OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 4 May 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 MICHAEL LEUNG MAN-KIN, C.B.E., J.P.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

THE HONOURABLE MOSES CHENG MO-CHI

THE HONOURABLE 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 LEE WING-TAT

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

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

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

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

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

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

THE HONOURABLE ANNA WU HUNG-YUK

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

THE HONOURABLE ALFRED TSO SHIU-WAI

ABSENT

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

THE HONOURABLE TAM YIU-CHUNG

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

THE HONOURABLE EMILY LAU WAI-HING

IN ATTENDANCE

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

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

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

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

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

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

MR NICHOLAS NG WING-FUI, J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

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

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

THE DEPUTY SECRETARY GENERAL
MR LAW KAM-SANG

Papers

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

Subject

Subsidiary Legislation *L.N. No.*

Road Traffic (Registration and Licensing of Vehicles) (Amendment) Regulation 1994 ..... 238/94

Bills of Sale (Fees) (Amendment) Regulation 1994 ..... 239/94

Control of Obscene and Indecent Articles (Amendment) Regulation 1994 ..... 240/94

Census and Statistics (Annual Survey of External Investments in Non-Manufacturing Undertakings) Order 241/94

Revised Edition of the Laws (Correction of Errors) Order 1994 ..... 242/94

Statutes of the Chinese University of Hong Kong (Amendment) Statute 1994 ..... 243/94

Bank Notes Issue (Amendment) Ordinance 1993 (57 of 1993) (Commencement) Notice 1994 ..... 244/94

Exchange Fund (Amendment) Ordinance 1993 (58 of 1993) (Commencement) Notice 1994 ..... 245/94

Sessional Paper 1993-94

No. 81 — Report of Changes to the Approved Estimates of Expenditure Approved during the Third Quarter of 1993-94 Public Finance Ordinance : Section 8

Miscellaneous

Report of the Boundary and Election Commission on the Delineation of Geographical Constituencies in Respect of the Ordinary Elections of the Urban Council and Regional Council to be held in March 1995

Oral Answers to Questions

Driving tests

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

(a) the basis for the policy and the objective of adopting different appointment systems for driving test applications from driving school learners and private instructors' learners;

(b) the respective average waiting time for driving tests for these two types of learners in the past 24 months; and

(c) whether the Government is aware that the above practice is unfair to private instructors' learners; and if so, whether consideration will be given to other alternative arrangements?

SECRETARY FOR TRANSPORT: Mr President, it is the Administration's policy and practice to encourage the establishment of off-street driving schools since these provide learner drivers with the opportunity to acquire basic driving skills in a safe and controlled environment. This also reduces the inconvenience to other motorists that would otherwise result by a larger number of learner drivers using public roads. Nevertheless, private driving instructors are free to operate and offer their services to those who wish to learn to drive.

The answers to the specific questions asked by the Honourable LAU Chin-shek are as follows:

(a) First, the main purpose of adopting different driving test appointment systems for students of driving schools and those of private driving instructors is to promote off-road driving training;

(b) Second, in the past 24 months, the average waiting time for private car driving tests was 174 days for students of off-road driving schools, compared with 218 days for those using private instructors; and

(c) Third, we do not consider that the present practice is unfair to those learners using private instructors, since potential learners are free to choose between off-road driving schools and private instructors and they should know what the arrangements for tests are. We consider that promoting off-street driver training is in the wider interests of all road users.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, the Administration says that the establishment of driving schools aims at promoting off-road driving training and safeguarding the safety of pedestrians. Will the Secretary inform this Council how the Administration is going to ensure that learner drivers have had adequate on-the-street driving experience if they lack on-the-street driving training? Since they do not have enough on-the-street driving training and experience, will they pose any risks to the safety of road users? In addition, judging from past traffic accident statistics, what is the ratio of accidents between students of driving schools and those of private instructors, and which of them have a higher accident rate? If the Administration .....*

PRESIDENT: Mr LAU, we had better take it step by step please. First question first. Just the first question, Secretary.

SECRETARY FOR TRANSPORT: Thank you, Mr President. I think, as regards adequate training, most learner drivers would seek the advice of their instructors or from the motoring school before they actually take the test. The average package for the Hong Kong School of Motoring is a package of 35 hours whereas those who learn from private instructors take between 20 and 30 hours of lessons. If they are not ready they can ask the Transport Department to postpone their test because by so doing they will save the application fee and waiting time for another test slot. The average cost for a test is $510, so if an applicant or learner driver is not ready, it will mean that he has to incur additional expenditure. I think, therefore, it is in his personal interest to make sure that he has the adequate training before he sits the test.

PRESIDENT: Mr LAU, your second question.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, judging from past traffic accident statistics, what is the ratio of accidents between students of driving schools and those of private instructors, and which of them have a higher accident rate? If the Administration does not have the figures, will it conduct a survey on this?*

PRESIDENT: Do you have the answer to that, Secretary?

SECRETARY FOR TRANSPORT: Mr President, I am afraid that the records of driving licence holders do not indicate where they have taken their basic driving instruction. Therefore, there is no means for us to correlate the different accident statistics. Since in any event, traffic accidents are caused by a number of factors which may or may not be pertinent to driving skills, I do not really think it is helpful to collate such statistics.

MR ROGER LUK (in Cantonese): *Mr President, in part (a) of his reply, the Secretary says that the arrangement "is to promote off-road driving training". Will the Secretary elaborate on the specific aim of the arrangement and whether it has achieved its aim?*

SECRETARY FOR TRANSPORT: Mr President, the main aim of the Government to support private motoring schools, as I have said, is that the learner drivers can learn in a safe and controlled environment where initially they could acquire their basic training such as parking, three point turns and so forth in a confined area and not on public roads. For this reason, we believe that this does help towards enhancing the overall skills.

MRS MIRIAM LAU (in Cantonese): *Mr President, will the Secretary inform this Council whether the Administration's adoption of different driving test appointment systems in favour of students of driving schools which reduces the competitiveness of other members of the trade is in violation of the spirit of free competition?*

SECRETARY FOR TRANSPORT: Mr President, we do not believe that the arrangements for private motoring schools undermine the opportunities for private instructors. Potential learners have a choice. They can either go to the private schools, as I have said, or to private instructors. The advantage offered by private instructors are mainly twofold. First, the average cost for driving lessons is cheaper. It is $120 per hour compared to between $170 to $185 per hour at the motoring school. Second, the private instructors can arrange better pick-up points and make other arrangements which suit their potential clients.

MR WONG WAI-YIN (in Cantonese): *Mr President, as far as I know, students of driving schools will be designated a particular route for driving tests in their districts. For instance, if a student learns driving in Shatin, he will be arranged to attend a driving test on a designated route in Shatin. Likewise, a student in Yuen Long will be given a specified route for his driving test in Yuen Long. However, it is very different for students of private instructors who are allocated different routes in the urban area. Will this practice provides students of driving schools with more opportunities to familiarize themselves with a certain route in their districts, thereby giving them a competitives edge which is unfair to students of private instructors?*

SECRETARY FOR TRANSPORT: Mr President, I do not think there is anything wrong with the present system. There are about 14-15 different routes which students or learners who are taking their final test may be required to take. It is entirely up to the driving examiners to decide the course or route. In the case of the private instructors, I think many of them realize what the normal

test routes are and they therefore in fact give dummy runs to their learners. Likewise driver students of the School of Motoring, as part of the package, have about 13 hours on road training and also can have a dummy run. The routes are basically the same and the standards which the examiners apply are common, so there should be no preferential treatment.

PRESIDENT: Actually, I was calling on you for your supplementary, Mr Howard YOUNG. I normally preface "next question" before I go to the next question.

MR HOWARD YOUNG: *No, I did not raise my hand for a supplementary.*

PRESIDENT: I see. Well, yours was going to be the last one anyway. *(Laughter)* Alright then, Secretary for Transport to Mr Howard YOUNG's substantive question.

Land transport services at the airport

2. MR HOWARD YOUNG asked (in Cantonese): *Can the Government inform this Council, of the following, that is, is there any plan to review airport bus services and other land transport services at the airport with a view to shortening the queuing time of arriving passengers using these services?*

SECRETARY FOR TRANSPORT: Mr President, the queuing time of arriving passengers using airport bus and taxi services are monitored and reviewed by the Transport Department every six months to see if service improvements should be made. In between, spot checks are also held, for example, during busy holiday weekends.

On airport bus services, there are currently four bus routes operated by Kowloon Motor Bus which run at frequencies of between 12 to 15 minutes. On average, about 5 000 passengers board these buses at the airport each day. This meets existing passenger demand and there is no problem of queuing. Three new routes are being planned for introduction later this year and will provide a better network of bus services to and from the airport.

As regards the taxi service, the two airport taxi stands were extended in October 1992 and, as a result, the average hourly taxi throughput has been increased to 467. The average passenger waiting time during peak hours is about five minutes. Should queues build up, the Civil Aviation Department will directly contact taxi associations and taxi radio service centres to request additional taxis.

In addition to the bus and taxi services, the hotels and travel agencies also arrange for coaches, minibuses and limousines to pick up tourists and other passengers arriving at the airport. Although that section of the road immediately outside the arrivals hall is a restricted zone, which only allows vehicles issued with permits to pick up or set down passengers, many coach operators have tended to congregate there to await arriving tour groups thus causing both confusion and congestion. In March this year, the Travel Industry Council has taken the initiative to implement a special scheme using radio telephone to call coach operators to come and pick up waiting passengers who have just arrived. This has significantly enhanced traffic throughput and traffic flow.

Mr President, although there are indeed occasions, for example, during adverse weather conditions, when arriving passengers may experience longer waiting periods for land transport, the present arrangements for, and the availability of, land transport services at the airport are generally satisfactory.

MR HOWARD YOUNG: *I refer to the last part of the answer where it is stated that the Travel Industry Council has taken the initiative to call coach operators. Is the Government aware of an effort made by the Travel Industry Council, a few months ago, to seek some sort of holding area for these coaches? It approached, I believe, the Highways Department, Civil Aviation and even the Kowloon City District Board, for such a holding area apparently to no avail. Can the Secretary confirm that he would give his support to such efforts so that the scheme to call forward coach operators will not be impaired due to a lack of a holding area for these coaches?*

SECRETARY FOR TRANSPORT: Mr President, I think Mr YOUNG is right to the extent that there is no specific exclusive holding area for coaches from the Travel Industry Council, but there is a waiting area which all coaches, limousines or minibuses, with permits from the Civil Aviation Department, can wait. But I will certainly follow up with the Civil Aviation Department to see if these arrangements can be improved. (Annex I)

MR VINCENT CHENG: *Thank you, Mr President. Can the Secretary inform this Council of the average waiting time during adverse weather conditions, particularly when Hong Kong is hit by a typhoon and there are not many taxis on the street?*

SECRETARY FOR TRANSPORT: Mr President, I think the waiting time during adverse weather conditions, for example, in typhoons, can vary from half an hour to perhaps even an hour. When such conditions arise, as I have said, the Civil Aviation Department does try to contact the taxi operators. But,

as it is entirely up to the taxi drivers to respond or not, I am afraid this is a fact of life. We will certainly try harder to liaise with the taxi operators.

I think as Members will be aware, the Administration intends to seek tenders for an additional number of taxi licences later this year and hopefully with a greater taxi supply the situation at the airport can also be improved.

DR PHILIP WONG (in Cantonese): *Mr President, will the Administration inform this Council whether it would consider moving the existing bus stops closer to the airport for passengers' convenience?*

SECRETARY FOR TRANSPORT: I think, Mr President, the Transport Department of course does give careful consideration as to where bus stops can be located. The roads outside the airport are fairly fast flowing roads with quite a heavy volume of traffic and there may be difficulty in doing what the Honourable Member suggests. But certainly this point will be followed up. (Annex II)

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, although the "express exit" I used could always help me get a taxi within five minutes without queuing, I have doubts as to what the Secretary has said in the third paragraph of his reply that "the average waiting time is about five minutes". According to my own experience, the waiting time is 30 minutes to an hour during peak hours from seven to nine. Can the Secretary inform this Council what he means by five minutes?*

SECRETARY FOR TRANSPORT: Mr President, the last survey undertaken by the Transport Department at the taxi stands located at the airport was in December and this was conducted between 4.00 pm and 10.00 pm in the afternoon and evening. During this time staff from the department themselves did in fact try to board taxis at various times and this survey showed that the average time was in fact about five minutes. As I have said, there may well be occasions when the waiting time would be longer. But from the information I have, I think half an hour would be an exceptionally long period under normal circumstances.

MRS MIRIAM LAU (in Cantonese): *Mr President, will the Administration propose to KMB to run a service between Mongkok and the airport and will it consider inviting the CMB and Citybus to run airport bus services as well so as to foster competition for the benefit of service improvement?*

SECRETARY FOR TRANSPORT: Mr President, of the three new routes that I mentioned, one has been proposed by CMB and the destination is in fact to somewhere in Prince Edward Road and Mongkok, so I think that will be taken care of. Certainly if CMB and Citybus wish to run airport bus services, their request will be considered. I believe CMB has proposed to run a service between the airport and Pacific Place.

MRS SELINA CHOW (in Cantonese): *Mr President, it is mentioned in the second paragraph of the Secretary's reply that the bus services operated by KMB run at frequencies between 12 to 15 minutes and there is no problem of queuing at the moment. I have to say this is contrary to my own experience and observation. Does the Secretary have any statistics on the longest waiting time and how long will this situation continue? Has consideration been given to discussing with KMB or other bus companies the possibility of co-ordinating bus services with aircraft arrivals with a view to relieving passenger demand during peak hours?*

PRESIDENT: Have you got both aspects of the question, Secretary?

SECRETARY FOR TRANSPORT: Mr President, I am afraid I do not have statistics for the longest time in between buses but I will obtain this and provide it to the Honourable Member. (Annex III)

As regards the second question, airport bus services are provided throughout the working day at an interval of between 12 to 15 minutes. Besides, since aircraft arrive at Kai Tak throughout the day and individual fights are sometimes late, I do not think it would be a practical proposition to pursue this.

Compulsory free education system

3. DR CONRAD LAM asked (in Cantonese): *Will the Administration inform this Council whether any assessment has been made on the merits and demerits of the nine-year compulsory free education system and whether there are any specific measures to remedy the defects of the system?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, in late 1989, the Education Commission conducted an in-depth study on the issues brought about by the implementation of the nine-year free and compulsory education policy.

The Commission firmly believed that the policy should be maintained. The Government agrees entirely with this conclusion. Nine years of free and compulsory education provides the basic education required for all our children to prepare them either for further academic pursuits or for employment.

Nevertheless, the study also identified a number of problem areas requiring attention and improvement. These problem areas and the proposed solutions were set out in detail in Education Commission Report No. 4 which was published that year. The major problems identified were related first to the use of common core curriculum for students of different abilities and deposition; secondly the assessment of student's performance, whether they are appropriate; and thirdly the delivery of the curriculum through a mix of languages and the problems arising from such views. The Education Commission also puts forward some proposals to address the problems.

First of all, the question of school curriculum. A more flexible curriculum needs to be further developed even though the common core curriculum was found to be suitable for the majority of students, it was considered for students at either end of the ability spectrum. In line with this proposal, the Curriculum Development Institute was established in 1992, in accordance with the Education Commission's recommendation. In this connection, too, a range of remedial and support services has also been developed to help unmotivated students and low achievers. So that they will learn at school curriculum which are suited to their needs. These include the establishment of practical schools and skills opportunities schools. At the same time a dedicated centre for the gifted children is being planned.

Regarding the assessment of student's performance, hitherto, students have been assessed in relation to their counterparts in the same class rather than on the basis of objective criteria which will show their genuine weaknesses and strengths. The Commission recommended a change in assessment using objective criteria and the development of suitable curriculum materials to address the weaknesses so identified. That is being tackled by the planned introduction of Target-Oriented Curriculum in 1995. And also because of the consultation and related problems, the planned introduction date has been deferred until 1995.

To tackle the problem of using mixed languages in teaching and to facilitate the use of mother tongue in education, various measures have also been implemented. They include the provision of extra language teachers to schools and the provision to parents of information on their children's language proficiency to enable them to choose secondary schools best suited to their children. In addition, we also encourage mother tongue teaching.

The implementation of these and other measures will in time further enhance the quality of our school education.

DR CONRAD LAM (in Cantonese): *Mr President, what does the Government expect the students to accomplish through the nine-year free education, in other words, what kind of students does the Government want to bring up under our education system, particularly in terms of the sense of righteousness, social responsibility and commitment and what is the yardstick used to measure whether the target has been achieved?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, based on the draft "Statement of Aims" issued by the Education Commission in 1992, the Government published the "School Education in Hong Kong: A Statement of Aims" in 1993 after wide consultation. I believe the people and educators who are concerned about education in Hong Kong have already read this widely circulated booklet. I do not want to spell out the various aims here, but would like to point out that one of the primary aims is that the "school education service should develop the potential of every individual child, so that our students become independent-minded and socially-aware adults, equipped with the knowledge, skills and attitudes which help them to lead a full life as individuals and play a positive role in the life of the community". This is a general but fundamental aim under which there are other objectives, all of which are set out in detail in the booklet.

With regard to Dr LAM's question about civic awareness, Aim (12) as set or in the booklet states that "schools should help students to become aware of Hong Kong as a society, to develop a sense of civic duty, responsibility to the family and service to the community, and to exercise tolerance in interacting with others". The aim has been set out clearly in the booklet.

To assess whether the aim has been achieved will be a rather complicated task. At least, there are short term and long term approaches. In the short term, we can assess, to a certain extent, on the basis of examination results and employers' feedback on school leavers' working ability and level of skills. In the longer term, it is more difficult to assess whether the students will become responsible and socially-aware citizens. I believe this evaluation should be done by experts from a historical point of view, that is, it should be assessed over a long period of time and from a wider perspective.

MR EDWARD HO: *Mr President, I would like to ask the Secretary on a very general question referring to paragraph 7 of his main reply that "the implementation of these and other measures will in time further enhance the quality of our school children". I would like to ask him, what is the time frame that he is referring to? When will these measures be implemented?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the improvement measures that the Government is now implementing are largely based on the recommendations in the various Education Commission Reports.

Some of them have been implemented; some of them, though implemented, have got to take some time for the effect to come out. I deliberately use the words, "in time", rather than giving a specific time frame, because it is not easy to give a specific timetable for each and every one of these recommendations. For example, one of the more tangible improvements, we think, is the setting up of the Hong Kong Institute of Education to enhance the quality of education for our teachers. In this case, we have a very specific timetable. We are now at the planning stage in building a new campus and in designing new curriculum for the teaching of our teachers. We aim to set up the new campus by 1997-98. But how much longer we have to wait until this new campus has an impact on the actual quality of teaching is something which has to be assessed in due course. And it is not easy to give a very specific timetable. But we are very confident that, using the example that I have just quoted, the setting up of this new institute plus other improvement measures will greatly enhance the quality of our teachers in the next generation.

MRS ELSIE TU: *Mr President, the nine-year compulsory free education system has now been in operation for nearly 16 years and any school principal or teacher knows the need for alternative education for the academically unmotivated children. Why has the department been so slow to move on something that everybody knows and why is it that the first practical school has not yet even been set up?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I do not agree that the Government has been slow in implementing measures to help unmotivated children. As I have explained in great detail in the last motion debate on practical schools, the Government is actually on time and in accordance with our programme in setting up the four practical schools that we have promised. The fact that we have only got one school now is because we need the time to fully assess the effect on the new idea before we move on to the next school. But, having ascertained that the idea of a practical school is practicable and beneficial to the students, we have actually taken a very fast planning process and by September this year we shall have our second practical school in place. The third and fourth are now in the active planning process.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, the Administration says in its reply that mother-tongue teaching should start as soon as possible in secondary schools and I welcome this policy. Will the Government set an example by taking the initiative in implementing mother-tongue teaching in government secondary schools? If it does not do so, then it is merely saying one thing and doing another; how can it expect other subsidized secondary schools to respond to the Government's call and implement mother-tongue teaching?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, there have been unending debates on the subject by educationalists and members of the public over the years. I believe Mr CHEUNG Man-kwong knows very well that this is not a question of whether or not the Government should implement it. The Government has, in fact, been advocating mother-tongue teaching for a long time. But we have to acknowledge that the objectives of mother-tongue teaching cannot be achieved through forceful means. Even if we do so, the effect may not necessarily be the best. The Administration now adopts the medium of instruction groupings approach in language teaching and encourage schools and parents to choose the appropriate medium of instruction in the light of the language proficiency of their children or students. As regards how long it will take to achieve this, given that Hong Kong is an evolving society, and having regard to economic and other factors, we believe that more and more people will find that there are more opportunities these days to use the mother tongue, and that mother tongue will be essential for seeking employment. Through this process, through the encouragement of the Government and through the advocacy of educators, we are confident that mother-tongue teaching will become a major trend in the foreseeable future.

MR HENRY TANG (in Cantonese): *Mr President, the Administration has said just now that the aim of our education is to teach students to become good citizens who care for the society. As the majority of Secondary III students will continue to study in Secondary IV and V, has the Government considered extending the nine-year free education to 11 years, providing free but not compulsory education for Secondary IV and V students? If not, why not? Has the Government worked out how much funding will be needed for this purpose?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, I have assessed the costs of fully subsidizing Secondary IV and V places. At present the provision of places in grammar and technical schools represents 95% of places for all school-age students. About $36 million is needed every year in terms of additional resources whereas the capital expenditure needed for construction of new schools is around $72 million. However, the availability of resources is not our main consideration. The most important factors we have to consider are: Firstly, is there such a need; and secondly, whether there is such a demand in the community? At present, we are not aware of any Secondary IV and V students of the appropriate age who cannot continue their studies though they have the ability, the aspirations and the need to do so. The subsidized school places provided by the Government for 95% of all school-age students are already more than adequate, according to opinions gathered through various channels. I believe that in fact, no matter how good our intentions are, there are inevitably some youngsters who want to go out to work after the age of 15.

I noted from Mr Henry TANG's question that what he seeks is a five-year subsidized secondary education, one that is voluntary but not compulsory. However, according to the views expressed on subsidized school places, no students have been unable to continue their studies in Secondary IV and V because of financial difficulties. Therefore, the Government does not have any plans to provide subsidized school places in Secondary IV and V for the time being.

DR TANG SIU-TONG (in Cantonese): *Mr President, in the fourth paragraph of the main reply, the Administration mentioned the "establishment of practical schools and skills opportunities schools" to provide places for unmotivated students and low achievers. May I ask how many school places will be provided in the next three years and what is the supply and demand position? Secondly, I would like to follow up with Mr Henry TANG's question, and that is, what is the supply and demand of Secondary IV places this year; how many of Secondary III students cannot continue their studies in Secondary IV because of a lack of school places; and how is the Government going to deal with these Secondary III students who are aged 15 but who have not reached the working age?*

PRESIDENT: I think we had better keep it to one question, Dr TANG. I have had to exclude other Members because of the time. Which question do you want to be answered please?

DR TANG SIU-TONG (in Cantonese): *Mr President, in that case, I would like to follow up with Mr Henry TANG's question, and that is, what is the position regarding the supply and demand of Secondary IV places; how many students cannot move up to Secondary IV; and how is the Government going to deal with these students?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, basically at present we do not have any students who are willing but unable to continue their studies in Secondary IV. The number of subsidized school places above Secondary III level in grammar and technical schools represents 95% of all places for school-age students. What we have to take into account is the fact that there are certain students, as many as several thousands, who are unwilling to opt for subsidized school places. They would rather continue their studies in private schools. We are not aware of any shortage at the moment. Our nine-year compulsory free education only provides that students are required to go to school up to and until 15, after which they are free to choose either to continue with their studies or seek employment.

Taiwanese officials' entry to Hong Kong

4. MR FREDERICK FUNG asked (in Cantonese): *Will the Government inform this Council:*

(a) of the respective numbers of applications for entry visas by Taiwanese officials in their official or personal capacities during the past three years; the number of applications rejected and the reasons for rejecting these applications; and

(b) whether consideration will be given to relaxing the restrictions on entry of Taiwanese officials to Hong Kong?

SECRETARY FOR SECURITY: Mr President, all visitors from Taiwan, including Taiwanese officials, visit Hong Kong in their private capacity. The number of applications for visit permits from Taiwanese officials was 723 in 1991, 580 in 1992, 802 in 1993 and 177 in the first three months of this year. None were refused.

All Taiwanese visitors can enter Hong Kong on multiple visit permits valid for one or two years. The processing time for first applications is normally no more than seven working days, and for applications for renewal two working days. The present procedures, which allow for the issue of multiple visit permits, were introduced in 1990. They have been well received and are working well. We keep them under regular review, but have no plan to change them at present.

MR FREDERICK FUNG (in Cantonese): *Mr President, I am unhappy with the second part of the Secretary's reply because it did not answer my question. I hope the Secretary can give me an answer after hearing the background to the case. At the end of last year, I went to Taiwan to meet Madam YEH Chin-fong, Vice-chairman of the Mainland Affairs Council, and Mr James CHU, Director General of the Department of Cultural Affairs. They told me that they had applied to come to Hong Kong in their private capacity but their applications were rejected. Only if they travelled with a tour group or a business group, that is, for business purposes, would they be allowed entry. In reply to Mr CHEUNG Man-kwong's question on 12 January 1994, the Secretary pointed out that one of the considerations was whether the applicants were genuine visitors, that is, they would not be allowed entry if they did not come here as tourists. In this connection, are Taiwanese officials not allowed, for political reasons, to enter Hong Kong in their "private capacity" unless they come here as tourists? If political factor is not the reason, will the relevant departments clearly inform the Taiwan authorities the actual reasons for refusal?*

SECRETARY FOR SECURITY: Mr President, I cannot comment on individual cases. People from Taiwan do not visit Hong Kong in their official capacity. We do not have official relations with Taiwan. So, as I have said in my main reply, all Taiwanese officials are considered, if they apply for visas, to be visiting in their private capacity.

But in so far as the question is concerned, I stick with the figures I have given in my answer. We have not refused any Taiwan officials visas to visit Hong Kong in the past three and a quarter years.

MR MARTIN BARROW: *Mr President, the Secretary seems to have revealed another "post box like" activity. Could the Secretary firstly explain the overall rationale for the visa process and secondly, given the lack of refusals, would he not agree that immigration staff could be better deployed at the arrival counters, rather than processing visas in yet another "post box" style activity which seems to be a complete waste of resources?*

SECRETARY FOR SECURITY: Mr President, if we were to consider granting visa-free access to people from Taiwan, we would certainly expect some reciprocity. We do not have any reciprocity at the moment. The requirements that the Taiwanese put on Hong Kong visitors are far more stringent than we put on visitors from Taiwan.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, Taiwanese officials do not need visas to visit Macau, our neighbour. However, if they visit Hong Kong, they have to sign an undertaking to the effect that they will not engage in any political activities. Since the situation and circumstances in Hong Kong and Macau are quite similar, will the Secretary inform this Council why Hong Kong has to impose such a restriction and will the Administration consider waiving such undertaking?*

SECRETARY FOR SECURITY: Mr President, I cannot possibly comment on what Macau's requirements are or why they have such requirements. So far as we are concerned, as we have said before, we do not wish to see Hong Kong turned into a place where people engage in political activities which have no relevance to Hong Kong at all and that is why we put this requirement on visitors from Taiwan.

MR HOWARD YOUNG (in Cantonese): *Mr President, Chinese passport holders from the mainland coming on one-way permit did require visas. However, under the advocacy of people from different quarters and from the tourist industry, the Hong Kong Government granted, from 1 August last year, Chinese nationals in transit 7 days visa-free access. Will the Secretary consider giving at*

least the same treatment to Taiwanese passport holders in transit, as they do to Chinese nationals, by waiving their visa requirements and granting them 7 days visa-free access?

SECRETARY FOR SECURITY: Mr President, no, we have no intention of instituting any such arrangement. Our relationship with Taiwan is very different from our relations with China. And as I have said in answer to a previous question, we do not ourselves receive any reciprocity from the Taiwanese in this respect.

MR JAMES TO (in Cantonese): *Mr President, I would like to follow up with Mr LAU Chin-shek's question. Actually, the Secretary has not answered whether Taiwanese officials entering Hong Kong as visitors are required to sign an undertaking that they will not engage in political activities. If yes, are officials from other countries, for example, Mr LU Ping, also required to sign such an undertaking upon entering Hong Kong?*

SECRETARY FOR SECURITY: Mr President, as I have said previously, we do not have any official relations with Taiwan. With most, or practically all, other countries in the world, we do have official relations.

MR FREDERICK FUNG (in Cantonese): *Mr President, during the meeting with the two persons I have mentioned, they told me that it was easier to apply for entry to mainland China than to Hong Kong. Will this discourage potential Taiwanese visitors from applying? Will the Administration consider relaxing the immigration rules so that they at least are not more stringent than those imposed on Taiwanese nationals visiting mainland China?*

SECRETARY FOR SECURITY: Mr President, I do not think I can comment on that, which is strictly a matter of opinion and I do not think it is borne out by the facts.

PRESIDENT: Mr BARROW, you have another question?

MR MARTIN BARROW: *Could the Secretary confirm whether or not he is asking for visa-free reciprocity with Taiwan?*

SECRETARY FOR SECURITY: Mr President, no.

Immigrant children from China

5. MR CHEUNG MAN-KWONG asked (in Cantonese): *In view of the continued increase in the number of children entering Hong Kong from mainland China as immigrants, will the Government inform this Council:*

(a) what measures will be adopted to help such children who are of school age to enter local schools early and to adjust to the local way of life after their arrival in Hong Kong; and

(b) whether the authorities concerned will render any assistance to these children in case they have difficulties in learning and adjustment?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President,

(a) The Education Department provides personal assistance to parents in the early placement of all school-age immigrant children from China. District Education Officers help those parents who need such assistance to choose schools for their children, including arranging school interviews. Schools then assess the children's academic standard before placing them to classes at suitable levels.

In view of the increasing number of Chinese immigrant children joining local schools, the Education Department will soon issue an advisory circular to advise school heads and teachers. Schools will be advised, among other things, to encourage teachers to liaise closely with the parents of immigrant children, and to assign senior pupils to help look after them, and to encourage them to integrate socially through extra-curricular activities. Outside the school, their adjustment and integration with the wider community is facilitated by the services of the Social Welfare Department and various voluntary organizations including the International Social Service Hong Kong Branch, a subvented welfare agency which provides post-migration services to all immigrants from China.

(b) According to the feedbacks obtained by the District Education Offices, apart from their standard of English, most of these immigrant children do not encounter serious learning or adjustment difficulties. In fact, they usually work very hard. To help them to tackle the language problem, schools are encouraged to organize remedial classes. To supplement the school effort, the Education Department organize intensive English remedial classes for these children. The Department also provides other specialist services such as speech therapy to those children who need special assistance. For those immigrant children who have special adjustment

problems, they are given counselling and guidance by student guidance officers or school social workers.

The Education Department will continue to keep in close contact with schools to ensure that problems encountered by new immigrant children are promptly resolved. The Department is also monitoring the situation closely and will strengthen these services where necessary.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, as English is generally not taught in primary schools in China, many children coming from the mainland may not know English at all. In general English remedial classes provided by schools here are divided according to the forms of the pupils with each class having more than 10 pupils, so it will be difficult to cater to the needs of individuals who are beginners and have to start from learning the alphabets. If these children cannot afford private tutors, it will be difficult for them to catch up with the English standard. Will the Administration therefore consider organizing English remedial classes at community centres near the homes of these children where they can be grouped together and taught rudimentary English?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, the Education Department has already set up different kinds of centres providing remedial teaching services for schools. These centres provide students with learning difficulties special remedial services which include those in language learning. There are currently four remedial teaching centres for secondary students and six for primary students. We believe that the remedial services provided by these centres can already satisfy existing needs. However, I would like to stress that we have always considered that the best way to help these immigrant students to integrate into schools, whether it is in language learning or learning other subjects, is to assist them by way of "school-based" remedial programmes.

MR VINCENT CHENG: *Thank you, Mr President. I am a bit concerned about the magnitude of this problem here. Can the Secretary inform this Council of the number of such students in Hong Kong and how many of these children have come forward and applied for the special services provided by the Education Department?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, this is of course not a new issue. For a long, long time we have been integrating immigrant children into our local schools. For example, over the last seven years, we have an average of about 5 500 students being integrated into the local school system every year. There are individual problems but on the whole most

of them have integrated very successfully into the school system. Despite some initial language difficulties, many of them have become accustomed to the local education system very quickly. And actually as I have said in my main answer, because they are generally better motivated, many of them manage to perform well.

I have no statistics on how many students actually come out and ask for specific assistance from the Education Department. I shall provide those figures in writing to the Honourable Member. (Annex IV)

MR MARTIN LEE (in Cantonese): *Mr President, official statistics show that there are many immigrant children in the Eastern District of Hong Kong Island who have found it difficult to find schools on their own because they are unfamiliar with the people and places here. Will the Administration inform this Council whether the authority concerned will register the contact information of the immigrant children at the point of entry and take the initiative in contacting them once they have settled down for the purpose of assisting them to enrol in nearby secondary schools; if so, when this will be implemented; if not, why not; and if consideration is required, when a decision can be reached?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, the parents of many of these immigrant children can easily find this out (please do not ask me how they have come to know this) and they can quickly get in touch with the District Education Officers. One of the easiest ways of course is to ask the district offices because new immigrants can obtain information on various government services from the district offices. Our understanding is that the great majority of the parents of immigrant children have absolutely no difficulty in contacting the District Education Officers. But certainly we welcome any views on this. In fact, we are considering the possibility of providing information on schools to immigrant children at the first opportunity, that is, upon their arrivals. This measure is still under consideration and we hope that we can determine in a matter of months whether this is feasible, and if so, when this should be implemented.

MR EDWARD HO (in Cantonese): *Mr President, I understand that recently the Education Department has time and again given land originally earmarked for schools to the Housing Authority for building public housing. As a member of the Housing Authority, I certainly welcome this. However, the Basic Law provides that children of Hong Kong permanent residents with Chinese nationality who were born outside Hong Kong will automatically be entitled to right of abode in Hong Kong after 1997. According to estimates, there are 80 000 to 100 000 children waiting to come to Hong Kong from the mainland. If all of them come here, can the Administration provide sufficient school places for these children without affecting the existing quality of education?*

PRESIDENT: That rather broadens the scope of the main question. Do you have the answer, Secretary?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, after consultation with the Chinese authorities towards the end of last year, the Administration has agreed to make special arrangements for one-way permit holders by increasing the daily quota by 30 persons and half of which are specifically for children of Hong Kong residents born in mainland China. The purpose is to arrange for these children to come to Hong Kong in an orderly manner in accordance with the provision of the Basic Law. Our existing schedule for building additional schools has taken into account the needs of these children who will gradually come to Hong Kong, and it is planned that three more schools will be built to cater for the need for additional school places arising from increased immigrant children during the run-up to 1997. We will also take this factor into consideration in our future plans of building schools. Our overriding principle is to provide additional schools places without affecting our quality of education and our commitment to further improve it.

DR YEUNG SUM (in Cantonese): *Mr President, the Secretary's reply just now seems to focus on school-age children. But some immigrant children from China are overage. May I ask whether the Administration will assist these children until they are enrolled in school and how it will help them adjust to life in Hong Kong?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, I think that by "overage" Dr YEUNG was referring to those whose ages are over the statutory age of schooling. If that is so, then these children and their parents have the right to choose whether or not to attend schools in Hong Kong. If they need the assistance of the Education Department, we will be happy to assist these overage children to enrol in suitable classes.

PRESIDENT: There has been a partial breakdown in the air conditioning which is unlikely to be remedied today. I am going to suspend the sitting for a few minutes so that Members who wish to remove their jackets can do so. I intend to do so.

Sitting suspended from 3.30 pm to 3.36 pm

Pavement damage due to burrowing by rats

6. DR LAM KUI-CHUN asked: *Will the Government inform this Council:*

(a) whether it has information that rats are found burrowing into the underlying sand layer of pedestrian pavements, particularly those in the vicinity of restaurants and refuse dumps, thus causing damage to these pavements, and if so, the number of such reports in the past two years;

(b) whether the Highways Department and the Urban Services Department have adequately consulted each other prior to adopting the current method of surfacing pedestrian pavements with concrete bricks; and

(c) in view of the increasing number of complaints about the rat problem recently, what action will be taken to prevent further damage to pedestrian pavements by burrowing rats?

SECRETARY FOR WORKS: Mr President,

(a) Four cases of pedestrian pavement damage have been identified as alleged to be caused by the activities of rats, during the past two years. Only one of these cases relates to rats burrowing into the sand layer beneath the pavement blocks, the other three cases are believed to have been caused by rats undermining the deeper underlying strata.

In respect of (b) and (c)

Paving block construction is used in many countries, and from the available technical evidence nothing suggests that its use will lead to rat problems.

In Hong Kong, given the extensive use of block pavements and the few instances of possible damage due to the activities of burrowing by rats, it is clearly not a serious problem. Nor is there any reason to believe that any relationship exists between the activities of rats and the use of paving blocks. Since no such relationship was expected, USD and RSD were not consulted by the Highways Department when deciding to adopt block pavements on account of their other very important benefits.

For pavements that are properly laid, whether by using traditional *in situ* concrete or by using concrete blocks and with concrete edging strips, there should be very little chance for rats to burrow. There is however always the possibility that damage to the paved

surface, which could be caused by the wheel loading of illegal parked vehicles for example, or any damage causing an opening in the vicinity of the pavement might result in rats reaching the underlying bedding layer and of course commencing burrowing activities.

The Highways Department will ensure that paving block pavements are laid with due regard to this potential problem, and that any defects in any type of paving will be repaired promptly to avoid rat infestation. USD and RSD have also instructed their beat sweepers and pest control staff to report defective pavements to the Highways Department.

DR LAM KUI-CHUN: *Mr President, the low incidence of reports quoted in part (a) of the Secretary's answer is at variance with the information I have received from site workers of the Highways Department. In fact my information is that the shortest time between initial surfacing and the need to resurface because of the activity of rats may be less than a week. What mechanism exists for the Government to know the actual seriousness of this problem of burrowing rats, apart from haphazard voluntary reporting by some of its staff? And if such a mechanism does not exist, will the Government examine this problem more seriously?*

SECRETARY FOR WORKS: Mr President, the Highways Department apply themselves to making good any damage to any footpath or any road surface as quickly and as efficiently as possible. As I have said, they will pay particular attention and will, if there are reports, deal with these reports and these problems as quickly as resources allow. But it is not the Highways Department's intention to leave any footway surface unrepaired for any longer time than absolutely necessary.

PRESIDENT: Another supplementary, Dr LAM?

DR LAM KUI-CHUN: *Mr President, my follow-up question was on the mechanism of reporting of such damage.*

SECRETARY FOR WORKS: Mr President, the Highways Department of course do have their own staff and in fact there has recently been a substantial increase in the number of inspectorate staff at their disposal to deal with road and footpath arrangements. This will be one means of receiving improved reports. As I have said, the arrangements with the Urban Services Department and Regional Services Department to receive reports will also be further taken into account and, of course, any reports from the public which are received through

our complaints mechanism, both at department level and also at branch level, is a further avenue of communication. Though I believe that there are adequate channels of communication, I will certainly make sure that the Highways Department, in their normal maintenance procedures, take account of the potential problem which is being raised and that they will deal with any complaints quickly.

MR ALFRED TSO (in Cantonese): *Mr President, the concrete paving blocks referred to just now are the so-called "Besser" blocks which I understand are made of PFA concrete which is a mixture of pulverized fuel ashes and concrete. Apart from having holes that can house rats, these blocks will also pose a danger to the pedestrians because of the development of cracks, and will accumulate dirt due to their rugged surface. Under what circumstances will the Administration consider surfacing footpaths with this type of blocks? Is the use of this type of paving blocks cost-effective and are these blocks an eyesore to the environment? Is this paving method necessarily better than the traditional one?*

SECRETARY FOR WORKS: Mr President, as I have mentioned, this type of paving block is used extensively now in Hong Kong. It has been adopted for excellent reasons. It has many advantages. First of all, if a pavement area has to be re-entered for any particular reason, for example, utilities, the blocks themselves can be lifted without damage and can be reused. This means that not only is there a saving in material, but also a significant reduction in the noise and the disruption that would otherwise be encountered in breaking up an *in situ* concrete paved surface. We are not talking about bricks, Mr President. We are talking about carefully designed and profiled blocks which have an interlocking nature. They are designed to maintain the smoothest possible surface, although, as I have said, if surfaces are run on illegally by vehicles then of course there is every chance that the surface will be deformed in just the same way as a surface covered by *in situ* concrete is likely to be cracked and damaged under the weight of such vehicles. They are cost effective. I can certainly assure Members that these factors have been taken into account and indeed it is the belief of the department that the use of blocks, in appropriate circumstances, is not only cost effective, but technically the best solution.

MR MAN SAI-CHEONG (in Cantonese): *I would like to follow up with Mr Alfred TSO's question. I understand that when funding was sought from the Legislative Council for resurfacing pavements with this type of blocks, the Administration undertook to conduct a review on this. District boards have received a lot of complaints in this regard, which invariably pointed to the many disadvantages of this method except the advantage of facilitating resurfacing of pavements for public utilities. May I know when such a review will be conducted and a report be submitted to the Legislative Council?*

SECRETARY FOR WORKS: Mr President, in the light of this question, I will certainly discuss with the Director of Highways and arrange for any review material to be circulated. Furthermore, if it is necessary, we will be delighted to give a particular briefing to the relevant panel on the successful implementation of this type of paving to date.

Written Answers to Questions

Accounting system of the Government

7. MR JIMMY McGREGOR asked: *In view of the fact that some foreign Governments prepare their accounts on an accruals basis, will the Government inform this Council of the reasons for continuing to use the cash-basis accounting system?*

SECRETARY FOR THE TREASURY: Mr President, in common with most other Governments, the published accounts of the Hong Kong Government are prepared on a cash basis. In addition, we have recognized for many years the relevance of accrual-based accounts for certain quasi-commercial government operations and have produced, for internal management use, accounts on this basis in addition to the cash-based accounts. These include Water Supplies, the Airport and the Post Office. Also, government services operated as trading funds, such as the recently established Land and Companies Registry Trading Funds are required, under the Trading Fund Ordinance, to prepare full accrual-based accounts in accordance with generally accepted accounting principles.

In recent years, a number of Governments which have traditionally adopted the cash basis of accounting have introduced or are exploring the wider use of accrual-based accounts. In view of this, the Director of Accounting Services established, in 1993, a Working Group comprising representatives of the accounting profession both from within the Government and from the private sector to review our own financial reporting arrangements.

The Working Group's conclusions are, *inter alia,* that:

- The Government is unique in its objectives, activities and financing and cannot be, in many respects, likened to private business enterprises. It is, therefore, not appropriate to assume that the private sector financial reporting model must be fully applicable to the Government.

- The payments which the Government is permitted to make in any financial year are limited under the Public Finance Ordinance and the Appropriation Ordinance. Given this form of cash appropriation system, it follows that the Government's published accounts are

prepared essentially on a cash basis so as to demonstrate and discharge this statutory accountability.

- While the cash-based accounts should continue to be used, the Government should prepare on an experimental basis, supplementary accounts showing the full cost (on an accrual basis) of selected activities with a view to forming a judgement on the merits (and costs) of providing such financial information about government activities as a whole.

As announced by the Financial Secretary in his Budget speech, we will start to compile the accrual-based supplementary accounts on a pilot basis in selected departments during 1994-95.

Cross-border bus and coach services

8. MR HOWARD YOUNG asked: *Will the Government inform this Council whether any applications for operating cross-border bus and coach services have been turned down in the past three years and, if so, the reasons for the rejections?*

SECRETARY FOR TRANSPORT: Mr President, cross-border bus and coach services are subject to quotas jointly agreed and administered by the Hong Kong and Chinese Governments. There are at present 471 such quotas, each of which allows one round trip a day. These are sufficient to meet normal demand. Additional temporary quotas are allocated for periods of exceptional demand, for example, on certain public holidays and festival days.

In the past three years, 11 applications for quotas to operate cross border bus and coach services have been turned down. The reasons were as follows:

(a) seven applicants were existing operators who had not used up their present quotas for the routes in question;

(b) two applicants were unable to obtain approval from the Chinese authorities to operate bus services in China;

(c) one applicant was in the process of winding up his business; and

(d) one applicant did not possess the necessary transport experience.

Failure to supply unleaded petrol

9. MISS EMILY LAU asked: *Will the Administration inform this Council whether it has investigated reports that some petrol stations failed to comply with requests to sell unleaded petrol in early March this year and, if so, whether prosecution action will be taken against such petrol retailers under Part IVA of the Air Pollution Control Ordinance (Cap. 311)?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the Environmental Protection Department (EPD) responded to the reported shortage of unleaded petrol in some petrol stations by carrying out an investigation which involved visits to a number of petrol stations on 2, 3 and 4 March 1994. On two occasions on 3 March, there was a failure to supply unleaded petrol on request. By 4 March, the situation seemed to have returned to normal and unleaded petrol was available on request at all stations visited.

EPD is currently gathering more information and consulting the Attorney General's Chambers as to whether prosecution action under the relevant provisions of the Air Pollution Control Ordinance can and should proceed. I will provide further information in writing when a decision on this has been made. (Annex V)

General out-patient clinics

10. DR HUANG CHEN-YA asked (in Cantonese): *Will the Government inform this Council of:*

(a) the number of general out-patient clinics in each of the districts throughout the territory and the weekly operating hours of these clinics;

(b) the number of patients attending these clinics each year and the main causes of their attendance;

(c) the number of staff providing rehabilitation nursing care and physiotherapy services in these clinics; and

(d) the number of patients referred by these clinics to specialist clinics or hospitals for treatment each year?

SECRETARY FOR HEALTH AND WELFARE: Mr President,

(a) The Department of Health operates 59 general out-patient clinics, including 54 full-time and five part-time clinics.

Full time clinics operate 11 sessions a week with a total of 39 hours: that is from 9.00 am - 1.00 pm and 2.00 pm - 5.00 pm Monday to Friday and from 9.00 am - 1.00 pm on Saturdays. Part-time clinics run between three to five sessions per week and the total operating hours range from six to 12 hours per week. In addition, evening clinic and Sunday and public holiday clinic services operate from 18 and eight of the full-time clinics respectively. The operating hours are 6.00 pm - 10.00 pm Monday to Friday and 9.00 am - 1.00 pm on Sundays and public holidays. A breakdown of these clinics by regions is as follows:

	Day clinics		
	Full time	*Part-time*	*Total*
Hong Kong	10	1	11
Kowloon	18	0	18
New Territories East	14	3	17
New Territories West	12	1	13
	54	5	59

	Evening, Sunday and Public Holiday Clinics	
	Evening clinics	*Sunday and Public holiday clinics*
Hong Kong	4	2
Kowloon	7	3
New Territories East	3	1
New Territories West	4	2
	18	8

(b) In 1993, a total of 4 659 678 patients attended the 59 general out-patient clinics. Of these 3 942 437 were for medical consultation and the rest for nursing services, that is, injections and dressings. About 40% of the medical consultations comprised patients with chronic diseases requiring regular follow-up. The rest were patients with acute ailments seeking primary medical care.

(c) The general out-patient clinics do not provide rehabilitation nursing care and physiotherapy services.

(d) In 1993, 93 971 patients attending general out-patient clinics were referred to specialist clinics and 29 209 to Accident and Emergency Service of hospitals under the Hospital Authority. This constitutes 2.38% and 0.74% of all medical consultations respectively.

Protection of children's rights in judicial proceedings

11. MRS PEGGY LAM asked (in Chinese): *Will the Government inform this Council:*

(a) of the number of cases in the past three years in which charges were withdrawn by the Legal Department on the grounds that the alleged victims were too young and did not understand the meaning of oath-taking; and

(b) what measures are in place to protect the rights of such alleged victims in judicial proceedings?

ATTORNEY GENERAL: Mr President,

(a) We do not keep statistics on the number of cases in which charges were withdrawn on the grounds that the alleged victims were too young and did not understand the meaning of oath-taking;

(b) Under section 4 of the Evidence Ordinance, a witness, and this includes the victim, who is too young and does not understand the nature of the oath, can give unsworn evidence if in the opinion of the court he or she understands the duty to speak the truth. This category generally embraces children between seven to 14 years of age. Corroboration of the evidence of such a witness is required. As for children under the age of seven years, they can, by virtue of section 3 of the Evidence Ordinance, give unsworn evidence if they appear capable of receiving just impressions of the facts.

In July 1993, I set up a committee to look at ways and means to improve the system regulating the giving of evidence by children in criminal proceedings.

The Committee was chaired by the Deputy Director of Public Prosecutions and comprised representatives of the Bar Association, the Law Society, the Director of Legal Aid, the Commissioner of Police, and the Director of Social Welfare. The Committee

submitted its report in January 1994. A summary of the recommendations made is as follows:

(i) Children ought, in certain defined circumstances, to be allowed to give evidence through a television video link, from a room, if not adjacent to the court, then in the court building. This would apply to child witnesses giving evidence in relation to offences involving the sexual abuse of a child, the physical abuse of a child, or cruelty to a child. This proposal would avoid the stress placed upon a child of giving evidence in the open, and sometimes intimidating court environment;

(ii) The primary evidence of the child witness, in relation to offences within the three classes mentioned, ought to be video recorded at an early stage by trained personnel of the Social Welfare Department and police;

(iii) The requirement in section 4 of the Evidence Ordinance as to corroboration of the evidence of the child should be abolished. It should, in addition, no longer be incumbent upon the courts to give warnings as to the dangers inherent in convicting an accused on the uncorroborated evidence of a child; and

(iv) All children should give their evidence unsworn, any presumption as to a child's incompetence to testify should cease, and children should be treated in the same way as adults. If a child is available to give relevant understandable evidence, the child should be heard. The court will then evaluate that evidence and decide how much reliance to place upon it.

I have accepted these recommendations and legislative proposals and administrative measures are being formulated to give effect to them. I hope to be in a position to present the necessary legislative proposals to this Council in the 1994-1995 session.

Additional buildings in housing estates

12. DR TANG SIU-TONG asked (in Chinese): *As the Housing Authority intends to construct additional buildings in some of the existing housing estates and this plan is being studied by the Government, will the Government inform this Council:*

(a) when the study report of the aforementioned plan will be completed; when the construction of the additional buildings is expected to start at the earliest;

(b) whether the Government would consult the residents of the affected housing estates and the relevant District Boards before making a decision on the matter; and

(c) how the authorities concerned would ensure that there will be no adverse effects on the infrastructural facilities, community facilities or transport service of the existing housing estates where additional buildings are to be constructed?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, as part of the measures to increase public housing production to meet housing demands in the next few years, the Housing Department has identified 31 possible "infill" sites in existing estates which have potential for the development of standard blocks or special blocks for small households. The feasibility of using these sites is dependent on the impact on infrastructural and community facilities being acceptable, environmental and traffic constraints being overcome and public consultation. If everything goes well, flats on the sites can be completed between 1996-97 and 1998-99.

(a) Preliminary study by the Housing Department of 12 of the 31 sites indicates that eight of them can be developed to provide some 5 200 flats. Construction work on some of them may start by the end of 1994 or early in 1995. Results of the current study by the Housing Department of the remaining 19 sites are expected in two months.

(b) The Housing Department will consult relevant district boards and mutual aid committees in the housing estates affected before finalizing the plans.

(c) The sites identified are in estates where the actual population is less than the original planned target. Even after building the additional housing blocks, the estate population will be within the planned capacity for which its infrastructure and facilities were designed and provided. In planning additional buildings on these sites, the Housing Department not only attempts to optimize development potential but also to upgrade and improve, where possible, facilities to meet the latest standards.

Fire safety of holiday bungalows

13. MR ALBERT CHAN asked (in Chinese): *In view of the complaints from residents of outlying islands about illegal occupation of areas or pavements outside holiday bungalows for barbecue by holiday-makers, and their worries about possible fire hazard posed to the nearby residents owing to the lack of proper fire fighting equipment in these bungalows, will the Government inform this Council whether:*

(a) legislation will be introduced to require the provision of adequate fire fighting equipment in these holiday bungalows; and

(b) prosecutions against holiday-makers who barbecue on pavements will be stepped up to avoid accidents?

SECRETARY FOR HOME AFFAIRS: Mr President, my reply is as follows:

(a) the fire safety of holiday bungalows is regulated by the Hotel and Guesthouse Accommodation Ordinance; and

(b) barbecue activities in open areas are not classified as "fire hazards" under the Fire Services Ordinance and are not, therefore, prosecuted under this Ordinance. However, where the arrangements for such activities cause obstruction, or endanger persons, in a public place, these may constitute an offence under the Summary Offences Ordinance. If the offence continues despite warnings, or is accompanied by other offences, the police may initiate prosecution action. Prosecution may also be initiated against barbecue activities on pavements pursuant to the Public Cleansing and Prevention of Nuisances (Regional Council) By-laws, if such activities lead to littering in public places.

Stamp duty revenue from stock transactions

14. MR ERIC LI asked (in Chinese): *Given that the Government has, in its own budget as well as those of the Securities and Futures Commission and the Stock Exchange of Hong Kong Limited, made separate assessments of the stock market turnover in order to forecast revenue from stamp duties and transaction levies on stock transfers, will the Government inform this Council:*

(a) of the "average daily stock market turnovers" which are used as the basis for assessing revenue from stamp duties and transaction levies separately in each of the budgets of the above three public bodies in the 1994-95 financial year;

(b) of the assumptions on which the separate forecasts are based; should "different assumptions" be used, what the reasons are;

(c) whether the different assessments will cause confusion to the public;

(d) whether the Government will consider adopting a consistent "average daily stock market turnover" as the basis for scrutinizing budgets that must have its approval; and

(e) if all three budgets adopt the same "average daily stock market turnover" as forecast in the Government's budget, what effect this will have on the budgets of the Securities and Futures Commission and the Stock Exchange of Hong Kong Limited, such as on their revenue and surplus/deficit position? Please provide actual figures to illustrate the case.

SECRETARY FOR THE TREASURY: Mr President,

(a) In preparing the 1994-95 Budgets for the Securities and Futures Commission (SFC) and the Stock Exchange of Hong Kong Limited (SEHK), the average daily turnover on the Stock Exchange was assumed to be $4.5 billion. For the purpose of estimating the stamp duty revenue from stock transactions for the Government's 1994-95 Budget, we have assumed an average total daily value of stock transactions (including transfers on the Stock Exchange and private transfers) of about $5 billion.

(b) The different turnover figures represent the best judgment at the time of those involved in the preparation of the respective Budgets in the light of the latest market situation. The financial year for the SEHK starts from 1 July while that for the Government and SFC commences on 1 April. The difference in timing in preparing the Budgets means that the estimates on market turnover may be vastly different. In addition, in forecasting the average daily turnover figure for the purpose of the Government's Budget the Administration has included in it the value of private transfers.

(c) These turnover figures are no more than estimates based on the best assessment at the time they were produced. Neither the Government, the SFC nor the SEHK has given the impression that the actual turnover would necessarily be the same as the projected figures. We are not, so far, aware of any public concern that the different estimated turnover figures are a source of confusion.

(d) and (e)

For the reasons given in (b) and (c) above, we do not consider it appropriate or practical to require the same "average daily stock market turnover" figure to be used for the purpose of the budgets of the Government, the SFC and the SEHK.

Detention of illegal immigrant mothers and young children from China

15. MISS CHRISTINE LOH asked: *Will the Government inform this Council, in respect of each of the past three years, of:*

(a) the number of detention orders made in respect of illegal immigrant mothers and young children from China;

(b) the average period, as well as the longest and shortest durations, of their detention;

(c) the number of detainees who applied for bail; whether bail was automatically granted in such cases, if not, why not; and

(d) the number of applications by detainees to stay with family members resident in Hong Kong pending removal; of these, how many were refused and the reasons for the refusal?

SECRETARY FOR SECURITY: Mr President, statistics on the number of detention orders in respect of illegal immigrant mothers and young children from China are available only for the fiscal year 1993-94.

(a) The number of detention orders issued in 1993-94 after the serving of removal orders was 257.

(b) The average period of detention was a few days. The shortest period of detention was one day, and the longest two weeks.

(c) We do not have records of the number of applications for recognizance from detainees. However, most illegal immigrant mothers and children are released on recognizance. In 1993-94, 239 were released on recognizance. The remaining 18 were not so released, either because there was a fear that they would abscond or because the date of their removal was imminent.

(d) All 239 who were released on recognizance were allowed to stay temporarily with family members in Hong Kong.

Premium paid by private developers

16. MR LAU CHIN-SHEK asked (in Chinese): *Will the Government inform this Council of the respective numbers of cases and the amounts of premium involved in the past three financial years in which private developers, in acquiring properties for redevelopment, were required to pay premium to the Government for the following reasons:*

(a) renewal of land leases which are due to expire;

(b) a change in the use of the land in question; and

(b) an increase in the plot ratio of such land after redevelopment?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

(a) Since the Joint Declaration came into force in 1985, extensions of lease term (both in the New Territories and the urban area) are granted without payment of a premium. The answer to the question is therefore that there are no cases where premium has been paid for renewal of leases due to expire since 27 May 1985.

(b) and (c)

Statistics available do not differentiate on whether modifications and exchanges are undertaken for a change in use, an increase in plot ratio or a combination of both. Statistics are available, however, in respect of all modifications and all exchange cases undertaken.

(i) During the period from 1 April 1991 to 31 March 1994 a total of 335 modification cases (where a premium was paid) were executed and the total premium payable was $3,663,338,626.

(ii) During the period from 1 April 1991 to 31 March 1994 a total of 262 exchange cases (where a premium was paid) were executed and the total premium payable was $17,271,292,280.

These figures do not include village house cases. Cases where nil premium was payable are assumed to be non-redevelopment cases and have also been excluded.

No conviction record as condition for employment application

17. MR MICHAEL HO asked (in Chinese): *It has often been found in the recruitment notices for Government posts displayed in the offices of the Local Employment Service of the Labour Department that applicants should have no conviction records. Will the Government inform this Council of the Government posts to which this condition applies and the reasons for this condition?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, it is our general policy that the Government should take a lead in employing ex-prisoners and persons convicted of criminal offences and should do so where this is not inconsistent with the public interest. The aim is to reintegrate these people into the community. Applications for employment should be considered on the merits of individual cases, such as the general character and experience of the candidate, his record before and after the offence for which he was convicted and whether the offence is of a kind that would make him unsuitable for the duties of the post involved.

For operational or other reasons, some departments have however stated in their recruitment notices for some posts (for example, Watchman and Artisan) that applications from candidates with criminal conviction record will not be considered. Civil Service Branch has reviewed the matter and concluded that, to better implement the Government's overall policy on employment of people with previous conviction records, this condition should be deleted from recruitment notices in future.

Detention for the purpose of giving evidence at trials or assisting in investigations

18. MISS CHRISTINE LOH asked: *In view of the concern about persons being detained for substantial periods under section 32(4) of the Immigration Ordinance for the purpose of giving evidence at trials or assisting in investigations, will the Government inform this Council:*

(a) of the following details in respect of each of the past three years:

(i) the number of such persons detained, with a breakdown of the number from China and the period of each detention;

(ii) the number of detainees who actually testified at trials, the number of trial cases in which a detainee was the only witness, and the number of trial cases in which a detainee was himself charged; and

(iii) the number of bail applications by the detainees under section 36 of the Immigration Ordinance, and the number approved;

(b) whether the detainees are served with detention orders, and whether there are stringent requirements for explaining to them their legal position and informing them of the legal advice and assistance available; and

(c) of the steps taken to ascertain whether the detention of such persons is essential, whether their attendance can be secured by means other than detention, and whether arrangements can be made for witnesses to be returned to their places of origin pending trial?

SECRETARY FOR SECURITY: Mr President, as regards persons detained under section 32(4) of the Immigration Ordinance, the details are as follows:

(a) (i) A total of 161 persons were detained in the past three years, of which 151 were from China. A breakdown is as follows:

	less than 1 month	*1-3 months*	*more than 3 months*	*Total*
1991	30	11	16	57
1992	18	8	8	34
1993	9	19	4	32
1994	12	11	5	28

				151
				===

(ii) For cases involving immigration offences, a total of nine people were detained in order to give evidence in five cases. They were not the only witnesses at the five trials. Two eventually testified in court; six did not, as the defendants subsequently pleaded guilty; and one is now released on recognizance, pending the trial scheduled for October 1994. Of these nine persons, five were themselves charged with related offences while four were granted immunity.

We do not keep centrally details of the other persons detained as witnesses for other criminal cases. It would take considerable effort to obtain the information requested for these.

(iii) We do not have records of the number of applications for bail from detainees under section 36 of the Immigration Ordinance. But, as I have indicated in a reply to a separate

question, those with close relatives in Hong Kong, such as wives and children, are usually released on recognizance.

(b) Where a detainee is a prosecution witness in a criminal trial, or is believed to be able to help enquiries into an offence or suspected offence, and where he is about to be removed from Hong Kong, then the prosecuting authority will make an application, initially to the Secretary for Security, for a detention authorization for a period of not more than 28 days. This authorization is made under section 32(4)(a). The detainees are notified and told the reason(s) why they have to be detained.

If the enquiries have not been completed within the 28-day period, or if the witness has not yet given or completed his evidence and his presence is still required, then an application is made to court for a detention order under section 32(4)(b). The detainee is given advance notice of the application; he attends the hearing and is given the opportunity to be heard on each application. Occasionally, the detainee is legally represented. If, having heard both the Crown and the detainee, the magistrate or judge makes a further order for detention, a copy of the detention order is served on the witness.

There are no requirements to explain to a detainee his legal position and/or to inform him about the availability of legal advice and assistance, nor is he informed of this when applications for detention are made under sections 32(4)(a) or 32(4)(b).

(c) There are provisions under the Criminal Procedure Ordinance (Cap. 221) for the admission of written statements in lieu of oral evidence; but objections can be made to these written statements by any of the parties concerned, including the defendant. In a criminal trial, where the conviction of the defendant may hinge on the oral evidence of the witnesses, it would not be realistic to expect the defendant to agree to a written statement against him, thereby giving up his right to cross-examine the witness. Nevertheless, if the defendant agrees to the written statement, then the witness will no longer be detained and can be released and removed.

Recognizance is an alternative to detention, but this alternative is not appropriate in many cases. In deciding whether to grant recognizance or not, the most significant factor considered is the likelihood of the witness absconding; the consequences of aborting a criminal trial and losing track of a person required to be removed from Hong Kong would not be in the public interest. The alternative of allowing the witness to leave Hong Kong and return to China, on the understanding that he or she will return later to give evidence is also unrealistic. Not only may the witness change his mind, and cannot be compelled to return to Hong Kong to testify; but also

illegal immigrants from China may well not be able to obtain permission to leave China.

Taxation and accounting services companies

19. MR ALBERT CHAN asked (in Chinese): *Will the Government inform this Council*

(a) how the operation of taxation and accounting services companies is monitored; and

(b) what measures have been taken in respect of taxation and accounting services companies which are not registered with the Hong Kong Society of Accountants in order to protect the interests of the public?

SECRETARY FOR FINANCIAL SERVICES: Mr President, there are no particular arrangements for monitoring taxation and accounting services companies unless they are firms of certified public accountants or public accountants, in which case they would need to be registered with the Hong Kong Society of Accountants (HKSA) and would be subject to the regulation, including disciplinary procedures, of the HKSA.

The Administration is not aware of any significant problem that might require the introduction of a new regulatory framework or of specific statutory measures in respect of accounting and taxation services. Over the past two years, the HKSA has recorded only three complaints from the public against accounting firms which were not firms of certified public accountants (including a complaint referred to it by the Honourable Albert CHAN). One of these complaints concerned the quality of services of an accounting services firm. As the proprietor had falsely held himself out to be a certified public accountant, the case was reported to the police and a prosecution instituted. The proprietor was convicted and fined. The other cases concerned *inter alia* disputes over fees and work that was allegedly paid for but not done. Apart from these, the Administration is not aware of any complaints of a similar nature.

A firm registered with the HKSA would usually have the designation "certified public accountants" or "public accountants" in its name or on its letterhead, whereas an individual would designate himself as a "certified public accountant" (or "CPA"), "public accountant" (or "PA") or a "professional accountant". If there is any doubt, members of the public may during office hours check the register of individuals and firms which, under the Professional Accountants Ordinance (Cap. 50) ("PAO"), the HKSA is required to maintain and make available for public inspection, without charge. The legislation also requires that a person or a firm registered with the HKSA be issued with a

certificate of registration. If a person or firm is claiming to be an HKSA member, therefore, a prospective client may ask to see the relevant certificate of registration.

While it is permissible for a firm to offer taxation or accounting (excluding auditing) services without being registered, under section 42 of the PAO, it is an offence punishable upon conviction by a fine of up to $20,000 and 12 months imprisonment for a person to practise as, or to claim to be qualified to practise as, a certified public accountant or a public accountant, or to claim to be qualified to be registered as a professional accountant, when he is not qualified to do so. If the HKSA suspects that an offence may be being committed, it will follow up with the person or firm concerned and if no satisfactory action is taken to explain or desist from the conduct in question, the matter will be referred to the police. While it may not be unlawful for a person to call himself simply "an accountant" or for a firm to advertise itself as providing advice and/or services relating to accounting, book-keeping or taxation matters without being a member of the HKSA, a member of the public, as explained above, can easily confirm whether or not an individual or a firm is registered with the HKSA.

If members of the public are in any doubt about the credentials of a taxation and accounting services firm or the integrity of persons concerned, they should consider dealing instead with an individual or firm registered with the HKSA, which will be subject to the professional standards and guidelines issued by the Society. If any member of the public has a complaint about the services provided by a taxation and accounting services company that is not registered with the HKSA, and which is not claiming to be registered or to offer services requiring it to be registered, and if the person concerned is unable to obtain satisfaction from the company direct, he or she should consider seeking the assistance of the Consumer Council, or in cases of possible fraud, of the police.

Protection for foreign seamen

20. MR MARTIN BARROW asked: *Will the Government inform this Council:*

(a) Is there an increasing number of foreign seamen being stranded in Hong Kong; and

(b) what steps will the Government take to persuade Flag states to press the owners of the vessels registered in their countries to afford protection for their crews as required by international conventions?

SECRETARY FOR ECONOMIC SERVICES: Mr President, during the past few years there has been an increasing number of cases of foreign seamen stranded in Hong Kong. These incidents arise from two sources. Firstly, when ships and their crews are abandoned in port by their principals — usually due to financial difficulties. Secondly, when foreign seamen are rescued at sea in the course of search and rescue operations and the shipowner fails to arrange repatriation.

International Labour Conventions provide for the conditions of employment and welfare of seafarers and for their repatriation. When foreign seamen are stranded in Hong Kong the initial onus is on the shipowner or his agent in Hong Kong to take care of them. Where this proves not to be possible, then it falls to the Hong Kong Government to make a speedy approach, through diplomatic channels, to the flag state concerned to make any necessary arrangements for their welfare. Such approaches are usually speedily attended to. In the light of increasing prevalence of the standing of foreign seafarers in Hong Kong, however, the Hong Kong Government will:

(a) bring to the attention of those flag states concerned the need to ensure that owners of vessels registered with them are fully aware of their obligations and to institute clear guidelines for action by their local consulates; and

(b) determine how best to co-ordinate the provision of contingency relief for stranded seafarers pending their repatriation.

The aim is to speedily identify individual cases and deal expeditiously and sympathetically with welfare and repatriation matters.

Motion

COMPANIES ORDINANCE

THE SECRETARY FOR FINANCIAL SERVICES moved the following motion:

> "That the Companies (Winding-up) (Amendment) Rules 1994, made by the Chief Justice on 18 April 1994, be approved."

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

The Companies (Winding-up) (Amendment) Rules 1994 were made by the Chief Justice on 18 April to streamline existing procedures and do away with unnecessary administrative requirements concerning the submission of accounts by liquidators and the investment of funds of a company in liquidation.

As regards the investment of the funds of a company in liquidation, the requirement for the committee of inspection to sign and submit through the liquidator, or for the liquidator to sign and forward, a certificate and request to the Official Receiver to invest or withdraw funds from the Companies Liquidation Account, is considered unnecessary. The prescribed form for this purpose is also superfluous. Instead, under the revised rules, a liquidator need only inform the Official Receiver in writing of the advice of a committee of inspection or, where there is no committee, make an appropriate request to the Official Receiver in writing.

The revised rules dispense with the requirement for a liquidator to submit a statutory declaration to verify certain accounts and statements. These are the regular accounts relating to the liquidation of a company being wound up by the court that a liquidator is required to submit to the Official Receiver for audit; the monthly trading account he is required to submit to the committee of inspection, if any, where he is continuing to carry on the business of the company; and the statement of no receipts or payments he needs to send to the Official Receiver if, at the time the accounts fall due, no money has been received or paid out of the account maintained by the liquidator in respect of the company. In future a liquidator will be required only to certify that the relevant accounts or statement are correct.

Where a voluntary winding-up is not concluded within one year after commencement, the revised rules also dispense with the requirement for an affidavit by a liquidator to verify the statements concerning the proceedings in and position of the liquidation. The requirements for the submission of duplicate copies of a liquidator's statement and an affidavit of no receipts or payments are also removed.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

First Reading of Bills

CRIMINAL PROCEDURE (AMENDMENT) BILL 1994

EMPLOYEES' COMPENSATION (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

CRIMINAL PROCEDURE (AMENDMENT) BILL 1994

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

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

The purpose of this Bill is to introduce a Standard Scale for fines not exceeding $100,000. This will enable the maximum amount of these fines to be increased from time to time by a single order of the Governor in Council in order to reflect the effect of inflation.

At present the process of increasing the fines in our legislation is complicated, time-consuming and wasteful of resources, since the increases are done on a fine by fine basis. Each provision that needs to be revised has to be identified; the date of the last adjustment to the fine has to be ascertained; the extent of inflation since that date has to be determined; and an appropriate increase in the fine decided upon. A legislative instrument specifying the amendment to that particular fine then has to be prepared and formally approved.

The Standard Scale proposed will greatly simplify this process. It will consist of six levels, ranging from $2,000 at Level 1 to $100,000 at Level 6. All fines not exceeding $100,000 will be converted into the appropriate levels in accordance with the provisions in the Bill and the values of the levels will become the maximum amounts of these fines. These maximum amounts can be increased from time to time to reflect the effect of inflation simply by an order of the Governor in Council. I must emphasize, however, that adjustment by this method is only possible to cater for inflation. Other adjustments will continue to be done by means of specific amending legislation and will have to be justified on a case-by-case basis.

Fines exceeding $100,000 are comparatively rare. They will not be covered by the Standard Scale, but will continue to be reviewed individually.

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

EMPLOYEES' COMPENSATION (AMENDMENT) BILL 1994

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to amend the Employees' Compensation Ordinance."

He said: Mr President, I move the Second Reading of the Employees' Compensation (Amendment) Bill 1994.

The Bill seeks to rectify a number of inadequacies in the Employees' Compensation Ordinance and improve certain provisions relating to the entitlement of compensation of injured employees.

At present, an employee who sustains injury while travelling as a passenger to or from his place of work by any means of transport provided or arranged by his employer and not being a part of public transport service is entitled to compensation. As the scope of protection is rather limited, we propose to improve the existing provisions by providing for compensation to an employee who suffers injury by accident:

(a) while travelling between his home and his place of work when typhoon signal No. 8 or above, or a red or black rainstorm warning signal, is hoisted;

(b) while driving or operating any means of transport provided by his employer between his home and his place of work for the purpose of attending to or after attending to his duties; and

(c) while travelling between Hong Kong and his place of work abroad by any means of transport agreed by his employer.

We also propose that the definition of "medical expenses" be expanded to enable the Commissioner for Labour to process a claim from an employee injured at work outside Hong Kong for medical expenses incurred outside Hong Kong.

Another area of improvement is that the Bill would enhance the interest of an injured employee who has been on prolonged sick leave. Under the existing provisions, the earnings of an employee for the month immediately preceding the date of his accident or his average monthly earnings during the previous 12 months are used as the basis for calculating periodical payments and compensation for death or permanent incapacity. This method of computation does not cater for any wage increase which the employee might have been entitled to receive had it not been for the accident. We propose that for the purpose of calculating the compensation payable to an employee at the end of a 12-month or 24-month period following his accident, his earnings should be suitably adjusted with reference to the average rate of wage increase of other persons employed by his employer in similar employment, or where no other persons are employed by his employer in similar employment, the rate of inflation, for the preceding 12 months or 24 months be used as appropriate.

We also propose that the Court be provided with a discretionary power to extend the maximum period of 24 months of temporary incapacity by up to 12 months in deserving cases. This extension allows more time for the condition of the injured employee to stabilize and be ready for assessment of permanent incapacity.

At present, an employee who suffers permanent total incapacity and who requires the constant attention of another person is entitled to claim compensation for the cost of such arrangements. However, such requirement is considered unduly restrictive as an employee who suffers serious rather than total permanent incapacity may also require the care and attention of another person. We therefore propose to amend the existing provision to allow the Court to award compensation to meet the cost of attending to an employee who suffers serious permanent incapacity and to remove the requirement for such attention to be "constant".

Other amendments proposed in the Bill are intended to clarify provisions and streamline procedures. These include provisions to make less restrictive the circumstances under which periodical payment are payable to recipients who intend to leave Hong Kong to live elsewhere, to provide a mechanism for the Prosthesis and Surgical Appliances Board to determine the necessity and cost of a prosthesis or surgical appliance supplied and fitted to an injured employee outside Hong Kong, and to repeal section 52 which has become obsolete.

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

SECURITIES (INSIDER DEALING) (AMENDMENT) BILL 1994

Resumption of debate on Second Reading which was moved on 26 January 1994

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

Bill read the Second time.

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

COMPANIES (AMENDMENT) (NO. 3) BILL 1993

Resumption of debate on Second Reading which was moved on 21 April 1993

Question on Second Reading proposed.

MR LAU WAH-SUM: Mr President, the Bill before us aims at tightening up the existing provisions on disqualification of company directors. It introduces more effective and readily enforceable measures to deal with those directors who have abused their offices or disregarded their statutory obligations.

I shall highlight some of the main issues that the Bills Committee has discussed with the Administration.

The first concerns the channel for ascertaining whether disqualification orders have been issued on any particular directors, and how the information can be passed to professional bodies.

The proposed section 168R in the Bill requires the Registrar of Companies to maintain a Register of disqualification orders. The Register will be open to the public for inspection upon payment of a specified fee. The Administration suggested that professional bodies can make a search of the Register to find out whether the person who is the subject of the order is its member.

As for access to information lying behind the Register, such as detailed information relating to the circumstances of a case, the Administration advised that the leave of the Court will be necessary to obtain anything other than a copy of the Writ and Order. Nevertheless, a copy of the Writ and Order may well be sufficient for a professional body to initiate an investigation against its members.

The next issue concerns the effective date of a disqualification order, particularly when an appeal is lodged on the case.

The Administration informed Members that the lodging of an appeal will not automatically halt the implementation of a disqualification order. But application can be made to the Court for a stay of such proceedings, judgement, determination or other decision.

Reference was made to the disqualification rules in the United Kingdom, which provide that a disqualification order will not take effect until 21 days after it is made unless the Court orders otherwise. The Administration confirmed that similar rules will be introduced in Hong Kong before the relevant provisions in the Bill come into operation. Hence a person against whom a disqualification order has been made will have the opportunity to oppose or postpone the implementation of the order. The order will in any case be entered into the Register of disqualification orders, but may be subsequently varied or deleted if so ordered by the Court.

Another issue considered by the Bills Committee involves the definition of the term "shadow director". The existing provisions in the Companies Ordinance provide that disqualification orders may be made against persons in accordance with whose directions or instructions the directors of a company have been accustomed to act. Such persons are defined in the Bill as shadow directors.

Members were concerned whether professional advisers, such as accountants and lawyers, would be caught by the definition of "shadow director" as proposed in the Bill. The Administration advised that the definition is not intended to cover these professional advisers, and will move Committee stage amendments to clarify the policy intent.

The Bills Committee has also discussed with the Administration the provisions governing disqualifications against directors for persistent breaches of the relevant provisions in the Companies Ordinance requiring the filing of returns, accounts and other documents.

The Administration stressed that the requirement for filing of documents is a statutory obligation for the protection of the interests of shareholders and creditors. There are already existing provisions for the Financial Secretary to apply to the Court to disqualify a person persistently in breach of such obligation; the power is to be given to the Registrar of Companies under the Bill.

Members' attention was drawn to the distinction between directors who are guilty of persistent breaches of the filing provisions, and directors who are guilty of fraud or involved with insolvent companies. The former offences are not as serious, as reflected in the maximum period of disqualification of five years compared with 15 years in the latter offences.

The Bills Committee has further sought clarification from the Administration on other provisions in the Bill and the concerns raised by the Hong Kong Society of Accountants. I wish to take this opportunity to thank the Administration and the Society for their time and effort.

With these remarks, Mr President, I support the Bill and the technical amendments to be moved by the Administration at the Committee stage.

SECRETARY FOR FINANCIAL SERVICES: Mr President, I am most grateful to Mr LAU Wah-sum and the Bills Committee for their careful scrutiny and support of the Bill and for their helpful suggestions for improvements.

The Bill strengthens the provisions on the disqualification of company directors, and as a result will, I hope, help to improve standards of corporate governance. With new and more effective provisions on disqualification will come a stronger commitment on the part of the authorities to take action against defaulters. I will be proposing later certain mainly technical amendments to the Bill, that will further facilitate the practical application of the new regime.

Let me emphasize that disqualification under the Bill will bar a person from being a director or liquidator of a company, or a receiver or manager of a company's property, or in any way taking part in the promotion, formation or management of a company, for one to 15 years, depending upon the grounds for his disqualification. It will be an imprisonable offence to act in contravention of a disqualification order. The Bill also renders anyone involved in the management of a company who acts or is willing to act on the instructions of a person whom he knows to be disqualified, personally liable, jointly and severally with the disqualified person, for any debts of the company incurred while he so acts or is willing to act.

Under the scheme, disqualification is arranged around the events when misconduct is first likely to be noticed or established : conviction of offences; breaches coming to the attention of a liquidator; reports of company inspectors; persistent defaults in filing obligations. The principal enforcement agencies will be the Official Receiver, prosecutors, and the courts. Prosecutors and the courts will need to be vigilant, in relation, for example, to the provision which permits a court to disqualify a person who has been convicted of a specified indictable offence. It is important that they actually make sure that they do consider making a disqualification order against that person at the time of conviction.

Before implementing the Bill, three pieces of subsidiary legislation prescribing various procedures will need to be introduced. These are modelled on rules and regulations under the Company Directors Disqualification Act in the United Kingdom. I shall be moving Committee stage amendments to provide for the necessary rule-making power. It is intended that the subsidiary legislation will be laid before this Council during this legislative session. Among the procedures to be prescribed in relation to applications for disqualification orders will be a provision that an order will not take effect for 21 days until after it has been made, unless the court orders otherwise. This will give a person who may be appealing against a conviction on the basis of which a disqualification order has been made, the opportunity to appeal against and also request a stay of the order.

Separately from the disqualification provisions, the Bill transfers to the Financial Secretary the power to amend certain fees under the Ordinance. It also removes the unnecessary requirement for a liquidator's accounts to be verified by statutory declaration. I have moved a resolution, under the Companies (Winding-up) (Amendment) Rules, to bring this latter change into effect, and at the same time to simplify and streamline certain other related procedures and administrative requirements.

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 Bills

Council went into Committee.

SECURITIES (INSIDER DEALING) (AMENDMENT) BILL 1994

Clauses 1 to 8 were agreed to.

COMPANIES (AMENDMENT) (NO. 3) BILL 1993

Clauses 1, 2, 4 and 8

SECRETARY FOR FINANCIAL SERVICES: Mr Chairman, I move that the clauses specified be amended as set out in the paper circulated to Members. The changes are mainly technical and I will therefore highlight only the principal ones.

Clause 4(b) expands the grounds for disqualification to include any indictable offence a conviction for which necessarily involves a finding that the person in question acted fraudulently or dishonestly. This is an existing ground for disqualification and as the intention of the Bill is not to narrow but rather to reinforce the sanctions, it is an element of the current provisions that should be retained.

Clause 4(d) provides that, in the case of a company being wound up, in addition to the Financial Secretary, the Official Receiver may also apply for a disqualification order where it appears that the conduct of a person who is or has been a director of the company makes him unfit to be concerned in the management of any company. Liquidators and receivers of companies will be required in the first instance to report to the Official Receiver concerning the conduct of persons in relation to whom the relevant section may apply. For cases not involving winding-up, the Official Receiver will in turn pass on any information to the Financial Secretary. These proposed changes recognize the fact that it is the Official Receiver, rather than the Financial Secretary, who is the usual authority for dealing with cases concerning the winding-up of companies and who will therefore be in the most appropriate position to take the necessary follow-up action.

Clause 4(f) provides for rule-making powers to assist in the implementation of the new disqualification provisions. It is envisaged that there will be three sets of rules. These rules are required to prescribe, firstly, procedures for applications for disqualification orders, secondly, details of reports to be made to the Official Receiver by a liquidator or a receiver and, thirdly, particulars of information to be provided by the Courts to the Registrar of Companies about disqualification orders that have been made. These last-mentioned rules are to enable the Registrar of Companies to maintain a register of disqualification orders for public inspection.

Mr Chairman, I beg to move.

Proposed amendments

Clause 1

That clause 1(1) be amended, by deleting "(No. 3) Ordinance 1993" and substituting "Ordinance 1994".

Clause 2

That clause 2 be amended, by deleting "of the Companies Ordinance (Cap. 32)".

Clause 4

That clause 4 be amended —

(a) in the proposed section 168C(1) -

(i) by adding -

""Official Receiver" means the Official Receiver appointed under the Bankruptcy Ordinance (Cap. 6);";

(ii) in the definition of "shadow director" by adding after "act" -

"but a person shall not be considered to be a shadow director by reason only that the directors act on advice given by him in a professional capacity".

(b) by deleting the proposed section 168E(1) and substituting -

"(1) The court may make a disqualification order against a person where he is convicted of an indictable offence (whether on indictment or summarily) -

(a) in connection with the promotion, formation, management or liquidation of a company; or

(b) in connection with the receivership or management of a company's property,

or any other indictable offence his conviction for which necessarily involves a finding that he acted fraudulently or dishonestly.".

(c) in the proposed section 168G, by adding -

"(3) In this section, "officer" includes a shadow director.".

(d) in the proposed section 168I -

(i) by deleting subsection (1) and substituting -

"(1) If it appears to -

(a) the Financial Secretary in any case; or

(b) the Official Receiver in the case of a person who is or has been a director of a company that is being wound up,

that it is in the public interest that a disqualification order under section 168H should be made, an application for the making of such an order may be made by the Financial Secretary or the Official Receiver.";

(ii) by deleting subsection (3) and substituting -

"(3) If it appears to -

(a) the liquidator of a company that is being wound up by him; or

(b) the receiver in respect of a company for which he has been so appointed,

that the matters listed in section 168H(1)(a) and (b) may apply to a person who is or has been a director of that company, he shall forthwith report the matter to the Official Receiver who may, or in cases not involving the winding-up of the company shall, report the matter to the Financial Secretary.".

(e) in the proposed section 168P -

(i) in subsection (2)(b), by adding "the Financial Secretary" after "Official Receiver,";

(ii) in subsection (3), by adding ", the Financial Secretary" after "Official Receiver".

(f) by adding -

"168RA. Regulations

(1) The Chief Justice may make regulations respecting proceedings in the High Court for a disqualification order under this Part.

(2) The Financial Secretary may make regulations respecting the reporting to the Official Receiver of the conduct of persons as directors under section 168I(3).".

Clause 8

That clause 8 be amended, in the proposed section 360(3A), by adding "and the Fourteenth Schedule" after "Schedule".

Question on the amendments proposed, put and agreed to.

Question on clauses 1, 2, 4 and 8, as amended, proposed, put and agreed to.

Clauses 3, 5 to 7 and 9 to 12 were agreed to.

New clause 1A Inspector's report to be evidence

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

SECRETARY FOR FINANCIAL SERVICES: Mr Chairman, I move that new clause 1A as set out in the paper circulated to Members be read the Second time. The new clause 1A provides for a report made by an inspector appointed under the Ordinance to be admissible as evidence of the facts stated therein in proceedings on a disqualification application under the relevant section. This is in line with the position in the United Kingdom.

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 FINANCIAL SERVICES: Mr Chairman, I move that new clause 1A be added to the Bill.

Proposed addition

New clause 1A

That the Bill be amended, by adding —

> **"1A. Inspector's report to be evidence**
>
> Section 149 of the Companies Ordinance (Cap. 32) is amended by adding "and, in proceedings on an application under section 168J, as evidence of any fact stated therein" after "the report".".

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

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

SECURITIES (INSIDER DEALING) (AMENDMENT) BILL 1994

had passed through Committee without amendment and the

COMPANIES (AMENDMENT) (NO. 3) BILL 1993

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

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

Bills read the Third time and passed.

Members' Motions

HONG KONG ROYAL INSTRUCTIONS 1917 TO 1993

MRS MIRIAM LAU moved the following motion:

> "That with effect from 4 May 1994 the Standing Orders of the Legislative Council of Hong Kong be amended -

(1) in Standing Order No. 64A -

(a) by repealing paragraph (1) and substituting -

"(1) Except for the purpose of making an initial registration of interests under paragraph (2), every Member shall, not later than seven days before the first sitting of each session, furnish to the Clerk, in such form as may be approved by the President, particulars of his registrable interests.";

(b) by adding -

"(1A) Every new Member of the Council shall, within fourteen days from the date of his election or appointment to the Council, furnish to the Clerk, in such form as may be approved by the President, particulars of his registrable interests.";

(c) by repealing paragraph (4)(b) and (c) and substituting -

"(b) remunerated employments, offices, trades, professions or vocations;";

(d) in paragraph (4)(e)(i), by adding "$10,000 or" after "exceeds";

(e) in paragraph (4)(e)(ii), by repealing "includes any payment to the Member or any material benefit or advantage, direct or indirect" and substituting "include any payment or any material benefit or advantage to the Member or his spouse, whether direct or indirect";

(f) in paragraph (4)(f), by adding "made by the Member or his spouse" after "visits";

(g) in paragraph (4)(g), by adding "by the Member or his spouse" after "received";

(h) in paragraph (4)(h), by repealing "of substantial value or from which a substantial income is derived";

(2) in Standing Order No. 65 -

(a) by repealing paragraph (1) and substituting -

"(1) A Member shall not vote upon any question, whether in the Council or in any committee, in which he has a direct pecuniary interest.

(1A) A Member shall not move any motion or amendment relating to a matter in which he has a pecuniary interest, whether direct or indirect, or speak on any such matter, whether in the Council or in any committee, without disclosing the nature of that interest.

(1B) In any debate or proceedings of the Council or any committee at which a Member is present he shall declare any direct pecuniary interests which he has in the matter.";

(b) in paragraph (2) by repealing "non-disclosure of his personal pecuniary interest" and substituting "his direct pecuniary interest under paragraph (1)";

(3) in Standing Order No. 65A, by adding ", (1A) or (1B)" after "65(1)".

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

Members may recall that in July 1992, the Committee on Members' Interests introduced a set of "Guidelines on Registration of Interests" to facilitate Members of the Council in making their returns on "registrable interests" as required under Standing Order 64A. In the 1992-93 Legislative Council Session, the committee embarked on an overall review of Standing Order 64A regarding registration of interests, and the opportunity was also taken to review Standing Order 65 regarding disclosure of pecuniary interests and voting in the Council. During the deliberations of our committee, reference was made to the practice and procedures in other legislatures, and in particular, to the recommendations of the United Kingdom House of Commons Select Committee on Members' Interests on the registration and declaration of financial interests as contained in their first report published in March 1992. Our committee completed the review in July 1993, having held a total of 10 meetings.

As some of the recommendations of the committee arising from the review entail amendments to the Standing Orders, Members of the Council were consulted on the proposed amendments in July 1993.

Having subsequently deliberated on the comments received from Members of the Council, our committee agreed that we should go ahead with the amendments to the Standing Orders which I am proposing today.

I would like to highlight the following main features of the amendments:

(a) *Proposed amendment to Standing Order 64A(1) regarding Registration of Interests before the first sitting of each session*

We recommend that a Member needs only be required to file his return on registration of interests seven days (as opposed to 14 days under existing Standing Order 64A(1)) before the first sitting of each session.

(b) *Proposed new Standing Order 64A(1A) regarding Registration of Interests for new Members of the Council*

We consider that the Standing Orders should be expanded to provide for the initial registration of interests by new Members. And we recommend that a new Member should file his return within 14 days of his election or appointment to the Council.

(c) *Amalgamation of Standing Order 64A(4)(b) and (c)*

Amalgamation of the two categories of registrable interests is recommended because we consider that the distinction between "remunerated employments or offices" and "remunerated trades, professions and vocations" is somewhat blurred and artificial.

(d) *Proposed amendment to Standing Order 64A(4)(e)(i) regarding Financial Sponsorships towards a Member's election expenses*

Under existing Standing Orders, a financial sponsorship received by a Member as a candidate for election to the Council is a "registrable interest" only when it exceeds 25% of his election expenses. This means that a Member who has incurred the maximum amount of $200,000 as election expenses in a direct election to the Council is not obliged to register financial sponsorship not exceeding $50,000. We consider that a stricter rule is called for and recommend that any financial sponsorship exceeding 25% of a Member's election expenses, or any amount exceeding $10,000 shall be registrable.

(e) *Proposed amendments to Standing Order 64A(4)(e)(ii), (f) and (g) regarding Spouses' Interests*

We recommend that apart from "shareholdings" which is already a registrable interest under Standing Order 64A(4)(i), other interests received by a Member's spouse relating to "financial sponsorships", "overseas visits", "payments, and other material benefits or advantages" which arise out of a Member's membership of the Council shall also be registrable.

We further recommend that a Member should be required to make the necessary enquiries of his spouse in order to make a return on the registration of "spouses' interests". This will be made clear on the revised guidelines on registration of interests.

(f) *Proposed amendment to Standing Order 64A(4)(h) regarding Land and Property*

We consider that since Members are already required to make a full declaration on "Land and Property" regardless of whether the land or property is "of substantial value" and whether the Member is deriving "a substantial income" from the property, this Standing Orders should be amended to reflect the current arrangements so as to avoid possible confusion on the interpretation of the word "substantial".

(g) *Proposed amendments to Standing Order 65(1) regarding voting in the Council and declaration of interests during the proceedings of the Council and Committees*

Members have been consulted earlier on our committee's proposal to adopt the practice of the United Kingdom House of Commons on "voting", that is, that in any debate or proceeding of the Council or its committees, a Member shall not be allowed to vote on a matter in which he has a direct pecuniary interest. Feedback obtained from Members indicates that Members do not have any objection to this recommendation of the committee.

We recommend that in the interest of the transparency of the Council, our rules on the disclosure of pecuniary interests should be tightened up. The following rules on disclosure of pecuniary interests are recommended:

(i) in any debate or proceeding of the Council or its committees, a Member shall declare all "direct pecuniary interests" which he has in the matter; and

(ii) a Member shall disclose all pecuniary interests, whether direct or indirect, before he speaks in the Council or in a committee. This is in fact the practice in the United Kingdom House of Commons.

Whilst on the subject of declaration of interests, let me reiterate that it would be up to Members to disclose interests beyond the minimum requirements and indeed I can see that quite a number of my colleagues are already doing this. I would encourage my colleagues to continue to practise this in the future.

(h) *Proposed amendment to Standing Order 65(A) regarding sanctions relating to non-disclosure of interests*

The proposed amendment to Standing Order 65(A) is merely a consequential amendment in light of the proposed new Standing Order 65(1)(A) and 65(1)(B).

Mr President, we believe that the proposed amendments to the Standing Orders will mean another step forward in our attempt to enhance the transparency of this Council since the introduction of Standing Order 64(A) on registration of interests and the establishment of the Committee on Members' Interests in 1991.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

PRESIDENT: I have accepted the recommendations of the House Committee as to time limits on speeches for the next two motion debates and Members were informed by circular on 30 April. The movers of the motions will have 15 minutes each for their speeches including their replies; 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.

URBAN RENEWAL

MR JAMES TO moved the following motion:

"That, in view of the hardship caused to residents affected by the urban renewal process, and the fact that, despite a lapse of over 22 months since the passage of a motion by this Council on 1 July 1992 urging the Government to carry out a review of the urban renewal process, the Government has yet to complete the review or come up with concrete proposals on the matter, this Council reproves the Government and requests it to complete expeditiously (within three months) a review of the policy and the legislation on the redevelopment of urban private buildings and the related issues of rehousing and compensation, and to put into practice at an early date the new policy and legislation, so as to ensure that residents affected by the urban renewal process will be reasonably compensated and rehoused in their original districts."

MR JAMES TO (in Cantonese): Mr President, I move the motion standing in my name in the Order Paper.

In moving the motion, my purposes are two: First, to ensure that residents affected by urban renewal will receive reasonable compensation and be rehoused in their original districts; and, second, to reprove the Government for ignoring the hardships of the affected residents and for failing to come up with any substantive findings from the review of urban renewal which has been under way for so long.

My heart is heavy every time we discuss the urban renewal process. I am very unhappy because, as a Legislative Council Member, I bear, in a manner of speaking, the hardships of members of the public. Two years ago, when I entered the Legislative Council Building to move a motion, I received a sleeping mat. Today, I received a floor mop and a model time bomb. On 1 July 1992, this Council passed a motion urging the Government to review the urban renewal process. That was two years ago. What has the Government actually done to implement that motion?

Over the past two years, I have been meeting with officials of the Planning, Environment and Lands Branch nearly once every three months to ask about progress in their review of the urban renewal process. Their answer was invariably that they were "dealing with it and it would take another three months." Last July, the Housing Panel of this Council followed up on this matter. But officials continued to drag their feet. Then, in January this year, in response to a written question from me, the Government said frankly that the redevelopment of private buildings was a very complex issue, that one must take one's time and study it carefully and that the time required would at least be six months.

The Government has been dragging its feet for 22 months. Over 1 000 buildings have meanwhile been demolished for redevelopment. In other words, demolition has been going on at the rate of more than a hundred buildings per quarter. How many residents have been affected? Why does the Government have a heart of stone? Why is it showing no concern when dispossessed residents fail to receive reasonable compensation and be rehoused? Why is it so unresponsive? Why is it dragging its feet again and again? Why is it behaving like a rascal and ignoring the dispossessed residents' hardships and complaints? This is why I must move a motion of reproof.

It has been 22 months since 1 July 1992 when the motion was passed. Things have not improved at all; rather, they have gotten worse. The affected residents complained, protested, paraded in the streets, petitioned and demonstrated. Finally, there was ugly confrontation, as in the recent incident of the six streets in To Kwa Wan. Things have remained basically the same as they were two years ago. Buildings were demolished and rent controls became unavailable to the dispossessed residents. They received meagre compensation but had to pay higher rent for their new dwellings because rent had gone up sharply along with property prices. Their new living environment was even more obnoxious. Those who had occupied a whole flat before had to be content with one room. Those who had occupied a big room before had to be content

with a small one. Those who had occupied a small room before had to be content with a bed space. Some even became homeless and were forced to sleep out in the streets.

Dispossessed residents in redevelopment projects sponsored by the Land Development Corporation (LDC) or the Housing Society are provided with rehousing. However, the law does not require private developers to rehouse dispossessed tenants. This is unreasonable, because:

(1) Residents can only react to events. They cannot choose. They have no say over who is going to demolish their dwellings, be it the Government, a private developer, LDC or the Housing Society. The Government should ensure that, no matter who the sponsor of a redevelopment project may be, the dispossessed residents will not be victimized and made to suffer a deterioration in their living environment.

(2) It is unreasonable for the community as a whole to bear the social costs created by a private developer's redevelopment project.

(3) In many cases, after buildings have been repossessed, and sites resumed, by a private developer, it will be necessary for the developer to apply for modification of land use, for land exchange or for waiver of restrictions relating to land use. The application will need to be examined and approved by the Government. Therefore, the Government cannot wash its hands and say that it is totally uninvolved.

(4) I believe that, if the law continues to allow developers to run away from their responsibility for rehousing dispossessed residents, public opinion will gravitate towards an increasingly clear consensus and that is that the public does not want to let developers make money. They will want all redevelopment projects to be sponsored by LDC, the Housing Society or the Government itself. While we do not want matters to come to a head like this, I believe that, if developers' attitude remains unchanged and if the Government continues to leave things alone, the mood of members of the public will get uglier and uglier.

In the final analysis, why do we want urban renewal? We want urban renewal because we want a better living environment, meaning better living conditions, better sanitary conditions, better traffic conditions and better community facilities. What is being done now is to get a better overall living environment by sacrificing the interests of a minority. A redeveloped community may be as attractive as a paradise. Yet this paradise will just be an impossible dream to the present resident of old areas, who will have been dispossessed of their homes. They will be living in small rooms or bed spaces in nearby old buildings that are not yet redeveloped. They will be watching the

paradise from across the street. They will be waiting for another round of eviction and repossession orders. Eventually, they will move to far-away districts, to unfamiliar communities with unfamiliar services and facilities. Do we want to see this happen as a result of the so-called urban renewal? Is this reasonable and humane? Since the victims of urban renewal will not partake of the fruits thereof, who then will reap the benefits? The answer is that private developers and the Government will. We must not pretend that there are no huge profits to be made from urban renewal. If the main or sole purpose of redevelopment is to improve the living environment and not to reap vast fortunes from the redevelopment potentials of the land, then the Government should make law to require fair compensation and lay down a policy on the rehousing of dispossessed residents in their original districts. It should have done so long before now.

What we have now is a veritable case of "collusion between the Government and business interests". LDC tells the Government to resume sites. The sites are then redeveloped jointly with developers. LDC earns a profit from the developers even before redevelopment begins. Then, when developers pay the land premium, the Government, too, stands to make a profit. If this is not collusion between the Government and business interests, what is it? The Government always asks the rhetorical question: How do you motivate developers except with the prospect of a good profit; how else do you induce them to speed up urban renewal? But it is possible to offer some profit — a smaller profit — to property owners in the old areas and thereby induce them to surrender their property in favour of faster urban renewal; it is also possible to offer rehousing in the original district to dispossessed residents and thereby induce them to support urban renewal. Is it not? In the final analysis, the Government is too kind to the developers. It worries for them, fearing that they may not have a chance to develop! As for me, my worry is that the Government may try to restrict the role of LDC. The Government is now even offering to help developers to repossess buildings. The Government is indeed attentive to the last detail!

The right to resume sites belongs to the public. Resumption is a violation of private property rights. The law must lay down clear parameters. Otherwise, the spirit of the rule of law will be violated. The Crown Lands Resumption Ordinance provides that land may be resumed for "a public purpose". But there is no definition of "public purpose". If the Executive Council declares it to be "public purpose" then it is "public purpose" and that is that. At a meeting a few days ago, we asked the Government to define "public purpose". The Government cited bridges, roads, schools and community facilities. The Government cited these orally. There is nothing in black and white, nothing laid down in internal guidelines. We do not even know if the Executive Council has approved any policy paper. The Legislative Council's Lands and Works Panel has just called a meeting and we unanimously agreed that we should ask the Government to review the Ordinance and the definitions therein.

LDC and the Housing Society are labelled non-profit making organizations. In the past, when they were resuming sites in the course of urban renewal, it could be said that this was in the interests of the majority. The same, however, can no longer be said now that LDC is actually co-operating with developers. If sites are resumed for the benefit of private developers and if there is no satisfactory rehousing and compensation for those affected, what can the Government say by way of moral justification? That will be downright moral bankruptcy! I asked the Government if the Crown Lands Resumption Ordinance must be amended before it could resume land for developers. The Government answered that it had not yet consulted the Legal Department. We are supposed to have a responsible administration. Yet we found that the Governor had made a proposal in his policy address without first consulting the Legal Department. We found that the Government did not know whether the Crown Lands Resumption Ordinance had to be amended! In any case, if, in today's debate, the Secretary for Planning, Environment and Lands fails to give a firm answer on whether the Ordinance need to be amended, the United Democrats of Hong Kong, including myself, will introduce a Private Member's Bill to amend it and lay down some definitions. Nevertheless, I will first consult the Secretary for Planning, Environment and Lands!

What we see before our eyes are inhuman conditions and hardships. UDHK think that the Government should complete within three months its review of the urban renewal process and its review of the policy and law affecting rehousing and compensation and put the revised laws and policy into effect soon, thus ensuring that residents affected in the course of urban renewal will receive reasonable compensation and be rehoused in their original districts.

In fact, it is not too much to ask that dispossessed residents should be rehoused in their original districts on a home-for-home and shop-for-shop basis. The taller buildings in a redeveloped district ought to provide more residential and shop units. The developer ought to be able to make and carry out a phased redevelopment plan that will take care of the rehousing of dispossessed residents. The Housing Society's redevelopment of the site of the present Chun Fat Fa Yuen in the six streets of Yau Ma Tei provides an example of a highly successful phased redevelopment plan that takes care of the rehousing of dispossessed residents. Six-storey buildings are being demolished and replaced by 16-storey or even 60-storey buildings. Yet the Government says that the dispossessed resident will not be rehoused in their original districts on a home-for-home and shop-for-shop basis. What kind of a responsible administration is it? The real question is whether the Government and the developers are willing to reap a smaller windfall and discharge their due obligations to the dispossessed residents and to society in general. If the Government and the developers are unwilling to discharge these obligations, then the redevelopment of urban private buildings is nothing but a plan to grab money disguised as a plan to improve the living environment. It reveals ugly collusion between the Government and business interests. I hope that Governor Chris PATTEN will not let the redevelopment of urban private buildings become a major stain on

his record as the last Governor of Hong Kong by the time he departs from Hong Kong.

With these remarks, I move the motion.

Question on the motion proposed.

MR LAU WAH-SUM (in Cantonese): I want to declare an interest. I am a Director of the Land Development Corporation.

MR HUI YIN-FAT (in Cantonese): Mr President, in a recent campaign to curb property prices a social work organization accused the Government and the property developers of being in cohorts to fleece the public of their hard-earned money. Some may think that such an allegation is going too far and the way of expression too hard hitting. Yet, even if the Government has not colluded with the developers, I think it cannot escape the blame for arousing popular resentment by adopting a procrastinating policy and ambivalent attitude towards the problem.

Today's motion debate on urban renewal again serves as incontrovertible evidence. It is because this Council did endorse a similar motion 22 months ago urging the Government to set up an ad hoc group to carry out a comprehensive review of private developers' acquisition of property for redevelopment. However, the Government has all along paid no heed to this problem, thus wasting precious time and resources. For this reason, I think this Council should reprove the Government first.

It is undeniable that we should support urban renewal because it can, apart from improving the city's looks and our people's living conditions, enable land resources in the urban areas to be fully utilized. Given the acute land shortage in the urban areas today, it is even more obvious that we should urgently go ahead with the redevelopment projects. Yet, in order to speed up the pace of redevelopment, we should, first and foremost, address the rehousing and compensation issues.

In my opinion, no one should deprive the original tenants of their entitlements; such as rehousing in their original districts and removal compensation, under the pretext that redevelopment is carried out in the public interest. However, pursuant to the existing Landlord and Tenant (Consolidation) (Amendment) Ordinance, an affected tenant is only entitled to compensation equivalent to six months' rent for a similar flat in his/her original district and after the six-month period the tenant will have to suffer high rent. Those who cannot afford the rent can do nothing but move elsewhere with worse living conditions or they may be even reduced to being street sleepers. Eventually this will add to the burden of the Government.

We can just examine existing policies and legislation, which include the limit on land supply each year to protect the so-called free market prices, the rent decontrol to keep the property market buoyant and the invocation of ordinances such as the Crown Lands Resumption Ordinance where necessary, and we will find that all of them seek to put property developers' investments in an absolutely favourable position. As compared with the huge profits reaped by developers, the tenant's request for reasonable rehousing by way of compensation is nothing excessive.

Mr President, I did put forward the following three solutions in the debate last time. (1) Developers should be required to pay a fund proportional to the size of the redevelopment for the purpose of providing permanent homes for the affected residents. (2) An independent urban renewal authority should be set up to take charge of all urban renewal projects, details of compensation and rehousing. (3) The definition of "cage dwellers" should be expanded to include all bedspace dwellers. Up to now I still think that the aforesaid proposals are worth our consideration. Apart from these, in view of the fact that the housing co-operative scheme, which has become very popular in mainland China in recent year, has proved effective in helping medium income families solve their housing problems, I think it will be feasible to introduce the scheme, which only need to be slightly improved, to Hong Kong people.

In conclusion, there are quite a number of solutions but the question is whether the Government is determined and sincere in solving the problem. As the Government has recently indicated to the public its determination to curb property prices, I think it has no reason to turn a blind eye to the rehousing and compensation issues relating to urban renewal because these issues are inseparable from that of soaring property prices. For this reason, the Administration will have to consider in a comprehensive manner all the issues involved.

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

MR EDWARD HO (in Cantonese): Mr President, it is difficult — and has been for decades — for the Government to find new land lots to grant in the urban areas. The sites for many new buildings became available only because of urban renewal. Private developers buy old property for redevelopment. The Land Development Corporation (LDC) was set up in 1988 to engage solely in urban renewal. LDC is a statutory body. Sometimes, when it needs to repossess property, it gets help from the Government, which invokes the Crown Lands Resumption Ordinance. An urban renewal project can be sponsored by LDC, the Housing Society or a private developer. No matter who sponsors it, it invariably involves the relocation of homes and businesses and therefore it usually gives rise to many disputes about compensation and rehousing.

In July 1992, this Council passed a motion urging the Government to review the urban renewal process. That was 22 months ago. But the Government has not yet completed the review. This is disappointing indeed. The Government must move quickly to lay down good policy and law governing urban renewal, dealing specifically with compensation and rehousing. Unless it does so, there are going to be many more social problems in the coming years. Therefore, I am very much in favour of the motion to reprove the Government and to urge it to complete the review of the urban renewal process expeditiously (that is, within three months), so that policy and law may be laid down soon and put into effect.

The review of the urban renewal process should cover three points: First, the relationship between urban renewal and a better living environment; second, urban renewal as an important source of sites for new buildings; and, third, due compensation for affected property owners and tenants.

I will now analyze these points one by one. The first point is the relationship between urban renewal and a better living environment. Several decades ago, when parts of Hong Kong and Kowloon were developed, it was not anticipated that the economy would do so well or that the population would grow so fast. These are now the old districts and they generally have the following problems: High building density; worsening sanitary conditions; narrow and congested streets; a shortage of open space, a shortage of recreational facilities, a shortage even of government offices. Generally speaking, the buildings there are 30 to 40 years old and in a state of disrepair. Chips of concrete are falling off. Walls are collapsing. There have even been cases of an entire building collapsing. The lives of occupants are endangered.

When the Government recently proclaimed the "restrictions on building density in Kowloon and New Kowloon", the justification was the inadequacy of the infrastructure in those parts. The restrictions limit the development potentials of the old districts and thereby reduce the value — and the likelihood — of their redevelopment. As a result, the infrastructure in the old districts is less likely to see improvement. We have a vicious circle. In the end, the living environment will get worse instead of better. Another thing is that the dilapidated buildings in the old areas detract from the general good looks of urban Hong Kong. It is ironical that there should be such buildings in Hong Kong, which has a well-developed economy and which is a reputed international city. Therefore, there is a pressing need for urban renewal.

The second point that we must consider is how urban renewal affects the supply of sites for new housing. Most of the buildings erected each year are now erected on sites becoming available because of urban renewal. An average of 30 000 flats are built in the private sector each year. 17 800 were built on redeveloped sites in 1991; 16 700 in 1992; and 20 100 in 1993, in all cases accounting for more than 50% of the total number of flats built. Clearly, the supply of sites for new private housing each year depends largely on urban renewal. LDC's urban renewal work has slowed down for various causes. The

Government must make it more attractive for private developers to do urban renewal work. This will speed up urban renewal and ease the tightness of housing supply in Hong Kong, there being a heavy demand for housing by the people of Hong Kong.

Another important topic to be covered by the review of the urban renewal process is reasonable compensation for affected property owners and tenants. Private developers' compensation to bought-out property owners are determined according to the free market values of the property in question. The buyer and the seller must agree on a mutually acceptable amount before a deal can be struck. In fact, those most affected by urban renewal are the old and poor tenants who have been paying low rents all the time and who are now to be dispossessed. The Government has statutory provisions for setting the amount of compensation for them. However, the amount is too low, not enough to make up for the higher rents that they will later have to pay. The Housing Authority will, to a certain extent, make arrangements for those affected tenants who have already applied for public housing, but there are restrictions. There will be no arrangements for those who have not applied for public housing. I hope that the Housing Authority will consider the plight of these two groups of people and treat them favourably. Their number will grow in the coming years.

I have great reservations about rehousing dispossessed residents in their original districts. True, it will be ideal if a dispossessed resident is rehoused in his original district, where he can keep all his social ties. But this is practically very difficult, the reason being that there may not be enough vacant flats or new flats in the original districts for rehousing the vast numbers of dispossessed residents. Besides, many residential buildings in the districts may have been redeveloped into commercial buildings or shopping arcades. Therefore, if law is made to require rigidly that all dispossessed residents be rehoused in their original districts, this will create all kinds of difficulties besetting urban renewal in Hong Kong or even bringing it to a halt.

To conclude, I have great sympathy for those who are affected by urban renewal. I hope that they will receive reasonable compensation and be rehoused. However, in view of the practical problems mentioned earlier, I have reservations about rehousing dispossessed residents in their original districts.

PRESIDENT: Dr YEUNG Sum. I believe you have another commitment.

DR YEUNG SUM (in Cantonese): Mr President, as I belong to the Island West constituency, I have the opportunity to have frequent contacts with residents living in the old buildings of Sheung Wan, Western and Sai Ying Pun. I would like to point out a few common problems faced by residents affected which I have come to understand in the course of my work. I would like the Secretary for Planning, Environment and Lands to pay special attention.

As Mr Edward HO has just said, the area of our urban land is decreasing and hence urban renewal of these old areas is necessary in terms of land use and town planning. We therefore support urban renewal. However, as the Government has adopted a non-interventionist policy, and has left the renewal of old areas entirely in the hands of private developers, urban renewal is hindered and cries of discontent from the affected residents are heard all round. Some common problems which arise in the process of resumption of land for redevelopment are:

(1) Developers seek to resume possession of premises and yet residents do not wish to move out. As a result, developers waste a lot of time and money and the process of clearance is seriously hindered.

(2) Public discontent aroused. As we all know, those people who live in old buildings are often old, weak and poor, have nobody to support them or belong to the low income group. They petition, they demonstrate, they sleep on the street and they clash with the police. As a result, urban renewal is adversely affected. Not only has a substantial measure of resources of society been wasted, the conflict between the Government and the people has also become more intense. In fact, this is totally unnecessary. Many problems can easily be resolved if the Government will co-operate with real estate developers and consult the opinion of the public.

The public basically supports redevelopment in old areas. They are not willing to move out for the following reasons:

First, the problem of livelihood. Take the example of the occupants in the commercial premises of Queen Street. They have been doing business there for years and yet, with the meagre compensation offered to them by the Land Development Corporation, they cannot even purchase business premises half the original size. Will these people ever agree to such terms of compulsory purchase? Will they ever support this plan of renewal? Compensation for loss of livelihood therefore is a big problem.

Second, the problem of rehousing. To date, the Government basically has not addressed itself to the question of rehousing. The Government will make arrangements for residents to move into Temporary Housing Area if and only if they can prove that they are homeless and have lived in Hong Kong for at least seven years. As for the old people who have nobody to look after them, the Government through the Social Welfare Department will arrange for them to move into public housing estates under the compassionate rehousing scheme. Nevertheless, these people will have to face other problems including adaptation.

Recently, an old woman in her seventies whom we had helped in obtaining compensation from the developer told us that she could not adapt to the life in Tuen Mun at all. She was born in Sheung Wan and lived there for more than 70 years. Now she has moved to Tuen Mun to live with her daughter.

If the Government can act as an intermediary in the urban renewal process, assisting developers, on the one hand, to resume land and to redevelop so that the community will have renewed development while, on the other, providing reasonable care for affected residents, helping them to solve the problems of livelihood and rehousing, I believe the public will welcome urban renewal. I therefore support Mr James TO's proposal of "flat for flat; house for house; shop for shop" and of rehousing residents in their original district.

MR STEVEN POON (in Cantonese): Mr President, the Financial Secretary suggested in paragraph 42 of this year's Budget that one of the means by which the supply of new land may be increased is to consider the option of "allowing private developers to apply for land resumptions". However, the Government has not yet come up with any concrete proposal as to how the plan is to be carried out.

In fact, urban renewal is a complex subject which cannot be readily resolved by asking private developers to resume land under the Crown Lands Resumption Ordinance.

We must, first of all, address the issue of principle: Is it in the public interest as well as in the interest of improvement of community environment, or is it for the sake of increasing land supply that the Crown Land Resumption Ordinance is invoked to resume land?

If the resumption of land under the Crown Lands Resumption Ordinance is in the interests of the public, then it can still be regarded as a fairly reasonable excuse since many of the public works undertaken by the Government involved resumption of land on this ground.

However, if the purpose of land resumption is to increase land supply, then it becomes a resumption of land on economic grounds. I believe that it is difficult to achieve this sort of goal and the general public will find it relatively difficult to accept. On this ground, I have considerable reservations about the Government's plan of "allowing private developers to apply for land resumptions".

As far as land resumption is concerned, apart from the question of principle, there is one more question concerning the rehousing of original residents, that is, how to rehouse the dispossessed tenants? Quite a number of the dispossessed tenants originally resided in bedspace apartments. We must in the process of resuming land and undertaking renewal projects, consider this: What compensation have we given to these residents and tenants? According to the compensation criteria under the existing legislation, the residents of bedspace apartments, with the compensation sum can in no way rent any better accommodation in the neighbourhood of their original residences. As a result, they are forced to move from one bedspace apartment to another. In terms of

their living environment, they benefit nothing from the urban redevelopment exercise.

Therefore, in the process of redevelopment the rehousing of dispossessed tenants is a relatively important thing to consider. Many people think that the responsibility of rehousing the displaced residents rests with the private developers. But this is in reality not a viable option because if private developers were to take up this responsibility, I am afraid that no developer would commit itself to any redevelopment projects in the old districts. One of the reasons lies in the fact that the developers are exhausted of means to rehouse the residents in their original districts due to the unavailability of appropriate premises in the original districts. If the developers were to build new housing in the neighbourhood of the original districts before the redevelopment projects commence, the developers would become another Housing Authority (HA). I do not believe any developer will be willing to assume a role similar to that of the HA.

In fact, Hong Kong need only one HA, instead of a proliferation of private-developer-turned-HAs. Many residents who are affected by the urban renewal process are in fact eligible candidates to be allocated with public housing by the HA. Therefore, I hold that it is the HA which should assume the responsibility of providing housing for them.

I propose that the Government should consider passing the rehousing responsibility to the HA while the developers pay a reasonable sum of money to purchase flats from the HA in order to rehouse the affected residents, thereby furnishing a genuine solution to the problem of rehousing the displaced tenants as well as minimizing the impacts on the residents who are affected by urban renewal.

Mr President, there is nothing new in the motion moved by the Honourable James TO today in that he requests the residents be reasonably compensated. Compensation is granted in accordance with the provisions of the relevant legislation passed by the Legislative Council. The most significant wording in the motion lies in the last phrase which states that "residents affected ..... rehoused in their original districts". As I have mentioned earlier, "the residents be rehoused in their original districts" will constitute an impracticable option and I opine that the rehousing responsibility should rest with the HA. Mr President, I will not support any motion which is not practicable. Therefore I can only resort to abstention from voting.

These are my remarks.

MISS CHRISTINE LOH: Mr President, planning for land use is a highly political process. It determines who gets what, where, at what cost and with what in return. Planning should be about balancing competing interests. But can we rely on the Government to be dispassionate when it is an interested party

itself? For example, we know the Government will earn nearly $40 billion this year in land premium.

Land is of course one of Hong Kong's most prized commodities. One would have thought that urban renewal therefore should be an important part of public policy because we need to make the best use of all available land. It is therefore difficult to understand why the Government does not have an urban renewal policy.

Perhaps it does have one, but it is too embarrassed to enunciate it. It seems the real policy is to favour those redevelopments which can make money for the Government. Presumably this is the reason why the Honourable James TO accuses the Government and the developers to be in cohorts. With such a background, it is hardly surprising that there has been little real public consultation on town planning and urban renewal. Under these circumstances, the Government is not overly interested to hear what the public really wants.

But this sort of attitude misses the point about planning altogether. Planning must deal with a wide range of social interests, and it is the job of the Government to ensure that all the interests receive a fair hearing. Perhaps this debate can help us to get back to basics. Mr Steven POON said there is nothing new in this debate but this offers us an opportunity to ask ourselves again and to also ask the Government: what are the goals of redevelopment? Let us ask: what are the sort of changes which Hong Kong citizens would like to see enhanced in their neighbourhoods?

The Government's response might be that it has entrusted the job of urban redevelopment to the Land Development Corporation (LDC) and to private developers.

The Government has tried to free itself from the financial and administrative commitment to urban renewal. Now, its latest idea is to allow private developers to resume land directly from landowners. This is an outrageous idea. Like Mr TO, I will find this idea very difficult to support if it is to be brought to this Council as policy. Mr President, the Government cannot be let off the responsibility of redevelopment so lightly. It cannot continue to pass the buck to someone else and reap the profits.

Redevelopment involves compensation. This means either giving residents a stake in the redevelopment of their neighbourhoods whenever that is possible, although I do realize it is not always possible to rehouse them in the same area, or to give them enough financial compensation to find new premises elsewhere.

The problem seems to that these compensation packages require massive up front costs. At the same time, the Lands Department demands that developers pay their full land premiums up front. This huge capital outlay means only the most lucrative urban sites are being taken up. We have been this

happen in Central with the conversion of lower density housing to high rise commercial buildings.

As for the less economically viable areas, the LDC and the Housing Society simply cannot offer "flat for flat" compensation to residents and, at the same time, finance new construction projects and provide the rate of investment return necessary to lure private capital. So far, there has been no enthusiasm on the part of the Government to step in and lend any sort of support.

Dr the Honourable YEUNG Sum urged the Government to be an intermediary with developers. I think the Government should be more than that. In urban redevelopment it should have a more interventionist role.

Mr President, why the LDC cannot cross subsidize its less viable projects? Why is the Housing Society's Urban Improvement Scheme put on hold? The private sector cannot help but the Government can. So what is the Government going to do about those issues?

What we, the public, are left with is slated land for urban redevelopment that is doing very little, but could be, and should be, maximized for our housing, commercial and industrial needs.

We need a fundamentally new approach. Firstly, the Government needs to see and accept that land use is ultimately for the people.

Secondly, it needs to therefore ask the people how they wish to enhance their neighbourhoods and balance their interests. I am certain that a public consultation process about urban redevelopment projects will not hinder executive decision-making, but will give officials plenty of good and practical ideas.

Thirdly, the Government must demonstrate its commitment to urban renewal by using the full range of the financial tools available to it to turn projects into reality. For example, the Government can provide loan injections, defer or discount land premiums, make land swaps and give bonus plot ratios.

It is not like our Government is incapable of making good use of these measures. They have used them before very effectively. In the 1970s, the Government deferred land premiums in order to encourage private sector investment in industrial development. In the 1960s and 1980s, the Government provided alternate redevelopment sites to two oil companies in exchange for their Tsing Yi and Kwun Tong sites. These land exchanges allowed major urban residential projects to go forward. Why these same measures cannot be used to push urban renewal?

Another possibility worth exploring is for the Housing Society and the LDC to pool their resources. The LDC could concentrate on raising funds and building the necessary infrastructure for an area to be redeveloped. The

Housing Society's sale and rental programme, which already receives loans and discounted premiums from the Government, could be used to house occupants affected by the redevelopment.

The Government must stop transferring the responsibility of urban renewal onto the private sector. It has not worked well. Renewal can only work if the Government bears some of the financial risks and the administrative responsibility of enhancing community neighbourhoods. The loss of some government land premiums has to be balanced against providing better compensation packages to residents to enable run-down neighbourhoods to be rebuilt.

Mr President, I support the motion with the reservation that rehousing residents in their original districts may present real problems.

MR RONALD ARCULLI: In today's debate the Honourable James TO is asking essentially for three things: completion of the review by the Government; implementation at an early date of new policy and legislation; and thirdly, reasonable compensation and the rehousing of all tenants in their original district.

I think I would not dwell on the first two points other than to perhaps make a comment that, as far as the first point is concerned, I certainly hope that the Secretary for Planning, Environment and Lands will come to a conclusion as quickly as possible provided that all the necessary consultations, including consulting Members of this Council, have been completed. As regards the second point I really cannot comment because I really do not know whether or not there is going to be any new policy, and if so whether it requires legislation.

As far as the third point is concerned, I really did not understand what reasonable compensation was, so I looked up the debate we had in 1992, Mr President. During that debate Mr James TO suggested that perhaps the compensation should be the equivalent of one year's accommodation comparable to that occupied by the tenant. He also suggested then that displaced tenants be rehoused in their original district. Reading the context of his speech I thought these two things were alternatives, but I think, listening to him today, clearly he wants both. And indeed, I think as far as his request today is concerned, he is suggesting that in terms of rehousing it is what, I suppose in the old days, was called a foot-for-foot exchange. If you have one foot of residential accommodation you get one foot in return, commercial and likewise. I just do not know how that can be done. I think, Mr President, we must not forget that we are talking about tenants. We are talking about tenants that are paying a protected rent, generally speaking, and we are not talking about people that own their flats.

In terms of the emotive language used regarding the developers, all I can say is this. The existence of old and dilapidated buildings was not created by

developers. Multi-ownership, lack of maintenance, simply old age, perhaps poor construction technique and materials used has resulted in the necessary redevelopment of some of our older buildings. To accuse developers of actually taking advantage of that situation is, in my respectful view, wholly unfair and a total distortion. Would the problems we are discussing today totally disappear if a single developer never bought an old building? Of course they would not. They would still be with us. Sooner or later, if no one developed these buildings, they would fall down or they would then have to be torn down for safety sake, as suggested by my honourable colleague, Mr Edward HO.

Against that background, looking at the question of rehousing tenants in urban renewal projects, we must firstly ask ourselves. Who should be rehoused? According to Mr TO, everyone. Where should they be rehoused? In the original district. Well, I think if everyone has got to be rehoused in their original district this will clearly have to be a new government policy, requiring probably the force of law and therefore requiring legislation. But even if you had that law, you might as well add a third one to that particular limb, to say that you are compelled to redevelop. You are compelled to rehouse, because that is the only way it will work. No sensible person will redevelop if they are compelled to do something they possibly cannot do.

I think Mr Steven POON's suggestion of rehousing in other districts, perhaps with the developers paying a greater part in that particular aspect, is something that I, on behalf of my constituency, cannot readily accept, simply because that is again assuming a burden that they never bargained for when they bought the old property. But that at least is doable, whether they accept it or not is a different matter. It is at least doable. So, I think what we should do is to encourage the Government today to look at and to re-examine the existing policies to see where we want to go in terms of urban renewal.

I do not want it to be said that one does not feel sorry for the plight of some of these tenants. And I emphasize the words "some of these tenants". Some of them are old, some of them are still working, and indeed, this is the community's problem. This is not the problem of a particular sector. But I think the Real Estate Developers' Association have always prided themselves in being able and willing to sit down and to discuss the whole problem, and indeed not just this problem, with the Administration as we have been doing over the years. And indeed, I think what Dr YEUNG Sum has advocated indeed probably would, at the end of the day, achieve more through dialogue, through cooperation, through persuasion rather than through the force of law, if it can be accepted by this Council.

Mr President, I wish to make really two final points. Firstly, it seems to be unfair to change rules in mid-stream. If you require people to do more than what they are expecting to do, then it would not be right. Yesterday when we had a discussion I had suggested that, as a short-term measure, to alleviate housing shortage, perhaps the Government could consider allowing increased density on a payment of a premium of land bought from the Government over

the last several years. Mr James TO said that was totally unfair. Well, all I can do is to say: where is the comparison?

The second point is: please do not introduce conditions that will deter rather than encourage urban renewal.

Mr President, for the reasons that I have given, my colleagues and I in the Liberal Party, whilst we support some aspects of the motion, cannot support other aspects of it. We will abstain on this motion. Thank you.

MR FREDERICK FUNG (in Cantonese): Mr President, this Council passed a motion on 1 July 1992 calling for a review of the procedure used in the redevelopment of private buildings. Up to now, we have not yet seen any move by the Government. When Members ask about the progress, the Government invariably gives the evasive response that it has already completed its review of the redevelopment procedure used by the Land Development Corporation (LDC). I say to myself: Either the Government has mistaken one for another and is therefore insisting that LDC is in the private sector, or it is simply showing no respect for the motion passed by this Council. If the Government does not intend to take the actions specified in the motion, if it does not want to get involved in disputes over the redevelopment of private buildings and if it is indifferent to the hardships of the lowly citizens whose dwellings are being repossessed, I hope that the Secretary for Planning, Environment and Lands will say so clearly when he speaks later on. And also whether the affected residents will receive reasonable compensation and be rehoused.

Speaking during the motion debate in that year, I called for the establishment of an ad hoc group in which dispossessed residents would be represented and whose terms of reference would include:

(1) To review the current overall policy on the redevelopment of private buildings;

(2) To define the Government's role, such as that of a mediator, in the context of the redevelopment of private buildings, so as to protect the interests of aggrieved parties;

(3) To define the obligations of developers in the context of urban renewal, such as exploring the feasibility of rehousing the dispossessed tenants and paying a higher amount of compensation, of introducing statutory controls and of setting up a special fund;

(4) To determine which department should be responsible for handling and adjudicating complaints arising out of urban renewal; and to lay down the specific procedures that are to be followed; and

(5) To find out if it is necessary and feasible to set up a co-ordinating body with overall responsibility for the redevelopment of private buildings; and to lay down this body's terms of reference.

The Government has done nothing about my suggestions in the past two years. It has not even done the minimum, which is to set up a group to review the procedure used in the redevelopment of private buildings. This is disheartening. I suspect that the Government never really respects the wishes of the public as expressed by their representatives in this Council. I hope that, after today's debate, the Government will move quickly to carry out the suggested review. The Government has already wasted 22 months for nothing. Meanwhile, the interests of humble citizens in the context of urban renewal have been sacrificed again and again. The statutory rate of basic compensation is too low; it has never been revised. I do not know if this is because the Government does not want to ameliorate the situation or if there is some other explanation. Over the years, lowly citizens, receiving only meagre compensation, were deprived of a lot of their due benefits. A case in point is the people living in Chong Yip Building in Sham Shui Po, who were treated high-handedly again and again. There are other examples, too many for me to cite here. If the Government continues to ignore the problem, I will begin to suspect strongly that it is thinking and behaving like a true sunset government, which waits out its time and leaves everything to a new government to be established in 1997 to take over.

These days, the Government is thinking not about how to help lowly citizens but about how to help private developers. It is thinking of letting private developers invoke the Crown Lands Resumption Ordinance and push lowly citizens further down the abyss.

I think that there is a big problem with this kind of thinking. The Government's intention may be to give private developers more power and to speed up urban renewal with the full mobilization of private sector resources. The construction of new buildings will be speeded up to bring property prices down, to give Hong Kong's urban areas a new and contemporary look and to turn downtown Hong Kong in the quickest possible time into a modern, spruced-up centre.

However, letting private developers invoke the Crown Lands Resumption Ordinance will do great damage to Hong Kong as a community. At present, only government departments themselves, LDC and the Housing Society have the power to invoke this Ordinance and they can invoke it in what is vaguely defined as "the public interest" subject to the Executive Council's approval. They are government agencies or independent public bodies. Making money is not their primary goal. Even so, when they undertake urban renewal projects "in the public interest", their actions are much criticized. Greater trouble will surely arise if private developers are given the power to invoke the Ordinance. The primary goal of a private consortium is to make money. It is not likely to take up any social responsibility. If the law is amended to help speed up urban

renewal by giving private developers the power to invoke the Ordinance, the spirit of private property rights, which is the most important corner-stone of the capitalist society, will be seriously violated. If the Government sacrifices the rights of small property owners to speed up urban renewal and allows their property to be easily and frequently resumed, this will in the long run only weaken the foundation of society.

Furthermore, where the Government itself wants to resume a site, it invokes the Crown Lands Resumption Ordinance only as the last resort. Allowing private developers to invoke the Ordinance will surely leave the interests of humble citizens less protected. Imagine a private developer who wants to repossess property. At present, he cannot invoke the Ordinance. So he has to talk to the small property owners involved. This will put the latter in a stronger bargaining position and enable them to protect their interests better. The private developer has no choice under the law except to offer to pay a higher amount of compensation.

Sure, there are unlawful options. For instance, criminals or triad members can be used to force residents and small property owners to surrender possession by smearing their doors with paint, by letting snakes into their dwellings, by setting fire or by making threats. But because these are criminal activities, the residents can ask the police for help and for protection. If private consortia are given the power to invoke the Crown Lands Resumption Ordinance, humble citizens will be in a weaker bargaining position. The private consortia can refuse to raise their offer of compensation and then, when the time is ripe, apply to invoke the Ordinance. The affected small property owners will suffer dire losses. After private consortia are given the power to invoke the Ordinance, the unscrupulous ones among them will probably use unlawful methods to harass the residents while pretending to talk with them. The conferral of greater powers on private consortia to resume property will put small property owners in dire straits.

In sum, the power to invoke the Crown Lands Resumption Ordnance must under no circumstances be given to private developers. Instead, the Government must consider introducing legislation to require private developers, when repossessing buildings, to make proper arrangements for rehousing the affected residents in their original districts or in nearby districts. These dispossessed residents will then not become "human footballs" kicked back and forth between the Government and private developers.

With these remarks, I support the motion.

MR MAN SAI-CHEONG (in Cantonese): Mr President, in the process of land resumption for redevelopment, the Crown Lands Resumption Ordinance, which is regarded by many as "the imperial sword" (a symbol of unassailable power), has caused much worry to many occupants of the residential and commercial premises who are affected by redevelopment projects. Many of the occupants

might well be dissatisfied with the compensation terms offered, but when the Administration proceeds to resume land justifying its action with reasons such as "in the public interest" or "for the public good", they either have to move out unwillingly or resist the resumption bitterly, resulting in serious clashes with the staff concerned. This is something which we do not want to see. The Administration has to consider the serious consequences before it involves the Crown Lands Resumption Ordinance.

The right to private property is respected in Hong Kong. A responsible government should interfere with that right through legislation only if there are compelling reasons to do so and only if it can ensure that those affected are reasonably compensated. A responsible government should not redevelop by fair means or foul which would result in undesirable consequences. To invoke the Crown Lands Resumption Ordinance, the Administration should set guidelines for compensation to ensure that residents who are affected can obtain fair and reasonable compensation.

Compensation options should be offered to residents who are affected by redevelopment, for example, "flat for flat" or rehousing in the original district. The residents concerned should not be compelled to accept compensation terms at the eleventh hour which are unreasonable and which they are not willing to accept. As urban renewal in old districts will boost the supply of flats, compensation should go beyond the scope of removal assistance and rehousing and allow the residents who are affected to share the fruits of redevelopment of their original district. If the Administration can fairly and openly assist residents by setting compensation guidelines which are to be followed by bodies like the Housing Society and the Land Development Corporation in the process of land resumption, incidents similar to the clashes which occurred during the land resumption in the six streets in To Kwa Wan can be avoided.

Finally, the Administration has to be particularly careful in its cooperation with private developers in order not to give the public any impression of collusion. Although large scale redevelopment in old districts is inevitable in order to curb high prices of flats, the Land Development Corporation and the Housing Society have, in the past, encountered a lot of problems which the Administration has failed to tackle properly during the process of land resumption. The problems of compensation and rehousing, in particular, have delayed the process of urban renewal to a large extent. More problems might arise especially when private developers are involved. Given that private developers have "the imperial sword", that is to say, the powers conferred by the Crown Lands Resumption Ordinance, if the compensation terms are far too unreasonable, it will not be difficult to see why the public would suspect collusion between the Administration and private developers in order to enable the latter to reap huge profits with "the imperial sword". The Administration might then be accused of exploiting residents in the name of speedy redevelopment of old districts. An administration which is accountable to the public should avoid giving the public the wrong impression. The authorities concerned should therefore exercise close supervision over private developers

in order to ensure that residents who are affected by redevelopment are reasonably compensated and are sharing the fruits of redevelopment. If so, not only will the process of urban renewal be expedited, the worries of the residents who are affected can also be allayed and incidence of serious clashes with developers minimized.

With these remarks, I support the motion.

DR TANG SIU-TONG (in Cantonese): Mr President, urban renewal is a process that all cities have to go through to become modern cities. The urban renewal programme will improve the living environment, increase community facilities, maximize the utilization of land resources and make more commercial and residential units available. All these results, looked at from the angle of overall community development, are in the public interest. This is why the majority of the citizens do not oppose the Government's plans for the redevelopment of old, run down areas. However, where the public interest is paramount, the interests of residents and shop owners affected by redevelopment plans are often overlooked by the Government and by private developers. They have nowhere to take their grievances to.

A public opinion survey jointly conducted by the Planning Department and the Land Development Corporation (LDC), which specializes in urban renewal work, finds that residents dispossessed in the course of urban renewal are most concerned about two things: compensation and rehousing. They are quite indifferent to whether or not a redevelopment project will provide community facilities or parks. These findings accurately reflect the concerns and needs of the affected residents.

The buildings affected by urban renewal plans are usually pre-war buildings or buildings that are 20 to 30 years old. Many of their occupants are low-income elderly singletons, people who rely on public assistance or new immigrants. Financially handicapped, they can afford only single cubicles or bed spaces. When their dwellings are about to be demolished, they of course worry about compensation and rehousing.

LDC encounters strong protests whenever it tries to repossess property for redevelopment. This is mainly because it does not offer reasonable compensation to the affected residents and shop owners. According to a July 1992 publication of LDC on the criteria for compulsory purchase, rehousing and compensation, the covered area of the flat or unit being repossessed was the basis for determining its current market value. However, in a similar publication of LDC dated September 1993, the term "covered area" was replaced with "usable area". By using the "usable area" as the basis for determining the current market value of a flat or unit, one will arrive at a figure that is 20% to 30% lower than based on the "covered area". This is unfair to the affected property owners. It smacks of cheating. LDC's estimate of current market value is often quite different from that of a surveyor hired by

the property owner. In computing fair compensation for a dispossessed shop owner, LDC does not consider profit potential, decoration cost, goodwill, employees' severance pay or the cost of relocation. It seems that LDC "buys at low prices and gobbles up the profits". LDC has the power to invoke the Crown Lands Resumption Ordinance to forcibly take over property. It has a despotic air as it "acts in official capacity to seize land from the populace". Unless the Government revises the unreasonable practices now used in offering compensation for repossessed property, violent incidents like those of Li Chit Street in Wan Chai and the six streets in To Kwa Wan will keep recurring.

Affected property owners and residents protest to the Government against the way in which they are offered compensation when their buildings and land are repossessed by LDC. At least they know whom to complain to and the avenues whereby to complain. When a private developer repossesses property, the affected parties often have nowhere to take their grievances to. A private developer demolishing an old building is not responsible for rehousing the dispossessed residents. He needs only to offer cash compensation to the occupants under the terms of the Landlord and Tenant (Consolidation) Ordinance. As the Government has no measure or policy in place for the protection of the rights of residents dispossessed in the course of urban renewal, their right to shelter is being arbitrarily violated.

The Government is now actively studying a plan to let private developers invoke the Crown Lands Resumption Ordinance. It wants thereby to help developers in carrying out urban renewal. The Government's intention is to speed up the pace of urban renewal so that more flats may be built over a short period of time to boost supply. This intention may be good. But if the Government actually proceeds to put such a plan into effect, this will be like giving developers a licence to do anything. Property owners and residents will then find it difficult to protect their interests. Unsurprisingly, some people are describing Government's plan as "collusion between the Government and business interests, a lawful way to commit robbery".

Under existing law, the Government can invoke the Crown Lands Resumption Ordinance only if the resumption is primarily in the public interest. When a developer carries out a redevelopment project, his principles are commercial and his intention is to make money. He has no obligation to the community. There is a substantive difference between the two cases. So I cannot see any justification in the Government's proposal to give that particular power to private developers. It is true that private developers sometimes run into difficulties in repossessing property. But these difficulties can ultimately be resolved if the developers offer reasonable compensation. The obstacles encountered by developers are limited. At the other end of the spectrum, that is to say, the affect property owners and residents, we often hear reports about their being victimized by dubious characters who use criminal methods to force them to vacate their premises. These criminal methods include harassing telephone calls, snakes let into dwellings and even the setting of fires. As victims of criminal activities, they can at least ask the police for help. But they

will be totally at the mercy of developers if the latter are given the power to invoke the Crown Lands Resumption Ordinance.

The right to shelter is one of the basic human rights. The right to private property is also the corner-stone of a free society. Allowing developers to invoke the Crown Lands Resumption Ordinance will be like taking away the citizens' right to shelter and private property right. The rights of humble citizens will be ignored. Therefore, I am against the Government's proposal to give developers the power to invoke the Ordinance.

Mr President, urban renewal accounts for a high percentage of Hong Kong's production of new flats. It accounted for 53% of private sector flat production in 1991, 63% in 1992 and 73% in 1993. Clearly, urban renewal is important. This is why the Government must quickly complete its review of the urban renewal process and set reasonable terms for compensating and rehousing the affected parties. This will on the one hand protect the basic rights of the affected parties, while on the other hand it will also enable urban renewal to proceed smoothly. With regard to whether a dispossessed party should be rehoused in his original district, the answer should depend on the actual circumstances of each case. It will be difficult to enforce such a requirement if it is made compulsory.

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

MR WONG WAI-YIN (in Cantonese): Mr President, Hong Kong's resources are limited while land resources are even more limited. With the rapid development of society, the demand for land is getting bigger and bigger. The shortage of usable land in the urban area becomes even move pronounced. In order to expand land resources, the Government has all along been reclaiming land to increase land supply. However, that requires expending very costly resources.

Although there is a vast plain in the New Territories, most of the land is private agricultural land in the farming villages. Even if some land can be obtained for development, the road traffic facilities are all too inadequate to complement the completion of the new towns. That dampens critizens' desire of moving into the new towns and greatly undermines new town developments.

It seems that redevelopment of old districts in the urban area is a good option which involves less investment of resources. On the other hand, redevelopment of the old districts can also achieve the aim of improving residents' living environment. However, talking about this aim of improving residents' living environment, who exactly are these residents? I do not know, but I am sure that the residents living in the old districts to be redeveloped will definitely not be the ones to benefit. For years, we have been seeing petitions lodged with the Complaints Division of the Legislative Council or people

petitioning outside the Legislative Council. Scenes of clashes or forums being held have also occurred in many old districts.

Residents affected by urban renewal are very worried that they will become vagrants or will be rehoused in remote areas in the New Territories, far away from their original living environment and old friends. They are afraid that they will lose all the support systems. We are also aware that the numerous petitioners are critizens from the lower social stratum, the majority of whom are elderly people. Why do they always take the trouble to petition? For example, although it is raining so heavily today, we can still see a lot of critizens petitioning outside the Legislative Council. They request that the Government should review the policy on urban renewal expeditiously so that they can set their minds at ease until their districts will be cleared for redevelopment. Is the Hong Kong Government turning a blind eye to these actions? Is the Secretary for Planning, Environment and Lands, Mr EASON, also turning a blind eye to these petitions? I simply cannot do that.

For years, I have been having contacts with social worker organizations and residents. The concerns they state deserve to be thoroughly examined by honourable colleagues and the Government.

Today's debate is a continuation of the debate held almost 22 months ago. Some honourable colleagues still doubt the practicability of rehousing the affected residents in the original districts. Is rehousing in the original districts really that impracticable? I believe that what is most important is whether the Hong Kong Government is determined to formulate a comprehensive and long-term urban renewal policy. At present, urban renewal work is fragmented, unsystematic and lacks a comprehensive programme. What we need now is a set of comprehensive policies with long-term objectives. In this respect, the Meeting Point suggests that urban renewal policies should include the following points:

Firstly, criteria should be laid down to demarcate the urban renewal areas. Secondly, priorities should be set. Thirdly, a better resources allocation system should be established. Fourthly, the nature and scale of the renewal should be defined. Fifthly, importance should be attached to the co-ordination between different departments and organizations. Sixthly, rehousing and removal criteria and measures should be formulated. Seventhly, implementation policy including the provision of incentives such as compensation should be formulated so as to speed up removal. Eighthly, an appropriate mechanism should be set up to implement the above measures.

Of course, besides the need for formulating a set of long-term and comprehensive urban renewal policies, we also wonder whether we can approach the matter in another way, that is, is renewal actually the only option? Have we considered other less expensive options such as environmental improvement programmes? These are the things that should be considered thoroughly, especially regarding those districts where the situation is not

extremely serious. Do we really need to resort to the option of renewal? As I have just said, co-ordination is very important. The Meeting Point suggests that the Government should consider setting up an urban renewal co-ordination committee to formulate community renewal policy and plans. In this respect, we really hope that Mr EASON will not turn a deaf ear to it again. He should really get to feel and understand the plight and sentiments of the residents affected by and faced with the renewal of the old districts.

Mr President, I speak today on behalf of the Meeting Point to register our full support for Mr James TO's motion. Beside taking the Government to task for its complete failure to face the problem for the past 22 months, I hereby make a special appeal to the Hong Kong Government and the Secretary for Planning, Environment and Lands that they should not "dance with snails" any longer because they have been so dancing for as long as 22 months. I hope that the authorities concerned will finish the review as soon as possible.

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

MR CHIM PUI-CHUNG (in Cantonese): Mr President, Mr EASON has already listened to the speeches of several Members. I myself hope that the Hong Kong Government will maintain its public credibility and be a responsible government. However, Mr EASON indicated recently that he supported the private developers in resuming land for redevelopment under the Crown Lands Resumption Ordinance. I cannot agree with him.

Undoubtedly, urban renewal undertaken by the Government is a course of action consistent with the fact and trend of development. But Mr EASON should understand the prevailing situation in Hong Kong. The original intention of the Government is to resume the land in the old areas for the private developers to redevelop. But the private developers very often modify the land use, that is, changing from residential use to industrial or commercial use with the plot ratio increasing from eight to 15. For this reason, Mr EASON should lay down certain conditions to the effect that the private developers shall use the land for residential purpose only. As for the plot ratio, it may be raised to 15. In this way, it will be possible to provide *in situ* rehousing for the affected residents. Conversely, if we allow the private developers to resume land for redevelopment under the Crown Lands Resumption Ordinance, it will be tantamount to giving them a chance to exploit the people. I firmly believe that Mr EASON does not really intend to do so because I do not suspect him of collaborating with the private developers.

Secondly, Mr EASON should realize the importance of safeguarding the rights of the people. There are three articles under the Basic Law on the rights of the people whereas paragraph 113 of the Governor's policy address this year highlights the rights of the people as well. I also openly asked the Governor whether these rights included property rights and his answer at that time was affirmative. Let us take a look at the clearance of the six streets in To Kwa

Wan recently. We watched from the television that many residents were arrested by the police and some were pushed to the ground. They are neither bandits nor criminals. Why should they be treated in such a way? They are actually the landlords, the tenants. It is unfortunate that they receive such unfair treatment (although the Government keeps on proclaiming that the compensation offered is absolutely fair). It is difficult for us to identify ourselves with these people in terms of their sufferings. Why? It is because apart from the loss of their homes and shops which they depend on to make a living, they are liable to be punished under the law as a result of their violent actions. Had the Government not invoked the Crown Lands Resumption Ordinance to resume their land, they would still have been landlords today and would not have disputed with the Government over compensation.

The Land Development Corporation (LDC) claims itself to be a nonprofit making organization. As a matter of fact, the Corporation reaps huge profits in its redevelopment programmes. Take, for instance, the two sites in Central with an area of 1.3 million square feet. It is estimated that each site can yield $13 billion and the total returns on both sites will be $26 billion. Although the LDC owns only half the share, half the share will mean $13 billion. It is, therefore, not at all convincing that the LDC is not a profit-making organization.

Being a Hong Kong resident, I totally support the decisions made by the Government. But the Government should have a thorough understanding of the people's feeling. If the Government has to invoke the Crown Lands Resumption Ordinance to resume land, it should adopt a sincere attitude in negotiating with the people affected rather than a coercive approach to compel the people to take the compensation, and to threaten invocation of the Crown Lands Resumption Ordinance to resume the land forcibly if they should refuse it.

Mr President, I hope that Mr EASON and his colleagues will realize that people's property rights are not the alms bestowed by the Government. When the residents consent to the Government's resumption, it is natural that they want reasonable compensation. It is inappropriate for the Government to strike a bureaucratic pose and invoke the Crown Lands Resumption Ordinance in settling the dispute when the residents do not agree to move out. In so doing, it will incite strong resentment among the people.

We are going to support anything that is conducive to the construction of Hong Kong; therefore I support the urban renewal programme. Furthermore, I urge the Government to allow the private developers to increase the plot ratio from the original six to 15. This is to ensure full utilization of the land, but this will not mean giving a chance to the private developers to reap huge profits. We hope that Mr EASON will be brave enough to face the facts and to resolve the issue in all seriousness. He should set a good sample to all the people in Hong

Kong instead of going the way of his predecessor, Mr BARNES, who made some wrong policy decisions.

Mr President, I support the motion in principle.

MR LEE WING-TAT (in Cantonese): Mr President, last week, when I was speaking on rehousing for bed space apartment tenants, I gave some examples to show that urban renewal in Hong Kong takes different forms and can affect residents differently depending on how lucky they are. A resident is lucky if he is affected by Crown land clearance or public housing redevelopment undertaken by the Housing Authority. He will then probably be rehoused, most probably in his original district. If he is a tenant living in a private apartment or a bed space apartment (though he may not be that badly-off), he probably will not be rehoused in the original district. As likely as not, he may be rendered homeless by urban renewal.

We have been talking about a policy for urban renewal for many years. One question that we raised has never been answered by the Government. It is the question of what the Government's priority will be when, in the course of urban renewal, the interests of the public clash with those of private developers. In foreign countries, urban renewal projects are major urban construction projects where the interests of the public in most cases come first and are given top priority in terms of policy making. In Hong Kong, the Government probably wants the best of both worlds.

Firstly, the Government wants, through the help of developers, to redevelop urban buildings and thereby to provide more housing and improve the living environment in the urban areas;

Secondly, the Government does not want to limit the potential of private redevelopment such that private developers will have no part to play in the supply of housing in Hong Kong;

Thirdly, the Government hopes that urban renewal will not only benefit the general public but will also enable developers to profit from it.

But the world is not perfect. I believe that even Mr Tony EASON knows that we cannot make every project work to the benefit of all parties, least of all if a project involves different parties whose interests are inherently at odds. I am talking merely of interests. When the interests of the public are at odds with the interests of private developers, what should our priority be? The position of the United Democrats of Hong Kong, including myself, is very clear. The purpose of urban renewal is to improve the living environment for urban dwellers. The interests of the public should always come first.

In recent years, more and more disputes have arisen over urban renewal. We find that this is firstly because developers are highly interested in urban land, the value of which has risen, promising them enormous profits. Secondly, it is because available urban land is getting scarcer and scarcer. Everybody agrees on this, which is why urban property prices and rents have gone up sharply. The resultant problem to be faced by those residents who have to move out of their present accommodation to make way for redevelopment will be the diminishing likelihood that they will find comparable alternative accommodation for the same rents that they have been paying. This will be a source of mounting pressure

I have said again and again that the Government's attitude is very important. In this particular case, its attitude is not clear. Does it think that it should take the side of the neglected, abandoned and dispossessed residents in its approach to the urban renewal issue? Or does it feel that, so long as urban renewal will improve the living environment, it would do well to let developers redevelop new housing and make profit?

We, the UDHK have said a lot about our policy principles. We want to protect the interests of small property owners and tenants. As Legislative Councillors, if we do not protect them, their rights and interests in urban renewal will be impaired and left unprotected. So the least that should be done for them is to rehouse them in their original districts and to offer them reasonable compensation or to give them shop for shop in exchange.

A moment ago, Mr Steven POON and Mr Ronald ARCULLI asked if it was feasible to rehouse in their original districts those who were dispossessed when urban private buildings were demolished for redevelopment. This is of course a complex question to answer. I agree that, relatively speaking, because the Housing Authority and the Housing Society have more land resources and more units for sale or rent, it is easier for them to provide rehousing in the original district to dispossessed residents. But I disagree that a private developer should not bear the onus of providing rehousing in the original district to dispossessed residents because he participates in a small redevelopment project or a succession of small redevelopment projects. As we know, Hong Kong's private developers are very smart. They know how to figure out if there is any profit to be made from a redevelopment project where they have to provide rehousing in the original district to dispossessed tenants. I believe that, if they find that there is still a profit to be made, they will not stay away from the project. I think that if they adopt a cautious approach they will be able to do it. I estimate that they will be making less profit than they are making now because now they can use high-handed methods and bear no social responsibility. But they will still be making a lot of money. Will they be hurt with a narrower profit margin? Will a smaller profit mean no profit at all?

If the Government thinks that, in urban renewal, the public interest should come first, then it should frankly tell us, as well as members of the public, if a policy requiring rehousing in the original district for dispossessed residents will

make it unlikely or practically impossible for private developers to participate in small redevelopment projects. If the Government says yes, then it should consider letting a public interest-oriented body (by which we mean the Land Development Corporation) or the Housing Society play a greater role in urban renewal. We feel that the residents affected by redevelopment will be let down if they are not rehoused in their original districts. If, based on calculations, the private developers are firmly of the view that they really cannot make money, we will then have no choice but to ask the Government to let LDC or the Housing society play a greater role in redeveloping the private buildings.

Of course, as I have said, urban renewal cannot proceed without the Government's support in land and financial resources. I do not feel that the Government need be so conservative in this regard. If it wants a better living environment, it must not be stingy by providing little or no land or money in support. My conclusion is therefore quite simple. Dispossessed residents must be rehoused in their original districts. If the Government thinks that private developers will lose all interest in participating in urban renewal, then I will ask it to give new thought to our original suggestion, which is that it should let LDC and the Housing Society play a greater role in urban renewal and give them more support in land and financial resources.

Mr President, with these remarks, I support Mr James TO's motion.

MRS PEGGY LAM (in Cantonese): Mr President, housing is now the foremost livelihood problem in Hong Kong. It is a problem that must be resolved quickly. But, judging from the Government's actions, one is apt to doubt its resolve and *bona fide* intention to help the public to solve the housing problem. There is no doubt that rehousing and compensation are major issues arising out of urban renewal. True, it is difficult to maintain a balance among the interests of all parties concerned. Still, the Government's failure to complete the review and come up with conclusions quickly is very disappointing. In his recent Budget speech, the Financial Secretary said that, to solve the housing problem for members of the public, the Government would speed up urban renewal to make more land available and would even consider helping private developers to repossess property for redevelopment. But the Government seems to have forgotten that failure to compensate or rehouse the affected parties properly will ultimately hinder urban renewal and that resorting to the Crown Lands Resumption Ordinance will only arouse public resentment.

As chairperson of the Wan Chai District Board, I would like to share some of Wan Chai's experience with Members. In 1991, the Land Development Corporation announced a plan for the redevelopment of Li Chit Street in Wanchai. That was Hong Kong's first attempt to repossess property by invoking the Crown Lands Resumption Ordinance. The residents were very dissatisfied with the initial offer of compensation. Members of the Wan Chai District Board then intervened and urged LDC to pay compensation at the market rate and to agree to *in situ* rehousing. The dispute was settled to the satisfaction of

all parties. Wan Chai is an old district. The people living there welcome redevelopment. But the question is whether the interests of the present residents should be sacrificed in favour of a new and improved community. I would like to reiterate that I am glad that the owners and residents of property on Li Chit Street and LDC were then all sensible enough to co-operate with and understand each other. The residents received reasonable compensation from LDC and were given the right to be rehoused in the new building resulting from the redevelopment. LDC was then able to proceed with the redevelopment project without a hitch. Today, if Members happen to be passing by Li Chit Street, they will see that the new building is nearly finished.

As Hong Kong continues to undergo urban renewal, more and more disputes over compensation for repossessed property will arise. I do not want to see a dispute every time there is a redevelopment project, requiring mediation. We should set reasonable statutory standards having regard to the terms and conditions that are genrally acceptable to the community. Terms and conditions should not be determined through bargaining on a case-by-case basis. What is happening in most cases now is that the parties affected by urban renewal have to enter into dialogue with private developers. They are in a very weak bargaining position. We cannot blame developers for offering compensation at the statutory rate. But we see in reality that most of those affected by urban renewal belong to the low-income groups. The worst affected are the tenants. The compensation that they receive will not enable them to afford comparable alternative accommodation in the same district. Can a progressive society such as ours allow helpless and destitute citizens to end up with a worse living environment as a result of community development or as a result of redevelopment projects profitable to private developers? When we rail against the living conditions in bed space apartments as being inhuman and when we are in a position to amend the law to improve the living conditions for tenants of bed space apartments, we must also show concern for the plight of the low-income people who are affected by urban renewal. We must show concern for the small traders whose shops are demolished and who have to find alternative accomodation for their shops.

Apart from compensation and rehousing for dispossessed residents in their original districts as far as possible, I would like to reiterate one point that I made in the Budget debate and in a question that I raised. It is that there should be a balance between commercial buildings and residential buildings in urban renewal planning. Commercial interests should not be paramount. The feelings of dispossessed residents who are forced to leave their original districts should not be ignored. The Government should review the unreasonable gap between the plot ratios for commerical sites and residential sites. I think that the plot ratio should be the same in both cases. In other words, I think that the plot ratio should be 15 in either case. This is better than a plot ratio of 15 for commercial sites and a plot ratio of 10 for residential sites. It is only through such parity of plot ratios that the housing problem can be resolved.

Some groups have been petitioning the Legislative Council of late. I would like to express their wishes for them. The shop owners in the six streets of To Kwa Wan are accusing the Government of going back on its words by changing the mode of compensation after they had moved out. I believe that the Government should give an explanation to do justice to their complaints. The Hong Kong Federation of Trade Unions is also urging the Government to undertake a review of the Crown Land Resumption Ordinance as soon as possible. It thinks that the private property right and the right to shelter should be safeguarded, that the standards for determining the amount of compensation for repossessed property and resumed sites should be fair and transparent so that members of the public may monitor same.

Mr President, some say that reasonable compensation and rehousing arrangements will raise the cost of redevelopment and ultimately drive everybody out of business except the biggest developers. They say that, if this happens, these biggest developers will monopolize the market for redeveloped property, to the detriment of the general public. I do not think that this is the only scenario that would emerge. Hong Kong owes its success to free enterprise. Urban renewal affects people's livelihood. Private entrepreneurs must not be given a free hand in undertaking urban renewal. It is the Government's responsibility to keep the interests of all sectors of society in balance. Now that the monitoring system and the self-adjusting mechanism are being much criticized, the Government must quickly complete its review of urban redevelopment by private developers, including its review of the policy on rehousing and compensation. Then it must put the review results to the public at an early date to consult their views. The Government must not drag its feet any longer.

Mr President, I so submit.

MR ALBERT CHAN (in Cantonese): Mr President, before I formally begin my speech, I would like to praise Mr CHIM Pui-chung for his. I find that his speech today is the most intelligent and the most moving of all the speeches that he has made over the past two years and more. I say so not because he supports Mr James TO's motion, that is, the motion of the United Democrats of Hong Kong, but because, probably being a victim himself, he more or less expresses the views of all victims.

Mr President, in today's motion, Members seek to reprove the Government for its handling of urban renewal. We are being left with no alternative but to seek to reprove the Government in that regard. We are unhappy with the Government's unfair policy on compensation and rehousing, with its ossified bureaucratic attitude and for its ugly profit-seeking utilitarianism in the context of urban renewal.

From the Government's published documents, such as *Hong Kong's Town Planning* and the Land Development Corporation Ordinance, we can see that the Government's urban renewal policy focuses only on improvement of the physical environment and on profits derivable from the improvement exercise. The Government's urban renewal policy heretofore has been directed mainly towards the demolition of old and dilapidated buildings and the improvement of pedestrian and vehicular traffic conditions. The Government has not hesitated to pursue these objectives at the expense of the interests of the residents of old areas, who have financial and sentimental ties to their original districts. The Government has done nothing to ensure that the affected parties will receive reasonable compensation and be rehoused. Occupants have often been evicted without the prospect of reasonable rehousing. Worse still, the Government has helped statutory bodies invoke the Crown Lands Resumption Ordinance to forcibly resume sites. What has become even more worrisome is that the statutory bodies are now often co-operating and sharing profits with private developers. Residents of old areas, put on the butcher's block, are at the mercy of developers.

We think that, in exercising its statutory power to carry out urban renewal, the Government's sole purpose should be to improve the environment and the facilities in the communities concerned. Any mode of operation that runs counter to this purpose is unreasonable. Hong Kong's urban renewal programme has uprooted communities and forced their original residents to live elsewhere and forgo social contacts. It has destroyed precious traditional community features. "Birds" Street in Mong Kok and Wing On Street in Central, which used to be internationally known as a unique community feature, will pass into oblivion with the onslaught of urban renewal. Strictly speaking, one can only say that Hong Kong's urban renewal process is a process of "destroying old communities and erecting new buildings." After a redevelopment project is completed, what is left is just a community shell without a community soul. Urban renewal is no more than a process to dehumanize and de-socialize existing communities, and to create "brave new worlds" of Aldrous HUXLEY's kind.

Furthermore, when the Housing Society or Land Development Corporation (LDC) selects a location for redevelopment and then draws up the redevelopment plan, its guiding principle is maximum plot ratio and maximum profit. Policy making and administration are "black box" operations. The Government does not invite comments from district boards or other interested parties on a redevelopment project until the Town Planning Board has approved the project. In other words, urban renewal plans are not decided on the basis of the wishes of the public. Mr President, it is understandable that the Government should allow the urban renewal executing bodies to make some profit. But if profit is sought mindlessly at the expense of community interests and against the wishes of local residents, then this is a reversal of the end and the means. This inhuman policy and administrative style is the product of bureaucracy and utilitarianism. The affected citizens are being mercilessly expropriated.

What we have now, firstly, is an urban renewal policy in which profit making is paramount. Secondly, we have undemocratic decision processes and administrative methods. These are a pair of deformed twins. Their mother is the executive branch of government with strong residual colonial coloration as well as the powerful statutory bodies in which the wishes of the public are not represented. I mean the Town Planning Board, LDC, and the Housing Society. Nor can the influence and role of private developers be underestimated.

Bureaucracy is still the main problem in the context of urban renewal. Therefore, while they are criticized by members of the public and by Members of this Council, the Government and the various bodies are displaying an incapacity for self-examination. They are also showing serious inertia. If this were not true, how would they explain the fact that nothing has been done to ameliorate the situation considering that urban renewal has been subject to intense criticism and controversy for so many years?

In the course of political development, people have learnt that they have a right to speak out on issues affecting them and that their views ought to be respected. However, this is not happening in the context of urban renewal. This is really absurd. I think that, if the Government really intends to correct the problems arising out of urban renewal, it must let members of the public or their representatives participate in the urban renewal process, particularly in the making of policies and plans where a policy on reasonable compensation and rehousing must be formulated.

Mr President, the Government informed this Council several months ago that a review of the urban renewal policy was under way. More recently, in a high profile manner, it announced that it was considering invoking the Crown Lands Resumption Ordinance to help private developers resume sites for redevelopment. This appears to be a case of "using a feint to conceal the real thrust," to borrow a military term. CASTELLS, well-known French sociologist, pointed out in the 1970s that social problems arising out of urban renewal would set off radical social movements which, if not handled properly, would lead to social upheaval. I would like to remind the Government that, if it does not seriously review the situation and quickly lay down reasonable compensation standards and a policy of rehousing the dispossessed residents in the original district, public resentment will give rise to social unrest. I believe that the Government does not want to see this happen.

To solve the problems of urban renewal practically, the Government must work in two areas. Firstly, it must stop relying solely on private developers for urban renewal. The Government should give more financial support to the Housing Society and LDC with massive injections of funds. These bodies can then carry out urban renewal entirely on their own, that is to say, without having to rely on private developers. Secondly, the Government should consider relaxing in a flexible manner the plot ratio in some of the districts under redevelopment, particularly in favour of residential construction, so as to enhance the social benefits of urban renewal.

Mr President, today is 4 May and the 75th anniversary of the May Fourth Movement of 1919. I hope that the Government will take a scientific and democratic approach to urban renewal.

With these remarks, I support Mr James TO's motion.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I just like to make two or three initial points and then cover the present position on the government review of urban renewal and urban redevelopment processes. First of all, I think I would like to say that staff of the Administration including myself are no less sensitive than Members of this Council to the difficulties that people who are affected by urban renewal and urban redevelopment may experience. We are able to see the difficulties, the sensitivities and the problems I believe just as easily as Members of this Council. The fact that we can see the sensitivities and the problems does not make the production of solutions any easier. In fact, of course, it makes it more difficult.

The second point I would like to mention in the absence of the Honourable Christine LOH is that revenues produced are not the government revenues. They do not go into my pocket or the Secretary for the Treasury's pocket. They are the community's revenue and they are available for the community's programmes and that is the way the Administration regards revenues whether from land sales or transactions or other revenues. There is no difference between the Government's revenues and the community's funds.

My third point which I routinely make every time the statement which causes me to do so is made is that there is no such thing as a government high land prices policy. Prices are set by the market. We may consider them excessively high but they are not set by the Government. They are not set by the way the Government constructs its land disposal programmes.

I can of course fully understand the wish of the mover of today's motion to see the results of the Administration's review of the urban renewal and redevelopment processes. I am as anxious as he is that we make progress as quickly as possible. As regards likely timing, I should perhaps remind Members of the answer I gave to a written question on the subject as recently as 12 January this year. I said:

(a) The review of the Land Development Corporation's (LDC) role in the urban renewal process has been largely completed. However, its conclusions are now being re-examined in the context of a wider overall review of urban renewal and redevelopment issues connected with the implementation of Metroplan. Results of the LDC review will therefore be presented with those of the wider review as soon as possible.

(b) The overall review referred to under (a) covers the role of all the various implementation agents involved, including private developers. It is a highly complex subject with major implications in terms of economic and social impact, land, planning and housing policies and resources. It is difficult to set a firm date for the completion of the review at this stage therefore; but it will take another six months at least.

I was forecasting then that work on the review would continue at least until mid-July this year. Nevertheless, we will do our best to make substantial progress on the review within the three-month target suggested in the motion, that is, by early August. Members will no doubt appreciate that this is not a simple study and that it is far more important that we make sense of it than set unrealistic deadlines. Many Bills Committees of this Council, I notice, face similar problems.

While the review continues, I am however able to give Members a preview of the way the Administration's thinking is developing on some of its complex aspects, the most difficult of which are compensation and relocation.

First, a word about the LDC experience. The LDC, which was set up in 1988 to undertake comprehensive urban renewal projects, has done considerable pioneering work. It has endeavoured to make the urban renewal process as painless as possible for those affected. Improved compensation and relocation arrangements have been devised during the past two years, providing useful indicators as to how these two difficult issues should be tackled. For example, owners of domestic property are offered an amount to enable them to buy a recently built flat of a similar size in the vicinity, together with a payment to meet the incidental costs of purchase, or, whenever practicable, the choice of a flat for flat exchange. Affected tenants are offered cash compensation at five times the current rateable value, plus a 30% incentive where early agreement is secured, which compares favourably with the statutory requirement of 1.7 times set under the Landlord and Tenant Ordinance. Eligible tenants are also offered the choice of rehousing accommodation at subsidized rentals and to date the corporation has been successful in providing rehousing within reasonable proximity to the homes from which tenants have had to move. These terms are not, however, without their effect on the financial viability of some of the projects or their risks in terms of encouraging more people to seek to qualify.

As regards urban renewal more generally, the review has focused on the following key issues:

Compensation

(a) Compensation arrangements are already stipulated under the Landlord and Tenant Ordinance and the Crown Land Resumption Ordinance. Levels of compensation under the former have been revised to take account of changing circumstances. More may need

to be done, but any proposals to alter landlord and tenant relationships by further legislative intervention, that is, greater interference with property rights and the terms of leases, should be rigorously examined.

Are we suggesting that once a landlord accepts a tenant, he, the landlord, has a permanent responsibility for the accommodation of his tenant? If so, how many landlords will we have left?

Under the latter Ordinance, it is not unusual for there to be disagreement over what is a fair and adequate level of compensation. Disagreements will frequently arise even among professionals. Hence, the recourse to the Lands Tribunal available to dissatisfied claimants. For small businesses whose status does not enable them to make statutory claims, *ex gratia* allowance arrangements already exist; but perhaps the adequacy of these is now in need of re-examination, too.

Relocation

(b) Urban renewal, although carried out for the public benefit, should not penalize those affected and should aim at reducing the need for relocation or the adverse effects of relocation as far as possible. There are difficulties here as many Members this afternoon have acknowledged but these may still be best addressed by providing options and assistance. Rigid requirements as regards quantum and location of rehousing may not only be unnecessary but may also give rise to problems of viability and implementability. This in turn could cause blight and worsening slum conditions, and would be counter-productive therefore. Handing the problem of urban renewal rehousing to the Housing Authority in total is unlikely to be feasible in terms of land, locational and timing implications, although a case might be made for enabling waiting list cases to be dealt with at the time of their removal.

Private sector role

(c) Given the continuing need for urban improvement on social and environmental grounds and the limited capacity of the LDC, maintaining the viability of redevelopment schemes and private sector involvement is vital to progress. As a rule of thumb, taking residential flats as an example, perhaps at least three flats are needed for every one that is demolished in the urban renewal process. One to compensate the owner, one to rehouse the tenant and one to generate revenue to pay for the land and construction costs. To generate a profit, even more flats must be built. Add to this the cost of providing community facilities and open space and projects can

easily slip into non-viability. A balance therefore has to be found between facilitating redevelopment and minimizing dislocation.

Land assembly

(d) Should the Government assist private developers with land assembly? The remarks of Members in the recent Budget debate and elsewhere indicated some support in principle for the use of resumption powers to assist worthy redevelopment projects under certain conditions. This requires great care and clear rules to protect the interests of owners and residents and guide consideration of any such proposals. The guidelines would probably include:

- first, a minimum percentage of the amount of property a developer would have to acquire first — for example, 85% or more of the interests involved;

- second, compensation to owners not less than already offered in negotiation or what the LDC or the Government would pay in the case of resumption; and

- third, a relocation package for tenants, at the developer's cost, using the same eligibility criteria and to the same standards as the LDC or the Government.

I must refute very firmly the suggestion that there is collusion between developers and the Government. The aim is to draw upon available resources using the developers rather than the taxpayers as far as possible.

Any project for which resumption was requested would have to achieve clear planning gains and demonstrable community benefit, including housing production. Resumption, I emphasize, would continue to require the approval of the Governor in Council as now. There is no question of private developers being unable to exercise the powers of resumption.

Viability

(e) I have mentioned project viability once or twice. As well as seeking to maintain this for the most part, the question of whether public funds, that is taxpayer's money, should be used to support otherwise non-viable urban renewal projects is also an important one which needs to be addressed. Is this the next major new programme area after the new towns programme? If so, what are the resource implications?

I have outlined briefly, Mr President, some of the issues identified in the review many of which I think are far more complex and require far more in-depth deliberation than many Members have acknowledged this afternoon. I have also outlined some of the thinking which has gone and is going towards their resolution. The views of Members and others on these issues and on our current thinking and any other relevant ideas will as always be welcomed by the Administration as it presses on with the review.

Thank you, Mr President.

PRESIDENT: Mr James TO, you are entitled to reply and you have, out of your original 15 minutes, four minutes 53 seconds.

MR JAMES TO (in Cantonese): Mr President, first of all, I would like to thank Members for speaking in support of today's motion debate. Frankly speaking, we have much deeper feelings and understanding this time than we had two years ago because we have witnessed many protests, demonstrations and petitions over the past two years.

I would like to reply to some of the points made by Mr EASON just now. Mr EASON said that we should not set unrealistic deadlines for the review. I recollect that when he replied to this Council on 1 July 1992, he said that the review of the Land Development Corporation (LDC) would be completed by the end of that year, that is, the end of 1992. However, in his reply to my written question on 12 January this year, he said that it was difficult to set a firm date for the completion of the review. Anyway, I hope that he will complete the review as soon as possible.

Mr EASON also mentioned that any amendments to the legislation on rehousing and compensation should be rigorously examined because they will affect people's property rights. However, from a different perspective, some of the provisions in the existing Landlord and Tenant (Consolidation) Ordinance are a bit too lax and not precise enough so that developers may easily acquire premises for redevelopment and thus infringing their tenants' rights. It is imperative that the Government should strike a proper balance between the rights of the developers and that of the tenants.

It was pointed out by the Administration that rigid requirement for *in situ* rehousing would be impossible to meet. But I believe that should the Government carry out large scale redevelopment and reserve part of the land for the affected residents, *in situ* rehousing would be possible. The redevelopment of the six streets in Yau Ma Tei and the redevelopment of Li Chit Street in Wan Chai as mentioned by Mrs Peggy LAM just now are two of the cases which prove that *in situ* rehousing is feasible.

Mr EASON told us that at least three flats were needed for every one that was demolished in the urban renewal process and that to generate a profit even more flats had to be built. I would like to tell all of you this. Generally speaking, a six-storey high tenement building will provide more than three-fold the number of flats after redevelopment. It is, therefore, not difficult to achieve the aim of "three for every one demolished". The Government has revealed inadvertently that if a redevelopment project is not going to generate profit, it will rigorously examine the viability of the project. But I would like to remind Mr EASON that according to the Land Development Corporation Ordinance, the Administration may carry out such projects with the consent of the Government and the Financial Secretary. Judging from this, it seems that the Government is profit-oriented. No wonder phase I of LDC's development projects gave rise to so many disputes. The LDC is profit-oriented as well.

Mr CHIM Pui-chung's speech just now hit the nail on the head. As a matter of fact, many redevelopment projects may not necessarily improve the environment. It is all too frequent that developers resume the land for redevelopment into commercial premises. How could *in situ* rehousing of the affected residents be effected in such cases? Mr CHIM suggested an increase in the plot ratio. I consider it a viable proposal that the Government should consider.

Lastly, I hope that Members and the Administration will realize these residents' sufferings. Had they not been suffering from a keenly felt pain, they would not have shown such vigorous reactions. It is fortunate that no Members have criticized them for being insatiably avaricious today. Otherwise, we may have incited yet another wave of anger.

Question on the motion put.

Voice vote taken.

MR JAMES TO: I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Will Members please proceed to vote?

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

Mr HUI Yin-fat, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mrs Peggy LAM, Dr LEONG Che-hung, Mr Jimmy McGREGOR, Mrs Elsie TU, Mr Albert CHAN, Mr Vincent CHENG, Mr CHEUNG Man-kwong,

Mr CHIM Pui-chung, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Timothy HA, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Dr Samuel WONG, Dr YEUNG Sum, Mr WONG Wai-yin, Dr TANG Siu-tong, Miss Christine LOH and Mr Roger LUK voted for the motion.

The Attorney General, Mr Allen LEE, Mr NGAI Shiu-kit, Mr LAU Wong-fat, Mr Edward HO, Mrs Miriam LAU, Mr Peter WONG, Dr LAM Kui-chun, Mr Steven POON, Henry TANG, Mr Howard YOUNG and Mr James TIEN abstained.

THE PRESIDENT announced that there were 28 votes in favour of the motion. He therefore declared that the motion was carried.

SINO-BRITISH JOINT DECLARATION

MR MARTIN LEE moved the following motion:

> "In view of past failures by both the Chinese and British Governments to adhere to the Sino-British Joint Declaration, which have led to misinterpretation and violation of the Joint Declaration on a number of occasions, and the grave concerns of Hong Kong people about the prospects for its full implementation, this Council urges the Chinese and British Governments to comply strictly with the provisions of the Joint Declaration from now on so as to ensure that the basic objectives of "one country, two systems" and "Hong Kong people ruling Hong Kong with a high degree of autonomy" are fulfilled."

MR MARTIN LEE (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper.

After more than 340 years of white rule, South Africa has just held the historic democratic elections that gave equal voting rights to all South Africans regardless of race. Whereas we used to condemn the authoritarian government for its apartheid policy just at the mention of the country itself, we are now envious of the South Africans for they can now resolve racial disputes and build a new government by way of one-person-one-vote democratic elections. Little wonder that the South Africans are so joyful and hopeful for the future of their country, although beset with numerous difficulties along the way.

Unfortunately, in the other sphere of the earth, the democratic development of China has become stagnant. Today is the 75th anniversary of the May Fourth Movement. Seventy-five years ago, Chinese intellectuals unveiled a patriotic movement by inviting "Mr Democracy" and "Mr Science" to save the derelict China. After 75 years, "Mr Science" has already settled

down in China, contributing to economic development there. Yet the Chinese Government has continued to turn "Mr Democracy" away.

Mr President, how has "Mr Democracy" been treated in the colony of Hong Kong? When the Sino-British Joint Declaration was signed on 19 December 1984, many Hong Kong people were hopeful for the future. They were happy to see sovereignty to be returned to China, putting an end to more than a century of colonial rule. Every heart in Hong Kong was pounding with excitement because at that time, the then Chinese Premier, Mr ZHAO Ziyang, in his reply to a letter from the Students' Union of the University of Hong Kong, promised that "a democratic administration" would be implemented in the Special Administrative Region. However, 10 years have passed and the Hong Kong Government still has yet to finish the entry procedures for "Mr Democracy". "A democratic administration" is still far off the horizons. What excitement we had had at the time has now been replaced by a strong sense of helplessness.

Mr President, the Joint Declaration has emphatically provided that Britain shall be responsible for the administration of Hong Kong and the maintenance of economic prosperity and social stability until 30 June 1997; to this end the Chinese Government must give its co-operation. It also provided that from 1 July 1997 onwards, the Hong Kong Special Administrative Region shall enjoy a high degree of autonomy except in defence and foreign affairs.

Over the course of the last decade, however, the Chinese Government has used the pretexts of a "smooth transition" and "convergence" to interfere with virtually every internal matter that "straddles 1997" — including electoral arrangements, the financing of the new airport and composition of the Court of Final Appeal. China even claimed that all representatives of Hong Kong's three-tier structure would have to "get off the train" on 30 June 1997. It also expressed the intention to review all existing Hong Kong laws. The British Government has all along co-operated closely with the Chinese Government in slowing down the pace of Hong Kong's democratic development for the sake of "smooth transfer of sovereignty", thus making it difficult for Hong Kong people to prepare themselves fully for democratic administration after 1997.

Mr President, let us look at 10 major breaches of the Joint Declaration by the two sovereign powers during the last decade:

(1) On 21 November 1985, Mr XU Jiatun said, "Someone is deviating from the book". Consequently, succumbing to the irrational demands by the Chinese Government, the British Government discussed with the Chinese side in the Joint Liaison Group every step along the way in the implementation of representative government.

(2) In February 1988, under intense pressure from the Chinese side, the Hong Kong Government concluded that direct elections to the

Legislative Council should be postponed from 1988 to 1991, in defiance of the strong aspirations of Hong Kong people.

(3) In January and February 1990, the Chinese and British Governments made seven secret diplomatic exchanges, thereby restricting the pace of Hong Kong's democratic development in future.

(4) In April 1990, the National People's Congress of China promulgated the Basic Law, which contravenes the Joint Declaration in letter or in spirit in several important areas. (Details are set out in an Omelco report published at that time.) But the British Government did not fulfil its obligation as a signatory to the Joint Declaration to make any objections to China.

(5) In June 1991, the Hong Kong Government enacted the Hong Kong Bill of Rights Ordinance which is modelled on the International Covenant on Civil and Political Rights. But the Chinese side has all along criticized it relentlessly and threatened that it would be repealed after 1997.

(6) On 3 September 1991, China and Britain signed the Memorandum of Understanding on the new airport which handed the decision making in respect of the construction of the new airport to the bipartite Airport Committee, thus effectively giving the Chinese side a veto power on Hong Kong's internal affairs before 1997.

(7) On 26 September 1991, the Joint Liaison Group reached an agreement on the Court of Final Appeal to limit the number of overseas judges the Court can invite to one or none, in blatant violation of both the Joint Declaration and the Basic Law.

(8) In November 1992, the Chinese side stated that it would not recognize any government contracts that straddle 1997.

(9) In July 1993, dissatisfied with the Governor's proposed electoral arrangements that better conform with the principles of democracy, China has since refused to co-operate with the Hong Kong Government in the latter part of the transition. It even create a second power base by setting up the Preliminary Working Committee which acts in opposite to the Hong Kong Government as an all out violation of Article 4 of the Joint Declaration.

(10) In December 1993, China announced that representatives of the three-tier structure of Hong Kong would not automatically ride through to 1997.

Mr President, the list of Sino-British breaches of the Joint Declaration is far from being exhaustive, and other Members from the United Democrats of Hong Kong (UDHK) will add to and elaborate on them. Some of the above violations were jointly orchestrated by both sides, while others were committed by one side, with the co-operation or acquiescence of the other.

Mr President, over the last 10 years, acts of China and Britain have effectively turned the Joint Declaration into a "Sino-British Joint Breach of Declaration". They have jointly suppressed Hong Kong people's quest for "democratic administration" and sacrificed Hong Kong's "high degree of autonomy". Should this be allowed to continue, the Sino-British Joint Declaration will become a litany of broken promises, if not an outright fraud. What will remain unchanged for 50 years in the Hong Kong Special Administrative Region will not be the free economy and lifestyle we cherish, but a colonial form of administration — smoothly transiting from an administration by colonial officers to an administration by Beijing puppets.

Under such circumstances, Mr President, Hong Kong has continued to be stable and prosperous. As a result, some people have come to the view that we no longer need to insist on the Joint Declaration. Nor should we ruffle Beijing's feathers by persevering with our demand for political reforms. Of course, Hong Kong people may not lose their freedom at an instant when the clock strikes midnight on 30 June 1997. But what will be the situation then, five or 10 years down the road? Will our next generation continue to enjoy the prosperity, stability, freedom and rule of law which we have now taken for granted?

I hope that Hong Kong people can have a broader vision to focus not on our immediate interests, but that of the generations to come. Hong Kong's future economic development and our children's lifestyle are founded solely on the Joint Declaration. That Hong Kong people can enjoy freedom now under a democratic system devoid of democracy is because the Hong Kong Government is ultimately responsible to the democratically-elected British Parliament. But the post-1997 Special Administrative Region government will ultimately take its orders from the authoritarian government in Beijing. If Hong Kong does not develop a democratic government now, the rule of law, personal freedoms and the level playing field we cherish will be built on quick sand only, venerable to even the slightest bullying. What difference is there between the Hong Kong "system" and the mainland "system" once we lose the formula for our success?

Mr President, the UDHK supports a "smooth transition" as as matter of course. But the "smooth transition" must be underpinned by the Joint Declaration rather than the Basic Law or any other agreements which have deviated from the Joint Declaration. The Joint Declaration is an international agreement registered with the United Nations and is applauded by the international community. Given that both signatories have repeatedly claimed that they would stick to the undertakings of the Joint Declaration, therefore they

should not enter into any other agreement which jeopardize the Joint Declaration or pursue policies incompatible with the Joint Declaration.

Mr President, like many Hong Kong people, the UDHK has stood up to safeguard the Joint Declaration. If Chinese leaders want Hong Kong people also to safeguard or "uphold" the Basic Law, they must then amend it to become fully compatible with the Joint Declaration. Furthermore, Chinese officials or their spokesmen must also not use the Basic Law as a "vetting device" to label all views asking for the genuine realization of a "high degree of autonomy" as contrary to the Basic Law.

In order to realize the visionary idea of "one country, two systems", the Chinese and British Governments must respect the wishes of Hong Kong people. At the same time, Hong Kong people must stand up to any breaches of the Joint Declaration by the two sovereign powers and refuse to accept any unreasonable realities. Nor should we invite any interference from the Chinese Central Government by bringing our internal affairs to Beijing for approval.

For 10 years now, Mr President, the Chinese and British Governments have trekked the wrong path, deviating from the blueprint drafted in 1984. The two Governments and each and every Hong Kong citizen must safeguard the Joint Declaration and progress towards "one country, two systems". As the other nations in the world make real progress towards freedom and democracy, do we wish to see the SAR being left far behind by even South Africa? Are we willing to see China being ranked last in the table of democratic development of all countries in the world? Please do a serious reflection. Are those who invite "Mr Democracy" to come to China really do not "love China or Hong Kong", while those who shut the door on him are truly patriotic?

Mr President, I beg to move.

Question on the motion proposed.

MR ALLEN LEE (in Cantonese): Mr President, it is quite true to say that Hong Kong people do not have the chance to participate in the shaping of Hong Kong's future by way of being represented in the Sino-British talks, the Sino-British Joint Liaison Group and even the 17 rounds of talks over the political reform package which come to an unhappy halt recently. Hong Kong people can merely get a general idea of what had been discussed from the mass media, not to mention any right to have a say in their future.

Hong Kong people regard the Sino-British Joint Declaration and the Basic Law promulgated at the Seventh National People's Congress of the People's Republic of China their only life buoy. The Basic Law will not go into effect until 1 July 1997 whereas the Joint Declaration became a legally binding international treaty at the end of 1984. Both the Chinese and British Governments are obliged to implement the provisions of the Joint Declaration.

I do not think that both Governments have deliberately violated the provisions. Yet they have obviously gone back on their promises made at the time. It is specified in both paragraph 5 of, and Annex II, to the Joint Declaration that they shall ensure a smooth transfer of government in 1997. Everyone in Hong Kong hopes to see a smooth transfer of sovereignty. We were, therefore, very happy when the two Governments resumed talks over the political arrangements in April this year. Hong Kong people had great expectations for the talks. The talks, however, were conducted in secrecy and we the Hong Kong people were not in a position to know what both parties had discussed and done. Our only hope was that the local legislature could enjoy a smooth transition and the term of office of its Members could straddle 1997 so that they could serve the future Special Administrative Region Government. Regrettably, after 17 rounds of talks, they failed to resolve the disputes through negotiation and consequently decided to go their own ways.

The Chinese side accused the British of its "three violations" whereas the British side argued vehemently that its proposals were consistent with the Basic Law. It does not matter who is right and who is wrong at the present stage and it is extremely difficult to make a judgement either. However, the breakdown of the talks has practically undermined the agreement they reached in the Joint Declaration that both Governments shall continue their discussions in a friendly spirit and to develop the co-operative relationship which already exists between the two Governments over Hong Kong, thus rendering a smooth convergence of the political system impossible. A smooth transfer of sovereignty is actually what promised by both the Chinese and the British Governments. Hong Kong people are now disillusioned. I believe that their confidence in seeing both sides co-operate with each other again has been significantly eroded. I earnestly hope that the two Governments will relieve the Hong Kong people's anxieties by strengthening their co-operation and work for the benefits of the Hong Kong people in the co-operative spirit laid down in the Joint Declaration.

I am agreeable to Mr Martin LEE's motion in terms of its wording. As what I have mentioned just now, basically speaking, the two countries should cooperate and it is a point which has been repeated for several times in the Joint Declaration. However, I do not agree that Sino-British negotiations over Hong Kong affairs would invite the Chinese side to intervene in Hong Kong affairs as suggested by Mr Martin LEE, because I think both Governments should resolve any outstanding issues through negotiation and co-operation. What saddens me most is that both countries have failed to achieve this aim and act according to the Joint Declaration.

To put Mr Martin LEE's argument further, Hong Kong had better proclaim independence, as he is of the view that any negotiation with China will come to nothing. I do not agree to such an argument. However, the wording of the motion is acceptable to me since at the moment I do not see any basis upon which both countries could co-operate again.

DR LEONG CHE-HUNG: Mr President, in just over three years, Hong Kong will revert back to Chinese sovereignty. The future of Hong Kong people and the Hong Kong system remains nebulous and uncertain. There is no crystal ball that we can gaze into, and there is no history book we can take reference.

The signing of the Joint Declaration as mentioned by the two Mr LEEs was met with a lot of jubilation. It was to many a life buoy that we can take refuge from. Since then, much of the agreement of the two sovereign governments has gone sour, to say the least.

Examples of breaches have been mentioned by Mr Martin LEE. But what else can we clutch at, what else can we cling to?

To me it is not a good surgical principle to open bad old wounds, instead it might be more fruitful to look at what more there is in the Joint Declaration and urge the two sovereign governments to act on them, abide by the spirit and letter of the document to produce a better tomorrow for Hong Kong.

Many areas have been mentioned by the two Mr LEEs, and I will concentrate on three areas which I and my constituents believe are vital for the stability and prosperity of Hong Kong and essential to maintain our continuously eroding confidence.

Professional autonomy

Annex I paragraph X of the Joint Declaration states that the Hong Kong Special Administrative Region (SAR) shall decide policies regarding the system of academic awards and recognition of educational and technological qualifications. It goes on to say that "institutions of all kinds may retain their autonomy".

In the very core of this paragraph is the concept of professional autonomy, a concept that all professionals cherish. No profession could function properly to serve its people if that profession could not set its own standards — standards in academic achievement and standards in registration to practise.

1986 therefore saw the nine professional groups joining hands and fighting hard individually and collectively for professional autonomy to be enshrined into the Basic Law. Their effort bore fruit as is obvious from Article 142 and Article 148 of the Basic Law. Some of the Members who took an active role are in this Council today and I think we owe them our thanks.

Yet, we must guard these principles with care. It is imperative too that the British Government through the Hong Kong Government has to pave the way for such development. But is our government doing anything at all?

Take the case of the medical and dental professions. The medical and dental councils governing the standards of practice of my two constituencies are still quasi governmental bodies. Members of these two councils, though nominated by the profession, are appointed by the Governor to whom they are thus accountable. Similarly it is within the power of the Governor, or the future Chief Executive, to appoint whosoever he or she feels he or she can railroad things through.

Is this "professional autonomy" or "guided democracy"? When the medical profession suggested that the Medical Council be consisting of members elected by the medical profession therefore accountable to the profession at large, the Government stood against it. Professional autonomy is allowed but only part of the way!

Right of abode

The right of abode issue has produced a lot of confusion and undermined a lot of confidence amongst Hong Kong people.

Paragraph XIV of the Annex I of the Joint Declaration did specify people who have the right of abode and I quote:

> "All Chinese nationals who were born or who have ordinarily resided in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region for a continuous period of seven years or more, and persons of Chinese nationality born outside Hong Kong of such Chinese nationals have the right of abode."

This is similarly stated in Article 24(1) and (2) of the Basic law.

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 permanent resident status and the right of abode in Hong Kong?

Clearly it cannot be the spirit of the Joint Declaration to exclude returning Hong Kong born people of Chinese race from settling in Hong Kong.

But 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 permanent resident 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 permanent resident status by simply taking 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 cooperation between Britain and China?

It would be for the two sovereign governments to settle this discrepancy in the spirit of the Joint Declaration to ensure that Hong Kong born citizens who have acquired a foreign passport can return to Hong Kong at ease and that our many expatriate investors can with confidence continue to build Hong Kong's economy.

Hong Kong people ruling Hong Kong

Lastly, let me address the issue of "Hong Kong people ruling Hong Kong".

It was this very morning that an English newspaper reported that many government documents especially of a security nature are for "British eyes only". If this is proven true, how will the concept of Hong Kong people ruling Hong Kong materialize? The very intricate governmental machinery is still in the hands of a few and the long awaited localization policy has still to override many hurdles.

Furthermore, the many statutory and advisory bodies of the Government are still chaired and managed by the more or less same group of government appointees. How is our Government proposing to train our people to rule Hong Kong beyond 1997?

On the same score, China has not been doing its part. China has been appointing Hong Kong advisers and installing people into her so-called "second stove". But unfortunately, the same people who sit in the National People's Congress (NPC) are those who sit in the Chinese People's Political Consultative Conference (CPPCC); and also the same who are Hong Kong advisers and members of the "second stove". Disappointingly, many of them are well advanced in age.

The commitment of our present and future sovereign governments has up to now left very much to be desired. Irrespective of what may come and basing on the fact that both sovereign governments have repeatedly pledged that they would put the need and wishes of Hong Kong people foremost, they have a duty, a responsibility and an honour to ensure that the basic objectives of "one country, two systems" and "Hong Kong people ruling Hong Kong with a high degree of autonomy" are fulfilled.

I support Mr LEE's motion.

MR JIMMY McGREGOR: Mr President, I cannot say that I speak for the members of the Hong Kong General Chamber of Commerce. I can say that I speak for some of them. I also speak for the Hong Kong Democratic Foundation and I think for all of them.

I have a few comments on the background to this motion. When the Joint Declaration was published it was acclaimed as the best possible arrangement for Hong Kong's future. It appeared to bridge the problem inherent in returning a territory which had become accustomed to a wide range of human rights to the mother country which had not been able to accord its citizens these rights and quite clearly was not going to embark upon any programme of emancipation in the near future. The Joint Declaration provided the legal assurances that Hong Kong people sought. It seemed clear that China recognized the value to China of allowing Hong Kong people a very substantial authority to run their own affairs. Hong Kong people were, I think, delighted that so many liberal features of their society would be protected and even enlarged since the Joint Declaration promised a steady if unspectacular movement towards full democratic government.

The people of Hong Kong and the institutions which support the governance of Hong Kong all applauded the Joint Declaration with its solemn promises of Hong Kong people ruling Hong Kong with a high degree of autonomy. My dictionary says "rule" means "govern" and "autonomy" means "self government". There is also reference in the Joint Declaration to the word "election" and the word "judges", repeated in the Basic Law which provided further assurances.

It was not unreasonable for Hong Kong people to welcome the Joint Declaration, its promises of a high level of local government in the hands of the Hong Kong people and using a recognized system of elections to ensure the participation of the people in the construction of representative government. This was a system which could guarantee Hong Kong's unique economic and political system to continue for a very long time.

The disaster of Tiananmen radically changed these pleasant perceptions. It is not necessary to recount the shock and horror in Hong Kong of that terrible event. Apologists have ever since tried to minimize its importance and implications for Hong Kong and Hong Kong people. Even the Chinese Government took belated steps to contain the damage and one of the results was the agreement to increase directly elected seats in Legislative Council for 1991 from 10 to 18. Other steps have been taken to normalize the situation in China and to present a strong Chinese face to the rest of the world.

The damage to Hong Kong however cannot be so easily contained or repaired. The damage is psychological in part and it runs deep. The fear of China and Chinese anger at Hong Kong's puny attempts to expand the parameters of democratic government in Hong Kong within the legal limits of the Joint Declaration and the Basic Law is resulting in serious divisions within

our society. Those who have most to lose in material things from precipitate action or reaction from China have become silent on political affairs except when they agree with the Chinese point of view. Further, such people now enthusiastically advise and support China in all things. That does not necessarily help China or Hong Kong. Constructive criticism is essential to all political development.

To my democratic mind, it is pleasing to note that those who still believe that Hong Kong people should rule Hong Kong with a high degree of autonomy and that their Government should be as far as possible influenced by the ballot box are still vocal and firm in their convictions. These voices will provide the counter balance to the siren song of capitulation.

Mr Martin LEE's motion is a gesture and I am afraid nothing more. Neither side will listen to him nor to this Council when it approves his motion. Britain will go on justifying what it is doing in the run up to 1997 and hoping that the transfer can be made smoothly. China will go on establishing her authority and influence across the entire spectrum of our internal affairs and external interests. China intends to ensure that there will be only one boss in Hong Kong from 1997. China does not seem to realize that the boss may sometimes have to depend on the staff to guide the organization and to provide the best results.

I should also ask China to bear in mind that supporters are not always reliable. Some may be seeking advantage for themselves. Others may have no competence in giving advice.

Mr President, I support Mr LEE's motion.

MR SZETO WAH (in Cantonese): Mr President, it has been a retrogression from the Sino-British Joint Declaration to the Basic Law, and it has been an even greater retrogression from the Basic Law to the varied profusion of opinions and deeds heard and seen in the last four years. As a poem of XIN Qiji says, "How many more storms can we weather?" The public's confidence in the post-1997 period has indeed dropped like the "countless falling leaves" depicted in the same poem.

Let us first examine the Sino-British Joint Declaration and the Basic Law. The Joint Declaration provides that the Special Administrative Region shall be vested with legislative power. However, Article 17 of the Basic Law provides that "laws enacted by the legislature of the Hong Kong Special Administrative Region must be reported to the Standing Committee of the National People's Congress for the record", and "any law returned by the Standing Committee shall immediately be invalidated". It means that the Standing Committee of the National People's Congress has the ultimate power to veto the legislation of the Special Administrative Region. In these circumstances, how can we say that the SAR Government shall have the power to legislate?

The Joint Declaration provides that the laws to be enforced in the Special Administrative Region are the Basic Law, the existing laws not in contravention with the Basic Law, and the laws enacted by the legislature of the Special Administrative Region. In the Basic Law, however, in addition to Annex III which has listed six national laws to be applied in the Hong Kong Special Administrative Region, Article 18 further provides that should the Standing Committee of the National People's Congress decide that the Special Administrative Region is in a state of emergency, then other relevant national laws can be applied in the Region. Nevertheless the term "national laws" simply cannot be found throughout the entire Joint Declaration. Why is there such a provision in the Basic Law?

The Joint Declaration has provided that the Special Administrative Region shall be vested with independent judicial power. In a society which upholds the rule of law, the power to interpret and construe the laws is a very important and integral part of the judicial power that cannot be usurped, and this power belongs to the judiciary. However, Article 158 of the Basic Law has provided that the power of interpreting the Basic Law shall be vested in the Standing Committee of the National People's Congress. Can a judicial authority that is deprived of the power to interpret the law be still called an independent judicial authority?

The Joint Declaration provides that foreign nationals holding. permanent identity cards of the Hong Kong Special Administrative Region may serve as public servants at all levels, except as heads of major government departments (corresponding to branches or departments headed by an official at Policy Secretary level including the police department) and as deputy heads of some of those departments. However, Article 101 has expanded this scope of exception to include Deputy Secretaries, Directors of Bureaux (equivalent to Directors of departments at present), Director of Audit, Director of Immigration, Commissioner of Customs and Excise and so on. I asked Mr LU Ping at a meeting of the Basic Law Drafting Committee: Why is the scope expanded to include non-Secretary posts? He answered, "If they are not Secretary posts now, we can upgrade them to become Secretary posts after 1997 and that will be all right." Here, I have to congratulate in advance those who will then be promoted to Secretary level. But I also feel that how horrible it is to interpret the Joint Declaration in such a manner.

The British Foreign Affairs Committee has recently pointed out that Articles 18 and 158 of the Basic Law are in contravention of the Joint Declaration. Why point it out now but not earlier, now that the Basic Law has been promulgated for four years? This is nothing but crocodile tears and it is like a thief crying "Stop thief"! We have good reasons to suspect that the Chinese and British Governments conspired to violate the Joint Declaration to sell out the people of Hong Kong.

Let us now take a look at the diverse range of opinions and deeds that were heard and seen in the four years since the promulgation of the Basic Law.

The agreement reached by the Sino-British Joint Liaison Group on the invitation of overseas judges to sit on the Court of Final Appeal is nothing but a conspiracy of the two governments to openly infringe upon the Joint Declaration and the Basic Law. Both the Joint Declaration and Article 82 of the Basic Law have not laid down any restriction on the number of overseas judges to sit on the Court of Final Appeal. Moreover, in the English texts of the two documents, the word "judges" is clearly in plural form. Why did the agreement turn it into singular form by providing that only one overseas judge can be invited to sit? The Chinese and British Governments — and even the Governor, in his answer to my question two weeks ago in this Council — have still refused to regard it as a violation of the Joint Declaration. Even primary school students can distinguish between singular and plural. If such a logic is acceptable, then the freedom of travelling to and from Hong Kong, as provided in the Joint Declaration and the Basic Law, can be interpreted as being limited to just one return trip and no more; the rights of giving birth to children out of one's volition can be interpreted as limited to giving birth to one boy or girl; and the right of association, of assembly, of procession, of demonstration, of strike and so on can all be interpreted as being lawful only if conducted by one person alone, and an offence if conducted by two or more persons. This kind of logic is utterly totalitarian and unreasonable!

The Chinese side has announced that the term of office of all the members of the three tier boards and councils elected in 1994 and 1995 will end in 1997. Some people have said that although the Basic Law has not provided that members of the two municipal councils and the district boards will have to undergo a confirmation process before being allowed to continue in office after 1997, it has not provided that such a confirmation process is unnecessary either; so it is not unreasonable. To follow this logic, it will not be unreasonable either to prohibit people from eating after 1997 as the Joint Declaration and the Basic Law have not provided that people will have to eat after 1997.

The Basic Law has only provided for a Preparatory Committee for the Hong Kong Special Administrative Region, but now a Preliminary Working Committee of the Preparatory Committee has been set up on various pretexts. This is virtually an exercise of power in advance of the Basic Law.

The Basic Law has provided that the power to interpret the Basic Law is vested in the Standing Committee of the National People's Congress. But now even this provision, which is in itself a violation of the Joint Declaration, has not been faithfully complied with, as it seems that anyone may give any interpretation as he pleases. Some people said that the Bill of Rights will have to be abolished; some said that the civil servants have to indicate their willingness to serve the future Special Administrative Region Government; some said, "I will throw my support behind anything you say"; and some said that a provisional legislature will have to be set up. But so far the Standing Committee of the National People's Congress has not given its interpretation. Now everyone is articulating his own idea and there are now a myriad of ideas.

It seems that every, Dick and Harry can substitute his own thought for the interpretation of the Basic Law.

Not only has the Joint Declaration been frequently violated, even the Basic Law, which is formulated by the Chinese side, has been frivolously misinterpreted. In such circumstances, what else can we say?

I have not entertained any illusion. I only hope that China will progress. History will testify and our next generation will remember that we have loudly voiced our demand and strived for what we consider reasonable. What we can do is only to keep a clear conscience and face history and our next generation without shame!

With these remarks, I support the motion.

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

MR SIMON IP: Madam Deputy, two sovereign states made a solemn treaty back in 1984. It was unique in the history of the world. Six million people were to be transferred to one of the world's biggest communist powers by one of the world's oldest democracies. They made solemn promises to one another and registered those promises at the United Nations for the world to see. This historic event was hailed as a diplomatic triumph. Central to this diplomatic miracle was preservation of Hong Kong's systems and lifestyle following a smooth transition of sovereignty in 1997. Ten years on, the story is very different. The common goal of a smooth transition through co-operation has all but receded to vanishing point.

Historians will enjoy analysing the reasons for the fracture in relations and relish in apportioning the blame. That is a luxury in which we as legislators should not indulge.

That is why in this debate we should not wallow in the past and waste time on criticisms and recriminations. We should instead look to the future and the limited time we have for achieving the objective of a smooth transition.

The key question of course is:

How can this be done when the two main people responsible for our future are not talking to each other; nor it seems are their aides to any meaningful extent? How then are the complex issues on the JLG agenda to be resolved in this unfriendly atmosphere? The simple answer is: they cannot.

What China is doing now by setting up their Preliminary Working Committee (PWC) is to try to put in place the new systems under Chinese sovereignty. The PWC will not however be able to ensure continuance of many

of the essential features and qualities so vital to Hong Kong's success as an international centre of business and finance. That can only be done by the two sovereign powers through the JLG and other established diplomatic channels.

Last October the Secretary for Constitutional Affairs gave us a non-exhaustive list of 53 items on which the British side believed further discussion and agreement were needed. These included essential matters affecting Hong Kong's future well being and international relations. They are not as headline-grabbing as political reform proposals and they do not readily capture the public's imagination. They are issues which people tend to take for granted, but at their peril. Left unresolved, these matters will put at risk our prosperity unless the two sovereign powers cooperate fully and effectively to preserve them during the short remaining period of the transition.

At the international level we need to ensure the continuation of international rights and obligations after 1997 in the areas of, among other things, civil aviation, telecommunications, travel, intellectual property, human rights, promotion and protection of trade and investments and reciprocal juridical assistance.

It is unclear, for example, how reports on Hong Kong will be submitted to the United Nations Committee on Human Rights under the International Covenant on Civil and Political Rights. Reporting is integral to the implementation of the covenant. The Basic Law guarantees that the covenant will remain in force, but what is the use if the Government can never be called to account on its human rights performance?

Can we imagine what Hong Kong would be like without arrangements with other countries for the surrender of fugitive offenders? For sure, Hong Kong will become a haven for criminals. Seventy or so foreign countries do not at present require Hong Kong people to obtain visas before visiting them. Can we imagine what Hong Kong would be like without these visa-free travel arrangements? In future, it may take our businessmen weeks to obtain visas before visiting their business destinations.

And should the two sides ever reach an accord over the new airport, it may go unused if the JLG does not put the necessary international air services agreements in place. Try to imagine the commercial uncertainty, inconvenience to travellers and damage to our status as an international air transport hub that will result if no agreements are attained.

At the domestic level, we need to localize our laws and adapt them to ensure that they are consistent with the Basic Law. Otherwise there will be a legal vacuum after 1997. We need to have in place arrangements providing for rendition, enforcement of judgements and other juridical assistance between Hong Kong and the PRC. The absence of these arrangements is clearly unacceptable in an era of growing trade and travel between Hong Kong and the mainland.

The Government has recently announced proposals for localizing Hong Kong's intellectual property protection system. This is a welcome step but it still does not address the problem of mutual enforcement of intellectual property rights between the Speical Administrative Region and the PRC. Meanwhile, the local music industry loses $300 million every year because of mainland counterfeiters. Local entertainers have asked us for support, but responsibility rests with the organs for cooperation between Britain and China.

One area of progress in the JLG is merchant shipping. Realizing the importance of this industry to both Hong Kong and the mainland, Beijing officials have cooperated with the Port Development Board and the Hong Kong Shipowners Association. But there are other laws to be passed and the JLG must get on with these, or else shipowners may start relocating out of the territory.

All these are technical and legal issues that require reason, patience and co-operation to sort out. They are not political and should not be made chips in a political poker game — a game in which Hong Kong stands to be the only loser.

There are too many basic administrative issues to address for us to remain pre-occupied with areas of contention. All concerned should put aside their differences and get to work.

Whilst I do not find the tone of this motion at all helpful for restoring a good working relationship between the parties, I support the substance of urging the two sovereign powers to resume cooperation over Hong Kong for everyone's sake.

With these words, I support the motion.

MISS CHRISTINE LOH: Madam Deputy, when the Joint Declaration was signed in 1984, Hong Kong was told that it was an international treaty, the highest and most binding form of undertaking possible between two sovereign powers.

Well, perhaps it was, in theory. And perhaps Britain takes a more rigorous view of its other international treaty obligations. But in the case of the Joint Declaration, Britain seems resigned to letting China reinterpret and redefine the Joint Declaration in whatever way China sees fit.

Britain seems to take the view that it will have vacated Hong Kong by 1997, so that whatever happens here is not Britain's responsibility. But that is not the case and cannot be the case. Britain agreed to hand over several million of its subjects to China, subject only to the terms of the Joint Declaration. It must exert itself to ensure that those terms are observed.

China will become Hong Kong's sovereign power in 1997. It is too simplistic to say that China can do whatever it likes as the new sovereign master. Yes, it will have the sovereign power, but it also has to be held to account for the exercise of that power by the people. In Hong Kong's case, Peking will have to account to, and be held responsible by, the people of Hong Kong in the implementation of the Joint Declaration after 1997.

Hong Kong did not elect the Chinese Communist party to be its ultimate master after 1997. So even more so Hong Kong must impress upon Peking what Hong Kong considers to be its best interest.

This is not a pie in the sky. It should not be regarded as pie in the sky. This is what Hong Kong understands to be the proper relationship between a government and its people. This is the sort of positive attitude we should have when we look at our future relationship with Peking. But that prospect cannot absolve Britain from its duty to discharge the obligations which it incurs under the Joint Declaration before 1997.

Most obviously, the Joint Declaration prescribes a "legislature constituted by elections" for Hong Kong beyond 1997. This pledge of "elections" was central to Hong Kong's popular acceptance of the Joint Declaration. It played an important part in securing broad backing for the Hong Kong settlement in the British parliament.

What has become of that pledge in 10 years since? The answer is that Hong Kong is not, in fact, to have what Britain, or any other country in the free world, calls "elections". It is not to have universal suffrage.

Hong Kong is to fill the seats in this legislature by a variety of means yet to be resolved. Indeed, the only thing on which Britain and China do seem to be agreed is that the majority of the seats will not be filled by direct election. Anything but that. So much for the Joint Declaration.

The Joint Declaration also promises Hong Kong a Court of Final Appeal which "may as required invite judges from other common law jurisdictions" to sit on its bench. A very important provision, when one considers the way in which China is accustomed to managing its own courts and judges. If the Court of Final Appeal is to be the apex of Hong Kong's legal system, the guarantor of the rule of law, then clearly it must be able to assert and reinforce its independence as and when it sees fit.

But again, what has happened to this pledge in the past 10 years? Not much. Because China wants to restrict judges from outside jurisdictions to no more than token appearances. The future of Hong Kong's legal system is under attack. The vice-president of the Supreme People's Court of China recently opined that the common law system here would gradually disappear. He thought that judgments based on precedents relied too much on the English system. Not surprisingly, he seems to prefer China's system.

There is nothing to stop the British and Hong Kong Governments from putting in place a Court of Final Appeal which meets the requirements of the Joint Declaration. Indeed, this is what they are legally obliged to do. They have not done so, because China does not want it done that way. Again, so much for the Joint Declaration.

What is the general lesson to be drawn from all these? The lesson is that even international treaties are not worth the paper they are written on, unless there is some means for their enforcement. Treaties can be enforced by their contracting parties, or by some other authority. But they do not have any life or magic of their own. Neglect them, as Britain and China have done the Joint Declaration, and they turn to dust.

With that in mind, it is about time Hong Kong focuses on Section 13 of Annex I of the Joint Declaration, which says that "the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, and Social and Cultural Rights as applied to Hong Kong shall remain in force" after 1997.

The sentence is carefully worded. It speaks of the covenants "*as applied to Hong Kong shall remain in force*". Nothing less.

The covenants are United Nations multilateral treaties. Together with the Universal Declaration on Human Rights, they make up the core documents for upholding human rights internationally by legal and diplomatic means.

The very essence of the covenants is a recognition that any infringement of human rights is a breach of international law. A state which has ratified them cannot plead that its human rights infringements are a domestic matter in which the international community cannot comment.

By ratifying the covenants, a state accepts an obligation of accountability to the United Nations Human Rights Committee (UNHRC). It receives and examines reports on human rights matters from all signatory states. It can also receive submissions from non-governmental organizations.

By signing the Joint Declaration, China is committed to the full enforcement of that covenants in Hong Kong after 1997. China must, therefore, accept that human rights violations here after 1997 will be a matter of legitimate international concern. Given the frequency with which human rights of all kinds are violated within China, this should in principle be a source of comfort for the people of Hong Kong.

There is, however, a problem which threatens to make this even very modest degree of comfort illusory. Britain has ratified the covenants, which is why Hong Kong is a beneficiary. China has not ratified the covenants. Unless China does so before 1997, we are not quite sure what is going to happen.

In particular, without ratifying the covenants, China does not engage itself to be accountable to the United Nations.

I suggest that Annex 13 is very important and that this Council should press Britain and China to press this point.

The buzzer sounded a continuous beep.

PRESIDENT'S DEPUTY: I am afraid you have to stop, Miss LOH.

MISS CHRISTINE LOH: Madam Deputy, I support the motion.

MR CHEUNG MAN-KWONG (in Cantonese): Madam Deputy, Mr CHIM Pui-chung lets me speak first because he wants to pick holes in my speech.

The good days are gone. Many Hong Kong people, probably like me, miss the good old days of 1984, when the Sino-British Joint Declaration was signed. Those were days of harmony in Sino-British relations and days of hope. We were then told the Joint Declaration was an international agreement which was filed with the United Nations, it was legally binding on the Chinese and the British Governments.

The Joint Declaration states clearly that the British Government will be responsible for the administration of Hong Kong up to the transfer of power in 1997 and that the Chinese Government will give its co-operation in this connection. Madam Deputy, for the proper administration of Hong Kong, we have to rely on the existing government machinery and on the civil service which supports and lubricates its operation. We used to think that nothing would change except for the transfer of power. The Chinese Government promised that the transfer of power would be as simple as a change of flags. Given the assurances, that the civil service, which would be working to support the new government after 1997, is now being subjected to increasing political pressure comes as a surprise.

Paragraph 4 of the Joint Declaration says that the Chinese and expatriate civil servants now serving in the various departments of the Hong Kong Government and police officers may continue to serve. Appendix I states even more specifically that public servants previously serving in Hong Kong in all government departments, including the police department, and members of the judiciary may all remain in employment and continue with their service. The explicit meaning of all this is that Hong Kong's civil servants may continue with their service and that the Chinese Central Government will not fire them.

However, is that the case now? The position now is that China is saying again and again, through various channels including the Preliminary Working

Committee to which it appointed its members, that the three tiers of government will not survive beyond 1997 and some senior civil servants will not be allowed to serve in the Special Administrative Region (SAR) Government. China is now even saying that Hong Kong's civil servants must pledge allegiance to China before they can ride on the political through train. Madam Deputy, the remarks are getting increasingly hawkish and deviant from the Joint Declaration, with the blessing and the tacit approval of the Chinese Government. They are frightening and dividing our civil servants. More new ploys are probably yet to come. By 1997, Hong Kong's civil servants will have been either scared to death or teased to death. A day may come when Hong Kong's civil servants are so scared that they begin to be wary of not saying or doing anything that may be regarded as imporper, and to adjust their behaviour to Chinese officials' smile or frown. When that day does come, Hong Kong people will not be ruling Hong Kong any more; instead, people from Beijing will be ruling Hong Kong. When that day does come, a high degree of autonomy will be replaced by a high degree of control; and only the "one country" part of the "one country, two systems" concept will be emphasized to the exclusion of the "two systems" part.

Madam Deputy, the civil service, as an issue, is extremely important during the transitional period and must be handled carefully and properly. At present, there are three important questions surrounding the transition of the civil service: the continued employment of all civil servants, civil service localization and a smooth political through train for senior civil servants. These questions must be resolved by the Sino-British Joint Liaison Group (JLG) as stipulated in the Joint Declaration. The Joint Declaration also provides that the JLG must meet three times a year, once in China, once in the United Kingdom and once in Hong Kong.

Unfortunately, it may not be far from the truth to say that the JLG is now dead in all but name. It has not met even once so far this year. At such a pace, it is certainly doubtful that the JLG can meet three times a year as required by the Joint Declaration. This already runs counter to an objective laid down in the Joint Declaration, namely, during the latter part of the transitional period, there should be closer co-operation. The wishes of the people of Hong Kong that China and the United Kingdom could set aside their political differences and quickly hold consultations on matters affecting the livelihood of the people of Hong Kong are being ignored. Even more absurdly, the JLG, which is a legitimate body, has been disarmed, so to speak, and sidelined while the Prelimiary Working Committee (PWC), an illegitimate body, has the whole arena to itself and begins to give orders. The PWC is making alarmist remarks about how transition will affect civil servants. It is stirring up storms unnecessarily. I am afraid this illegitimate body will cause endless troubles.

Madam Deputy, I did not at first intend to disparage the PWC. Different people have different aspirations. Those who bend with the winds are the smart ones, are they not? However, the more I think about it, the more I feel that the PWC is a strange body which could be looked at from four perspectives. It is the future stove except that the flame is already being fanned. It is a power

centre except that its power is not legitimate. It is an advisory body to the Chinese side — except that it lacks public credibility. It is also the Preparatory Committee for the Special Administration Region — except that it is born prematurely. This strange body is displacing the legitimate JLG. Its establishment and functions are a violation of the Joint Declaration. China wants the PWC to do united front work on our civil servants, to divide the senior officials and to formulate the civil service policy. This is a back-door approach and is a breach of the Joint Declaration.

Madam Deputy, nationalistically speaking, Hong Kong's return to China is an event that calls for celebration. I am sure that civil servants, though they may be holding ordinary posts, would feel no lingering love for the colonial rulers who will be gone. They would look forward to the coming of the SAR Government, a government of our own. Yet, because of the depressing and chilling words of the Chinese Government and its handpicked advisers, Hong Kong's civil servants are feeling insecure and unsure and some of them are leaving. This is most unfortunate. Today, as we look back on the contradictions, the ups and downs and the clashes in the 10 years since the signing of the Joint Declaration, we grieve for the helpless little citizens, who are carried along by the tide of the times in spite of themselves. We feel sorry for the civil servants, who are caught between the Chinese and the British Governments. Old love and new passion, exchange of punches, public fights and secret struggles — these are what nightmares are made of.

Madam Deputy, I hope that the nightmare will end soon. With these remarks, I support the motion.

MR JAMES TIEN: Madam Deputy, the Sino-British Joint Declaration, signed in 1984, clearly laid down the groundwork for Hong Kong's transition problems. The signatories promised Hong Kong people that the future Special Administrative Region would enjoy a high degree of autonomy and that the current social and economic systems would continue to thrive beyond 1997.

The significance of the Joint Declaration is not to be undermined. The signing of the document in 1984 calmed widespread panic, allayed fears, reestablished confidence in Hong Kong at that time. The verbatim and the spirit of the Joint Declaration was further clarified in the form of the Basic Law promulgated in 1991.

We owe our present social and economic stabilities to confidence in both the Joint Declaration and the Basic Law. Thus I firmly believe that the Joint Declaration and the Basic Law must be observed in full. Hong Kong people have trusted the Chinese and the British Governments to solemnly carry out their obligations and to strictly follow every article and appendix thus enshrined.

According to the business confidence survey conducted by the American Chamber of Commerce last year, 31% of the respondents believed that the Sino-British impasse on the political development of Hong Kong would have negative impacts on the investment climate of the territory. Results of the survey also showed that 33% of the respondents would decide whether to maintain their Hong Kong regional offices depending on the territory's economic outlook. In other words, it is well-proved that we must warrant a stable investment environment if we are to remain attractive to overseas investors. Continuous political wrangling is certainly not constructive towards economic and social stabilities.

Madam Deputy, article 4 of the Joint Declaration stated that the Government of the People's Republic of China declared that during the transitional period between the date of the entry into force of this Joint Declaration and 30 June 1997, the Government of the United Kingdom will be responsible for the administration of Hong Kong with the object of maintaining and preserving its economic prosperity and social stability. And the Government of the People's Republic of China will give its cooperation .....

PRESIDENT'S DEPUTY: Mr TIEN, would you stop a moment? Is it a point of order, Mr CHIM?

MR CHIM PUI-CHUNG (in Cantonese): Madam Deputy, there are only 12 Members present. I would not object if there are 15 or 16 of them here. So would you ask them to come back to this Chamber?

PRESIDENT'S DEPUTY: We will take a little recess and look for the other Members. Please do not go away. We will try to get them in quickly.

PRESIDENT'S DEPUTY: Mr TIEN, will you please continue with your speech.

MR JAMES TIEN: Thank you, Madam Deputy. How much time do I have now? It is a bit confusing now. Madam Deputy, I just start where I have just stopped. Maybe I will just repeat part of it.

Madam Deputy, article 4 of the Joint Declaration stated that the Government of the People's Republic of China declared that during the transitional period between the date of entry into force of this Joint Declaration and 30 June 1997, the Government of the United Kingdom will be responsible for the administration of Hong Kong with the object of maintaining and preserving its economic prosperity and social stability. And the Government of the People's Republic of China will give its cooperation in this connection.

Here I would like to emphasize the words "with the object of maintaining and preserving Hong Kong's economic prosperity and social stability". Nowhere in the Joint Declaration nor the Basic Law was there stated that the British Government should try to conquer new frontiers or to create new inventions in our political system. For example, the nine new functional constituencies give nine seats to the labour union of workers and the Election Committee to only directly-elected district board members; these are clearly Governor PATTEN's new inventions.

The Chinese and British Governments should also speed up the work in the Joint Liaison Group (JLG). If the two Governments can spend hours figuring out sharp punch-lines to use on their counterparts, they could well sit down and settle the long overdue problems on the agenda of the JLG. Time is running out. Before soon it will be 1997. It was reported that 23 urgent issues have yet to be put to the agenda of the JLG at the end of last year. The general public share the impression that virtually nothing has been done or will likely be accomplished by the JLG any time soon. It is irresponsible for the two Governments to sit on such important matters and ignore the urgency for cooperative discussions.

If we are to believe in the idea of Hong Kong people ruling Hong Kong we shall need mature, sensible and responsible leaders who have the vision to lead us to a brighter future. One country, two systems; Hong Kong people ruling Hong Kong; a high degree of autonomy — these statements do not automatically translate to one man, one vote direct elections and to prosperity and stability. As evidenced in a recent development in Russia, one man, one vote definitely does not equal prosperity and stability. On the contrary it often implies inflated campaign promises resulting in high social spending and high taxation, thus ruining the economy. Similarly, high unemployment rates in Britain, Canada, Australia and even the United States today are also clear evidence of how the one man, one vote system can hinder economic developments. Our economy will undoubtedly be jeopardized if we are to mindlessly adopt this system.

Madam Deputy, in a Legislative Council debate on Basic Law in 1990, I emphasized that the high degree of autonomy, instead of a complete autonomy, was what we were asking for. In other words, this would be an autonomy with limitations. But how far could we go with the high degree of autonomy? We did not know then. We still do not know now. If it was initially China's idea to vest the future SAR with such a status, I have every reason to believe that this could not be achieved if Britain continues its unilateral decision to introduce a brand new political system before the transfer of sovereignty. Therefore I urge the Hong Kong Government to return to the spirit of the Joint Declaration and the Basic Law. I wish the Government to amend the Electoral Provision Bill 1993 on the new nine functional constituencies and make them compatible with the current 21 functional constituencies as implemented in 1985, 1988, 1991, and the Election Committee as stipulated in the Basic Law. I hope that such a change may revive the cooperative atmosphere of Sino-British relations of

1984, in keeping with the aim to provide Hong Kong with a stable political, economical and social environment during the years to and beyond 1997.

I further urge that both Britain and China should not take to interpreting the Joint Declaration and Basic Law to their own liking, but rather both must face the Joint Declaration and the Basic Law in the interests of serving the goal of a smooth transition for Hong Kong. Madam Deputy, with these remarks, I support the motion.

MR FRED LI (in Cantonese): Madam Deputy, the Sino-British Joint Declaration was signed with a view to resolving the question of Hong Kong's future after 1997. It promises that, under China's sovereignty, Hong Kong will enjoy a high degree of autonomy and be ruled by Hong Kong people in accordance with the "one country, two systems" concept.

However, ever since the Joint Declaration was signed in 1984, China and the United Kingdom have been using the interests of Hong Kong, as well as the interests of its people, as bargaining chips in making political deals. On a number of issues, they have failed to defer to the wishes of the people of Hong Kong. Nor have they taken active steps to pave the way for the governance of Hong Kong by its own people.

First of all, I want to criticize the British Government for its performance in that regard. The British side has not proceeded in good earnest to carry out substantive decolonization during the transition period. The development of representative government as a system has time and again stalled. The Legislative Council had its first directly elected Members in 1991. Even after that, the Hong Kong Government has not sincerely co-operated with this Council or accepted it as a monitoring body providing the necessary checks and balances. It has been evasive even in policy areas where this Council's intentions are clear (such as with regard to the establishment of a Central Provident Fund). The Government listens to this Council's views when it is advantageous for it to do so. When it does not like a Legislative Council position, the Government simply sidelines this Council and does so with the argument that Hong Kong's government system is executive-led.

The British side has sidestepped the people of Hong Kong and has not sought or heeded their comments over a number of major issues. For instance, in 1992 it did not consult the people of Hong Kong or take their views into consideration when it made plans for the New Airport and sought to reach agreement with the Chinese side on these plans. On the issue of the Court of Final Appeal, the British side reached agreement with the Chinese side without regard for the views of the community in Hong Kong. In appearance, a so-called "agreement" was reached between the governments of the two sovereign powers. In substance, the views of the community in Hong Kong were suppressed, jeopardizing the prospect of implementation of "Hong Kong people ruling Hong Kong". The most recent example of British refusal to let the

people of Hong Kong get involved is the case of the financial arrangements for the New Airport. To this day, the Hong Kong Government is still refusing to present the financial package to this Council for examination. Is this going to turn out to be a repetition of the "Court of Final Appeal" case? Will China and the United Kingdom arrive at an agreement and then force us to accept it?

As for the Chinese side, since the signing of the Joint Declaration in 1984 it appears to have gradually back-pedalled and taken a harder line on the two basic policy issues: democracy and a high degree of autonomy. One is apt to worry about whether the promises made to the people of Hong Kong will be honoured.

On the issue of democracy, our analysis shows that:

(1) The Chinese side took a public position against direct election to the Legislative Council in 1988.

(2) Regarding the form of political system to be written into the Basic Law, the Chinese side did not show much respect for the "4.4.2 compromise plan" arrived at among all sectors (including democrats, business groups and middle-of-the-road groups) in Hong Kong towards the end of 1989. In the end, what was written into the Basic Law was a conservative form of political system with limits on direct elections and limits on the pace of democratization. The Basic Law also provides that the future legislature of Hong Kong shall decide on motions and government measures by way of voting by two groups of Members. This is intended to weaken the legislature as a counter-weight to the executive branch of government.

(3) During the political reform controversy over the past two years, the Chinese side often accused the British side of failing to abide by agreements reached between them. It never took a square look at the Hong Kong people's reasonable aspirations in the areas of democratization and democratic self-government. The Chinese side did not show enough pragmatism.

(4) The Basic Law lays down many defence lines to hem in the autonomous powers of the Hong Kong Special Administrative Region (SAR). Examples are Articles 23 and 18. Under Article 18, the Standing Committee of China's National People's Congress (NPC) shall have the power to decide that the Hong Kong SAR is in a state of emergency and the Central People's Government may issue an order applying the relevant national laws in the Hong Kong SAR.

Such provisions show that the Chinese side basically does not trust the people of Hong Kong and is not without reservations about granting Hong Kong a high degree of autonomy. The Meeting Point thinks that, to implement the process to let Hong Kong have a high degree of autonomy, the Chinese Government should deal only with such Hong Kong matters as relating to national defence and diplomacy which lie within the realm of sovereignty, but it should let the Hong Kong SAR make its own decisions about all other matters through its own decision-making mechanisms. In fact, the 1991 Memorandum of Understanding on the New Airport set a very unreasonable precedent. The Chinese side insisted that the Chinese Government was to represent the interests of the future SAR until it was set up. The Chinese side ignored the fact that the people of Hong Kong would be the host of the Hong Kong SAR when it was set up and, as such, should deal with the matters of the new airport through their own decision-making mechanisms. It is precisely because of the need to ensure that the existing mechanisms and policies represent the views of a broad cross section of the Hong Kong society that democratization of the political system in Hong Kong must be speeded up. This, rather than deliberately slowing down the pace, should be the first order of business.

(5) The Sino-British talks over Hong Kong's political reform broke down. The Chinese side said that it would "set up a separate stove". It then set up the Preliminary Working Committee (PWC) of the Preparatory Committee for the Hong Kong SAR. Actually, PWC's terms of reference surpass the Preparatory Committee's own terms of reference, which were set by the NPC in 1990 when the Basic Law was promulgated. Under its terms of reference, the Preparatory Committee will just be responsible for making preparations for setting up the Hong Kong SAR Government: electing the Chief Executive and endorsing the credentials of members of the legislature upon the transfer of power. But PWC is now divided into various subgroups: one on political affairs, one on economic affairs, one on social affairs and one on cultural and educational affairs. It can be said that PWC is meddling in everything, big or small. It is involving itself with the transition problems of the Civil Service. (The Joint Declaration already clearly specifies how these problems should be resolved.) It is even involving itself with school text-books. PWC is really interfering in Hong Kong's internal affairs, just as many people worried that it would. This smacks of China interfering in Hong Kong's internal affairs since PWC is a body subordinate to the Standing Committee of China's NPC. This is detrimental to the governance of Hong Kong by its own people and to Hong Kong enjoying a high degree of autonomy.

In sum, I call for the following:

(1) China and the United Kingdom should respect the spirit in which the Joint Declaration was signed and work together to make preparations for the governance of Hong Kong's by its own people.

(2) The Chinese side should trust the people of Hong Kong and defer to the wishes and interests of the people of Hong Kong. It should co-operate sincerely with the people of Hong Kong in carrying out well the work relating to Hong Kong's reversion to Chinese sovereignty.

(3) China and the United Kingdom should respect Hong Kong people's aspirations for democracy. The Chinese side should quickly set up a committee to review the Basic Law and amend it where necessary, so as to meet Hong Kong people's expectations in the area of democratic self-government. The Hong Kong SAR Government will then become a credible government.

(4) The interests of the future Hong Kong SAR should be safeguarded mainly by its own people through democratic mechanisms. They should not be subject to Beijing's unilateral interpretation.

Members from the Meeting Point support the motion.

THE PRESIDENT resumed the Chair.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, Mr Martin LEE's speech in this debate moved by him gave me the feeling that this meeting has almost been turned into one manipulated by himself to air his personal grievances and stir up troubles. Things are not as simple as he made them out to be in his speech. Meanwhile, Mr CHEUNG Man-kwong's speech partly told the truth but fully revealed his intention to incite our civil servants. True, the civil servants are now bewildered and find that there are many uncertainties. However, while it is important to understand their feeling, we must realize that we are all in the same boat. It is also hoped that things will clear up a little before long. What is least needed at the moment is any provocation with a view to pitting one group against another.

We must see that the South Africa example cited by Mr Martin LEE has absolutely no relevance to Hong Kong. I personally have great admiration for Mr F W de KLERK, the out-going president of South Africa. He has not only given up his post but joined the new president in playing the game of democracy. I believe it is absolutely impossible that Mr Martin LEE, the mover of this motion, would be able to demonstrate the same spirit or attitude.

My point is that I do not wish to see anybody move a motion with a view to dividing and misleading the public in Hong Kong. We must appreciate the realities in Hong Kong. There are both a positive factor and a negative factor before 1997. The positive factor is that Hong Kong has a good system. The negative factor is that Hong Kong has been living with the shame of the Treaty of Nanking signed by China. These, in any case, are the facts. Hong Kong is not an independent entity. It has been a colony ruled by the British Government. It is now a territory entrusted to British rule, where the United Kingdom could exert its influence.

As we have seen, the Governor, who assumed office less than two years ago, has already made eight trips to the United Kingdom to report his work in Hong Kong. This proves beyond doubt that everything in Hong Kong needs the approval and the direction of the sovereign power. After 1997, Hong Kong will certainly come under the Central People's Government of China. No matter how much special power the Hong Kong Special Administrative Region Government may be granted, everything in Hong Kong will still require the understanding, and consent, of the central authorities. Yet, Mr Martin LEE was practically advocating an independent Hong Kong in his speech in which he accused China and the United Kingdom relentlessly.

Are these two countries really worthless? One may argue that there is freedom of speech in Hong Kong and people can express their own views. This is absolutely not true. It is indeed misleading the public to claim that one can do so because ordinary people, given their political wisdom and awareness, tend to support or agree with only what the media say or to be guided by their personal experience. A political leader ought not to mislead the public for the benefit of his party, for his personal benefit or for the sake of canvassing. Instead, he should analyze the true situation and help members of the public to see what their limitations are and to adapt to the times and the realities.

We must understand the mentality of the general public. It cannot be denied that, as a result of colonial education over the years, especially during the past decade or so, many students and youths are generally keen to have greater measure of democracy. But the simple truth is that many people do not have the slightest idea about what democracy is. At a time when everybody else wants democracy, one who thinks otherwise would be regarded as being behind the times. This is why everybody is saying that he wants democracy. This mentaility also explains why people are leaving Hong Kong as emigrants. The following case may exemplify the situation: a wife asks her husband, "So many of our neighbours have left Hong Kong. Do we have enough money to leave? If we do not leave Hong Kong, we may be looked upon as being not well-off." Such a mentality would produce a domino effect. We should correct it and also show people how to deal with it.

As for the "one country, two systems" concept, the Chinese Government has been emphasizing the "one country" part of this concept. Without the "one country" part, the "two systems" part will give Hong Kong a licence to do

anything. The territory will in fact come under China, the principal entity. There will be two separate systems. China already has its communist system with socialist characteristics. It wants Hong Kong to have a system with its own characteristics. But this does not mean that Hong Kong will have a licence to do anything. Hong Kong will still have to be subject to the "one country". Mr Martin LEE turns a blind eye to the "one country" part of the concept, and only stresses a high degree of autonomy under the "two systems" part of the concept. He thinks that the territory is entitled to autonomous power. And if it is not given to the territory, he would think that the Chinese and the British Governments rob the territory of the autonomous power. His mentality exceeds the scope of what is proper for a person who is seeking to win voters or popular support. After all, our separate system under the "two systems" part of the concept is attainable only with the approval of the country under the "one country" part of the concept. How can "one country" have "two systems" if the country itself does not support the idea? In the absence of the "one country" part of the concept, how can we have "two systems"?

In regard to the credibility of the Preliminary Working Committee (PWC) and the Preparatory Committee to be set up in 1996, we, as Hong Kong people, want to ask: in our view, how much more credible are the many appointed Members of the Executive Council? The people of Hong Kong sincerely hope that members of the PWC and of the future Preparatory Committee will work to the advantage of the people of Hong Kong and do their best to speak their mind. If some of them tend to side with China, that will be because of their different viewpoints. In any case, the people of Hong Kong should have a clear idea about the realities, their own aspirations and future. In making this speech, I sometimes look too far ahead, but I am honestly trying to find out what is best for the public.

Mr President, I will abstain from voting.

MR ALBERT CHAN (in Cantonese): Mr President, less than two hours ago, I was praising Mr CHIM Pui-chung. But now his speech, in terms of form and thinking style, has relapsed into that which he has been employing over the past two years or so. I appreciated Mr CHIM's thought and sentiments as a victim rather than as a strong-man. I think that he looked at the issue from a victim's point of view because he himself is a victim of urban renewal and well understands the sentiments of the weak party. But when Mr CHIM spoke now of the Preliminary Working Committee, he sounded like an expert on PWC and he appeared to have accepted PWC's existence. I doubt that he would have taken such an attitude if PWC had tried to decide for the financial services sector what the financial service policy should be or how trading should be made in the market.

Mr President, the Chinese and the British Governments have been derogating from and distorting the Sino-British Joint Declaration. There are more examples of this than I care to cite. Just now, Mr Martin LEE, chairman

of our party, cited 10 major examples. I feel that the best examples are the ways in which the New Airport, the port and the Airport Railway projects are approached and handled. These are good examples of how China and the United Kingdom have been contravening the Joint Declaration over the years.

The Joint Declaration states unequivocally that the British Government shall be responsible for the administration of Hong Kong up to 30 June 1997 and that the Chinese Government shall render assistance in that regard. Yet we see that, on the airport-related issues, the Chinese Government has been unco-operative for political reasons. This unco-operative attitude has prevented the Chek Lap Kok Airport project and the Airport Railway project from proceeding on a full blown scale.

Take the Airport Railway project. There has been a nine-month delay, with resultant cost rises. Such unco-operative attitude on the part of the Chinese Government is clearly contrary to the Sino-British Memorandum of Understanding (MOU) on the airport. China said at first that it understood that Hong Kong needed a new airport badly and that this airport, as well as the airport railway and other related projects, should be built quickly and cost-effectively. But the Chinese Government's co-operation and support are needed for these projects. Without its co-operation and support, the Provisional Airport Authority and the Mass Transit Railway Corporation simply cannot obtain loans or grant franchises.

The MOU lays down that an Airport Committee should discuss and make resolutions on the matters involved and that the Director of the Hong Kong and Macau Affairs Office of the State Council of China should hold regular meetings with the Governor of Hong Kong to discuss airport-related problems until the goal — the completion of the airport — is reached. But the Chinese Government has not respected the mechanisms laid down in the MOU. Instead, it has used its influence — its influence over financial arrangements and franchises — to do what is obviously contrary to the MOU. It has blocked timely meetings of the Airport Committee to discuss the issues. Nor has the Director of Hong Kong and Macau Affairs Office held scheduled meetings with the Governor of Hong Kong. The Director declined to meet the Governor or during his recent visit to Hong Kong on the excuse of a busy schedule. Such high-handedness on the part of the Chinese Government is a great disappointment to the people of Hong Kong. Many media reports and many phone-in calls to the radio stations have recently conveyed this feeling of disappointment.

Such an attitude on the part of the Chinese Government has called its good faith into question. After all, China signed the MOU and other related agreements. I feel that the Chinese Government has more or less revealed the mentality of China's Communist Party rulers. The consequences are delays in the New Airport project and the Airport Railway project. These delays have created uncertainties which are affecting and troubling Hong Kong's economy. They have resulted in higher costs, which are also bad for the economy.

Damage will be done not only to the Government and the community of Hong Kong from now until 1997. Damage will also be done to the Government and the community of the Hong Kong Special Administrative Region (SAR) after 1997. Because both projects straddle 1997, the revenues that they produce will have a direct impact on the financial position of the SAR Government.

The Chinese Government has tried to expand its influence by taking such an uncooperative attitude. It wants to have influence not only over the Airport but also over political reform and livelihood issues. It is also forcing the Hong Kong Government to inject more money by way of equity directly into the Airport project and the Airport Railway project. This will directly affect the present financial operations of the Government, which will have to cut other spending programmes, with adverse effects on social services and public works.

The Container Terminal No. 9 (CT9) project is being delayed by the failure of the Chinese and the British governments to implement the Joint Declaration in a practical manner. Of course, the United Democrats of Hong Kong are opposed to the plan to locate CT9 at southeastern Tsing Yi. But the fact that political considerations are affecting public works projects also shows a lack of basis for co-operation between the two sides. Because of the delays, CT9 can no longer meet its original schedule or serve its original purpose. The Government should quickly make a study on how to cope with this contingency. It should scrap the plan to locate CT9 at southeastern Tsing Yi and proceed quickly to develop instead a container port at Lantao Island to cope with the rising volume of container traffic up to and beyond 1997. I hope that China and the United Kingdom will act responsibly and resume normal co-operation under the terms of the Joint Declaration. They should hold discussions and make decisions in a more transparent manner. Their decisions should not be made at the expense of the interests of the people of Hong Kong. Rather, they should make decisions which will lay a better foundation for a smooth transition and for a democratic autonomous SAR government after 1997. I hope that the two sides will stop making deals under the table to achieve co-operation by sacrificing and selling out the interests of the people of Hong Kong.

Mr President, with these remarks, I support Mr Martin LEE's motion.

MR ALFERD TSO (in Cantonese): Mr President, originally I did not intend to speak on the matter in this arena as I though that it was improper for the legislature to discuss this matter. it is rather pointless to address this matter in this manner because the British and the Chinese Governments would be listen to us. I think a more practical approach is to look for other channels to reflect the public's views and lobby in favour of the territory. However, I finally changed my mind and decided to take this opportunity to reflect and expound some views which I have formed through my contacts with many Tuen Mun residents.

Many residents to whom I have talked think that the present Sino-British relations are very undesirable. In their view, the British side has contravened

the Joint Declaration in many respects whereas the way the Chinese side has been handling the Sino-British row and its public statements have undermined many Hong Kong people's confidence and worried them.

I think that the man in the street would not bother, or take pains, to find out which side is telling the truth. What the general public earnestly hopes is that the British and the Chinese Governments can each make some concession so that the promises they made in the Joint Declaration can be fulfilled. It is also hoped that the British and the Chinese Governments would do something good for the people of Hong Kong and not use the interests of the people of Hong Kong as a stake and as something dispensable in their political tug-of-war.

With these remarks, I support the motion.

DR CONRAD LAM (in Cantonese): Mr President, history tells us that as between two countries, there can neither be eternal friendship nor eternal enmity. Although one country may have killed hundreds of thousands of people of the other country, the two countries can, for benefits' sake, become friends again after a period of time. Where friendship generates benefits, they are friends; and if not, they are not friends. When there is a conflict of interests, they may even become enemies. Such things do happen from time to time, not between countries alone, but, as a matter of fact, also in many parliaments or legislative assemblies throughout the world.

What is the Sino-British Joint Declaration? From the aforesaid point of view, it can be regarded as a package produced by China and the United Kingdom in their own interests. As some Members observed moments ago, how can several million Hong Kong people pass just like that from a democratic political system to a totalitarian communist system? Is the Joint Declaration reliable? Perhaps the government official attending this debate may dwell on this point at some length in his reply. If one day the People's Liberation Army should put Mr Martin LEE and Mr SZETO Wah into prison without any adequate reason but only on political grounds, which clause in the Joint Declaration would the United Kingdom Government invoke in order to save them from prison? In fact, even an expeditionary force sent by the United Nations would be to no avail, not to mention the Joint Declaration. Just take a look at Bosnia where so many innocent women and children were killed. Even the troops sent by the United Nations could do nothing to help. Such being the case, to what extent can we expect the Joint Declaration to help us Hong Kong people?

Some said that to raise such a question would mean a distrust of the Joint Declaration which would blight our prospects. As to whether we trust the Joint Declaration or not, I think we should face up to the facts. Before the "June 4" incident, some Chinese leaders guaranteed that they would not bide their time to take revenge. Did they keep their promise afterwards? All of us know the answer very well. In the 1980s, the Hong Kong British Government introduced

the representative government system saying that there would be direct election in 1988 to bring about directly elected seats in the Legislative Council and perhaps even elected seats in the Executive Council. What happened then?

What has actually happened enables us to judge as to whether things are to be believed or not. For this reason, I here and now call upon all the so-called leaders considered credible by Hong Kong people, no matter whether they are inside or outside this Council, to leave aside their personal interests and to resist the divisive tactics practised by others. They should unite to demonstrate the power of solidarity. Finally, I call upon Hong Kong people not to stake their confidence wholly on a mere agreement. Our fate is in our own hands. It is better to believe in our own selves than just a piece of paper which is the Joint Declaration or any other agreement for that matter.

With these remarks, I support the motion.

PRESIDENT: Any more speakers? Dr YEUNG Sum. I have to interrupt you at 8 o'clock, I am afraid.

DR YEUNG SUM (in Cantonese): Mr President, it has been 10 years since the Sino-British Joint Declaration was signed. In three more years, China will be reasserting its sovereignty over Hong Kong. Now, therefore, is a good time for reviewing the state of implementation of the Joint Declaration. My speech will focus on the political system.

Mr President, very regrettably, what we see is that, during the past 10 years, China and the United Kingdom had violated the constitutional provisions of the Joint Declaration. The Joint Declaration provides that the Chief Executive of the Hong Kong Special Administrative Region (SAR) shall be elected or chosen through consultation; that its legislature shall be constituted by election; that the Chief Executive shall be accountable to the legislature; and that there shall be a high degree of autonomy for the people of Hong Kong.

Let us examine the question of the executive's accountability to the legislature. In political science, executive accountability means that the executive branch of government is required to do the following things: It must make reports on the government's work to the legislature. It must take questions from legislators. It must explain to the legislature why a specific policy or recommendation is or is not adopted. It must submit revenue and spending proposals to the legislature for examination. Where the executive branch is accountable to the legislature, the latter, representing the people, provides monitoring as well as checks and balances. However, after assuming office, Governor Chris PATTEN excluded Legislative Council Members from the Executive Council in a move that has come to be known as "the separation of the executive and the legislature". Thereupon, the Executive Council became a kind of cabinet and it could be said that Mr PATTEN is running some form of

ministerial system. Some Executive Council Members were given positions in the executive branch of government. For instance, Ms Rosanna WONG was appointed Chairperson of the Housing Authority and her portfolio is the territory's public housing. A cabinet-like Executive Council facilitates the Governor's governance. He appoints to the Executive Council persons whom he thinks he can trust. These Executive Council Members do not belong to any political party. The Governor's governance is not subject to the direct influence of any political party. One the other hand, as none of the elected Legislative Council Members has been appointed to the Executive Council, they are denied an opportunity to learn to administer Hong Kong and meanwhile, the credibility of the Executive Council has suffered.

Under the existing constitutional arrangements, it is a big question how executive accountability to the legislature can be implemented in practical terms. The people of Hong Kong do not elect their Governor. Therefore, the Governor is basically not accountable to the voters or to the Legislative Council. He and the executive branch of government have a lot of power and they can refuse to implement motions adopted by the Legislative Council. True, the Governor, by his own volition, chooses to take questions from Legislative Council Members. But the constitutional arrangements do give him supreme power. The executive branch of government is basically accountable only to the Governor. There are no political appointees among Hong Kong's civil servants. Secretary-rank officials may wear a pained look when they take questions from Members at Legislative Council meetings or meetings of the Council's panels. But they know exactly what is at stake. In the final analysis, if the Governor backs them up, they basically need not make any concession to Legislative Council Members, let alone being accountable.

Indeed, under Hong Kong's constitutional arrangements, the executive branch of government is not accountable to the legislature. But with the political system becoming more open, Secretary-rank officials do have to take more questions from Legislative Council Members than before. But this is just a superficial phenomenon. In substance, when the Governor or a department of the executive branch refuses to concede a point, there is still nothing that a Legislative Council Member can do. Nor can members of the public replace the Governor or a Secretary-rank official through the election process. From this, it can be observed that the constitutional changes in recent years are but superficial changes. They have not really made the executive branch of government accountable to the legislature. Before Governor PATTEN leaves this colony, he really has a political and moral obligation to set up a political system consistent with what is specified in the Joint Declaration.

As regards China, Article 64 of the Basic Law provides that the executive branch of government shall implement laws passed by the legislature and those already in force; it shall present regular policy addresses to the legislature: it shall answer questions raised by members of the legislature; and it shall obtain approval from the legislature for taxation and public expenditure. On the other hand, monitoring of the executive by the legislature will be limited to the extent

that voting on motions and government measures will be by two groups of Members in the same legislative chamber. Article 50 provides that, if the Chief Executive refuses to sign a bill passed the second time by the legislature, or the legislature refuses to pass a budget or any other important bill introduced by the executive branch of the Government, and if consensus still cannot be reached after consultation, the Chief Executive may dissolve the legislature. The Chief Executive must consult the Executive Council before dissolving the legislature. The Chief Executive may dissolve the legislature only once in each term of his or her office. Anyway, the Chief Executive will have power that clearly will override the legislature.

In relation to the executive branch of government, the legislature's functions in providing checks and balances as well as monitoring will be subject to a substantial measure of restrictions. I believe that this is because, among other reasons, China does not trust the checks and balances of the western parliamentary system. China thinks that such functions of the legislature are bad for executive efficiency and for the executive branch's exercise of powers and controls.

The Political Sub-group of the Preliminary Working Committee has now said that it is opposed to using the single-seat, single-vote (SSSV) system in the election to the Legislative Council. It says that the multi-seat, single-vote (MSSV) system or the system of proportional representation should be used. This reflects the same kind of thinking. The SSSV system will be advantageous to a political party with a majority of Legislative Council seats. They will then provide a substantial measure of checks and balances as well as monitoring. The MSSV system or the system of proportional representation will disperse the political forces of the Legislative Council and thus prevent the Council from aggressively carrying out its functions in providing checks and balances as well as monitoring in relation to the executive branch of government.

Mr President, both China and the United Kingdom are thinking in terms of their own interests. The United Kingdom does not want to sacrifice too much of its interest in order to secure its honourable withdrawal from Hong Kong. China is worried that growing democratic forces will lead to a legislature that hampers the executive branch by way of the checks and balances as well as monitoring that the legislature will exercise. China therefore strongly advocates executive-led centralism. But the truth is that Hong Kong's future can only be founded on a high degree of autonomy, which in turn can only be founded on a democratic political system. I am convinced that the executive branch of government will abuse power and the judiciary will become corrupt unless a democratic political system is there to provide checks and balances as well as monitoring

The Joint Declaration is really a very reasonable agreement. However, if neither China nor the United Kingdom has the *bona fide* intention or resolve to implement it, it will just be a piece of paper. For the sake of our own future, we the people of Hong Kong should never submissively accept the adverse

things that are happening to us. Nor are we begging China and the United Kingdom for anything other than the fulfillment of their promise and let Hong Kong have a democratic political system and a high degree of autonomy.

With these remarks, I support the motion.

8.00 pm

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

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

Question proposed, put and agreed to.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, the Administration have listened very carefully to the speeches of Honourable Members in today's debate and will reflect on them. I should, however, like to take this opportunity to put on record, once again, the highest possible commitment on the part of the British and Hong Kong Governments to implement the Joint Declaration fully and faithfully, a commitment that will be honoured now and beyond 1997. It is not for me to speak on behalf of the Chinese Government, but I am assured by repeated official statements by senior Chinese leaders that the Chinese Government, too, will carry out its obligations under the Joint Declaration which will include the responsibility to see that it is implemented fully.

Mr President, the Joint Declaration is of fundamental importance for the future of Hong Kong. It is the embodiment of that visionary idea of "one country, two systems", under which:

- Hong Kong's social and economic systems will remain unchanged for 50 years after 1997;

- Hong Kong will enjoy a high degree of autonomy; and

- Hong Kong people will administer Hong Kong.

That much is recognized by everyone in this Council.

But let us not forget that the Joint Declaration has also been one of the cornerstones of the social stability and economic prosperity that we have enjoyed in the last 10 years. It is, of course, the people of Hong Kong who have

collectively made possible our achievements in these past 10 years, but it would have been mightily difficult for us to have done so without the foundation laid by the Joint Declaration. Despite the inevitable hiccups from time to time, it has been a success story, defying the predictions of the "doom and gloom" mergence. Look at the facts:

- As a community, we are wealthier, with a *per capita* GDP exceeding that of Britain, and a total GDP one-fifth of China's, achieved by a population of only 0.5% of that of China.

- There has been no significant disruption of social order in the past 10 years. Crime rates are falling.

- We have achieved the transition from a totally appointed legislature in 1984 to a legislature which is now composed of a majority of elected representatives of the people; and we have done this remarkably smoothly, without any of the more violent forms of expression of political ambitions that, sadly, afflict other parts of the world. And, with the 1995 elections to this Council, we will have achieved a fully elected legislature, one that will hold the executive fully accountable.

- We have achieved better protection of human rights. The enactment of the Bill of Rights Ordinance in 1991 puts us in the forefront amongst the world community in giving enforceable legal protection to the rights of the individual on a standard which compares favourably with most parts of the world.

Let us also not forget that throughout these years, a great many valuable achievements in implementing the Joint Declaration were recorded through the hard work of all those concerned with the Joint Liaison Group (JLG) and the Land Commission. At this time when it is fashionable to moan about our disagreements with the future sovereign power, it is sometimes easy to forget where we have managed to work things out sensibly and successfully in the past. It will take several more pages of my script, and several more minutes of my time today to list out all these achievements; so here I would only quote a very few examples:

* The Joint Declaration says that the Hong Kong Special Administrative Region (SAR) may participate in international organizations and trade agreements including the GATT. Here we are today, a full-fledged contracting party to the GATT and, soon I hope, a member of the World Trade Organization to be established under the Uruguay Round.

* The Joint Declaration says that for the purpose of travelling, residents of Hong Kong SAR may use travel documents issued by, amongst others, "other states". So, we have put into effect

transitional arrangements for virtually all existing travel documents used by Hong Kong people.

* The Joint Declaration says that the Hong Kong SAR shall have its own shipping register. So we now have our own, and successful, shipping register.

* The Joint Declaration says that the Land Commission shall decide on proposals to increase the limit of 50 hectares per year in land grants. Since the signing of the Joint Declaration, the Land Commission has recorded agreement every year on a Land Disposal Programme which exceeded that limit.

I say all these, not to gloat over past achievements, but to remind us all how much can be done through sustained efforts and cooperation by both the British and Chinese sides. I hope that that spirit of cooperation can be sustained in future years, despite our disagreement over certain issues. That is the wish of the British and Hong Kong Governments, and is so obviously in the interests of Hong Kong people. I am assured by recently repeated statements of senior Chinese officials that that is also the wish of the Chinese Government. I hope that those wishes would be turned into reality soon in the JLG. For we can ill afford a failure, for example, to complete our important programmes to localize and adapt Hong Kong laws so as to ensure that we have a complete body of laws the minute that the future Hong Kong SAR came into existence. It would be irresponsible for us to let that happen. I hope also that we would be able to make progress soon on our discussion on the airport and the airport railway project as indeed Director LU Ping predicted yesterday.

I am not unaware of the criticisms that have been levelled against both the Chinese and British Governments in this great endeavour to implement the Joint Declaration. Some of them have been repeated today, in a predictable fashion. I would not attempt to go over all the issues touched on, since our position on most of them are well known. But I would just remind Members of a couple of the more important ones:

- Some Members have criticized us for our handling, since 1984, of the pace of development towards a fully directly elected legislature. To them, I say this : as a responsible government, we have consistently attempted to strike a balance between the clearly expressed desires of the community — for a greater say in running their own affairs on the one hand, and for a system of government that is capable of transcending 1997. I believe we have struck the right balance.

- Some Members have criticized the agreement we reached with the Chinese side on the Court of Final Appeal. To them, I ask this question: how would it better serve the key objective of sustaining confidence in the continuity of our judicial system and processes by

failing to have the Court of Final Appeal up and running before 1 July 1997 and capable of lasting beyond that date?

Mr President, no one can contradict a motion urging the British and Chinese Governments:

- to comply strictly with the Joint Declaration; and

- to ensure that the basic objectives of "one country, two systems" and "Hong Kong people ruling Hong Kong with a high degree of autonomy" are fulfilled.

But the Administration does not accept the implication in the Honourable Martin LEE's motion that the British Government have failed to abide by these laudable objectives in the past. That is plainly untrue. The *ex officio* Members will therefore abstain from voting on this motion.

Thank you, Mr President.

PRESIDENT: Mr LEE, you have five minutes 17 seconds.

MR MARTIN LEE (in Cantonese): Mr President, in giving my reply to wind up this debate, I find it most difficult to respond to Mr CHIM Pui-chung. In his seven-minute speech, Mr CHIM spent six minutes criticizing me. However, as I do not understand what he has criticized me for, I can only thank him for what he has said.

I am disappointed at what the Secretary for Constitutional Affairs has said. In fact I had expected that I would be disappointed. The Secretary for Constitutional Affairs, being a spokesman for the Administration, can in no way admit that the British and Hong Kong Governments have violated the Joint Declaration. Similarly, he has to help the Chinese Government to smooth things over by saying that the Chinese Government has not violated the Joint Declaration either. In my speech, I have already listed 10 incidents pointing to the violation of the Joint Declaration. The Secretary for Constitutional Affairs has not responded to the incidents I have listed. All he has mentioned is the Court of Final Appeal. I find the reply of the Secretary for Constitutional Affairs on the Court of Final Appeal laughable. The question is: Has the secret agreement about the Court of Final Appeal violated the Joint Declaration and the Basic Law? The Joint Declaration and the Basic Law have clearly stated (just now Mr SZETO Wah has clearly pointed out that the word "judges", which is plural, is used in the English version of the respective documents) that the Court of Final Appeal may, as required, invite overseas judges to sit on its bench. However, the present agreement provides that only one overseas judge can be invited, if at all. The question is: Has the agreement violated the Joint Declaration? The Secretary for Constitutional Affairs has, in effect, tactfully

asked, "Is it better than nothing?" This is not the question. The question is: Why not set up a Court of Final Appeal according to the provisions in the Joint Declaration and the Basic Law? I believe that if the Administration has adopted this stance, it should really support my motion.

Although the Administration cannot truly and honestly deny that the British and the Chinese Governments have repeatedly violated the Joint Declaration, it still has a wish to cherish — a wonderful wish that despite what has happened in the past, the British and the Chinese Governments will abide by the Joint Declaration in future.

In fact, the Foreign Affairs Committee of the British Parliament has come to a conclusion which is clearly stated in paragraph 199 of its recent report. The Committee is of the view that Article 18 and Article 158 of the Basic Law make grave inroads into the autonomy of the post-1997 Special Administrative Region of Hong Kong and seriously affect the implementation of the Joint Declaration. That report was prepared by a Committee of the British Parliament and it confirms that the Basic Law is flawed in certain respects. Mr SZETO Wah has actually pointed out in detail what is wrong with the Basic Law. I, too, have already said that the Basic Law has contravened the Joint Declaration. However, the Administration has not responded to what we have said. I therefore have to express my gravest disappointment about the decision of the Administration, that is, the decision by the three *ex officio* Members not to support my motion. I hope that the three *ex officio* Members, upon hearing the objective arguments that I am now advancing by way of reply, will put their heads together and vote in support of my motion.

Thank you, Mr President.

Question on the motion put.

Voice vote taken.

MR MARTIN LEE: Can I have a division please?

PRESIDENT: Council will proceed to a division.

PRESIDENT: Will Members please proceed to vote?

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

Mr Allen LEE, Mr HUI Yin-fat, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr Andrew WONG, Dr LEONG Che-hung, 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 Eric LI, Mr MAN Sai-cheong, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin and Mr Alfred TSO voted for the motion.

The Attorney General, Mrs Elsie TU, Mr CHIM Pui-chung and Mr Roger LUK abstained.

THE PRESIDENT announced that there were 23 votes in favour of the motion. He therefore declared that the motion was carried.

Adjournment and Next Sitting

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 11 May 1994.

Adjourned accordingly at seventeen minutes past Eight o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Securities (Insider Dealing) (Amendment) Bill 1994, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

WRITTEN ANSWERS

Annex I

Written answer by the Secretary for Transport to Mr Howard YOUNG's supplementary question to Question 2

The Government supports measures to relieve traffic congestion on the road outside the Arrivals Hall and thus supports the provision of a holding area for coaches waiting to pick up arriving passengers.

The Kowloon West District Lands Office has advised that a few months ago the Travel Industry Council made a request for a piece of land near the airport for coach parking purpose. A suitable site at Kowloon Bay near Wai Yip Street was identified but, apparently, the Council subsequently decided not to pursue the proposal. Notwithstanding this, in March 1994, a section of Eastern Road within the airport boundary with a capacity for about 35 coaches has been designated a coach waiting area. Permits to use this area, which is about 3 minutes' drive from the airport, are issued free of charge by the Civil Aviation Department to all eligible coach operators.

To facilitate the picking up of passengers, coach operators can join a call forward scheme operated by the Council. I understand that relevant departments including the Civil Aviation Department and Transport Department are now discussing with the Council how best the system can be improved. This includes the possibility of Government management of the scheme.

Annex II

Written answer by the Secretary for Transport to Dr Philip WONG's supplementary question to Question 2

We have looked into your suggestion. The traffic on roads immediate outside the Airport, that is, Prince Edward Road East, is quite heavy and fast moving. Due to traffic engineering and physical constraints, it is not feasible to move the existing bus stops closer to the airport.

Most passengers, well-wishers and visitors who rely on buses tend to patronize the airport bus services proper. There are now five routes with the terminus conveniently located right outside the Arrivals Hall. To provide a better network, there are plans to further expand these airport bus services by introducing two new routes, one to Central (via Pacific Place) and one to Prince Edward MTR Station later this year. The frequency of existing routes would also be kept under review to ensure that the service provided would be able to cope with passenger demand.

WRITTEN ANSWERS — *Continued*

Annex III

Written answer by the Secretary for Transport to Mrs Selina CHOW's supplementary question to Question 2

At present, passengers can make use of five airport routes operated by Kowloon Motor Bus to and from the following areas:

Route	
A1	Tsim Sha Tsui
A2	Central (Macau Ferry)
A3	Causeway Bay
A5	Taikoo Shing
A7	Kowloon Tong MTR Station (introduced on 5 June 1994)

These services, using air conditioned coaches, are operated at frequencies of between 12 to 15 minutes. There is seldom a capacity or passenger queuing problem and passengers are able to board the first incoming bus.

To provide a better network, there are plans to further expand the airport bus services by introducing two new routes later this year — one to Central (via Pacific Place) and one to Prince Edward MTR Station. The frequency of existing routes will also be kept under review to ensure that the services provided can cope with passenger demand.

Annex IV

Written answer by the Secretary for Education and Manpower to Mr Vincent CHENG's supplementary question to Question 5

While the Education Department maintains overall statistics on children seeking special services from the Department, there is no breakdown to show separately the figures relating to immigrant children. Nevertheless, the Department will start keeping separate statistics relating to immigrant children seeking such assistance as from September 1994. We can supply these when available.

WRITTEN ANSWERS — *Continued*

Annex V

Follow-up answer by the Secretary for Planning, Environment and Lands to Question 9 asked by Miss Emily LAU

The outcome of Environmental Protection Department's further investigation into the cause of the shortage of unleaded petrol (ULP) at some petrol stations is as follows:

(a) The temporary shortage of ULP at some stations was due to a structural problem with the main storage facility at an ESSO depot.

(b) The petrol stations therefore have a good defence under section 26C(2) of the Air Pollution Control Ordinance (Cap. 311).

(c) The Attorney General's Chambers have advised that, under these circumstances, a prosecution should not proceed.

The EPD will discuss with the petrol suppliers appropriate arrangements to prevent similar events occurring in future.