60 years old, and there are 5 800 cases of single parent families. There are only 500 families with four or more persons, accounting for less than 10% of the total number of recipients. Therefore, there are not many families that can receive \$5,000-odd a month, But the Administration has jumped at every opportunity to use it as an example to illustrate how generous the CSSA payments are.

The Administration has stressed that the CSSA Scheme is flexible and tailored to the applicants' individual needs. The applicants can freely voice their needs and they will be satisfied by the authority concerned. Great flexibility has its merits and demerits. Families receiving CSSA payments come mostly from the lower strata of society. Their education level is not high, not is their confidence strong. So given the questionable attitude of the Social Welfare Department staff, they may not dare to make an application. Take the school outing grant as an example, many CSSA recipients simply do not know that they are entitled to apply for this. This is the shortcoming of having too much flexibility with the CSSA Scheme I know that the Social Welfare Department has a short promotion film and will soon have it played at its various social security offices. This is a good beginning. But can we do even better? Can the Administration list out all the allowances available under the CSSA Scheme? There have been examples where elderlies living in old public housing estates

worried that they would have no money for removal upon the redevelopment of their estates. They did not know that they could claim back the removal expenses. I think that the Administration should make some administrative improvements by stating clearly the procedures of disbursing CSSA payments and all the allowances available for application under the Scheme.

I would now like to respond to the points made by some Members. I think what Mr HUI Yin-fat, who is the representative of the social welfare sector, has said is particularly disappointing. As the deputy chairman of the Welfare Services Panel of this Council, I do not see how this motion contravenes the spirit of the Welfare Services Panel. Certainly, we have to wait for the result of the review, and I am also delighted to learn that the Administration is happy to wait for the outcome, because this review is what we have long striven for. However, even if today's motion is carried, it will not come into effect immediately. The Legislative Council is a place where we debate government policies and matters of impropriety. We all agree that the existing CSSA payments are too low to be realistically sufficient for the living expenses. This point is also shared by Mr HUI. So instead of passively waiting for the outcome of the review, why do we not act more actively? We should refrain from labelling others and saying that he who moves the motion has a hidden political motive. I think that this is simply unnecessary. We move today's motion because in the last two to three years there have been many bodies petitioning and complaining with this Council and our office at Swire House. They are all live examples illustrating that the CSSA payments that they receive are insufficient to make ends meet, and especially so for the single-parent families. I hope that Members can make not only high sounding comments, such as the Honourable Mr TAM Yiu-chung's comment that the expenditure on family life education should be further increased. We have on a practical basis proposed to peg the standard rate for a single person to 30% of the median wage. If Members think that 40% is a more appropriate figure, we can further discuss about it. But that does not mean 30% is too low. I hope we can unite together in urging the Administration be pressurized to address this problem. In fact, the review mentioned above has been conducted for a long time, and people are getting impatient, wondering when it will ever be completed. Even when it is completed, we will still have to bargain with the Administration. In these circumstances, Mr WONG Wai-yin has moved his motion in the hope that the Administration be pressurized into actively addressing this problem in this year's Budget and raising substantially the rate of CSSA payments.

With these remarks, I support Mr WONG Wai-yin's motion.

THE PRESIDENT resumed the Chair.

SECRETARY FOR HEALTH AND WELFARE: Mr President, I am grateful for the opportunity to debunk a few myths surrounding social security benefits.

First, the overall objective of social security in Hong Kong is to provide for the basic and special needs of the members of our community who are in need of financial or material assistance. This is enshrined in the *White Paper on Social Welfare into the 1990s and Beyond*, which was well-grounded on extensive public consultation and support.

Comprehensive Social Security Assistance Scheme

The existing Comprehensive Social Security Assistance (CSSA) Scheme provides a strong safety net for individuals or families suffering from financial hardship for reasons such as old age, disability, illness, unemployment and low earnings.

Honourable Members have asked for pegging of the standard rate for a single person to 30% of the median wage. The current median wage is \$7,421 per month and 30% of that will mean \$2,226 a month. Honourable Members will wish to know that because our CSSA Scheme meets individual needs, the standard rate for a single person requiring constant attendance is already \$3,055 a month. Please consider whether it is right for such single person to get a reduced amount. I ask you, Honourable Members, is this right?

Secondly, it is also a myth that the standard rate is all that a CSSA client can get: a CSSA client could get much much more. This is a fact. Indeed, this fact is borne out by a recent press release of the Hong Kong Council of Social Services no less. The press release indicated that a total amount of \$2,808 per month could be received by a single elderly person "including standard rate of \$1,555, rent allowance of \$1,118, a long term supplement of \$95 and special allowances of \$45 under the CSSA Scheme". This is so because our CSSA Scheme is tailored to the individual client's personal circumstances.

It is convenient to forget that we now pay out broadly 24 types of special grants covering, for example, expenses on rent; expenses on education including school fees, school uniforms, textbooks, reference books, stationery, meals in schools, after-school care programmes; family related expenses including baby-sitting charges, fees for nurseries and day creches, charges for occasional child care; expenses on travelling and special aids for people with disabilities; and other expenses including special surgical appliances, medical expenses, special diets, not forgetting for one moment, the telephone expenses and in the case of people with hearing impairment, expenses on fax machines. With special grants, the average monthly CSSA payment to an elderly person is some \$2,000 per month, which represents 32% of an average manufacturing worker's wage or 27% of the median wage. Let us not forget that those with additional needs are getting more than the average. Also, a family of four is getting some \$5,900 per month on average, which is 93% of an average manufacturing worker's wage, or 80% of the median wage.

Our safety net is designed in such a way that those who need more due to social or personal factors can be taken care of; while those who need less will not be given more than what they require. The strength of our safety net is that it is sensitive to individual needs and equitable to individuals.

Disregarded earnings

I shall try to debunk another myth. Let us not forget that in determining the assistance payable to individual CSSA clients, the earnings of those in employment are disregarded up to \$755 per month per person. To take the example of a working adult in receipt of CSSA, his monthly income could amount to \$2,260, made up of \$1,035 as the standard rate and \$450 as special grants payable under the CSSA Scheme, plus \$775 retained as disregarded earnings. This income is already in excess of 30% of the median wage which Honourable Members in this debate appear to be advocating.

For a non-contributory safety net scheme which is designed to meet individual needs, it is inappropriate and arbitrary to say the least, to standardize the rates by pegging them to the median wage. Pegging would mean clients with different needs would receive the same level of assistance. Those with more than the average needs would lose out. Moreover, as wages may fluctuate according to the economic conditions, a client's needs might not be fully satisfied in the event of an economic downturn affecting the level of wages.

Improvements to the Scheme

Social security is a perennial pressure point in every country. Hong Kong is no exception. There have always been popular calls for higher levels of assistance particularly in a society with economic prosperity. This is right. First, while the majority who are in gainful employment can enjoy the benefits of a prosperous economy, there are always some people who, due to social or personal factors, are unable to share the increase in society's wealth. Secondly, as the living standard of a society rises, the definition of what constitutes a basic and an acceptable living standard will change.

Indeed, it is recognized that the level of assistance should make reference to the social and economic conditions of a society. Over the years, our safety net has evolved from one catering for basic subsistence to now, one which is capable of meeting not only basic needs but also special needs. Additionally, payment rates are adjusted as required to take into account inflation and social changes.

Inflation

Here, I would like to debunk yet another myth. I would like to lay to rest once and for all, the notion that social security benefits have failed to keep up with inflation. Once more, using the example of a single person, the fact of the matter is the standard rate has increased by 14 times over the last two decades

whereas inflation as measured by the CPI(A) index has increased by a mere six times over the same period.

Our total expenditure on social security payments now amounts to about \$6 billion annually, representing a growth of over 3.5 times over the level of expenditure 10 years ago. This rate of increase is about 1.5 times higher than that of inflation during the same period.

The welfare state

A standard pegging to the median wage at 30% will mean a fundamental departure from our CSSA Scheme by removing the element to meet the special needs of individuals. And some of the individuals could get much much less. If, on the other hand, the argument is not only to peg the standard rate at 30% but also to retain the special grants, a family of four could get an average of \$11,000 a month. Where then is an incentive to work? Indeed, why bother to work at all when others pay your way! And an average worker gets much much less! This then is welfare state. This then is dependency culture.

Mr President, I should perhaps report at this juncture that one of my colleagues has just attended an international conference on "The Future of the Welfare State". Welfare states have no future. This is the feedback. Welfare states are now facing fiscal crises. They can no longer afford to pay for the welfare benefits. If the CSSA, being the pivotal centre of our social security, should be changed to one pegged to earnings and not needs, Hong Kong will be propelled down the road of the welfare state. This road has been taken by many post-war western societies where the welfare state was once heralded as the achievement of the century. The same societies are now undergoing a very painful process of change. "The new wisdom is that the state should be the regulator and enabler rather than the provider."* This is a sobering thought.

Old Age Pension Scheme

Honourable Members who plead passionately for more support to those in need are well advised also to support the contributory and definable pension scheme for the elderly, in addition to the current CSSA Scheme. Let us not confuse these two schemes which are not only complementary to each other, but would be in line with the new wisdom with particular reference to helping the elderly people in our society.

Public finance

In recent years, our public finances have been in a very healthy state thanks to the strength of the economy. But we must remember that we are vulnerable to external events. A budget surplus in one year, resulting in part from volatile revenue sources, such as stamp duty, can easily disappear and may even become a budget deficit in the next. It would be foolhardy to try to use one-off surpluses to finance permanent and substantial increase in our recurrent

expenditure. If we wish to continue living within our means, government spending must not be allowed to grow at a faster rate than the economy.

Conclusion

In conclusion, I quote from the Governor's 1992 policy address: the strength of Hong Kong lies in the fact that "Hong Kong is not a welfare state but we are a society that cares deeply about the state of welfare". We will do our best to be constantly vigilant and ensure that those in need will be looked after by our society.

Mr President, I rest on that statement.

*Source: 1994 Conference Programme, 21st Century Trust

PRESIDENT: Mr Wong Wai-yin, do you wish to reply? You have 3 minutes 47 seconds out of your original 15 minutes.

MR WONG WAI-YIN (in Cantonese): Mr President, I have now learned that the pathological split of the body and the mind is infectious, but anyway on behalf of all the Comprehensive Social Security Assistance (CSSA) recipients, I should like to thank the Members who supported today's motion regardless of whether their support is sincere or not. Having listened to Mr HUI Yin-fat's speech, I find that this Council has now another "Secretary for Health and Welfare" whose speech is in marvellous unison with that of the real Secretary for Health and Welfare sitting at the other side of the Chamber.

First of all, I would like to talk about the figures emphasized just now by Mrs Elizabeth WONG, namely the CSSA payments to a single person, an elderly or a family. These figures are in fact the maximum amounts payable, including all the special grants, while my motion solely calls for raising the standard rate of \$1,030. But the Secretary included just now the \$775 earnings by CSSA recipients. I think that such a calculation is unreasonable. After listening to her arguments, I get the impression of an alarmist's talk. She has always said that if Hong Kong embarks on the way to a welfare state, then nobody will have the incentive to work, and that pegging the CSSA payment to 30% of the median wage is a dangerous signal of following this track. If that is true, then Mr LAM Woon-kwong will be the first one who leads Hong Kong in heading towards a welfare state for it was he who first proposed to peg the old age pension to 30% of the median wage.

Due to the time limit, I cannot go to lengths discussing this subject, but I still want to respond to the points made by our shadow Secretary for Health and Welfare, Mr HUI Yin-fat. He said that if the CSSA payments were pegged to the robust financial position of the Administration, then such payments would have to be cut should there be a reversal in its financial position. This may be

the official view of the Administration, or perhaps the personal view of Mr HUI Yin-fat. But this is entirely not what I have intended. Nor is it the way that I intend the Administration to think. In fact, many Members have been urging the Administration to do more on social welfare. This is an indisputable fact. Mr HUI has also said that we have to wait because the review is still in progress. I want to respond to this point by an analogy. A man who does not know how to swim is on the verge of being drowned. An onlooker says to him, "I have already found an expert shipbuilder to build a beautiful ship in order to rescue you." Some other people on shore also bid him to swim in freestyle, in breaststroke or even in butterfly stroke. But he actually does not know how to swim. In fact, we can save this man simply by throwing him a life buoy or having someone to jump to his rescue. Why say so many other things?

As regards the review, it can continue all right. Mr HUI Yin-fat has said that the demand by the Hong Kong Council of Social Services is to peg the standard rate to 40% to 45% of the median wage and today's motion, which asks for only 30%, is wide of their requested rate. It reminds me of the story of Zhuang-zi trying to borrow money from the official of drainage services. Zhuang-zi wanted to borrow only a very little sum of money to buy food to save his life. But the official replied, "No problem, but wait until I have collected the tax from all the people. Then I can lend you 300 taels or even more." The CSSA recipients are not asking for a very considerable increase of the CSSA payments. They are only asking for a little bit more in order to buy the necessities of life. But we have done nothing except making some unrealistic remarks.

Finally, it has been repeatedly stressed that with the CSSA payment pegged to 30% of the median wage, people will lose the incentive to work. I cannot disagree more. Today's motion is indeed not politically oriented, but some Members have queried my intention of moving this motion. I am perplexed by their suspicions. Honourable colleagues, I have been told by members of the public that the Legislative Council has gradually turned into a repugnant political battlefield. They hope that Members of this Council can be united in urging the Administration to really.....

The buzzer sounded a continuous beep.

PRESIDENT: Mr WONG, you have to stop. Standing Orders.

Question on the motion put.

Voice vote taken.

The President said he thought the "Ayes" had it.

MR WONG WAI-YIN: I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: If there are no queries, the result will now be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mr Martin LEE, Mr NGAI Shiu-kit, Mr PANG Chun-hoi, Mr SZETO Wah, Mr LAU Wong-fat, Mr Edward HO, Mr Martin BARROW, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mrs Elsie TU, Mr Peter WONG, 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, Mr LEE Wing-tat, Mr Fred LI, Mr Steven POON, Mr Henry TANG, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin and Dr TANG Siu-tong voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr HUI Yin-fat, Mr Andrew WONG, Mr Vincent CHENG, Mr CHIM Pui-chung, Mr Timothy HA, Mr Simon IP, Dr Samuel WONG and Dr Philip WONG voted against the motion.

THE PRESIDENT announced that there were 32 votes in favour of the motion and 11 votes against it. He therefore declared that the motion was carried.

FREEDOM OF TRAVEL

MR HOWARD YOUNG moved the following motion:

"This Council urges the Government to take positive steps to ensure that the people of Hong Kong continue to enjoy a high degree of freedom in travel and in leaving and entering the territory, and such steps should include, among other things, measures to ensure the continued recognition and acceptance by the international community of all kinds of present and future Hong Kong travel documents, to persuade more countries into granting Hong Kong travel document holders the privilege of visa free access and to clarify and ascertain in no uncertain terms the requirements of Chinese and non-Chinese nationals in attaining the status of Hong Kong permanent resident."

MR HOWARD YOUNG (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper. The motion urges the Government to take positive steps to ensure that the people of Hong Kong continue to enjoy a

high degree of freedom in travel and in leaving and entering the territory, and such steps should include, among other things, measures to ensure the continued recognition and acceptance by the international community of all kinds of present and future Hong Kong travel documents, to persuade more countries into granting Hong Kong travel document holders the privilege of visa free access and to clarify and ascertain in no uncertain terms the requirements of Chinese and non-Chinese nationals in attaining the status of Hong Kong permanent resident.

That I move this motion today on freedom of travel and in leaving and entering the territory is not just because I represent the tourism industry in this Council. True, if people do not have the freedom in leaving and entering the territory, Hong Kong's tourism industry will not be thriving at all. But more importantly, freedom of travel and in leaving and entering Hong Kong is one of the pillars for the territory's overall economic development. At present, Hong Kong businessmen can freely travel to all parts of the world to market their goods. This has made Hong Kong one of the top trade hubs in the world. Merchants can also travel to other countries for procurement of necessary raw materials.

Hong Kong ranks tenth in world trade. But I believe we probably rank the highest in the world for travelling and holding of travel documents. Every year, Hong Kong residents make over 2 million trips overseas, plus over 23 million trips to China, although we have a total population of only 6 millions. More than 3 million Hong Kong residents hold valid international travel documents. There are 1.9 million Hong Kong British Passports holders and 1.2 million Certificates of Identity (CI) holders, accounting for 55% of our population. In other countries as advanced as the United States, less than 10% of its total population possess a passport and most of the holders use it less than once a year. Even in the United Kingdom, where the world's first travel agency was founded, only 35% of the population are passport holders.

The barriers to travel by mankind have until early this century mainly been geographical factors and lack of means of transport. These barriers were removed with the advances in economic and scientific fields. But some governments used various political or bureaucratic means to limit their nationals' freedom of travel. Before the First World War, people could travel freely around different countries in Europe as long as they could afford the travelling expenses. They did not need a passport or visa at all. Today, this is no longer the case.

Hong Kong people should be proud of their freedom of travel. They should not only treasure this freedom, but also be prepared for the rainy days by making good preparation for smooth transition in the area of travel document. "Clothing, food, shelter and movement" are frequently referred to as the four basic living necessities by Chinese. In fact, freedom of travel and in leaving and entering the territory epitomizes the notion of "movement". Therefore, we should tackle the transition of travel documents in a pragmatic

manner. This is not a political problem, nor an economic one. This is a problem which would affect people's livelihood. Incidentally, there are probably more passports in Hong Kong than television sets and telephones.

I call upon the Chinese and British Governments to co-operate closer in achieving a smooth transition of both present and future travel documents held by Hong Kong people. These present travel documents include British passports and Certificates of Identity (CI). For transitional purpose, the future Special Administrative Region government will issue a new Special Administration Region (SAR) passport and other travel documents. The transitional arrangement I am demanding is to ensure that the present travel documents will remain valid after 1997, and that visa free access and related privileges granted by other countries will be guaranteed and enhanced.

At the moment, British National (Overseas) (BN(O)) passport holders enjoy visa free entry to over 70 countries. The British Government has a responsibility to ensure that these privileges will not be reduced, come 1997. It must explain to the international community that BN(O) passports will not become invalid because of the end of British colonial rule, and that they will be valid beyond 1997. Moreover, Britain should go even further and ensure that BN(O) passports would be treated as full British passports through negotiations with other countries.

At present, more than 1 million Hong Kong residents travel on CIs. But only a handful of countries allow visa free access for these people. Given that they and British passport holders are both permanent residents of Hong Kong, the British and Hong Kong Governments should not neglect their rights and focus their attention on fighting for the interest of British passport holders only. Certainly, BN(O) passport and the present CI may probably be valid beyond 1997. Be that as it may, we should not neglect this question. In the long term, we should strive for wide acceptance of the SAR passport to be issued by the SAR Government after 1997 in the international community.

The SAR passport is something as much unprecedented as the "one country, two systems" concept. I have never heard of any country which allows its special administrative region, if any, to issue passports instead of issuing them direct. I expect the SAR passport would be accepted by more countries as in the case of CIs and Hong Kong British passports. This is no easy task. What we have to do is more than administrative tasks such as designing, printing and issuing. We also have to put strong efforts into promoting it, so that more countries will give its holders visa free entry.

Few people know that, when entering some countries, travellers holding People's Republic of China's passports enjoy better treatment and more privileges than holders of British passports and CIs. The Chinese and British Governments certainly should jointly strive to make the future SAR passport holders enjoy privileges no less than those accorded to holders of their passports. To ensure that the SAR passport's status is well publicized in global

terms before 1997, I urge the Chinese Government to make pragmatic and timely arrangements for the issue of SAR passport, as it requires enormous manpower and resources to process such a huge number of passport applications. If the Immigration Department's existing capacity of processing 49 000 applications for passport and CI in a month is anything to go by, it will take 10 months to finish the job even if only 10% of Hong Kong's population apply for SAR passports. For this reason, I propose that the Hong Kong Government should consider setting up an independent passport processing centre specifically responsible for taking care of some of the matters in connection with the advance processing and issuing of SAR passports for the post-1997 SAR Government. This should be a neutral and apolitical remove independent of the Government. Since it is independent of any government department, it could naturally reduce some of China's worries about assigning the visa issuing task to another country. This passport processing centre can achieve self-financing by charging fees for the issue of passports. This centre is responsible only for the issue of passports. The printing of the passports and the application forms can be done by China to manifest its exercise of sovereignty. This is a pragmatic arrangement which should do away with worries in respect of matters relating to sovereignty. My proposal is certainly not the only answer. We can always do better with collective wisdom to find out if there are better alternatives. As a matter of fact, there are international precedents. The British Home Office hived off its passport office in 1991 to form a United Kingdom Passport Agency. The British Transport Ministry has also hived off its driving licensing. Moreover there are currently 36 countries which do not have consulate representation in Hong Kong; they have delegated the task of issuing visas to the Hong Kong Immigration Department on a cost recovery basis.

The last key to freedom of travel lies in whether or not a traveller has the right to return to, and right of abode, in his place of origin. If this is clearly stated in travel documents, travellers will be more warmly welcomed and better received in other countries. Recently rumours about Hong Kong permanent residents' right of abode are doing their round among member of the public. Many foreign nationals who emigrated in Hong Kong for years and Hong Kong residents who have migrated and obtained foreign passports in these few years have all worked hard for the territory's prosperity. I hope that the Chinese and British Governments can clarify the question about their future right of abode through the Joint Liaison Group, so that they may feel reassured to live and work in Hong Kong, and continue to make contribution to Hong Kong. I hope that China can adopt a lenient and flexible approach. Chinese people have a belief, that is, "One should keep to the same principle until the end". Given that these people are permanent residents or have permanent right of abode, I hope the authorities concerned could make positive application of this belief to give them truly permanent right of abode.

With these remarks, I support the motion.

Question on the motion proposed.

MRS SELINA CHOW (in Cantonese): Mr President, the Liberal Party is definitely and unreservedly in support of the drive to safeguard Hong Kong people's freedom in various respects. Of course, the Liberal Party is all the more in full support of the call for taking positive steps to ensure that the people of Hong Kong continue to enjoy a high degree of freedom in travel and in leaving and entering the territory now and beyond 1997.

Article 31, Chapter III: Fundamental Rights and Duties of the Residents, of the Basic Law stipulates that:

"Hong Kong residents shall have freedom of movement within the Hong Kong Special Administrative Region (SAR) and freedom of emigration to other countries and regions. They shall have freedom to travel and to enter or leave the Region. Unless restricted by law, holders of valid travel documents shall be free to leave the Region without special authorization".

Evidently it is provided that Hong Kong residents shall have freedom to travel and to enter or leave the SAR. Yet in view of the strained Sino-British relationship now, Hong Kong residents' freedom to enter or leave the territory on 1 July 1997 will undoubtedly be threatened. To ensure Hong Kong people the right of freedom of movement now and beyond 1997, the Government and relevant departments should formulate a clear policy and devise some plan to give substance to this provision and other related provisions in the Sino-British Joint Declaration. In this regard, we urge the Government to take active and positive actions to ensure that the people of Hong Kong continue to enjoy a high degree of freedom in travel and in leaving and entering the territory.

Mr Edward HO, my Liberal Party colleague in this Council, is going to urge the Government to open talks expeditiously with the Chinese side before 1997 on the arrangement of the issue of SAR passport and to express our hope that the Chinese side would persuade more countries into accepting the SAR passport as a travel document after 1997. Mrs Miriam LAU is going to urge the Government to seek the Chinese sides' recognition and consideration of validity of the Certificate of Identity (CI) before 1997 and beyond. It is hoped that the Hong Kong Government and the British Government will also rectify an unfair situation under which British Passport holders and CI holders are treated differently in respect of visa application. As for Mr Steven POON, he is going to evaluate the far-reaching implications of the issue of SAR passport and will put forward a few possible courses of action for consideration. On my part, I am going to make some observations on the worries and expectations of the Hong Kong people who have returned to the territory from abroad.

We earnestly hope that the future SAR Government will not discriminate against those Hong Kong people who return to Hong Kong after having secured a foreign passport. It should not see them through tinted glasses and deprive them or deny them of their right to enter and reside in Hong Kong. We all

understand that these people sought greener pastures mainly because they had no faith in the future of Hong Kong in view of the 1997 question. As a last resort, they made the decision to emigrate in anticipation of a better tomorrow, though at great cost such as selling their flats, playing the role of "astronaut" and staying abroad to fulfill the necessary emigration requirements. They have high hopes in starting a new life overseas. However, the sustained downturn in these countries over the past few years compelled these people to return to Hong Kong to start all over again. A spokesman of the Hong Kong and Macau Office has made an announcement some time ago, declaring that these returnees, though formerly Hong Kong permanent residents, may lose their right of abode and permanent resident status after 1997 due to their settlement in other countries and being granted foreign passports. It is expected around 400 000 people would be affected. I would like to remind and urge the Chinese Government to observe to the provisions in the Basic Law that Hong Kong residents shall have the freedom of emigration to other countries and the freedom to enter and leave the SAR. The returnees should not be denied their right of abode and freedom of movement.

As a matter of fact, these 400 000 returnees are of high calibre with skilled trades and has a pivotal role to play in the promotion of the local economy. Many of them are experienced professionals with capital resources. If strict restrictions are imposed on these elites in respect of their freedom to enter and leave Hong Kong thus denying their permanent resident status, without making allowance for the difficult decision they had to make to emigrate to other countries out of a "fire-exit" mentality, it is unfair to these people and not in the long-term economic interests to both Hong Kong and China. In view of this, both Hong Kong and Chinese Governments should take positive actions immediately to reassure the returnees that their deserved right of abode is guaranteed.

Mr President, with these remarks, I support Mr Howard YOUNG's motion.

MR EDWARD HO (in Cantonese): Hong Kong's spectacular economic growth has been achieved not only because of the hard work of the people, but also the freedom in leaving and entering the territory and in travel. Such freedom has facilitated the transfer of new technologies from other countries through people travelling, doing business or working abroad. In addition, the increasing amount of travel on the part of Hong Kong people in recent years fully indicates the importance of freedom in travel. Hong Kong people earnestly hope that they would continue to enjoy their freedom in leaving and entering the territory and in travel after 1997.

Despite the fact that the validity of British National (Overseas) (BN(O)) and Certificate of Identity (CI) straddles 1997, they are only medium-term solutions. The long-term solution must be to enhance the acceptance and credibility of our future Special Administrative Region (SAR) passport. There

are now five million permanent Hong Kong residents who are Chinese nationals and they will be eligible for SAR passports. I hope the acceptability of SAR passport in other countries will surpass that of the Hong Kong British passport. This is not an easy task and will require time and efforts from the Chinese Government, as well as the British and Hong Kong Governments. When the first BN(O) passports were issued and used in 1987, there were confusion and problems with some countries not familiar with them. It is wrong to think that we can introduce the SAR passport at a leisurely pace just because BN(O) and CI can straddle 1997. Promoting wide usage of the SAR passport from day one in as many countries as possible will help to boost its acceptability.

Whilst BN(O) passport currently enjoy wide acceptance, its days are numbered. The ease of travel or protection that the passports provide will diminish with the passage of time and political changes.

In addition, Mr Howard Young has just now pointed out there are some countries, such as Pakistan, Bulgaria, Hungary, Romania and Cuba, where holders of PRC passports enjoy visa free access whereas Hong Kong's British passport holders are denied such privilege.

China, Britain and Hong Kong should strive to make our future SAR passport possess the combined privileges currently enjoyed by both Chinese and British passport holders. In order for that to succeed, it is imperative that SAR passport should be promoted on an international scale.

At present, 55% of our population are British passport or CI holders. If they all apply for SAR passports now, it would take five and a half years to process their applications. Therefore, SAR passports should be issued at an early date.

As China may regard the issue of passport as a matter involving sovereignty and be hesitant to be seen to be asking a foreign government to act on her behalf, I agree with Mr Howard YOUNG's proposal in setting up a passport Agency to issue SAR passports on behalf of the future SAR government.

In addition, I do feel that upon the issue of the SAR passport, its effective date, that is, 1 July 1997, should be printed on it, so that countries where visas are required could issue them on valid passports beforehand, and the effective date of the visas may coincide with that of the passports. This is better than stamping the valid date on the SAR passports at exit points since it will delay the departure time of the holders.

The above proposals not only could facilitate an early issue of SAR passport, they could also avoid the parties concerned being entangled in the issue of sovereignty.

Therefore, I urge China, Britain and Hong Kong not to forget the importance of issuing SAR passport and its promotion despite the political row, as it may affect Hong Kong people's freedom in leaving and entering the territory and in travel in future.

Mr President, with these remarks, I support Mr Howard YOUNG'S motion.

MR MARTIN BARROW: Mr President, we all know that Hong Kong's commitment to the free flow of ideas, investment, trade and business expertise has fuelled our strategic and prosperous position here in the Asia-Pacific region. It would certainly be folly to underestimate the contribution of the free flow of individuals to that position, and to our capacity for ongoing prosperity.

Freedom of travel is essential to the ability of our people to continue to contribute to the outstanding economic success of Hong Kong. And I urge the Government to make every effort to protect and enhance the right of people to travel on whatever documents they possess.

We need the support of, and closer dialogue with, the British Government to strengthen both our right of entry privileges and the recognition worldwide of all Hong Kong travel documents, including the Certificate of Identity.

The upcoming Schengen Agreement on a Common Visa Area, which threatens to erode our existing visa-free privileges in the European Community, is a case in point for urgent dialogue with both Britain and the European Community.

Hong Kong must, I believe, be seen to be taking the lead in pressing for openness in travel freedoms in light of the increasing international currency of a more interlinked world environment and economy. We must work towards ensuring immigration policy does not become an anomaly in the context of Hong Kong's status as a dynamic, international city.

We need only look at the great increase in trade between Hong Kong and the former Soviet countries over the past few years for evidence of how restrictions on the flow of individuals stymies our capacity to benefit from an increasing interdependence of nations and to promote Hong Kong as a pivotal business centre in the region.

It will be remembered that it was only in 1992 that Hong Kong finally lifted its extraordinary restrictions against visitors from Eastern Europe long after many other countries.

We must also be cognizant of the fact that if we are to press for more visa privileges for Hong Kong travellers, we must be seen to have our own house in

order, which includes assurance of returnability and the right of abode now and in the future.

Some of our immigration provisions beg clarification, such as the unclear permanent resident status of foreigners who have lived in Hong Kong for more than seven years; the fact that Certificates of Identity do not show that their holders have right of abode in Hong Kong; and the uncertainty over whether holders of Special Administrative Region passports will be required to surrender their British National (Overseas) documents.

I have, for many years, pressed the Hong Kong Government to open up Hong Kong to overseas travellers, and there is certainly more work to be done to achieve a more mutual-beneficial coexistence of security with economic and social development needs.

In acting on our right and proper desire to gain freer and more convenient access to the world for Hong Kong people, we must be wary of clinging to ideals of reciprocity. Take the issue of the Schengen accord. We must push the British Government to take a lead on this, but can ill afford to fall into a tit-for-tat visa game, given our reliance on tourism and trade.

To the benefit of Hong Kong, we are seeing some progress regarding access restrictions among our neighbours, involving reforms in Japan and Taiwan's decision to grant Hong Kong people multiple-entry visas.

There is, of course, more to be done, and I urge the Government to clarify its objectives on the surety and improvement of travel freedoms for Hong Kong people holding different documents. Any set of objectives must also encompass the entry of foreigners to Hong Kong, and the complex issue of Chinese nationals' access to the territory.

A free flow of individuals, both in and out of Hong Kong, can only serve to fuel prosperity for the future and consolidate our status as one of the world's most open and efficient environments for business and travel.

The essential thinking of immigration policy makers needs to be fundamentally reversed. "How can we simplify an individual's entry?" should be the current cry, not "how can we find reasons to keep someone out?"

To crib from a long-recorded Wilsonian sentiment — and I mean, Mr President, Mr Woodrow WILSON, not our former Governor — may I reiterate that if we are to progress and prosper in a manner to Hong Kong's credit, our interests must be those of the open door.

With these words, I support the motion.

MRS MIRIAM LAU (in Cantonese): Mr President, I believe that people who lived during or before the 19th century had no idea what a passport or a visa was. In those days, if anybody wished to travel around the world, the only thing he needed to have was sufficient money to pay for the trip. Marco POLO who travelled all the way to China, Christopher COLUMBUS, the one who discovered the new world and ZHENG He, who sailed seven times to South Asia were not required to apply to any government for a travel document or a visa. Today, however, how far one can travel depends very much how many countries or regions accept one's travel document.

More than three million valid international travel documents have been issued to the people of Hong Kong and been widely in use. About two millions of them are British passports and more than one million are Hong Kong Certificates of Identity (CI). Looking at these figures, one can tell that the people of Hong Kong really have a high degree of freedom in travel and in leaving and entering the territory.

With a high degree of freedom of travel, we can travel to every corner of the world. Hong Kong people not only sell Hong Kong's quality products to overseas markets; they also travel to foreign countries to enjoy exotic sceneries and to get to know their cultures. In doing so, they may also tell the people of foreign countries the admirable miracle of Hong Kong.

Holders of British National (Overseas) (BN(O)) passports and British Dependent Territories Citizen (BDTC) passports are now privileged to have visa free access to more than 70 countries of the world, though some of these countries treat the two kinds of passports differently at the port of entry. For instance, Australia waives visa requirements for holders of BDTC passports but not for holders of BN(O) passports, while Mexico does just the opposite by waiving visa requirements for holders of BN(O) passports but not for holders of BDTC passports. Now, the validity of all BDTC passports expires on 30 June 1997. While, BN(O) passports will remain valid beyond 1997. I think that the Government should strive for winning more visa free privileges for holders of BN(O) passports. The Government must also do something about promoting BN(O) passports and attracting more Members of the public to apply for them. Somebody has likened China and the United Kingdom to two families who are going to form a marriage alliance. I urge the British Government to get the dowry ready soon for its daughter in the form of a BN(O) passport which is valid both before 1997 and beyond so that she may have ample time to make plans for her honeymoon which the couple could spend abroad.

However, the people of Hong Kong find one thing both ridiculous and regrettable. It is that their Hong Kong British passports are not on a par with the British passports issued to United Kingdom citizens. United Kingdom citizens holding British passports have visa-free access to countries like Germany, France, Portugal and Kenya. Yet, Hong Kong people holding Hong Kong British passports do not have the same privilege. Considering that the United Kingdom is the head of the British Commonwealth and has close ties

with the European Community, the British Government, I think, should do something about gaining this privilege for holders of Hong Kong British passports.

The United Kingdom should show by its action that it recognizes Hong Kong holders of British passports as "members of the same family". It should allow them, at any British port of entry, to stand in the lines for United Kingdom citizens. If the British Government itself does not give equal treatment to the passports that it has issued to us, what can we expect from the governments of other countries?

About 40% of Hong Kong's travel enthusiasts travel on CI. But the British Government in Hong Kong has done nothing, even though it is the issuing authority, for these travel documents, in the direction of enhancing the status of CIs or making them better recognized internationally. So far, only a handful of countries, namely, Singapore, South Africa and nearby South Korea, grant the privilege of visa-free access to holders of Hong Kong CIs.

Many of my friends are CI holders. They are enormous consumers when they on many trips abroad. Such tourists are presumably welcome in every country that values its tourist industry. Why does the British Hong Kong Government not do a bit more about gaining better treatment for them?

As the first large step on that front, the United Kingdom should grant visa free access to travellers from Hong Kong who hold CIs, and give them the same treatment as that given to holders of British passports of any kind. The Hong Kong Government, too, should take matching action. It should lobby Asian countries like Thailand and the Philippines, where Hong Kong people often spend their holidays, to give all permanent residents of Hong Kong visa-free access as what Singapore does. In fact, many countries, for example, the United States, require all travellers from Hong Kong to have valid visas, be they CI holders or Hong Kong British passport holders.

Mr President, the Chinese Government, the British Government and the Hong Kong Government all have an obligation to secure for the people of Hong Kong a smooth transition in terms of their travel documents, as it is necessary that freedom of travel must be safeguarded and upheld. But it requires more than government efforts. The holiday makers themselves are also obliged to improve their own image. Hong Kong people, when travelling abroad, should behave in a civilized manner. They should demonstrate with a positive outlook that they have confidence in Hong Kong's future. They should not show a doomsday mentality. In this way, a good image will be built abroad for travellers from Hong Kong. A day will come when we will be treated hospitably wherever we go. We will then know that our efforts to win freedom of travel today are not in vain.

Mr President, with these remarks, I support Mr Howard YOUNG's motion.

DR LEONG CHE-HUNG: Mr President, on 17 November last year, I sought clarification from the Government in this Council on the definition of Hong Kong permanent residents and the conditions set out for granting such status to foreign nationals who have complied with the conditions of stay as stipulated in the Basic Law.

That was just one of the many questions asked on this subject throughout the years. But the only concrete thing that the Administration could reply is that they hope that the issue could be settled in two years' time.

On 27 May 1992, this Council asked the Government whether Hong Kong residents who are of Chinese race and have acquired foreign nationality would lose their right of abode in Hong Kong after 1997 and how many the Government estimated would be affected.

The Secretary for Security then said and I quote: "We do not know how many people would fall into this category and it is simply not possible for the Government to have such statistics."

When pressed further on whether Hong Kong permanent residents would automatically lose their right of abode by simply acquiring a foreign nationality, the Secretary said again: "I do not see that once one has acquired the right of abode, one would lose it when one takes up another nationality."

Similar questions were raised in November 1991, December 1990, January 1990 and October 1989 and so on. All were answered on a stereotyped base that all solutions lied with the talks between China and Britain via the Joint Liaison Group (JLG).

Let me stress, Mr President, strongly here that the right of abode is one very basic and vital right, and protection to anyone who call Hong Kong a home. This means the right to enter and leave the territory unconditionally, and the right of not being removed or deported.

Unfortunately there is a misconception that a person can acquire the permanent resident (PR) status if he fulfils the seven-year requirement of residence regardless of race and nationality.

This is simply NOT the case.

Let me set the scene for the total confusion. The amended Immigration Ordinance of 1987 clearly states that only two groups of people can become Hong Kong PR:

- (i) Those who are BDTCs by birth, marriage or naturalization; and
- (ii) Those of wholly or partly Chinese race and have ordinarily resided in Hong Kong for a continuous period of not less than seven years.

Although there has never been a question of a permanent resident losing the right of abode within the current law, we are NOT sure of this situation after 1997.

Articles 24(1) and (2) of the Basic Law stipulates that Chinese nationals (those of Chinese race) who were born in Hong Kong before or after 1997, or have resided continuously in Hong Kong for not less than seven years are permanent residents of the Special Administrative Region (SAR).

Yet, once these people acquire a foreign nationality, they will automatically cease to be Chinese nationals as China does not allow dual nationality.

The crux of the matter is: will these people automatically lose their PR status and the right of abode in Hong Kong?

It would perhaps be pertinent now to ask the Government to clarify the status of the right of abode of the following groups of people between now and after 1997:

People like my friends Jimmy McGREGOR and Elsie TU and their type which I believe are *persona non grata* as they have no right of abode now, but what about the future?

BDTCs of non-Chinese race but who have resided here for not less than seven years. These are the ethnic minorities. They are permanent residents now but what about 1997?

Hong Kong Chinese who have gone overseas, settled and acquired a foreign nationality, and have now returned to Hong Kong; and

Hong Kong Chinese who have NOT gone overseas and have acquired a full British nationality via the British Nationality Selection Scheme (BNSS). They are permanent residents now but how about 1997?

Unfortunately, actions made by the British and Chinese Governments produce confusion, let alone frustration. Let me perhaps elaborate some of these.

First, all of a sudden in last month, the British side started to release touchy information that it has held back for years. Security Branch officials told Legislative Council's Nationality Sub-group that the Government feared that up to 400 000 ethnic Chinese Hong Kong permanent residents who have acquired foreign nationality might be denied the right of abode after 1997.

A few days later, Beijing indicated her wish for an early issue of SAR passports before 1997 to avoid a bureaucratic vacuum in which Hong Kong people could temporarily be rendered stateless.

The Senior British representative of the JLG then issued a statement saying that the British side welcomed this move and stressing that London had been waiting for Beijing's response to such proposals as early as July last year.

But why is there a need to rush for an early issue of the SAR passports?

The British National (Overseas) Passports are designed to enhance freedom of travel of Hong Kong people before and after 1997. Both Britain and China have agreed in the memoranda of the Joint Declaration that the BN(O) passports would be valid travel documents beyond 1997. Even the Certificate of Identity (CI) can survive 1997.

And if these travel documents are valid after 1997, why should there be such a fear that SAR citizens would become stateless and thus deprived of the valid documents to travel abroad?

The Social and Security Panel of the Preliminary Working Committee (PWC) of the SAR suggested that there should be "subjective and objective conditions" for Hong Kong residents who have acquired a foreign nationality to fulfil before they can "regain" their PR status.

Yet, the Secretary for Security told the press in November last year that Britain and China had reached an agreement as early as 1987 that this group of people can regain their PR status by simply making an oath that they would take the future SAR as their permanent home.

Does the PWC's move signify the denial of such a Sino-British agreement? Does this signify a collapse of genuine co-operation between Britain and China?

With respect, I do not agree with Honourable Howard YOUNG's suggestion of setting up an agency under the Immigration Department to facilitate the early issue of SAR passports before 1997. Constitutionally speaking, such SAR passports are invalid documents before the SAR comes into being. Furthermore, there is no need for a third party to issue such passports on behalf of the future SAR Government before 1997, unless a smooth transition has hit the rock.

There is thus an urgent call for a publication of specific guides on the right of abode, the right to land and the right to work in Hong Kong for those people who have a foreign passport or nationality, so as to pacify their schizophrenic state of who they are, what they are, and what they can do. This is a promise made by the Administration to this Council back in January 1990 — a long long overdue.

If Britain is genuinely acting in the interest of Hong Kong people at heart, she should honour her undisputable obligation to lobby for wider international acceptance of the BDTC and BN(O) passports and the CI now and beyond 1997.

She must immediately clear the mess over the visa requirement of the Schengen Convention countries. It would be ironic if BN(O) passport holders would have to queue up for a visa even to enter the United Kingdom.

Mr President, both the British and Chinese Governments have an obligation to ensure that the Joint Declaration can be fully and faithfully honoured.

I support the motion.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, with the exception of some special residents and imported foreign workers, Hong Kong has a population of about 5.8 million, of which 3.5 million people are holders of British National (Overseas) (BN(O)) passports, accounting for 60% of the population; 1.9 million people are eligible for Certificates of Identity (CI), accounting for 33% of the population; the remaining 7% people are holders of foreign passports (including those not covered by statistics). Among the 1.9 million Hong Kong residents eligible for CIs, about 1.2 million people have actually applied for these travel documents. The rest have not applied for CIs or passports, probably because they do not have to travel abroad. Of course, they may be holding "Home Visit Permits" for visiting China.

Mr President, Hong Kong prides itself on being one of the world's "top 10" countries in trade. The throughput of its ports and its many other public facilities (including transport facilities) have very high ratings in the world. These are the results of the concerted efforts of all parties and the physical environment of Hong Kong. Regrettably, the 33% of Hong Kong people eligible for CIs mentioned just then are regarded as stateless by other countries in the world. In Hong Kong, we regard them as people without well-defined nationality. Undeniably, this is a disgrace to colonialism under the British rule. Although this historic era is about to end, the historical facts will be unalterable. The people of Hong Kong are now talking about the 1994-95 elections. The Governor, since coming to Hong Kong, has done two things for the people of Hong Kong: The new airport which is the biggest dowry since Cleopatra; and the injection of fund into the new airport which is the best present before the Chinese New Year.

I want to challenge the Governor here. I am not challenging his authority but his performance. Can he, before leaving his office for the United Kingdom, manage to gain the privilege of visa free access to the United Kingdom for Hong Kong people, especially holders of CIs and BN(O) passports? Being a person who cherishes democracy and freedom, he should be able to do this with no difficulty at all. Hong Kong people are not begging for the right of abode in the United Kingdom. They do not want to earn their living there by "peeling potatoes." What they want is a personal right to enter the United Kingdom for touring purpose. They may well have to spend a lot of pounds sterling in the United Kingdom, thus benefitting Britain's economy. Being a vanguard of

supporters of democracy the Governor, should frankly or cordially accept my challenge and views. Mr President, I have no ill intention at all. I earnestly hope that the Governor will put forward our request to the various British political parties. This is more meaningful than seeking the support of the various British political parties for his arguments on the 1994-95 elections. I firmly believe that this view of mine is shared by the people of Hong Kong at present.

Of course, democracy is important in all aspects. However, we must also realize that international recognition and acceptance of the passports of the future Hong Kong Special Administrative Region are no less important. We very much hope that, before 1997, the Chinese Government will, on behalf of the citizens of the future SAR, lobby other countries so that they will announce as soon as possible that, after 1997, they will give equal treatment to the residents of the Hong Kong SAR and grant them visa free access for touring purpose.

Hong Kong will return to China in 1997 and become a Special Administrative Region of China. It follows that Hong Kong people will be more entitled to the various special arrangements in Mainland China. We very much hope that arrangement in respect of passports will be made for us. In other words, the citizens of the Special Administrative Region should be able to enjoy whatever treatments the citizens of China can enjoy, with perhaps even greater convenience. I sincerely hope that China will get this in place.

Lastly, I am going to criticize relentlessly, the politicians who argue and strive vigorously for the several thousand people who may lose their citizenship and become stateless after 1997. The consequent support that they have won from the British House of Lords (of course, the House of Commons has not yet made the final decision) reveals the great effort they have made. However, we must bear in mind that there are still 1.9 million people in Hong Kong (including the many so-called democracy fighters) who will also be stateless. This shows that the politicians are not only great but also ignorant because they are not striving for themselves or for the 1.9 million people but for the several thousand people only! Therefore, I wonder whether these politicians are of the view that the 1.9 million citizens eligible for CIs are unimportant, and that they are here for political shows only. Therefore, Mr President, I firmly believe that Hong Kong will be better in all respects after 1997. We hope that the Governor Mr PATTEN will take his first step forward to strive for democracy and the truth.

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

DR HUANG CHEN-YA (in Cantonese): Mr President, recently there have been some views that those Hong Kong people who have emigrated to other countries should be subject to vetting before they can restore their permanent right of abode in Hong Kong, and that they should pay the price for their political

insurance policies, namely, that they cannot enjoy equal rights with other people of Hong Kong. There have even been views that those Hong Kong people who have acquired a foreign nationality may have questionable morals.

Views like these will inevitably make many people worry. But more important they throw light on the fact that there are still many grey areas in the Basic Law which can be exploited by extreme racists. I think that the Chinese and British Governments should clarify the problem as quickly as possible in order to allay the fear of the public. Both Governments should also maintain Hong Kong's position as an international city in order to prevent the rise of narrow-minded closed-door policy. The Hong Kong Government must urge the Chinese Government to expeditiously give the assurance that the people of Hong Kong, regardless of their race and place of birth, will not lose their permanent right of abode or be subject to other forms of retaliatory punitive action because of having acquired a foreign nationality.

I believe that it is a necessity for the Chinese Government to give this assurance in black and white, not only because of the confusing views expressed recently, but also because of the fact that China has a long feudal history of preventing its people from leaving the country. During the Ming and the Ching Dynasties, people who returned to their homeland for resettlement after spending many year overseas were punished. As a result, China deprived itself of the opportunity to become strong by way of international trade and cultural exchanges, ultimately leading to its own weakening. After 1949, China committed the same mistake during the Anti-Rightist Struggle and the Cultural Revolution in persecuting the returned overseas Chinese and even those who had overseas relations, causing again great damages to the people and the country. It is therefore worrying that whether or not Hong Kong would retrogress from an open society to a seclusionist one. In fact, the freedom of movement is not only the right to which the people are entitled, but also a great contribution to the material and spiritual prosperity of the country and the world. If a country adopts a closed-door policy and restricts its people's freedom of movement, it will not only infringe upon the human rights of the people but will also jeopardize the long-term interests of society. Since the beginning of the 1990s, the international economic and cultural activities have been developing towards globalization. The volume of cross-border population movement is also increasing. Some scholars have already commented that the global economic lifelines are now controlled not by countries, but by tribal networks — cohesive human networks interwoven by common culture, race and faith. These international networks, formed respectively by ethnic Chinese, Japanese, Indians, Jews and Caucasian people, having different nationalities and who are living in different parts of the world, conduct without any territorial restrictions gainful social, industrial and commercial activities.

Hong Kong has long separated nationality from the right of abode, and members of the public can travel freely and frequently. In these circumstances, Hong Kong has gradually become the hub of the international network of Chinese people. If Hong Kong should turn from an open society to a

seclusionist one, discriminating against the other ethnic Chinese on grounds of their nationality, the result must be Hong Kong shifting the hub of the international Chinese network to the fringe, losing in the process its vitality and productivity.

Of course, people emigrate because of different reasons. Many people of Hong Kong do so because they are afraid of the Communist Party using the state machinery to oppress the people. The desire of belonging to the state rather than having the state, a country in which one cannot enjoy the rights available in a democratic society, owns you and becoming slaves of that state is also a reason why many people want to acquire a foreign nationality. These reasons are all understandable. However, these people still have strong affection about Hong Kong and China. Whether or not they will return to Hong Kong depends on whether they will be discriminated against, or rendered as second class citizens deprived of the rights of permanent residents. Being a highly modernized international city with well developed industrial and commercial institutions, Hong Kong indeed needs various types of professionals, and needs them earnestly. We should welcome professionals from all over the world. We should not discourage the emigrated Hong Kong people who intend to return here by distinguishing them from other people of Hong Kong or treating them differently. The Chinese Government must give an unequivocal assurance that no people of Hong Kong, regardless of their race or place of birth, will be troubled or deprived of the permanent right of abode which they originally possessed, because of having acquired a foreign nationality.

With these remarks, I support the motion.

DR CONRAD LAM (in Cantonese): Mr President, Article 31 of the Basic Law provides that residents of Hong Kong "shall have freedom of movement and to enter or leave the Region." Article 24 of the Basic Law provides that residents of Hong Kong shall include permanent residents and non-permanent residents and that permanent residents include persons of Chinese nationality and persons not of Chinese nationality. Surprisingly, however, though we have searched the Basic Law and even the Chinese Constitution from cover to cover, we have found no definition of "Chinese national".

Therefore, we have had to look up the memorandum of the Chinese side appended to the Sino-British Joint Declaration. There, we have found these words: "Under the Nationality Law of the People's Republic of China, all Hong Kong Chinese compatriots whether they are holders of the British Dependent Territories Citizens' Passport or not, are Chinese Nationals." First of all, everybody, I hope, realizes that it is highly doubtful that the particular memorandum is a legally binding document. Secondly, what is meant by "Chinese compatriot"? This is not a legal term. Nor is the term found or defined in the Basic Law, the Chinese Constitution or the Nationality Law of the People's Republic of China (PRC). In the opinion of many experts on Chinese law, the term "Chinese compatriot" strongly implies loyalty to China on the part

of anybody who is so called. Those people of Hong Kong who lived through the disturbances of 1967 are likely to carry in their minds a strong impression of how the term "compatriot" was used then. Then, there were ruffians who planted bombs in the streets. When they did so, they usually attached pieces of paper to the bombs carrying these warning word: "Compatriots, keep away." Well then, suppose that one of the many good citizens of Hong Kong, who love democracy, freedom and human rights and who do not want to be submissive subjects, leaves Hong Kong on a trip abroad after 1997. Will the Government of the Special Administrative Region (SAR) use the opportunity to write him off as a "Chinese compatriot"? Will he find at the airport, upon his arrival, a banner carrying the words: "Hong Kong does not welcome you"? To look at the same matter from a different angle, if a person is barred from returning to China by the Chinese Government or from returning to Hong Kong by the SAR Government, will he remain a "Chinese compatriot" and a "Chinese national"?

Now let us look at the Nationality Law of the PRC. This law, taking a negative approach, tells us under what circumstances one may forfeit one's status as a Chinese national. But it provides very little guidance even on this point. The particular law was not promulgated until September 1980 and it is the only nationality law ever passed by the PRC. Besides, it says that it has no retrospective effect and that where it has been decided that a person has gained or lost his Chinese nationality, that decision shall remain valid notwithstanding the promulgation of the nationality law. Well then, should cases dating back to before 1980 be adjudicated under the nationality law promulgated by the Nationalist Government in 1929? Apparently not. After the PRC was founded in 1949, a new "kitchen" was immediately built in the sense that a Common Programme was hastily promulgated, declaring null and void "the reactionary and oppressive ordinances, court orders and legal systems of the Kuomintang (KMT) Government". Most scholars on Chinese law are of the opinion that the Common Programme repealed the nationality law of the KMT Government. In other words, there was a vacuum of nationality legislation in China for a long time: from 1949 to 1980. This being so, it is entirely debatable whether the many people who were born in Hong Kong between 1949 and 1980 are necessarily Chinese nationals. While the Chinese Government never recognized the British dependent territory citizenship conferred by the British Government on the people of Hong Kong, yet for 30 long years, it failed to fill a vacuum it had created in its nationality law. On the other hand, it did announce, without elaboration, that it would not accept dual nationality. This is indeed very baffling. As a senior lecturer of the Department of Law of the University of Hong Kong has noted, the people of Hong Kong may have lost their Chinese nationality at the time of the last transfer of sovereignty during the last century, or at the time of the repeal of the nationality law in 1949.

It appears that the question as to whether the people of Hong Kong are Chinese nationals and hold Chinese nationality has been left up in the air. This and other matters show that political expediency has taken precedence over legislation and any spirit of the rule of law is non-existent.

Mr President, Hong Kong is an important international city. There must be no grey area where the issues are as important as the freedom of leaving and entering the territory or the nationality issue. We must not leave these issues to be resolved in ways in which we think that they will be resolved, based on "intuition" or "tacit understanding". Therefore, I urge the Hong Kong Government to take immediate actions to clarify if the people of Hong Kong hold Chinese nationality and are Chinese nationals. We the people of Hong Kong will then be best prepared when Hong Kong reverts to China.

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

MR STEVEN POON (in Cantonese): Mr President, for Hong Kong people, freedom of travel has become one of their distinctive ways of life. Hong Kong people also enjoy freedom of travel in China and many other countries. This is one of the major reasons why Hong Kong people could play so prominent a role in the economic development of China. Such ease of movement has significantly made up for China's complicated governing its people's leaving and entering procedures, thus enabling making Hong Kong to serve as a bridge between China and the outside world.

However, with the transfer of sovereignty over Hong Kong in 1997, it is anticipated that Hong Kong people's freedom of travel would be in jeopardy after 1997. If I should ask ordinary citizens in the street today what kind of travel documents they could use for leaving and entering Hong Kong after 1997, I think the majority of them would say they do not know. This is indeed worrying.

Several Legislative Council Members from the Liberal Party who spoke before me have discussed various questions concerning post-1997 travel documents. These questions include the validity of Certificate of Identity (CI) after 1997, acceptance of British National (Overseas) (BN(O)) passports and the permanent right of abode in the territory of Hong Kong people who have already emigrated to other countries.

In principle, eligible Hong Kong residents should all use Special Administrative Region (SAR) passports issued by the SAR Government to leave and enter the territory after 1997. BN(O) passports or other travel documents in question will certainly become invalid some day as they are only remnants of history. In fact, I personally suspect if BN(O) passports and other travel documents would be accorded equal recognition by 2007 when the Hong Kong SAR passport will have been widely accepted by other countries. Therefore, in the final analysis, we need to make the issue of the SAR passport a success.

Nevertheless, the work that has been done so far on the issue of SAR passport is obviously far from being adequate. We do not know as of now when the SAR passport can be issued. Many people are apprehensive about the issue of the post-1997 travel documents. This state of affairs is grossly unacceptable,

particularly to the 1.2 million CI holders. Frankly speaking, CI holders like our party leader, the Honourable Allen LEE, are stateless. In the past, among some Hong Kong residents who were not born in Hong Kong but came from mainland China, there were some who were unwilling to apply for Hong Kong British passports. But they were not a Chinese passport holder either. As a result, they could only travel on a CI as a stateless person.

With Hong Kong becoming a SAR of China after 1997 and given that most of these stateless persons are Chinese, they should travel on a SAR passport rather than on a CI as a stateless Chinese.

However, to their disappointment, there is still no specific arrangements in sight today for the issue of SAR passports to these CI holders and other eligible Hong Kong residents.

Several Members from the Liberal Party have already made the point that for a passport to be accepted by other countries, it needs some hard selling. The promotion of the SAR passport is something that allows no more delay, lest the travel document would be no more than some worthless papers by 1 July 1997. As a related issue, if the SAR passports are to be issued from until that day onwards, I am afraid long lines of applicants would be formed and that would cause Hong Kong people tremendous inconvenience. Besides, the authorities responsible for the necessary administrative work would find it difficult to cope with the expected mammoth workload.

I do not understand why passports for the future SAR with a specification that they are effective only from 1 July 1997 onwards cannot be issued now. The Chinese Government may accept applications for the passports in Hong Kong and Shenzhen and then issue them in Beijing after the necessary processing before the SAR Government affirming them after 1 July 1997. This matter must be dealt with expeditiously. I hope that the Chinese and British Governments can look at this issue squarely and hold discussions as quickly as possible on how to deal with it.

It is entirely a matter of personal choice for Hong Kong people who may hold both BN(O) and SAR passports, in using which of their passports for travelling purpose. But it may not fully demonstrate China's resumption of sovereignty over Hong Kong if people who wish to use the SAR passport were unable to obtain the document on 1 July 1997 because of administrative problems. We might then fail history, too.

Mr President, I support the Honourable Howard YOUNG's motion.

MR JAMES TO (in Cantonese): Mr President, I have to unburden my mind on something. A moment ago, one Member said that the leader of his party was stateless and this was because he held a Certificate Identity (CI). This is very strange. As a matter of fact, the leader of his party should have applied to the

Chinese Government for a Chinese passport if he had considered himself to be stateless, yet qualified to be a Chinese national. Some deputies to the Chinese National People's Congress say that they have been unsuccessful in this application for Chinese passports as the Chinese Government refused to issue the passports to them. However, the Chinese Government has never stated that it would not confer a Chinese passport on a CI holder. For this reason, one should not claim that a CI holder is stateless. If one, however, does not want to acknowledge one as a Chinese national, then there is nothing I can do.

Hong Kong is an international city. For the people of Hong Kong, leaving and entering the territory, on pleasure or business trips or for visiting relatives living elsewhere, has become a way of life. It must be ensured that they will continue to enjoy freedom of movement after the transfer of sovereignty. To forestall any inconvenience caused to the people of Hong Kong in this regard, we must try to maintain and improve Hong Kong's present relationship and arrangements with other countries. The United Democrats of Hong Kong (UDHK) hope that the Chinese Government, the British Government as well as the Hong Kong Government will speed up their discussions and come up with positive solutions for the problems that have emerged.

Our discussions today are about future freedom in travel and in leaving and entering the territory. Who can enjoy freedom of travel and leaving and entering the territory? Article 31 of the Basic Law says, "Holders of valid travel documents shall be free to leave the Special Administrative Region (SAR)." Article 154 states that the Central Government shall authorize the Government of the Hong Kong SAR to issue, in accordance with law, passports and other kinds of travel documents. In this connection, should the Chinese Government refuse to issue travel documents or refuse to authorize the SAR Government to issue travel documents, we will then not be free to travel. We cannot travel without travel documents, can we? This is exactly the scenario described by Mrs Miriam LAU a moment ago. Furthermore, what does the Chinese Government mean by doing so "in accordance with law"? It has so far remained undefined. The Chinese Government will probably penalize dissidents and those of different political persuasions by refusing to issue passports to them. This will be curtailment of freedom in disguise. Without a passport, they can no longer enjoy freedom in travel and their freedom in leaving and entering the territory and this means that their freedom of movement would be curtailed.

To look at the same matter from a different angle, the Chinese Government may issue a passport to somebody, for instance HAN Dongfang, and then bar him from returning to China. The governments of other countries may refuse to allow him to enter their countries as they know that he will become a "human football" if he cannot go back to his own country. I think the Chinese Government must try to boost people's confidence on that front. If the same thing should happen a second or a third time, how can we, frankly speaking, expect other countries to respect or recognize passports issued by the future SAR of China?

In this transition period, we the people of Hong Kong can theoretically have the best of both worlds in view of our indefinite nationality. On one hand, we can be called "British nationals (overseas)" and can receive BN(O) passports. On the other hand, China calls us "compatriots" and accordingly will give us separate Chinese passports. Theoretically, when we travel on either of the passports, we can enjoy the basic privileges that are won abroad by both of these sovereign countries. If we go to Kenya, we may use our SAR passports, because Kenya is on good terms with China. If we go to Mexico, we will probably use our BN(O) passports. We will then enjoy privileges wherever we go. However, if things go wrong, we may end up having the worst of both worlds, as other countries may decide to grant no privilege to the holders of either kind of passport.

Frankly, the acceptability of a country's passport depends to a very large extent on this country's strength, particularly its economic strength, its foreign relations and how it treats its own people when they try to return to the motherland. For instance, if, upon entering United Kingdom, BN(O) passport holders are not treated in the same way as BDTC passport holders, then the United Kingdom will have a hard time to ask other countries to recognize BN(O) passports and to give privileges to their holders, will it not?

By the same token, if China does not treat its own people well, or if there are more incidents like that of HAN, how can we expect other countries to give privileges to travellers holding passports issued by the Chinese Government?

Whether we would be granted such privileges also hinges on our achievements and our own track record. How often Hong Kong people travelling to foreign countries become illegal residents or over-stay their visa, or how many illegal immigration cases? To be frank, Hong Kong people do not do these kinds of things except for compelling reasons. The track record of Hong Kong people in this particular area has been quite good.

Many relevant important questions have been long discussed by the Sino-British Joint Liaison Group behind closed doors. So far, no answers have been found. Will SAR passports be issued before 1997? Will SAR passports be widely accepted by the international community so that Hong Kong people may have visa free access? Will the countries and regions now waiving visa requirements for Hong Kong people continue to do so after 1997? How can it be guaranteed that members of ethnic minorities in Hong Kong will not become stateless? How will "Chinese national" be defined?

We are now only three and a half years away from 1 July 1997. Time is running out; we were never more pressed for time. I hope that China and the United Kingdom will eliminate the uncertainties during the transition period in the interests of the people of Hong Kong. They should make a commitment to the quick resolution of all the questions involved. They should make their working plans and time-tables public, so that the people of Hong Kong may be able to tell what progress is being made in solving the various problems

affecting their interests, and to offer suggestions. We must not continue to be hoodwinked and kept in the dark until we are rudely awakened in 1997.

We think that the above problems should be handled along the principles of openness, fairness and maintaining the *status quo*. Practices before 1997 should be retained after 1997. If at all possible, our life-style and freedoms should remain unchanged and indeed be improved. This is within our right. Besides, it is prerequisite to Hong Kong's success and to Hong Kong's continuing attractiveness to those people of Hong Kong who are here to stay and to those who have left Hong Kong to come back to work for the good of the territory. We are firmly opposed to the view that the matter should be dealt with in a discriminatory, racist and divisive manner. I must make it absolutely clear: That is not the way! That is not how we do things here in Hong Kong.

On the question of travel documents, the people of Hong Kong should be able to continue travelling on BN(O) passports or SAR passports. We must make sure that foreign countries will accept our different kinds of valid passports and there will not be any confusion or troubles at all. We must move quickly to make our passports acceptable to foreign countries.

Visa-free access is very important to frequent travellers on business or pleasure trips. The Government must try to persuade the more than 70 countries that now grant visa free access to travellers from Hong Kong to keep these arrangements unchanged after 1997. The British Government, in particular, should make it a point to announce that BN(O) passport and CI holders will be able to enter the United Kingdom without visas, so as to set an example to the governments of other countries. The Hong Kong Government should get in touch with the Chinese Government and offer to help in lobbying other countries about waiving visa requirements for SAR passport holders.

Mr President, the point of this debate is not merely to show how much the people of Hong Kong like travelling. What is more important is that our rights must not be taken away, nor the success of Hong Kong undermined, by the ignorant and narrow-minded bureaucrats of China and the United Kingdom. Hong Kong is an open international city. The people of Hong Kong should be encouraged to stay to work for the territory. The wish of those who have already left should be accommodated imaginatively if they want to come back.

With these remarks, I support the motion.

MR STEVEN POON: Could I ask Mr TO to elucidate the remarks he made to challenge one of my statements?

PRESIDENT: Yes, you could ask him to elucidate something he said if he is prepared to. Or if you think you have been misrepresented, you can ask my permission to clarify something you said.

MR STEVEN POON: I will try to see whether you accept it, Mr President.

MR STEVEN POON (in Cantonese): I would like to ask Mr James TO if he has even had the bad experience of a Certificate of Identity (CI) holder. Any stateless person holding a CI knows very well what he will encounter when he goes to a foreign country. Furthermore, I would like to know whether in the past a Hong Kong Chinese could apply for a Chinese passport from the Chinese Government which would be recognized by the British Government.

PRESIDENT: Do you wish to elucidate if there is anything to elucidate, Mr TO?

MR JAMES TO (in Cantonese): A point of clarification, Mr President. The bad experiences that come with statelessness (being a Hong Kong Certificate of Identity holder) are a fact not to be denied. Many of my friends have had those experiences. Mr CHIM Pui-chung had also touched upon this before. Fortunately he had money with him at that time. So he did not think it really mattered after all. He thought that money could give him dignity.

But I have Mr Steven POON say earlier that his party leader claimed himself a stateless person. The point is that he should not see himself that way. If he considers himself a Chinese, he should regard himself as one. As for whether there is any precedent, it depends on whether he has made any effort to apply for a Chinese passport. I think that he being a political figure, especially one who is at the forefront, should indeed do that.

As regards the example I cited earlier, a local delegate to the National People's Congress did in fact make an effort to help but to no avail. The Chinese Government refused to issue a passport though the British Consulate agreed to do that. Thus, we cannot say there is no precedent. It is something we can strive for and succeed. The problem is, if he insists that he is stateless or even denies that China is his own country, there is nothing we can say then.

MR STEVEN POON: I think my point has been misunderstood.

PRESIDENT: I think we have to go on with the debate.

DR SAMUEL WONG: Mr President, when we debated Freedom of Movement on 10 November 1993, I predicted that the reply to the motion would be that this is guaranteed in the Basic Law Article 31. Right on cue, the Secretary for Security replied just that and clearly regarded the motion as answered. He did not, however, reply to my comment that the Basic Law did not define

"freedom" and that such definition varied from country to country. Hence the guarantee we were seeking was that the SAR Government should have the absolute authority to interpret freedom in its own way. This apparently defied reply. I hope this time the Government will not sidestep the issue, by trying to hide behind the Basic Law, and that is no hiding place as long as freedom is not defined.

For freedom of travel is also guaranteed in Article 31 of the Basic Law, and what the motion is aimed at today is to try and interpret that freedom to be as broad as possible and to give Hong Kong people continuity of their existing freedom in this respect. Freedom of travel is crucial to our continuing high performance in trade — our stability and prosperity depends on it.

To this end, I wish to dwell on one issue only — that of entry and exit for Hong Kong residents to and from Hong Kong.

There are two points here. One is that a resident without right of abode can be deported. To have to leave involuntarily is not freedom of travel. The other is that a resident with right of abode, or permanent resident, should have absolute freedom to enter Hong Kong — a freedom that does not always exist completely in other countries.

The second issue is, in principle, simple. I believe it would be entirely proper to insist upon guarantees from all authorities concerned that, under no circumstances whatsoever, will any Hong Kong SAR citizen with right of abode in Hong Kong be denied entry to Hong Kong. I will say no more on this, as it has received much publicity.

The first issue is my main concern today. Who will have right of abode in Hong Kong SAR?

For the matter of deportation is serious. Not today, when it is applied under the strict rule of law, but after 1997, when it could be applied more whimsically. Remember the university professor who, in 1963, was deported permanently at 24-hours notice from one of our neighbouring states, on the order of the prime minister, for no greater crime than requesting a two-year secondment to an overseas university.

So what is the remedy? There is a general tendency to regard the Joint Declaration and the Basic Law as applying to the situation after the handover in 1997. Indeed, the Basic Law does not come into force until after that event. Even the Joint Declaration, which came into force immediately on being signed, only made brief reference to the interim period, merely declaring that Britain would continue to administer for prosperity and stability and China would co-operate.

But, one aspect has been overlooked by many. That is that both the Joint Declaration and the Basic Law define people as having right of abode on the grounds of action that they — the people, not the Government — have taken before mid 1997. Hence it was incumbent on the parties to ensure that such action was clear and properly defined immediately after the Joint Declaration was signed and especially after the promulgation of the Basic Law. They have not done this. Britain and China have both failed the Hong Kong Government in this respect and the people of Hong Kong are the losers.

The problem arises from section 14 of Annex I to the Joint Declaration and Article 24 of the Basic Law, which are identical in the matter under consideration. For Chinese people, right of abode seems unambiguous, but for non-Chinese people, it depends, and I quote, "on their having taken Hong Kong as their place of permanent residence before or after the establishment of the SAR". It is before I am concerned about. Ever since 1984, non-Chinese people in Hong Kong have had, by international treaty, the right to, and I quote, "take Hong Kong as their place of permanent residence", and Britain and China in 10 long years have done absolutely nothing to tell them how to do it.

Mr President, we have been let down.

There is an old saying — better late than never. The Hong Kong Government should now take a high profile approach to disclose this dereliction of duty by our present and future sovereign powers and to demand immediate clarification of the criteria for acquiring the status of Hong Kong permanent resident for Chinese and non-Chinese nationals in Hong Kong.

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

MR WONG WAI-YIN (in Cantonese): Mr President, the four Members of Meeting Point will support the motion moved by Mr Howard YOUNG.

We support it simply because it is the common wish of the people of Hong Kong to continue to enjoy a high degree of freedom in travel and in leaving and entering the territory. We earnestly wish that such a hope can be realized.

The people of Hong Kong currently possess different kinds of travelling documents, but whatever document they hold, they can generally enjoy a very high degree of freedom in travel and in leaving and entering the territory.

If so, then why do we still need to debate this subject today?

The reason is simply that although the Hong Kong people can now enjoy such a high degree of freedom, they worry that they may lose this freedom in the future.

One of the main reasons why they have such a worry is that many people of Hong Kong may, because of having emigrated to a foreign country, lose their status of permanent resident of Hong Kong and the freedom in leaving and entering the territory.

Article 24 of the Basic Law provides that Hong Kong residents not of Chinese nationality must ordinarily have resided in Hong Kong for a continuous period of not less than seven years before they can become permanent residents. However, at present, many people of Hong Kong have resided overseas and acquired foreign nationalities. They may therefore have already lost their Chinese citizenship. Although the above provision of the Basic Law allows them to obtain the status of permanent resident of Hong Kong after having resided here for seven years, it has not specified whether a person has to undergo a vetting process in applying for the permanent resident status. To the large number of Hong Kong residents not of Chinese nationality, the worry of not being able to obtain the status of permanent resident is not totally unfounded.

Chinese officials have recently said that such situations will be handled with as much flexibility as possible. This is but a very vague assurance.

What the people of Hong Kong expect to see is that the Chinese Government can formulate specific measures in the spirit of flexibility, so that the majority of those who have left Hong Kong but are willing to return and settle down here can become permanent residents.

Another cause of worry about the freedom in travel and in leaving and entering the territory has been the fear that the lack of co-operation between the Chinese and British Governments may result in the people of Hong Kong not having a Special Administration Region (SAR) passport which is already widely known and accepted in the international community by 1997, thus trouble in their travel.

Although the various types of travelling documents that the people of Hong Kong currently use may not be very convenient, they are at least well known in the international community. However, due to the change of Hong Kong's political status in 1997, the old travelling documents may no longer be accepted by other countries. So the best scenario would be for the Chinese and British Governments to sincerely co-operate in the early planning of the SAR passports that the people of Hong Kong will use after 1997 and introduce it by joint effort to the international community. This can avoid the situation of our travelling documents becoming invalid as a result of the 1997 transfer.

Regrettably, the Chinese and British Governments have yet to deal with this problem actively. While both governments have always pledged not to let the controversy over the political reforms of Hong Kong affect people's livelihood which is their immediate concern, the freedom in travel and in

entering and leaving the territory is exactly a matter of immediate concern to the people.

Therefore, I call on the Chinese and British Governments to undertake their responsibility to the people of Hong Kong by co-operating as soon as possible to examine the problem of SAR passport, so that the people of Hong Kong can clearly know before 1997 what their rights are as well as affording the international community the opportunity to know more about the SAR passport and then become accustomed to accepting. In this regard, Members of the Legislative Council, being the representatives of the people, owe it to the public to see to it that the Chinese and British Governments do respectively undertake their responsibilities in regard of Hong Kong people's freedom in travel and in entering and leaving the territory.

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

DR TANG SIU-TONG (in Cantonese): Mr President, due to Hong Kong's unique situation and the ingenious arrangements made by the Government, Hong Kong people have never paid any special attention to the nationality issue. They generally have a vague idea about nationality, and very few of them realize the importance of the issue. In face of the transfer in 1997 and the return of sovereignty to China, the issue of nationality and right of abode can no longer be dealt with in ambiguous terms. People's suspicion, speculation and worry about these are understandable.

On 5 January, the Principal Assistant Secretary for Security, Mr Vickers, pointed out that about 300 000 to 400 000 Hong Kong people who had migrated to foreign countries and obtained foreign nationalities might automatically lose their status as permanent residents of Hong Kong after 1997. This news has created a major shock wave. It has raised immense doubts and worries among the emigrants who are coming back, among the emigrants who are now forced to live in foreign countries in order to fulfil the residency requirement and among those in Hong Kong who are planning to migrate to foreign countries. Article 24 of the Basic Law provides that, after 1 July 1997, the status of permanent residents of the Hong Kong Special Administrative Region (SAR) may be acquired in six ways. There is indeed no explicit provision on the above situation in the Basic Law. However, if one studies carefully Article 24 (4) of the Basic Law, one will find that this may not necessarily be the case. Article 24(4) of the Basic Law defines permanent residents of the Hong Kong SAR as "Persons not of Chinese nationality who have entered Hong Kong with valid travel documents and, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the Hong Kong SAR." I believe that returning emigrants, like the non-Chinese residents in Hong Kong, can remain, or be reinstated as, permanent residents of Hong Kong under the above provision.

I do not intend to interpret the Basic Law here. However, it is true that there are grey areas in some of the provisions of the Basic Law. At the Council's debate on 10 November last year, I had pointed out that the meanings of the terms "permanent resident of Hong Kong", "right of abode", "lawful resident", "non-permanent resident" and "Chinese citizen" and so on in Articles 24, 31 and 154 of the Basic Law were ambiguous, and that the Chinese National People's Congress would have to interpret these terms. According to press reports, the Preliminary Working Committee for the Hong Kong SAR is already studying the issues involved and has proposed some preliminary objective criteria for approving the status of permanent residents of Hong Kong. I have no objection to the requirement of reaffirming the emigrants' status of permanent residents of Hong Kong. However, I think that the approving criteria should be lenient and flexible to avoid, as far as possible, turning the emigrants away from the Hong Kong SAR. I do not encourage emigration, but I disagree even more with treating returning emigrants as foreigners. Hong Kong is in an eminent position in the international scene of financial services, shipping, commerce, culture and tourism. It owes its success to its generous capacity for holding the best and the most talented in the world. Therefore, just as people from all over the world like to come to Hong Kong to invest, so do talented emigrants wish to return here. If Hong Kong is to remain stable and prosperous, it must not close its door to the world. Emigrants leave Hong Kong for a variety of reasons. Some emigrate with hopes for a better life. Some emigrate for commercial reasons. Some emigrate for the needs of their families. Some emigrate for "political insurance." I believe that, no matter what the reasons are, most emigrants are thinking of Hong Kong while they are abroad, and Chinese people also attach great importance to the sentiment of returning to their homeland after getting rich. As long as if Hong Kong has a smooth and stable transition, they will certainly come back. We should welcome their return. The findings of a survey conducted by an association of personnel management reveal that the percentage of returning emigrants was 7% to 8% per year in 1987 to 1991, and 15% in 1992. The number of returning emigrants is expected to be on the increase continue to rise in 1995 and 1996. If the situation is not clarified as soon as possible, and the emigrants' status as permanent resident of Hong Kong is not assessed as leniently as possible, the confidence of returning emigrants will be certainly undermined. This would only do harm but no good to the future of Hong Kong.

Lastly, I want to talk about the issuance of SAR passports before 1997. I understand that issuance of SAR passports before the reversion of sovereignty would give rise to a lot of embarrassment and technical problems. Still, there is indeed such an urgency. Issuance of SAR passports in advance would not only clarify citizenship but also make it possible for early suitable arrangements to be made for broad acceptance of SAR passports by foreign countries, so that the people of Hong Kong may travel abroad more easily after 1997. This is a practical problem which requires the immediate attention of the Chinese Government, the British Government as well as the Hong Kong Government.

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

MR FREDERICK FUNG (in Cantonese): Mr President, it is a matter of course for a responsible government to protect the basic rights of its people. Therefore, it is duty-bound for the Hong Kong Government to take positive measures to protect the freedom in travel currently enjoyed by the people of Hong Kong.

Valid travel documents such as British Dependent Territory Citizen (BDTC) passport or Certificate of Identity (CI) used by Hong Kong residents have won global recognition and acceptance. At the same time, Hong Kong people are granted visa-free access by some countries. Nevertheless, Hong Kong residents are still required by some countries to apply for a visa before entry. This no doubt would cause some inconvenience for the people of Hong Kong.

With the world moving towards an era of unification, it is envisaged that Hong Kong's ties and exchanges with other countries would grow stronger by the day. Should the visa application mentioned above be simplified or indeed done away with, not only would it benefit the people of Hong Kong by mitigating the unnecessary inconvenience but it could also enhance the global links as people from different countries could have more opportunities to communicate and exchange ideas with one another. In this connection, the Hong Kong Government should actively lobby other countries to grant Hong Kong people visa-free access.

As to the question of Hong Kong people's nationality, the fact is that the question emerged in the early 1980s when the British Government again revised the Nationality Act. It was because the people of Hong Kong were not in the know or were not aware of it that the issue had been held up for discussion until now.

Recently, as the Administration disclosed that hundreds of thousands of Hong Kong residents would be confronted with nationality problem by 1997, and that they might lose the right of abode. This has worried many Hong Kong people with foreign passports or those who have acquired the right of abode in other countries.

The issue of nationality has been plaguing many Hong Kong people. In the 1960s, the British Government promulgated the Commonwealth Immigration Act which was in fact the first step to deprive Hong Kong people of the right of abode in the United Kingdom. In the early 1980s, soon after the question of the future of Hong Kong was in the spotlight, the British Government took further move and worked out a new nationality act which effectively downgraded three million Hong Kong residents who had had British nationality as British Dependent Territory Citizens, which virtually declared that these Hong Kong citizens, had lost their British nationality and become

stateless. Despite that by 1997 they will automatically become Chinese nationals according to the Basic Law, come to think of it, Britain did not consult Hong Kong people when it made these decisions, still less showing some respect for Hong Kong people's opinion, did it?

Article 24 of the Basic Law has defined the permanent residents of Hong Kong, while section 5 of Annex III provided that the Nationality Law of the People's Republic of China will also be applied in the Special Administrative Region (SAR). These two provisions have caused worries among the people of Hong Kong on the definition of the permanent right of abode. Generally speaking, all Chinese residents in Hong Kong will as a matter of course become Chinese nationals in 1997. In other words, they will, according to Article 24 of the Basic Law, become permanent residents of the future (SAR). This should be something indisputable. However, the cause of the worries is that some Hong Kong residing have acquired foreign nationalities. These residents, some of whom were born in Hong Kong and some have been residing in Hong Kong continuously for over seven years, have for various reasons applied for, and been granted, foreign passports. They have become the citizens of these countries, relinquishing thereby their original Chinese nationality. That they have acquired foreign passports may be breaching the provision of Article 3 of the Nationality Law of PRC against double nationality. As a result, they may lose their Chinese citizenship and thereby their right of abode in Hong Kong.

Having lost their Chinese citizenship, these former Hong Kong residents with foreign passports have to comply with the provision of section (4) of Article 24 of the Basic Law if they want to return to Hong Kong and acquire permanent residence. That is, they must enter Hong Kong with valid travel documents and reside in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the Hong Kong SAR.

According to the provision above, Hong Kong people possessing foreign nationalities will probably have to be subjected to restrictions, if they want to return to, and permanently reside in, Hong Kong. So it will certainly be desirable if the Chinese Government can make a public clarification. It will at least dispel some doubts and worries of the people of Hong Kong on that matter. More importantly, I think that the Chinese Government should always adhere to the rule of law in order to win the trust of the people of Hong Kong in their future sovereign. I also consider that the Hong Kong Government should discuss as soon as possible with the Chinese Government such that a clear picture in relation to this matter can be presented to the people of Hong Kong and thereby allaying their doubts and worries.

With these remarks, I support the motion.

MR JAMES TIEN: Mr President, in the wake of recent statements made by officials of the Security Branch and the Chinese Government on the status of Hong Kong people, questions on how we are going to enjoy the existing freedom of travel and the right of abode in Hong Kong have been revived. In fact, we have put this unsettled issue at the back of our minds for almost five years.

In 1989, our former OMELCO Members tried their utmost to persuade the British Government to grant our 3.2 million British Dependent Territory Citizen (BDTC) passport holders the right of abode in Britain — a right which Hong Kong people have been gradually deprived of. Our honourable colleagues made a move because they believed our people deserved a free and secure future. Instead of a flat "no", the former British Foreign Secretary, Lord Geoffrey HOWE, told us that the British Government would carry on her moral responsibility to Hong Kong people. As we know, all the British Government would offer at that time to the Hong Kong British subjects was by reiterating the British memorandum to the Joint Declaration, which stated that BDTCs would retain an appropriate status which, without conferring on them the right of abode in the United Kingdom, would entitle them to continue to use passports issued by the British Government.

This form of assurance, together with the 50 000 British citizen passports given later, might pacify a few but definitely not all. While many of us took the initiatives to strengthen Hong Kong as an international city so as to safeguard the status we now enjoyed, others opted for the second passport as their insurance policy.

It has been five years since then. Hong Kong has never been better both in economic growth and trade development. It is most unfortunate to find that the status of our travelling documents has not been simultaneously upgraded in proportion with our economic achievements. Some Hong Kong travellers have encountered prejudiced treatment while trying to enter some European countries, as a result of the degenerating status of their passports.

I have conducted a survey among members of the Federation of Hong Kong Industries to check the prevalence of the problem last October. Of the 256 respondents, 11 claimed to have encountered difficulties in seeking entry abroad during the past couple of years. Some were required to immediately apply for a visa. Some were queried about the validity of their passports and some were even barred from entry. Eight of them are BDTC passport holders, two are British National (Overseas) passport holders while one holds a Certificate of Identity.

I found it even more alarming that 46 respondents, or 18% of the survey sample, were of the opinion that the status of their passports had degenerated over the years. Thirty-three out of the total 115 BDTC respondents shared this view.

Mr President, perhaps it will be a bit subjective of me to say that Hong Kong's economic success is created by business people in the business and industrial sectors. But it is a well known fact that they are the ones who travel abroad more frequently than others. If the Government fails to take positive steps to ensure the continued recognition and acceptance by the international community of all kinds of present and future Hong Kong travel documents, and to safeguard the high degree of freedom in travel enjoyed by our people, how then could we expect our trade to continue to develop and our businessmen to be allowed freely and easily to expand their activities in other countries? It is the present task of the Hong Kong and British Governments to give up all the comforting but unpromising empty talk and solve this problem at its roots. This is the least the British Government should do to realize the promise of carrying out the so acclaimed moral responsibility to Hong Kong people in their last few years of colonial rule.

As to the second part of the Honourable Howard YOUNG's motion, the sticky point of the matter is the different interpretations of the status of Hong Kong permanent residents put forward by the Chinese and British Governments. I believe the Sino-British Joint Liaison Group is the most appropriate body to settle the differences. It will not help the situation if officials of both sides keep on releasing statements which only cause public anxiety. It is also irresponsible to ask the public, who are not provided with sufficient information, to be the referee of the war of words. We all know the genuine concern of the public is that the status of Hong Kong permanent residents should not be altered under any circumstances, given that they are born in Hong Kong or have lived in the territory continuously for seven years. Therefore, I urge the Joint Liaison Group to take this as the essential discussion ground in its next meeting to be held as soon as possible.

Mr President, in another survey I recently conducted, several respondents expressed a concern that Hong Kong residents with foreign passports might have to pay the price of losing their status of Hong Kong permanent resident after 1997.

Hong Kong suffered from the brain drain a few years ago when people started to look for a second passport as their insurance policy. These people never denied Hong Kong as their home. As a matter of fact, they never wanted to leave Hong Kong but when people face uncertainty, it is sensible to take out some insurance policies, even painful ones.

These people have already paid the price of separating with their families and even giving up their best rewarded career. If these people could return to the territory, I am sure that with their valuable experience in their own field, they will become the momentum of our growing economy. Many industrialists have employed Hong Kong residents with foreign passports to manage their businesses in Hong Kong and in China. If these people could not retain their right of abode in Hong Kong, it will not only affect their confidence to work in the territory but will also adversely affect the development of Hong Kong and

China's industries. I hope the Chinese Government could address the problem with understanding and flexibility in order to seek a favourable solution which could maintain the stability and prosperity of Hong Kong before 1997 and beyond.

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

SECRETARY FOR SECURITY: Mr President, it is clear from the speeches this evening that this is a subject on which there is a large measure of agreement among Members. The Administration shares the view that, for Hong Kong people, freedom of travel is both a norm and a necessity. Therefore, we support the motion that every effort should be made to ensure that holders of Hong Kong travel documents continue to enjoy a high degree of freedom of travel.

Freedom of travel, as I pointed out in a previous debate in this Council, is a right guaranteed in the Joint Declaration and in the Basic Law. But in order to give practical effect to freedom of travel and to ensure ease of travel, particularly over the 1997 transition, it is necessary also:

- (a) first, to establish clearly in Hong Kong legislation who will have right of abode here after 30 June 1997; as a number of Members have pointed out, the ease of travel accorded to Hong Kong residents by other countries depends crucially on assurances that they have the right to return to Hong Kong. Returnability in turn depends upon right of abode;
- (b) secondly, to ensure that there is no hiatus in arrangements for the issue of Hong Kong travel documents which are recognized and accepted internationally; and
- (c) thirdly, to obtain as far as possible visa-free access to other countries for holders of Hong Kong travel documents.

Members have rightly emphasized the importance of all three issues, and I shall deal with each in turn.

First, right of abode. This is a complex and technical subject, not least because of the differences in this respect between the present Immigration Ordinance and the future Basic Law. I do not intend to try to explain the detail of this subject today. But I should like to reiterate that it has always been, and remains, our intention to amend the Immigration Ordinance to give effect from 1 July 1997 to Article 24 of the Basic Law concerning the right of abode in the Hong Kong Special Administrative Region. To this end, we have put comprehensive proposals to the Chinese through the Joint Liaison Group. This is an essential step because, apart from anything else, right of abode from 1 July

1997 can be determined only by reference to a person's nationality; and only the Chinese Government can clarify Chinese Nationality Law.

The aims of the proposals we have put forward are:

- (a) first, to enable, as far as possible, persons who now have right of abode in Hong Kong to continue to enjoy that right after 30 June 1997;
- (b) secondly, to enable those who will lose their right of abode in Hong Kong on 1 July 1997 to regain it in as simple a way as possible. I believe that there are bound to be some in this category, although I would caution against estimates of their number; we simply are not able at present to quantify those affected with any accuracy; and
- (c) thirdly, to enable foreign nationals who have long been settled in Hong Kong to acquire the right of abode here, if they so wish, through a simple and straightforward procedure.

We have already held informal talks with the Chinese on this subject, and further talks will be held in Hong Kong later this month. I look forward to progress being made on this very important subject.

Second, travel documents. Here again we have put proposals to the Chinese in the Joint Liaison Group on travel documents for Hong Kong people, before 1997, over the transition in 1997, and after 1997. There has already been co-operation and progress on this subject. For example:

- (a) The BN(O) passport has achieved full international recognition since its introduction in 1987. Not only is it recognized by all other countries, it also offers reasonable ease and convenience of travel. Seventy countries allow BN(O) passport holders visa-free access. Crucial to this has been the assurance to foreign immigration authorities of the returnability of BN(O) passport holders, through the inclusion in each BN(O) passport of a statement that the holder has right of abode in Hong Kong. The arrangements for this were agreed in the Joint Liaison Group.
- (b) Secondly, other residents of Hong Kong who hold Certificates of Identity have also had their returnability guaranteed in their travel documents since 1987, by the inclusion of the same statement on the holder's right of abode in Hong Kong. We have agreed with the Chinese in the Joint Liaison Group that Certificates of Identity issued before 1 July 1997 will have a 10-year validity and may continue to be used after that date until their expiry. The same arrangement has been made for Documents of Identity. These arrangements eliminate the need for abrupt change on 1 July 1997;

holders of these travel documents need not rush to obtain new SAR travel documents upon the change of sovereignty.

But, as Members have pointed out, we also need to make timely arrangements for the issue of travel documents by the Hong Kong SAR Government. To this end, we have drawn up proposals on the types of travel documents that the SAR Government will need to issue, and eligibility for them. We handed these proposals to the Chinese side of the JLG in the middle of last year. We hope to have discussions with the Chinese on these important matters in the near future. The interests of Hong Kong will be best served by both sides working in co-operation on this important transitional matter. I would not at this stage wish to go into greater detail on what arrangements might be made for the issue of these travel documents. That will depend upon our discussions with the Chinese. But there are clear advantages, for a smooth transition, in Hong Kong travel documents continuing to be issued by the Immigration Department. They have the experience, the expertise, and the records necessary for this task.

Third, visa-free travel. Some Members have expressed concern at the inconvenience Certificate of Identity holders experience when they need to travel. We have worked to improve the acceptability of the Certificate of Identity as far as possible, but it is inevitable that many countries will require visas for holders of travel documents not conferring a national status. Nevertheless, some countries have agreed visa-free access for holders of Certificates of Identity, which, as I have mentioned, confirm the right of abode in Hong Kong.

For the future, the question is whether the holders of BN(O) passports and other Hong Kong travel documents, including the HKSAR passport, will enjoy visa-free travel to a large number of countries after 1997. It is our aim to maintain and extend the visa-free travel now enjoyed by BN(O) passport holders, and to make similar arrangements for holders of other Hong Kong travel documents, including future SAR passport holders. We have put forward proposals to the Chinese side of the JLG on how this might be done, and look forward to discussions on this subject in the near future. It is, I believe, a subject where co-operation between the Chinese and British Governments is essential if there is to be any substantial achievement. Both British and SAR travel documents are involved, and, in any discussions with other Governments of possible visa abolition agreements, the questions of reciprocity and of returnability will be important factors. These, after 1997, are matters for the future sovereign government.

Mr President, the Administration supports the motion. Freedom of travel is essential to Hong Kong's continuing success in the future, and we must make the concrete arrangements to give effect to it. We have long recognized its importance, and have, as I have explained, put forward comprehensive proposals and tried to ensure that it remains a reality in the future. Agreement on a number of issues has already been reached in the Joint Liaison Group.

Much remains to be done, but I am encouraged that there is to be early discussion of the outstanding issues. I hope to see progress on this important subject in the near future.

PRESIDENT: Mr YOUNG, do you wish to reply? You have 2 minutes 7 seconds out of your original 15 minutes.

MR HOWARD YOUNG (in Cantonese): Mr President, what the Secretary for Security has said just now hits the nail on the head. We have certainly reached a consensus on this issue. Although I am a Member from the Liberal Party, the motion I move today was seconded by the security affairs spokesmen of the three parties: the Liberal Party, the United Democrats and Meeting Point.

Among the Members who have spoken just now, six of them including Mrs Selina CHOW, Mr Martin BARROW and Dr HUANG Chen-ya have mentioned the issue of Hong Kong residents returning from overseas. It is commonly held that their case should be dealt with in a lenient and flexible way. Mr Edward HO, Mr Steven POON and Dr TANG Siu-tong have expressed concern over the issue of the Special Administrative Region (SAR) passports in the transition period. Dr LEONG Che-hung, Dr Conrad LAM and Dr Samuel WONG have touched on the issue of permanent residence. It is hoped that early clarification could be made on the permanent resident status of various groups of people in Hong Kong, and also the distinction between the various types of travel documents, such as the British Passport and the Certificate of Identity (CI). Many Members, including Mr CHIM Pui-chung, Mr James TIEN and Mrs Miriam LAU have made reference to the effectiveness of the travel documents. Two Members, Mr James TO and Mrs Miriam LAU have pointed out that Hong Kong visitors' good manners in foreign countries can actually assist ourselves in building up a good image to facilitate our seeking for visa-free entry to foreign countries. The only Member that may hold a slightly different view is Dr LEONG Che-hung who queried the proposed early issue of SAR passports before 1997. From a pragmatic point of view, we must look at this in the context of the fact that CI holders are generally regarded as stateless, though these people do not consider themselves to be stateless, including Mr Allen LEE who is looked upon as stateless. This question must be resolved, after all. Moreover, people born after 1997 will no longer be issued British National (Overseas) passports. Do they have to wait for five years to obtain an SAR passport?

I would like to thank Members for their support to this motion at a time when the tourist season is almost upon us again..

Question on the motion put and agreed to.

Adjournment and next sitting

PRESIDENT: As Members know there will be a two-week break for the Chinese New Year. I extend my best wishes to all Members for the new year. In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 23 February 1994.

Adjourned accordingly at Eight o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Hong Kong Sports Development Board (Amendment) Bill 1993, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

WRITTEN ANSWERS

Annex I

Written answer by the Secretary for Security to Dr LAM Kui-chun's supplementary question to Question 2

The Education Department has been taking steps to integrate drug education into the school curriculum. In broad terms, the Department provides advice to schools through school inspections and visits, advice to teachers through seminars, workshops and exhibitions, and curriculum support materials such as syllabuses, curriculum guides and teaching packages.

Elements of preventive drug education have been integrated in the syllabuses of the following school subjects:

Primary

- (i) Primary Health Education (P6)

Secondary

- (ii) Social Studies (S1-S2)
(iii) Economic and Public Affairs (S3)
(iv) Religious Studies (S4-S5)
(v) Human Biology (S4-S5)
(vi) Chemistry (S4-S5, AS Level)

Specific topics covered in the above subjects are set out in the appendix. In addition to providing pupils with information on substance abuse and their effects, teachers are advised to emphasize the development of healthy and positive attitudes, and the learning of lifeskills such as handling peer pressure, making wise decisions and communicating with parents.

Preventive drug education permeates the formal curriculum for all school children as Health Education is taken by virtually all primary school pupils, and either Social Studies or Economic and Public Affairs is taken by most pupils at the junior secondary level.

Preventive drug education messages are reinforced in regular school talks by Narcotics Division in all secondary schools and to Primary 6 students. These talks teach students the harmful effects of drug abuse, the correct use of drugs, the practical skills of refusing drugs. All secondary schools are given a copy of the Drug Education Teaching Kit produced by the Action Committee Against Narcotics. The comprehensive kit is suitable for use in classes and aims at,

WRITTEN ANSWERS — Continued

inter alia, discouraging non-medical use of drugs and developing a positive attitude towards life.

Non-government agencies are also involved in running preventive education programmes or teacher training courses on drug education. They include the Hong Kong Christian Service PS33, the Community Drug Advisory Council, the KELY Support Group and the Life Education Activity Programme.

Appendix

Specific Topics on Drug Education in the Formal Curriculum*Secondary***I. Economic and Public Affairs**

(Secondary III — Topic 4)

Social evils — their prevention and remedies:

- Drug abuse
- (1) Meaning of Drug Abuse
 - (2) Types of drugs commonly used: Narcotics, stimulants, depressants, hallucinogens.
 - (3) Effects of drug abuses (especially that of heroin) on people including the drug abuser himself, his family and society
 - (4) Causes of drug abuse
 - (5) How young people can avoid the abuse of drugs
 - (6) Efforts of the Government in fighting drug abuse

II. Religious Studies

(Secondary IV-V) (Section D — Personal and Social Issues)

III World and Community Problems

(iii) Social Problems

- (b) Drug
 - (1) To discuss the causes of drug-addiction
 - (2) To consider the effects of drug-addiction
 - (3) To explain the Christian attitude regarding drugs
 - (4) To explore possible solutions to the problem

WRITTEN ANSWERS — ContinuedIII. *Social Studies*

(Secondary I)

The Local Community — Topic 3: some Local Issues

A. Smoking

- a. Components of Tobacco and Its Effects on the Human Body
- b. Smoking and Community Health
- c. Anti-smoking Campaign

B. Alcoholism

- a. Types of Alcoholic Drinks and Their Effects on the Human Body
- b. Alcoholism and Community Health

(Secondary II)

The Local Community — Topic 2: Some Local Issues

B. Juvenile Delinquency

- a. Causes and Types (for example, shoptheft, drug trafficking,

C. Drug Education

- a. Definition of Drugs
- b. Use and Abuse of Medically-prescribed Drugs
- c. Types of Dangerous Drugs
- d. Drug Addiction and Dependence
- e. Causes and Effects of Drug Abuse
- f. Treatment and Rehabilitation
- g. Means of Prevention
 - i. Education
 - ii. Combating against drug trafficking

IV. *Human Biology*

(Secondary IV-V)

Section V Health and Diseases

1. Individual Health

- (d) Habits affecting health — A general introduction to drug abuse, alcoholism, tobacco smoking and overeating as habits affecting health.

WRITTEN ANSWERS — *Continued*V. *Chemistry*

(Secondary IV-V)

Section 8 — Chemicals and Health

- 8.2. Drugs - drugs that may have adverse side effects, for example, codeine and/or morphine contained in some cough mixtures.
- abuse use of drugs

(Advanced Supplementary Level)

8. Chemistry of Some Carbon Compounds
- amines and derived compounds used as drugs

*Primary**Health Education*

(Primary 6)

(Area 10)

1. Effect of smoking
2. The Problem of drug abuse in Hong Kong

Annex II**Written answer by the Secretary for Security to Mr Henry TANG's supplementary question to Question 2**

The figures I gave at the Legislative Council meeting relate to drug trafficking cases involving students on school premises. As for the prosecution of non-students for drug trafficking on school premises, in 1992 there was one prosecution of a 36 year-old man for trafficking of heroin. He was convicted and sentenced to two years' imprisonment.