

**OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 25 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 MRS ANSON CHAN, C.B.E., J.P.

THE FINANCIAL SECRETARY

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

THE ATTORNEY GENERAL

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

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

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

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

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

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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.

DR THE HONOURABLE HUANG CHEN-YA

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

DR THE HONOURABLE LAM KUI-CHUN

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

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

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

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

THE HONOURABLE ALFRED TSO SHIU-WAI

**ABSENT**

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

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

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

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

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

THE HONOURABLE MICHAEL HO MUN-KA

THE HONOURABLE STEVEN POON KWOK-LIM

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

DR THE HONOURABLE PHILIP WONG YU-HONG

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

THE HONOURABLE ANNA WU HUNG-YUK

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

**IN ATTENDANCE**

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

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

MR JAMES SO YIU-CHO, O.B.E., J.P.  
SECRETARY FOR RECREATION AND CULTURE

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

MR KENNETH JOSEPH WOODHOUSE, J.P.  
SECRETARY FOR SECURITY

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	<i>L.N. No.</i>
Electoral Provisions (Procedure) (Geographical Constituencies) Regulation .....	284/94
Maximum Scale of Election Expenses (District Boards) Order 1994.....	285/94
Declaration of Numbers of Elected Members of District Boards Order 1994.....	286/94
District Boards (Date of Establishment) Specification 1994.....	287/94
Boundary and Election Commission (Electoral Procedure) (Geographical Constituencies) Regulation .....	295/94
Abattoirs (Urban Council) (Amendment) Bylaw 1994.....	296/94
Commercial Bathhouses (Urban Council) (Amendment) Bylaw 1994.....	297/94
Food Business (Urban Council) (Amendment) Bylaw 1994 .....	298/94
Frozen Confections (Urban Council) (Amendment) Bylaw 1994.....	299/94
Funeral Parlour (Urban Council) (Amendment) Bylaw 1994.....	300/94
Milk (Urban Council) (Amendment) Bylaw 1994.....	301/94
Offensive Trades (Urban Council) (Amendment) Bylaw 1994.....	302/94
Shipping and Port Control Regulations (Amendment of Schedules) Notice 1994 .....	303/94
Slaughterhouses (Urban Council) (Amendment) Bylaw 1994 .....	304/94

Swimming Pools (Urban Council) (Amendment) Bylaw 1994.....	305/94
Undertakers of Burials (Urban Council) (Amendment) Bylaw 1994.....	306/94
Dutiable Commodities (Liquor Licences) (Specification of Fees) (Urban Council Area) (Amendment) Notice 1994.....	307/94
Tax Reserve Certificates (Rate of Interest) (No. 2) Notice 1994.....	308/94

#### Sessional Paper 1993-94

No. 84 — Regional Council Revised Estimates of  
Expenditure 1993-94

### Oral Answers to Questions

#### Air conditioning plant and cooling towers

1. MR LAU CHIN-SHEK asked (in Cantonese): *Regarding the installation of air-conditioning plants and cooling towers on the external walls of buildings, will the Government inform this Council of the following:*

- (a) *what legislation is in place to control these installations as well as the repairs and maintenance of their supporting frames and structures;*
- (b) *how the relevant legislation is being enforced and whether buildings are inspected on a regular basis to ensure that such installations are in compliance with the statutory safety requirements; and*
- (c) *the number of prosecutions relating to such illegal installations in each of the past three years?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) The installation of supporting frames for air conditioning plant and cooling towers constitutes building works and is subject to the provisions of the Buildings Ordinance. Prior approval from the Building Authority for commencement of work is required.

After installation, owners have a duty to keep and maintain their installations in a safe and sound condition. If they are found to be dilapidated or in hazardous condition and by this I mean, I am referring, of course, to the installations and not the owners. If they are found to be in a dilapidated or hazardous condition due to the lack of maintenance, the Buildings Department will take action under the Buildings Ordinance.

- (b) The Buildings Department takes action against unauthorized air conditioning cooling towers in large scale clearance operations and in individual cases where danger to life and property exists.

The Buildings Department is not able to inspect every building in Hong Kong on a regular basis. This is the responsibility of the owners in any case.

- (c) In the past two years the Buildings Department has issued 1 289 advisory letters to owners requesting them to remove unauthorized air conditioning cooling towers voluntarily and has achieved almost 60% compliance. Enforcement Orders under section 24(1) of the Buildings Ordinance have subsequently been issued to owners who fail to carry out removal work voluntarily. Of the 528 enforcement orders issued, 377 have been complied with and the remainder are being followed up.

No prosecution of owners of unauthorized air conditioning cooling tower installations has been undertaken in the past three years.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, according to the Administration, since May this year, it has been conducting a two-month inspection in Chai Wan and San Po Kong of unauthorized cooling towers installed on external walls of buildings, and that it has advised factory owners concerned to remove such installations. May I ask the Secretary for Planning, Environment and Lands how much time would be given to the factory owners to remove their unauthorized cooling towers in the wake of the inspection and the issue of advisory letters? Should the relevant owners refuse to remove the installations, how and when would the Administration take action against them?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the question of the amount of time to be given is very much an operational matter for the Building Authority to decide and I cannot, off the cuff, give a direct answer to that particular part of the question. I will, however, provide that in writing, if that is acceptable. (Annex I)

As regards action, the process follows along these lines. Owners are given notice or advisory warnings and then given time to carry out removal

voluntarily. When they do not take action voluntarily, the statutory process of issuing orders for the removal of unauthorized works under the Buildings Ordinance begins. Once again, this is a process which will enable the owner of the unauthorized structure to remove the structure, and should he fail to do so, the Building Authority then can order the removal of the structure which will be carried out by a government contractor and the costs for that work can then be recovered from the owner.

MR TAM YIU-CHUNG (in Cantonese): *Mr President, will the Administration inform this Council of the number of accidents caused by air-conditioning plants or cooling towers that have come loose and fallen down, the number of casualties involved and the extent of their injuries over the past three years?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the information I have is that in the past two years there were two reports of air conditioning cooling towers falling onto lanes and streets. But nobody was hurt.

DR CONRAD LAM (in Cantonese): *Mr President, in his main reply, the Secretary for Planning, Environment and Lands said that due to limited manpower resources, the Buildings Department is not able to inspect every building in Hong Kong on a regular basis. Will the Administration then secure the relevant information from the Environmental Committees under District Boards by way of their operations and advice for the Secretary for Planning, Environment and Lands to ameliorate the problem?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, this is certainly a current practice and I think even earlier this week the Buildings Department has reminded district boards in particular, specifically that dangerous appendages to buildings can be reported immediately to the Buildings Department. There is a hotline number, which I unfortunately do not have with me at this moment. But there is certainly a high degree of co-operation between building owners, mutual aid committees, owners corporations, district boards and other organizations in feeding the Buildings Department with this sort of information.

DR SAMUEL WONG: *Mr President, could this Council be informed whether there are limitations to the size or weight of air conditioning plant and cooling towers that can be installed on supporting frames or mounted on external walls or windows of buildings? If so, what are the limitations?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I think this is a matter of detail for the specific case and I am certain that when plans are submitted for the erection of such structures, the intention as regards what the structure is to carry will be taken into account by the Building Authority in considering the plans.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, the Secretary for Planning, Environment and Lands said in section (b) of the main reply that "the Buildings Department is not able to inspect every building in Hong Kong on a regular basis. This is the responsibility of the owners in any case." We know that when accidents occur, there may be casualties and all we can do is to prosecute the owners. What the Administration has not answered in my previous question is: If the owners of the unauthorized structures fail to carry out removal within the specified time, when can the Secretary for Planning, Environment and Lands step in and carry out the removal for them? Could the Administration inform this Council of the time frame in question?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: I think the response time, Mr President, to the reports of structures which appear dangerous or which may be discovered during some of the inspections which are of course carried out by the Buildings Department, is very rapid. I cannot give you an exact time of that. But I think I can also confirm that should, upon such an inspection, it be clear immediately to the inspector that a dangerous situation exists, then immediate removal action by a contractor can be arranged.

PRESIDENT: Not answered, Mr LAU?

MR LAU CHIN-SHEK (in Cantonese): *Mr President, I find the Administration's reply very unsatisfactory. Should the Administration fail to impose any time limit on the owners for removal of their unauthorized cooling towers, nor any specified time for itself to carry out removal for the owners when it finds that the unauthorized structures are still unremoved on further inspections, the dangerous structures will continue to be there, will they not?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I sense that we are talking about two distinct situations here. The first is a situation in which there appears to be some potential danger from an unauthorized structure. The reaction to that situation is for it to be inspected and normally, if it is decided by the Buildings Department that the structure needs to be removed, then the owner will be given an opportunity to remove it. The purpose of that of course is to avoid passing the responsibility for this sort of action and expenditure to the taxpayer without giving the owner an opportunity to fulfil his responsibilities.

The second situation is where it is discovered that there is an immediate risk. Under those circumstances I think it would be imprudent to give the owner notice of any length of time that he should remove the structure because in the meantime, of course, there may be a serious risk to life. So immediate removal is the preferred option there.

### **Housing Department's rejection of application for use of venues to show documentary**

2. DR CONRAD LAM asked (in Cantonese): *In view of the Housing Department's rejection of an organization's application for the use of its venues to show a documentary entitled "The Last Emperor — Chairman MAO" on the ground that there is objection from "a group of local residents", thus denying the public of their right of information, will the Government inform this Council what criteria are used by the Housing Department in considering applications for the use of its venues?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, in public housing estates, community functions and activities such as carnivals, festive celebrations, film shows, exhibitions, civic education programmes, and so on are often organized by bodies such as mutual aid committees and local community organizations in conjunction with government departments or non-government organizations. Functions that attract large crowds are normally held in spacious venues such as open spaces or ball courts, while performances and film or video shows are usually held in estate community halls where facilities suitable for such purposes are provided.

In considering applications to use venues in public housing estates for community functions, public safety matters, including crowd control aspects and suitability of the proposed venue for the activities to be held, are taken into account. The application in question was declined by the Housing Department on the basis of the criteria I have described. The question of the public's "right of information" was not at issue.

DR CONRAD LAM (in Cantonese): *Mr President, in the second paragraph of his reply, the Secretary for Planning, Environment and Lands mentioned a number of criteria of the Housing Department, including public safety, crowd control and suitability of the proposed venue for the activities to be held. To my knowledge, someone has challenged the Housing Department of such "criteria", or excuses in my view, and proved that such "criteria" were totally invalid. My question is: Would the Government consider bringing this case to the attention of the Commissioner for Administrative Complaints for his investigation into whether there had been any maladministration in respect to the fact that staff of the Housing Department had abused their power by making use of the unfounded excuses?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I am not aware of the challenge or the establishment of the grounds that the Honourable Member refers to, and I do not think in the normal course of events it would be for me to invite the Commissioner for Administrative Complaints to investigate the circumstances.

I should add that the film in question has been shown in public housing estates. In at least two cases it has been shown in community halls and this, of course, fits completely and squarely with the basis that I have described and upon which Housing Department estate managements decide as to whether the particular event can take place in the venue proposed.

DR HUANG CHEN-YA (in Cantonese): *Mr President, it was in fact not an individual case as Hong Kong Island South had seen several similar incidents. One of which involved a certain housing manager who was biased towards members of the Democratic Alliance for the Betterment of Hong Kong and purposely removed banners of the United Democrats of Hong Kong, on the grounds that the Housing Department had the power to do so. I would like to know whether the Government accepts that it allows the Housing Department's using such grounds to curtail the interests of the public, which enables the department to become a kingdom of its own and be able to do something even the Government may not be able to do, but practically restricting the public's right to know the truth?*

PRESIDENT: Dr HUANG, which part of the Secretary's answer do you want elucidated?

DR HUANG CHEN-YA: *Sorry?*

PRESIDENT: Which part of the Secretary's answer do you want elucidated?

DR HUANG CHEN-YA: *I wanted to ask, in fact with the pattern of behaviour from the Housing Authority, whether the Government sees that the Housing Authority is in fact having a misuse of its power to restrict the rights of the public?*

PRESIDENT: I think you are out of order on that one in terms of the actual question and answer.

DR HUANG CHEN-YA: *Can I reframe it?*

PRESIDENT: Yes, please.

DR HUANG CHEN-YA: *Later on.*

REV FUNG CHI-WOOD (in Cantonese): *Mr President, it was the intention of my ward office to hold evening gatherings on 2 and 3 June at the amphitheatres in Tin Ping Estate, Sheung Shui and Fu Shin Estate, Tai Po, in memory of the June 4th Incident. However, the Housing Department turned down our applications. I would like to know the reasons why. Also, in the second paragraph of his reply, the Secretary for Planning, Environment and Lands said, "In considering applications .... public safety matters, including crowd control aspects .... are taken in account." Will the Government inform this Council whether the Housing Department had consulted the police for their professional opinion, or whether it had merely acted arbitrarily and refused permission for the holding of events which were regarded a bit sensitive?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the function of the Housing Department in managing estates is more than simply to approve applications for events to take place within the areas of the estate. The function is to ensure that the possibility of nuisance to residents, the question of inconvenience to customers of shops and other facilities in estates, that the adverse effects on normal trading and other activities of occupants of shopping centres and estates, and that concerns of residents that they should have unimpeded and unrestricted use of their facilities are taken into account. So it is, in a sense, not just an authority for approving activities. It has a wider concern. I believe in exercising its functions, its experience and also its regular discussions with local police officials will enable it to make a balanced judgement.

DR HUANG CHEN-YA (in Cantonese): *Mr President, I would like to raise my reframed question. It seems that the Government accepted the Housing Department's explanation that no permission was granted for such film shows because of considerations such as crowd control and suitability of venues. Such is only one of many instances. The fact is that the Housing Department was interfering in politics and exercising political judgement. Will the Government inform this Council whether it accepted the Housing Department's explanation forthwith, or whether it accepted the explanation only after having conducted some investigation to see if there were sufficient grounds?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I am not certain on what basis the Honourable Member has concluded that the Housing Department is exercising political judgement. I do not think the Housing Department has any particular interest in a particular

group or a particular applicant for activities in housing estates. Its main concern is for the residents to whom it is responsible for management of the estate. And I think that the criteria that I have explained are reasonably clear.

I have also pointed out that it has been possible for the particular film which was the subject of this question to be shown in housing estates. Therefore I feel that the record on this is quite clear and I do not think that at this stage I can accept the premise that there is bias or political judgement being exercised by the Department.

PRESIDENT: Yes, Dr HUANG?

DR HUANG CHEN-YA (in Cantonese): *Mr President, the Secretary for Planning, Environment and Lands has not answered my question. My question is whether the Government had made any thorough investigation; whether the Housing Department had abused its power, and whether the Government had only listened to, and accepted forthwith, the department's words and allowed the department to become a kingdom of its own?*

PRESIDENT: Are you asking whether in this particular case, the showing of this film, the Administration did its own check? Is that the question, Dr HUANG?

DR HUANG CHEN-YA: *Yes. It is because the Administration seems to be answering on behalf of the Housing Authority and I wish to know whether in fact the Administration checked on this particular case to verify whether or not the Housing Authority was having a misuse of its power; or did the Administration just accept the words of the Housing Authority and take it at face value?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I am satisfied that in this case the Housing Authority and the Housing Department were not abusing their power.

DR HUANG CHEN-YA: *Mr President, I do not understand what he means by that.*

PRESIDENT: I am sorry, we have to move on.

MR MAN SAI-CHEONG (in Cantonese): *Mr President, according to members of the Housing Panel of the Legislative Council, under the same circumstances, the showing of "The Last Emperor — Chairman MAO" was approved in some housing estates, whereas in others, it was not. Can the Secretary for Planning, Environment and Lands give his word to this Council that he would look into this matter and give instructions to the departments under his policy branch that matters of similar nature should be treated equally and consistent criteria should be applied to every case, and that there must not be any political discrimination or any political screening of, say, the content of the film?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I have examined all the cases in which applications were made for this film to be shown and it is clear to me that in each case careful consideration has been given to the criteria I mentioned in reaching decisions. I have, of course, pointed out twice already that the film has been shown in a number of estates and therefore I am not clear as to what further there is to investigate.

As again I have said on previous occasions as regards questions in relation to the Housing Authority, I am sure that the Housing Authority will take careful regard of what has been said about this matter in the Chamber this afternoon, and will consider whether it should have any bearing on the current arrangements in place for considering applications to hold events in housing estates.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, will the Secretary for Planning, Environment and Lands inform this Council in clear terms whether the Administration has any mechanism to effectively prevent the Housing Department from abusing or misusing its power with regard to applications for the use of venues?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Well, I think the operations and the work of the Housing Department is clearly the responsibility of the Housing Authority and if there are any problems in relation to the work of the Housing Department they can be brought to the attention of the Authority. I am sure that the Housing Authority will give full attention to any complaints or reports of problems of that kind.

### **Interception of telecommunications**

3. MISS CHRISTINE LOH asked: *Section 33 of the Telecommunication Ordinance (Cap. 106) provides that the Governor, or any authorized public officer, may order an interception of telecommunications whenever he considers that the public interest so requires. Will the Government inform this Council of:*

- (a) *the definition of “public interest” in this context, and the “public officers” who have been authorized to order interception of communications;*
- (b) *the conditions for authorizing such interception, including any guidelines on how the intercepted information is to be used; and*
- (c) *the number of warrants granted in the past three years for telecommunications interception, and the effective periods of these warrants?*

SECRETARY FOR SECURITY: Mr President, as regards part (a) of the question, in this context “public interest” is defined as the prevention or detection of serious crime, including corruption, and monitoring threats to our security. The Governor is the final authority for all interceptions. However, to cater for circumstances where the need for an interception is urgent and the Governor is not readily available, he has delegated this authority to two public officers: in respect of criminal investigations and threats to security, the Director of Special Branch; and in respect of corruption matters, the Head of Operations of the ICAC. All such cases are placed before the Governor for his approval at the next available opportunity.

As regards part (b) of the question, the Governor only authorizes an interception in conditions where he deems the public interest so requires. These could be to prevent or detect a serious crime, such as an armed robbery or a kidnapping, or to investigate a case of corruption, or to monitor a threat to our security, for instance the activities of a terrorist group. The police and the ICAC have standing orders and guidelines which strictly control the numbers of persons permitted access to information obtained from an intercept, the distribution and disposal of material arising from an intercept and the conduct of operations. These internal instructions have the highest security classification and are not for public dissemination.

As regards part (c) of the question, this is an operational matter and the public disclosure of detailed figures would serve to make the jobs of the Police Force and the ICAC in the prevention and detection of serious crime, which includes corruption, more difficult. Criminals and others who do not have the best interests of Hong Kong at heart should not be able to estimate, however approximately, the extent to which lawful interception takes place. Much of the work of the police and ICAC relies on informants and extreme confidentiality. Revealing details of the number of interceptions would have the effect of making this work more difficult. I regret, therefore, that I cannot give the numbers of warrants granted. However, I can reveal details of the duration of warrants. The period of a warrant’s effectiveness depends on operational circumstances and can vary from a matter of a few hours, for example in a kidnapping case, to up to six months.

Mr President, I have tried to reply to this question as openly as possible and I will provide such factual information as I properly can on telephone interception in reply to supplementaries. However, it is possible that some supplementary questions may encroach into sensitive areas. If this happens, and depending on the nature of the question, I may have to decline to answer the question. I hope that Members will appreciate the reasons for such a response, if it proves necessary.

PRESIDENT: Before we go to supplementaries, I might just remind Members of Standing Order 18(1)(f) which reads:

“A question shall not seek information about a matter which is of its nature secret.”

MISS CHRISTINE LOH: *Thank you, Mr President. I would like to ask for one clarification and one question on the first part of the Secretary's answer.*

*As far as the clarification is concerned, the delegation of this power from the Governor to officers; we know, recently, that the Governor seems to delegate almost all his powers under some circumstances, so I would really like to know a little bit more about this delegation process. In fact, in the first instance, how much of those cases are really looked at by the Governor himself?*

*And my main question is: what safeguards are there to prevent abuse? For example, in the United Kingdom they have legislation which requires the person making the decision to firstly consider that the crime had to be really serious and normal methods had to have been tried and found unsuccessful, and that there had to be good reasons for believing that a conviction would result from the evidence obtained by the interception. Are there any such criteria in Hong Kong? If not, why not?*

SECRETARY FOR SECURITY: Mr President, as regards the clarification, all cases are placed before the Governor.

As regards safeguards, Mr President, there are a number of safeguards built into our procedures. Most importantly, all telephone intercepts are authorized by the Governor. He requires detailed justifications to satisfy him that they are necessary, that the information cannot be obtained by any other means, and that the intercepts are in the public interest. This authorization is not lightly given. Warrants authorizing the intercepts under section 33 of the Telecommunication Ordinance include details of the scope and duration of the intercepts and to whom information obtained from them may be disclosed. Warrants are valid for a limited duration. If there is a need for an individual intercept to be renewed, justification has to be made afresh. Once individual intercepts are no longer needed, they are cancelled. If individual intercepts are

subsequently needed again, they again have to be justified. The number of persons having access to the information obtained from the intercept is limited to the minimum necessary and is very strictly controlled. The distribution and disposal of material arising from intercepts is also strictly controlled and once no longer required, is destroyed.

Both the police and the Independent Commission Against Corruption, the only departments which carry out telephone interception, have very detailed instructions on the conduct of telephone intercept operations. These internal instructions, the warrants and justifications and any material arising from intercepts, have the highest security classification and are handled accordingly, with access being limited to those with a need to know.

As regards the use of telephone intercept information in court cases, this depends on the circumstances of the situation and it is impossible to give a general answer to that.

As regards the final part of the question regarding the situation in the United Kingdom, we have asked the Law Reform Commission, as part of its examination of the existing legislation relating to privacy, to consider section 33. This will be one of the issues which the Law Reform Commission will address. The position at present is covered by the Telecommunication Ordinance and of course there are also provisions in the ICAC Ordinance as well, which affect operations in respect of that body's work.

I imagine that when it looks at the powers and functions of the ICAC, the Review Committee will want both to consider the work that has already been done by the Law Reform Commission and may wish to look at the subject itself, quite independently. It will bring forward recommendations and the Law Reform Commission will bring forward recommendations, too, and we will consider them. If an organization such as the one referred to by the Honourable Member is proposed by either of those or both of those recommendations, then I am sure that it will be considered seriously.

MR ANDREW WONG (in Cantonese): *Mr President, the reply just furnished by Mr WOODHOUSE is much more detailed than the original reply. In fact, this question was first raised in 1988 by the Constitutional Development Panel. The Government was aware of the problem at that time. Why is the problem now referred to the Law Reform Commission and still no answer is given? I just want to point out that the term “例如” (which means “for example”) in the first paragraph of the Chinese version of the main reply should be deleted. The explanation provided by Mr WOODHOUSE shows that the English version carries no implication of the term “for example”. It only says that such authority is only delegated to two officers, namely the Director of the Special Branch and the Head of Operations of the ICAC. No other officer will be given such authority. The Honourable Members may check the Chinese version against the English version. No matter whether there should be the term “for*

*example”, will the Secretary inform us of the number of “ad hoc” cases under other circumstances? Which officers have been delegated with the authority to tap wires? It is mentioned in the first paragraph of the main reply that “ ..... are placed before the Governor for his approval at the next available opportunity.” I wonder when the “next available opportunity” will arise. Mr WOODHOUSE subsequently points out that the targets and details of the investigations have to be placed before the Governor. Will the Secretary enlighten me on the circumstances under which the Governor will be involved? Is the investigation carried out beforehand?*

PRESIDENT: I think you had better actually put the questions directly, Mr WONG. What are the actual questions? *(Laughter)*

MR ANDREW WONG: *Mr President, the question is simply that, which other officers have been authorized in the past, say, five, six or seven years, in addition to the two officers concerned, to tap wires, and how soon have the cases been laid before the Governor for his approval or for his retrospective endorsement?*

SECRETARY FOR SECURITY: Mr President, in respect of the first part of the question the answer is, none. There are two officers to whom the power is delegated, no one else.

In respect of the second part of the question, I hope I made it clear that it was only in exceptional circumstances that a decision was taken and then brought before the Governor at the next available opportunity. I am afraid, once again, that means literally what it says: at the next available opportunity. I cannot give a time. It just means that as soon as possible.

MR ERIC LI: *Mr President, the Secretary for Security in his earlier reply stated that there are sufficient safeguards against abuse. These safeguards assume the Governor will interpret the question of public interest and supervise its operation. But the legislation actually empowers the Governor himself to make such an order. In those circumstances what are the safeguards and how does the Governor actually justify his case?*

PRESIDENT: I am sorry, I did not understand the question, Mr LI.

MR ERIC LI: *My question is that, in the Secretary for Security’s reply he says that the safeguards are founded on the fact that the Governor has actually got to authorize it ultimately and he actually supervises the way it is being operated. But in the actual legislation, in section 33, the Governor himself may make that*

*order and in that case it seems to me that he does not seem to be required to account his case to anybody, nor to justify his case to anybody. In those circumstances, without legislation, how can one ensure that there are safeguards?*

PRESIDENT: Are you able to answer, Secretary?

SECRETARY FOR SECURITY: I am not sure that I understand the question, Mr President, but if the Honourable Member will allow me, I will attempt to answer it.

The Governor will decide on the basis of threats to our security or a major criminal matter, as I have explained in my main answer; that decision rests with the Governor. As I explained in the clarification sought by the Honourable Member who posed the question, if it is proposed by either the Law Reform Commission or the ICAC Review Committee that an organization similar to the one to which you referred that operates in the United Kingdom should be established in Hong Kong, then that is a recommendation that we will give serious consideration to. But as it stands at the moment, the Governor has the ultimate authority to decide on intercepts, and only him.

MR LEE WING-TAT (in Cantonese): *Mr President, in the second paragraph of the main reply, the Government mentions that there are three conditions in which telephone interception will be conducted. The first one is to prevent or detect a serious crime; the second is to investigate a case of corruption and the third is to monitor a threat to our security. The last condition is very vague. Will the Government inform this Council whether it has attempted to monitor the gatherings and demonstrations organized by local political or pressure groups on this ground; and whether the Government considers these activities as threats to our security?*

SECRETARY FOR SECURITY: Mr President, there is no interception of telephone conversations for political purposes. There are of course interceptions in two areas: one of the area is corruption where interceptions have been carried out; and the other is in the area of crime and security where interceptions have also been carried out. But I repeat that right across the board, any interceptions which have been conducted have been within the law and none have been carried out for political purposes.

MR TIMOTHY HA (in Cantonese): *Mr President, will the Government pass the information obtained from interceptions to the future government of the Special Administrative Region?*

SECRETARY FOR SECURITY: Mr President, information gathered as a result of telephone interceptions is destroyed when it is no longer required. Material relating to investigations continuing on the 30 June 1997 will of course be retained, but there will be no suggestion of passing any information over to anyone. Continuing operations will of course continue.

MISS EMILY LAU (in Cantonese): *Mr President, the Government has just replied that there is no interception of telephone conversations for political purposes, but in the main reply, it is stated that telephone interception will be conducted in cases where our security is threatened. On this major premise, has the Government intercepted telephone conversations of the Chinese Communist Party? And, the Government refused to disclose the number of interceptions and claimed that such disclosure will make the work of the Police Force and the ICAC more difficult. Can the Government inform this Council of the reason why the disclosure of the number (whether 100, 1 000 or 10 000) will make their work more difficult?*

PRESIDENT: Secretary, did you catch both questions?

SECRETARY FOR SECURITY: Mr President, as regards the first part of the question, threats to our security include perceived internal political threats. But as I pointed out in my reply to the previous supplementary question, there is no interception of telephone conversations for political purposes.

As regards the second part of the question, I am afraid that I cannot answer that on security grounds.

PRESIDENT: Yes, Miss LAU.

MISS EMILY LAU: *I think the Secretary has not answered the first part of my question, and that is: do you regard the activities of the Chinese Communist Party as a threat to Hong Kong's security? And if you do, then do you monitor their telephone conversations?*

SECRETARY FOR SECURITY: Mr President, it is unpleasant for me to have to refuse to answer questions about security matters. Members know what vital work the police and the ICAC do and how essential is the power of interception in their fight against crime and the protection of our security. I am sure that none of us would wish, by commenting on such matters, to give any advantage to criminals or to any others who pose a risk to public interest. Therefore I am sorry, but once again I cannot answer that question on security grounds.

PRESIDENT: I have got six Members with supplementaries and four of equal standing, so I am going to limit supplementaries to these four.

MR MARTIN BARROW: *Mr President, could the Secretary inform us, firstly, whether or not Hongkong Telecom staff are aware of or play any role in intercept operations? And secondly, can any steps be taken to prevent Hongkong Telecom staff undertaking their own intercepts?*

SECRETARY FOR SECURITY: Mr President, the procedure for intercepting telecommunications is a very sensitive operational issue on which it would be wholly inappropriate for me to comment.

MR WONG WAI-YIN (in Cantonese): *Mr President, Miss Emily LAU has just raised two questions, one of which is the same as my second question. However, the Secretary refused to answer on security grounds. What I want to follow up is that the Secretary has claimed the provision of figures will make the investigation work more difficult, but what are the difficulties that will be encountered? What exactly are the "security grounds" as claimed by the Secretary?*

SECRETARY FOR SECURITY: Mr President, I am sorry, but I cannot add anything more to what I have already said on this subject.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, if the subject of an interception is proved to be innocent in the course of an investigation, will he be informed of the interception after the investigation? And, if members of the public feel that their rights are being infringed, what actions can they pursue to claim damages from the Government?*

SECRETARY FOR SECURITY: Mr President, as regards the first part of the question, I am afraid that I cannot answer that. As regards the second part of the question, the normal channels of enquiry and complaints, including the courts, are available to anyone who believes he or she is the subject of an intercept.

MR JAMES TO (in Cantonese): *Mr President, the Secretary has just said that there is no interception for political purposes. I do not think that this reply is conducive to relieving the public's worries. The term "public interest" in his reply may be interpreted as the prevention or detection of crimes, such as corruption, and may also be defined as monitoring threats to our security. I would like to know whether the political belief or inclination of some political*

*figures, such as the Executive Council or the Legislative Council Members or some senior officials, may pose threats to the security of Hong Kong.*

PRESIDENT: It is not a question yet, Mr TO.

MR JAMES TO (in Cantonese): *Mr President, my question is: whether the Government is of the view that the political belief or inclination of political figures, in particular those who are in power and have political influence, will pose threats to our security, and therefore the Government can conduct lawful interception?*

SECRETARY FOR SECURITY: Mr President, I regret that I have not been able to convince the Honourable Member by my repeated denials that there is no intercept for political purposes but I can merely repeat that. That is the truth. There is no intercept for political purposes.

Telephone interception has been found by governments throughout the world to be an important means available to them in the prevention or detection of serious crime and in maintaining the integrity of their territory's security. The Hong Kong Government is no exception and is able to make use of telephone interception "as provided by law". In practice we have very stringent safeguards to ensure that there is no abuse of the system. Telephone interception in Hong Kong is used only in the prevention or detection of serious crime, including corruption, and in monitoring threats to our security.

I want to make it clear again to Honourable Members that any interceptions are carried out wholly within the parameters of the law. If we wish to change the law, then that is a decision which Members of this Council and the community will take over the coming months and years, but at present anything which is done is done within the law. I would like to also point out that it is the Government which has taken the initiative both in relation to the Law Reform Commission, asking it to review section 33, and the ICAC Review Committee. It is the Government which has taken the initiative to actually review the law in these matters.

MR JAMES TO (in Cantonese): *Mr President, .....*

PRESIDENT: I am sorry, we have got to pass on.

MR JAMES TO (in Cantonese): *Mr President, the Secretary did not answer my question because in his reply, he only .....* *Mr President, I just want to say that I am not raising a question .....*

PRESIDENT: We have already gone 20 minutes on this. We have really got to move on.

### **Extortion on shop operators**

4. MRS SELINA CHOW asked (in Cantonese): *In view of the recent success in eradicating extortion activities on shop operators in Wan Chai, will the Government inform this Council whether the police have also introduced the same method to other districts of Hong Kong; if so, what is the outcome and; if not, what are the reasons for not doing so?*

SECRETARY FOR SECURITY: Mr President, I am grateful to the Honourable Member for drawing attention to the encouraging results of a recent anti-crime operation conducted by officers of Wan Chai District Headquarters. I would counsel, however, that the term eradication of extortion may be a little optimistic. Triad activity, by its very nature, is a cancer on society which requires constant vigilance.

The operation recently undertaken by the police in Wan Chai focused on extortion activities in a newly developed commercial complex. The police maintained close contact with shopowners and restaurant operators prior to the opening of the building, to educate them about the dangers of extortion from triad gangs. The result was encouraging. A number of reports were received from the owners and operators, resulting in the arrest and prosecution of a number of triad members.

The police have reviewed this operation and have arranged for the assessment to be circulated to all anti-triad units throughout the Force. Taking into account the lessons learned from this exercise, similar operations will be launched in the future, depending on the particular circumstances. Individual police districts must, of course, continue to decide on the most appropriate measures to suit the needs in their particular district.

However, Mr President, this is an encouraging example of what we have said many times: together, we can defeat triads. The police are determined to stamp out triad extortion; the co-operation of the public, and their willingness to give evidence, however, remains crucial in tackling this menace to our community.

MRS SELINA CHOW (in Cantonese): *Mr President, I would first like to point out that my original question is in Chinese, and it is about “the methods of successfully cracking down on extortion activities against shop operators”. Regrettably, the English translation of my question has used the word “eradicating”, which I believe is not a very accurate rendering as far as translation is concerned. What I want to follow up is: Since the experience in*

*Wan Chai district has proved that in addition to the good performance of the police, there must also be sufficient police manpower and resources for investigation, persuasion of witnesses to give evidence, effective enforcement and so on, will the Administration inform this Council whether effective operations against triad activities similar to the one carried out in Wan Chai district can be carried out in districts other than those in Hong Kong Island, especially in the newly developed areas in the New Territories?*

SECRETARY FOR SECURITY: Mr President, it is not possible to say with precision the total resources utilized in the operation. The exact costings were, of course, not one of the priorities set out at the beginning of the operation. Numerous officers were involved both in the preparation phase and the overt execution of the plan but these officers were deployed from one district. There were no additional resources deployed.

The Wan Chai operation was not uniquely successful; other police operations have also had very satisfying outcomes. On this particular occasion, good background intelligence, a well-chosen target suitable for this approach, a well-balanced approach to educating potential victims about the problems, and frankly, an energetic and conscientious attitude by the officers concerned, achieved the desired effect. Similar operations will, Mr President, be considered elsewhere whenever the police commanders in the field feel that these propitious circumstances will bring the same results.

MR LEE WING-TAT (in Cantonese): *Mr President, the Secretary has said in the last paragraph of the main reply that "the Police are determined to stamp out triad extortion; the co-operation of the public, and their willingness to give evidence, however, remains crucial". Recently, it has been widely reported that triad members are employed in some construction sites as watchmen and canteen operators. If this is true, will the Secretary think it is unfavourable to the police operations against triads? Has the Administration tried to find out whether such reports are true; and if they are, what will it do?*

SECRETARY FOR SECURITY: Mr President, thank you, I am grateful for the opportunity to respond to that general question. I may, if the Honourable Member agrees, treat it more as a general question than a specific example. Watchmen employed on construction sites or other places are currently regulated under section 5 of the Watchmen Ordinance. Under the provisions a person who knowingly employs or continues to employ any unregistered person as a watchman or to perform any of the duties as a watchman, commits an offence and is liable to a fine of \$1,000 and to imprisonment for six months. At present, in considering granting a watchman's permit the Commissioner of Police has to be satisfied with certain qualities of the applicant, for example, has he any previous criminal convictions, his physical health and matters of that sort. The Societies Ordinance makes it an offence to be an offence bearer or a

member of a triad society, to allow a triad society on the premises, to incite others to become members of a triad society and to procure subscription or aid of a triad society. There is, however, no restriction under the Ordinance for a construction company to employ persons in a construction site who may be triad members.

Mr President, I would like to take this opportunity to emphasize that serious harm will be caused by employing triad members in any business, in particular on construction sites. Triad members do not keep the peace. They prey on the public, they extort from them, they intimidate them and they assault them. Instead of protecting the construction site, they steal valuables, they obstruct normal work, they prey on workers on the site. Mr President, they are a parasite.

Great harm is caused by legitimizing any of the activities of triad members. They do not keep the peace, they prey on the public, they are social pariahs who should be shunned and condemned by all responsible citizens. Their activities destroy fair, open, market competition and encourage corruption. Ultimately, the public as a whole suffers from increased costs passed on in higher prices for goods and services.

MR WONG WAI-YIN (in Cantonese): *Mr President, the last part of the Secretary's main reply says that "the co-operation of the public and their willingness to give evidence, however, remains crucial". In the past, many members of the public were worried that giving evidence would invite retaliations and they considered the police protection of witnesses insufficient. Recently, it has been suggested that a witness protection authority should be set up, but the idea has been turned down by the Secretary for Security. Does the Secretary agree that the setting up of a witness protection authority will win the confidence of the public and help encourage them to give evidence?*

SECRETARY FOR SECURITY: Mr President, in general, I agree with the question that police enforcement action against extortion has been hampered by the reluctance of members of the public to identify themselves as witnesses and to give evidence in extortion cases. This stems, frankly, not only from a fear of subsequent retaliation and a sense of insecurity after the conclusion of the trial, but also from the somewhat pragmatic approach of Hong Kong businessmen who prefer to resolve the problem of extortion by way of compromise rather than confrontation.

We have for many years, Mr President, had a witness protection system operating in Hong Kong. We have never had any problems arising from our ability to protect witnesses. We may be unique in the world in that situation. We have, in the context of our deliberations on the Organized and Serious Crimes Bill, given very full consideration to the recommendations made regarding a witness protection authority. We have concluded that the protection

of witnesses is a matter which arises out of the investigation of, and the fight, against crime. It is, therefore, appropriate that witness protection rests with the disciplined services, and principally the Police Force.

We have presented several papers to the Security Panel of this Council and to the ad hoc group studying the Organized and Serious Crimes Bill on our witness protection arrangements and we are intending to come back to those panels with more information, hopefully, to convince Members that the existing arrangements which we have will be sufficient, first of all to protect witnesses. And then we hope to embark on a large scale programme which we hope will convince members of the public that those arrangements which have been in existence for many, many years and have worked very satisfactorily, can continue to protect them and thereby encourage them to come forward. The particular instance referred to by the Honourable Member who asked the main question is a very good example of what happens when members of the public do come forward and co-operate. We have managed to take prosecution action against a number of triads.

MR JAMES TO (in Cantonese): *Mr President, we think that the police succeed in this instance because they have made active preparations by liaising with shopowners and restaurant operators before the opening of the building concerned and such preparation work enables them to carry out the subsequent operation. Before a building comes into use, the information on its tenants may be regarded as commercial secrets, so can the Administration inform this Council whether it has generally encountered any difficulties in the preparation of such operation, like in obtaining the tenants' information from the landlords?*

SECRETARY FOR SECURITY: I am sorry, Mr President, I am not too sure that I have understood the question correctly. Could I ask the Honourable Member just to clarify it?

MR JAMES TO (in Cantonese): *Mr President, my question is: The police has owed its success in this instance to its being able to get hold of the information of the shopowners and restaurant operators and liaise with them before the opening of the building concerned. However, before a building comes into use, the identities of its tenants are all commercial secrets. Will the Administration have difficulties in obtaining such information when preparing similar operations in other buildings?*

SECRETARY FOR SECURITY: Mr President, thank you for that clarification. In this particular operation, Mr President, the officers involved actually spoke to all of the tenants who were moving into the building in order to ascertain those who were directly at risk. In this particular case they interviewed a very, very large number of people. Having identified those whom they believed to be

likely targets, they then concentrated their efforts on them. There were somewhere in excess of 20 individuals in this category and as a result of their efforts, as I have said, we then were able to mount an operation which resulted in the arrest and prosecution of a number of triads.

MRS MIRIAM LAU (in Cantonese): *Mr President, although the Secretary has said in the third paragraph of the main reply that "individual police districts must, of course, continue to decide on the most appropriate measures to suit the needs in their particular district", given the experience of the successful operation in Wan Chai, will the Secretary inform this Council whether the police has employed the same strategy in other commercial complexes, especially those in the New Territories; if so, what the results are; if not, whether he will consider requesting all police districts to do the same?*

SECRETARY FOR SECURITY: Mr President, in reply to an earlier supplementary I pointed out that the successful operation in Wan Chai was not unique; we have had successes elsewhere in new shopping-complexes in other districts. The Police Force, however, has carefully reviewed the operation in Wan Chai because of the prominence given to it and the success, particularly with regard to the co-operation received from members of the public. They have circulated this widely throughout the force, including the New Territories and the new towns. The objective is, Mr President, that in those areas where the District Commanders feel that the situation will be similar enough to warrant a similar type of operation, they will indeed mount an operation.

In the meantime, we are continuing to give high priority to educating the public about the dangers and consequences of involvement in triad activities, including of course extortion, through the Crime Watch Programme, through APIs on TV, as well as the poster campaigns and publicity sponsored by the Fight Crime Committee, where we have decided to take quite strong action to deglamorize triads. All of these, we hope, will encourage the circumstances which will lead to a similar operation elsewhere.

MR JIMMY MCGREGOR: *Mr President, would it not be practical and sensible for the police in all districts to assume that virtually all small shopkeepers, stall-holders, construction companies, nightclubs, karaoke bars and canteen operators are in fact subject to triad activity, and organize action against the triads on that assumption? In other words, the police should seek co-operation from those already oppressed. Perhaps that is already being done, Mr President.*

SECRETARY FOR SECURITY: Mr President, I am grateful for the suggestion from the Honourable Member but I think he has answered the question for me. This action is already being taken throughout the territory.

## Written Answers to Questions

### Siu Sai Wan Sports Ground

5. MR CHIM PUI-CHUNG asked (in Chinese): *Regarding the Government's plan to build a soccer stadium in Sai Wan Ho on Hong Kong Island, will the Government inform this Council:*

- (a) of the scale of the project and whether the stadium will meet the standard for international competitions;*
- (b) whether it will be a covered stadium; if not, what the reasons are; and*
- (c) whether reference will be made to the experience gained from the redevelopment of the Hong Kong Stadium and the problems that have subsequently emerged, so as to avoid the recurrence of similar problems?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, I presume the Honourable CHIM Pui-chung is referring to the sports ground to be built by the Urban Council in Siu Sai Wan on Hong Kong Island, as there is no plan to build a soccer stadium in Sai Wan Ho.

I would like first to point out that the Siu Sai Wan Sports Ground is not designed specifically as a soccer stadium but as a general sports ground built to international standards. It will comprise an eight-lane all-weather running track, with an in-field grass pitch. Although it is designed for use mainly for athletic meets and soccer matches, it will be suitable and will be made available for community functions as well.

The sports ground will not be fully covered as it is intended as an open air sports venue. It will be provided with a permanent covered spectator stand seating 12 000 people.

The Architectural Services Department, which is in charge of the building of the sports ground, is liaising closely with the Environmental Protection Department (EPD) for advice on the environmental impact of the project so as to avoid any possible noise or other environment nuisance generated by events to be held at this sports ground to nearby residents.

The EPD considers that since this sports ground will only have a limited potential for environmental problems, there is no need for any environmental impact analysis study. The EPD has also given advice on the control measures required during the construction and operational stages to minimize any possible noise impact on nearby residents. The Architectural Services Department will consult the EPD again when the design of the sound system is worked out.

## Renovation of Government House and Fanling Lodge

6. MR LEE WING-TAT asked (in Chinese): *Regarding the renovation of Government House and Fanling Lodge in 1993, will the Government explain in detail the improvement works to the guest rooms and to the security systems costing \$2.78 million and \$6.1 million respectively?*

SECRETARY FOR THE TREASURY: Mr President, the two Category D projects were:

- (a) *Item 135JB — Upgrading of Visitors' Accommodation in Government House (\$2,780,000)*

This project was for work to three guest suites (and en-suite bathrooms), two public rooms and a Gentlemen's Washroom. The bathrooms and washroom have been completely renewed and the other rooms refurbished. These facilities were last renovated 16 years ago.

- (b) *Item 136JB — Security Upgrading to Government House and Fanling Lodge (\$6,100,000)*

Secretary for Security initiated this project, based on recommendations of the Commissioner of Police, arising from the inadequacy of existing security arrangements at the two premises for protection of the Governor and visiting dignitaries.

Works involving improvements to external lighting, and installation of modern security systems both internally and externally, have been undertaken at the Government House (at a cost of \$4,833,000) and Fanling Lodge (at a cost of \$1,267,000).

## Obstruction to pavements caused by illegal extension of retail shops

7. MR ROGER LUK asked: *Will the Administration advise this Council of the measures being taken to tackle the problem of obstruction to shop front pavements caused by the illegal extension of the retail shops, particularly the Chinese herbal and dried marine provisions shops, and how effective these measures are?*

SECRETARY FOR SECURITY: Mr President, the Government is aware of the issue of illegal obstruction of shop front pavements and has taken measures to tackle the problem. A number of government departments are involved, with primary responsibility resting with the police, the Urban Services Department and the Regional Services Department.

The police warn offenders, either verbally or in writing, about any obstruction. They then take action, under the Summary Offences Ordinance, against repeated offenders who obstruct or inconvenience any person or vehicle. Where the obstruction is particularly serious and may cause danger to persons or vehicles, the offenders can be arrested and charged under section 4A of the Ordinance. In the circumstances, the goods causing the obstruction can be seized as exhibits and can be confiscated by the court.

As the executive arm of the Urban Council, the Urban Services Department's responsibility in respect of illegal shop extensions relates mainly to public health concerns. The department takes action against illegal shop extension of licensed food premises and retail outlets, such as Chinese herbal and marine provision shops, as part of its normal street management, when extensions cause health risks and obstruction to cleansing operations. Where evidence exists that the shop extension may involve hawking, the commodities can be seized by the Urban Services Department and confiscated by the court on conviction, in addition to any fine imposed.

The department also periodically mounts large scale campaigns to educate the public about the problems and dangers of illegal shop extensions in the light of public health concerns. Publicity is given to any follow-up enforcement and prosecution action. On a regular basis, enforcement action against shop front extension of licensed food premises is taken by Health Inspectors under the Public Health and Municipal Services Ordinance.

The Regional Services Department also tackles the illegal obstruction of shop front pavements. A Working Group set up under the Regional Council has recommended the deployment of additional resources to step up enforcement action by the department and that higher priority be accorded to the issue.

The department is planning to establish special teams dedicated to the control of illegal shop extension in Tsuen Wan, Tuen Mun, Yuen Long, Sha Tin and Tai Po Districts, taking into account the experience of a six-month trial scheme in Tuen Mun which has proved to be effective.

The total number of summonses issued by the police and the prosecutions taken out by the two municipal services departments in 1993 are set out below:

	<i>No</i>
Number of summonses issued by the police under the Summary Offences Ordinance	13 189
Number of prosecutions taken out by USD staff for unauthorized occupation of pavements under the Summary Offences Ordinance and the Public Health and Municipal Services Ordinance	7 928

No

Number of prosecutions taken out by RSD staff for unauthorized occupation of pavements under the Summary offences Ordinance and Public Health and Municipal Services Ordinance	6 734
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We consider the existing measures to be generally effective and will continue our efforts to tackle illegal obstruction on pavements.

### **Mainframe computers in government departments**

8. MR ROGER LUK asked: *Will the Administration inform this Council of the criteria used in approving the installation of mainframe computers in government departments vis-a-vis the use of bureau data processing service provided by the Information Technology Services Department (ITSD); and how often these criteria are reviewed given the current pace of technological development in data processing and the increasing demand from users?*

SECRETARY FOR TREASURY: Mr President, the decision whether to install a mainframe computer or to make use of the ITSD service bureau will depend upon the circumstances of each case. The decision will usually be based upon the results of a departmental information systems strategy study and will take into account the size, number and nature of the applications to be run on the computer system, the operational needs of the client department and any other users, and the latest computer technology. Above all, the decision will be designed to meet the department's IT needs in the most efficient and cost effective manner.

As a general guideline, new computer applications will be placed on the ITSD service bureau where the department concerned does not already have its own computer system (excluding microcomputers) and where the applications:

- do not have very large processing requirements,
- share or are likely to share data, functions or specialized software with other applications or other users,
- need extended operating hours, or
- require high security arrangements.

These guidelines are reviewed periodically. In deciding how best to meet a department's IT needs, ITSD will also take into account developments in information technology, industry standards, and current bulk contract prices for hardware and software.

### **Viewers' right to choice of television programmes**

9. MR CHEUNG MAN-KWONG asked (in Chinese): *The recent broadcast by the two Chinese television channels of the same programme within the same time slot totally disregards the viewers' right to have a choice of programmes. Will the Government inform this Council:*

- (a) whether the existing broadcasting policy is able to effectively prevent unhealthy competition between television stations; if not, whether the Government will review and revise the relevant policy; and*
- (b) whether the existing broadcasting policy effectively protects the viewers' right and interests, so that they can have a wide range of choices and diversified broadcasting services; if not, whether the Government will review and revise the relevant policy?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, the Government is well aware of public concern created by the recent broadcast by both TVB and ATV on their respective Chinese television channel of the "Judge PAO" drama series in the same time slot.

However, before I answer the questions raised by the Honourable CHEUNG Man-kwong, I would wish to point out that the Television Ordinance does not allow for pre-censorship of any TV programmes by the Broadcasting Authority (BA). This power was removed at the specific request of Members of this Council when the Television (Amendment) Bill 1993 was debated. The main aim in removing this power from the Broadcasting Authority is to safeguard freedom of expression and information and I fully endorse this.

Hence, the choice and scheduling of programming are entirely at the discretion of the broadcasters provided they observe the codes of practice. Our existing broadcasting policy does not aim at interfering with programming decisions taken by the broadcasters, and there is no provision in the codes of practice directed specifically against unhealthy competition between different television stations.

The BA was, however, disappointed and concerned with the "Judge PAO" incident, as it was clear that the two stations had failed to take the interests of viewers into account and their action had deprived the public of programme

choice. The BA was well aware that the public was upset as it had received over 500 complaints so far.

Having regard to public concern, the BA held a special meeting on 19 May to seek clarification from TVB and ATV. Following this meeting, the BA had decided to review the code of practice on programme standards, in particular on the issue of competitive scheduling of programmes against the public interest, in the mid-term review of TVB and ATV's licences which is currently in train.

The objective of our broadcasting policy is to provide the public with a wide choice of quality television programmes for information, education and entertainment. But in pursuing this policy objective we have to balance against the need to ensure the broadcasters' freedom to broadcast. I am confident the BA will be able to maintain this balance when reviewing the code of practice on programme standards in the course of the mid-term review of TVB and ATV's licences.

### **Staff appraisal system of the Hong Kong University of Science and Technology**

10. MISS EMILY LAU asked (in Chinese): *The Hong Kong University of Science and Technology has taken the unconventional measure to terminate its contracts with a group of lecturers whose performance has been considered unsatisfactory and suspend salary increments in respect of another group of lecturers whose performance is to be subject to observation for another year pending reappraisal. Will the Government inform this Council whether the University and Polytechnic Grants Committee will recommend this appraisal system to other tertiary institutions so as to ensure the excellent quality of their lecturers?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the measures taken by the Hong Kong University of Science and Technology recently regarding the appraisal of the performance of its academic staff are not "unconventional". We understand that similar, though not identical, appraisal systems and practices are already adopted by the other institutions of higher education in Hong Kong which are funded by the University and Polytechnic Grants Committee (UPGC).

The UPGC-funded institutions are independent statutory bodies which enjoy full institutional autonomy in the selection, recruitment, appraisal, retention and management of their staff. The UPGC, therefore, would not normally recommend the adoption of any particular method of staff appraisal or staff management by the institutions. The Committee does, however, monitor the effectiveness of the processes by which the institutions evaluate and maintain

standards and encourages the institutions under its purview to share experience in quality assurance including performance appraisal systems.

### **Blacklisting companies with repeated convictions**

11. MISS EMILY LAU asked: *Regarding the District Court's decision on 20 April 1994 to fine a dockyard company \$100,000 for illegally dumping 750 cubic metres of mud near Stonecutters Island and bearing in mind that the company concerned has 12 previous convictions, will the Administration inform this Council whether there are plans to blacklist repeated offenders so that they cannot bid for government contracts?*

SECRETARY FOR WORKS: Mr President, yes, there are plans to blacklist contractors with repeated breaches of the various environmental ordinances. Internal instructions are being drafted by Works Branch specifying regulatory action against such contractors, including suspension from tendering for government contracts.

In respect of illegal marine dumping, the Environmental Protection Department has launched a marine dumping plan in May 1991. It involves removing vessels from the approved list, revoking licences to dump and refusing to issue dumping licences to repeated offenders.

The prosecution of repeated offenders in the district court, where higher fines can be imposed, also serves to strengthen the deterrence of illegal dumping.

The fine of \$100,000 imposed on 20 April 1994 was actually in respect of an offence committed two years ago on 26 March 1992. We have noted that the contractor has considerably strengthened the management of its marine dumping operation since its last conviction in June 1992, and there has been no alleged offence associated with this particular contractor for the past two years. In view of the above, we consider it inappropriate to blacklist the contractor at this stage.

In the longer term, we expect further deterrence against illegal dumping with the replacement of the United Kingdom Dumping at Sea Order. We aim in 1994 to introduce to the Legislative Council a new law that will bring the penalties for marine dumping offences into line with penalties under other environmental laws in Hong Kong. Under the proposed bill the maximum penalty will be \$200,000 fine and six months' imprisonment for a first and \$500,000 and two years for a repeat offence. The proposed legislation will also overcome difficulties associated with the application of the existing statutory provisions and clear up the imprecise areas in the Order.

**Elderly and woman health centres**

12. DR LEONG CHE-HUNG asked: *In view of the fact that the first elderly health centre and woman health centre will soon come into operation, will the Government inform this Council:*

- (a) of its plan to promote this new service to the target groups;*
- (b) of the criteria for granting waivers of fees for this service, whether in full or in part;*
- (c) of the procedure for applying for such waivers; and*
- (d) whether and when this service will be reviewed?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the first elderly health centre and woman health centre came into operation on 4 May 1994.

A press conference was held on 2 May 1994 to publicize these two services. It was well covered by the mass media and attracted a large number of enquiries and bookings from the target groups. In addition, pamphlets and posters introducing the services have been and will be sent to various organizations and agencies serving the respective target groups, for example, social service centres for the elderly and women's interest groups. We are also promoting the services within the General Out-patient Service and Family Health Service of the Department of Health.

The criteria for the waiving of fees for the two services follow those adopted for other services of the Department of Health, that is, on social grounds for those with lack of means. The procedures for application for waiver are also the same. For a Public Assistance recipient, the fee is waived in its entirety on production of a valid Cash Assistance Order Book or a Certificate of Public Assistance Recipients. For other clients, fees may be waived, totally or partially, on the recommendation of a social worker by means of a waiver certificate. In exceptional circumstances, authorized officers of the Department of Health (for example, the doctor in-charge) may issue a waiver certificate on social grounds.

The two services are being closely monitored and a review will be conducted in a year's time.

**Students eligible for registration as voters**

13. MR TIK CHI-YUEN asked (in Chinese): *Will the Government inform this Council of the respective number of full-time students in secondary schools,*

*matriculation classes, technical institutes and tertiary institutions who are eligible for registration as voters?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, to be eligible for registration as a voter, one must reach the age of 18 and has ordinarily resided in Hong Kong in the preceding seven years if he or she is not a permanent resident. From the information available, we estimate that the number of full-time students in the current school year who satisfy these registration requirements is as follows:

<i>Institution</i>	<i>Student</i>
Secondary schools	8 100
Matriculation classes	25 600
Technical institutes	7 400
Tertiary institutions	43 800
	-----
Total:	84 900
	=====

### **Bail jumping and absconding**

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

- (a) the total number of cases in which the suspects jumped bail and absconded in the past year;*
- (b) the types of cases involved; and*
- (c) the number of such suspects who were ultimately re-arrested?*

SECRETARY FOR SECURITY: Mr President,

- (a) Since a number of government departments are involved in granting bail, I am unable to provide a more precise figure within the time available. For cases involving court bail, the total number of cases in which the suspect has jumped bail and absconded in the 12-month period from October 1992 to September 1993 is in the region of 1 500.
- (b) Details of the types of cases involving court bail are at Annex.
- (c) The number of suspects who jumped bail and were eventually arrested and sentenced is about 1 100 for the same period.

## Annex

Major types of Cases in which the Suspects have  
Jumped Bail and Absconded in the 12-month Period  
from October 1992 to September 1993

1. Theft
2. Serious narcotics offences
3. Burglary
4. Robbery
5. Fraud and forgery
6. Wounding and serious assault
7. Possession of offensive weapon, arms and ammunition
8. Blackmail
9. Serious immigration offences
10. Sexual offences

**Admission fee for Sam Pui Chau beach**

15. REV FUNG CHI-WOOD asked (in Chinese): *In view of complaints from the public that an admission fee is payable to a private operator for entering the beach at Sam Pui Chau, will the Government inform this Council:*

- (a) *whether it is aware of the matter; if so, under what regulations the operator is permitted to charge an admission fee;*
- (b) *if (a) above involves a tenancy agreement between the Government and the operator, what are the specific details of the tenancy agreement;*
- (c) *how the charging system and the management of the beach are monitored;*
- (d) *whether consideration will be given to adding a clause in the agreement regulating the level of the charges and the management of the beach;*

- (e) *whether the operator will be asked to bring to the knowledge of the public the parts of the beach for which an admission fee would be charged; and*
- (f) *whether there are similar arrangements in other beaches; if so, whether any complaints about such arrangements have been received from the public?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

(a) and (b)

The Government is aware of this case. Two owners of private land near and adjacent to the beach at Sam Pui Chau have been granted licences and tenancies in respect of government land between their lots and high water mark to operate resort facilities which occupy the licence and tenancy areas as well as private land. Occupation of the licence areas, which cover most of the government land in question, is specifically stated in the licence document to be non-exclusive and access to these areas by the public is unrestricted. The fee referred to is being charged for obtaining direct access to the facilities over private land. As alternative access to the facilities and the beach can be obtained by more circuitous routes to the north and south of the private land, beach-goers who wish to use these are able to go into the licence areas without charge or hinderance.

- (c) Control over the management of the beach is exercised through the licence and tenancy conditions. While there is no mention of admission fees in these conditions, the licence conditions provide that the occupation of the licence area is non-exclusive, and the public is allowed to enter freely.
- (d) Although the fees charged are not for entering the licence or tenancy areas but for crossing private land and can be avoided by taking alternative routes, we will consider amending the licence conditions to specifically prohibit the charging of fees for entry to the beach area and to require the licensee to allow the public free access to it. We cannot, however, prevent a private landowner levying a charge for entry onto his land.
- (e) Given that the fee is not charged for entry onto land held under licence or tenancy but for the convenience for crossing private land to get to the beach, it would not be appropriate to request the operator to indicate that there is such a charge.

- (f) We have been unable to establish in the time available whether there are any similar licences or tenancies in other parts of the territory. We are not aware of any complaints about other similar situations.

### **Shortage of Secondary I school places in Tai Po and North District**

16. REV FUNG CHI-WOOD asked (in Chinese): *In view of the anticipated acute shortage of Secondary I school places in Tai Po and North Districts in 1994-95, which will result in large numbers of students in the districts having to travel a long way to attend school outside the districts, will the Government inform this Council:*

- (a) *of the reasons for the acute shortage of Secondary I school places in these two districts;*
- (b) *what measures will be taken by the Administration to tackle this problem; and*
- (c) *whether there are any plans to build new secondary schools in Tai Po and North Districts or to relocate secondary schools elsewhere to these two districts; if so, what are the details of the plans; if not, what are the reasons for not doing so?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) Under the existing policy, Secondary I school places are provided on a territory-wide basis, that is, shortfall in one district is met by surpluses in adjacent districts. Additional new schools will be built only if there is a persistent shortfall in the territory as a whole. However, in planning the location of new schools, priority is given to districts which have serious shortfalls. The shortage of Secondary I school places in Tai Po and North District is due to the rapid increase in population in the two districts and the lead time required for building new schools.
- (b) To address the shortage of Secondary I school places in Tai Po and North District, an additional 13 classes in schools within the two districts will be operated in September 1994. In addition, arrangements have been made for a new school scheduled for completion in Tai Po in 1996 to start operation with five Secondary I classes in borrowed premises in Sha Tin in September 1994. Despite these special arrangements, about 600 students in the North and Tai Po Districts will be allocated to schools in the adjacent Yuen Long and Sha Tin districts as well as to schools in north Kowloon. To minimize travelling by the students concerned, schools along the Kowloon Canton Railway route will be selected.

- (c) The current school building programme provides for the construction of eight new schools in the New Territories in the next three years including two schools in Yuen Long and one school each in the North and Sha Tin Districts. Active consideration is also being given to advancing the completion of another new school in the North District from September 1997 to September 1996. Under the school reprovisioning programme, of the seven schools reprovisioned from the urban areas to the New Territories during the past three years, four have been reprovisioned to the North and Tai Po Districts. The Education Department will continue its efforts in identifying additional suitable urban schools for such reprovisioning in the future.

### **Hong Kong Aviation Club activities**

17. MR MARTIN BARROW asked: *On 5 May 1994, the landing of a plane on arrival at Kai Tak was delayed due to the occupation of the runway by a Hong Kong Aviation Club (HKAC) aircraft. In view of the increasing runway congestion at Kai Tak, will the Government take immediate steps to close the HKAC, or examine if the activities of the club could move to Sek Kong?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, the activities of the Hong Kong Aviation Club (HKAC) are regulated closely by the Civil Aviation Department and clearance for recreational flights is conditional on Air Traffic Control at Kai Tak being satisfied, in each case, that they do not pose a hazard to aviation safety or interfere with the scheduled operation of commercial aircraft. On average, the HKAC accounts for approximately 100 of the more than 2 800 aircraft movements at Kai Tak each week.

The delay in the arrival of the commercial aircraft on 5 May followed an instruction from Air Traffic Control to the crew of the flight concerned to carry out a “go around” procedure approximately two miles from touch down. The instruction was given because an aircraft operated by the HKAC took longer than anticipated to clear the runway after landing. The “go around” procedure is the standard practice in circumstances when it is determined that an aircraft should not proceed with its final landing approach to the runway. No one on the ground or in the aircraft was put at risk.

We do not consider that this isolated incident indicates a need to consider closing the club or prohibiting recreational flying at Kai Tak. The continuing growth in the number of commercial aircraft movements at Kai Tak may make it necessary, however, to restrict flights by club members to the least busy hours of the day, such as the early morning.

The suggestion of relocating the HKAC's activities to Sek Kong has been carefully considered. It is not possible for the club to be transferred there on a permanent basis. Nevertheless, the possibility of members having access to the airfield for recreational flying is being examined as a means of reducing demand on scarce facilities at Kai Tak.

### **Chairman of the Securities and Futures Commission**

18. MR CHIM PUI-CHUNG asked (in Chinese): *Regarding the notice given by the Chairman of the Securities and Futures Commission (SFC) to the Secretary for Financial Services of his intention not to renew his contract with the SFC upon its completion at the end of this year, will the Government inform this Council:*

- (a) whether the SFC will localize the post;*
- (b) in the recruitment of the new Chairman of the SFC, whether the priority will be given to candidates proficient in the Chinese language; and*
- (c) with the listing of more and more Chinese state-owned enterprises on the local stock market, whether priority will be given to candidates who are familiar with the operations of China-financed companies?*

SECRETARY FOR FINANCIAL SERVICES: Mr President,

- (a) The chairman of the SFC is appointed by the Governor under section 5(1) of the Securities and Futures Commission Ordinance (Cap. 24). For such an important post, the Government considers it essential to cast the widest possible net in order to find the most suitable candidate available. Thus, before a recommendation is made to the Governor for the appointment of a successor to the incumbent Chairman, both local and overseas candidates will be considered, although obviously it would be desirable to find someone with extensive local experience.
- (b) The recruitment advertisement for the post of the chairman of the SFC, which was placed in local newspapers and in international publications during the past two weeks, clearly stated that while not mandatory, Chinese language skills would be an advantage in considering suitability for appointment.

- (c) In the recruitment advertisement mentioned in (b), it was stated that part of the mission of the SFC is to support the continuing development of the local securities and futures markets, particularly in relation to capital formation for the China region. The Government is mindful of the increasing link between the financial markets in China and Hong Kong. Hence, a candidate's potential contribution in this regard would be one of the factors to be taken into account in the selection process.

### **First Reading of Bills**

#### **PLACES OF PUBLIC ENTERTAINMENT (AMENDMENT) BILL 1994**

#### **DUTIABLE COMMODITIES (AMENDMENT) (NO.2) BILL 1994**

#### **PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) (NO. 2) BILL 1994**

#### **URBAN COUNCIL (AMENDMENT) BILL 1994**

#### **REGIONAL COUNCIL (AMENDMENT) BILL 1994**

#### **CONSUMER COUNCIL (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**

#### **PLACES OF PUBLIC ENTERTAINMENT (AMENDMENT) BILL 1994**

THE SECRETARY FOR HOME AFFAIRS moved the Second Reading of: "A Bill to amend the Places of Public Entertainment Ordinance."

He said: Mr President, I move the Second Reading of the Places of Public Entertainment (Amendment) Bill 1994. The Bill gives full autonomy to the Urban Council and the Regional Council to determine the fees for the issue of licences for places of public entertainment, such as cinemas and children's fairs.

Generally speaking, this amendment Bill shares a similar purpose with four other amendment Bills that I am going to move this afternoon. Let me, first of all, explain the background for the preparation of these amendment Bills.

At present, the Urban Council and the Regional Council do not have full statutory powers to set fees and charges for all the services they provide. Certain fees and charges made under subsidiary legislations require tabling in this Council. Restaurant licence fees and admission charges to swimming pools are just two examples and they may be amended by this Council by resolution within 28 days from tabling.

Given the municipal councils' financial autonomy and their clear public accountability, the case for a mechanism which enables this Council to fetter their authority to determine fees and charges for the services they provide merits reconsideration. The Legislative Council House Committee, having examined the matter, gives its full support for the removal of this mechanism, thereby giving the municipal councils full autonomy for the setting of fees and charges under their purview.

The municipal councils have well established policies for setting fees and charges, based on full cost recovery or partial subsidy, depending on the nature of the services provided. They will continue to ensure that increases which are necessary will be kept to reasonable levels.

The Places of Public Entertainment (Amendment) Bill 1994 enables the municipal councils to determine fees for all licences for places of public entertainment issued by them.

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

#### **DUTIABLE COMMODITIES (AMENDMENT) (NO. 2) BILL 1994**

THE SECRETARY FOR HOME AFFAIRS moved the Second Reading of: "A Bill to amend the Dutiable Commodities Ordinance."

He said: I move the Second Reading of the Dutiable Commodities (Amendment) (No. 2) Bill 1994. The proposed amendments enable the municipal councils to determine fees for liquor licences. The background to these proposed amendments has been explained in my speech moving the Places of Public Entertainment (Amendment) Bill 1994.

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

#### **PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) (NO. 2) BILL 1994**

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

He said: I move the Second Reading of the Public Health and Municipal Services (Amendment) (No. 2) Bill 1994. The proposed amendments cover a range of municipal services, including those relating to swimming pools, offensive trades, food business, slaughterhouses, private markets, hawkers, cemeteries and crematoria. The reasons for these proposed amendment have been given in my speech moving the Places of Public Entertainment (Amendment) Bill 1994.

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

#### **URBAN COUNCIL (AMENDMENT) BILL 1994**

THE SECRETARY FOR HOME AFFAIRS moved the Second Reading of: “A Bill to amend the Urban Council Ordinance.”

He said: I move the Urban Council (Amendment) Bill 1994. This involves only very minor changes to the Urban Council Ordinance to give full autonomy to the Urban Council to determine fees for the attendance by a public officer to some routine matters, such as signing of certificates and alteration of any authorization on behalf of the Urban Council. The rationale for these amendments has been explained in my speech moving the Places of Public Entertainment (Amendment) Bill 1994.

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

#### **REGIONAL COUNCIL (AMENDMENT) BILL 1994**

THE SECRETARY FOR HOME AFFAIRS moved the Second Reading of: “A Bill to amend the Regional Council Ordinance.”

He said: I move the Regional Council (Amendment) Bill 1994. The proposed amendments are similar to those being proposed in the Urban Council (Amendment) Bill 1994. The proposed amendments affect similar services in the Regional Council area. The rationale for these amendments has been given in my speech moving the Places of Public Entertainment (Amendment) Bill 1994.

Thank you, Mr President.

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

#### **CONSUMER COUNCIL (AMENDMENT) BILL 1994**

THE SECRETARY FOR TRADE AND INDUSTRY moved the Second Reading of: “A Bill to amend the Consumer Council Ordinance.”

He said: Mr President, I move the Second Reading of the Consumer Council (Amendment) Bill 1994.

The Bill seeks to remove the Schedule to the Consumer Council Ordinance which stipulates that 25 public utility and transport companies, broadcasters and statutory bodies are outside the purview of the Consumer Council.

The Schedule was introduced when the Ordinance was enacted in 1977. The justification was that, as these bodies were already subject to some special schemes of government control or public monitoring, they should be exempted from the purview of the Consumer Council in order to avoid duplication of monitoring efforts.

Over the years, there have been repeated requests from consumer conscious groups, including the Consumer Council itself, and members of this Council, for the deletion of the Schedule. The Consumer Council feels increasingly inhibited from handling consumer complaints and undertaking research projects concerning some of these bodies and which are of general public concern. At the same time, more and more bodies which are subject to some form of government control or public monitoring are not included in the Schedule and therefore fall within the Council's purview. Some examples are the Stock Exchange of Hong Kong, the Securities and Futures Commission, banks and insurance companies.

We have reviewed the original justification for the Schedule. We find it difficult to justify the continued exclusion of a special class of companies and organizations from the purview of the Consumer Council on the ground that they are already subject to some form of government control or public monitoring. We believe that there is a case for deleting the Schedule.

The Bill will enable the Consumer Council to handle consumer complaints and undertake research projects concerning the bodies now in the Schedule. This will facilitate the Council in performing its consumer protection functions and in meeting the rising expectations of consumers.

We have consulted the 25 scheduled bodies on this legislative proposal. We are encouraged by the broad support given by most of these bodies.

A few of the bodies have expressed concern about a possible duplication of efforts between the Consumer Council on the one hand and the Government and relevant regulators on the other. I believe such concern, though understandable, is misplaced. The Consumer Council is not a market regulator. It does not have regulatory powers. The Consumer Council is a watchdog for consumers, tendering advice to consumers when suppliers of consumer goods or

services fail to do their job properly. The responsibilities of the Government and regulators are laid down clearly either in the relevant legislation, licence, or scheme of control agreement. The Consumer Council will not, and indeed cannot, usurp their role. It will only seek to play a supplementary role to that of the Government and relevant regulators, focussing on matters of general consumer interest which may not have been adequately dealt with through other channels.

Mr President, the scheduled bodies should not be over-worried about unreasonable interference by the Consumer Council. Indeed, there have been successful joint efforts between the Council and some of the scheduled bodies in promoting the interest of consumers. Checks and balances about the way the Council performs its functions are built into the Consumer Council Ordinance. In addition, the Council will maintain a regular dialogue with the Government and the relevant regulators.

To address the concerns expressed by some of these bodies, the Council has pledged that first, it will not intervene in those matters which are subject to monitoring under the terms of a specific regulatory arrangement between the Government or a statutory authority on the one hand, and a particular company or statutory corporation on the other; and second, the role or importance of the existing consumer liaison and complaint handling channels of the scheduled bodies will not be undermined in any way.

Mr President, I believe that the Bill represents a correct step forward in the direction of better consumer protection. I look forward to Members' support for its early enactment. Thank you.

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

### **Member's Motion**

## **LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES) ORDINANCE**

MRS SELINA CHOW moved the following motion:

“That with effect from 25 May 1994 the usage and practice in regard to the determination of claims of “public interest privilege” made by persons appearing before a committee of the Council shall be as set out in the Schedule annexed to this Resolution.

1. In this Schedule -

“relevant body” means the chairman and deputy chairman of the committee before which the witness is attending to give evidence or

to produce any paper, book, record or document; and references to the delivering of the opinion of the relevant body shall be taken to mean the opinion of the chairman where the chairman and deputy chairman disagree.

“witness” means -

- (a) a person lawfully ordered to attend to give evidence or to produce any paper, book, record or document before a committee; and
- (b) any public officer designated by the Governor under section 8A(2)(b) of the Legislative Council (Powers and Privileges) Ordinance for the purpose of attending sittings of a committee;

2. If, at a public sitting of a committee, a witness refuses to answer publicly or privately any question that may be put to him, or to produce any paper, book, record or document, and claims privilege on the ground that the giving of the answer or the production of the paper, book, record or document would be contrary to the public interest the following procedure will apply -

- (1) The chairman shall inform the witness that he may explain his reasons in confidence to the relevant body and that the relevant body will then deliver an opinion to the committee without disclosure of any information or paper, book, record or document claimed by the witness to be privileged from disclosure.
- (2) If the witness agrees to explain his reasons to the relevant body the relevant body shall make arrangements to consider the reasons and deliver its opinion to the committee.
- (3) If the relevant body delivers its opinion that the claim of privilege by the witness is justified in respect of an answer to a question or the production of any paper, book, record or document the committee shall excuse the answering of such question or the production of such paper, book, record or document.
- (4) If the relevant body delivers its opinion that the claim of privilege by the witness is not justified in respect of any answer to a question or the production of any paper, book, record or document the committee may order the answering or production thereof.

- (5) If the witness continues to refuse to answer any question or produce any paper, book, record or document the committee may take such action within its powers as it considers appropriate.
- (6) If the witness does not agree to explain his reasons to the relevant body under subparagraph (2) the committee may take such action within its powers as it considers appropriate.

3. If, at a public sitting of a committee, a witness refuses to answer in public any question that may be put to him, or to produce in public any paper, book, record or document on the ground of public interest privilege, but requests to answer such question or produce such paper, book, record or document at a private sitting of the committee, the following procedure will apply -

- (1) The committee will deliberate in private whether to agree to the request by the witness.
- (2) The decision of the committee will be taken by formal vote.
- (3) If the committee decides to agree to the request by the witness no answer given by the witness at a private sitting nor any paper, book, record or document produced by him thereat shall be made public unless the committee decides during the private sitting that the request by the witness for confidentiality is not justified. Before reaching such a decision the committee shall give the witness an opportunity to state the grounds upon which he claims public interest privilege in respect of the particular answer or paper, book, record or document.”

MRS SELINA CHOW: Mr President, I rise to move the motion standing in my name in the Order Paper.

Members will no doubt recall the motion passed by this Council in December last year, authorizing the Legislative Council Panel on Security to exercise the powers conferred by section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to enquire into the circumstances surrounding the termination of employment of Mr Alex TSUI, Senior Assistant Director holding the post of Deputy Director of Operations, ICAC on 10 October 1993.

This is the first time in the history of the Council that such an enquiry is to be conducted. There is therefore no established practice and procedure to follow. The Security Panel has accordingly given much thought and time to the devising of appropriate procedure; and it has done so, after having regard to the parliamentary practice of other jurisdictions.

One of the procedures which the Security Panel has had to consider is how claims of public interest immunity should be determined. In the absence of established practice, such procedure is to be adopted by resolution of this Council in accordance with section 15 of Cap. 382. This explains my moving of this resolution today.

The details of the proposed procedures in regard to the determination of claims of public interest privilege is set out in the schedule annexed to this resolution. The procedures are self-explanatory and I do not think I need to go through them here.

It may, however, be appropriate for me to say a few words about the Panels' deliberations on who should assess the merits of a witness's claim of public interest privilege.

The Security Panel has considered at great length whether the "relevant body" should be the President or the chairman and the deputy chairman of the committee to conduct the enquiry.

The main arguments in support of having the President to assess a claim of public interest privilege are that his independent and impartial role and his ability to maintain consistency in rulings for this and other enquiries of a similar nature conducted in future by other panels and committees. The disadvantage of this arrangement is that the President is not involved in the enquiry. It will take time for him to read all the documents before he could rule on a claim of public interest privilege. This would impede the efficient conduct of the enquiry.

From a practical point of view, the determination of a claim of public interest privilege could be carried out more efficiently by the chairman and deputy chairman of the committee conducting the enquiry and with equal impartiality. The other advantage of this arrangement is that the decision will be made not just by one person unless, of course, the chairman and deputy chairman cannot agree. A collective decision will certainly increase public accountability and acceptability. It will also reduce the political pressure on those making the decision.

The Security Panel voted on these two arrangements. Majority of Members present consider it appropriate and practical for the chairman and deputy chairman of the committee to conduct the enquiry to judge a claim of public interest privilege.

The usage and practice set out in the Schedule are the result of detailed deliberations of the Security Panel. They are proposed to Members for adoption by the present and other future enquiries conducted under section 9 of Cap. 382.

The motion deals only with the claiming of public interest privilege. Questions of legal professional privilege, for example, may of course arise but may well not involve the same issues of principle.

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

*Question on Mrs Selina CHOW's motion proposed.*

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

MR JIMMY McGREGOR moved the following motion:

“In paragraph 1 of the Schedule, in the definition of “relevant body”, to delete “means the chairman and deputy chairman of the committee before which the witness is attending to give evidence or to produce any paper, book, record or document; and references to the delivering of the opinion of the relevant body shall be taken to mean the opinion of the chairman where the chairman and deputy chairman disagree.” and substitute by “means the President of the Legislative Council or, when in his opinion he is unable to act, the President’s deputy.””

MR JIMMY McGREGOR: Mr President, I move the amendment standing in my name in the Order Paper to Mrs Selina CHOW's motion.

As Members will have seen from the amendment, I am proposing, that “relevant body” will mean the President or, when he decides he is unable to act, the President's deputy of the Council.

I have proposed this amendment because I believe that it is not appropriate for the chairman or vice-Chairman of a Committee of Inquiry set up by the Legislative Council under the Powers and Privileges Ordinance and whose members are clearly directly involved in examination of witnesses with the intention of securing information from these witnesses shall have the authority to determine that a witness will be given immunity from prosecution. It seems to me a dangerous proposition that those enquiring into matters of a highly sensitive nature shall have the capability and responsibility of deciding to what extent the public interest is served by a continuing flow of such information. Even with legal advice available to the Committee of Inquiry, I feel that an extremely important decision of this nature should be taken by a higher authority whose consideration is not affected by the specific work of the committee and whose decision can be seen clearly to be impartial.

I believe that the President or, if he so decides, the President's deputy of the Council should be given that responsibility. I cannot see that, if such a procedure is established, consideration by the President of specific matters requiring decision on public interest privilege need hold up the course of the inquiry for more than a short time. That would be preferable to a procedure which allows the chairman and vice-chairman of a committee to exercise judgment which later might be held to be biased in favour of disclosure.

It is for example possible that political forces may be at work within a committee of this nature. Committee members might inadvertently allow a political dimension to influence their judgment as to whether public interest immunity should be granted to a witness. There is also a need for continuity in consideration and decision in such matters.

I hope Councillors will understand my reasoning and support my amendment.

*Question on Mr Jimmy McGREGOR's amendment proposed.*

PRESIDENT: There is a precedent, of course, for a government Member to speak after the main speakers have made their addresses. This has the advantage, of course, of enabling Members to know the government position, so that Members are then able to debate the issue with the knowledge as to the Government's position. The Attorney General of course, like any other Member, will have only one speech.

ATTORNEY GENERAL: Mr President, the motion before the Council today is an important one, for it represents a further stage in the development of the Council's procedures for regulating its own business. The motion seeks to lay down rules to decide how a claim of public interest immunity, made by a person summoned before the Council, is to be determined. The motion is concerned with issues that are likely to be sensitive and certainly legally complex. The background to the motion is a particular case and particular personalities. We must, however, look beyond that case and those personalities and consider the matter in terms of principles. The importance of this motion goes far beyond the case that has given rise to it; it will establish a procedure of general application for the future; we must get it right. In deciding what is the right approach we should not allow ourselves to be unduly influenced by certain parliamentary procedures which may work well in England but which cannot be readily transplanted to Hong Kong and to this Council.

Mr President, I should explain why it is that I have great difficulty with the motion proposed by the Honourable Selina CHOW. My difficulty is based on three concerns:

- (1) the problems inherent in determining complex questions of law;

- (2) the need for consistency; and
- (3) crucially the need for impartiality.

I would like to address each of these concerns in some detail. I urge Members of the Council to have them in the forefront of their minds as they consider this important issue and when they come to vote.

The starting point is the Legislative Council (Powers and Privileges) Ordinance. As Members know, the Ordinance provides a power to summon and compel the attendance of witnesses before this Council or before one of its committees. It also provides a power to require a person lawfully ordered to attend to give evidence or disclose documents.

In order to ensure that witnesses are fairly treated, the Ordinance provides a number of safeguards for their protection. In particular, a witness may decline to answer a question or produce a document if it is of a private nature and does not affect the subject of the inquiry, or if it is covered by legal professional privilege or by public interest immunity.

My first concern is that, if a claim of public interest immunity is raised, the determination of that claim may well involve difficult questions of law. As any textbook on the law of evidence will reveal, the law relating to public interest immunity is complex and still developing. Leading cases on the subject have been subject to appeals to the House of Lords, and decisions extending back to the eighteenth century may still be relevant in determining the principles to be applied. Given the complexity of the law relating to public interest immunity, I consider that the most appropriate person to determine claims is the President, or the President's deputy, who are persons selected by this Council for their ability to handle contentious issues in a judicious manner.

My second concern is based on the need for consistency. The Ordinance already provides (in section 13) that in cases where the private nature or relevance of a question or document is in issue, the President may, or if the question or document is irrelevant, shall excuse the answering of the question or production of the document.

If the resolution as proposed is passed, questions arising in committee in respect of privacy and relevance would continue to be determined by the President, while those of public interest immunity would be determined by the chairman and the deputy chairman. There is no good reason for this difference. These questions — privacy, relevance, public interest immunity — are frequently inextricably bound up together. They cannot always be separated out into isolated issues, to be resolved independently of each other. By having different arbiters of these matters, we could end up with inconsistency and, in all likelihood, confusion.

The need for consistency also dictates that decisions in respect of public interest immunity should be consistent one with the other. Such consistency will be much easier to achieve if one or two persons — that is the President or the President's deputy — determine all questions of public interest immunity whenever they arise. If the matter were to be determined by the chairman or deputy chairman of each committee that requires a witness to give evidence or disclose documents, then there would be a real danger of inconsistent rulings being made.

Mr President, my third concern relates to impartiality. In expressing my difficulty with the motion before the Council, I do not mean to impugn the abilities of persons who act as chairmen of committees of this Council. This debate has got nothing whatsoever to do with personalities. It has everything to do with principles. I am sure that they would try to carry out their duties as impartially as possible. The fact remains, however, that they may not be seen to be impartial. The role of a chairman of an investigatory committee is to uncover information. It is similar to the role of a plaintiff in legal proceedings who is seeking to obtain information from the defendant. If the defendant claims an immunity, it will be an independent person, the judge, who will determine the claim, not the plaintiff. Likewise, I consider that it should be a third party, the President, who determines any claim for public interest immunity made before a committee of this Council. The motion as it stands would, in effect make the chairman both the plaintiff who disputes a claim for immunity and the judge who decides whether the claim should be upheld. There is a need for an adjudicator who is impartial, and who is seen to be impartial. By elevating the decision-making to the level of the President, we would remove from the decision-maker all the pressures that the chairman of a committee is under, and is seen to be under, to obtain all relevant information. Justice would be done, and would be seen to be done.

As Members will appreciate, this is not an issue confined to witnesses who are public officers. Members of the general public and indeed Members of this Council themselves could be summoned to appear before a committee of this Council. It is essential, therefore, that whatever procedures are devised for determining the extent of a privilege against answering questions or producing documents, the relevant body is perceived to be competent to rule on the issue and to be completely impartial.

There can be no doubt that the office of the President must be occupied by a person who is both well qualified and universally accepted as impartial. Impartiality is of the essence of that office. This is underlined by the duties assigned to the President in the Standing Orders of this Council. The President performs the same role as the Speaker in the British Parliament who, despite his or her party background, is universally accepted as being impartial. The Administration feels strongly that, provided the President is willing to undertake the task and if that is the wish of this Council, the President should be invited to be the final arbiter of all questions relating to the privilege of witnesses before a committee.

Mr President, as I said at the outset, the Council's decision today will have far-reaching consequences. The procedures that the Council will decide upon will not be limited to a particular committee. They will apply in the future to other committees that are enquiring into other issues, that are chaired by a variety of individuals, and that may be subject to strong political pressures. Those procedures must be based firmly on the right principles in order to work properly, and to be seen to work properly. For the reasons I have given, I believe that the motion as proposed is flawed. The *ex officio* Members will support the amendment proposed by Mr McGREGOR and I urge other Members to do likewise. Thank you, Mr President.

MR SIMON IP: Mr President, when the Members of this Council address you as Mr President, they affirm the responsibilities of the office you hold. The office of the President of the Council is the embodiment of the integrity of the Council as an institution. The Council's integrity is secured by the fact that all of its decisions are rectified by an impartial arbiter whose interest is not that one side or another shall prevail but that the wider public interest should be served. In short, the office of President is distinguished by its impartiality.

With the Alex TSUI case the Security Panel has taken it upon itself to try to establish matters of fact. The Legislative Council (Powers and Privileges) Ordinance gives the Council and the Panel powers to ascertain the facts of this and other cases. Among these powers is the ability to determine whether evidence can be withheld in the light of a witness' claim that the information requested is protected by public interest immunity. The question here is, by whom should that determination be made?

This situation is, as we all know, without precedent in Hong Kong. What we decide here today will have repercussions for cases of a similar nature in future. So we must decide the issue carefully and rationally.

In considering the current issue the closest comparison I can draw is to criminal procedure. Particularly relevant is the procedure followed in determining admissibility into evidence of a defendant's confession statement. If an accused confesses to a crime but later challenges that confession in court proceedings on the ground that it is involuntarily obtained, the judge will order the jury to retire. The judge will then hear the circumstances surrounding the giving of the confession to determine its admissibility. If he decides that it cannot be used in evidence he must erase it from his mind and the jury will not know about it. The judge will thus preserve the integrity of the jury's verdict by preventing the jury from receiving information that it should not have.

A trained legal mind can remove from consideration inadmissible evidence when weighing the facts of a case. As juries are generally composed of lay people, they do not possess such skills. The judge must remain impartial, seeking only to maintain the interests of justice and not pressing for a particular

verdict. He is completely independent of the jury and the jury is independent of him.

In the determination of public interest immunity in this Council our juries, that is to say our panels, should preserve the integrity of their verdicts in much the same way as is done in court. The chairman and vice-chairman of a panel conducting an enquiry are full members of that panel. Once possessed of information protected by public interest immunity they will be informed by that knowledge. It is to expect too much of them, and the chairmen of future panels of enquiry, to be able to erase from their minds what they have heard or seen when they make their findings.

This is patently unfair to the persons affected by an enquiry and opens up the panel, indeed the whole Council, to accusations of bias or prejudice. They will be seen as judges of their own cause. Our system should be based on assured impartiality, consistency of application of principles from one case to the next and on utmost confidentiality when dealing with sensitive information.

The argument that a panel chairman and vice-chairman would be a more accountable body than the President is a fallacy on two grounds. The first assertion is that their decision would be a collective and not an individual one. This is untenable simply because the overriding vote is to be cast by the chairman in all cases. This means the only decision that counts is that of the chairman.

The second reason the accountability argument fails is that if a panel chairman and vice-chairman decide that they will grant public interest immunity to certain information, they cannot, in any case, explain their reasons for doing so. They are prevented as well by public interest immunity from explaining their decision. So where is their accountability?

I believe the public interest and the interests of the Council demand that the President be charged with determining claims of public interest immunity for all the reasons I have stated. None of the arguments against this position bears scrutiny. I therefore oppose Mrs CHOW's motion and support Mr MCGREGOR's amendment.

Mr President, I am informed that a number of Legislative Councillors wish to associate themselves with my speech. They are Dr Samuel WONG, Mr Eric LI, Mr Vincent CHENG, Mr Roger LUK, Mr Timothy HA, Mr Martin BARROW, Mr Marvin CHEUNG and the four Members of the Meeting Point. Thank you.

MR RONALD ARCULLI: Thank you, Mr President. It seems that other than Mrs Selina CHOW, it is a lawyer's day. And I think in terms of the points made by the Honourable Attorney General and my learned friend from the Legal Functional Constituency, they seem to have overlooked one fact — one very

simple fact. We are lawmakers. We make laws and the courts interpret the laws. But yet, on this particular occasion, this august body of members of legislators are in fact told that they are unable and unsuitable for making a decision concerning public interest immunity which I suspect, more often than not, would involve a claim by a public officer rather than by a lay witness.

I think in terms of deciding difficult questions of law, Mr President, we do that everyday. We have Bills Committee, we consider very fine points, we consider some very difficult points and we make some decisions.

In terms of consistency, or inconsistency as is suggested, that different chairmen and different vice-chairmen of panels may have, I suspect that when a decision has been made it would be accessible and readily available to all Members of this Council and indeed to those who might be called upon to actually make a decision on the very point that we are debating.

So I believe, Mr President, that some of the arguments that are put forward are themselves untenable. In terms of the office of the President, I hope we will always have the good fortune of having someone as highly qualified as yourself. But indeed if the task were to fall upon a lay person. Who is not legally trained, then it is really the person rather than the office that would be the difference, because a person that is not legally trained would not be able to separate from his or her mind the points made by the Honourable Simon IP regarding jury trials and all that.

So I believe that this legislature is perfectly capable of deciding public interest immunity. They are accountable to the public. Whatever decision made will be open to public scrutiny, whether it is consistent or otherwise. And for myself I have no reason to either doubt the impartiality, the consistency or indeed the ability to grasp what might be some complex questions, law or otherwise.

Thank you, Mr President.

MR JAMES TO (in Cantonese): Mr President, just now, some Members spoke to oppose Mrs Selina CHOW's motion and to support Mr Jimmy McGREGOR's amendment. Roughly, their arguments ran as follows:

First, referring to the complex issues raised by the Attorney General, such as "public interest immunity", the Members maintained that those were profound issues, about which even a lawyer had to look up authoritative precedents. They then jumped to the next point, which was that the President and President's deputy should be in a better position to judge matters in issue in a prudent manner and arrive at a balanced conclusion. To this, my response is that, since authoritative legal precedents are involved, we must not think that the President is necessarily knowledgeable in law just because the incumbent President of the Legislative Council is a Queen's Counsel. With the next

election, we may have a different person for President. Nor are the chairmen and deputy chairmen of the Legislative Council's committees necessarily lawyers. Therefore, we should not base our argument on the knowledgeability of the individual. What we would rather have is a situation where the decision-maker, when making a decision, is required to consult expert legal opinion. Even our incumbent President has to consult expert legal opinion. He probably has to consult the past rulings or decisions of the Legislative Council and its committees. These are rulings or decisions as to the procedures of the Council and its committees, which we shall be able to refer to in the future. Therefore, the question of the President being capable of a prudent approach and the chairmen or deputy chairmen of committees being less capable does not arise.

Secondly, there is the so-called question of continuity or consistency. Of course, I hope that there will be continuity or consistency in the "public interest" rulings made by the Legislative Council's committees. But I strongly doubt that there would be continuity or consistency only where the rulings were made by the President of the Legislative Council. A different person may be elected President next time. The incumbent President may resign for one reason or another before his term expires. He may stand down in certain sets of circumstances. He may let his deputy act for him when he is out of town or when he goes to the bathroom. When any of these things happen, we will have a different President and a different President's deputy. Similarly, this Council's committees may have different persons for chairmen and deputy chairmen. However, as I have said, we will look up the many precedents. We will compile a record of precedents, precedents as to established practice and rulings. Therefore, it is not true to say that rulings by the President of the Legislative Council would be of a higher reference value and greater consistency.

Thirdly, there is the question of impartiality. Both the Attorney General and Mr Simon IP used the analogy of a plaintiff and a defendant. Mr IP even went so far as to draw comparison to criminal procedure. I am sorry but I cannot buy the argument. We can conduct an enquiry or hold a hearing in respect of, for example, the noise level of the Stadium, the firing of Alex TSUI, the rioting touched off by a Star Ferry fare increase or a senior government official's homosexual problem. We cannot say that every witness who helps the Legislative Council to get to the truth is a defendant. He is not a defendant. Never presume that a person is a defendant because he is a witness. I take a strong exception to such presumption. Each witness is a person who helps the Legislative Council to get to the truth. Therefore, the President or the President's deputy or any committee chairman or deputy chairman should make rulings or decisions having regard to facts, reasons and the public interest. This is not to say that in deciding on a person's guilt or innocence we will let a third party make the judgment. If a select committee chairman or deputy chairman is not presumed to be just and impartial, then, in my belief, the President of this Council, who is also elected by Members, should likewise be presumed to be partial. Why? I will explain the logic. Suppose that we are holding an enquiry into a case. Very obviously, the full Council must have approved our holding this enquiry. Since the full Council has approved it, the case under enquiry is

patently one the Legislative Council wants to probe. By the same token, suppose that we have elected a President by a majority vote of a certain margin. The public can still say that we have so voted to elect a President to make a ruling about whether a specific witness can claim “public interest immunity”. The public may still see it as an instance of partiality.

According to Mr Simon IP, if it can be argued that a committee chairman or deputy chairman does not have a high enough degree of public accountability, this is because he cannot explain, in the course of a hearing, why a claim of public interest immunity can or cannot be entertained. Nor can the President explain this under the proposal put forth by Mr Jimmy McGREGOR. Why? Because the President may have been privy to some confidential papers. yet he must in any case make a ruling. I think that if neither the President nor the chairman/deputy chairman can be reckoned to possess greater accountability, the two arguments should cancel each other out. In addition, Mr McGREGOR argued that letting the President make the ruling would only slightly hold up the proceedings. I am sorry but I cannot buy this argument. We are now just at the start of this enquiry. We cannot tell how many more enquiries may follow. Here is an analogy. If a parliamentary select committee in the United Kingdom has a number of enquiries on its hands, its chairman will, for procedural reasons, be given the power to make rulings. Therefore, we must not focus too much on the one enquiry that we are holding. We must have a wider field of vision. If the Legislative Council is given another chance to hold an enquiry, it will be strange indeed for any of us to suggest that the President, whenever an approach is made to him for a ruling to be given, should start going over procedural matters of the case in question with a view to considering how he should rule on it.

Mr President, I support the motion.

MR ANDREW WONG (in Cantonese): Mr President, the public enquiry held by the Legislative Council’s Panel on Security into the dismissal of Alex TSUI will mark the first time in the Council’s history when the power to summon witnesses under the Legislative Council (Powers and Privileges) Ordinance is ever exercised. Now that this power is to be exercised for the first time, there may be occasions for it to be exercised again. So I think that the procedural matters should be handled cautiously.

With regard to “public interest immunity” claimed by a witness who asks to be excused from testifying, I am in favour of letting the Legislative Council President, that is to say, you, Mr President, make the final ruling. Therefore, I support Mr Jimmy McGREGOR’s amendment and oppose Mrs Selina CHOW’s original motion.

I agree that, if a government official called as a witness refuses, on the ground of “public interest”, to produce documents or to answer questions, it should be up to the Legislative Council President to make the final ruling.

I would like to make the following response to the arguments just now advanced by Mr James TO:

Firstly, the Legislative Council President must be just and impartial and he should not take part in an enquiry. If he thinks that a witness' testimony should, in the public interest, be withheld from the public, he may make a ruling to restrain the witness from giving such testimony.

Secondly, if the chairman of any select committee or ad hoc committee of the Legislative Council has the power to excuse a witness from testifying, different chairmen may apply different standards. There will then be no continuity or consistency. If only the President can make such a ruling, the question of inconsistency will not arise.

As we know, the basic common law assumption is that the facts of every case differ from another case. A judge deciding a case may refer to precedents. More importantly, however, he must follow certain principles. If the chairmen of different select committees can each do things his own way, what continuity or consistency will there be to speak of?

I have no wish to be verbose. I would just like to respond to some of the arguments advanced by Mr Ronald ARCULLI. He says that the incumbent Legislative Council President happens to be a well respected Queen's Counsel. If the incumbent President were somebody else and if this person was not a Queen's Counsel and was not knowledgeable about law, how would the matter be handled? I quite agree with Mr James TO who says that the issue is not this person's knowledgeability about law but his obligation to seek expert legal opinion before he makes a ruling on whether the production of certain documents or the disclosure of certain information will be contrary to the public interest. Mr TO's remark, I must say, is right to the point.

Finally, I would like to say that, in other countries, the chairmen and deputy chairmen of select committees and ad hoc committees do have the power to make rulings of this kind. These other countries are different from Hong Kong. Democracy is in its incipient stage in Hong Kong. Our legislature does not have many members. The relationship between the legislature and the Government, that is to say, the relationship between the legislative and the executive branches is still evolving. In contrast, the House of Commons of the British Parliament has 650 members. Departmental select committees of the House are never chaired by front-bench members. Looking at Hong Kong, is there any Legislative Council select committee which is not chaired by a political party big shot? This is dangerous. I have no doubt that Members, whatever their party allegiance, are impartial. But the fact is that this power is really very tempting. Since the temptation exists, we must not be rash or reckless in trying to apply in an inflexible way other countries' parliamentary practices to Hong Kong in order to give the chairmen and deputy chairmen of this Council's select committees the power to make such rulings. I think that, given the small size of Hong Kong's legislature, it is better to let the Legislative

Council President make such rulings. Besides, in the United Kingdom, the chairmen of certain parliamentary select committees are appointed by the Speaker of the House of Commons. In contrast, in Hong Kong, the chairmen and deputy chairmen of the Legislative Council's select committees are elected by Members from among themselves. The situation is quite different from the United Kingdom. I ask Members to think again.

Mr President, I support Mr Jimmy McGREGOR's amendment. I oppose the motion moved by Mrs Selina CHOW of the Panel on Security which seeks to let the chairmen and deputy chairmen of select committees make the final rulings.

DR YEUNG SUM (in Cantonese): Mr President, in Mr Andrew WONG's long speech he made just now, there is only one point which has stood out clearly. He said that most of our panels are chaired by Members from political parties and some of them are even leading members in their own parties. There is a risk that these chairmen may act partially when determining matters in the name of public interests with the aim of promoting their parties' popularity or winning public support, or simply because they cannot resist the temptation of power. Hence, Mr WONG argued that Mr John SWAINE, the President of this Council, should be charged with the power of determining claims of public interest immunity. Mr WONG has, however, forgotten one thing — we will not have appointed Members by 1995. Our incumbent President is a Queen's Counsel and not affiliated with any political party. We have confidence in him because he is impartial. Mr Andrew WONG seems to think that one who holds the office of the President of this Council would be in a better position to maintain his or her impartiality. Still, by 1995, we shall have no appointed Members and all Members will be returned from elections. The President may then well be one who is affiliated with one political party or another. Mr Andrew WONG's argument therefore is untenable. I believe the power in question will be exercised under the scrutiny of the public and the media. I think it is not important that different parties are of different political persuasions, what counts is that we should always remind ourselves to demonstrate impartiality when serving on the panels. I believe my colleagues in this Council would agree that we can set a good precedent.

My observation over a long period of time tells me that colleagues of this Council, though different in political views, are impartial in the way they deal with legislative matters. To date, I have not seen any Member serving on the panels with an aim to advance the interests of his or her political party.

MRS SELINA CHOW: Mr President, thank you. I would just like to mention that most of the points, or in fact all the points that I have heard mentioned just now, have actually been quite thoroughly gone into in the various meetings which the Security Panel, as well as I think the House Committee, in their consideration in preparation for the putting forward of the resolution. So I

would not really like to go any further into debate except to answer a couple of points which I think requires or call for answering.

One is that the Honourable Andrew WONG asks Members to be cautious. I think we really cannot be more cautious than we have been with the way that we have dealt with this issue or with any other issue which this Panel has in fact considered during the whole course of this hearing. We are only too aware that whatever we do is setting a precedent for the future. I am sure that this is borne out by people who have observed with close interest the working of the Panel in all of this, that each and every Member has taken that role very, very cautiously and very responsibly. So I believe that when we went into the arguments, we have actually gone into them with great care and consideration.

I would just like to mention one point. I think all the other points I have actually said have been gone into and I agree with those speakers who supported my original motion. But I would like to just say a couple of words on that question of so-called impartiality. What are we? As Members of this legislature, as Members of every panel of this legislature, what are we if we are not impartial? We arbitrate between the public's perception and the public's view of what is in the public interest and the Administrations, the Government's view, of what is in the public interest. And when we talk about a hearing, when we talk about the hearing undertaken by a panel of this legislature, and when we are dealing with a claim for public interest immunity by government officials, surely that task of having to arbitrate by Members is again called for and each and every member of that panel has to assume that responsibility, to a certain extent, in all other matters except when it comes to a very sensitive matter which Members now would like to delegate to the two Members, the chairman, who has been elected because he or she is accepted to be impartial, to serve as chairman of that panel. And the same goes for the deputy chairman because he or she has the responsibility to step into the chair any time that the chairman cannot assume that duty.

So that impartiality must be there, even today, when we are dealing with all the business that is being undertaken by every Member of this legislature. So to suggest that some Members are more qualified than others to act impartially in judging the balance, in actually deciding which is to serve the public interest better, to question that impartiality of some Members and to say that only the President is qualified for that is, I think, untenable and does not really stand to hold any convincing argument.

I would like Members once again to accept that this issue has been very thoroughly gone into throughout the process of the consideration of this resolution and I do urge you to support my original motion for the sake of building up the institution of this Legislative Council and to enable every Member of this Council to be so entrusted with the duty. Thank you.

*Question on Mr Jimmy McGREGOR's amendment put.*

*Voice votes taken.*

PRESIDENT: Council will proceed to a division.

PRESIDENT: Will Members please proceed to vote?

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

The Chief Secretary, the Attorney General, the Financial Secretary, Mr PANG Chun-hoi, Mr TAM Yiu-chung, Mr Andrew WONG, Mr Martin BARROW, Dr LEONG Che-hung, Mr Jimmy McGREGOR, Mr CHIM Pui-chung, Mr Timothy HA, Mr Simon IP, Mr Eric LI, Mr Fred LI, Mr TIK Chi-yuen, Dr Samuel WONG, Mr WONG Wai-yin, Miss Christine LOH, Mr Roger LUK and Mr Alfred TSO voted for the amendment.

Mr Allen LEE, Mrs Selina CHOW, Mr Martin LEE, Mr NGAI Shiu-kit, Mr SZETO Wah, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Peter WONG, Mr Albert CHAN, Mr Moses CHENG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Dr HUANG Chen-ya, Dr LAM Kui-chun, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr MAN Sai-cheong, Mr James TO, Dr YEUNG Sum and Mr Howard YOUNG voted against the amendment.

THE PRESIDENT announced that there were 20 votes in favour of the amendment and 26 votes against it. He therefore declared that Mr Jimmy McGREGOR's amendment was negatived.

PRESIDENT: Mrs Selina CHOW, do you wish to reply generally?

MRS SELINA CHOW: No, Mr President, except to thank the Members who supported me.

*Question on Mrs Selina CHOW's motion put.*

*Voice vote taken.*

THE PRESIDENT said he thought the “Ayes” had it.

MR ANDREW WONG: 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 results will now be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mr Martin LEE, Mr NGAI Shiu-kit, Mr SZETO Wah, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Peter WONG, Mr Albert CHAN, Mr Moses CHENG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Dr HUANG Chen-ya, Dr LAM Kui-chun, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr MAN Sai-cheong, Mr James TO, Dr YEUNG Sum and Mr Howard YOUNG voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr PANG Chun-hoi, Mr TAM Yiu-chung, Mr Andrew WONG, Mr Martin BARROW, Dr LEONG Che-hung, Mr Jimmy MCGREGOR, Mr Timothy HA, Mr Simon IP, Mr Eric LI, Mr Fred LI, Mr TIK Chi-yuen, Dr Samuel WONG, Mr WONG Wai-yin and Miss Christine LOH voted against the motion.

Mr CHIM Pui-chung, Mr Roger LUK and Mr Alfred TSO abstained.

THE PRESIDENT announced that there were 26 votes in favour of the amendment and 17 votes against it. He therefore declared that Mrs Selina CHOW's motion was carried.

PRESIDENT: I have accepted the recommendations of the House Committee as to time limits on speeches for the motion debate this afternoon and Members were informed by circular on 21 May. The mover of the motion will have ..... Order please! Order please! The mover of the motion will have 15 minutes for his speech including his reply and another five minutes to reply to proposed amendments. Other Members, including the movers of amendments, will have seven minutes for their speeches. Under Standing Order 27A, I am required to

direct any Member speaking in excess of the specified time to discontinue his speech.

## **HONG KONG STADIUM**

MRS SELINA CHOW moved the following motion:

“That this Council urges the Government to seek the banning of all pop concerts from being held at the Hong Kong Stadium until such time when it can be ensured that the noise level of such concerts can be kept within the limits specified by the Environmental Protection Department under the Noise Control Ordinance during each and every event of this nature to be held in the venue.”

MRS SELINA CHOW (in Cantonese): Mr President, I move the motion standing in my name in the Order Paper.

I am moving this motion on the Hong Kong Stadium's noise problem today because all the concerts held in the rebuilt Stadium since its commissioning in March this year have been the subject of controversy and criticism by members of the public and by the people living nearby. The concerts that have been held there include the concert to mark the Stadium's opening on 11 March, Peter GABRIEL's concert on 14 March, Depeche MODE's concert on 16 March, the “Hunger 30” concert on 10 April and Alan TAM's concert on 22-24 April. In short, in the few months that the rebuilt Stadium has been open, it has been the subject of frequent complaints by members of the public. All this is because of the noise levels of pop concerts, which exceed the limits set by the Noise Control Ordinance. The sound amplifiers, the strong beats of the music and the noise made by the audience were a great nuisance to those living in the nearby Ching Man Chuen and So Kon Po low rise housing areas and those living at the mid-level on the hills surrounding the Stadium. Nor were the nearby schools and hospitals spared. One of the schools is Confucius Hall Middle School. All were bothered by the deafening noise coming from the pop concerts held in the Stadium.

In moving the motion, I start with the hope that the Government will discontinue its irresponsible and indifferent “hear no evil and speak no evil” approach towards the noise problem of the Stadium. It should actively follow up on the complaints of members of the public. Moreover, it should make sure that the sounds coming from pop concerts will not be noise of a disgusting and bothering kind but will be within the limits specified by the Environmental Protection Department under the Noise Control Ordinance. The Government must learn a lesson from what has happened. It must take appropriate and active measures to prevent similar pop concerts in the future from generating so much noise as to create a nuisance to the people in the area.

From the Stadium's opening day, the Urban Council have quickly accepted the bookings of the organizers of several pop concerts known to use loud musical instruments. When the reconstruction of the Stadium was in the planning stage, the Urban Council ignored the noise assessment report of the consultant company which noted that the Stadium absolutely would not be suitable as a venue for pop concerts. Before and after the rebuilt Stadium's opening, the Urban Council ignored the Environmental Protection Department's advice concerning the noise problem. The Urban Council never took active steps to prevent the noise problem from arising. All institutions and departments concerned — the Royal Hong Kong Jockey Club, the Urban Services Department, the Recreation and Culture Branch and the Environmental Protection Department — took a totally evading approach towards the possible noise problem. Indeed, they had no regard for the interests and concerns of members of the public.

The Liberal Party has great sympathy for those who are bothered by the noise. Noise is invisible pollution. We cannot close our ears as we can our eyes and mouths. We cannot resist the invasion of noise. If we live in a noisy environment, there is often nothing that we can do except "resigning ourselves to the nuisance." and "becoming the coerced audience". We will suffer long-term adverse effects on our physical and mental health. Pop concerts are bound to use musical instruments with loud beats and powerful sound amplifiers. The performers and their fans can then enjoy themselves with abandon and experience music-induced emotional elation. Pop music lovers are cock-a-hoop. At one time, I myself was an organizer of pop concerts. Perhaps I organized too many of them. The noise did certain damage to my ears. I cannot hear so well. I am now a bit deaf. Therefore, I myself am a victim of noise. The noise from the pop concerts similarly causes direct harm to the people living in the area, preventing them from enjoying family life in a quiet and peaceful environment. To them, the concerts are just a nightmare!

I have heard many complaints from people about the noise problem of the Stadium. A person living near the Stadium told me that, during the rehearsals for Alan TAM's concert, students of the Confucius Hall Middle School complained that they could not even hear their teachers in the classrooms, let alone concentrate on their studies. Another person told me about a relative who had to go to the Eastern Hospital of the Tung Wah Group of Hospitals. The noise from the rehearsals was so loud that the doctors could not examine their patients. Though they placed their stethoscopes close to patients' hearts, they still could not hear the heartbeat. Yet another person living nearby said that, during the climax of a concert, not only did he hear people shouting, but he also saw teacups shaking on the table in his home. He said that it was like being in a three-hour earthquake. There are other complaints of the same kind. They are too many for me to cite one by one. Most complainants say that the noise from the rehearsals is actually worse than the noise from the concerts themselves.

The problem of noise from concerts has arisen because, when the Stadium was rebuilt, it was converted from a general sports venue into a multi-purpose

venue for world-class sports events and for pop concerts. It appears that nobody is willing to assume responsibility for the conversion. But the chief culprit is undoubtedly those government officials who wanted the Stadium to be financially self-supporting.

The Urban Council was given the responsibility for making the Stadium financially self-supporting. Its safest and best way to guarantee enough income would be to accept concert bookings. Therefore, the Urban Council is innocent in a way because it cannot help itself when it accepts concert bookings. If it does not accept the bookings, the Stadium will lose money. The Urban Council will then have a crisis on its hands. Therefore, the Government and the Urban Council must abandon their “money first” basic policy.

We have learnt in recent weeks from different sources that none of the institutions and departments concerned — the Royal Hong Kong Jockey Club, the Urban Council, the Recreation and Culture Branch and the Environmental Protection Department — has ever regarded the stadium concert noise as a problem to deal with.

I must mention the Environmental Protection Department first. As far as I know, the Environmental Protection Department up to yesterday had received 725 complaints about noise from the Stadium. Most of these complaints were received in the course of pop concerts. It is not known how many of these complaints have been dealt with in good earnest. On the nights of Alan TAM’s concert, more than a hundred complaints by telephone were received. This is the number of calls that were recorded. There were probably many more calls that could not get through and they were not recorded. Complainants found themselves talking to recording machines of the Environmental Protection Department. The machines told them to leave their messages and their contact telephone numbers and promised that their problems would be taken care of the following day during office hours. The machines also said that, if the problems were very serious, callers should complain to the police, and that the Environmental Protection Department would act only upon complaints received from the police. The message that the Environmental Protection Department tried to put across seemed to be this: “The office is closed. Try to be patient and put up with it. Just bear it for one more night or two.” As for the police, they duck complaints whenever they can; they just “couldn’t care less”. In short, the police must take up its responsibility; still more must the Environmental Protection Department. The Environmental Protection Department knew all the time that there would be concerts. Why did it not take precautionary measures to prevent noise from bothering those living nearby? This is puzzling indeed!

The Liberal Party thinks that the public has a right to know if some government departments concealed information and misled the public about the noise problem of the Stadium. Anybody who has paid attention to Legislative Council sittings knows that this Council has held joint meetings with interested parties to discuss the noise problem of the Stadium. People have seen the

considerable buck-passing at these meetings. I believe that everybody knows what it is really all about.

The Liberal Party strongly urges those government departments which are jointly responsible for monitoring noise, particularly the Environmental Protection Department, to take note that now is the time to take actual steps to control noise levels. The time for “playing manoeuvres on paper” has passed and they should stop saying that they have done what they should and that there is nothing more that they can do. They should take fuller and more effective precautionary measures. When the noise from the rehearsals for a concert exceeds the limits set by the Noise Control Ordinance, the Environmental Protection Department should immediately ask the Attorney General’s Chambers to apply to the court for an injunction to restrain the holding of any pop concert in the Stadium that generates excessive noise. The Urban Council shall not take issue with it. If the holding of noisy concerts in the Stadium is banned, the Government must of course do something for lovers of pop music. The Government should make other venues available for the holding of pop concerts. For years, sufficient venues have been available for the holding of pop concerts. The Liberal Party will be closely monitoring future pop concerts. Some so-called “composite concerts” are already scheduled to be held in the Stadium in June-July. We will be closely monitoring the noise levels of these concerts.

Anita MUI and Neil DIAMOND are scheduled to give separate song recitals in the Stadium in August-September. These recitals are likely to generate noise exceeding the limits set by the Noise Control Ordinance. The Government has an obligation to prevent similar incidents from happening again. I hope that the Government will respond positively.

With these remarks, I move the motion.

*Question on the motion proposed.*

PRESIDENT: Miss Christine LOH and Rev FUNG Chi-wood have given notice to move amendments to this motion. As Members were informed by circular on 23 May, under Standing Order 25(4) I shall ask Miss Christine LOH to speak first, to be followed by Rev FUNG Chi-wood; but no amendments are to be moved at this stage. Members may then express their views on the main motion as well as on each of the two amendments listed in the Order Paper.

MISS CHRISTINE LOH: Mr President, the real substance of today’s debate is about how to fund the magnificent refurbished Hong Kong Stadium. The purpose of the face-lift was to ensure that Hong Kong has a world-class sports facility. The original financial plan envisaged that three to four music concerts per year would help to make the stadium financially viable.

The Stadium was designed for sports and not amplified concerts. Noise from pop concerts was always going to be a problem. And yet, the stadium's management had hoped to hold 12 to 14 concerts there per year. Mitigation measures the Urban Council and its appointed manager, Wembley International, have put in place have unfortunately not brought noise from such concerts within legal limits.

It appears that all amplified concerts will breach the Noise Control Ordinance. Wembley admitted this last week when questioned by legislators.

Thus, the likely effect of the Honourable Selina CHOW's motion and Rev the Honourable FUNG Chi-wood's amendment could be to ban concerts from being held at the Stadium.

A total ban will solve the noise problem but it may well turn out to be to the detriment of local sports. I will attempt to explain why.

The Urban Services Department told legislators that the Urban Council's financial arrangement with the Government for the stadium's management is that the stadium should be self-financing, and any profits must be plowed back into sports development. The Urban Council will not be allowed to raise rates to cover any operating deficit. Thus, if the Urban Council operates the stadium at a loss, it may have to raise the already exorbitant stadium rental charge to even higher levels.

In August 1992, the Urban Council took the unusual step to exempt the stadium from its 1973 Memorandum of Administrative Arrangements specifically to allow the stadium to be run on a commercial basis. At that time, the then Director of Urban Services recognized that management of the stadium on a commercial basis could affect the Urban Council's own principle of equity — which is to ensure that everyone have a fair chance to use a public facility.

The reality is that commercial objectives are invariably profit driven. The result as we see it today, is that local sporting and community organizations are effectively excluded from using the stadium because they cannot afford to pay the very commercial fee of \$150,000 per day.

For example, in the past, the Hong Kong Football Association used to hold 120 local Division I and international matches at the stadium each year. Now, it plans to use the stadium only 15 to 20 times per year. The Rugby Union used to rent the stadium quite frequently, but now it rents it only for the Rugby Sevens weekend. It is unclear to me how many hockey, cricket and school events will be held at the stadium.

My amendment seeks to prevent what no one really wants from happening — and that is, the stadium becoming a white elephant. I urge all parties involved to re-examine the issue in light of the original intended usage of the stadium which is primarily for sports and community activities. This means

that charges must be set at affordable levels. The current charge of \$150,000 per use is clearly too high.

When Wembley was challenged last week about the high charges, it said that it would be happy to waive the charges for community groups. The reality, however, is that the HK\$150,000 fee would then have to be paid to Wembley by the Urban Services Department. When pushed to confirm this arrangement between the department and Wembley, the department's representative told us rather lamely that no decision had been taken yet and the Urban Council still had to reach a final decision on the arrangement.

What are the contractual terms between the Urban Council and Wembley? It has been impossible to find out until the public is given details about operating costs, management fees and revenue projections, it will be difficult to convince anyone that the community is getting a fair deal.

Let me also dispel doubts raised last week by those involved in the stadium that too frequent use of the pitch will result in spoiling the grass. I have consulted local and overseas sports experts and pitch managers including the former manager of Wembley Stadium in the United Kingdom about this.

They tell me that a well-maintained pitch, which our stadium's certainly ought to be, can be played on at least twice a week without adversely affecting the quality of the grass.

A further point regrettably, the Urban Council sees this debate as interference with its autonomy. This attitude I find a little too defensive. Interest arose because the stadium is public property and a major Hong Kong landmark. The refurbishment is "for the enjoyment of all the community of Hong Kong". The use of the stadium is therefore a matter of legitimate public concern.

In the way ahead, which is what I am interested in, I suggest that the balancing of the public interest must include the comfort of nearby residents, including two hospitals, the desire to see the stadium used primarily as a sports facility by the sports community and other community organization, and the interest of providing public entertainment including perhaps the occasional music concert which will make the stadium financially viable for the benefit of all Hong Kong people. Noise of course will have to be dealt with, and if it can be seen to be dealt with on the specific understanding that only a very limited number of concerts may be held there per year, then those affected may be more willing to accommodate any discomfort on those few occasions.

REV FUNG CHI-WOOD (in Cantonese): Mr President, my amendment seeks to require all types of activities, not just pop concerts, to be held in the Hong Kong Stadium to comply with the statutory requirement. Mrs Selina CHOW's motion mentions pop concerts only. While I agree with her on this point, I

hope that the scope of our attention will cover all kinds of concerts, because if a certain type of activity requires the use of the amplifier system, then the noise generated may be above the statutory limit. Although the 11 June activity and the Hong Kong Asian Youth Orchestra's performance in July will not be pop concerts, there is a possibility that they might breach the Noise Control Ordinance. I hope that Wembley International and the Urban Council will handle carefully activities to be held at the Stadium in the future, ensuring that noise levels must not exceed statutory limits, or the law will be broken.

Some people hope that the Stadium can apply for exemption from the requirements under the Noise Control Ordinance. This matter must be dealt with cautiously, lest a bad precedent will be set. We cannot allow the stadium the privilege of not having to abide by the law. Before the opening of the rebuilt stadium, Wembley International intended to apply for a waiver. Fortunately, the Urban Council's Board of Governors for the Stadium did not allow it to do so. But the scheduled concerts went ahead in the Stadium on 23 and 24 April, with clear knowledge that the law was thereby broken. Such incidents must not repeat again. The Urban Council, as an elected body, must understand the importance of abiding by law. It must set good examples and establish its credibility. After the first night of Alan TAM's concert in the Stadium, some people suggested that the second and the third nights of the concert should be cancelled, since the first night had generated noise above the level permitted by law. But this suggestion was misconceived as a move against concerts organized by the show business. Actually, regardless of its nature, any activity that produces noise above the level permitted by law should be banned.

It is precisely for this reason that I am moving an amendment to the original motion, urging the Government to address the noise problem squarely and to take a wider range of measures to prevent noise from continuing to annoy residents in the neighbourhood. As a matter of fact, unless the management of various public venues take a serious view of the noise problem, the Noise Control Ordinance is likely to be breached very often. I have talked with the Environmental Protection Department. I learn that the Environmental Protection Department measures the decibel levels of race meets and other kinds of activities at the Happy Valley racecourse, as well as concerts at the Ko Shan Theatre. However, the Environmental Protection Department has found no breach of the Noise Control Ordinance in those cases. It is because the management in those cases takes noise control seriously.

Turning back to the Hong Kong Stadium, actually, when the reconstruction of the stadium began in May 1993, Wembley International already knew for sure that, despite all the noise reduction measures that it might take as advised by the acoustic consultants, there would still be noise problems if concerts and so forth were held in the stadium. But this knowledge did not convince the company to take more active steps to deal with the problem. Even more absurdly, Wembley International thought that it could solve the noise problem by applying for exemption of control from the Noise Control Ordinance and by doing some so-called public relations work on nearby

residents. Clearly, the company had not been sincere in trying its best to comply with the law. This was a most irresponsible act. Regrettably, the responsible persons of the Urban Council or the Urban Services Department appeared to have failed to grasp the situation and take corrective steps in time. I hope that the Urban Council will now deal with the noise problem of the stadium more effectively.

I believe that the colleague who moved this motion does not intend to interfere with the Urban Council's autonomy. But the Legislative Council does have an obligation to monitor how the Government enforces law and to find out if existing laws are sufficient for protecting the interests of the public. I suggest that the management of the Stadium should not only take the most effective noise reduction measures, but also state clearly in any contract that the activity organizer is responsible for noise control to a certain extent and that the Stadium's management has the right to control the sound volume on the day of the activity.

Moreover, the existing Noise Control Ordinance needs to be amended and I hope that the Government will quickly introduce an amendment bill. Firstly, the punitive provisions must be amended. The present provisions prescribe a maximum fine of only \$50,000 for the first offence and a maximum fine of not more than \$100,000 for each subsequent offence. This is obviously not an effective deterrent. I think that the fines should be increased sharply. Secondly, the Noise Control Ordinance now provides that a person will be prosecuted only if he continues with the offence 21 days after he was served with a Noise Abatement Notice. This period is too long. I think that it should be shortened to, for example, seven days, so that the party served with the notice will then have to move more quickly to abate the noise problem.

Mr President, the amendment to be moved by Miss Christine LOH is not directly related to the original motion. I hope that the Urban Council is, and it surely must be, better informed than this Council is about what the public wants from the Stadium, how the Stadium can be fully utilized and what kinds of activities can most suitably be held at the stadium. The present debate should just focus on the noise problem. However, Miss LOH's amendment serves to set a direction for consideration by the Urban Council. Therefore, colleagues from the United Democrats of Hong Kong and the Meeting Point support the amendment.

With these remarks, I shall move my amendment later on.

PRESIDENT: There are precedents for this, in case Members are surprised. It happened earlier with the Attorney General. It has happened before in earlier sessions. This enables the Government Secretary to put the Government's point of view. Members can then consider those views and deal with them in their speeches. But the public officer will have one speech in the same way as any other Member.

SECRETARY FOR RECREATION AND CULTURE: Thank you, Mr President, for letting me speak at this point to set out the Administration's position.

Let me say at the outset that we in the Administration, and I am sure the Urban Council as well, are fully aware of the public concerns over the noise nuisance caused by amplified pop concerts held in the Hong Kong Stadium. But we want to see this magnificent stadium become the pride and joy of Hong Kong, a place where people can share many exciting and enjoyable events together, and not a venue that divides the community and creates public controversy.

Like most large scale and complex projects, it is not surprising that the stadium has opened with some teething problems. Regrettably, these problems have diverted our attention from the fact that this is a highly modern, world-class facility which Hong Kong people have been longing for for over 20 years. Now, thanks to the generosity of the Royal Hong Kong Jockey Club, we have finally got it, we should not be disheartened by the teething problems, no matter how difficult they are. We should look forward and try to tackle these problems constructively and work together in a spirit of co-operation and goodwill to have them resolved early, rather than take a defeatist attitude and prevent the people of Hong Kong from enjoying the fun and excitement which events held in the stadium will certainly bring.

I therefore call upon the community, through this Council, to adopt a positive approach. We should act positively and constructively together to find a solution to the problems that have emerged. I am glad to hear that many members of the public, including Members of this Council, have already put forward some very interesting and practical proposals. I shall certainly be pleased to pass them on to the Urban Council, who is the manager of the stadium, to examine carefully and constructively, with a view to ensuring that the stadium can be used for the enjoyment of many without causing undue and unacceptable nuisance to some.

The Honourable Selina CHOW, in moving the motion, urges the Government to seek the banning of all pop concerts from being held at the stadium until such time when it can be ensured that the noise level of such concerts can be kept within the limits specified by the Environmental Protection Department under the Noise Control Ordinance. I fully share that sentiment, as the Administration certainly does not like to see the stadium being used for events that create a public nuisance and perhaps breach the law.

However, I would like to remind Members that the stadium is not managed by the Government. The management responsibility of the stadium lies entirely with the Urban Council. Traditionally and for good constitutional reasons, Central Government, and I understand even this Council, have long respected the autonomy of the Urban Council, particularly as regards items within the latter's statutory responsibilities.

Indeed, the Urban Council, being a publicly elected and accountable body, is already highly conscious of its public duties. It is conscientiously examining ways and means, both short and long terms, to tackle the noise problem created by the holding of pop concerts in the stadium. Since the official opening of the stadium on 11 March and the emergence of the noise problem, the Urban Council has debated the issue at a motion debate on 12 April and has set up an internal working party to examine, among other things, the noise problem. In addition, in consultation with the acoustic consultant engaged by Wembley International (Hong Kong) Limited, which is contracted to manage the facility, the Urban Council has announced in the interim a series of technical and administrative measures to mitigate the noise problem. These measures include:

First, requiring all hirers to comply with the noise levels set out in the Noise Abatement Notice served under the Noise Control Ordinance;

Second, whenever possible, scheduling any pop concerts to be held during the daytime and in the early evenings rather than at night; and

Third, placing the concert sound system and equipment and positioning the stage in such a way as to reduce the noise level as far as possible from getting out of the stadium.

Also, for a few future concert events, agreement has been reached with the hirers for the management to exercise control over the sound mixer in order to ensure that the noise level will remain within the permitted limits.

In addition, there are standard clauses in both the management agreement signed between the Urban Council and Wembley International and in the hirer's agreement, requiring both the stadium manager and the user to observe the laws of Hong Kong, in particular those imposing health, safety and environmental standards and requirements. Furthermore, I am given to understand that as from 26 April, the Urban Council has instructed Wembley International not to accept firm bookings for pop concerts at the stadium without prior consultation with the Council's Board of Governors for the stadium.

It is thus clear that the Urban Council has acted speedily, responsibly and constructively in tackling the noise problem at the stadium once it has emerged. The measures it has taken so far are clearly in accord with the spirit and principle of the motion moved by the Honourable Selina CHOW. This notwithstanding, I shall be happy to pass the views expressed by Members today to the Urban Council and strongly urge the Council to seriously consider not allowing any pop concerts to be held in the stadium until and unless remedial measures could be found to keep the noise level of such concerts within the limits specified in the Noise Abatement Notice served under the Noise Control Ordinance. But I must stress once again that the management responsibility for the stadium rests entirely with the Urban Council and I have no intention to infringe on the Council's autonomy. Since the Council is already conscious of the wide public concern over the noise problem created by holding of pop

concerts in the stadium and is actively and constructively tackling the problem with expert advice from its consultants, I am confident that when I pass Members' views to the Council, they will be given very carefully and serious consideration.

Mr President, whilst I am pleased to support the Honourable Selina CHOW's motion, I have some reservations on the Honourable Christine LOH's amendment and certainly find it difficult to support the amendment of the Honourable FUNG Chi-wood. I fear the Honourable Christine LOH's amendment does venture too far into the purview of the Urban Council and their legitimate right and responsibility to take their own decisions on how the stadium can be effectively and efficiently run in the best interest of the community. Her amendment also pre-judges the outcome of the consideration of the Urban Council's working party currently looking at the issue. For this Council to lay down long-term policy in this way on a matter that falls entirely within the purview of the Urban Council is in my view neither fair nor reasonable.

Although I agree that the original aim in building this magnificent stadium is to provide a modern facility of international standard primarily for sports, it is never intended that the stadium should be used exclusively for sports. That is why modern public entertainment facilities and equipment have been installed. An early feasibility study has indicated that whilst the stadium should be used primarily for sporting events, other usages on a limited basis, including pop concerts, should be allowed not only to ensure that the stadium could be run on a self-financing basis, but also to meet other community needs and interest as well. After all, mass public entertainment events, including concerts, had been held in the old stadium before. I would therefore like to see the long-term usage of the stadium being determined through careful considerations by the Urban Council having regard to the interest of all sectors of the community, including sports lovers as well as concert goers, the financial position in managing the stadium, and after due examination into the various measures to tackle the noise problem at the stadium.

As for Rev the Honourable FUNG Chi-wood's amendment, I find it too sweeping and indiscriminatory to be practical. The effect of that amendment would be to make the stadium useless and unusable. Sports events, for example, may result in very short bursts of sound above the permitted level as the crowd shouts and cheers in excitement at particular moments. However, there have been no complaints about sound levels generated from sports events since the opening of the stadium. It is after all amplified pop music with a heavy bass section lasting for several hours that has caused most annoyance to nearby residents.

Mr President, before I close, I would like to reiterate that the people of Hong Kong have, for many years, longed for a fine stadium of international standard to hold major sporting and public entertainment events. We now have such a facility which is the envy of many neighbouring territories and which

Hong Kong people can be proud of. Let us therefore not write it off just because of some teething problems, difficult though these may be. Rev the Honourable FUNG Chi-wood's amendment would certainly give rise to this result and I sincerely hope that this Council would have the good sense not to support it. Let us put our collective wisdom together to work towards a solution. After all, the stadium was planned primarily as a sporting venue. Its success as such is clearly seen in the sporting events, including soccer and rugby, held in the stadium so far. Some of these events have drawn more than capacity crowds, which Hong Kong has never before seen. The Urban Council has lined up more sporting events in the months ahead, including seven for soccer, four for cricket and one for tennis. And I understand the stadium manager is actively promoting the use of the stadium for more sporting activities as well.

I am sure the holding of these sporting events at the stadium will do much to promoting sports and to raising the profile of sports in Hong Kong internationally. However, as Members are well aware, sporting events alone will not fill up the stadium throughout the year. It should be used for other community and mass entertainment events, including pop concerts, if practicable and acceptable. In this regard, I understand that the Urban Council has received provisional bookings for some 27 days for the rest of the year for various other events. These include variety shows, religious festivals, exhibitions, open days and a few concerts. Let us hope that all these events could be held for the environment of the public.

But we must first resolve the noise problem to ensure that no public nuisance is created especially with concerts. I shall urge the Urban Council to work conscientiously towards this aim and the Administration, through the EPD and other technical departments, will do its best to provide expert advice and assistance to find a satisfactory solution to this problem as soon as possible.

We have the Royal Hong Kong Jockey Club to thank for giving the people of Hong Kong this magnificent stadium. Let us work together to turn it into a community asset and a venue not just for promoting sports but for general community enjoyment as well.

Thank you.

MR MARTIN BARROW: Yes. Thank you, Mr President. I appreciate the concerns of the local residents but I must agree with the Secretary that we should avoid an over reaction to the teething troubles of the first few weeks.

My understanding is that in the initial feasibility study the main focus was that the stadium should be used primarily for sporting purposes and indeed quite a number of such events have been successfully held already. Its use for pop concerts was to be infrequent, perhaps no more than five or six times a year. It was envisaged that such concerts would not be held on Sundays or late in the

evening and I am glad to hear from the Secretary that those points are being re-emphasized.

On that basis, the local residents should not be totally inflexible, given that concerts give pleasure to such a very large number of people of Hong Kong and the Coliseum does not provide a comparable venue. I hope therefore that there will be no over-reaction and I would oppose a total ban on pop concerts.

I recommend that the Urban Council should re-negotiate with the operators to restrict the frequency of such concerts and as the Honourable Christine LOH has just said, maximize its use for sporting events, and as the Secretary said, for other events for the benefit of the people of Hong Kong. Thank you.

MR FREDERICK FUNG (in Cantonese): Mr President, the Jockey Club announced in 1992 that it would rebuild the Hong Kong Stadium. A series of problems have since cropped up. Firstly, there was a row over the justifiability of the huge spending on the stadium's opening ceremony. Then came the serious noise nuisance created by pop concerts held in the stadium and this drew many complaints from the local people. Then the security problem in the stadium came to light. Yet another problem, now brewing, is the functions of the Urban Council and the powers of the Environmental Protection Department (EPD). Are they supposed to play a role of "toothless tigers"? I think that the matter provides food for thought. The Government must seriously study the problems and make improvements.

Among the problems mentioned above, the noise nuisance is the most pressing. It must be resolved soon. Actually, as early as May 1992, when an environmental impact assessment study was made of the stadium project, EPD already said clearly that concerts and similar events held in the stadium would create noise problems and it therefore suggested that no concert should be allowed to go on stage there. The fact is that the stadium is built at the bottom of a valley. Sound travels upwards. In the absence of sound-proofing equipment, it is very difficult to keep noise inside the stadium. Meanwhile the Noise Control Ordinance provides that the acceptable noise level in day time is 65 decibels and, after 11 pm, 55 decibels. The rehearsals for the big show to mark the opening of the stadium had already generated noise at a level between 75 and 80 decibels, which exceeded the acceptable levels set by law. The noise control measures subsequently taken only lowered the noise level slightly. Clearly, the location and design of the stadium make it an unsuitable venue for large pop concerts. When song concerts or pop concerts were held, it was difficult to keep the noise level below 65 decibels.

Since the stadium's re-opening, nearly 400 complaints about noise nuisance have been received. It is not hard for one to imagine how the noise bothers the local people. Allowing further concerts or similar events to be held in the stadium will be very unfair to the performers, to the audience and to

those living nearby. The audience cannot enjoy themselves with abandon. On the part of the performers, they cannot give their best performance. Needless to say, those living nearby will be forced to live with the noise nuisance. Therefore, I hope that the authorities concerned will allow no more pop concerts to be held in the stadium, unless there are adequate noise abatement measures to ensure that the noise levels will not exceed the limits set by EPD. Of course, song concerts and pop concerts apart, orchestras and concerts of classical music, too, may generate excessive noise. Therefore, before any kind of event is held in the stadium, the stadium's management company must make sure that the activity will not generate noise in excess of EPD's limits. From the environmental point of view, this requirement is fair and reasonable. If the Government goes ahead regardless, turning a blind eye to the noise nuisance, then it is clearly not serious about improvement in our environment and promotion of environmental protection, and does not practise what it preaches. The government inaction will be interpreted as its showing no respect for the interests of those living near the stadium.

Proceeds from concerts were at first envisaged to account for 50% of the stadium's total incomes. The stadium, now operated along the line of self-sufficiency, may therefore run into financial difficulties if no more concerts are allowed to be staged there. I think that in view of the serious noise problem, it may no longer be viable to ask the stadium to be self-supporting. The operator concerned should abrogate its agreement with the Government with regard to the financial self-sufficiency arrangements. It should be the Government which takes up the responsibility for subsidizing cultural and recreational events for the public. This will ease the pressure on the stadium's management company to keep the stadium profitable. In that case, the operator concerned will no longer need to keep the stadium profitable by making the stadium available for the holding of concerts.

Meanwhile, the operator concerned should consider changing the ratio between sports events and concerts or other entertainment activities held in the stadium. Through proper publicity and promotion campaigns, organizers of other kinds of activities should be attracted to use the stadium. Interested parties are to be informed that the stadium can also be used as a venue for conferences, exhibitions and televised conferences. In addition, measures should be taken to encourage certain international exchange activities, contests and fund-raising activities — not in the form of concert — to be held in the stadium. This will, on the one hand, help the stadium to maintain a balanced budget and indeed to make good the revenue losses incurred as a result of the ending of concert organizers patronage. On the other hand, the stadium will be used for other purposes and will be turned into a globally renowned multi-purpose stadium.

I have the following response to make to the speech of the Secretary for Recreation and Culture. I fully accept, and agree to, EPD's using the decibel level to measure noise. What I cannot accept is the assertion that concert noise is noise but audience noise is not. Let me ask the Secretary. Is Chinese music

noise? Is sound made by drum beating noise? Is roar of dragon dances and lion dances noise? In defining noise, I think that we should use EPD's present criteria. If the sound exceeds the acceptable decibel level, it is noise, otherwise it is not.

With these remarks, I support Rev FUNG Chi-wood's amendment and oppose Miss Christine LOH's amendment.

MR TAM YIU-CHUNG (in Cantonese): Mr President, I firmly believe that the original motion of Mrs Selina CHOW and the amendment motions of Miss Christine LOH and Rev FUNG Chi-wood are moved out of their concern for the noise problem at the Hong Kong Stadium. However, this problem is within the ambit of the urban Council, which has indeed passed a similar motion by a large majority earlier on. I very much doubt the effectiveness of this kind of motions because given the circumstances, unless the Administration is determined to legislate against holding pop concerts at the Stadium, otherwise today's motion, even if it is passed, serves no other purposes than a show of political posture to demonstrate that we too are concerned about the problem.

The original motion and the two amendments all request the Administration to ensure that the level of noise generated by concerts held at the Stadium complies with the provisions stipulated in the Noise Control Ordinance, and any concerts failing this should be banned. However, how can the Administration possibly give such a guarantee before a concert is held? Unless they do not want to hold these activities at the Stadium, otherwise the organizing units or the production companies of any concerts, however stupid their officers in charge may be, will of course undertake to take every possible measure to try to contain the sound volume below the level stipulated by the Noise Control Ordinance in order to prevent their concerts from being banned. But can they keep their promises? Nobody can tell beforehand. The concert of Alan TAM held earlier is the best example. Last week, the Urban Council also gave approval for a concert to be held by the Commercial Radio at the Stadium next month. Even the Commercial Radio has exhausted all possible solutions, called upon spectators to bring along their own walkman-radio, and given the control of sound mixing to the management company, there is still no guarantee that the sound volume will not exceed the limit. Moreover, even if the organizers breach the Noise Control Ordinance, the result will only be a fine of about \$50,000 or \$100,000, which is just a negligible sum when compared with the income of concerts amounting to tens of millions of dollars.

Mr President, right from the very beginning of the reconstruction of the Hong Kong Stadium, the noise bomb was already planted, only to be fused by the concerts held subsequently. Although I agree that apportioning blame now is not the way to solve the problem, it is obvious that there has been dereliction of duties on the part of government departments. In fact, the Recreation and Culture Branch, the City and New Territories Administration, the Urban Council, the Royal Hong Kong Jockey Club, and Wembley International (Hong

Kong) Limited should all be held responsible. Regrettably, these departments have not only refused to accept the responsibility, but have even tried to shift the blame onto one another, shielding themselves behind the very plausible excuse that the Stadium should be “self-financing”.

At the early stage of the reconstruction of the stadium, the Environmental Protection Department and the parties concerned knew already that given the stadium’s location, the problem of noise would surely arise if pop concerts were held there. However, in the absence of any measures to improve the noise mitigation facilities of the Stadium, the department concerned still approved the application for holding concerts at the Stadium. In the final analysis, money is at stake. The officials of the Recreation and Culture Branch and the City and New Territories Administration have admitted in the meetings of both the urban and Legislative Councils that approving concerts to be held at the Stadium is to ensure that it can be “self-financing”. Even so, according to a consultancy report commissioned by the Royal Hong Kong Jockey Club in mid-1992, the stadium can break even by holding four pop concerts each year. So why was it said in September 1992, that is, before Wembley International (Hong Kong) Limited was appointed as the manager of the stadium, that 12 concerts were expected to be held annually at the stadium; and why was the number recommended by the Jockey Club not complied with? The parties concerned indeed owe the public a clear explanation. Besides, they can hardly evade the responsibilities for the ensuing consequences.

Moreover, having learnt about the noise assessment report concerning the stadium in 1992, the Urban Services Department has not acquitted itself well with the Urban Councillors. Is it deliberately intended to let the Urban Council make insufficiently informed decisions so that it will have to take the blame for the noise problem?

As regards the Urban Councillors, they may well protest against the Urban Services Department for withholding the information such that they could not refer to such information when making the decisions concerned. But as a decision making body, the Urban Council should of course bear the political responsibility for the incident.

Blame can be apportioned later, but what we must face now is the reality. In the long term, I think we should ask this question: Is the golden rule that the stadium must be “self-financing” unbreakable? If the answer is no, then is it not true that the long-term solution of the noise problem of the stadium lies in the Administration’s cancellation of the policy of requiring the stadium to be “self-financing”, such that the Urban Council, free of worries about the income of the stadium, can then use it primarily for sport and community activities, restoring thereby the principal function of the stadium before its reconstruction? At the same time, the Administration should also undertake corresponding commitment for the Stadium’s regular maintenance and management costs which the Urban Council may have to undertake because of the reduced income due to the stadium’s not being used as a venue for holding concerts.

Mr President, there is an old Chinese saying: “Let him who tied the bell on the tiger take it off”. So long as the Administration sticks to the policy of requiring the stadium to be “self-financing”, the Urban Council will continue to refuse relinquishing the holding of concerts at the Stadium and the noise problem at the Stadium can never be solved.

Mr President, I so submit.

MR ROGER LUK (in Cantonese): Mr President, it is said that, once upon a time, a Kung Fu man of an unorthodox school was an accomplished master beyond imagination. He knew everything about music and he played the Chinese harpsichord outstandingly. During his leisure, he would play a few notes. “The big string would make the sound of driving rain, and the small string, that of a soft whisper in the ear. As he continued to play, seemingly at random, one would hear the sound of big and small pearls dropping into a jade plate.” A listener would be entranced and intoxicated by his music. But his music would change completely when he was preparing for a fight. The shrill sound would fill his enemy with dread. “One would hear a silver flask break and its contents splash. One would hear armoured horsemen charge with drawn swords and extended spears.” He could subdue his enemy from a distance. He could kill his enemy without using a visible weapon. His name was unknown. He had an extra finger on his right hand. People respectfully called him Mr Six Fingers. But those of the orthodox school called him the Six-fingered Harpsichord Demon.

A month or so ago, the rebuilt Hong Kong Stadium was completed. The festivity marking its grand opening ended with a finale which was Jean Michel JARRE’s laser music show. Unfortunately, it was too profound to be appreciated. Many members of the audience were disappointed. The rock music was deafening. This gave rise to a serious noise problem and, subsequently, to a medium-intensity political storm over environmental protection. Thus, after all, the Six-fingered Harpsichord Demon of Kung Fu books was not a purely fictitious character.

Now we hear accusations, clamours for investigation and questions about accountability. We would do well to calm down and objectively analyze this “tempest in a super bowl” from a different angle.

The Stadium is inherently a place for outdoor sports contests. How can it be a quiet place? Before it was rebuilt, the Stadium had been a place for football matches. When two popular teams played, all admission tickets would be sold out and the 28 000 football fans would shout and cheer. The noise used to deafen So Kon Po, almost as much as a pop concert now does. Yet there were few complaints over several decades. Now the flames of war have been lit everywhere. Politicians are waving their fists. They are accusing the Government and asking for justice for the people living near the Stadium. Why?

On the hills around So Kon Po are thousands of luxurious apartments as well as public housing units for ordinary people. The noise from the Stadium bothers not only the elite in the million dollar income group but also the ordinary people who live from hand to mouth. The complaint of the elite is that the noise distracts their children and causes them to do less well in school. This is perhaps an exaggeration. The ordinary people say that the noise is loud but not so loud as to create a nuisance. Does this sound like the words of people who are resigned to their fate? Some, who have made an analysis, say that the low rise public housing for ordinary people is close to the Stadium. They say that, as the sound of music reverberates from hill to hill, it becomes real noise pollution. True or false? A determination is yet to be made by experts. However, I believe that the elite are less concerned with the decibel level than with whether their personal interests will be affected. Will property prices fall because of the noise?

The Stadium, being what it is, must have been designed according to the specifications for a football stadium. This, coupled with the geographical constraints, renders the Stadium far from being an ideal venue for concerts. This is to be expected. But now politicians are pointing their accusing fingers at this and that. They want to investigate and find out who was responsible. They take the Government to task for failing to give thought to the noise problem during the designing of the Stadium. What they are doing is Monday morning quarterbacking. They get the order of business upside down. Such suggestions as adding a roof to the Stadium are likely to cost a lot of money but be of little help.

The Stadium's opening ceremony was not well planned. That was the mistake that caused the subsequent trouble. It was the direct cause of the storm over noise from the Stadium. I believe that, had the finale at the opening night been a show by a popular local singer, the effects, including the sound effects, would have been totally different, and any criticism would have been milder. The incident would not have escalated from an environmental incident to political drama. Nor would the Urban Council have become the target for attacks from all quarters.

The Six-fingered Harpsichord Demon was an unusual Kung Fu master. He was evil. But he could change his ways. With proper guidance, he could turn his superlative music into a delight for the multitudes. Therefore, why not make new and better arrangements for programmes and show times? Why not give the Harpsichord Demon a chance to demonstrate his art? Why not dissipate the angry sentiment that plagues the Stadium? As a matter of fact, many additional measures were adopted in, and new arrangements made for, Alan TAM's most recent concert. The noise was effectively reduced to levels close to the control level. But the politicians are still in hot pursuit of the enemy. Are they not over-reacting? Besides, were Members and officials, who measured the noise level at the scene that particular night, really measuring the exact effects of the noise on members of the public?

Mr President, doing too much is worse than doing too little. There will always come a point when one should say that enough is enough. The heroic characters from all quarters should forget about their self-interests, practice mutual understanding and mutual accommodation, arrive at a consensus, turn a mountain into a molehill and make hard feelings disappear. Would it not be nice?

Lingyun is a temple in Leshan, Sichuan Province. Behind this temple sits a fat laughing Buddha. There are two scrolls, hanging one on each side. The couplet reads, "I open my mouth and I laugh. I laugh at things past and present. I find everything in this world laughable. I have a big belly. It is big enough to accommodate the universe. Whom will I not accommodate?" I hope that ordinary citizens, the elite as well as Members will, like me, draw inspiration from this couplet.

MRS MIRIAM LAU (in Cantonese): Mr President, when the Government decided to rebuild the Hong Kong Stadium three years ago, I believe many members of the public must have been looking forward to the commissioning of this modern stadium, and hoped that it would provide Hong Kong with even more superior facilities to organize more events on a larger scale for the benefit of the public. Since the re-opening of the stadium in April this year, however, it seems that the public has not reacted favourably to this \$1 billion facility. Worse still, the noise problem has aroused much discontent among the nearby residents. And the Urban Council finds itself on the horns of a dilemma while the Government also seems to be at its wits' end.

I do not wish to, as it is not the subject of this debate, ascribe blame to anybody. It is also not the most important issue. I would rather devote my attention to the identification of any solution to a problem which is already with us. Mrs Selina CHOW has elaborated in detail the issue of noise, so I would like to look at the traffic nuisance created by the stadium, which may have been overlooked by the mass media.

It has been a common practice both before and after the reconstruction of the stadium that necessary road closure measures would be taken whenever major events are held at the stadium in order to disperse the tens of thousands of audience, resulting in serious traffic jam in the vicinity of the stadium. However, there are two points that we have to consider:

(1) In the past, the stadium was generally used to hold team games and schools' athletic meets. But subsequent to the removal of the track from the stadium, its use is now confined to either team games or pop concerts.

(2) The stadium in its previous form had a capacity of only 28 000, but the existing one can accommodate 40 000 audience.

I would like to point out that in the past when the stadium was used mainly as a venue for schools' athletic meets, the functions were usually held in the daytime and the attendance would never reach 28 000, so the chance of creating noise and traffic problems was slim. For team games, though with a potential attendance of 28 000, they were held in the evening only occasionally. As such matches were played now and then, the noise and traffic problems thus created were not too serious. However, according to the Urban Council's original plan, the new stadium would mainly be used to stage pop concerts. To enable people to attend after work, pop concerts are usually held at night, and they are usually run for several days in a row. If pop concerts are held every night, the nearby residents will suffer from road closure and experience noise nuisance every night, will they not?

Moreover, now that the capacity of the stadium is significantly enhanced, but the Government has failed to provide corresponding traffic arrangements to disperse the crowd, always leading to chaos in the district and creating nuisance to the local residents. To aggravate the situation, the roads in the district are very narrow. In the event of accidents taken place on the day when a pop concert is held, it is likely that ambulances or fire engines will find access to the scene blocked. This scenario worries the nearby residents.

One may argue, if a team game and a pop concert both draw 40 000 audience and are held at night, they will certainly create the same level of nuisance. Then, why should the criticisms only direct against pop concerts? I am not picking on pop concerts. In fact, team games and pop concerts are by nature very different:

(1) Certainly, the level of noise generated by pop concerts held at the stadium would far exceed that of team games and such concerts would be held more frequently.

(2) Pop concerts certainly finish at a time later than team games do. Take a soccer match which starts at eight o'clock as example. The referee would surely blow the final whistle well before 10 o'clock. In contrast, pop concerts, in most cases, would have their final curtain drawn after 10 o'clock, or even 11 o'clock. Relatively speaking, the noise that pop concerts generate lasts longer than that of team games. For this reason, it is necessary to ban all forms of concerts from being held at the Hong Kong Stadium until the noise problem is effectively solved.

Mr President, with these remarks, I support Mrs Selina CHOW's motion.

MR PETER WONG: Mr President, at long last, this Council is taking the lead to put an environmental issue in its proper perspective. The Hong Kong Stadium noise nuisance is but the tip of an iceberg, and one of our many environmental problems which had been swept under the carpet. While public attention has been focused on locating the culprit responsible for the sorry saga, I believe that

the onus must be placed on the collective neglect of our environment by all concerned.

As the Convenor of the Environmental Affairs Panel, which is studying the issue with the Recreation and Culture Branch, I shall recapture here the highlights of the event based on which I have drawn my conclusion. To begin with, the Environmental Protection Department was first notified of the stadium's feasibility study commissioned by the Royal Hong Kong Jockey Club for the Government in September 1991 — more than a year after the launching of the \$850 million project. Similarly, the noise level problem was not brought to the attention of the stadium's Board of Governors until March this year. The Jockey Club, blessedly not bound by bureaucratic red tape, got on with its job and all the normal checks and balances within the Civil Service fell by the wayside; while the Recreation and Culture Branch, taking noise problem as a technical management issue, conveniently passed the buck to the Urban Council. This lack of departmental awareness and co-ordination stemmed from a general disregard for the environmental impact of development projects.

As early as May 1992, the EPD raised objection to holding amplified pop concerts in the new stadium, of which only a limited number was planned at the initial stage. However, Urban Services Department decided that the exclusion of pop concerts would restrict the revenue-earning potential of the stadium which has to become self-financing. With priority given to the stadium's economic aspect, design work and publicity drives went ahead, geared to the construction of a "mass entertainment centre".

Early this year, based on the findings of the consultancy report, the EPD further warned that noise abatement notices could be issued. However, the handpicked Wembley International, working on the assumption that they could re-apply the measures they used back in England, thought they could apply for a waiver in defiance of the Noise Control Ordinance. Eventually, a mass rally and three canto-pop and other Western amplified concerts were held at the stadium in March and April. Hardly limited!

There is at present no law requiring the approval from EPD before development projects can start. Further, environmental impact assessment studies were used as mere formalities and a rubber stamp for development approval. Even when harmful impacts were identified, as in the case of the Hong Kong Stadium, the Government could proceed with its blind commitment, leaving Hong Kong people to become the innocent victims.

During the past two months, the public has been clamouring for the staging of concerts in the Hong Kong Stadium. However, the right of one sector of the community to enjoy the modern stadium facilities must be balanced against the entitlement to quiet living of the affected denizens. Those who want to use the stadium as a performance venue argue that by banning pop and rock concerts, the running cost will be transferred to the taxpayers, and that the Stadium's economic viability will be undermined. This is exactly a case of

economic considerations taking precedence over the environment. But as responsible legislators, we must strike a balance between economic growth and a deteriorating environment; between what is cost efficient and environmentally desirable for Hong Kong. I believe that Hong Kong has reached the stage of economic development where some lost opportunities can be comfortably absorbed for the common good.

It is high time that we stopped witch-hunting and got down to solving the problem in hand. Suggestions to limit the number of concerts held at the stadium per year and to restrict the starting, finishing and rehearsal time of performances can do little to reduce the sonority of concert fanfares. Given that the noise levels should not violate the differing international standards for concerts, football matches and mass rallies, and if the noise level is restricted to a standard of ambient + 10, it will render some performances devoid of entertainment value. According to the EPD, the majority of practical measures to reduce noise leakage of the stadium had already been taken, perhaps with the exception of the exorbitant sliding roof option; and further significant improvement is unlikely. Thus, the only solution is to impose a temporary ban on all types of activities likely to cause public nuisance, until the Gordian knot can be positively untied.

Mr President, environmental protection measures are costly, and green proposals are often dented or crushed in the corridors of power. Up to now, the Government has not taken environmental considerations seriously in the feasibility and planning stages of development projects, and environmental laws have not been enforced actively for economic reasons. Consequently, heavy remedial costs have now to be borne. Let us for once not capitulate to the sole demand of money in the guise of self-financing; but let us pay the price of our past neglect and oversight in the hope that the same blunder will not repeat itself at the expense of Hong Kong people's well being.

MR FRED LI (in Cantonese): Mr President, I have put a lot of efforts in studying the noise nuisance problem of the Hong Kong Stadium and have read many papers as well. With some background information in hand, I believe I am in a position to speak on the issue. Meanwhile, the Urban Council will hold a meeting tomorrow to discuss this noise nuisance problem again.

I would like to clarify some points which have been misunderstood by two speakers. Miss Christine LOH is not in this Chamber at the moment. She has said that the stadium was not designed for amplified concerts at all. That is incorrect. When it was being rebuilt, the stadium was specifically designed to have state-of-the-art sound equipment installed. The sound system, which costs \$8 million, is one of the best in the world. Incidentally, according to an expert, an effective way to reduce noise is to link the sound system provided by the concert organizers up with the built-in sound system of the stadium to obliterate the need to put too many big amplifiers on the stage. Hence, I think Miss Christine LOH is incorrect on this point.

Second, Mr James SO. I think Mr SO has misunderstood a crucial point of Rev FUNG Chi-wood's amendment. Rev FUNG's amendment states that it must be ensured that various activities could be held in the stadium. Mr James SO, in response, remarked just now that Rev FUNG's amendment in this respect was too sweeping to be practical. If so, no event whatsoever could be held, not even soccer matches, because catcalls made by the crowd would pose some noise problem. In fact, a certain Member has already clarified this point. I would like to add a few words to clear the air here, As far as catcalls are concerned, only noise which lasts for a stretch of 15 minutes and exceeds the decibels limits (70 decibels before 7 pm and 65 decibels after 7 pm) would be classified as noise nuisance. What matters is whether the noise lasts for 15 minutes incessantly. In this connection, there will be no problem even if a crowd cheers or boos in response to a goal exceed 80 or 90 decibels so long as the noise does not continue for 15 minutes. For this reason, Rev FUNG's amendment does not pose any problem because the Environmental Protection Department (EPD) has basically laid down such a guideline. Perhaps Mr SO is ignorant of this EPD guideline and hence apprehensive that no event whatsoever could be held in case Rev FUNG's amendment is carried. That, I think, is vital and I hope Mr SO would make no mistake about it. It is not our intention to ban some more noisy events like rugby or soccer matches. After all, the 15 minutes limits are the unmistakably guideline.

I think that the following five bodies have to be held responsible for the creation of the noise nuisance problem of the stadium: (1) the Recreation and Culture Branch; (2) the Jockey Club; (3) the Urban Services Department; (4) the Urban Council; and (5) Wembley International.

Where has Wembley International gone wrong? Wembley had hoped that it could draw on its experience of managing the Wembley Stadium in the United Kingdom to manage the Hong Kong Stadium. In the United Kingdom, Wembley makes it a practice to submit an application each year to the authorities concerned to be exempted from complying with the Noise Control Act and obtain prior consent from the residents in the vicinity to organize eight to 10 matches each year. Certainly, Wembley must have hoped to reduce noise as far as possible where its project in Hong Kong was concerned and thought that it would be alright even if that could always not be achieved because it could always use the last resort — application for exemption. Wembley did not know that the Executive Council is the body to decide whether to grant the exemption, so it asked EPD to which authorities it had to make its application. Wembley was finally informed by the Stadium's Board of Governors that it would be futile to pursue this course of action. How would the Executive Council grant an exemption to allow concerts to be held in the Stadium? That is indeed fancy thinking.

Besides, why did Wembley arrange and indeed hold eight concerts in the past couple of months as soon as the stadium was re-opened? Consultants commissioned by the Jockey Club to explore the possible future use of the stadium have suggested that three to four concerts could be held. Why did

Wembley hold eight concerts right from the start and arrange to hold many more in the future? Now the fate of these concerts hangs in the balance. I think nobody dares to hold any concert in the stadium any more, not even Anita MUI, the pop singer. To observe the limit of 65 decibels, the sound level within the stadium would be so low that the audience have to use headphones to listen to the synchronized live radio broadcast. I think there is nowhere in the world where one who attends a concert has to use headphone to listen to synchronized live radio broadcast!

My investigation into this matter reveals that the crux of the matter lies in the fact that the Urban Council did not discuss the noise nuisance problem until 22 February this year. By then EPD had already issued 12 warnings from May 1992 to March this year, over a period of more than a year, before the reopening of the stadium. EPD had warned the Jockey Club, the Recreation and Culture Branch and the Urban Services Department on meetings and sent them warnings in the form of letters and memoranda. No memorandum on this subject, however, had been sent to the Urban Council and Urban Councillors had been kept in the dark, resulting in Urban Councillors now having to take up collective responsibility and being subject to criticisms. Why had the Urban Services Department kept the Urban Council in the dark on the excuse of technical considerations for more than a year while claiming that the noise problem should be left to experts? It is exactly this excuse or reason that has brought matters to such a hopeless state.

In short, the most crucial question is: Does the stadium have no choice but to hold profitable concerts? I hope that Mr SO, the Urban Council and the Financial Secretary can meet to consider whether the stadium can be self-financing without having to hold concerts and whether the stadium can even be expected to operate in the black and indeed subsidize the Hong Kong Sports Development Board's sports events. The latter is a wonderful wish which, I am afraid, can no longer be fulfilled under the present circumstances. I hope that the three parties concerned will meet to review the matter again. I hope that the Finance Branch will adopt an open-minded approach and will not say, "This is none of our business. We will leave it to the Urban Council." I also hope that the noise pollution problem will be resolved today and more programmes could be held in the stadium, especially those which Hong Kong people seldom have the chance to enjoy, without causing any noise nuisance to the local residents.

Mr President, these are my remarks.

DR CONRAD LAM (in Cantonese): Mr President, I would like to speak on the Hong Kong Stadium issue from two aspects, that is, principle and responsibility.

In the aspect of principle, the stadium, as the word suggests, is for playing ball games. However, in order to balance income and expenditure, the residents in the vicinity are made to put up with the noise which they should not have had to put up with in the first place. In order to strike a balance between income

and expenditure, exorbitant rentals are being charged and those soccer teams which cannot afford them are unable to use the stadium. No matter how good the stadium is, it can only be seen but not be used by the soccer teams. To conclude, in the aspect of principle, the various problems associated with the stadium have simply arisen from “money” considerations. Therefore, I fully support the proposal just put forward by some Members that the Government should consider whether it is necessary to drop the principle of striking a balance between income and expenditure.

Second, in the aspect of responsibility, now that the problem has arisen, we have not yet heard of any party — be it the Government, the Urban Council or other organizations concerned — being willing to come forward to assume this responsibility, or plucking up courage to bear the blame. And this is really regrettable. But what is even more regrettable is when I heard the Chairman of the Urban Council saying, “Exceeding the noise level by a few decibels will not kill anybody.” That is indeed illogical. There are many situations where nobody will get killed but they will not become acceptable simply because they “will not kill anybody”. Thus I sincerely hope that the parties concerned will have the courage to shoulder the responsibility and to make some improvement henceforth.

PRESIDENT: Miss Christine HOH has given notice to move an amendment to the motion. Her amendment has been printed in the Order Paper and circulated to Members. I propose to call on her to move her amendment now.

MISS CHRISTINE LOH moved the following motion:

“To insert”, in the short term,” after “urges the Government”, and add the following after “the venue”:

“and, in the long term, to ensure that the Stadium is used primarily for local and international sports and community events”.”

MISS CHRISTINE LOH: Thank you, Mr President. On Mr SO’s comment that possibly my amendment moved too close to the issue of the .....

PRESIDENT: Sorry, Miss LOH. You have had your speech. I think it is left to you to formally move the amendment.

MISS CHRISTINE LOH: I am sorry. I thought I had one more minute. I am so sorry.

PRESIDENT: You have got just one speech.

MISS CHRISTINE LOH: Mr President, I move that Mr Selina CHOW's motion be amended as set out in the Order Paper.

*Question on Miss Christine LOH's amendment proposed.*

MRS SELINA CHOW: Mr President, could you please clarify I have five minutes to speak, do I? And this is just to Miss LOH's amendment, is it?

PRESIDENT: I think the recommendation was five minutes to all amendments. So you will have to divide your time.

MRS SELINA CHOW: I have to divide my time. So should I speak to Miss LOH's amendment now, and after Rev FUNG has moved his amendment I speak to his amendment with the balance of the five minutes, or what?

PRESIDENT: Yes. You have five minutes to speak to all the amendments, and then you have the balance of your original 15 minutes in final reply. But in respect of the amendments the recommendation of House Committee was five minutes altogether.

MRS SELINA CHOW: So I can actually speak to both amendments now.

PRESIDENT: Yes, but you have to divide your time.

MRS SELINA CHOW (in Cantonese): Mr President, in my speech just now, I have explained in great detail the original intention, purpose and objective of today's motion, and that is to deal with the serious noise problem created by pop music concerts held at the stadium, and how to prevent future incidence of this problem. I have no intention to interfere with the managerial jurisdiction over the stadium on the pretext of the noise problem.

Miss Christine LOH's amendment not only deviates from the subject of discussion but also opens up another front of debate. Members must note that her amendment seeks to oblige the Administration to ensure that use of the stadium is subject to certain restrictions. This restriction will certainly affect the flexibility of the stadium's operation. Since the managerial jurisdiction over the stadium has been devolved upon the Urban Council and Wembley International, should this Council demand the Administration to assume the role

of an “overlord” and instruct the management on what to do and what not to do? I believe Miss Christine LOH, as a senior executive, should know better.

Of course I am not saying that the Legislative Council should not reflect and relate to any institution responsible for the matter the views and discontent of the public. I believe we have already mirrored the views of the public sufficiently. But with whom should the managerial jurisdiction rest, the Administration, the Urban Council or Wembley International? I hope that Members can make out the meaning of today’s debate and not to support an amendment that deviates from the subject under discussion.

I also suggest that, should it really be Members’ intention that this Council should demand the Administration to interfere with the jurisdiction of the Urban Council, a proper motion be put forward in the specific manner, given the important implications of this subject. We should not deal with it by the backdoor. The Liberal Party therefore opposes the amendment by Miss Christine LOH.

There is nothing wrong with the amendment by Rev FUNG on the face of it. Just now Mr Fred LI had explained what is meant by “all types of activities”. However, the phrase “all types of activities” still fails to include all the activities. Actually, from a practical point of view, even if we make such a demand to the Administration, the Administration may not be able to meet it. It is because the Administration will find it difficult to ascertain which type of activity can be held, for we simply have no idea whether the noise of a certain activity will be over the limit without having the activity actually prepared and rehearsed. It is prosecution instead of prohibition that the Administration can carry out. Therefore the amendment by Rev FUNG is in fact not practicable, and it smacks of overcorrection. So, the Liberal Party cannot support it.

*Question on Miss Christine LOH’s amendment put.*

*Voice votes taken.*

THE PRESIDENT said he thought the “Noes” had it.

MR HOWARD YOUNG: 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 results will now be displayed.

Mr Martin LEE, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Andrew WONG, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH and Mr Roger LUK voted for the amendment.

Mr Allen LEE, Mrs Selina CHOW, Mr PANG Chun-hoi, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Moses CHENG, Mr CHIM Pui-chung, Mr Frederick FUNG, Dr LAM Kui-chun, Mr Howard YOUNG and Mr Alfred TSO voted against the amendment.

The Attorney General and the Financial Secretary abstained.

THE PRESIDENT announced that there were 21 votes in favour of the amendment and 14 votes against it. He therefore declared that Miss Christine LOH's amendment was carried.

PRESIDENT: Rev FUNG Chi-wood, as Miss Christine LOH's amendment has been agreed, your amendment cannot proceed in its present form. Would you like to seek leave to alter the terms of your amendment?

REV FUNG CHI-WOOD (in Cantonese): I would like to alter the terms of my amendment.

PRESIDENT: For convenience of Members, the terms of Rev FUNG's altered amendment will now be circulated.

REV FUNG CHI-WOOD moved the following amendment to Mrs Selina CHOW's motion as amended by Miss Christine LOH's amendment:

“To add the following after “community events”:

“but subject to ensuring that the noise level of all types of activities held at the Hong Kong Stadium will meet the requirements under the Noise Control Ordinance, otherwise the activities should be banned”.”

PRESIDENT: Yes. I will grant you leave to alter the terms of your amendment. Would you now please move your formal motion, Rev FUNG?

REV FUNG CHI-WOOD (in Cantonese): Mr President, thank you for your approval, I would like to alter the terms of my amendment, that is, to add after Miss Christine LOH's amended motion the following: "but subject to ensuring that the noise level of all types of activities held at the Hong Kong Stadium will meet the requirements under the Noise Control Ordinance, otherwise the activities should be banned".

*Question on Rev FUNG Chi-wood's amendment proposed.*

PRESIDENT: Mrs Selina CHOW, do you wish to speak? Do you wish time to consider the revised amendment?

MRS SELINA CHOW: No, thank you, Mr President. I have spoken already.

*Question on Rev FUNG Chi-wood's amendment put.*

*Voice votes taken.*

PRESIDENT: Council will proceed to a division.

PRESIDENT: Will Members please proceed to vote?

PRESIDENT: One Member has not registered his or her presence. Are there any queries? If not, the results will now be displayed. We have just had a registration.

Mr Martin LEE, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Rev FUNG Chi-wood, Mr Frederick FUNG, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH, Mr Roger LUK and Mr Alfred TSO voted for the amendment.

The Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr PANG Chun-hoi, Mr Andrew WONG, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr LAU Wah-sum,

Mr Moses CHENG, Dr LAM Kui-chun and Mr Howard YOUNG voted against the amendment.

Miss Emily LAU abstained.

THE PRESIDENT announced that there were 22 votes in favour of the amendment and 14 votes against it. He therefore declared that Rev FUNG Chi-wood's amendment was carried.

PRESIDENT: Mrs CHOW, do you wish to reply generally?

MRS SELINA CHOW: No, thank you.

*Question on the motion moved by Mrs Selina CHOW, as amended by Miss Christine LOH and Rev FUNG Chi-wood, put and agreed to.*

### **Adjournment and Next Sitting**

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 1 June 1994.

*Adjourned accordingly at twenty-five minutes past Six o'clock.*

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

**WRITTEN ANSWER****Annex I****Written answer by the Secretary for Planning, Environment and Lands to Mr LAU Chin-shek's supplementary question to Question 1**

The aim of the planned survey is to ascertain the magnitude of the problem and consider the best way to solve it. If it is decided to proceed with enforcement action, advisory letters will first be issued to the owners/occupiers to request them to remove the illegal installations within six weeks. If the owner/occupier fails to carry out the removal work voluntarily, a Buildings Ordinance section 24 removal order will be served on the owner ordering him to carry out the necessary work in four to six weeks. If the owner still fails to carry out the removal work, the Buildings Department will carry out the work and recover the costs plus a supervision charge from the owner.