

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 25 January 1995

The Council met at half-past Two o'clock

## PRESENT

THE PRESIDENT

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

THE CHIEF SECRETARY

THE HONOURABLE MR MICHAEL LEUNG MAN-KIN, C.B.E., J.P.

THE FINANCIAL SECRETARY

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

THE ATTORNEY GENERAL

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

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

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

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

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

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

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

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

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

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

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

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

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

THE HONOURABLE MOSES CHENG MO-CHI

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

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

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

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

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

DR THE HONOURABLE LAM KUI-CHUN

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

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

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

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

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

THE HONOURABLE ANNA WU HUNG-YUK

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

THE HONOURABLE ALFRED TSO SHIU-WAI

**ABSENT**

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

THE HONOURABLE STEVEN POON KWOK-LIM

**IN ATTENDANCE**

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

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

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

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

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

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

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

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

MR DOMINIC WONG SHING-WAH, O.B.E., J.P.  
SECRETARY FOR HOUSING

MRS KATHERINE FOK LO SHIU-CHING, O.B.E., J.P.  
SECRETARY FOR HEALTH AND WELFARE

MRS ELIZABETH MARGARET BOSHER, J.P.  
SECRETARY FOR ECONOMIC SERVICES

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

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

THE DEPUTY SECRETARY GENERAL  
MR LAW KAM-SANG

**PAPERS**

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

*Subject*

Subsidiary Legislation	<i>L.N. No.</i>
Dangerous Goods (General) (Amendment) Regulation 1995 .....	12/95
Fire Service (Installation Contractors) (Amendment) Regulation 1995 .....	13/95
Official Languages (Alteration of Text) (Small Claims Tribunal Ordinance) Order 1995 .....	14/95
Public Health and Municipal Services Ordinance (Public Markets) (Designation and Amendment of Tenth Schedule) Order 1995 .....	15/95
Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) Order 1995 .....	16/95
Declaration of Markets in the Urban Council Area (Amendment) Declaration 1995 .....	17/95
Official Languages (Authentic Chinese Text) (Jury Ordinance) Order .....	(C)1/95
Official Languages (Authentic Chinese Text) (Small Claims Tribunal Ordinance) Order .....	(C)2/95
Official Languages (Authentic Chinese Text) (Factors Ordinance) Order .....	(C)3/95
Official Languages (Authentic Chinese Text) (Books Registration Ordinance) Order .....	(C)4/95
Official Languages (Authentic Chinese Text) (Pawnbrokers Ordinance) Order .....	(C)5/95
Official Languages (Authentic Chinese Text) (Hong Kong Arts Centre Ordinance) Order .....	(C)6/95

## Sessional Papers 1994-95

- No. 60 — Urban Council Estimates of Revenue and Expenditure for the Financial Year 1995-96
- No. 61 — The Hong Kong Academy for Performing Arts Annual Report July 1993 to June 1994
- No. 62 — Revisions of the 1994-95 Estimates Approved by the Urban Council during the Third Quarter of the 1994-95 Financial Year

**ADDRESS****The Hong Kong Academy for Performing Arts Annual Report July 1993 to June 1994**

SECRETARY FOR RECREATION AND CULTURE: Mr President, I am happy to present the 1993-94 Annual Report of the Hong Kong Academy for Performing Arts (the Academy) together with its financial statement and auditor's report to the Council today. This report covers the year ending on 30 June 1994.

The past year has seen major changes in the top management of the Academy. However, the Academy has continued to deliver quality training to its students under the fine leadership of Mr LO King-man, M.B.E., J.P., who has replaced Dr John HOSIER, C.B.E., as Director of the Academy.

The pursuit of the highest international standards remains the aim of the Academy. In this regard, the Academy has benefited from the wide professional experience of its teaching staff. The international experience and contacts of the three new Deans in the Schools of Dance, Music and Technical Arts (Theatre) who have joined the Academy during the year has also helped to attract renowned visiting artists to work with the students. The value of such exposure is enormous in encouraging and stimulating the development of the students.

In 1993-94, there were a total of 586 full-time Tertiary students and 812 part-time Junior students. Recognition of the talents of the Academy's students has been demonstrated by the substantial audiences for the Academy's concerts and performances and the numerous invitations to perform at overseas events. Recently, for example, the Academy's students represented Hong Kong in the ceremonial and cultural events of the 1994 Commonwealth Games in Canada. They have done extremely well in promoting the image of Hong Kong internationally. Furthermore, during the 1993-94 academic year, 27 students won prizes in various local and international competitions.

As regards academic programme development, in September 1993, the Schools of Dance and Technical Arts (Theatre) admitted their first year of Bachelor of Fine Arts students. To date a total of four degree courses are being offered. The School of Technical Arts is now working on the development of another degree course in TV/Film. It is estimated that the course may be introduced in 1996.

I am impressed by the tremendous progress made by the Academy over the past 10 years since its establishment. The Academy now plays a very important role in the local performing arts scene. Today, there is no area of performing arts activity in Hong Kong which is not touched by the Academy's students, graduates or staff. Looking forward, I am sure that the Academy will continue to make a significant contribution in raising the standard of performing arts in Hong Kong and to be an institution of which we in Hong Kong can all be justifiably proud.

Finally, I would like to take this opportunity to add a special word of appreciation and thanks to Dr Helmut SOHMEN, O.B.E., who retired from the chairmanship of the Academy Council on 31 December 1994. During his eight years' outstanding service, Dr SOHMEN led the Academy through a critical period of growth and development to attain its present status as the foremost degree-awarding institution in Southeast Asia for professional education and training in the performing and related technical arts. This is an excellent achievement and provides a sound legacy to Mr YAO Kang, O.B.E., J.P., who succeeded Dr SOHMEN as Chairman in January 1995. I am sure under Mr YAO's capable chairmanship, the Academy will be moving from strength to strength in the years ahead.

## ORAL ANSWERS TO QUESTIONS

### Disclosure of Particulars of Legislative Councillors' Assistants

1. DR DAVID LI asked: *Mr President, from 1 January 1995, Executive Councillors must disclose their shareholdings in local companies and their activities in local financial markets. However, such disclosure is made to the Governor only on a confidential basis in order that the rights of Executive Councillors to a reasonable degree of privacy for themselves and their families in respect of their personal finances are not significantly eroded. By contrast, Legislative Councillors are now required to disclose, for public inspection, not only the salaries paid to individual staff members but also their identities. In view of this, will the Government inform this Council:*

- (a) *of the reason why the erosion of privacy consideration does not apply equally to Legislative Councillors' assistants who are private citizens of the territory, neither appointed nor elected to public office, nor members of the Civil Service; and*

- (b) *how the right to privacy and the personal safety of Legislative Councillors' assistants will be protected in view of the disclosure of their identities and salaries for public inspection?*

CHIEF SECRETARY: Mr President, I do not consider that the analogy that the Honourable Member has made is a fair one. Members of the Executive Council make very similar public declarations to those made by Members of this Council. They have agreed that, as advisers to the Governor, they should make further disclosures to him personally of their assets and financial activities. That is something that we should applaud. The proposal that Legislative Councillors should now disclose the identities and salaries of the staff they employ with public funds seems to me an entirely different issue.

To address the specific questions that the Honourable Member has asked, the consideration of a possible erosion of privacy in disclosing the names and salaries of Members' assistants must be weighed against the legitimate right of the public to know how Legislative Council Members are using the allowances provided to them out of public funds. An independent commission, which was appointed by the Governor at the request of Members of this Council to review the remuneration package for Legislative Council Members, concluded that in this consideration the public interest should be paramount, and that Legislative Council Members should include the names and salaries of their individual assistants in their reimbursement claims, which should be made available for public inspection.

The Administration agrees entirely with the commission's view that the public has a right to know how Legislative Council Members use their allowances and that the approach taken in this area should be one of accountability, credibility and transparency. There is no reason why a major item of expenditure, in this case staff costs, should be exempted from this public scrutiny.

I frankly cannot see how the personal safety of Legislative Council Members' assistants will be threatened simply because their names and salaries are made available for public inspection. Indeed, some Legislative Council Members have been disclosing the names and salaries of their assistants from the beginning, even when this disclosure was not a requirement. I am not aware that these Members — or their staff — have experienced any such difficulties as a result.

DR DAVID LI: *Mr President, in response to Beijing's request for information on civil servants, a government source was quoted as saying, "the Chinese side has to spell out clearly what kind of information it wants and who would have access to the files before the Government would consider providing that information". The spokesman was further quoted as saying that "even if the request is made, the Government would have to consult the official before*



*handing over the files". By contrast, the Government has moved more than swiftly to disclose the personal information of Legislative Councillors' assistants for public inspection, without so much as the courtesy of consulting those who are directly involved. Is the Government aware that in so doing a double standard has been applied between the treatment of the civil servants and the private citizens of Hong Kong?*

PRESIDENT: It is a very long preamble to your question, Dr LI. Chief Secretary, reply if you can.

CHIEF SECRETARY: Mr President, I do not think that the preamble to Dr LI's question is relevant at all to this particular point in question.

The Government has taken the advice of the commission appointed independently to review this matter. The commission's report has been discussed and agreed by the Administration and Members have been fully consulted on the recommendations before the financial package on the remuneration has been approved since October last year. Of course the commission has taken all the views into account, including the views Members made through their Working Group to the commission. The commission had come to the conclusion that, in this particular case, since the allowances payable to Members for staff costs, among other things, are public funds, it is important that the public should be able to see for themselves the names and salaries of the assistants employed by Members using public funds. This is only a matter of credibility, accountability and transparency. I am sure the Government and this Council fully endorse the need for this accountability and transparency. And I do not believe that there is anything to hide from making these known to the public who pays for the funds through tax revenue and other public sources.

DR PHILIP WONG (in Cantonese): *Mr President, will the Administration inform this Council whether it will require Members of the Executive Council to disclose information about the salaries of their assistants? If yes, when will such a requirement take effect? If not, why not?*

CHIEF SECRETARY: Mr President, Executive Council Members already have a Register of Members' Interests which is made available for public inspection, covering land and properties, companies in which they have a beneficial interest, payment of directorships, employment and financial sponsorship. The same applies to Members of this Council as this Council also has a register for public inspection.

Members of the Executive Council also, of course, may have their own personal assistants but they are not paid from public funds. So the question of public scrutiny does not arise in that particular case.

Perhaps I should return to the point, Mr President, that Members' assistants are paid from the allowances from public funds. This is why the question of public scrutiny comes in. For other payments which are not paid from public funds, the question does not come in, as it is in the case of Executive Council Members' assistants, if any.

MR MARTIN LEE: *Mr President, in relation to those assistants who were already employed by certain Legislative Council Members before the relevant commission had come up with this recommendation for disclosure, does the Government not see that by requiring these Legislative Council Members now to disclose the personal details of these assistants would be totally unfair to both employers and employees, and in certain cases may even amount to a breach of contract?*

CHIEF SECRETARY: Mr President, the breach of contract does not arise in this case because the package of recommendations is to take effect from the next financial year. The only bit which is to take effect now concerns the names and salaries of the assistants of Legislative Council Members and this has no financial implications. As regards the revealing of such names and salaries of the staff, I think that some Legislative Council Members have already done that and there are no particular problems arising from those disclosures. I cannot understand or see how the other Members and their assistants will have any particular inconvenience arising from such disclosures. I think in the end the Members themselves must judge whether it is in the public interest to do so and if so, it is upon them to explain to the public, who pay for these allowances, why this has to be hidden from the public as such.

DR LEONG CHE-HUNG: *Thank you, Mr President. I do realize that Executive Councillors and Legislative Councillors serve different roles, but at least in this particular Session, many Legislative Councillors are also appointed by the Governor, just like Executive Councillors. Can the Administration clarify for this Council whether Executive Councillors, in declaring their assets and financial activity, only have to disclose the information to the Governor while Members of this Council have to disclose it to the public? If that is the case, why is there a double standard?*

CHIEF SECRETARY: Mr President, as I said earlier on, Executive Council Members, like Legislative Council Members, declare in the Register of Members' Interests land and properties, financial holdings of companies and so on, which is available for public inspection, in the same way as Members of this Council have done. In addition, Members of the Executive Council, because of their position as advisers to the Governor, also declare a further list of disclosures involving their financial interests. These disclosures involve personal shareholdings in Hong Kong companies and any positions that Members occupy

in their own right in the Hong Kong Futures Exchange. These are matters which, of course, are beyond what Legislative Council Members have to declare and they are matters which Executive Council Members declare to the Governor only, as advisers to the Governor, to ensure that the Governor gets the independent and impartial advice in case of any conflict of interest. They are in addition to the present list of registers which are applicable to both Executive Council Members and Legislative Council Members. So the question of double standard does not come in at all here.

MR PETER WONG: *Mr President, I question the Chief Secretary's logic that just because a few Members have chosen to disclose the information necessarily means that what is done is right or should be mandatory for others.*

*Mr President, it is well known that the Legislative Council Working Group has a different view to the commission on this disclosure problem. Now does the immediate enforcement by the Administration of all the recommendations of the commission not mean that deliberation by the Working Group of the Legislative Council has become a total waste of time and a fait accompli?*

CHIEF SECRETARY: Mr President, I think Members of this Council have already had discussions on these matters with the commission and with the Administration. The recommendations made by the commission have been accepted by the Administration and the financial package for the first stage of these has been approved by Members of this Council in Finance Committee.

If any particular Member or Members have any particular strong views on any of these procedural requirements, I am sure of course the commission would be happy to look at them again in the light of any practical problems arising from such implementation. But I think that the same will apply to those Members who have already done so without any problem. The question then is, why is it that other Members see difficulties in such a procedural requirement?

At the end of the day, it must be for the Secretary General of this Council, who is the Controlling Officer, to satisfy himself that the funds earmarked for reimbursement are discharged properly and that the Director of Audit must of course also use his power to scrutinize such discharge of responsibilities under the Audit Ordinance.

MR ANDREW WONG (in Cantonese): *Mr President, I want to follow up the questions asked by Mr Martin LEE and Mr Peter WONG. Mr LEE's question was very specific. He asked the Administration to give a reply on the issue of disclosing to the public the name and salary of each assistant. Mr LEE's question is: in certain cases, disclosure may amount to a breach of contract because a Member, as employer, and an assistant, as employee, might have*

*agreed to keep the information confidential at the time when the relevant employment contract was first entered into. The Chief Secretary has not answered the question properly. I believe Mr WONG also wants to ask the same question. In the case of a breach of contract under such circumstances, how will the Administration deal with the matter? I hope the Acting Chief Secretary will answer.*

CHIEF SECRETARY: Mr President, if there were real difficulties in this particular area of contractual obligations, I am sure the Controlling Officer will be listening very carefully to such problems and consider how best to resolve this matter when it comes to reimbursing the costs of these staff payments.

PRESIDENT: We have a queue of questions. I will take three more in order of priority.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, personally, I fully agree that Legislative Council Members have the duty and obligation to disclose the relevant information to all residents in Hong Kong. However, since assistants have nothing to do with public interest, should not they be consulted first before the disclosure? Moreover, will disclosure cause assistants to compare salaries, thereby giving pressure to Members to raise their assistants' salaries, with the result that Hong Kong residents become the ultimate losers? Would the Administration take this factor into consideration?*

CHIEF SECRETARY: Mr President, as I said, if there are any real difficulties which Members cannot overcome, I am sure the Secretary General, who is the Controlling Officer, must consider these carefully, and if necessary, will reflect to the Administration or the commission in resolving these difficulties.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, staff of statutory organizations fully-owned by the Government, such as the Provisional Airport Authority, the Mass Transit Railway Corporation, and the Kowloon-Canton Railway Corporation, do not have to disclose their salaries, although some of them may have salaries exceeding \$1 million a year. Assistants to Members are neither civil servants nor public officers, but just because they are paid out of public funds, they are not consulted when their privacy is compromised by the disclosure of their salaries. Is there a question of a double standard? Is this unfair to Members' assistants who are but ordinary citizens themselves.*

CHIEF SECRETARY: Mr President, I do not think the comparisons are valid at all. We are talking here about allowances payable from public funds to Members' assistants. This is why it is necessary to ensure that the public has a right to know and the way Members use their allowances must be transparent and credible.

When you talk about companies or corporations operating on prudent financial principles, the commercial considerations apply in those cases. It is important to bear in mind that in those operations, in indicating the salaries or remuneration of the staff in those corporations, it is important that the market has to be taken into account. Market forces will of course affect the recruitment and retention of staff in those corporations and it is a different set of circumstances applying to those situations. This is why it is important for these corporations, for example, the Monetary Authority, the Airport Authority and so on, not to reveal the remunerations of the holders of those positions as they are, as it were, competing with the market in recruiting and retaining people of good calibre. So it is important to bear in mind the difference between these corporations and Members of this Council employing assistants with public funds. They are very different circumstances. And different criteria are applicable to these cases.

MRS PEGGY LAM (in Cantonese): *Mr President, will the Administration inform this Council whether Members of the Executive Council also draw allowances from the Government? Do such allowances come from public funds? If they pay their assistants out of public funds, why do they not have to disclose the particulars of their assistants?*

CHIEF SECRETARY: Mr President, Members of the Executive Council do not get any salaries or allowances from the Government. They receive honorarium just as what members of advisory boards and committees do and we do not require such information to be disclosed because they are honorarium. And it is not the practice to disclose these honorarium payable to Members and how they are to be used by Members.

## **50th Anniversary of the End of the Pacific War**

2. MR JIMMY MCGREGOR asked: *Will the Government inform this Council whether:*
  - (a) *it will take steps to commemorate the 50th anniversary of the end of the Pacific War in August 1945 and pay tribute to the sacrifice and courage of the people of the territory during the war years; and*

- (b) *it will organize a suitable programme to give thanks for deliverance and to express renewed hope for a peaceful and successful future?*

SECRETARY FOR SECURITY: Mr President, it is our intention that this important anniversary should be suitably commemorated. Arrangements for this are now well advanced. Last year, at the Governor's request, the Commander British Forces established a steering committee to draw up proposals. Its members include the President of the Hong Kong Prisoners of War Association and representatives of the British Forces and the Government. The Governor has now approved a full programme of events recommended by the committee, and we have sought provision for this in the 1995-96 estimates.

The programme will begin on 28 August. Veterans from all over the world are expected to attend. There will be a commemoration parade, a wreath laying ceremony, a service and a march past by the veterans, the British Forces and the Hong Kong disciplined services. The Royal Air Force and the Government Flying Service will also stage a fly past. There will also be a lunch for the veterans and guests. Over the remainder of the week, there will be a battlefield tour, visits to significant military sites, such as the cemeteries, Stanley Fort and the former Sham Shui Po prisoner-of-war camp. The programme will end on 2 September with a parade to mark the disbandment of the Royal Hong Kong Regiment (the Volunteers).

MR JIMMY MCGREGOR: *Mr President, will the Government consider, inter alia, the following additional measures to mark the 50th anniversary of the end of hostilities in the Pacific War:*

*first, government encouragement to those organizations in Hong Kong which represent both civilian and military resistance to the Japanese attack and occupation of Hong Kong from December 1941, in the organization of meetings and religious services to commemorate the end of hostilities; such encouragement to include financial support for such meetings and functions; and also that the Government shall be prepared to assist appropriate Hong Kong organizations which propose to bring representatives of other Asian ex-servicemen's associations to Hong Kong for commemorative meetings;*

*second, that the Government does its best to encourage the Japanese Emperor and the Japanese Government to make a symbolic gesture of regret and penitence for the cruelty and misery inflicted on Hong Kong people from 1941 to 1945;*

*thirdly, that renewed efforts be made by the Hong Kong Government to secure British Nationality and passports for the 25 or so wives and widows of Hong Kong Volunteers and others who fought so valiantly for Hong Kong during the Japanese attack and afterwards; and*

*finally, that a special committee be set up to consider and co-ordinate such commemorative activities which should give Hong Kong people every opportunity to express their gratitude to those who did so much for Hong Kong during those sad and dangerous years?*

PRESIDENT: Have you got that list, Secretary? I am sure you will want some of the points repeated.

SECRETARY FOR SECURITY: Thank you, Mr President, I will try to cover the four points asked by the Honourable Member.

As regards the first point, will the Government give encouragement to organizations in Hong Kong to participate in the celebration? The answer is yes. As far as I am aware, the steering committee chaired by the Commander British Forces has encouraged organizations to participate in the arrangements for the organization. If there are organizations which are not presently involved then I would be happy to hear from them and will see that they are referred to that steering committee.

As regards the request to seek an assurance from the Japanese Emperor, the object of the commemoration is for the people of Hong Kong and for those from overseas who fought for its defence and eventual liberation to, as the words of the principal question read, pay tribute to the sacrifice and courage of the people of the territory during the war years and to give thanks for deliverance and to express renewed hope. I do not think therefore that involving the Japanese Emperor falls into that category.

As regards the third part — British nationality for the wives and widows in question, I think, as Members of this Council are aware, we have sought support for the sentiments expressed by that supplementary question from the British Government and that continues to be our objective to seek additional assurances for these ladies. As Members are aware, all of them have been offered British passports. The problem arises in that they have to go to Britain in order to receive them, to fulfil the residency requirements. We have worked with some of the organizations in Hong Kong recently, in order to give these ladies further assurance in the form of a personal letter from the Home Secretary to each of them and a number of them have taken up the offer that he made to have a chop in their passport which will guarantee them entry into the United Kingdom for the purposes of residence and subsequent citizenship. I am happy to say that with the help of some of the organizations here, we have managed to contact all of those who are in Hong Kong and we are now seeking those who are outside Hong Kong.

As regards the fourth part of the question, Mr President, the answer is again yes. Hong Kong people will be given an opportunity to participate. It is a very difficult matter for us to try and estimate how many will be involved and it is largely a matter of guesswork to figure how many people will be involved. But perhaps if I could link that to the first part of the question, any other organizations that can help us in that regard, we would welcome that advice.

MR JIMMY MCGREGOR: *Mr President, could I have clarification of the final point please? Does that mean that the Government will entertain requests by suitable organizations for assistance and help if they wish to participate in these commemorative activities to the extent that they might be given financial help as well?*

SECRETARY FOR SECURITY: Mr President, I fear not. The arrangements which we are making for the celebration which will take place in September is for the celebration. No participants are being offered any financial help, even those from overseas. We would be happy, as I have said in reply to the first supplementary, for any Hong Kong people to be involved in the celebrations in any way. That will not, I fear, go as far as providing financial help to them. But perhaps I could explain that it will cover such things as transport, it will cover such things as medical attention during the celebrations and all of the activities, and it will cover any of the celebrations to which they are invited and the refreshments and other activities.

MR JIMMY MCGREGOR: *Mr President, could I have further clarification as to what the Secretary means by transport? Does he mean transport from another country to Hong Kong or simply vehicles inside Hong Kong?*

SECRETARY FOR SECURITY: Mr President, it is the latter. It is transport inside Hong Kong. We are not providing transport for anyone to visit Hong Kong or indeed subsidizing transport for anyone to come to Hong Kong. It is transport within Hong Kong.

MR SZETO WAH (in Cantonese): *Mr President, this year marks not only the 50th anniversary of the end of the Pacific War but also the 50th anniversary of China's victory in the War of Resistance Against Japan, which is even more significant to the Chinese people. Will the Government inform this Council whether the commemorative activities organized by the Government will also touch on China's victory in the war against Japan?*



SECRETARY FOR SECURITY: Mr President, I think that the activities sought by the Honourable Member will be included in the series of events that we are organizing as part of this commemoration. They begin on 28 August and run through to be completed on 3 September. There will be a number of activities taking place during that time. Rather than reading out the list, Mr President, I will be very happy to provide that list to the Member if he wishes.

### **Public Transport Services**

3. DR SAMUEL WONG asked: *According to the Annual Traffic Census — 1993 Report, the provision of public transport increased by just 25% over a 10-year period from 1983 to 1993. However, it was pointed out in the Report of the Working Party on Measures to Address Traffic Congestion that the number of daily trips had doubled in the last 20 years, whereas the population had only increased by one-third over the same period and the proportion of trips using private transport had increased by nearly 50%. In this connection, will the Government inform this Council:*

- (a) *of the reasons why the development of public transport services lags far behind the market demand; and*
- (b) *whether the inadequate provision of public transport services has led to the increasing use of private transport by the public, thus aggravating the problem of traffic congestion?*

SECRETARY FOR TRANSPORT: Mr President, may I first point out, with due respect to the Honourable Member, that in his preamble he has not compared like with like. Firstly, Figure 5 in the Annual Traffic Census — 1993 Report depicts a 25% growth in the number of passenger trips made by public transport over the period 1983-93. These figures do not relate to carrying capacities of the different modes of public transport over the same period. Secondly, the number of daily trips referred to in the Report of the Working Party on Measures to Address Traffic Congestion includes journeys by both public and private transport over a 20 year period.

I now turn to the two specific questions asked:

- (a) The provision of public transport has not lagged behind demand. On the contrary, new services and major improvements have been introduced in the past 10 years. The Mass Transit Railway (MTR) Island Line came into operation in 1985, the Light Rail Transit system commenced in 1988, and the MTR extended its services from Lam Tin to Quarry Bay via the Eastern Harbour Crossing in 1989. In addition, the number of franchised bus routes rose from 275 to 469 and the number of green minibus routes from 109 to

231. During this period, 18% of the franchised bus fleet and all public light buses and taxis have been air conditioned.

- (b) I do not agree that the tremendous increase in private car ownership experienced in recent years has been caused by inadequacies in our public transport system. The fact is that public transport in Hong Kong remains one of the best and most efficient in the world. As has been the case elsewhere, the growth in car ownership is mainly related to increases in real incomes. Private car usage will always be more comfortable and convenient than public transport, and if people can afford it, they will aspire to own cars.

Mr President, I wish to assure Honourable Members that the Administration is not complacent and, indeed, this is demonstrated by firm plans to further expand and upgrade public transport services. For example, the recently announced Railway Development Strategy provides a blueprint for the expansion of our rail systems. Meanwhile, both rail corporations are investing in new signalling equipment to increase train frequencies as well as in station improvements. The franchised bus companies will spend \$500 million on new buses in the next 12 months. And further improvements will be made to ferry services to service the northwest New Territories and the outlying islands.

DR SAMUEL WONG: *Thank you, Mr President. Would the Secretary for Transport agree with me that the lack of parking facilities at major transport interchanges or underground stations for private car owners to park and ride on public transport is further aggravating the problem of traffic congestion?*

SECRETARY FOR TRANSPORT: Mr President, I do agree with the Honourable Member that we need to look afresh at the requirement for park-and-ride facilities, and indeed for some of the new developments in conjunction with the airport railway system. The Mass Transit Railway Corporation has suggested ideas in this respect and we shall continue to explore to see whether further sites can be made available for park-and-ride.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, in paragraph 3 of his reply, the Secretary for Transport said that franchised bus companies will spend \$500 million on the purchase of new buses in the next 12 months. How many buses can be bought with this sum of money? Is CMB one of the bus companies being referred to? Since the negotiations on CMB's franchise renewal may not be successful, is the Administration implying that some new bus companies might take over its place?*

SECRETARY FOR TRANSPORT: Mr President, insofar as expansion of bus services and routes are concerned, we do consult the District Boards and the figure of \$500 million is the total which the bus companies plan to spend in the coming year. As for the exact number of buses, I cannot give a figure but I would imagine that this is about 200 buses or so.

As regards the question on the China Motor Bus franchise, with respect, this is outside the context of this question and because negotiations are ongoing, I cannot answer that at this point in time.

MRS MIRIAM LAU (in Cantonese): *Mr President, in paragraph 2 of his reply, the Secretary for Transport said that the provision of public transport has not lagged behind demand. Will the Secretary for Transport clarify whether the existing provision of public transport is already adequate to meet the demand of the public, especially during rush hours? Besides, with regard to the Report of the Working Party on Measures to Address Traffic congestion, has the Government assessed how many private car owners would switch to commute on the public transport system if its recommendations are implemented? How much additional pressure will thus be exerted on our public transport system? And, what plan do public transport companies have to deal with such circumstances?*

SECRETARY FOR TRANSPORT: Mr President, I think it is very difficult to be precise as to say what caters for public demand. I think certainly during rush hours, a limited waiting time is to be expected at bus and train stations, at ferry services and so forth. The public transport operators cannot plan to have a fleet simply to cope with peak hour rushes. If we are to do so, the cost of public transport would be phenomenal.

Insofar as meeting demand today is concerned, the fact is that 9 million of our 10 million daily passenger/commuter trips are met by public transport and I think if one adopts this yardstick, it is fair to say that we do cater for public demand. Having said that, I did indicate in my main reply that we are continuing to look at ways and means of improving our very good public transport services.

MRS MIRIAM LAU: *The second part of my question please. Whether an assessment has been made?*

SECRETARY FOR TRANSPORT: I am sorry. Could the Honourable Member please repeat that question?

MR MIRIAM LAU (in Cantonese): *My question is: with regard to the Report of the Working Party on Measures to Address Traffic Congestion, has the Government assessed the pressure thus created on the public transport system if its recommendations are implemented? How many private car owners would switch to commute on the public transport system? Have public transport companies worked out any plans in relation to the situation? What are their plans?*

SECRETARY FOR TRANSPORT: Mr President, we have not made an assessment in respect of such a yardstick. But I think I should point out that in our working party report to tackle traffic congestion, our prime thrust is to contain the current position, insofar as traffic and traffic congestion is concerned. We are not out to reduce the existing fleet of vehicles. Our plans are to try and contain growth in vehicles in the interim years pending the introduction of electronic road pricing.

MR EDWARD HO: *Mr President, in his reply, the Secretary has ignored one important fact, that is, most people who use private cars do so because they live in areas poorly served by public transport. Will the Secretary inform this Council what the Government intends to do and indeed what it can do to ensure that regular, frequent and comfortable public transport is provided to these areas to offer a reasonable alternative to private car users?*

SECRETARY FOR TRANSPORT: Mr President, I do agree with the Honourable Member that, in the more remote parts of the territory, public transport may not be provided as regularly as one would have hoped. In respect of the New Territories, for example, of course we have plans for the airport railway and when this is in place it will provide much relief for the Nathan Road Corridor. Secondly, there is ongoing dialogue with the bus companies to provide feeder services to the more remote parts of the New Territories, and we shall also work with the Hong Kong Ferry Company to expand ferry services to the outlying islands and the northwest New Territories.

MR PETER WONG: *Mr President, the Secretary's answer addresses how to meet demand with various modes of transport. Has our transport policy struck at the root of the problem, that is, to locate one's residence close to both work and recreation, thereby avoiding unnecessary journeys?*

SECRETARY FOR TRANSPORT: Mr President, I believe that as part of the territorial development studies, this particular problem is being reassessed. In planning terms, we do look at transport and housing and we try to provide all the facilities in the same new town.

DR TANG SIU-TONG (in Cantonese): *Mr President, the Government seems to think that the growth in the number of private cars is the main cause of traffic congestion. Can the Government tell how many additional roads have been added to our road networks over the past 10 years? Can the increase in the kilometres of roads catch up with the growth in population and the need for transport?*

SECRETARY FOR TRANSPORT: Mr President, I find that a very difficult question to answer. I do not think it is possible to really correlate the increase in the kilometres of roads with the growth in cars, but suffice it to say that in fact the growth in vehicle fleet, particularly in the private section, has increased a third over the last three years.

MR WONG WAI-YIN (in Cantonese): *Mr President, in paragraph 2(a) of his reply, the Secretary for Transport said that the provision of public transport has not lagged behind demand. However, long waiting queues are observed at many bus stations during morning rush hours, particularly at some new towns in the New Territories. The development of residential coach services in recent years seems to indicate that bus services cannot meet public demand. Mr President, while there has been an increase in the number of GMB routes over the past 10 years, the growth in the past few years has slowed down quite a lot. Can the Secretary for Transport tell whether there are any plans to increase the number of GMB routes, and whether the Government will consider the idea of permitting GMBs to operate between housing estates in the New Territories and the urban areas as a means of encouraging private car users to use GMB services? I want to ask this question because of the fact that many people still have to stand for more than one hour during the entire journey from the New Territories to the urban areas although they can get on board at a terminus. As a result, many people are unwilling to take buses. But if there are GMBs operating from these housing estates to the urban areas, I believe that some private car users will be attracted to take GMBs. I wonder if the Secretary for Transport will consider the opening of these housing estates to GMB operation?*

SECRETARY FOR TRANSPORT: Mr President, the number of residential coach services indeed has increased over the past 10 years. For example, there were 23 routes and there are now 83 and the total fleet deployed is 399 today as compared to 58 some 10 years ago. As for minibuses, our policy is to freeze the number of minibuses on the roads and the figure is now 4 350. Our policy is to switch operations from red minibuses to green minibuses and at the end of 1994, there were 252 green minibus routes. The answer to the Honourable Member's question as to whether we will continue in this direction is yes. But I think we have to bear in mind that we do not impinge upon the franchise rights of the public bus operators.

PRESIDENT: Not answered, Mr WONG?

MR WONG WAI-YIN (in Cantonese): *My main question is: During morning rush hours; many people have to keep standing throughout the whole journey even though they get on board at a bus terminus. This has made many people unwilling to take buses for their journeys to the urban areas. The GMB routes mentioned by the Secretary for Transport just now are only local routes. What I have proposed are outbound routes, which run from public housing estates in new towns to urban Kowloon. This may induce some motorists to take minibuses. I wonder if the Secretary for Transport will take this into consideration?*

SECRETARY FOR TRANSPORT: Mr President, the capacity of public buses does include a volume for standing passengers but certainly we will continue to look into the proposal suggested by the Honourable Member. But as I have said, we have to make certain that we do not impinge upon the franchise rights of the public transport operators because if we did so, this would mean increased costs.

### **Land Disposal Programme**

4. MR ALBERT CHAN asked (in Cantonese): *There were occasions in the past few years when some of the sites in the land sale programmes had not been sold as planned. Will the Government inform this Council:*

- (a) *of the total number of sites in the 1994-95 Lands Sales Programme not yet sold to date together with the total area of these sites and their respective usage; and what steps will be taken to ensure that these sites will be sold as planned within this financial year; and*
- (b) *whether there are discrepancies between the actual and anticipated selling prices of the sites sold this year; if so, what the reasons are?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) To date only two sites put up for sale by auction this year failed to sell. The total area of these sites is 1.07 hectares: one was for industrial use and the other for residential.

In respect of the industrial site, the area will be made up by other sites. The residential site will be put up for sale again in March 1995 with an increase in the site area.

The Government will seek to ensure full utilization of the agreed Land Disposal Programme hectarage as far as possible.

- (b) There have been no instances of discrepancy between actual and anticipated selling prices of sites sold so far this year.

MR ALBERT CHAN (in Cantonese): *Mr President, I have learned that the residential site at Shatin was sold this afternoon. Let me first offer my congratulations to the Government. Under the 1994-95 Land Sales Programme, the Sino-British Land Commission agreed on the disposal of 26 hectares of residential land. However, as at yesterday, 16 hectares of land has still not been auctioned. The Government has deferred the auction of a considerable hectarage of residential land until the final quarter of the financial year. If the residential sites cannot be sold before the end of the financial year, some land will be wasted, and this will seriously affect the future supply of residential flats. May I ask whether the Government considers such an administrative arrangement reasonable? What measures and plans does the Government have to ensure the sale of the remaining 16 hectares of land at reasonable prices in the next two months or so? And will the Government consider abandoning the high land price policy?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, to start at the back, the Government does not have a high land price policy and it will therefore not consider abandoning it. I would like to thank the Honourable Member for his congratulations. This afternoon we sold the site at Sha Tin which is a residential site. The opening price was \$130 million and the sale price was \$171 million; there were five bidders and 42 bids. It remains to be seen what happens to the other two lots.

As regards the main part of the question, I think it is necessary to bear in mind that a proportion of the hectarage which is in the 1994-95 Programme was agreed to be added to the Programme only late in 1994. It is therefore unavoidable that the sale of that hectarage will take place during the next few months. And this of course is one of the problems of the Land Disposal Programme which is not a mechanistic rigid activity but a living breathing process, and I think that needs to be borne in mind.

The other point about it is this: there is no question of the Government ensuring that it sells a given hectarage; it is the market that decides what hectarage it wishes to receive. It is the job of the Government to put onto the market such land as it believes is indicated as being required. But in the final analysis, decisions on purchase are the decisions of purchasers, not the Government. However, I believe that in the next few months we will see a good proportion of the land which we will be putting up bought.

If, at the end of the day or at the end of this financial year, we have not achieved the full disposal of the hectarage, then there is no question of the land being wasted. The land is still there; the land will be sold. It may be sold next year; some of it may not be sold until the following year. But what will go into the Land Disposal Programme for 1995-96 will depend on the state of the market, will depend on the views that we and the Land Commission take, and will in the final analysis depend on the attitude of purchasers to what we offer.

MR LEE WING-TAT (in Cantonese): *Mr President, I would like to follow up the Honourable ALBERT CHAN's question. Mr Eason seems to have said that any land that remains unsold under this year's Land Disposal Programme would not be wasted. However, supposing that 30 hectares of land has been approved for disposal this year by the Sino-British Commission and that 5 hectares of land finally remains unsold, would Mr Eason clarify whether it is true that the remaining 5 hectares of land would not be included in the 1995-96 Programme of Land Disposal?*

*My main question is: the implementation of the recommendation of the Report of the Land Production Task Force published in June 1994 has given rise to the increase in land disposal this year. Now that the property market has slacken recently, I would like to ask Mr Eason: Will the Government continue to carry out the Land Disposal Programmes of the next few years on the basis of the recommendation of the Report of June 1994?*

PRESIDENT: Two questions there, Secretary.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: At least two, Mr President. I think I have to revert to the point, Mr President, which I made in answering the previous supplementary. We have not yet devised a formula whereby we have been able to compel purchasers to buy everything we put up for sale, and in Hong Kong, it is unlikely that we would ever reach such a glorious state.

It is our intention, and I think this has been indicated by the adjustment that was made to the Land Disposal Programme 1994-95, to implement the recommendations of the task force to achieve the additional supply of flats. We should seek to achieve the recommendation which was agreed in 1994.

And the question as to whether hectarage which cannot be disposed of in the 1994-95 financial year will be included in the 1995-96 Programme will depend very much on our assessment of the market position in the coming few months and how we view the prospects for land sales during 1995-96. And of course, it will also rest to a considerable degree on discussions and the agreement which it is necessary to achieve in the Land Commission. But we



will certainly be seeking to continue to implement the recommendations of the task force.

MR HENRY TANG: (in Cantonese): *Mr President, how will the Government estimate or assess the impact on this year's Budget caused by reduced land sale proceeds and the sluggish stock and property markets? Will the Government increase profits tax and salaries tax or reduce various kinds of public expenditure as a means of maintaining Treasury revenue?*

PRESIDENT: How does that question elucidate anything that has already been said in the main answer, Mr TANG? (Laughter)

MR HENRY TANG: *Mr President, actually, the main answer says that there is a very minute shortfall regarding the sale of land and I know that revenue from the sale of land is a major revenue for the Budget, so therefore the revenue would have serious implications for other parts of the Budget.*

PRESIDENT: I am ruling that question out of order, Mr TANG. Do you want another one?

MR HENRY TANG: *Mr President, may I rephrase the question then?*

PRESIDENT: Yes.

MR HENRY TANG (in Cantonese): *Mr President, as far as I am aware, recently many people are not too optimistic about the sale of land because the "reserve price", that is the minimum price, is higher than the market price. May I ask whether the Government will review again the "reserve price" in the light of current market prices?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, we will certainly continue to review the Land Disposal Programme. We have a full programme in the next few months. We have, incidentally, sold a second lot this afternoon, an industrial lot at Ap Lei Chau for \$230 million. So we will continue to review the state of the Land Disposal Programme and our success in selling lots that we put up and of course we will be reviewing the revenue implications.

### **Aircraft Noise Nuisance**

5. DR YEUNG SUM asked (in Cantonese): *Residents of Kowloon City, Sham Shui Po, Wong Tai Sin, Kwun Tong and Hong Kong East have long endured serious aircraft noise nuisance. However, the Civil Aviation Department has proposed to increase the number of programmed aircraft movements in the early morning hours and extend the programming hours at Kai Tak to 12.30 a.m. In connection with this, will the Government inform this Council:*

- (a) *of the reasons for aggravating the problem of aircraft noise nuisance on the grounds of economic benefits at a time when there is a steady growth in the territory's economy;*
- (b) *whether the Government will proceed with the implementation of the proposal of extending the programming hours at Kai Tak in the face of the objections from many residents living in the affected areas; and*
- (c) *whether the Government has made any assessment of the possible economic loss arising from the decline in the quality of life standard and productivity of residents who suffering from the noise nuisance?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, the Hong Kong International Airport at Kai Tak is now operating at close to capacity. In 1994, the airport handled a total throughput of over 25 million passengers and almost 1.3 million tonnes of air cargo. Air traffic demand continues to increase, yet there are virtually no usable runway slots available to satisfy new demand. In the current winter scheduling season, the Civil Aviation Department has had to turn down some 300 flights per week, at considerable cost to business, the tourism industry and the Hong Kong economy as a whole.

In the light of the increasing pressure on Kai Tak and the cost to the economy of turning away so many flights, we believe it is prudent to consider whether further measures should be taken to increase Kai Tak's operating capacity. Unfortunately, the options available are limited and rely heavily on fitting in more aircraft movements at those times of the day when there is still runway capacity available, namely early in the morning and late in the evening.

We do recognize that any proposals to increase the number of programmed aircraft movements will, if implemented, cause a degree of additional noise nuisance to those living in the vicinity of the airport. The Administration fully accepts that the potential economic benefits of increasing capacity at Kai Tak must be weighed carefully against the environmental implications and the impact on the quality of life of those residents affected by aircraft noise.

As Members will be aware, the Administration has recently embarked on a comprehensive public consultation exercise to assess the reaction of the community to the various options for increasing Kai Tak capacity. Particular emphasis is being placed on obtaining the views of residents in those districts most directly affected by aircraft noise, as well as the views of the travel and tourism industries and the business sector.

I would like to assure Honourable Members that the Administration is approaching this consultation exercise with an entirely open mind. There is no pre-determined outcome. Our priority, at this stage, is to listen carefully to the views expressed by various sectors of the community, including Members of this Council, before considering whether the options put forward should be implemented.

DR YEUNG SUM (in Cantonese): *Mr President, I am glad to hear from the Government that there is no pre-determined outcome for this consultation. Can the Government inform this Council what assessment the Environmental Protection Department (EPD) has made in regard to the noise implications of the proposals in question? What is the Government's attitude towards this assessment?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, the EPD has made a very careful and detailed assessment of the noise implications based on information provided by the Civil Aviation Department in terms of the profile of landings and take-offs at various times of the day, and the impact that the noise from those landings and take-offs will have on different parts of the territory. As I am sure the Honourable Member will appreciate, the process by which they calculate the actual number of decibels that will be yielded during landings and take-offs is a very complicated one. I would be happy to ask my colleagues in the EPD to provide further details on how they do this, in writing, if that would be acceptable.

DR YEUNG SUM (in Cantonese): *Mr President, my question is in fact quite simple. Just now, I asked what the Government's response to the EPD's noise assessment was. In other words, can the Government inform this Council whether the EPD finds the noise from aircraft movements in the small hours acceptable?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, the assessment of the EPD has been set out very clearly in the consultation document that has been issued to District Board members and to others. As we have stressed all along, we are undertaking a full, frank and honest consultation on this subject and the views of the EPD have been set out very clearly, I think, and in words which the layman can understand.

The position is that people living in the vicinity of the airport are already exposed to varying degrees of noise nuisance. Quite clearly, any additional aircraft movements will serve to increase to a certain extent the degree of nuisance that those people are experiencing. And that has, I think, in numerical terms, been set out clearly in the consultation document.

DR YEUNG SUM (in Cantonese): *Mr President, I believe you would also feel that the Government has not answered my question directly. My question is: Does the EPD, as a department with the relevant professional expertise, find the Government's proposals acceptable in terms of noise implications? My question is that simple; yet, it seems that the Government has failed to answer whether the noises can be accepted.*

SECRETARY FOR ECONOMIC SERVICES: I am sorry, Mr President, I may be misunderstanding the question but it is not wilfully so. In the consultation document, we have attempted to set out clearly the facts both in terms of the economic benefits that are being lost as a result of congestion at Kai Tak and also the impact in terms of noise nuisance that will be caused by additional flights. Those facts have been set out clearly in the document on the basis of which we want to listen to the views of the people who will be affected, so I think now is not the time to make judgments on the various assessments. Those assessments are intended to form a basis for soliciting views on the proposals.

MR MARTIN LEE (in Cantonese): *Mr President, as far as the issue under discussion is concerned, can the Government inform this Council how it ranks the relative importance of economic benefits and the quality of life of the people? Which is more important, economic benefits or the quality of life of the people?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, I think that is a judgment that is probably not proper for the Administration to make in isolation. That is why we are seeking the views of the community on what is a very important issue. We have set out for the community in the consultation document the pros and cons of not proceeding with further measures to maximize the capacity of Kai Tak. We have tried to explain those in terms of the economic cost that will be incurred. So it is not a question of making a judgment between making money and the environmental implications of that. At present, what we are doing is seeking views from the community on what is a very difficult judgment to make, just a few years before the problem will be solved completely when we close down Kai Tak and move to the new airport.

MR MARTIN BARROW: *Mr President, it will not surprise the Secretary that I support an increase in aircraft movements and I hope it is appreciated that we will not recover in future years any economic disbenefit over the next three years. Would the Secretary inform this Council whether the Government is emphasizing that any additional noise is for a limited finite period only and that those who may be affected should be encouraged to think of their millions of fellow citizens who will benefit in many ways through maximizing economic growth for the community as a whole?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, as I just said, we have drawn attention during the consultation process to the fact that the additional noise nuisance will be for a finite period. People living in the vicinity of the airport are already experiencing considerable noise nuisance. That is well understood. What is being asked of them is whether they can tolerate a little bit more nuisance for a further short period of years before the opening of the new airport.

MRS ELSIE TU: *Mr President, may I ask the Secretary what abatement measures are being taken, if any, to minimize the nuisance, especially for the residents who are living directly in the flight-path of the aircraft?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, we have recently introduced a number of additional mitigating measures to reduce noise nuisance to residents. In particular, with effect from October 1994, airlines are no longer permitted to schedule arrivals after 10.30 pm. Secondly, all aircrafts programmed to operate after 9.00 pm now have to comply with more stringent noise standards laid down by the International Civil Aviation Organization (ICAO) in Chapter 3 of Annex 16 of the Chicago Convention which relates to environmental standards.

As a further measure, with effect from 10 November 1994, the adoption of ICAO approved noise abatement take-off procedures has been made mandatory in respect of all aircraft departing the Hong Kong International Airport.

DR CONRAD LAM (in Cantonese): *Mr President, in her reply, the Secretary for Economic Services repeatedly mentioned economic benefits. As a medical doctor practising in the vicinity of the airport, I can tell you that some residents have actually come to me because of loss of sleep due to aircraft noises. While looking at economic benefits, has the Government ever considered that it should compensate those who need to seek medical help because of sleeplessness caused by noise nuisance? If not, will it consider doing so?*

SECRETARY FOR ECONOMIC SERVICES: Mr President, I think we are very, very conscious of the nuisance that is caused to residents now, and of the cost in terms of loss of sleep that they face. That is a situation that already exists. The problem we face is that it will not be possible to bring that situation to an end for another few years before the opening of the new airport. So as I say, we are very, very conscious of that problem but in essence, the proposals in the consultation paper are asking residents in those areas whether they can tolerate a little more nuisance for a further limited period of time.

REV FUNG CHI-WOOD (in Cantonese): *Mr President, the Government has proposed to allow more flights because it is afraid that doing otherwise would affect our tourist industry and economy. So the responsibility is placed on the shoulders of the residents living under the flight-path. In fact, the Government, to a certain extent, is also to blame because of its delay in the construction of the new airport. Under the Noise Control Ordinance, noise at night should not exceed 65 decibels, but residents living under the flight-path have to tolerate a noise level as high as 90 to 100 decibels. Since the noise problem is already very serious, and the Government still wants to increase aircraft movements, will further unfairness be done to those living in Kowloon City or under the flight-path? Increasing the number of flights is doubtlessly a pursuit of benefits at the expense of these people.*

SECRETARY FOR ECONOMIC SERVICES: Mr President, I can only repeat that as to the fairness of these proposals, we are seeking the views of the community. We are seeking their views extensively and we will take very careful account of the views that are expressed before any final decisions are taken on these proposals.

### **Payment-by-cash Trades' Tax Liability**

6. MR MICHAEL HO asked (in Cantonese): *At present, the transactions in some trades in the sales and services sectors in the territory are carried out mainly on a cash basis. As such transactions are not accounted for by formal receipts and a proper accounting system, the incomes earned in these sectors may not be accurately reflected in their tax returns. As a result, the Government is unable to collect the correct amount of tax payable, thereby affecting public revenue and creating social inequity. In this connection, will the Government inform this Council:*

- (a) *whether the Government will introduce legislation or other measures requiring trades which carry out transactions on a cash basis to maintain clear records of income and expenditure, and to put into place an accounting system which allows accounts to be traced; and*

- (b) *whether consideration will be given to imposing such requirements on certain types of trades first; if not, why not?*

SECRETARY FOR TREASURY: Mr President, the Government is fully committed to fighting tax evasion. Over the past three years, the Inland Revenue Department investigation and field audit staff tackled over 3 500 cases and obtained more than \$2.7 billion in back tax and penalties.

In last year's Budget speech, the Financial Secretary highlighted the problem of under-reporting of income by businesses and professions which receive cash payments for their goods and services. Part of the problem stems from inadequate business records. Since the last Budget speech, the Commissioner of Inland Revenue has met and written to professional bodies and trade associations to outline the need to keep proper accounts and issue proper receipts.

Specifically concerning the first point raised by the Honourable Member, our law already requires all trades, including those which carry out transactions on a payment-by-cash basis, to maintain records of their income and expenditure. The law also requires the traders to retain such records for a period of not less than seven years. Such records should be sufficient to enable the Commissioner to ascertain them readily for the purpose of assessing tax liabilities. We are currently considering whether and, if so, how we need to strengthen the existing provisions in the light of experience gained from field audit and investigation activities.

On the second point, the requirement to maintain sufficient records applies to every person carrying on a trade, profession or business in Hong Kong. We do not think it would be appropriate or helpful at this stage to single out particular professions or trades for more stringent requirements.

MR MICHAEL HO (in Cantonese): *Mr President, in paragraph 3 of the answer it is said that at present our law already requires such records to be maintained and that the records should be adequate to enable the Commissioner of Inland Revenue to assess tax liabilities. However, the plain fact is that tax evasion is extremely serious in the retail trades and other trades that involve payment-by-cash transactions. So, where does the problem lie? Is it because some people do not obey the law, making it impossible to eradicate the problem? Or are there loopholes in the law itself? What does the Government think?*

SECRETARY FOR THE TREASURY (in Cantonese): Mr President, the existing system is not perfect, and we find tax evasion in that area. Therefore, we need to review the situation. As I said in my answer, we are currently conducting a review which covers a wide variety of areas including the adequacy of the law, existing manpower and procedures. In other words, the

points raised by the Honourable Member just now are all included in our review.

DR LEONG CHE-HUNG: *Thank you, Mr President. In the last paragraph of the main answer, the Secretary mentioned that the Government does not think it would be appropriate or helpful to single out particular professions or trades for more stringent requirements. Could the Administration inform this Council if the Government considers it appropriate and helpful to single out particular professions and trades for more stringent investigations, and if so, which professions and trades, and why?*

SECRETARY FOR THE TREASURY: As I said in my answer, Mr President, we do not wish to generalize and I think it would be unfair to condemn any profession generally. It all depends upon the conduct of individual taxpayers. The emphases of our investigation are guided by the experience of the field audit teams, by the cases they have in hand. Sometimes they will concentrate on certain professions and other times on other professions.

PRESIDENT: Yes, Dr LEONG, not answered?

DR LEONG CHE-HUNG: *Thank you, Mr President. Can the Secretary therefore confirm that no single trade or profession is singled out for specific investigations?*

SECRETARY FOR THE TREASURY: The Commissioner is tackling all professions.

DR HUANG CHEN-YA (in Cantonese): *Mr President, the Secretary mentioned in his reply that trades that carry out transactions on a payment-by-cash basis are required to maintain records of their income and expenditure. But how can the Government ascertain these records are accurate and reliable? Would the Secretary please elaborate with examples from different trades?*

SECRETARY FOR THE TREASURY (in Cantonese): Not all trades issue receipts. The law does require them to retain reasonable records of their income and expenditure. However, the law does not stipulate that they must issue receipts. Of course, if receipts are issued, it will be easier to identify tax evaders.



MR FRED LI (in Cantonese): *Mr President, according to the Secretary, there will be a review and the law will also be improved. Will the Administration study the experience of other countries such as our neighbour, Taiwan? Taiwan adopts a very interesting approach to this problem. There, customers can exchange the receipts they are issued for lucky draw coupons. This can encourage people to ask for receipts in the course of transactions, thus reducing the chance of tax evasion. So, will the Secretary consider this method?*

SECRETARY FOR THE TREASURY (in Cantonese): Mr President, I have also heard about this, and we have collected information on this.

MR MAN SAI-CHEONG (in Cantonese): *Mr President, according to the Government's record or estimate, what is the amount of the Government's annual revenue loss as a result of the retail industry's confusing accounting system and how serious is the problem? Apart from the field auditing system, has the Government considered other means to solve the problem?*

SECRETARY FOR THE TREASURY (in Cantonese): I have already mentioned the gravity of the issue in my reply. Last year, we investigated a total of 3 500 cases and obtained more than \$2.7 billion in back tax and penalties. This is a sizeable sum which indicates that the problem is rather serious. Regarding the steps we are going to take, I want to point out that this is one of the area under review. We will definitely study what measures can be taken to improve the existing procedures and legislation.

PRESIDENT: Not answered, Mr MAN?

MR MAN SAI-CHEONG (in Cantonese): *What measures have been considered by the Administration? I am not asking about any decision. Will the Secretary share with us the measures under consideration?*

SECRETARY FOR THE TREASURY (in Cantonese): What we are considering includes our legislation, our manpower resources and our existing operating procedures and other related issues.

MR PETER WONG: *Mr President, in the second paragraph of the Secretary's answer, he said the Commissioner of Inland Revenue has met and written to professional bodies and trade associations. Has there been any positive response from those bodies and whether they are going to carry out any enforcement action amongst their members in order to make sure that their members comply with proper accounting procedures?*

SECRETARY FOR THE TREASURY: Yes indeed, Mr President, we have received both positive and negative responses from professional bodies. We have taken their comments into account and all these will be reflected in our review and we will be able to, I hope, in the light of this review, introduce further measures.

MR MARVIN CHEUNG: *Mr President, could the Secretary please elaborate on the answers given in the third paragraph about the legal requirement for the maintenance of books and records? Precisely what are the specific requirements, where are the requirements contained in the particular ordinances; and what provisions are there to ensure that the records maintained are accurate and complete?*

SECRETARY FOR THE TREASURY: The law, Mr President, at present does not specify what the proper records for tax purposes are. Well, common sense dictates that the records should enable all business transactions to be traced, explained and verified through the accounting system. We leave it very much to the judgment of the Commissioner of Inland Revenue. And also, the specific types of records to be kept depend very much on the type of business involved. Generally, they should be expected to include invoices for goods sold and purchased, receipts for money received, invoices and receipts for items of business expenditure, cash books, ledgers and stock records.

MR MICHAEL HO (in Cantonese): *Mr President, I would like to ask one more follow-up question on the reply by the Secretary. He said that a rather extensive review of the legislation, manpower and operating procedures is under way. But then, nearly a year has passed since the Financial Secretary last talked about combatting tax evasion. So can the Administration tell us what the progress of the review in the past year has been? And when the review is expected to complete?*

SECRETARY FOR THE TREASURY (in Cantonese): Over the past year, we have in fact actively conducted this review. The Commissioner of Inland Revenue, myself and my colleagues in the Finance Branch have made regular reports to the relevant panels of this Council. In the past year, we have considered what strategies should be adopted and have carried out specific surveys. We have also consulted relevant bodies and organizations on their views and we hope to be able to come up with specific recommendations in the near future.

## WRITTEN ANSWERS TO QUESTIONS

### Three-tier System of Authorized Financial Institutions

7. MR ROGER LUK asked: *In view of the recent deregulation of Hong Kong dollar time deposit rates by the Hong Kong Association of Banks, will the Administration inform this Council when a review of the existing three-tier system of authorized institutions will be carried out?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, the Administration continues to believe that the three-tier structure of authorized institutions has its value, and does not consider that the partial relaxation of the Interest Rate Rules (IRR) of the Hong Kong Association of Banks, in itself, creates an immediate need to review or change the three-tier structure.

The three-tier structure enables account to be taken of the diverse characteristics of those institutions which are authorized to take deposits from the public, and provides flexibility for entry into the Hong Kong banking sector, particularly for foreign banks. It also enables a wide range of institutions to be authorized while restricting access to retail deposits, thus avoiding the potential destabilizing effects of excessive competition in this area.

The restriction placed on the ability to take retail deposits was seen in the past as a means for reinforcing the IRR. However, it follows from the previous paragraph that this is not the only rationale for the three-tier structure.

This is not to say that a review should not be conducted in due course. However, it would be premature to do so at this stage since the full effects of the deregulation of interest rates on time deposits on the three types of authorized institutions have yet to be seen.

### Investigation of Listed Companies

8. MR CHIM PUI-CHUNG asked (in Chinese): *Will the Government inform this Council of the number of listed companies investigated by the Securities and Futures Commission last year under Section 33 of the Securities and Futures Commission Ordinance (Chapter 24), and the number of such companies which have been formally prosecuted or convicted?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, section 33 of the Securities and Futures Commission Ordinance (SFCO) does not empower the Securities and Futures Commission (SFC) to investigate the conduct of listed companies. The only power available to the SFC to investigate the conduct of listed companies is section 29A of the SFCO. Section 29A provides a limited power of inspection of books and records if grounds set out therein exist. Since the enactment of section 29A in July 1994, the SFC has commenced three investigations. Two of the investigations resulted in High Court proceedings which are pending before the Court. The one remaining investigation is ongoing.

Section 33 of the SFCO, however, does enable the SFC to investigate suspicious dealings by persons in the shares of listed companies. Such investigations may be commenced where contraventions of various ordinances and codes are suspected, for example, the Securities (Insider Dealing) Ordinance, the Securities (Disclosure of Interests) Ordinance, the Code on Takeovers and Mergers and certain of the Stock Exchange's Listing Rules. A total of 31 such investigations were commenced during 1994. Of these, five have been finalized, with two of them resulting in prosecutions and convictions and one resulting in administrative action by the SFC. The remaining investigations are still ongoing.

### **Imported Workers at Chek Lap Kok**

9. DR CONRAD LAM asked (in Chinese): *It is learnt that imported workers at the Chek Lap Kok Airport construction sites receive harsh treatment at work, such as excessively long working hours and unreasonably low wages etc. In view of this, will the Government inform this Council:*

- (a) *of the number of complaints lodged with the Labour Department by these workers against their employers over the past three years; together with a breakdown of the main categories of complaints and their respective percentages; and*
- (b) *whether the Government will consider adopting measures to safeguard the labour rights of these workers?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) Over the past three years, the Labour Department has received a total of eight complaint cases from imported workers working on construction sites of the Airport Core Programme (ACP) projects. Each of these cases comprised a variety of complaint items involving a different number of imported workers. The main categories of complaint and their respective percentages are as follows:

Categories of complaints	Percentage of total
Underpayment of overtime wages	21%
Non-granting of statutory holidays and rest days	16%
Underpayment of basic wages	16%
Unlawful wage deduction	16%
Long working hours	5%
Others (such as deployment to other posts and failure to arrange payment of wages by autopay)	26%

- (b) Under the special Importation of Labour Scheme for ACP projects, workers imported are employed under a standard Employment Contract for the duration of the particular works contract provided that it does not exceed two years. This Employment Contract is governed by all labour laws applicable to local workers in Hong Kong. Employers who breach the conditions stipulated under the standard Employment Contract are liable to be prosecuted under the relevant legislation. Furthermore, if they have acted against other conditions under the Scheme, approval may not be granted for replacement workers to be brought in, and their future applications for quotas under the Scheme may be refused. Such control mechanism has been in force since the Scheme began to operate in 1991.

The Labour Department has one special enforcement team tasked with the responsibility of conducting regular inspections at both the accommodation and employment areas of imported workers for ACP projects. If any offences are detected and they are backed up by sufficient evidence, prosecution actions will be taken against the

individuals involved. Two more enforcement teams will be added, one in each of the coming two financial years.

To ensure that imported workers are aware of their rights, the department organizes regular briefing sessions for imported workers to inform them of their rights under the standard Employment Contracts governing their employment in Hong Kong. The department also operates a 24-hour complaint hotline specifically for them.

### **Use of Unleaded Petrol in Public Buses**

10. MR HENRY TANG asked (in Chinese): *It is learnt that the Government is considering requiring all diesel engined vehicles with an axle weight of under four tons to switch to using unleaded petrol (ULP) as fuel in 1996 so as to reduce air pollution. In this connection, will the Government inform this Council:*

- (a) *of the extent of air pollution in the urban area caused by exhaust gas emitted by diesel-powered public buses;*
- (b) *whether consideration has been given to the introduction of measures requiring public buses to use ULP at a later stage; if so, what such measures are and when they will be implemented; and whether any measures will be adopted to minimize air pollution by public buses during the transition period; if not, why not;*
- (c) *whether the Government will require bus companies to purchase new vehicles using ULP; if not, why not; and*
- (d) *whether any study has been made to ascertain the rate of increase in operating costs of the bus companies after the switch to ULP as well as its effect on bus fares; if so, what the details are?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) Diesel-powered public buses contribute about 17% of respirable suspended particulates, the major air pollutant in the urban areas, and small diesel vehicles contribute about 60% of this pollutant.
- (b) As most public buses are larger than four tonnes in gross vehicle weight, and are powered by diesel engines because there is currently no viable petrol alternative for them, the Government has no plans at present to require such vehicles to use unleaded petrol. However, like all other diesel vehicles, starting from 1 April 1995,

diesel-powered public buses will be required to use cleaner diesel (with sulphur content below 0.2%) and all newly registered large diesel vehicles, including new public buses, will be required to comply with stringent emission standards similar to those currently adopted in Europe.

- (c) The Government has no plans to require bus companies to purchase buses using unleaded petrol because no such buses are available on the market.
- (d) For the reasons stated above, it is not possible to provide substantive data for cost comparison.

The feasibility of requiring diesel-engined vehicles under four tonnes to switch to unleaded petrol is still being examined by the Government.

### **Rehousing Clearees in Estate Block**

11. MR FREDERICK FUNG asked (in Chinese): *the Housing Authority has recently decided to reserve Block 12 of Kwai Shing East Estate for rehousing squatter clearées who are eligible for rehousing in Temporary Housing Areas. In this connection, will the Government inform this Council whether:*

- (a) *the eligibility criteria for rehousing in this block are identical to those for allocation of public rental flats;*
- (b) *any squatters who meet the rehousing eligibility criteria, irrespective of whether they are affected by any clearance operation, will be allocated flats in this block; if so, what are the criteria for determining the priority for allocation of flats;*
- (c) *residents rehoused in this block can apply for transfer to larger flats in future on the ground of overcrowding; and*
- (d) *a date has been fixed for clearing Block 12 of Kwai East Estate; if so, when it will be cleared; and in case of clearance, whether residents of this block will enjoy the same rights as those clearées of redevelopment areas, or be classified as a new category of clearées?*

SECRETARY FOR HOUSING: Mr President, Block 12 of Kwai Shing East Estate, which will become available in June this year, has been reserved for rehousing squatter clearées in Tsuen Wan and Kwai Chung districts who fail to meet the eligibility criteria for rehousing in public rental housing flats, that is those who are only eligible for rehousing in Temporary Housing Areas (THAs) in the New Territories. This special arrangement has been made in view of the

shortage of THA spaces to meet the demand arising from squatter clearances in these two districts and the Governor's pledge to clear, by 1996, all THAs built before 1984.

The status of squatter clearances to be rehoused in this block is similar to that of THA residents. They will not be given the same treatment as public rental housing tenants in respect of overcrowding relief or upon redevelopment of the block for which no timetable has been fixed.

### **Overloading of Green Minibuses**

12. MR WONG WAI-YIN asked (in Chinese): *Will the Government inform this Council:*

- (a) *whether it is aware of the overloading problem of green minibuses operating in some round-the-clock service routes or in rural areas; if so, what are the causes of overloading; and*
- (b) *how the authority concerned will monitor and improve the overloading problem described above?*

SECRETARY FOR TRANSPORT: Mr President, overloading of green minibuses is not a widespread problem. In 1994, the Transport Department and the Transport Complaints Unit received only 27 such complaints, of which three were related to all-night or rural services.

The Transport Department monitors the operation of green minibuses closely. Complaints about overloading are carefully and thoroughly investigated. Operators are required to conduct their own investigations into these complaints, provide explanations, and rectify the situation where the complaints are substantiated. The Commissioner for Transport has powers to suspend or revoke the licence of the operator if the latter fails to rectify the problem to his satisfaction. In 1994, 10 written and four verbal warnings were given but no licence was suspended or revoked because of overloading offences.

As overloading of green minibuses constitutes a traffic offence, referrals are also made to the police for investigation and enforcement action.

When there is increased passenger demand for a particular route, arrangements will be made by the Commissioner for Transport to increase service capacity.



**Burglaries in Schools**

13. MR CHEUNG MAN-KWONG (in Chinese): *In regard to burglaries in schools, will the Government inform this Council:*

- (a) *of the breakdown by district of the number of such cases in each of the past three years, together with the particulars of the stolen items and the estimated value in each case as well as the number of cases which have been solved;*
- (b) *whether the Education Department (ED) will ask schools to take out insurance on the relatively expensive items such as audio-visual equipment and computers; and whether the ED has provided funds for schools to replace the lost items in case of thefts; if so, the total amount of funds allocated in the past three years; and*
- (c) *whether the ED has adopted any measures to help schools to improve their security systems, such as installing anti-theft devices in classrooms or rooms where the relatively expensive items are stored, so as to reduce the chances of thefts occurring?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the number of burglary cases in schools reported to the Education Department (ED) was 28 for the school year 1992-93, 33 for 1993-94 and 17 for the period from September to November 1994. The items stolen ranged from petty cash, tools and cupboards to audio-visual aids and office equipment such as fax machines and computers. Details are at the Appendix. We do not keep record on the original value of these stolen items and on the number of cases solved by the police, though each case of burglary must be reported to the police before compensation may be claimed from the ED for replacement purpose. For the amount of compensation, please refer to the Appendix.

- (a) The Government acts as an insurer of all standard items which include specified audio-visual equipment and computers in all the government and aided schools. Stolen items are therefore replaced as a matter of policy by the ED. For above-standard and non-standard items, schools have been advised to take out insurance by themselves.
- (b) The total amount of funds approved for the replacement of stolen standard items since the 1992-93 school year is shown at the Appendix.
- (c) The ED has advised all schools to strengthen their security. Schools may also apply to the ED for funds to install anti-theft measures such as window bars and iron gates.

## Record of Burglary Cases Reported to ED

School year	No. of cases	District (No. of cases)	Stolen items	Subsidy approved for replacement
1992-93	28	North (3)	TV sets	)
		Tai Po (2)	Video cassette	)
		Yuen Long (1)	recorders	) \$103,461
		Tuen Mun (7)	Compact discs	) (excluding the
		Tsuen Wan (1)	Stop watches	) 17 TV sets
		Kwai Chung (1)	Tools	) and 19 video
		Kwun Tong (2)	Safe	) cassette
		Wong Tai Sin (1)	Cupboards	) recorders
		Sham Shui Po (2)	Calculator	) replaced by
		Kowloon City (4)	Computers	) ETV Section
		Hong Kong East (1)	Fax machine	) directly)
		Southern (3)	Typewriter	)
1993-94	33	North (4)	TV sets	)
		Tai Po (3)	Video cassette	)
		Yuen Long (3)	recorders	) \$293,679
		Tuen Mun (4)	Hi Fi system	) (excluding the
		Kwai Chung (1)	Safe cabinet	) 22 TV sets
		Kowloon City (2)	CD player	) and nine
		Yau Tsim (4)	Compact discs	) video cassette
		Mongkok (1)	Camera	) recorders
		Hong Kong East (7)	Computer	) replaced by
		Southern (2)	Fax machine	) ETV Section
		Central and Western (2)	Petty cash	) directly)
		1994-95 (up to end of November 1994)	17	Tai Po (1)
Tsuen Wan (3)	Video cassette			)
Kwai Chung (2)	recorders			) \$199,120
Sha Tin (1)	Hi Fi system			) (excluding the
Sai Kung (1)	CD player			) three TV sets
Island (1)	Steel cupboard			) and nine
Wong Tai Sin (1)	Computer			) cassette video
Kowloon City (2)	Fax machine			) recorders
Hong Kong East (1)				) replaced by
Southern (2)				) ETV Section
Central and Western (1)				) directly)
Wan Chai (1)				)

**Health of New-Born Babies**

14. DR HUANG CHEN-YA asked (in Chinese): *As there are now methods to prevent the transmission of Hepatitis B and AIDS by pregnant women to their babies, will the Government inform this Council:*

- (a) *of the total number of pregnant women admitted to public hospitals who have been carriers of Hepatitis B or AIDS virus over the past three years; and*

- (b) *what measures are being taken by the Hospital Authority to prevent babies from being infected with Hepatitis B and AIDS virus, thus ensuring the health of babies?*

SECRETARY FOR HEALTH AND WELFARE: Mr President,

- (a) Based on epidemiological studies, the overall prevalence rate of Hepatitis B carriers among the population in Hong Kong is about 10%. Since there have been slightly over 45 000 deliveries annually in public hospitals in recent years, it is estimated that approximately 14 000 pregnant women in public hospitals over the past three years would have been carriers of Hepatitis B.

The prevalence rate of HIV infection among pregnant women in Hong Kong is very low. Epidemiological surveys among newly born infants in Hong Kong have not detected any unknown HIV carriers to date. There is in fact only one documented case of transmission of AIDS by a pregnant woman to her baby.

- (b) Pregnant mothers are routinely screened for Hepatitis B during the antenatal period. If discovered to be a carrier, the mother will be given health advice and counselling to minimize the risk of transmission of Hepatitis B to their babies. All babies born in public hospitals to mothers carrying the virus will be vaccinated with the Hepatitis B vaccine and given a dose of Hepatitis B Immunoglobulin at birth. This will be followed by two more doses of Hepatitis B vaccine at one month and three months after birth. In addition, the recommended Hepatitis B Vaccination Programme would ensure that all new-born babies in Hong Kong are given Hepatitis B vaccines as part of the universal immunization programme.

HIV infected patients are given advice and counselling, including the risk of transmission of AIDS to their babies. Should women who are HIV positive become pregnant, specific counselling would also be given. The risk of transmission to the baby would be explained and the pregnant woman would be given the choice as to whether to allow the pregnancy to continue. Appropriate drugs which are known to reduce the rate of vertical transmission from mother to baby may be prescribed for pregnant women who are carriers of HIV, provided that they fully understand the benefits and risks involved and have given their consent. The health of the babies born to these mothers will be ensured by regular check-ups.

### Performance Assessment of Lecturers

15. MISS EMILY LAU asked (in Chinese): *It is learnt that a performance appraisal system for lecturers on contract terms has been established in tertiary institutions funded by the University Grants Committee (UGC). In this connection, will the Government inform this Council:*

- (a) *what methods are used by these institutions to assess the performance of lecturers on pensionable terms; and whether a performance appraisal system identical or similar to that for lecturers on contract terms has been adopted by these institutions; and*
- (b) *whether these institutions will consider demoting lecturers whose performance does not meet the required standard?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) The Administration understands that with the exception of the Lingnan College where no academic staff are employed on pensionable terms, all the UGC-funded institutions have established staff appraisal systems for their academic staff employed on superannuable (pensionable) terms. The methods for assessing the performance of lecturers on superannuable terms vary amongst institutions because of their historical backgrounds and management practices. In short, they in general involve a review of performance in teaching, research and professional and public service.

In the case of the City University of Hong Kong, the Hong Kong Polytechnic University and the Hong Kong Baptist University, the performance appraisal systems for academic staff employed on superannuable terms are identical to those for academic staff employed on fixed-term contracts.

For the Lingnan College, all staff are employed on fixed-term contracts, hence a single appraisal system is adopted. The Chinese University of Hong Kong and the Hong Kong University of Science and Technology do not have an appraisal system for academic staff employed on fixed-term contracts, but they do have an established review system for considering reappointment of contract staff.

The University of Hong Kong does not have a formal procedure for reviewing performance of staff on fixed-term contracts but such procedures are being developed.

- (b) The Administration understands that the UGC - funded institutions all adopt similar practices in dealing with academic staff with substandard performance. For those staff on contract terms whose performance is substandard, they will be encouraged and assisted to improve their performance. Failing that, their contracts will not be renewed upon expiry. For those on superannuable terms, the institutions may withhold their annual salary increment or extend the non-substantiated period for the staff concerned. To date no academic staff have been downgraded because of substandard performance.

### **Importation of Chinese Domestic Helpers**

16. MRS PEGGY LAM asked (in Chinese): *Recently survey results indicate that there is a shortfall of 30 000 domestic helpers in the territory, particularly Chinese maids. This has led to the abuse by many employers of the importation of semi-skilled labour scheme in order to import Chinese domestic helpers. In view of this, will the Government inform this Council:*

- (a) *of the number of prosecutions regarding the abuse of the importation of semi-skilled labour scheme by importing Chinese maids in the past three years;*
- (b) *what measures does the Government have to curb the problem of abusing the importation of semi-skilled labour scheme; and*
- (c) *whether the Government will consider permitting the importation of Chinese domestic helpers?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, we have no statistics which indicate that there is a shortfall of domestic helpers or that the shortage is of a particular nationality or ethnicity in Hong Kong. The demand for domestic helpers can be met by local supply and the importation of foreign domestic helpers, which is subject to normal immigration control but no quota ceiling.

On the other hand, under the General Importation of Labour Scheme, all the imported workers are to be employed under a standard Employment Contract for a period of not more than two years. Such imported workers are not allowed to change jobs during their stay in Hong Kong. There are no indications that employers under this scheme have abused it to hire domestic helpers from China.

My reply to the three specific parts of the question is as follows:

- (a) The Immigration Department has not received any complaints of such abuse. No imported workers have been prosecuted for taking up unauthorized employment as domestic helpers. Neither have any employers been prosecuted for deploying imported workers to jobs other than those stipulated in their employment contracts under the General Importation of Labour Scheme.
- (b) To ensure that imported workers are employed in accordance with the terms of employment under their employment contracts, four special teams of labour inspectors of the Labour Department pay regular inspections to places of employment of imported workers. Prosecutions will be taken against employers who have breached the terms of the employment contracts, according to the relevant labour legislation. Other irregularities concerning breach of conditions under the scheme, which are detected during inspections, will also be referred to the Immigration Department for further action.

The Immigration Department conducts regular raids, including joint operations with the police, at such places of employment to see whether there are breaches of conditions under the General Scheme, such as whether the imported workers have taken up jobs different from those specified in their employment contracts. Any imported workers engaged in unauthorized work are liable on conviction to a fine of \$5,000 and imprisonment for two years. They will also be liable to removal from Hong Kong. Likewise, any employers who are prosecuted for deploying their imported workers illegally are liable to the same penalty, although the liability to removal from Hong Kong will not apply to them. Moreover, they may have their quotas withdrawn and be debarred from participation in the scheme in future as their adverse record will be taken into account when considering any new applications for importation from them.

- (c) Foreign domestic helpers have been allowed to work in Hong Kong for over two decades to meet a specific demand in Hong Kong. We have been making regular improvements to the scheme to cope with the needs of our community, and the arrangements have been working well. Since the importation of domestic helpers from China will pose an immigration problem, we do not consider that it is in our best interest to allow such domestic helpers to enter Hong Kong for employment.

**Making Use of CSSA Payments for Drug Abuse**

17. DR LAM KUI-CHUN asked (in Chinese): *will the Government inform this Council whether:*

- (a) *any estimate has been made of the number of drug abusers among the current recipients of payments under the Comprehensive Social Security Assistance Scheme; and*
- (b) *there are any measures to prevent the use of the maintenance grants under the Scheme for drug abuse?*

SECRETARY FOR HEALTH AND WELFARE: Mr President,

- (a) No estimate has been made of the number of drug abusers receiving financial assistance under the Comprehensive Social Security Assistance (CSSA) Scheme.
- (b) Measures are taken to ensure that recipients of CSSA payments understand the purpose of the payments, namely, to assist in meeting basic needs such as food, clothing and accommodation. But no general control is exercised over the way in which CSSA payment is actually spent and there are therefore no specific controls to prevent the use of CSSA grants for drug abuse. It would not be operationally possible to exercise such control, although controls exist to ensure claimants genuinely meet eligibility criteria and comply with all the current safeguards in the system to prevent abuse (for example, able-bodied adult recipients are required actively to seek employment).

**Rehousing of Urban Squatters**

18. MR FRED LI asked (in Chinese): *It was mentioned in the 1994 Policy Address that all urban squatters on government land would be rehoused by March 1996. However, there are some squatter areas such as Lei Yue Mun Village and Cha Kwo Ling Village which are situated on both government and private lands. In this connection, will the Government inform this Council:*

- (a) *whether the Government has any plan to resume such squatter areas for public purposes; if so, whether there is a specific timetable to clear such squatter areas and how the squatters will be rehoused;*
- (b) *whether, in regard to those squatter areas where there is no plan to resume private land for public purposes, the Government will clear the squatter huts on government land only and rehouse those squatters who are affected by the clearance;*

- (c) *if the answer to (b) is in the affirmative, how the Government will deal with the squatters on private land in the same squatter area who will not be cleared and rehoused; and*
- (d) *If the answer to (b) is in the negative, whether the Government has other policies to deal with such squatter areas, and how it will fulfill its pledge to rehouse all urban squatters on government land by 1996?*

SECRETARY FOR HOUSING: Mr President,

- (a) There are 22 squatter areas in the territory situated on mixed government and private land. The clearance of these areas will not proceed until the private lots have been resumed for public purposes. There is no timetable for such clearance at present.
- (b) The Administration will not consider partial clearance of these squatter areas in view of the likely problems of environment, security and disruption which may be caused to the remaining residents.
- (c) The Administration is making steady progress in fulfilling the Governor's undertaking to clear all urban squatters on government land by March 1996. Squatter areas situated on mixed government and private land do not fall within the Governor's undertaking, and their clearance will only be carried out when the private lots are resumed for public purposes.

### **Local Property Prices**

19. MR ERIC LI asked (in Chinese): *The Secretary for Planning, Environment and Lands recently mentioned that local property prices might further fall by 5% to 10%, and he expected that the gap between property prices and the affordability of the public would be narrowed within this year. Will the Government inform this Council of:*

- (a) *the grounds, research or survey data on which the above-mentioned extent of fall in property prices is based;*
- (b) *the objective criteria adopted by the Government to measure the property purchasing power of the public; and what are the actual figures of the public's affordability arrived at by the Government; and*



- (c) *the relevant legislation or known established policy which requires the Government to provide property price indices to the public and play a direct role in determining the property price level in place of the free market mechanism?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) The statements referred to in this question were made spontaneously in response to oral questions from the media. They were not therefore intended to be precisely analytical but were based on my interpretation at the time of various information, including past property price movements, supply indications, the activities of sellers and signs of continuing consumer resistance to prices being asked. They were also made against the background of signs that, on the one hand, over-pessimistic statements were being made about the property market, while, on the other, others were seeking to "talk the market up". In other words, the statements were intended to strike a balance among other views being publicly expressed.
- (b) Property purchasing power and affordability vary considerably from household to household and are constantly changing. They are a function of many factors, such as the income and circumstances of the individual household, aspirations as to type and price of property, interest rates, banks' lending policies and so on. General trends are, however, discernable.
- (c) The Rating and Valuation Department compiles price and rental indices for various classes of property as a general guide to price and rental movements. These are derived by analysing actual sales prices and rents. Property price movements, however, are determined by market forces depending on demand and supply. The Government's wish is to see that the consumer or potential purchaser has as much information on price movements and supply as possible so that, with or without expert advice, he can make a considered choice. Government statistics and statements are clearly only two among many sources of guidance which can be drawn upon.

### **Support to Industry on Environmental Protection**

20. MR MAN SAI-CHEONG asked: *The growing global trend of environmental concern is causing a major impact on the local industry, 80% of which are small and medium-sized firms. In this connection, will the Government inform this Council:*

- (a) *what measures the Government has taken to assist and guide the industrial sector to comply with the local environmental legislation including the Air Pollution Control Ordinance, Water Pollution Control Ordinance, and Noise Control Ordinance;*
- (b) *what role the Industry Department plays in helping the local industry to become more environmentally conscious in line with the global trend;*
- (c) *what specific measures the Government has taken to implement the Immediate Action Plan set out in the Support to Industry on Environmental Matters Report; and to what extent these measures have succeeded in helping the local industrialists; and*
- (d) *what plan the Government will make to support the local industry on environmental matters in order to enable the local industry to maintain its competitive position in the region?*

SECRETARY FOR TRADE AND INDUSTRY: Mr President, the Government aims to help small and medium-sized manufacturing enterprises (SMEs) to cope with the impact of environmental controls in two ways: by increasing awareness of the benefits to manufacturers of good environmental practice in general, and how pollution control legislation may affect them in particular; and by ensuring the provision of adequate technical services. The Industry Department is responsible for co-ordinating these efforts.

As regards increasing awareness, the department produces a free annual guide on legislation and sources of technical help. It also provides information on environmental requirements for product standards in our major markets. In accordance with the Immediate Action Plan, the department has commissioned the Hong Kong Productivity Council (HKPC) to organize seminars for industrialists and the Centre for Environmental Technology to operate a hotline to answer queries from manufacturers, and to produce a directory of pollution control equipment and services. The hotline has been operational since October 1994; the directory will be published in March 1995. The HKPC has also been funded to undertake a programme of advisory visits to SMEs operating in the bleaching and dyeing, electroplating, and printed circuit board (PCB) manufacturing industries. Later this year, the Industry Department will reinforce these efforts with an advertising campaign on television and radio, and in newspapers.

The department is also ensuring that technical services are available to help manufacturers improve their environmental controls. To this end, the Hong Kong Laboratory Accreditation Scheme accredits local laboratories to offer internationally-recognized environmental testing services to manufacturers. The HKPC already provides a wide range of environmental services for manufacturers, including expert advice on air, noise and effluent

pollution control, waste and energy management, and waste treatment. Many manufacturers take advantage of this; in 1993-94, the HKPC undertook 188 environmental assignments.

As part of the Immediate Action Plan, the Government is supporting the expansion of the HKPC's technical services. Manuals to help with the design of less polluting production processes for bleaching and dyeing, electroplating, and PCB manufacture will be published by the HKPC in May. The HKPC will visit 200 SMEs in these sectors during the first year to test effluent and advise them on how to comply with the requisite environmental standards; 25 such projects have already been completed.

On advice from the Industry and Technology Development Council, the department is funding 11 projects intended to help industrialists respond to increasing environmental awareness at home and overseas. These include projects on the treatment of waste, cleaner production techniques and technologies, noise control, and eco-labelling. The council will be asked to advise on additional projects shortly.

Those manufacturers who take advantage of these measures should be able to respond effectively to the growing environmental pressures at home and overseas. In the short term, pollution controls will increase production costs in some industries, although the effect can be minimized by measures to reduce energy consumption and reduce wastage. In the longer term, the demand for products produced by environmentally-friendly processes is likely to increase, and manufacturers will be better equipped to compete with their counterparts in the region.

The department will continue to keep track of proposed environmental legislation in Hong Kong, and of developments in overseas markets, and ensure that manufacturers are consulted and informed through their associations. It will also keep under review the adequacy of technical services and seek improvements where necessary.

## **MOTIONS**

### **PUBLIC FINANCE ORDINANCE**

THE SECRETARY FOR THE CIVIL SERVICE moved the following motion:

"That —

- (a) there shall be established a fund to be called the Civil Service Pension Reserve Fund;

- (b) the Fund shall be administered by the Financial Secretary who may delegate his power of administration to other public officers;
- (c) there shall be credited to the Fund -
  - (i) such money as may be appropriated for the purpose; and
  - (ii) all sums received by way of interest or dividend on moneys invested under paragraph (f);
- (d) the Financial Secretary may expend moneys from the Fund for the purpose of meeting the liabilities for payment of pensions, gratuities or other allowances under the Pensions Ordinance (Cap. 89), the Pension Benefits Ordinance (Cap. 99) or the Pension Benefits (Judicial Officers) Ordinance (Cap. 401) if, at the end of any month in a financial year, he believes that the balance in the General Revenue Account will be in deficit at the end of that financial year, having taken into account all anticipated receipts and payments;
- (e) the Director of Accounting Services shall, under the authority of a funds warrant issued by the Financial Secretary, pay from the Fund such sums as may be required to meet expenditures from the Fund;
- (f) the Financial Secretary in his discretion may authorize the investment in such manner as he may determine of any moneys held in the Fund at any time."

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

The resolution seeks to establish a Civil Service Pension Reserve Fund under section 29 of the Public Finance Ordinance.

The Fund would be used exclusively for the payment of civil service pensions in the most unlikely event that the Government were unable to meet its pension commitments from General Revenue. The principle purpose in establishing the Fund would be to address a general concern among civil servants about the security of their pensions. To this extent it would complement the existing statutory provisions in the pensions legislation and reinforce guarantees in the Joint Declaration and the Basic Law.

Under the arrangement proposed, the Financial Secretary would administer the Fund as he does other funds established under the Public Finance Ordinance. The Fund would remain part of the Government's fiscal reserves and would be placed in the Exchange Fund managed by the Hong Kong Monetary Authority. Interest and dividends earned would accrue to the Fund.

Subject to this Council's approval of this resolution, we shall seek the approval of the Finance Committee to transfer \$7 billion from General Revenue to the Fund within the current financial year. This transfer would not lead to any increase in public expenditure insofar as it would be a transfer of funds from one account to another.

It is proposed that the balance of the Fund in any given year would be maintained at a minimum of one year's estimated pension expenditure. It may therefore be necessary to top up the Fund from time to time in the future. We estimate that the expenditure on civil service pensions in 1994-95 will be \$5.7 billion, and that annual pension expenditure for the next 10 years will remain at around 5% of the Government's annual operating expenditure. On the basis of these estimates, topping-up of the Fund would not be required for at least the next two years.

The civil service central staff consultative councils support the proposal to establish the Fund as soon as possible, but have asked that the initial transfer to the Fund be in the order of \$15 billion, failing which it should be increased to that level by June 1997. We have considered this request carefully but have concluded that we could not justify such a large sum to the Finance Committee under present circumstances. In particular, the existing statutory pension provisions, the guarantees and reassurances in the Basic Law and the Joint Declaration and the sound financial position of the Government, mean that it is most unlikely that the Fund would ever be used. Moreover, \$7 billion is already a very considerable amount and should provide a clear demonstration to the Civil Service of the Government's commitment to meet its obligation to pay pensions.

In short, the Administration considers that a Pension Reserve Fund covering a minimum of one year's pension expenditure is appropriate. We have balanced the claims of civil servants against the interests of the community as a whole and been mindful of what the public at large and this Council would accept. We believe that the size and scope of the Fund proposed meets the objective of providing the Civil Service with an important psychological reassurance on the future security of pensions. Whilst we can see no justification for any increase in the proposed scope and size of the Fund, this would not preclude a future administration from so proposing if they felt that circumstances warranted it.

I am most grateful for the views of the Legislative Council Subcommittee established to study this resolution, and for the support for early establishment of the Fund. I have examined further a suggestion made by the subcommittee to include in the resolution a commitment to maintain the balance of the Fund at a minimum of one year's estimated pension expenditure. However, legal advice on this point suggests that it would not be appropriate constitutionally to include such a commitment as it might imply automatic appropriation in the resolution. As agreed with the civil service staff councils during the consultation exercise, I shall be sending the councils a written confirmation on the Administration's

policy commitment to maintain the Fund at a minimum balance of one year's estimated expenditure. I believe that this will stand as a very clear statement of the Administration's position on this issue, and will serve to provide valuable reassurance to civil servants.

Mr President, I beg to move.

*Question on the motion proposed.*

MR JIMMY MCGREGOR: Mr President, in the absence of the Honourable Steven POON today, I rise to speak on the resolution under section 29 of the Public Finance Ordinance (Cap. 2) relating to the establishment of the Civil Service Pension Fund, as moved by the Secretary for the Civil Service.

I must also declare my interest as a recipient of a tiny but very welcome government pension.

The motion seeks to establish a fund to which moneys may be appropriated for future payment of civil service pensions when the Financial Secretary believes that there will not be enough funds in the General Revenue Account to meet anticipated payments.

A Legislative Council Subcommittee with seven Members was formed to study the motion. The subcommittee met the Administration once to clarify some issues. I wish to take this opportunity to thank the Administration for its co-operation in this matter.

The subcommittee supports the establishment of the Fund. Some Members, however, pointed out that there is no written provision in the resolution to the effect that there will always remain in the Fund a sum of money not lower than the estimated pension payment of any given year. In response, the Administration has said that it will not be appropriate from the constitutional point of view to include a commitment which may imply an automatic appropriation in the resolution. Nevertheless, in order to give substance to the policy intention, the Administration has agreed that after the resolution is passed, it will confirm in writing the policy commitment to maintain the Fund at a minimum balance of any year's estimated pension expenditure. Accordingly, the Administration will not propose any amendments to the resolution.

The subcommittee also notes that there is a difference in opinion between the Chinese authorities, the Hong Kong Government and civil servants about the amount of money to be put into the Fund initially. The Administration takes the position that the initial reserve at \$7 billion is already a considerable sum of money and, in the light of the continuing sound financial position of the Hong Kong Government, the need to use the Fund is remote. There are guarantees and reassurances in the Basic Law and the Joint Declaration in respect of

payment of pensions after 1997. In spite of this difference in opinion, the Administration states that in fact there is a consensus among the Chinese authorities, the Hong Kong Government and civil servants that the Fund should be established.

The subcommittee has been advised that the initial reserve of the Fund at \$7 billion will be handed over to the Special Administrative Region government in 1997 in addition to the reserve amount of \$25 billion already stated in the Memorandum of Understanding.

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

MR TAM YIU-CHUNG (in Cantonese): Both the Sino-British Joint Declaration and the Basic Law contain provisions which effectively guarantee pensions of civil servants. Nonetheless, some civil servants are still worried about their pensions. For this reason, during its visit to Beijing in July 1992, the Democratic Alliance for the Betterment of Hong Kong made a proposal to the Director of the Hong Kong and Macau Affairs Office, Mr LU Ping, for the establishment of a Civil Service Pension Reserve Fund (CSPRF). At that time, the Chinese government responded positively and was prepared to bring the matter to the Joint Liaison Group for discussion. However, I recall that the Hong Kong Government held a negative view at that time.

As a result of the struggle for more than a year by a number of civil service groups and due to the efforts made by various sectors, the Governor at last undertook to establish the CSPRF in his policy address last year. Finally, the Administration is willing to make a start. However, there is only \$7 billion in the CSPRF. This amount is, in our view, inadequate. This view is shared by the Senior Civil Service Council, the Government Employees Association and other civil service groups.

Given the present circumstances, we think that there should be \$15 billion in the CSPRF. There are two reasons for this. First, \$15 billion can cover two years' pension expenses, thereby providing a greater assurance to civil servants. Second, this \$15 billion will only be shown on the accounts as an appropriation from the Administration but there is a very slight chance that we would have to use this sum of money. Therefore, the establishment of the CSPRF with this amount will in fact have limited implications on the operation of the Treasury or the citizens. Rather, this can give civil servants confidence and is beneficial to a smooth transition. Therefore, we hope Members of the Executive Council and the Administration will reconsider the suggestions or requests made by civil service groups and civil servants and increase the amount in the CSPRF to \$15 billion in future.

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

*Question on the motion put and agreed to.*

**PUBLIC BUS SERVICES ORDINANCE**

THE SECRETARY FOR TRANSPORT moved the following motion:

"That the franchise conferring the right on the New Lantao Bus Company (1973) Limited to operate a public bus service on the routes specified in the Schedule of Routes (New Lantao Bus Company) Order 1993 (L.N. 193 of 1993) and in any subsequent order made by the Governor in Council shall not be subject to sections 26, 27, 28, 29 and 31 in Part V of the Public Bus Services Ordinance."

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

The Governor in Council has granted a new franchise to the New Lantao Bus Company (1973) Limited (NLB) to operate a public bus service with seven routes on Lantau Island for two years from 1 April 1995 to 31 March 1997.

This franchise will not be subject to a profit control scheme and therefore those sections of the Public Bus Services Ordinance will no longer apply in governing the permitted return under the profit control scheme, but there is a need to retain those sections which enable the Government to specify depreciation rates in respect of franchise-related assets and require the company to produce accounts and other information needed for the monitoring of their performance. The resolution before Honourable Members seeks to give effect to these arrangements.

A special subcommittee of this Council comprising the Honourable LEE Wing-tat, the Honourable Albert CHAN and the Honourable Andrew WONG met on 17 January to examine this resolution. I understand that this subcommittee has given its support.

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

*Question on the motion proposed.*

MR LEE WING-TAT (in Cantonese): Mr President, the resolution under Section 5(3) (b) of the Public Bus Services Ordinance seeks to exempt the franchised public bus service operated by the New Lantao Bus Company (1973) Limited (NLB) from certain provisions of the profit control scheme. The Governor in Council has granted a new franchise to the NLB to operate a public bus service with seven routes on Lantau Island for two years from 1 April 1995 to 31 March 1997.



Under the Public Bus Services Ordinance, every franchise is subject to a profit control scheme specified in Part V of the Ordinance unless the legislative Council by resolution under Section 5(3) (b) excludes the application of any all of the provisions of the scheme. The resolution to be moved by the Secretary for Transport seeks to disapply those sections governing the permitted return under the profit control scheme. Those sections which enable the Administration to specify depreciation rates for franchise related assets and to require the company to produce accounts and other information needed for effective monitoring of the company's performance will be retained.

Mr President, a Subcommittee, of which I am the Chairman, was set up to study the resolution. The Subcommittee met on 17 January 1995 and discussed the background of the resolution and the operation of public bus service on Lantau with the Administration. Members noted that at present, by virtue of the terms of their respective franchises, none of the franchised bus operators, except the Kowloon Motor Bus Company (1933) Limited, is subject to the profit control scheme. They also noted that in July 1993, the Legislative Council had approved by resolution to exempt the franchised bus services operated by the China Motor Bus Company Limited and the Citybus Limited from certain provisions of the profit control scheme.

In the light of the background information, Members generally agreed to support the resolution. They also drew the attention of the Administration to their observations on bus services on Lantau with a view to bringing about an improvement in the overall situation. Members' suggestions for improvement included the following: (1) in view of the difference in bus fares, the franchised buses and non-franchised buses should each have a distinctive colour scheme to enable passengers to tell them apart; (2) the order and control at the bus terminus at Mui Wo need to be improved; and (3) the licensing of light buses and coaches on Lantau should be relaxed to help ease the demand on weekends and holidays. The Administration undertook to consider the various points made by Members and let the Subcommittee have a written reply.

Mr President, the Subcommittee supports the resolution and recommends that it be supported. Thank you, Mr President.

SECRETARY FOR TRANSPORT: Mr President, I am most grateful to the Honourable LEE Wing-tat and to the Honourable Members of the subcommittee for their comments and suggestions relating to bus services on Lantau Island. The Administration will study these proposals. Thank you, Mr President.

*Question on the motion put and agreed to.*

**LEGISLATIVE COUNCIL (ELECTORAL PROVISIONS)****ORDINANCE**

THE SECRETARY FOR CONSTITUTIONAL AFFAIRS moved the following motion:

"That the 6 representatives of a member of the body specified in item 12(a) of Part II of Schedule 2 to the Legislative Council (Electoral Provisions) Ordinance (Cap. 381) shall be determined, for the purpose of Note (8)(c) to that Schedule, in the manner described in the Schedule.

**SCHEDULE**

The following shall apply in relation to the determination of 6 representatives for registration as electors in relation to a member (other than an individual member) of The Hong Kong Council of Social Service -

- (a) if the number of applications -
  - (i) from eligible persons (excluding any person to whom a restriction in section 14 of the Legislative Council (Electoral Provisions) Ordinance (Cap. 381) applies);
  - (ii) for such registration in relation to a particular member; and
  - (iii) received by the registration officer on or before 1 May,  
  
exceeds the maximum number, the registration officer shall draw lots, as soon as practicable after 1 May, in such manner as he considers appropriate, to determine the applicants (whose number shall be equal to the maximum number) entitled to be registered in relation to that member and register those so determined to be entitled;
- (b) as soon as practicable after a draw under paragraph (a), the registration officer shall inform any eligible person who by reason of the draw is not entitled to be registered -
  - (i) of the result of the draw;
  - (ii) that he may apply for registration as an elector in relation to another member, if he is eligible to do so and if the maximum number of electors has not been registered in relation thereto;

- (iii) that he may apply for registration in another functional constituency, not being a constituency subject to a maximum number, if he is eligible for such registration;
- (c) if the number of applications -
  - (i) from eligible persons (excluding any person to whom a restriction in section 14 of the Legislative Council (Electoral Provisions) Ordinance (Cap. 381) applies);
  - (ii) for such registration in relation to a particular member; and
  - (iii) received by the registration officer on or before 1 May,

is less than or equal to the maximum number, the registration officer shall determine as regards each applicant concerned whether or not he is entitled to be registered in relation to that member and register those he determines to be so entitled;

- (d) if on 1 June, in relation to a particular member -
  - (i) no applicants have been registered as electors; or
  - (ii) the number of applicants registered pursuant to paragraph (c) (referred to as "registered applicants" in this paragraph and paragraph (e)) is less than the maximum number,

and the number of applications received by the registration officer for such registration from eligible persons (excluding any person to whom a restriction in section 14 of the Legislative Council (Electoral Provisions) Ordinance (Cap. 381) applies) after 1 May and on or before 1 June (whether such applications are made pursuant to paragraph (b)(ii) or otherwise) -

- (A) in the case referred to in subparagraph (i), exceeds the maximum number; and
- (B) in the case referred to in subparagraph (ii), exceeds the difference between the maximum number and the number of registered applicants,

the registration officer shall draw lots, as soon as practicable after 1 June, in such manner as he considers appropriate, to determine the applicants (whose number shall be equal to the maximum number or the difference between the maximum number and the number of registered applicants, as the case may be) entitled to be registered in relation to that member and register those so determined to be entitled;

- (e) if on 1 June, in relation to a particular member -
  - (i) no applicants have been registered as electors; or
  - (ii) the number of registered applicants is less than the maximum number,

and the number of applications received by the registration officer after 1 May and on or before 1 June for such registration from eligible persons (excluding any person to whom a restriction in section 14 of the Legislative Council (Electoral Provisions) Ordinance (Cap. 381) applies) is -

- (A) in the case referred to in subparagraph (i), equal to or less than the maximum number; and
- (B) in the case referred to in subparagraph (ii), equal to or less than the difference between the maximum number and the number of registered applicants,

the registration officer shall determine as regards each applicant concerned whether or not he is entitled to be registered in relation to that member and register those he determines to be so entitled;

- (f) as soon as practicable after a draw under paragraph (d), the registration officer shall inform any eligible person who by reason of the draw is not entitled to be registered, of the result of the draw;
- (g) where the registration officer receives an application for registration pursuant to paragraph (b)(ii), if the applicant -
  - (i) is not registered pursuant to paragraph (d) or (e); and
  - (ii) has also made an application pursuant to paragraph (b)(iii) for registration in another functional constituency,

the registration officer shall determine whether such person is entitled to be registered in that functional constituency, as if the application had been made under section 9 of the Boundary and Election Commission (Registration of Electors) (Functional Constituencies and Election Committee Constituency) Regulation (L.N. 585 of 1994);

- (h) in this Schedule -
  - (i) "maximum number" means, in relation to a member (other than an individual member) of The Hong Kong Council of Social Service, the number specified in Note (8)(c) to Schedule 2 to the Legislative Council (Electoral Provisions)

Ordinance (Cap. 381) as being the maximum number of persons that can be registered as electors in relation to such a member;

- (ii) the references to "1 May" and "1 June" shall be construed as 1 May and 1 June respectively in the year for which the relevant provisional register is being compiled under the Boundary and Election Commission (Registration of Electors) (Functional Constituencies and Election Committee Constituency) Regulation (L.N. 585 of 1994)."

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

This resolution is made under Note (8)(c) to Schedule 2 to the Legislative Council (Electoral Provisions) Ordinance. The Note provides that in the Social Welfare Functional Constituency, no more than six representatives of each of the agency member of the Hong Kong Council of Social Service (HKCSS), determined in a manner to be provided by resolution of this Council, shall be registered as electors in that constituency.

The purpose of this resolution is to set out the arrangements for registering up to six representatives of each of the agency member of the HKCSS. In line with the arrangements for registering individual electors in the other functional constituencies which have corporate members, we propose that, for the sake of consistency, the registration of agency representatives should follow those already provided for in section 10 of the Boundary and Election Commission (Registration of Electors) (Functional Constituencies and Election Committee Constituency) Regulation.

In brief, lots will be drawn if the applications for voter registration under an agency should exceed the quota of six by 1 May. Unsuccessful applicants, if they are also eligible to register in other non-corporate functional constituencies, will then have an opportunity to register by 1 June in another functional constituency if they fail to represent an HKCSS agency after the drawing of lots. These procedures will be clearly explained to the agencies concerned by the Registration Officer.

The Registration and Electoral Office has now started the registration of electors for the functional constituencies. The urgent passage of this resolution is necessary so that the Registration Officer can also register eligible representatives of the agencies of the HKCSS in the Social Welfare Functional Constituency. I hope Members will give their support to this resolution.

Mr President, I beg to move.

*Question on the motion proposed, put and agreed to.*

**BANKRUPTCY ORDINANCE**

THE SECRETARY FOR FINANCIAL SERVICES moved the following motion:

"That the Bankruptcy (Forms) (Amendment) Rules 1995, made by the Chief Justice on 3 January 1995, be approved."

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

The Bankruptcy (Forms) (Amendment) Order was made by the Chief Justice on 3 January 1995. It provides for the repeal of the current Statement of Affairs form and its replacement by two new forms.

Form 28 of the Bankruptcy (Forms) Rules must be submitted to the Official Receiver by all persons against whom a Receiving Order is made. In the course of a review of the statutory forms in use in relation to bankruptcies, this form was found to be in need of substantial updating. As some bankruptcies do not involve the collapse of an individual's business, it was considered more appropriate to have two types of form, one for a non-trading individual and one for a trader. These forms have been designed to obtain all the necessary information about a debtor's affairs in a clear and straightforward manner. Debtors should find the new alternative forms easier to complete than the single form currently in use.

Mr President, I beg to move.

*Question on the motion proposed, put and agreed to.*

**COMPANIES ORDINANCE**

THE SECRETARY FOR FINANCIAL SERVICES moved the following motion:

"That the Companies (Winding-up) (Amendment) Rules 1995, made by the Chief Justice on 3 January 1995, be approved."

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

The Companies (Winding-Up) (Amendment) (No. 2) Order was made by the Chief Justice on 3 January 1995. It provides for the repeal of the current Statement of Affairs form and its replacement by a new form.

The Government has conducted a review of statutory forms in use in company liquidations to ensure that they remain relevant and up to date. Form 23 of the forms contained in the appendix to the Companies (Winding-Up) Rules has to be submitted to the Official Receiver by directors and other persons where the court makes an order for the winding up of a company or the appointment of a provisional liquidator. This form was found to be in need of substantial amendment. The form has been redesigned to make it more user-friendly and to obtain all the relevant information about a company's affairs in a clear and straightforward manner.

Mr President, I beg to move.

*Question on the motion proposed, put and agreed to.*

## **BILLS**

### **First Reading of Bills**

#### **LEGAL AID (AMENDMENT) BILL 1995**

#### **MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) (AMENDMENT) BILL 1995**

#### **EMPLOYEES' COMPENSATION (AMENDMENT) BILL 1995**

#### **HOUSING (AMENDMENT) BILL 1995**

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

### **Second Reading of Bills**

#### **LEGAL AID (AMENDMENT) BILL 1995**

THE CHIEF SECRETARY moved the Second Reading of: "A Bill to amend the Legal Aid Ordinance."

He said: Mr President, I move that the Legal Aid (Amendment) Bill 1995 be read the Second time. The Bill puts forward a number of amendments to the Legal Aid Ordinance to implement the recommendations of an inter-departmental working group which conducted a comprehensive review of our legal aid services and a number of additional improvement measures proposed by the Director of Legal Aid in the light of the operating experience of the Legal Aid Department.

The working party's report, published in July last year, contains a total of 25 recommendations. Some of these were related to the establishment of a Legal Aid Services Council, which will be the subject of a separate Bill to be introduced into this Council shortly. Most of the remaining recommendations were intended to introduce improvements to the scope and operation of the legal aid scheme. These require legislative amendments to the Legal Aid Ordinance and some subsidiary legislation. I now outline the major improvements provided for in the present Legal Aid (Amendment) Bill.

Clauses 3 and 5 of the Bill provide for increases in the financial eligibility limits for both the standard legal aid scheme and the self-financing Supplementary Legal Aid Scheme for the so-called sandwich class. The increases take into account the level of inflation since the current limits were set.

The Bill also meets the public demand for greater access to legal aid. Clauses 4 and 13 expand the scope of the standard civil legal aid scheme. As a matter of human rights policy, we propose to give the Director of Legal Aid the discretion to waive the means test in any civil case where an applicant has a meritorious Bill of Rights claim. We also propose that legal aid be extended to persons making applications to the Mental Health Review Tribunal against their detention in a mental hospital or the Correctional Services Department Psychiatric Centre, and to persons who pursue election petitions on Bill of Rights grounds.

Clause 14 of the Bill seeks to include in the scope of the Supplementary Legal Aid Scheme claims involving professional negligence on the part of medical doctors, dentists and lawyers.

Finally, the opportunity is also taken to streamline some operating practices. For example, clause 8 seeks to clarify the application of a first charge by the Director of Legal Aid on any property recovered or preserved for an aided person in proceedings in respect of which the person was legally aided. It also recognizes the present practice whereby the director does not impose a first charge on maintenance payments to children. The existing privileges against disclosing information in connection with a legal aid application are clarified in clause 9 of the Bill.

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

## **MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) (AMENDMENT) BILL 1995**

THE SECRETARY FOR FINANCIAL SERVICES moved the Second Reading of: "A Bill to amend the Motor Vehicles Insurance (Third Party Risks) Ordinance."



He said: Mr President, I move the Second Reading of the Motor Vehicles Insurance (Third Party Risks) (Amendment) Bill 1995.

The main purpose of the Bill is to require motorists to purchase a minimum amount of insurance cover in respect of their liabilities for motor vehicle third party bodily injuries, in place of the requirement for unlimited insurance cover under the existing Motor Vehicles Insurance (Third Party Risks) Ordinance (MVIO). Bearing in mind the need to ensure that the public is adequately protected, we propose that the minimum amount of insurance cover be set at \$100 million for any one event.

Direct insurers in Hong Kong have so far been able to provide unlimited insurance cover to motorists to insure against their liabilities for motor vehicle third party bodily injuries by relying on the unlimited reinsurance cover provided by reinsurers. However, following recent shrinkage in reinsurance capacity in the international market, reinsurers in Hong Kong have concluded that it is no longer commercially viable for them to provide unlimited reinsurance cover for this type of policy. Without unlimited reinsurance protection, direct insurers cannot continue providing unlimited insurance coverage to motorists in Hong Kong. Consequently, the requirements of the MVIO, under which a motorist must take out unlimited insurance cover, can no longer be met. It is therefore necessary to amend the Ordinance to specify a minimum obligatory cover that would provide adequate protection for the injured in such circumstances.

The proposed limit of \$100 million for any one event is considered appropriate having regard to the capacity of reinsurers to meet claims upon insurers. In proposing this amount, consideration has also been given to the fact that the largest claims for motor vehicle third party bodily injuries insurance have so far not exceeded \$15 million per event.

I would like to add that the proposed amendments will not prejudice the right of an injured person to seek compensation over and above the limit of \$100 million in the unlikely event that liabilities exceeded that amount. Any excess above the limit will be payable out of the assets of the insured. If any excess liabilities remain unpaid thereafter, the rights of the injured party will be further protected by the compensation funds maintained by the Motor Insurers' Bureau of Hong Kong.

In addition, the Bill proposes to exempt vehicles used exclusively on construction and industrial sites from the requirement for compulsory third party insurance under the MVIO. Such vehicles have always been regarded as plant and equipment. It has been the market practice to insure them by standard all risks insurance policies, not by motor vehicle (third party risks) insurance policies. However, an amendment to the Road Traffic Ordinance in 1988 unintentionally may have had the effect of requiring vehicles on industrial and construction sites to be compulsorily insured against third party risks under the

MVIO. This in turn may have had the effect of rendering null and void any standard all risks insurance held by contractors for site based vehicles, as such policies exclude liabilities compulsorily insurable under any legislation. In other words, there is a risk that third party claims arising in connection with site based vehicles will not be entertained under the standard all risks insurance policies, resulting in losses to claimants.

We propose to rectify this situation by exempting site based vehicles from the compulsory third party insurance requirements under the MVIO, thereby placing liabilities arising in connection with such vehicles clearly within the ambit of the standard all risks insurance policies taken out by contractors.

Mr President, the Motor Vehicles Insurance (Third Party Risks) (Amendment) Bill 1995 is the result of the concerted efforts of the Financial Services Branch, Transport Branch and Works Branch. I therefore speak also for my colleagues, the Secretary for Transport and the Secretary for Works, in commending the Bill to this Council.

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

## **EMPLOYEES' COMPENSATION (AMENDMENT) BILL 1995**

THE SECRETARY FOR FINANCIAL SERVICES moved the Second Reading of: "A Bill to amend the Employees' Compensation Ordinance."

He said: Mr President, I move the Second Reading of the Employees' Compensation (Amendment) Bill 1995.

The Bill seeks to require employers to purchase a minimum amount of insurance cover of \$100 million in respect of their liabilities for employees' compensation, in place of the requirement for unlimited insurance cover under the existing Employees' Compensation Ordinance. I have already explained the reasons for such an amendment when moving the Second Reading of the Motor Vehicles Insurance (Third Party Risks) (Amendment) Bill 1995.

The proposed limit of \$100 million for any one event is also considered adequate in the case of employee compensation: the largest claims for employees' compensation insurance have so far not exceeded \$30 million per event. It is also true that in the unlikely event that liabilities exceeded the limit of \$100 million, any excess will be payable out of the assets of the insured in the first instance, then out of the compensation funds maintained by the Employees' Compensation Assistance Fund Board.

Mr President, the Employees' Compensation (Amendment) Bill 1995 is the result of the concerted efforts of the Financial Services Branch and the Education and Manpower Branch. I therefore speak also for my colleague, the Secretary for Education and Manpower, in commending the Bill to this Council.

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

## **HOUSING (AMENDMENT) BILL 1995**

THE SECRETARY FOR HOUSING moved the Second Reading of: "A Bill to amend the Housing Ordinance."

He said: Mr President, I move the Second Reading of the Housing (Amendment) Bill 1995.

The purpose of this Bill is to update and improve several provisions in the Housing Ordinance. Two significant and two minor amendments are proposed.

First, clause 4 of the Bill empowers the Secretary for Housing to appoint, under new section 7A of the Ordinance, a panel of members to hear appeals under section 20(1) of the Ordinance against termination of leases by the Hong Kong Housing Authority (HA). The Bill also empowers the Secretary for Housing to make rules regulating the procedure for appeals to the panel. At present, the HA is responsible for appointing such a panel and for making such rules. This arrangement is not satisfactory as the HA is a party to these appeals, and hence the amendments are proposed. Furthermore, to ensure independence and impartiality regarding the handling of appeals, the Secretary for Housing will in future only appoint persons who are not members of the HA to the appeal panel.

Second, clause 6 of the Bill seeks to deter the creation of mortgages or charges not authorized by the HA by making them void and rendering offenders liable to prosecution. Paragraph 4 of the Schedule to the Ordinance permits a flat purchaser under the Home Ownership Scheme or the Private Sector Participation Scheme to mortgage or charge the land only on such terms as are authorized by the Director of Housing. It has come to our notice that some mortgages for these flats have been created without the Director of Housing's authorization. Legal advice is that it would not be appropriate to take prosecution action on the basis of this Schedule. We therefore propose the addition of a new section to clarify the legal position and to make people who borrow on the basis of unauthorized mortgages or charges liable to prosecution.

Third, clause 3 of the Bill expressly empowers the HA to employ its own staff, consultants and advisers. Section 4(2)(k) of the Ordinance provides the HA with the general power to do all such acts as are reasonably necessary for the performance of its duties. Legal advice is that although existing contracts of

employment can be justified under this section, the HA should be given specific power to employ its own staff and advisory services. This will put the validity of any future contract of employment beyond doubt.

The fourth amendment, under clause 5, enables the Director of Housing to delegate any of his functions to officers of a specified class or description. This removes the need for him to appoint long lists of public officers frequently under section 10 of the Ordinance.

Thank you, Mr President.

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

## **PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) (NO. 3) BILL 1994**

### **Resumption of debate on Second Reading which was moved on 2 November 1994**

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

Bill read the Second time.

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

## **TIMBER STORES BILL**

### **Resumption of debate on Second Reading which was moved on 12 October 1994**

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

Bill read the Second time.

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

### **Committee Stage of Bills**

Council went into Committee.

**PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) (NO. 3) BILL  
1994****Clause 1**

SECRETARY FOR HOME AFFAIRS: Mr Chairman, I move that clause 1 be amended as set out in the paper circulated to Members.

This is a minor technical amendment which does not affect the substance of the Bill.

*Proposed amendment*

**Clause 1**

That clause 1 be amended, by deleting "(No. 3) Ordinance 1994" and substituting "Ordinance 1995".

*Question on the amendment proposed, put and agreed to.*

*Question on clause 1, as amended, proposed, put and agreed to.*

Clause 2 was agreed to.

**TIMBER STORES BILL**

Clauses 1, 2, 3, 5, 6, 8, 9, 10, 12, 13, 14 and 16 to 23 were agreed to.

Clauses 4, 7, 11 and 15

CHAIRMAN: Secretary for Security.

ATTORNEY GENERAL: Mr Chairman, perhaps you would permit me to stand in for the Secretary for Security. I believe the amendments that he sought to move in Committee have been circulated to Members. I move that those amendments be made.

CHAIRMAN: I think there is a problem under Standing Orders because, subject to my looking at Standing Orders, my own sense of it is that the public officer in charge must move the amendments.

*The Secretary for Security arrived at around 4.35 pm.*

CHAIRMAN: Secretary for Security, we are in Committee stage of the Timber Stores Bill, and clauses 4, 7, 11, and 15 have been called. I understand that you would be moving amendments to these clauses.

SECRETARY FOR SECURITY: Mr Chairman, I move that the clauses specified be amended as set out in the paper circulated to Members. These amendments are of a minor technical nature. They will ensure that the Chinese text is consistent with the Chinese text of other Ordinances.

*Proposed amendments*

**Clause 4**

That clause 4(2) be amended, by deleting "訂定" and substituting "施加".

**Clause 7**

That clause 7(4) be amended, by deleting "訂定" where it twice appears and substituting "施加".

**Clause 11**

That clause 11(2) be amended, by deleting "有人起誓" and substituting "往宣誓而作的".

**Clause 15**

That clause 15(2) be amended, by deleting "訂定" and substituting "施加".

*Question on the amendments proposed, put and agreed to.*

*Question on clauses 4, 7, 11 and 15, as amended, proposed, put and agreed to.*

Council then resumed.

**Third Reading of Bills**

THE ATTORNEY GENERAL reported that the

**PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) (NO. 3) BILL 1994** and**TIMBER STORES BILL**

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

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

Bills read the Third time and passed.

**PRIVATE MEMBER'S MOTIONS**

PRESIDENT: I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates and Members were informed by circular on 23 January. The movers of the motions will have 15 minutes for their speeches including their replies and another five minutes to reply to proposed amendments. Other Members, including movers of amendments, will have seven minutes for their speeches. Under Standing Order 27A, I am required to direct any Member speaking in excess of the specified time to discontinue his speech.

**HEALTH CARE PLAN FOR THE ELDERLY**

MR FRED LI moved the following motion:

"That this Council urges the Government to set up a community-based comprehensive health care plan for persons aged 60 or above, so as to provide adequate health care for the elderly."

MR FRED LI (in Cantonese): Mr President, I move the motion standing in my name in the Order Paper, that is "That this Council urges the Government to set up a community-based comprehensive health care plan for persons aged 60 or above, so as to provide adequate health care for the elderly." The original motion contained the word "medical", but with the President's permission, the word "medical" has been deleted, which in turn allay the anxieties of the medical sector, particularly the medical practitioners. Perhaps I shall come back to this point when the motion is put into debate.

With the continuous aging of the population in Hong Kong, health problems of the elderly have become a focal issue which we can no longer afford to neglect. In fact, the annual expenditure on medical services for the elderly is enormous, and given the aging of our population, such expenditure is bound to increase as time goes by. In the year 1993/94, the expenditure on

hospital services for the elderly reached \$1.45 billion, and the same kind of expenditure for the year 1994/95 is estimated to be \$1.71 billion approximately. This shows the enormity of the expenditure involved, and reflects both the necessity and significance of elderly health care services.

Heart disease, hypertension and diabetes are the most common illnesses among elderly people. Should they have access to timely medical check-ups and proper treatment at an early stage, the threat posed by such diseases will be reduced accordingly. From the viewpoint of cost-effectiveness, improved health of the elderly will mean a lighter financial burden for the Government.

There is no question that the Government has made some efforts in this area. In his 1992 Policy Address, the Governor promised to set up seven health care centres to provide senior citizens with annual medical check-ups, health care education and counselling services. The first of these centres, located at Nam Shan Estate, Tai Hang Tung, was commissioned in May 1994, and I have visited it myself. The second one will come into operation early this year, while the third one is still under planning. There is no planning, however, for the rest of them.

Basically, the setting up of elderly health care centres to provide integrated health care services should be supported. However, it must be pointed out that even when all the 7 health care centres have come into full operation, the services provided will still be insufficient. In view of this, I have put forth this motion debate, in the hope that health care services for the elderly can be expanded to cover all elderly people aged 60 or above, so that their health can be better taken care of.

I understand that alongside the elderly health care centres set up by the Government, some small scale elderly health care programmes are being operated by non-government organizations funded by the Community Chest. The United Christian Medical Service Board, for example, is running the Kwun Tong Community Health Development Programme, which provides services to the senior citizens living in the district.

In addition, there are at present 3 Psychogeriatric Teams under the Hospital Authority, which will create 4 Community Geriatric Teams and one more Psychogeriatric Team in the year 1994/95. In the Report of the Working Group on Care for the Elderly published last October, it was proposed that four Community Geriatric Team and four Psychogeriatric Teams should be created. Such outreaching services for the elderly include weekly visits to various homes for the elderly, where the inmates are provided with services such as diagnosis, follow-up consultation, referral and health care education.

Conceptually, the health care services for the elderly mentioned above are quite good. It is a pity, however, that we lack a systematic and community-based health care plan capable of effecting overall planning and co-ordination. As a result, these services have become fragmentary and loose.



Community-based services are in fact no new idea. The Report of the Working Party on Primary Health Care published as early as December 1990 already laid down the concept of community-based health care services for the elderly. In a moment, the Honourable WONG Wai-yin of the Democratic Party will give a more detailed account of the concept of community-based services and their financial implications.

Now, let me turn to the details of our six recommendations:

- (1) A full-scale health care plan for the elderly aimed at providing at least one annual medical check-up for every Hong Kong resident aged 60 or above.

At present, the target users of the elderly health care centres at Nam Shan Estate are senior citizens aged 65 or above. And, according to the Report of the Working Group on Care for the Elderly, the age requirement in the planning ratio for elderly services will be revised from the present 60 to 65.

However, it must be pointed out that the earlier preventive health care services are available, the better. If senior citizens cannot enjoy health care services until the age of 65, such services will be of little help to them. Life in a modern city is tense, and there are signs that more and more young people are suffering from chronic diseases, such as heart disease hypertension, and diabetes. Given this, there is no justification for fixing 65 as the age for entitlement to elderly health care services. Therefore, we suggest that the qualifying age should be set at 60 or even earlier.

- (2) Extension of health care centres for the elderly to all the 18 administrative districts, with at least one in each.

The number of people aged 65 or above is already over half a million on its own. If people aged between 60 and 64 are also counted, the size of our elderly population will exceed 750 000. Assuming that each health care centre has an annual serving capacity of 3 000 people, then even when all the seven health care centres are in full operation, only a mere total of about 21 000 elderly people can receive health care services every year, which is far behind the actual demand. With the aging of the population in Hong Kong, the demand for these services is bound to increase. For this reason, it is absolutely necessary for the Government to expand the services of elderly health care centres as soon as possible.

In the meantime, the Government should make good use of existing resources. Funds should be allocated through Department of Health

to non-government organizations such as the United Christian Medical Service Board so as to encourage them to set up elderly health care centres.

- (3) Encouraging all private medical practitioners in Hong Kong to participate in the plan, with each district elderly health care centre responsible for co-ordination, so as to set up community-based elderly health care services.

As I have just mentioned, there are more than 750 000 people aged 60 or above in Hong Kong. Given this, even if we set up one elderly health care centre in each district, their demand cannot be satisfied completely because only around 7% of them could have access to the services. Therefore, we suggest that the Government should discuss the plan with private medical practitioners and encourage them to participate. This can reduce the Government's pressure on the one hand and greatly expedite the expansion of the services on the other. At present, over 7 000 private medical practitioners are practising all over Hong Kong. Their participation will constitute an immense pool of resources for the future expansion of health care services for the elderly.

Our tentative proposal is that each district elderly health care centre should be charged with the responsibility of co-ordinating the work of the participating private medical practitioners within its own district. It should also make arrangements for elderly people to attend yearly physical check-ups in the private clinics near their own homes. Should any problems be detected, the patient should be referred to the clinics administered by the Department of Health or the Hospital Authority. In this way, community-based services can be set up.

- (4) Strengthening the links among district elderly health care centres, Government out-patient clinics, hospitals and private medical practitioners, with a view to establishing a comprehensive medical network in the provision of integrated services.

District elderly health care centres should maintain close contacts with Government out-patient clinics, hospitals and private medical practitioners and they should also conduct assessment studies on the general health conditions of the senior citizens living in their own districts. In this way, the demand for and supply of elderly medical services can be worked out, and co-ordinated efforts can be made in response, thus facilitating the setting up a comprehensive network of medical services.

On the other hand, the Hospital Authority should continue its efforts in expanding outreaching medical services for the elderly. Apart from the inmates of homes for the elderly or convalescent homes, outreaching medical services should be extended to privately-run elderly homes and elderly people on Comprehensive Social Security Assistance who are living alone. Outreaching services for the elderly and the work of elderly health care centres must be co-ordinated so that they can complement one another.

- (5) Strengthening the links between the Department of Health and the Social Welfare Department to give greater assistance to elderly people on Comprehensive Social Security Assistance who are living alone.

Let us take the elderly health care centre at Nam Shan Estate as an example. The centre has a membership of about 1 000, of whom only 10% are in receipt of Comprehensive Social Security Assistance (CSSA). This percentage is on the low side, and I think publicity work is obviously far from adequate. Very often elderly people on CSSA who are living alone seldom participate in community activities or join any health care centres. Many of them are even illiterate, and thus have very limited access to information about the outside world. But, at the same time, it is the health of this the group of people that causes us most concern. Therefore, elderly health care centres should step up their publicity work in this particular area. Their ties with the Social Welfare Department should be strengthened so that, through outreaching services, their meaningful services can be publicized among those elderly people on CSSA who are living alone.

- (6) Creation of Social Workers posts at elderly health care centres

We have visited the elderly health care centre at Nam Shan Estate, and found that at present only one doctor and two nurses work there, but no social workers are stationed. This shows a lack of thoroughness in the implementation of elderly health care services. Medical staff very often can only understand the physical conditions of their patients, but when it comes to the mental health of the elderly, social workers will be better suited to the job. Therefore, social workers should be stationed at elderly health care centres to strengthen mental health counselling services for the elderly. Such social workers can at the same time devote time to strengthen ties with other organizations in the community, so that more senior citizens, particularly those who rarely participate in community activities, can be encouraged to use the services provided by the elderly health care centres.

Apart from the 6 specific recommendations mentioned above, I want to put forward one more suggestion. I have recently approached several hundred of senior citizens in the Kwun Tong District to seek their opinions about this motion debate. They have expressed considerable concern about their dental health because of its direct effect on their eating and digestion. However, the Government now provides dental care service to school children only. Adults are not provided with any dental care service, let alone dental treatment. Therefore, the Government should consider ways and means of including dental care for the elderly in the existing dental services.

Furthermore, since some elderly people aged 60 or above may still have to work, if the health care centres are open from nine to five only, working elderly people will be greatly inconvenienced. Therefore, the Government should consider the possibility of extending the opening hours of the health care centres to somewhere between 7 p.m and 8 p.m so that those senior citizens who still have to work can also enjoy the health care services provided.

Mr President, if the plan we advocate is implemented, all senior citizens in Hong Kong will benefit because they will then have a better understanding of their own health and can thus take preventive measures against diseases. In case health problems are detected, early treatment can be sought, thus reducing unnecessary suffering and even the incidence of death. Moreover, the plan can ease the demand-and-supply tension now confronting our medical services. As a result, the Government can be more flexible in appropriating resources to raise the quantity as well as the quality of other social services.

Finally, as the Lunar New Year is approaching, I wish to take this opportunity to express my new year wishes in advance to all senior citizens in Hong Kong. May I wish them good health and a happy life, so that they could spend their twilight years very happily in sound health.

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

*Question on the motion proposed.*

PRESIDENT: Mr TAM Yiu-chung 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 TAM YIU-CHUNG moved the following amendment to Mr Fred LI's motion:

"To delete "set up" and substitute by "ensure the provision of adequate resources for the introduction of"; to add after "health care plan" the words "as well as other social and counselling services"; to delete ", so as to provide adequate health care for" and substitute by "so that the health of"; and to add after "the elderly" the following ", particularly those with difficulties in mobility, is well taken care of"."

MR TAM YIU-CHUNG (in Cantonese): Mr President, I move to amend the Honourable Fred LI's motion. The amendment is set out in the Order Paper.

I move the amendment for two reasons. The first reason is to urge the Government to provide adequate resources and the second reason is to urge them to strengthen other social and counselling services. As regards the first reason, the Government has to ensure the provision of adequate resources before a community-wide health care plan for the elderly can be successfully implemented. The health centres for the elderly as suggested by Mr Fred LI are in fact already in existence, but they are not in sufficient quantity to cater for all the elderly people. There are already many health care and medical services for the elderly, but the quality of such services has deteriorated because of inadequate funding. To cite an example, owing to the lack of mini-bus services to take the elderly people to and from the day care centres, many elderly people who live in the remote areas and have difficulties in moving around cannot participate in the recreational and health care activities organized especially for them. Besides, many outreaching service teams which work for the elderly have failed to reach or take care of the so-called "concealed" single elderly people because of inadequate subsidies from the Government. Therefore, I think the crux of the problem is the shortage of resources of expanding the services and that is why my amendment stresses primarily that the Government should ensure the provision of adequate resources.

Insofar as the second point is concerned, I think the services to be provided by the health centres for the elderly as proposed by Mr Fred LI are not extensive enough. So I emphasize the strengthening of social and counselling services in my amendment. According to the Report of the Working Group on Care for the Elderly published towards the end of last year, the rate of suicide of the elderly people is comparatively higher than other age groups in Hong Kong. The main reason is that old people are being forsaken following the dissolution of big family structure and the emigration trend in recent years. This, coupled with the fact that old people will easily become ill, has led to their emotional disturbance. When they are lack of proper care both physically and psychologically, they will easily have a suicidal rumination. In my opinion, a comprehensive health care service plan for the elderly should include the provision of psychological counselling and psychotherapy, apart from just taking care of their physical health. It is hoped that the health centres for the elderly as strongly urged by Mr Fred LI will, as proposed in the Report

of the Working Group on Care for the Elderly, provide adequate and comprehensive services including psychological counselling and psychotherapy for the elderly.

Lastly, I have to make one more point. Mr Fred LI has proposed to set up a health centre for the elderly in each administrative district, which is to be co-ordinated by private medical practitioners. However, he did not specify who should pay for the expenses. Should it be the Government or the private sector? I am therefore worried that the motion of Mr LI will finally become merely an idle talk. Also, he has used the term "health care" in his motion which is such a vague idea that I am afraid it may like the school medical scheme which is being abused. We therefore need to discuss the source of funding.

Mr President, these are my remarks. I beg to move the amendment and hope my honourable colleagues will support it.

*Question on Mr TAM Yiu-chung's amendment proposed.*

MR HUI YIN-FAT (in Cantonese): Mr President, there is a trend of continuous growth in the average life expectancy of the elderly in Hong Kong. This is a good phenomenon which reflects our economic prosperity and advanced medical technology. However, if there are insufficient primary health care services with no retirement protection, the longer the life expectancy of old people, the more physical suffering they would have to endure, and an even heavier burden will be placed on the already immensely funded medical expenses.

In view of this, the Governor promised in his 1992 policy address that seven health centres for the elderly will be established by 1997. This was welcomed by the general public who believed that the Government had begun to stress on the importance and contribution of primary health care services; However, after a lapse of two years or more, only one centre is providing services; the second one is yet to be established and the third one is still under preparation. We are worried how the objective could be achieved by 1997. In fact, with only seven health centres for the elderly in the entire territory, it is definitely impossible to meet the tremendous demand of more than 700 000 old people aged 60 or above. Therefore, it is necessary to strengthen the existing related services to facilitate co-ordination and for different services to complement one another. In addition, development can be expedited by making the best use of the participation of non-governmental organizations.

As regards the existing nursing services provided to the elderly, I have the following four views and suggestions:

Firstly, the biggest difference between health care and medical care lies in the fact that the former puts particular emphasis on preventive work, which is to slow down the pace at which bodily functions decline. Therefore, health care

services for the elderly should commence at the age of 60 instead of 65 which is currently set as the age for receiving elderly services.

Secondly, the existing health care services for the elderly are jointly provided by a number of departments or organizations, including the Hospital Authority, the Department of Health, the Social Welfare Department and some voluntary organizations, and inevitably there exists little co-ordination and co-operation among them. Therefore, I would like to reiterate the consistent position of the Hong Kong Council of Social Services, that is, a central committee on services for the elderly should be set up with a view to improving the efficiency of the resources. As regards co-ordination at the district level, although a co-ordination mechanism has already been in place, it has to be re-organized and strengthened if we were to improve the mutual support and co-operation among different departments and organizations.

Thirdly, the medical outreaching teams under the Hospital Authority have been putting too much emphasis on care and attention homes to which medical practitioners and allied medical professionals have been paying regular visits. This may result in unnecessary duplication and even wastage of resources. On the contrary, to those who live in homes for the aged or in hostels for the elderly where medical care is rather deficient, and also to those old people living alone or with their families in communities, the Government is paying relatively less attention. Therefore, in the spirit of mutual help in the community, and in the hope of providing necessary support to the care-givers of the elderly both in the families and in the hostels, the Administration should extend the services provided by the medical outreaching teams to those old people who have not yet benefited and to those care-givers who have not been given adequate support yet.

Lastly, although the Hospital Authority has in recent years succeeded in reducing the number of camp beds in hospitals, the measures adopted by the Administration have not been recognized by the public. For example, for the purpose of enhancing the mobility of patients, some hospitals order patients to be discharged before they are ready, and as a result, their families or the hostels where they live are unable to provide them with sufficient and appropriate care after their discharge from hospitals. Therefore, the Administration should employ more medical social workers and reinforce their resources, in addition to drawing up a plan for the discharge of patients, so as to ensure that continuous medical services and medical care can be provided to the elderly after they have been discharged from hospital and returned to their respective communities.

Mr President, in the light of the contribution of health centres for the elderly in cutting down the overall medical expenses and the need to cope with the tremendous demand, I think the request of the original motion is not excessively demanding. The Government should, at least, have such a long-term objective. During this rather lengthy transition period, the Government should encourage the private practitioners and social service agencies operating in the

districts to participate to a certain extent in community-based health care plans for the elderly, so that the elderly, whether they are well-off or worse-off, may enjoy better health and spend their twilight years in comfort. The old people may even take part in voluntary work again, and make contributions to the community whilst enjoying their enriched twilight years.

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

DR LEONG CHE-HUNG: Mr President, may I first start by thanking my honourable colleague, Mr Fred LI, for changing the words of his motion on health care for the elderly at the eleventh hour, and of course thanking you, Mr President, for allowing such a change at such a short notice. As a result of such change, the spirit of my initial amendment has been properly reflected. I therefore seek your permission, Mr President, to withdraw the amendment under my name.

Although the controversy is now water under the bridge, I thought it my obligation to explain to Members of this Council the reasons behind my initial move to amend Mr Fred LI's original motion. Honourable Members can rest assured that it is neither a political move nor some sort of in-fighting among political parties of this Council.

The original words of Mr Fred LI's motion call upon the Government to provide a "comprehensive medical and health care plan" for the elderly over 60 years of age. His current motion calls only for the provision of a "comprehensive health care plan".

Honourable Members may remember that when Mr Fred LI spoke on his motion and called for a health care plan, he had made allowance for the involvement of private medical practitioners, and so it should be. Members of my profession, Mr President, in private practice are more than willing to offer their services by providing physical check-up and health education to our senior citizens. All these could be done on a regular basis with the fixed cost met by the Government. Indeed many of my colleagues are already voluntarily providing medical care at a reduced charge for senior citizens.

On the other hand, if the call is for a comprehensive medical plan also, we are engaging in an entirely different "ball game". In essence, private medical practitioners will then be requested to provide a system whereby for a specific sum of money senior citizens could seek unlimited medical treatment on a yearly basis. Such a possible proposed scheme brings back the foul memory of the soon-to-be-scraped School Medical Scheme which has opened so many doors for abuses and up to now has landed two doctors in jail and a third saved only by the skin of his teeth when prosecution has to drop charges following the death of a key witness.



Mr President, it is therefore a comprehensive health care plan and not a comprehensive medical and health care plan that we should pursue. No society can claim to be a caring society if it does not cater to the health of its aging population. A health care plan for the elderly is therefore in dire need. Such a comprehensive plan will be able to achieve a proper health education for our senior citizens so as to reduce the incidence of illness. At the same time, through a regular check-up, early detection of illness can be achieved and the senior citizens referred to a proper medical care service. In short, a proper comprehensive health care plan is not just for health but also for health economics. It is with this in mind that the Working Party on Primary Health Care in its 1990 report recommended that the mission for elderly health care should be:

"To promote the health and well-being of the elderly through provision of community-based services", with the objectives of providing and promoting "community-based non-institutional health care services for the elderly including the development of health maintenance and health promotion programmes with a view to preventing or deferring the need for long-term institutional care".

Needless to say, to make this effective, the Government must provide in parallel improved public medical care facilities so that any senior citizens detected to have ill health could get the necessary treatment at the earliest possible time.

It was therefore with jubilation that the community received the policy direction of the Governor's policy address in 1992 which called for the establishment of health centres for the elderly.

But alas, it is a situation of too little and too late. A total of only seven such centres were proposed as a pilot scheme to look after the whole elderly population of over 750 000 in Hong Kong. Up to now only one centre has been commissioned in Nam Shan. A second one is in the pipeline but no further plans are obvious for the remaining. Is this then yet again another example of procrastination or is this yet another example of paying lip service, raising the hopes of our senior citizens to high heaven, yet never allowing them to taste the sweetness of realization of a genuine promise?

Mr President, if the Government is serious in its push for a health care plan for the elderly, the following criteria must be taken and turned into reality:

- (a) There should be at least one such centre for each of the 18 districts so that the growing number of senior citizens can be effectively taken care of;
- (b) Such centres should co-ordinate with the private sector to involve them in the provision of health education and regular check-up;

- (c) Such centres should be in the vicinity of an adequately functioning general out-patient clinic so as to provide the necessary curative service;
- (d) The services of the centre must be comprehensive and with a full range of services including the provision of oral and dental health care, and, as Mr TAM Yiu-chung said, mental care at the same time; and
- (e) Opening hours of the centres must be flexible so that the carers for these senior citizens could have ample time to take them to, and fetch them from, the elderly health centres and yet have time to meet their own schedule of work.

Finally, Mr President, health promotion and sickness prevention must begin at a young age. It is ineffective in the control of hypertension, heart disease and so on, when people only start to cut down their fat and rich food at the age of 60. Similarly, it does little to decrease lung diseases if you have been a chain smoker all the way up to 60 years old. It is embarrassing to say the least that in spite of our vibrant economic state, we in Hong Kong still do not have a set of health targets.

Mr President, looking after the health of our citizens in their twilight years needs more than just a few elderly health centres or just some ad hoc activities. We need a well-thought-out health policy with a long vision. This, with regret, the Government has so far consistently resisted to produce.

I support both the motion and the amendment.

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

MR TIK CHI YUEN (in Cantonese): Madam deputy, at present, about 13% of our six million population are elderly people above the age of 60. This percentage will rise to about 18% by the year 2001. Like other countries, Hong Kong now faces the problem of an aging population.

Many advanced countries like Japan have planned well ahead. They have good medical and healthcare programmes for their elderly because they understand that the medical services required by the elderly could exceed those needed by the younger people by two or three times. Hence, if we wish to promote the health of the elderly, we should give them prompt medical treatment, and prevent them from falling ill, thus reducing their frequency for hospitalization. Developing a health care programme for the elderly is therefore cost-effective.

However, over the years, the medical services of the Government have made no substantial improvements to cater for the aging population and to gear to the trend of diseases. Twenty years ago, the 1974 White Paper on "The Future Development of medical and Health Services in Hong Kong" was published, and since then, reform of the Medical services of Hong Kong has been presented to the public in a piecemeal fashion. For the last two years, however, the policy address began to pay some more attention to the welfare and health of the elderly. The policy address of 1992 pledged that the Government would establish seven health centres for the elderly by 1997. It was undoubtedly a good start.

Unfortunately, the Government's plan to build health centres for the elderly has a "glamorous start but a disappointing ending". Progress has been very slow.

At present, only one health centre for the elderly has been commissioned in Hong Kong, and this is very much short of the targeted number set in the policy address. There are now more than 700 000 elderly people in Hong Kong and it is estimated that 15% of the residents of public housing estates are elderly people, some of whom even live alone. Bearing in mind that some elderly people might have difficulties in moving around or might live in remote areas of the New Territories, the proposal of extending territory-wide health centre services for the elderly to cover all the 18 administrative districts deserves our attention.

Besides increase in quantity, the improvement of quality is also very important. I think the Government should address the needs of the elderly through a health care programme in which the following corresponding measures should be worked out:

(1) Health education for the elderly

Early detection, coupled with proper treatment and control can greatly reduce the incidence of many common illnesses among the elderly. Take stroke as an example. The medical profession has confirmed that the mortality rate caused by stroke can be greatly reduced if hypertension of the elderly can be properly treated and kept under control.

Hence, prevention is the key to an effective health care plan. It is especially important to explain to our senior citizens the preventive measures against various illnesses which are common among the elderly. For example, telling them what to consider when choosing their diets, the ingredients of various kinds of food, how they would affect their health, and so on.

In fact, the Hospital Authority has all along been providing primary medical care services. The Hospital Authority has stressed that medical care services should not be impeded by "any structural restrictions" and through the "shared care programme", it has been co-operating with the primary medical

care services providers (including private practitioners) and the Department of Health. Their targets are the rehabilitating and chronically-ill patients.

I think that the Hospital Authority should similarly co-operate with the health centres for the elderly to develop primary health education for the elderly. In this way, the elderly can obtain some basic knowledge on health.

(2) Liaison group to promote the health of the elderly

I think it is not enough for the elderly to have only one medical check-up every year. Hence, I suggest the Government should set up liaison groups to promote the health of the elderly in the health centres so that the elderly can exchange ideas and help one another to understand how to prevent illness. We also ask the the Government to create posts of social workers in the health centres to help in the above-mentioned publicity work and to provide counselling services on health for the elderly.

Medical care services providers often focus their attention on the physical health of the elderly. I believe that after the posts of social worker have been increased, the social workers, with their professional knowledge, can help the elderly learn how to prevent illnesses through mutual encouragement.

(3) Rising rate of suicides among the elderly

Although Hong Kong does not rank first in terms of suicidal rate of the elderly, the number is still appalling. In 1994, 36.4 out of every 100 000 people aged above 60 committed suicide, and 75 out of every 100 000 men aged above 75 died after committing suicides.

We believe the most important factor accounting for suicides committed by the elderly is the lack of support services. Many elderly people resorted to suicide because of chronic illness, lack of care and poor relationship with their family.

At present, there are of 10 suicide-prevention counselling services in Hong Kong but only two of them specifically cater for the needs of the elderly.

I think that the Government should, through its health care programme forth elderly, provide more counselling services to prevent the elderly from committing suicide.

Madam deputy, all in all, it is very disappointing that the Government has failed to work out a comprehensive plan to improve its medical services to cope with the aging population of Hong Kong over the past few decades.

We are proud to say that the people of Hong Kong have all along been working hard and striving to make progress. However, it would reduce us to

shame when we look at the kind of care and welfare which the Hong Kong Government has provided for the elderly.

In other developed countries, the elderly who have contributed to their society when they were young would receive basic care provided by their countries. For example, in Japan, not only are the elderly medically insured, those aged 70 and above can also join their medical care programme free of charge.

The elderly of Hong Kong, even in the 1990s, are still fighting for some very basic health care services. By comparison, that is very unfortunate indeed.

I hope that the Government officials concerned will immediately implement a comprehensive health care plan for the elderly immediately, which should not be considered as a token of charity or a gift from above. It is a well-deserved basic right for the elderly who have worked hard for so many years.

Madam deputy, with these remarks, I support the motion.

DR TANG SIU-TONG (in Cantonese): Madam Deputy, the problem concerning medical and health care for the elderly in Hong Kong is of considerable gravity. With advanced developments in the medical field, problems brought about by an aging population gradually emerge. At present, there are over 700 000 elderly people at the age of 60 or above in Hong Kong. The provision of a community-based comprehensive health care plan by the Government to ensure adequate health care for the elderly has become a task which brooks no delay. Mr Eric LI just now proposed that the Government should provide physical check-ups for elderly aged over 60 at least once a year. While I agree to his proposal, I am of the view that preventive health care should be carried out much earlier. To provide physical check-ups for elderly aged over 60 can only detect earlier whether an elderly person is suffering from any illness. Most of the chronic illnesses start to develop when the person is still young. In this connection, the Government should provide the general public with basic medical knowledge in order to achieve the objective of preventing illnesses. In fact, the elderly may have already been suffering from various kinds of functional damage when he or she reaches 60. To call for physical check-ups at this time can achieve nothing except "mending the fold after a sheep has been lost".

As regards the idea of encouraging all the private medical practitioners of Hong Kong to participate in this plan, I think it is worth implementing. In general, many medical practitioners serving at the grass-roots level can be directly involved in medical and health services for the elderly in various forms, for example, by reduction of charges. But I hope this plan will not turn into something like the present School Medical Scheme which has become low-cost medical care service rather than a physical check-up programme. It will covertly exploit the private medical practitioners in terms of time and effort.

Mr Eric LI said there should be social workers posted at health centres for the elderly, thinking that social workers are suitable people for handling the psychological health of the elderly. This I think, is open to question. In my opinion, clinical psychologists are more suitable for this task. There is difference between the medical and community needs of the elderly. We have to distinguish between them.

Madam Deputy, the provision of high quality health care services for the elderly requires financial support. The Government should provide adequate resources to cope with the need. Without adequate resources, it is like sailing a boat on land, which is far too difficult to proceed.

Madam Deputy, with these remarks, I support Mr ERIC LI's motion and the amendment.

MR MAN SAI-CHEUNG (in Cantonese): Madam Deputy, the Governor, in his 1992 policy address, promised the setting up of seven elderly health centres to provide the elderly with yearly medical examinations, health care education and counselling services. However, it was not until May 1994 then the first of these health centres started operation. It is, therefore, hardly imaginable when the target as laid down in the policy address can be reached, in order that the elderly can be given access to basic physical examinations as a means of preventing serious diseases.

I think it is not that difficult to introduce basic medical examinations and health care education seminars. The question is whether the Government really attaches any importance to the matter and whether it is willing to allocate the resources required. The Honourable Martin LEE and I have provided such services in our own offices for the old people living in the Eastern District on a regular basis. Doctors and nurses are invited to conduct blood pressure measurements and urine tests for them, as well as to give talks on the causes and prevention of various diseases. If the Government can allocate funds and provide premises for the rendering of these services, responses from the elderly will surely be enthusiastic provided that large-scale publicity is conducted.

Therefore, I think that, in the meantime, the Government should not just wait for the elderly health centres to be completed, but should instead adopt a more flexible approach to enable the elderly to enjoy these relatively basic health care services at an early date. Since medical services for the elderly can cost the Government billions of dollars, I believe that medical examinations and seminars conducted on a mobile basis can help alleviate our burden and pressure caused by hospitalization of the elderly.

In view of the slow pace in the construction of the elderly health centres, can the authorities concerned consider the feasibility of other methods such as allocating funds as soon as possible to some non-governmental organizations and voluntary agencies for the provision of these services?

In fact, this Council has debated the topic of health care for the elderly on many occasions. Members have made a lot of efforts to convince the Government of the need for relevant policies. However, very little success has been achieved so far. No bold and resolute reform has been introduced in regard to preventive health care for the elderly. After the debate today, I hope the Government will really make the first step forward, and properly address the need for health care education and medical examinations for the elderly. This can certainly benefit the elderly because, with a better understanding of their own health, they will know how to prevent diseases and detect health problems more quickly, and can thus seek early treatment. Apart from that, and more importantly, public expenditure on medical services can be alleviated in the long run.

With these remarks, I support the motion.

DR SAMUEL WONG: Madam Deputy, it is moved that the health care plan for the elderly should be comprehensive, which means wide in scope. There are three aspects of this. First, it should cover all phases of health care from prevention to terminal attention. Second, it should cover all the needs of a patient from treatment to physical and emotional well-being. Third, it should cover all available diagnostic and healing techniques so that the most appropriate can be used.

I do not propose to spend time on the detailed needs of the elderly as this is a subject more proper for those in the welfare and health professions. But I do want to stress certain matters of management.

Some people may think that widening the scope of health care must increase the cost. This is not the case. There are four aspects of elderly health care which can dramatically reduce the cost to the taxpayer. These are: first, prevention; second, co-ordinating expertise; third, cost effective procedures; and fourth, good management and quality assurance.

First, prevention. Prevention of unnecessary degeneration is substantially a matter of education, which is relatively cheap. It implies self-help, from exercise to diet, to thinking positively — even to laughing. For example, the Canadian Government puts a sizeable effort into promulgating among their elderly the health-giving properties of friendship. There is no doubt in my mind that money spent on such education would save itself many times over in pre-empting expensive treatment of symptoms brought on by a negative state of mind.

Second, expertise. Expertise in care for the elderly is plentiful in Hong Kong, but it is scattered. It can be found in the charities, in the religious orders, in the welfare organizations. It will not be found, however, in many of the homes for the elderly that are purely business ventures. Many of these, especially the notorious caged bedspaces, have no trained staff and little or no concern for the emotional needs of the residents. Education may not be enough in itself. Implementation should be part of the plan.

Indeed, the plan should cover the co-ordination of the available expertise, so that guidelines can be drawn up for the largely neglected emotional care for the elderly. It should address the setting of standards and advisory support for such emotional care in all homes, even family homes, and arrange for the monitoring of compliance with such standards. It should also plan for the training of staff who care for the elderly as this is a specialist subject. I would expect such an approach to more than pay for itself in saving medical resources.

Third, diagnostic and healing techniques. This can only be comprehensive if they are broadened to include techniques and therapies not currently part of the formal medical service. A holistic approach would ensure the most appropriate therapy in each case. Great savings are possible. For example, integrated medicine in Britain in conjunction with a leading teaching hospital has pioneered the use of Marma therapy in the rehabilitation of stroke victims, which has been found to save on average about HK\$500,000 per patient. Multiply that by the number of elderly stroke victims in Hong Kong and the potential savings become staggering. As another example, the health administration of Ottawa has conducted a study on the management of lower back pain in Canada, which is of course prevalent in old people, and has concluded that if lower back pain was managed by doctors of chiropractic — I stress "managed", not necessarily "treated", as I have been misquoted on this — the saving to the Canadian economy could be C\$2 billion per year. Translated to Hong Kong population and currency, this suggests a possible saving of HK\$3 billion per year. I would therefore recommend that the plan should include provision for a comprehensive study of alternative techniques and therapies so that a holistic and integrated approach to care for the elderly can be adopted expeditiously in Hong Kong.

Fourthly, quality assurance. Quality assurance means the assurance that the elderly will be satisfied with the care they get. Quality assurance refers to the end product — user satisfaction. For example, studies have shown that in some circumstances in Hong Kong, patients prefer traditional Chinese medicine to Western medicine in the first instance. The plan should take this into account when providing guidance to those responsible for elderly care. Furthermore, elderly people will not be satisfied with misdiagnosis or iatrogenic illness, so these weaknesses need to be quantified and minimized with inevitably large savings in cost.



In conclusion, Madam Deputy, I urge that the plan be truly comprehensive and that maximum use be made of cost savings through efficient management to produce the most effective care for the elderly.

With these remarks, I support the motion.

DR LAM KUI-CHUN (in Cantonese): Madam Deputy, in his motion, the Honourable Fred LI has mentioned "health care plan for the elderly". His choice of words has aroused deep concern among doctors who are at present participating in the School Medical Scheme, as the Scheme is considered by doctors, students and parents to be a complete failure. Although the doctors concerned and the Government have agreed in as early as 1992 to abandon this "tasteless" Scheme, unfortunately, it still lingers on feebly. While this issue has hardly been settled, Mr LI puts forth another issue, that is, "a comprehensive health care plan for the elderly". The doctors concerned fear that the health care plan for the elderly will drag them into another never-ending nightmare just as what they have experienced with the School Medical Scheme. If the motion moved by Mr LI will become an elderly version of the School Medical Scheme, it will not have the support of the doctors concerned. Neither will it have the support from parents whose children have participated in the Scheme. The Liberal Party will also oppose the proposal.

The Honourable Fred LI has stated that the motion actually concerns preventive medical care services. Insofar as such services are concerned, a task group chaired by me has been set up under the St James Settlement in Wan Chai providing services of this sort for more than 6 years. The task group consists of members from a diversity of professions, (including doctors, social workers, lecturers and general staff of universities, nurses, dietitians, and so on). We have conducted a research to compare different factors in a scientific way. The results of this objective research confirm that preventive health care services are beneficial to the health of the elderly and that medical expenditure can also be reduced in the long run. Detailed information relating to the research was released 3 years ago. As regards the mode of service currently adopted by the Government at the service centre for the elderly at Nam Shan Estate, our comments and justifications are as follows:

1. It is too late to begin prevention of geriatric illnesses at the age of 65. Geriatric illnesses feature senility, which generally starts developing when a person is in his middle age and attacks a person 20 or 30 years later. The degenerated tissues are not mendable medically. From our experience in the past 6 years, half of the patients who suffered from geriatric illnesses died before reaching the age of 60. Therefore, whether prevention against geriatric illnesses starts at the age of 65 or 60, it is still too late. It will only be a waste of public funds if the health of the elderly cannot be protected. We suggest that prevention against senility brought by geriatric illnesses ought to commence at the age of 45.

2. As blood test is not included in the physical examination provided by the clinic at Nam Shan Estate, the elderly are not effectively protected against the two major killer diseases, namely stroke and cardiac diseases. It is because these two diseases are brought about by arteriosclerosis, of which one of the major causes is excessive cholesterol or triglyceride. Our experience at St James Settlement is that about one fifth of the people in Hong Kong carry in their blood an excessively high level of either of these two components, which can only be detected by blood test. Therefore, we suggest the Government to conduct blood tests for cholesterol and triglyceride at the geriatric clinics. In so doing, the incidence of stroke and cardiac diseases can be effectively prevented.
3. According to the definition of "total health", the mental state of the elderly is also a criterion to determine whether the elderly can be regarded as healthy. At present, the problem of suicide among old people is still serious. Last year, the total number of people died of suicide was 609, of which over one third, that is, 221, were over 60. Besides, the suicide rate among males aged between 55 and 59 was more than double of the average suicide rate of the community. From what we have learned at St James Settlement, 30% of the service recipients who appear to be normal have psychological problems. 3% of them have to receive formal psychological counselling. Therefore, we suggest that psychological health examination should be provided at the clinic at Nam Shan Estate.
4. The citizens should have the freedom to choose which doctor to see when they are sick and the Government should respect this right. For patients who have been found to suffer from some kind of latent illnesses, they may be referred to government hospitals for further treatment, but under general circumstances, they should not be forced to go to designated clinics. Copies of the examination reports should be provided to patients so that they may choose their own doctor for consultation.
5. Lastly, the implementation of any preventive health care measures must be backed up by a comprehensive health care education program.

As regards the proposal, as embodied in Mr LI's motion, to speed up the implementation of a health care plan and have it conducted on a wider basis, I have urged the Government time and again during the past two years to implement such a scheme earnestly. However, I have to make it clear that the Liberal Party only supports the provision of preventive medical examination by the Government. If the proposed medical and health care plan will jeopardize our existing system which allows the co-existence of both public and private medical care services and cause Hong Kong to be caught in a plight in which medical services are run either by the Government alone or by the private

sector alone, as in the case of North America and Australia, the Liberal Party will object to such a plan. The intention of the motion, that is to provide health care for the elderly on a wider basis, is warmly welcomed. Yet, we have reservations about the wordings of the motion which fails to define clearly whether the nature of the so-called health care plan is purely preventive. This might render the health care plan into an elderly version of the School Medical Scheme. This is not the wishes of the elderly, their families, the doctors concerned and the Liberal Party.

Based on what I have explicitly stated, the Liberal Party supports the intention of the motion which calls for the prevention of geriatric illnesses, but we do not support any possible implication in the motion of providing treatment in the health care plan in future. As for the Honourable TAM Yiu-chung's amendment, which attaches social services to the question of health care, the Liberal party supports the underlying spirit but does not agree that elderly aged 60 should be eligible to receive social welfare services.

Madam Deputy, these are my remarks.

DR HUANG CHEN-YA (in Cantonese): Madam Deputy, the motion I proposed on 2 November 1994 was carried in this Council. The motion urges the Government to draw up a medical policy based on disease prevention and to set out specific objectives to strengthen primary health care services at low costs, especially in regard to the prevention of heart disease, cerebrovascular disease, cancer and AIDS, in order to promote public health.

As we all know, heart disease, cerebrovascular disease and cancer are the top three killer diseases in Hong Kong, and the the incidence of such diseases increases proportionately with age. Therefore, a genuinely prevention-based medical policy must focus on the prevention of heart disease, strokes and cancer of the elderly.

On 2 November, Government expressed support for a medical policy based on disease prevention. Regrettably, the Government has said one thing, but has done quite another. In its follow-up report given a few days ago, the Government said that only two elderly health care centres will be commissioned between 1995 and 1996. Since there are over 700 000 elderly people aged 60 or above in Hong Kong, this actually means that only one out of 70 elderly people will be lucky enough to enjoy the services provided by elderly health care centres. The rest will have to "quench their thirst by looking at the plums". The prevention-based medical policy in question really exists in name only, in the literal sense.

Therefore, I hereby urge the Government to take concrete actions to implement a prevention-based medical policy. However, the problems involved are not related to any shortage of resources, contrary to what Mr TAM has said. Both the Government and Mr TAM may have failed to understand that looking

after the health of the elderly requires a more comprehensive, district-based health care plan.

Elderly people's difficulties in getting about, coupled with their often tight finances, have rendered it difficult for them to travel long distances. The Government has attempted to concentrate health care services in large centres, in the hope that elderly people from different places can go there themselves for the services they need. This is obviously not a well-thought-out approach. Convenient access and low charges are the two pre-requisites to the successful provision of elderly health care services. Hence, the Government should set up at least one health care centre in each of the 18 administrative districts. Such health care centres can serve three purposes. First, they can provide the elderly with general check-ups and health care education. Second, they can serve as second-stage centres for health examination.

A health care centre should provide services only to the elderly living in its vicinity. Because of this, it is all the more necessary for us to establish a well-distributed network of health care centres. This can be achieved by involving voluntary organisations and private medical practitioners. In this way, each and every elderly person can gain access to check-up services near to his or her own home in the absence of any company, and without having to travel long distances.

Apart from physical check-ups, monitoring of illnesses is also very important. Many elderly people are in need of regular medication because of health problems. But, many patients suffering from serious but common diseases, such as hypertension and diabetes have to wait for several months before their turn for follow-ups. As a result, their conditions have often deteriorated beyond controllable limits, sometimes even without being noticed by others until their health is severely damaged. The Government should provide resources to enable the elderly to have blood pressure measurements and diabetes tests in nearby elderly centres or private clinics, so that their health conditions can be monitored. In case a disease gets out of control, early remedies can be sought. In this way, the rationale behind the saying that "remedies should be sought at the early stage of a disease" can be put into practice, thus reducing the elderly's demand for hospitalization.

If the check-ups conducted by neighborhood elderly health care centres and private clinics reveal that an elderly person has contracted a disease, he or she can be referred to a proper medical institution for treatment. However, sometimes, it may be that only suspicious symptoms calling for further examination are detected. In this case, if the elderly person concerned is simply referred to an ordinary Government clinic where he or she has to wait together with other patients, unnecessary "queuing" will result. Therefore, another kind of clinics specializing in providing further check-up services should be set up. Health care centres can provide this kind of further check-up services in each of the districts.

The third function of a health care centre is to collect statistics from its own district for the purpose of co-ordinating elderly health care services at district level. It can also serve as a base for specialized services and elderly health care outreaching teams. The provision of elderly health care services is not the monopoly of medical professionals such as doctors and nurses. Depression and other mental diseases are often the results of loneliness and social isolation. Hence, in order to prevent elderly people from committing suicide and contracting mental diseases, we have to satisfy their mental and community needs.

Accidental falls is another common problem among elderly people. Their ability to keep their balance decreases as they become older. This, coupled with degenerating eyesight, makes them more susceptible to tripping over obstacles and fall. Because of this, if the floors, staircases, handrails, furniture and lighting in the homes of the elderly can be improved, accidents can be reduced.

Many accidents can in fact be avoided if out-reaching teams comprising social workers, health care workers, occupational therapists and so on are available to help the elderly at district level. The Government should draw up a comprehensive policy for looking after the elderly. The implementation of such a policy should involve the co-ordinated efforts of various kinds of professionals.

MR MICHAEL HO (in Cantonese): Madam Deputy, health care and medical care are actually two different concepts; health care may include medical care, but we should not focus our attention entirely on medical care. From the angle of primary health care, if we say that a person is not ill, it does not necessarily mean that he is healthy. Primary medical care, that is, treatment of diseases, is only part of primary health care services. Primary health care services care about the health of every person. The scope is wide, covering cleanliness of our potable water, refuse and sewage disposal, mental stress, living environment and so on.

Members have just discussed a lot about physical health care; they have also talked about mental and other health care. In physical health care, we have focussed on treatment. I do not object to more connections, or even co-ordination, between the Government and the private medical services, to improve the medical services for the elderly as soon as possible. In this regard, the greatest advantage is that we can very soon provide more medical services. However, we have to learn from the failure of the School Medical Scheme in the past.

The Department of Health is developing in the right direction. It provides genuine primary health care services at low cost but with good effects. The genuine health care services include physical examination, health education, psychological counseling, food hygiene and so on. The only drawback is that the seven health centres proposed by the Government are not enough. In

respect of these seven health centres, we have not yet worked out any specific plan to estimate the supply with reference to the demand on the basis of the population, the needs of the elderly and the types of primary health care service we are going to provide.

I would like to extend the scope by discussing health care for the elderly from the angle of primary health care. During the discussions we just now had, a lot of diseases such as stroke and hypertension were mentioned. It is quite true that with annual physical examination, early detection and early treatment of these diseases are possible. We also have to take care of psychological health, such as the provision of psychological counselling, as mentioned by some colleagues. In an even broader perspective, I shall discuss other primary health care services. The quality of our potable water is good and our living environment is not bad. But how about the living environment of many elderly people? This goes beyond the scope of authority of the Secretary for Health and Welfare. Unfortunately, the Chief Secretary is not here, but the Financial Secretary is present.

We hope that the other primary health care services would also be taken into account, which apparently include the living environment, housing and the income of the elderly. This is to say, if an elderly person does not have money, he will naturally have mental pressure. I hope that, first of all, the Government will not back out of its proposal to increase old age allowance for the elderly. If elderly people do not have money, they will have to beg on the streets, collect aluminium cans and paper cartons, and live in caged apartments. They naturally have great psychological pressure, how can they possibly remain healthy? Under such psychological pressure, psychological counselling, will actually have no effect and even annual physical examinations cannot really safeguard their health. There is a joke within our profession. A doctor once advised a patient who lived in a poor environment: "You need fresh air, so do not live in a cage any longer. You had better move to Shouson Hill Road and live there!" Can this be done by just saying so? If not, we have to care about the basic income and the living environment of the elderly people.

The real concept of health care should refer not only to treatment of diseases and the preventive measures we have described just now. It should be a step further and we should start from primary health care services in improving the elderly people's living and working environment, so that they may have enough nutrition and of course, have enough money to buy nourishing food.

If we only talk about treatment of diseases and physical check-ups, I will say that these are no more than empty words. We may promote health education and make elderly people understand that they need fresh air and that they should not live in cages, but actually they are not even able to live in public housing. How can they have a better living environment? If they do not have good diets, how can we ensure that they have good health? Does it mean that if they go to health centres to see the dietitians for advice, they will be able to follow the advice?

I hope our discussion today will not become empty talks. I really hope that we can do something in respect of health care for the elderly. This task goes beyond the scope of the work of the Health and Welfare Branch. I hope that the Government can take up the overall co-ordination of the work, for the sake of the elderly in Hong Kong, and to enable them to enjoy good health.

Madam Deputy, these are my remarks.

THE PRESIDENT resumed the Chair.

MR WONG WAI-YIN (in Cantonese): Mr President, the Lunar New Year is now approaching. For elderly people, I think the best well wishing greetings are "vitality to be associated with old age" and "strong and sturdy". But if we do not have a proper health care programme under which the elderly's health is properly looked after, thus negating the need to rely on expensive hospital services on long-term basis, then such greetings are but castles in the air.

According to information provided by the Department of Health, the Government's total expenditure on medical services in 1993-94 was \$1.45 billion, and the estimated expenditure for 1994-95 is \$1.71 billion. In fact, the elderly people's demand on government medical services has all along been tremendous. At present, a monthly average of about 134 000 people aged 60 or above, representing 42% of the total patients, patronize the government general out-patient clinics, and elderly people account for 21% of patients using the specialist out-patient clinic services of the Hospital Authority. As regards hospital services, elderly people account for 37.5% of the occupation of public hospital beds in terms of the average number of days. All these show the extent to which elderly people rely on medical services.

Mr President, just now in his speech, the Honourable Fred LI has repeatedly stressed that our proposals are very cost-effective. In the long run, it will also help to relieve the Government's current heavy medical expenditure. In particular, we have adopted the example of the Nam Shan Elderly Health Centre for our calculations. At present, the annual membership fee for the Nam Shan Elderly Health Centre is \$220 per person, with all other expenditure and income taken care of by the Department of Health. The annual expenditure estimate is about \$2.05 million. If 10% of the 3 000 members admitted by the centre are fee-exempted Comprehensive Social Security Assistance (CSSA) recipients, the centre's annual income would be about \$600,000. So the subsidy by the Department of Health would only be about \$1.5 million a year. If we are to provide one elderly health centre in every administrative district of Hong Kong, the Government's annual expenditure would amount to about \$27 million. Suppose we have participation from private medical practitioners and suppose the membership fee for each elderly person is maintained at \$220 a year, with the Government paying the private medical practitioner \$100 for every participant, then even if all the 700 000 elderly people in Hong Kong who

are aged 60 or above take part in this health care programme, with 10% of them being CSSA recipients, the annual subsidy to be provided by the Government will only be \$90 million. Of course, full implementation of the programme will require the Government to improve the staffing of social workers and administrators for each centre, which will cost about \$8.5 million. It is initially estimated that the total commitment by the Government will be about \$125 million a year if it is to implement the programme in full. Comparing with the present \$1.7 billion spent annually on hospital services for the elderly, the financial commitment required on the Government is really very small. In addition, this plan will help to reduce the elderly's demand for institutional care, thereby cutting government expenditure on hospital services. It is thus quite cost-effective.

Mr President, I would now like to explain the community-based service concept. In fact, the concept of community-based health care services for the elderly was clearly established as early as December 1990 when the Report of the Working Party on Primary Health Care was published. Indeed, this concept is formed with reference to the experience of some other countries similarly facing the problem of an aging population. For example, Singapore has established in 1995 a Health Services for the Elderly Department within its Primary Health Division under the Ministry of Health for the implementation of community-based health services for the elderly. According to the Report of the Working Party on Primary Health Care, the most important objective for community health services for the elderly is "to provide and promote community-based non-institutional health care services for the elderly including the development of health maintenance and health promotion programmes with a view to preventing or deferring the need for long-term institutional care." Therefore, our proposals are essentially based on the principle set out in the Report with further development and consolidation of community-based health services for the elderly.

Mr President, the Honourable Fred LI's motion seeks to benefit every elderly person who is 60 years of age or above, including of course those elderly people who have difficulty in mobility. Mr Fred LI has just detailed six specific proposals. These cover not only elderly people who have mobility problems, but also those who are CSSA recipients and those who live alone. Besides, we propose that at least one elderly health centre be set up in every district, hoping that all the elderly people will be able to use the services of the health care centre situated in their district. The proposed reinforcement to the outreaching medical service for the elderly is geared to providing a visiting health care service for those who have great mobility problems or for those who are invalids.



As the saying goes, "prevention is better than cure". I sincerely hope that the Government will positively consider the motion of Mr Fred LI, a Democratic Party member, and implement the proposals to provide better health care for the elderly.

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

PRESIDENT: Mr Fred LI, do you wish to speak? You have five minutes to speak on the amendment.

MR FRED LI (in Cantonese): Mr President, I have listened attentively to the details of Mr TAM's amendment. His amendment basically supplements my original motion and has little effect on it. In essence, Mr TAM's amendment aims to ensure that the Government can provide adequate resources. I think this should be included in all motions aimed at urging the Government to take any required actions. We should all know that sufficient resources are a prerequisite for the provision of public services.

Mr TAM also mentioned other social and counselling services which in fact refer to welfare services. The aim of my original motion is to focus on health care only, not anything else. If we are to include welfare services for the elderly, we will have a lot to deal with. For instance, we have only two outreaching teams. We should have more. Elderly centres now receive only an 80% subsidy. They should get full subvention. Besides, the suicide rate of the elderly is also a concern of this Council. All these points to the necessity of more Government efforts in the area of welfare services, especially counselling. However, it is my hope that our motion debate today can have a sharper focus, concentrating first on the Government's elderly health centre, and later extending the scope in the hope that better services can be provided.

In motion debates, as in the case of other matters dealt with in this Council, an amendment will always be moved to narrow down a motion which is relatively broad in scope, and vice versa. Now, Mr TAM has moved an amendment seeking to broaden the scope of my motion. Thinking that the scope of my motion is not wide enough, he mentioned the high suicide rate of the elderly. Fearing that the Government might encounter problems in setting up 18 privately-run health centres, he has gone so far as to dismiss my idea as unrealistic. Actually, I have distributed a more detailed information paper to all Members. I wonder if Mr TAM has read it. This paper has addressed all his worries. I have conducted my own studies, and have also discussed the issue with Mrs Fok. I have also visited the centre in Nam Shan Estate and held discussion with the doctors there. The motion represents not only my own opinions because we have a whole team working on it. I hope that the motion today can focus on this point and that the Government will find it impossible to resist such a positive and constructive proposal. This proposal is in fact based

on one of the Government's own services which we want to further improve and extend to all the 18 administrative districts.

As mentioned by the Honourable WONG Wai-yin just now, the government expenditure to be incurred as a result of this proposal will only be \$125 million at the most. This will already be the maximum because we have made allowance for all the 700 000 elderly people to participate in the plan. Thus calculated, the costs will involve a mere sum of \$125 million, which can in no way compare with the costs of hospitalization of the elderly, which is over \$1700 million. Apart from this, I would like to draw your attention to two other figures. First, 41% of the patients who visit the 59 out-patient clinics under the Department of Health in a month are aged 60 or above. Second, during the past seven months, over 30% of the patients admitted by hospitals under the Hospital Authority are aged 60 or above. These figures show that a large proportion of our resources for medical services has been used to cater for the needs of the elderly people. Such a burden will be reduced if quality preventive health care services are provided. I believe that this principle will be supported by all of us. So, I hope that the motion today can focus on this point.

We have also given deliberation to Mr TAM's amendment. The Democratic Party cannot refuse to support his amendment because we also consider his suggestions constructive. Therefore, we support his amendment. With regard to the initial amendment of Dr the Honourable LEONG Che-hung, it was moved largely due to his worry about the implications of the word "medical". A mere mention of the word "medical" in the original motion seems to have scared many Members in this Council, who dread to see a repetition of the School Medical Scheme fiasco. Since quite a number of Members have just now cautioned against this, I must reiterate that we do not have the slightest intention of following the example of the School Medical Scheme. The health care plan in question involves only disease prevention and has nothing whatsoever to do with medical treatment, which does not fall within the scope of my motion. So, Dr LEONG, you can rest assured.

These are my remarks.

SECRETARY FOR HEALTH AND WELFARE: Mr President, first of all, I must thank the Honourable Fred LI, the Honourable TAM Yiu-chung and other Members who have spoken during this debate for their diverse views and stimulating ideas on this very important subject of health care for the elderly.

Caring for our elderly has always been a government priority. This has been abundantly proven in various policy areas such as housing, welfare, and health care. We have in place extensive programmes to promote the health and welfare of our elderly men and women. The Working Group on Care for the Elderly which reported in August last year made 71 recommendations that carry significant and far-reaching implications on the provision of services for our elderly citizens in the years to come. We will implement the

recommendations contained in this report at an annual recurrent cost of \$37 million in 1995-96, rising to \$108 million in 1999-2000. Another \$327 million in capital cost will also be spent between 1995 and 2000 in improving services for our elderly people. This is a clear commitment by the Government.

### *Primary health care*

The Report of the Working Party on Primary Health Care (PHC) which was published in 1990 reaffirmed the Government's commitment towards primary health care and its important role in the overall health care programme for our citizens. It also set the scene for re-orientation of emphasis towards primary health care in our overall health care policy.

In this process, we have followed several guiding principles:

- (a) Although the application of primary health care varies between population groups, there should not be an arbitrary segregation of different age groups in health promotion. We agree with Dr the Honourable LEONG Che-hung who rightly pointed out that health promotion should start at an early age;
- (b) A multi-disciplinary and multi-faceted approach should be adopted in the provision of services. This means that primary health care should be provided not just through the Government or through the medical profession alone, but also through the non-medical disciplines, such as welfare workers. Many Members have also spoken on this topic. The modes of provision of primary health care should include not just health screening but also disease prevention, counselling, health education, curative treatment and rehabilitative care. We need to maximize the use of all existing resources, not just in the Health Department but in all government-funded health care institutions such as the Hospital Authority (HA) and other subvented non-governmental organizations;
- (c) Intersectoral collaboration between the public and private sectors should be encouraged. In Hong Kong, there is a very vigorous private health sector providing choice and quality of service to our citizens. In primary health care as in other aspects of the health care services, the Government should play a co-ordinating and enabling role in promoting collaboration between the public and private sectors in providing a comprehensive network of health care services for the community;
- (d) The success of any health care programme depends to a great extent on participation by the community and the individual. Every person has a role to play in ensuring his own health and in promoting the health of others. What the Government can do is to raise the awareness of the importance of good health through community

education and disease prevention programmes. But at the end of the day, the role of each individual and the family in health care and promotion is extremely important.

*Elderly as a target group*

These guiding principles of primary health care have been applied at the policy level, the organizational level and the operational level. In the four years following the report on primary health care, we have not only initiated new ventures targeting the elderly as a group, but have also encouraged a realization of partnership and the team approach in health care for this vulnerable group.

At the policy level, we have recently put in place a new division called the Elderly Services Division within the Health and Welfare Branch comprising staff of different disciplines including health and welfare. Among other things, this division will co-ordinate and oversee policy matters related to health services for elderly people. It will introduce a multi-disciplinary approach to this important work. But to succeed, we need everyone's support.

At the organizational level, the Department of Health continues to take the lead in collaborating with other health care providers to care for elderly people in the community through its network of general out-patient clinics and the new elderly health centres. At the same time, the HA, in its effort to initiate a seamless health care system for all, including elderly people, has extended its services outside the boundaries of the hospital so as to reach out and mobilize community support for elderly people at risk of hospitalization. New initiatives include the community-based geriatric assessment teams and clinics as well as community psychogeriatric teams to provide a more structured approach in the provision of outreach medical services and support for welfare institutions.

At the operational level, we are working towards a close but managed interface between health care personnel from different disciplines and sectors. Furthermore, the growing degree of community involvement is most encouraging. For instance, at the Nam Shan Elderly Health Centre, we organize self-help support groups for elderly citizens with similar health concerns to promote the basic ingredients of healthy living. An example is the promotion of exercise and the balanced diet. Through counselling and group activities, participants are informed of the basis of health risks and disease causation as well as equipped with the necessary skills and support to resist social pressure to conform to unhealthy living.

To ensure continuity of care for discharged elderly patients, close collaboration with carers assumes prime importance. For instance, the community-based geriatric assessment teams within the HA carry out visits to offer specialist advice and educational programmes for lay carers and care-givers in residential care homes. Another major initiative to foster community participation is the development of volunteer services in HA hospitals through which volunteers acquire an understanding of health as they offer their services

to those in need. We will support the HA's initiatives in channelling its resources and efforts with other health care providers into the community to create an effective network of preventive health care programmes, particularly for the elderly.

The organization of health educational programmes and health checks in social centres for the elderly operated by non-governmental organizations is another vivid demonstration of intersectoral co-operation and community partnership in health. In these programmes, voluntary medical personnel are invited to give health talks and carry out simple health checks for elderly clients. They also train up staff of the social centre so that they can provide the same service to users.

These projects and other health promotional activities initiated by different health care sectors have benefited many of our elderly citizens. It is our intention that these activities should continue to flourish to cater for the varying needs of our elderly people.

*Need to try out different health care models*

In developing different models on health care for the elderly, we must not fall into the trap of using only one model to the exclusion of other health promotion options. The seven elderly health centres which are specifically targeting healthy individuals aged 65 and above serve as an experimental model for identifying a cost-effective operational mode. It is a new, publicly funded service providing a venue where preventive health care programmes are conducted for older members of our community.

The first elderly health centre commenced operation in May 1994 and is welcome by all who have used its services. The second and third centres will be operational in 1995-96. The other centres are in the pipeline. These centres will serve the important purpose of developing and fine-tuning protocol and logistics of preventive and promotive services in an out-patient setting. The intention is to accumulate working experience so that future centres will be successfully integrated in our out-patient clinics (GOPC) on a territory-wide basis.

Concern has been raised by the Honourable Fred LI about dental services for elderly people. The Government's policy on dental service is to provide preventive and promotive services to the general public, and curative service to persons in need of emergency treatment, to specified groups, and to in-patients in public hospitals whose dental treatment forms an essential part of their medical treatment. For elderly people who are Comprehensive Social Security Assistance recipients, special grants are in place to provide financial assistance for their dental treatments in designated dental clinics and clinics run by non-governmental organizations and non-profit-making bodies.

*Health screening*

The points raised by the Honourable Fred LI and other Members about increasing the accessibility of service venues, improving the co-ordination among service providers, providing integrated care, promoting intersectoral collaboration and enhancing community participation are well taken, and deserve our support. The issue of health screening is a complex subject and I wish to sound a word of caution.

As far as I am aware, population screening of the scale proposed by some Members has not been practised in other countries. Health screening programmes should as a rule be based on cost-benefit analysis. One must bear in mind that screening is very much part and parcel of clinical practice. For example, taking of blood pressure and routine urine examinations constitute some form of informal screening. Most elderly persons have access to regular health care services, either in the public or private sector. Screening for people presenting themselves to health care services is recognized by the health care professionals to be the most effective and practicable way of identifying people at risk. It would also make the best use of existing resources. Similarly, the Working Party on Primary Health Care advocated the introduction of screening for people aged 65 and above attending general out-patient clinics. The planned integration of elderly health centres into all our general out-patient clinics is clearly in line with this recommendation.

*Future efforts*

The concept of primary health care has taken root in our formulation of health care policy. As always, we will work to ensure that no one will be denied access to health care services through a lack of means.

As I pointed out earlier, we will also work to better co-ordinate and facilitate the growing collaboration of all our health care professionals. We have a sound health care system that cares for all age groups, but we need to refine our services to cater to specific groups, in this case, the older members of the community. Existing services will be critically evaluated to ensure the most cost-effective use of all existing resources. Innovative ideas originating from the public and private sectors will be encouraged and tried out. Last but not least, we will motivate the community in different ways to help the individual and his family adopt a healthy lifestyle so that the community, as it grows old together, will do so in good health.

Thank you, Mr President.

*Question on Mr TAM Yiu-chung's amendment put and agreed to.*

PRESIDENT: Mr Fred LI, you are now entitled to reply and you have four minutes 10 seconds out of your original 15 minutes.

MR FRED LI (in Cantonese): Mr President, I will be brief. First of all, I would like to thank the 11 Members who have kindly spoken on such a platitudinous issue. In fact, I feel quite disappointed at the reply given by the Secretary for Health and Welfare because she was only repeating the undertakings already made in the Report of the Working Group on Care for the Elderly.

Most of the 11 Members who spoke today criticized the slow progress of the seven health centres for the elderly. Only one health centre is now in operation; another two are expected to commence operation between 1995 and 1996 while the other four are still under planning. The Members also shared the view that it is hardly sufficient to set up only seven such centres. The Secretary has failed to respond seriously to this point. Besides, I would like to add that participation of private medical practitioners should be further studied as a possibility. As for dental services, it must be reiterated that the Government is actually not providing any dental services for the public because out-patient dental services are provided for civil servants only. The elderly, about whom we are concerned, are barred from such services. Many senior citizens have reflected to us their concern about the availability of dental treatment and examination to them. Basically, they rely entirely on private dental services at present. This is most unsatisfactory. I hope that the Health and Welfare Branch can take heed of the opinions of the elderly. Today, a lot of elderly people are voicing their opinions outside the Legislative Council Chamber. I collected 5 500 signatures and have handed them to Mrs Katherine FOK. These signatures represent the opinions of the public regarding the health care services provided for the elderly. Lastly, I hope that the seven health centres for the elderly will be completed as soon as possible. I also think that the provision of health centres for the elderly should not remain at the pilot stage. Instead, similar services as provided by the seven health centres should be extended to every administrative district, so as to save the elderly the trouble of travelling to and from these centres for such invaluable services. The saying that "prevention is better than cure" is incontestable, I believe. It is hoped that the Secretary for Health and Welfare will put this concept into practice. Thank you, Mr President.

*Question on Mr Fred LI's motion as amended by Mr TAM Yiu-chung put and agreed to.*

**WITHDRAWAL OF THE EMPLOYMENT (AMENDMENT) BILL 1994**

MS ANNA WU moved the following motion:

"That this Council reproves the Government for withdrawing the Employment (Amendment) Bill 1994 after amendment to the Bill moved by the Honourable LAU Chin-shek was carried in the Legislative Council, and urges the Government to pledge its respect for the Legislative Council as a decision-making authority on legislative matters, including the making of amendments to bills, in order to maintain the public's confidence in the Legislative Council and the democratic system."

MS ANNA WU: Mr President, I move the motion standing in my name on the Order Paper. Nothing is more damaging to the democratic process than to have a government seeking to bully a legislature into submission.

Mr LAU Chin-shek resigned to protest against the Government's withdrawal of the Employment (Amendment) Bill 1994 (the Bill) after his amendments to the Bill were carried in the Legislative Council. These amendments sought to improve the government package on benefits for employees.

The attempt to frustrate legislators' efforts occurred not just once but twice with the Bill. On the first occasion, the Government decided not to proceed with the last Reading of the Bill after Mr LAU succeeded in securing a majority for his amendments. The amended Bill was ultimately lost by one vote, but the message given by the Government was clear — the Government did not wish to have the amendments passed and would not take responsibility for it.

Months later, the Government presented a second Bill. This time, Mr LAU's success was met by an even more extreme measure — the withdrawal of the Bill itself by the Government. The Government could have adjourned the Bill, but it did not. The Government evidently feared that Mr LAU might also have majority support for his amendments at the Third Reading, as well.

With one stone, the Government killed three birds: it warned the public not to make too many demands; it damaged the effectiveness of the legislature; and, it saved the Governor the embarrassment of having to withhold assent from a bill passed by the legislature.

The withdrawal of the Bill presented a naked disregard of the democratic process — it scuttled a bill successfully amended by the Legislative Council.



The Government was flexing its muscles, in effect saying to the legislature and to the public, "if you dare to ask for more than I am willing to give, then you shall not have anything at all." If anybody should ask for a full bowl of rice instead of the half-bowl offered by the Government, then that half-bowl too will be taken away.

Such tactic is a blatant attempt to circumscribe the constitutional role of the legislature to legislate by limiting what the legislature can propose through amendments. This is a hostage-taking stratagem intended by the executive to intimidate.

What this means is that, despite paying lip service to the democratic process, the Government does not consider itself bound to respect the majority view of the Legislative Council.

The principal function of the Legislative Council is to express the views of the public, which the Council represents. A government that is permanent and unelected — if it really aspires to be accountable — must pay close attention to the sentiments expressed by the Council. The Council has in recent years, through the democratic process, become the most representative legislature the territory has ever seen. When the Government thwarts the will of this Chamber, it thwarts the public will. This Chamber has the authority and the legitimacy to call the Government to account.

The Letters Patent (Article VII(1)) provides that: "The Governor, by and with the advice and consent of the Legislative Council, may make laws for the peace, order and good government of the Colony."

This formula appears in the preamble of every ordinance. The line following the long title of the ordinance reads: "Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof."

It is because the Government is unelected that it is vital that it governs with the advice and consent of the Legislative Council. For the Administration to ignore, to frustrate and to intimidate the legislature is for it to undermine the constitutional role played by the Legislative Council.

The Governor is on record as saying that the Legislative Council is not a rubber stamp "and will not become a rubber stamp". These are fine words. But his actions and those of his administration indicate otherwise. The actions indicate that both he and his administration expect the Legislative Council to be little more than a "rubber stamp".

The Chief Secretary, in her response to the criticism, said on 26 October 1994: "It is no secret that the Administration believes in executive-led government. But this Council nevertheless has great powers, and makes use of them. Members can, and do, amend, or even reject, the Administration's legislative proposals ..... The Administration does not always like it when you exercise these powers of the legislature. And we reserve the right not always to agree with your views, just as you reserve the right not always to agree with ours."

The most effective way of checking government conduct — and misconduct — is to use the legislative powers conferred upon the Legislative Council. Scrutinizing and amending bills are part and parcel of the work of any legislature. Even the Chief Secretary said this was acceptable. Unfortunately, words and actions do not always match.

In other parts of the world, elected representatives play a part — the dominant part — in setting legislative and funding priorities. The Hong Kong Administration must bear in mind the differences between the constitutional framework of Hong Kong and that of the United Kingdom. In the United Kingdom, a government's decision to prevent consideration of an important bill or amendment can ultimately be overcome by a public vote removing the Government from power. Here, as the Administration well knows, this is not possible. There is even more reason, therefore, for the Administration to heed the advice of the legislature.

The executive is accountable to the legislature. I hope the Chief Secretary was not suggesting that being accountable meant no more than agreeing to disagree. Such an approach would be a sure recipe for deadlock and disintegration, if not disaster. Such an attitude reflects the mentality of a government that considers itself unimpeachable and, ultimately, unaccountable.

Even the Chief Secretary must agree that this is not what an executive-led government should mean. This debate is not about disturbing the constitutional formulae for Hong Kong but about how best to respect and observe that constitutional relationship between the executive and the legislature.

The Governor in his last policy address to the Legislative Council declared: "the Administration proposes and the Legislative Council disposes." In practice, however, what the Administration shows is that, when the Legislative Council proposes an amendment, it is the Administration that disposes by refusing to act.

This debate is not about whether or not the Government should have the power to withdraw a bill. Indeed, the Standing Orders of the Council provide the Government with the power to do that. It is not my proposal to do away with that power. This would be constitutionally undesirable as there are clear situations when this power need to be preserved, such as, when there is a clear mistake.

This debate is about how that power should be exercised. The way the Government chose to use those powers in the case of the Employment (Amendment) Bill 1994 was capricious and arbitrary. The difference between the Government's package and Mr LAU's amendments was very narrow and indeed, to the credit of some business leaders in the Council, they were in favour of the amendments.

Given the Government's handling of the Bill, it would be prudent and desirable for the Council to consider ways and means to reduce the possibility of the repetition of such incidents. There is thus a need to review procedural safeguards.

One possibility is to provide additional flexibility for a Member to step in immediately and move by way of a Private Member's Bill at the same sitting upon the Government withdrawing a bill. Such a procedure need not disturb the current technical limitations requiring government consent on bills that entail government funding. Notice, formalities and gazettal can be dispensed with; after all, Members would already have considered the bill. Somewhere a balance must be struck and procedural disincentives built in to discourage the Government from using its powers to ride roughshod over the legislature.

Mr President, in a wider context I would renew my call to review the longer term resource requirements for the Legislative Council. The funding for the Legislative Council is approved by the Government. While it may not be politically wise to call for a power for the Legislative Council to vote in its own budget, it would be desirable for a mechanism to be agreed upon so that the Legislative Council would not be held hostage by the executive.

In conclusion, let me point out again that in Hong Kong, the Government is unelected, and neither arises from the legislature, nor falls by its will. It has the power to withhold bills from the legislative agenda indefinitely. Legislators are wholly excluded from policy formulation, a process that is conducted behind closed doors by an executive exclusively made up of unelected civil servants. Public input is sought not through the active participation of elected officials in designing policy, but through consultation, that is, only to the extent the executive asked for it, and only on the basis of the information it chooses to release. The resulting policies are then put before the Legislative Council on what the Government now apparently sees as a "take-it-or-leave-it" basis, at least where important matters are concerned.

In this constitutional context, the Government should take special care to respect the Legislative Council's opinions at the only stage where it does participate. As a matter of principle, it should pay greater attention to legislative sentiments as expressed in motion debates, and take a more permissive line on Private Members' Bills. Instead, stratagems like the withdrawal of a bill to prevent its amendment by the Legislative Council undermine the legislature's acknowledged power to amend.

It would be ironic if, after battling to upgrade the Legislative Council's representation, this Governor then presided over the Administration that crippled the Council's effectiveness by a determined refusal to take account of its views.

Thank you, Mr President. I move the motion.

*Question on the motion proposed.*

MR ALLEN LEE (in Cantonese): Mr President, 14 December 1994 is a day that should be remembered by all the people of Hong Kong and the Legislative Council, because on that day, an extremely regrettable event took place at the meeting of this Council.

First it is regrettable that the proposal reached by the Labour Advisory Board (LAB) after detailed discussions was not given due respect. The LAB comprises representatives from both employers and employees as well as Government officials. Under the representative government of Hong Kong, the Administration's purpose of setting advisory committees is to gather the most brilliant ideas through consultation and these ideas will form the basis for decision-making. Therefore, the Administration itself should, first of all, respect the efforts made by the LAB so that the recommendations put forward by the LAB may be integrated into its policies. When I said "respect", I refer not only to the formulation of a Bill on the basis of the LAB's proposals accepted by the Administration. I also mean that the Administration has the responsibility to try its best to explain to this Council the significance of the bill itself and how it may affect the interests of Hong Kong as a whole. The Administration also has a responsibility to lobby Members so as to gain their support. In such a way, the efforts of the LAB and various government departments will not be in vain. As for the case in question, instead of trying its best to gain support for the Bill, the Administration has chosen to act impulsively. It withdrew the Bill abruptly before the Third Reading. This was extremely regrettable.

Furthermore, an equally disturbing phenomenon is that, government officials as well as some of the Members of this Council failed to control their emotions. I am sure that at a time when objectivity, pragmatism and rationality are badly needed, such emotional behaviours have tarnished the image of both the Administration and the Legislative Council. Such emotional behaviours have also brought about unnecessary barriers to the enactment and enforcement of laws which have far-reaching implications on the public. At this very moment when it is already the latter half of the transitional period, we should be on the alert for this situation.

Mr President, we may have plenty of ideals, but we must not lose sight of the overall situation. We should not sacrifice the stability of Hong Kong and the interests of Hong Kong people for our personal ideals.

Hong Kong has, and will have, an executive-led system. The Liberal Party is deeply convinced that only under an executive-led system will Hong Kong have stability and prosperity. We should appeal to the general public to assess the case in question rationally and not to be misled into believing that the system which we have been practising so far and which has proved effective must be overthrown in order for Hong Kong to have a better future.

Some people outside this Council have a misunderstanding. They think that supporting today's motion is equivalent to not supporting or not respecting the consensus reached by the LAB. I must take this opportunity to clarify. The Liberal Party has always supported and respected the consensus of the LAB because it has synthesized the most valuable ideas of the employees and the employer. What we are dissatisfied with is the way the Administration has handled the matter. That is why we want to reprove the Administration. We think that the Administration should be held wholly responsible for the present messy situation. The Administration should learn a lesson this time, albeit the hard way. It should revamp its future manoeuvres.

Mr President, Ms WU's motion is meant to reprove the Government for the wrong move it has taken in dealing with the case at hand. I do not think Ms WU is demanding that our system be changed from being executive-led to being legislative-led. I have clarified this point with Ms WU. In the light of the foregoing, the Liberal Party and I support the motion.

MR MARTIN LEE (in Cantonese): Mr President, the Employment (Amendment) Bill 1994 was at last passed after going through three Readings in this Council last week. Mr LAU Chin-shek has also honoured his words by quitting the Legislative Council after the Third Reading of the Bill. Today, he is sitting at the public gallery listening to our debate. The Government has been severely criticized by the public and the press since its withdrawal of the Bill on 14 December last year. As the matter has come to an end, I think it is time for a review.

Even up to now, the Governor, the Chief Secretary and the Secretary for Education and Manpower still emphasize that the withdrawal of the Bill is in compliance with the Standing Orders and that there is nothing wrong with it. It is undoubted that according to the Standing Orders, any person who proposes a Bill has the right to withdraw the Bill before the Third Reading no matter whether he is a government official or a Member. Yet, I hope the Government will understand that being lawful does not necessarily mean that you are reasonable. The Governor has the right to refuse to endorse any bills passed by the Legislative Council. But does it mean that such an act on the part of the Governor is acceptable?

Though we can see that remedial actions have been taken by the Government since 14 December, the Government still persistently claims that it has not done anything wrong. This is certainly not the attitude of any government official who has the courage to shoulder responsibility. Now that Mr LAU Chin-shek has resigned and the Government's reputation tarnished, how can we not draw lessons from this incident after paying such a heavy price? We should look to the future and try to establish a proper relationship between the executive and the legislature.

The resignation of Mr LAU Chin-shek is not an isolated case. We should interpret this case by looking into the relationship between the executive and the legislature. It is in fact an interlude of the poor relationship between the executive and the legislature since 1991. They are poorly co-ordinated and are often in conflicts.

Ever since the complete separation of the executive and the legislature by the Governor, Mr Chris PATTEN, communication between the two bodies has become more and more difficult. The Government's influence on the Legislative Council has diminished. I think after the Legislative Council election to be held later this year, the Government will have to face even greater difficulty in the implementation of its policies since there will be no more appointed and *ex officio* Members in this Council.

The biggest problem at the moment is that in the process of policy-making, representatives who stand for public opinion are excluded. Just as what Mr LAU Chin-shek has said, the core of the organizational system in Hong Kong is the Governor in Council and a handful of senior government officials. This centralization of power is fatally flawed in that the Government will easily become deviated from the wishes of the people and make arbitrary decisions. If such is the case, the Government will not be able to feel the pulse of the community and the Legislative Council.

In the event that the decision of the Governor in Council is contrary to the wishes of the people, the Administration will be criticized and opposed by the legislature. In order to maintain its dignity as an executive-led government, the Administration will have to "take great pains to defend its resolution" and will finally resort to forcing the Legislative Council into submission arbitrarily. This is contrary to the democratic spirit of the system of representative government implemented in Hong Kong. While the community at large is heading for democracy, the Government is going in an opposite direction, constantly exerting its power autocratically to suppress the representatives of the people. This is indeed a great irony upon the development of democracy in Hong Kong.

In order to rationalize the relationship between the executive and the legislature, it is necessary to appoint legislators from different political parties to take up seats in the Executive Council — a request which I have repeatedly put forward for the Government's consideration. Such an arrangement will

enable the mainstream opinions of the Legislative Council to be reflected at the earliest possible time in the process of policy-making. Members from various parties who are appointed as Members of the Executive Council will have to take up the joint political responsibilities of formulating and implementing policies.

The Government has all along refused to open up the Executive Council on account of maintaining collective responsibility and the principle of confidentiality. In fact, a certain degree of collective responsibility and the principle of confidentiality can still be maintained even with the appointment of representatives from various parties into the Executive Council. For example, whenever a policy is supported by the Executive Council, party members who sit in the Executive Council will have to make an effort to persuade the fellow-members of their respective political parties to adopt a consistent stance in the Legislative Council. As for confidentiality, this principle exists in name only. As long as details of the Executive Council meetings, such as the names of those for or against a certain issue and the justification of their views are not disclosed, every Member can express his standpoint through the Media. In this connection, it is not convincing at all to refuse to open up the Executive Council on the basis of maintaining this principle.

As the 1995 elections are drawing near, it is necessary for the Government to announce in advance whether there are any new arrangements regarding the relationship between the executive and the legislature so as to let the candidates and the public know beforehand whether there are new ways to play the game after they are elected to sit in this Council.

I hope the Government will realize that in order to solve the structural conflicts between the executive and the legislature, it should have the courage to make even greater changes, thereby setting a new standard for an open Government and a democratic political framework in Hong Kong. Otherwise, we will not be able to make any progress. We can only stay exactly as we are, waiting to see who will be the next to resign and the Government to be criticized.

Mr President, with these remarks, the Democratic Party supports the motion.

MR FREDERICK FUNG (in Cantonese): Mr President, Section 52 of the Standing Orders of the Legislative Council states that the Member in charge of a bill may, at the beginning of the proceedings on a bill at a sitting, announce that he withdraws or postpones the bill. On 14 December last year, the Secretary for Education and Manpower withdrew the Employment (Amendment) Bill 1994. As far as the procedure was concerned, this act was not impeachable. However, it showed that the political wisdom of the government official concerned was indeed inadequate. He had always deemed the Legislative Council as the "yes men" of the executive authorities and was unable to realize

that this amendment bill, in fact, did not command the support of the majority of Members in this Council. When the Honourable LAU Chin-shek's amendment to the Bill was passed, the government official resorted to a shoddy political tactic by threatening to withdraw the Bill. This had only further flared up the incident and unnecessarily intensified the confrontation between Legislative Councillors and government officials.

In the aftermath of this stormy incident, the government explained that it still had to take into account the consensus of the Labour Advisory Board (LAB), the implication being that Mr LAU Chin-shek's amendment had upset such a consensus. Obviously, this explanation indicated that the Government had either failed to realize or wilfully ignored that the Legislative Council was also a place for consultation of labour matters. The Legislative Council may have to respect and consider the consensus reached by the LAB on the Employment (Amendment) Bill, but it does not necessarily mean that the Legislative Council has to accept it as it is without making any amendment. Now that some Members had held a different view and proposed a different plan, further consultations among the representatives from the labour and employer sides present in this Council as well as the Government became all the more necessary for the lobbying involved during the process. This had to be done through the grounds and political techniques which they held and brought into full play in this Council which was understood to be the ultimate place for such consultations. We should respect the outcome of the voting instead of forcing the Members into submission by means of intimidation. The Government appeared to be very decisive this time, but it only exposed the autocratic nature of a colonial government.

This incident has made us realize that should the present framework of the executive authorities and the legislature be maintained, there is fear that the relationship between both parties will become more and more tense. The reason is that although the legislature has taken in the directly elected members who have a stronger base of popular support and can state their case to the Government or even attempt to influence its policies, the power of check and balance of the legislature of Hong Kong is still very feeble. It is very difficult to alter the Government's policies.

Should this incident take place in a country with a sounder operation of the executive and legislation system, I believe that the government official or the ruling party responsible for making such a decision, under the continual criticism from members of the public, may have to step down or bear the political responsibility. However, in Hong Kong, a Branch Secretary is a civil servant. Should Branch Secretaries make a wrong decision, some of them may be subject to internal sanction or may be transferred, but because the job is a life-long appointment, the official's employment is still as secure as ever. Moreover, there is no ruling party in Hong Kong. The officials who are in charge of making policies in the executive authorities do not have to go through any competitive institution but assume power for granted. Even if they make mistakes, they do not have to bear the responsibility or face the risk of having to



step down. In such a well-protected political greenhouse, the officials may not be able to adapt to the changes of the surrounding political environment or may not be sensitive enough to such changes. They still embrace the autocratic way of doing things in the past. Having been repeatedly criticized by the Members, the officials also harbour a certain resentment and regard us as only a group of politicians obsessed with making criticisms instead of constructive ideas, for the sole purpose of appealing to the voters. However, as long as the executive authorities continue to operate in the absence of any checks in the form of public opinion, and adopt an executive-led approach which is high-handed and autocratic, as long as civil servants still have to bear the unnecessary political responsibility, and as long as there is no early improvement to this system which is structurally defective, I believe this state of tension is bound to continue.

To avoid the recurrence of this incident, the existing political structure has to be reformed to the very root. As a long-term solution, the governor or the chief executive might appoint non-civil servants who might have party applications to be Branch Secretaries, or even appoint these people to the Executive Council, which we may refer to as the cabinet, to take up the posts of director of different departments. They will then bear the political responsibility thus created. Only with all the important executives of the executive and legislature authorities, including the chief executive, Executive Councillors, directors of various departments and Legislative Councillors, subject to the effective checks and balances of public opinion, can the present strained relationship resulting from the government officials' hostility towards the Legislative Councillors be effectively eliminated.

In countries which have developed a sounder relationship between the executive and legislative authorities, although the relationship between the two is antagonistic, there is also a sense of competition at the same time. The kind of antagonism found in the separation of powers, such as in the parliamentary system at Westminster, reveals to us a loyal opposition party exerting regulatory checks and balances on the ruling party. Comparing with the United Kingdom, the United States has an even more distinct separation of the three powers in its constitutional system. The opposition between the executive and the legislative branches has the voters acting as the final arbitrators to decide on the incumbents for the executive authorities and the legislature, under the checks and balances of public opinion, when both sides are faced with a certain constraint, they must bear the responsibility for their own acts and let the voters make the final decision as to who and which political party are to be trusted.

Finally, I would like to express some of my feelings about the disputes within the labour sector caused by this incident. After the LAU Chin-shek incident, I feel that the Government alone is to blame. However, the labour sector has shown us that they have disputes among themselves. Their finger-pointing at one another can easily help the Government to get off lightly in this incident. This was originally a matter about the fight for the rights and benefits of the workers. But the difference in strategies has led to a certain life-and-death struggle within the sector and evolved into some political feud. In the

end, those who reap the benefit are the Government and the employers. I hope that the labour sector can see clearly that the very aim of the labour movement is to fight for the rights and benefits of the workers. If they continue attacking one another, they will just let the chance to win rights and benefits from the Government and the employers slip away. I hope that when this incident is over, the labour sector can learn from their experience, unite together and treat the rights and benefits of the workers as their first priority.

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

MR MARTIN BARROW: Mr President, I rise to express my disappointment that the Honourable Anna WU has felt it necessary and appropriate to put forward this motion, which I do not regard as being constructive to the overall relationship between the Administration and this Council.

Far too much emotional discussion was swirling around this Council and the community generally in December when the Government, quite rightly in my view, withdrew the Bill.

It is ludicrous to suggest, as some have, that the Government considers the Legislative Council as a rubber stamp, that it has "no regards for workers" or does not care about the Legislative Council. Look at the enormous time and trouble that civil servants take with Legislative Council Members; some spend almost half their time developing good working relations with this Council and responding to Members' queries. Look at the dozens of civil servants who come to this building everyday to brief Members or to appear before various panels.

I am already concerned that civil servants spend too much time reporting on their work rather than actually getting on with the job. Major culture changes have been going on, with an impressive drive towards ensuring an effective, efficient and responsive Civil Service. I applaud both the work of the Efficiency Unit in spearheading the reforms, and the adaptability of the Civil Service to these changes. I particularly admire the sense of accountability to the community and the spirit of service which the civil servants so openly display — regarding, as they do, the people of Hong Kong as customers. This is a time when this Council should be giving maximum support to the Administration, rather than "reproving" or criticizing it on one issue after another.

This is why I object to the motion's use of the word "reprove" — strong language in my view and not appropriate for use in the debating process.

I object to the suggestion that the Government has no "regards for workers". If this Council was to poll the business community, it would find many speaking out with just the opposite viewpoint, giving examples of the raft of new pro-labour legislation which has been put through in recent years. This Council would also find many believing that the Government was tilting away

from positive non-interventionism towards an over-regulated society which will stifle the very enterprise that has created Hong Kong.

Mr President, this Council is no rubber stamp. Ms Anna WU tells us that these are just "fine words" but I would say the same about her motion. As I have demonstrated above, our civil servants fully recognize the role of this Council: our examination and approval of government finances, the very detailed work on legislation and the questioning of the Government on a whole range of policy issues. Surely we should remember that the Government reaches compromise after compromise with us on a whole range — indeed an ever-widening range — of issues.

I do not accept for one moment that the Government's legitimate use of its power to withdraw the Bill undermines the effectiveness of the Legislative Council.

I would argue instead that the proposed amendments undermined the effectiveness of, and indeed would demolish, the well-trying and tested consultation process which has served Hong Kong so well.

The very fact that the Government went back to the Labour Advisory Board to relook at the issue illustrates both that the system works and that the Government listens to the view of the Legislative Council. The Labour Advisory Board made a tremendous effort to reach a consensus on a way forward — for example, working on Christmas Eve and New Year's Eve to attain an acceptable solution. The improved package, in the form of the Employment (Amendment) Bill, was comprehensive with progressive improvements over a specified period of time. It was more far-reaching than the recommendations reported to be proposed in the Private Member's Bill and was, of course, approved without opposition.

In conclusion, Mr President, the Administration recognizes the rights of Members to move amendments to a bill, and likewise, we should respect the Administration's right to withdraw a bill from time to time, when it feels that such action is necessary. Recognition of the reality of an executive-led government does not mean an erosion of the Legislative Council's power, nor is circumscribing the constitutional role of this legislature which cannot in any way be regarded as a rubber stamp.

With these words, I oppose the motion.

MR SIMON IP: Mr President, in addressing this Council in 1991, Sir David FORD assessed the position of the Administration in the changing political environment leading up to 1997. He warned that:

"We must be careful ..... not to drift into a series of situations in which the Government is isolated because it has no built-in support. There is a

real danger of this because there is a perception in Hong Kong that, to be popular, a politician must sometimes be seen to be openly critical of the Administration."

Our political system is a strange hybrid in which there exists a permanent ruling administration and a permanent opposition, which never swap roles as they do in Westminster or Washington. The opposition has found its *raison d'être* in criticism of the Government, challenging the heretofore unchallengeable policies of the bureaucracy. This new resistance has forced the executive to become more political than it would otherwise opt to be because it now has to convince the opposition, rather than simply railroad it.

At times during the consideration of the Employment (Amendment) Bill, it did seem that the Government was railroading the legislature, and I would sympathize with those who wish to reprove it for doing so. The resignation of our esteemed colleague, the Honourable LAU Chin-shek, forces us, however, to examine this matter carefully.

With the Civil Service and its various advisory bodies behind it, the Government always has a certain degree of built-in support. So when it comes to the Legislative Council, it should not and, I believe, does not come looking for automatic approval of its policies. Because of the adversarial nature of this Council after democratic reforms, the executive, while it may seek consensus, comes to the Legislative Council ready to do battle.

A more adversarial legislature means a more politicized legislative-executive relationship. The result is a higher degree of strategy, negotiation and occasional chicanery. Sir David FORD thought the Civil Service should remain apolitical. I do not see how it can. The politicization of the legislative process means that the politicians and the Civil Service are increasingly playing by the same rules and still getting the job done.

Although the progress on the Employment (Amendment) Bill seemed to cast doubt on the effectiveness of the system, the final result was acceptable to all, the exception of course being the unfortunate resignation of Mr LAU Chin-shek. But the fact that the conflict was resolved is proof that the system can indeed work.

Members should not be surprised that the Government does resort to constitutional or political resources it has at its disposal to prevail in legislation. I cannot think of a single effective government anywhere in the world where the executive does not have some check over the power of the legislature. The whims of the majority in the legislature cannot go unchecked by an executive branch, seasoned in the administration of policies and legislative implementation.

In every established constitutional democracy, the executive has the right of veto or some procedure for resolution of conflict between the executive and the legislature. I see no compelling reason why this tried and tested formula should be abandoned here in Hong Kong. Nor do I think it accurate to describe as "undemocratic" systems that prescribe for the power of veto, or of the dissolution of the legislature, should the ruling party lose the upperhand.

But then some may counter my argument by stressing that the Government has no ruling majority, nor any direct mandate from the people of Hong Kong. Those who advance this argument hold further that the lack of a popular mandate means that the Government should listen to those other political figures and institutions that do have such a mandate. This Council is perceived to be such a body, or the nearest thing that Hong Kong has to such a body. And I would agree. But those who are of such an opinion take it too far if they suggest that the executive must adopt a slavish adherence to the decisions of this Council.

Nor is it clear that when the Government openly disagrees with this Council that it shows disrespect for the Legislative Council's decision-making authority on legislative matters. Is this to say that politics should avoid all conflict, all negotiation, all differences of opinion and become a game of mutual affirmation, where legislators' views are acceded to by a submissive executive branch? My answer is no. The executive should, and must, remain strong and have a view of its own, independent of the legislature. It should be able to act on its views, sometimes in conflict with the legislature to which it is accountable but not subservient. To suggest otherwise would in my view blur the time-honoured principle of separation of powers.

Under the Letters Patent and Standing Orders, the deck may well be stacked in favour of the Administration, but the rules are clear. They allow unpopular decisions to prevail from time to time, but this is true of all systems everywhere.

As I see it, a vibrant constitutional tradition is beginning to develop, where the power of the legislature will come into its own, even if it does not always prevail. This is evident from the daily work of Bills Committees and the passage of bills through this Council. Most bills are amended, some very substantially, in Committee stage with or without the Administration's approval. The Employment (Amendment) Bill was the only occasion during my term as a Legislative Councillor when a bill had been withdrawn after an amendment was carried without the Administration's approval.

Mr President, I cannot detect any bad faith on the part of the Government on the occasion when it withdrew the Bill and I can see no room for reproof. I therefore do not support the motion.

MRS ELSIE TU: Mr President, I agree that the matter of the withdrawal of the Employment (Amendment) Bill was dealt with in a clumsy manner. The fact that it was later amended and finally passed almost unanimously last week indicates that the Government had not done its homework thoroughly in the first place, to make sure that all views had been heard, and that an acceptable decision had been reached before putting it before the Council.

However, maybe we can accept some portion of the blame ourselves that none of us suggested setting up a Bills Committee to discuss the Government's new proposals during the period between the first and second withdrawal of the Bill.

The most regrettable part of all is that we lost a hardworking Member. I feel that he might not have resigned if we had all been fully briefed both by the Government and by the Member himself on the consequences of a second withdrawal of the Bill. That regrettable result has raised emotions and anger, as well as queries on whether or not it was necessary to resign before the Government had made its intentions clear on the way ahead after the withdrawal.

Perhaps all of us, both the Government and ourselves, can learn a lesson in liaison and compromise to make sure that a bill is acceptable to the majority of Members before it is put to the vote. Minority objections can then be voiced during the debate. But surely confrontation should not be the sole means of gaining popularity and winning votes. In our present economic and political see-saw situation, we need to keep cool heads.

The latter part of Ms WU's motion calls upon the Government to maintain the public's confidence in the Legislative Council and the democratic system.

I am not aware that the Hong Kong system is or ever has been a democratic one. This Government, like it or not (and I have made clear throughout my life that I do not like colonial systems), is still colonial, with only three members of the ruling party on this legislature. It claims to be, and is, executive-led. There is no party in power to form its cabinet, except the colonial party.

As long as the Government remains colonial, with no elected party in power to form a cabinet, it will have to remain executive-led. And as long as the Government remains executive-led, the Legislative Council has no choice but to seek amendments to bills and policies by compromise between ourselves and the Administration. Separated from the Executive Council as we are, the Legislative Council can only act in opposition. If that happens, and we act in opposition frequently, the Council will become like a game of football in which

there are several different teams all playing the same game on the same field and each trying to get the ball (that is, the Bill) into its own political goal.

Given this situation, Mr President, I am not clear what is meant by "the democratic system" in the motion before us. Perhaps Ms WU can clarify this point in her reply. Thank you.

MS EMILY LAU (in Cantonese): I rise to support the Honourable Ms Anna WU's motion. That particular act of the Government last year is most regrettable. As a result of it, this Council lost its member, the Honourable Mr LAU chin-shek, who is widely supported by both his colleagues and members of the public. I agree to most of what Ms Anna WU has said, and I do not want to repeat here.

I think that the Government made a series of mistakes in that particular incident. The first mistake: I am convinced that on that day, the Government did not try to carry out any vote counting beforehand. Maybe, the Government was so confident of rallying enough support that it decided vote counting was not necessary. Then, in a fit of fury induced by loss of face, it hastened to withdraw the Bill on realizing that it did not have enough votes. The move roused the outcry of Members of this Council and infuriated all in Hong Kong. In this context, we can certainly understand why Mr LAU Chin-shek announced his decision to resign. We also feel sorry about his resignation. However, we feel even more sorry about the Government's action to challenge the authority of this Council. Just now, the Honourable Mr Simon IP made a very good point that various systems of checks and balances are found in other countries to regulate the relationship between the executive and the legislature. As clearly pointed out by Ms Anna WU, the Government of Hong Kong is not a product of democratic elections. The Government must bear this point in mind. It is only after surmounting numerous obstacles that we have managed to have a small number of elected seats in this Council, which is why we very much hope that the Legislative Council can establish itself as a legislative authority among members of the public. But, after this incident, all our efforts over the years have been ruined overnight. To be frank, if Members want to wrestle with the Government, they are not entirely without means. The Government comes to the Finance Committee every week to ask for appropriations, and many Bills also need our consent for them to be carried. Does the Government want Members of this Council to behave like their counterparts in the American Congress, dragging in all issues as a means of bargaining? Does the Government want to create a situation under which we will simply reject a particular appropriation request if a certain Bill is not passed? I do not believe that the Government wants this to happen. Neither do Members of this Council. The Government should know only too well that in this disgraceful incident, many pro-Government Members turned their backs on the Government and

voted in support of the amendments moved by Mr LAU Chin-shek. Is this not sufficient proof that the amendments moved by Mr LAU Chin-shek did have substantial support in this Council? Has such an idea ever occurred to the Government? Why has the Government behaved like this?

Mr President, I agree with some Members that this incident has highlighted what the relationship between the executive and the legislature is really like. I hope that the Government can give an overhaul to this relationship as soon as possible. Relying solely on vote counting and canvassing by directorate officials is not enough. We need to have an Executive Council with Legislative Councillors sitting on it so that they can assist in the formulation of policies and later promote them in the Legislative Council. Such a fusion of powers is desirable because it can help promote Government policies both in this Council and in the community at large. And, what is most important is the Legislative Council's support that comes with it.

After this disgraceful incident, I talked to a number of high-ranking government officials, and even some Executive Councillors. None of them supported the Government, nor could they see why the Government had taken such a course of action. According to them, its failure to do any prior vote counting aside, the Government could still adjourn the whole matter when it detected that the situation was not developing in the ways it wanted. Even if adjournment was not sought, the Government could always, as soon as it chose to, put forward yet another Bill to seek further amendments. The point is that by agreeing to proceed to voting that day, the Government should know that it had agreed to abide by the outcome. However, what happened at the end was that when the outcome did not please it, the Government simply took the ball away like a spoiled child who had lost this temper, saying that he was no longer interested in the game. This kind of behaviour is not in line with the image we have had of the Government over the years. I do not know what went wrong with the Government's thinking that day.

Just now, some Members criticized us for showing no respect for the Labour Advisory Board (LAB). Respect there should be for the LAB, but I must make it clear that the legislative power resides ultimately in the Legislative Council. This is the case now and will be the case in the future. For that reason, the Legislative Council deserves more respect than anybody else. I hope the Government will think it all over again and avoid any such behaviour in the future. Having said all this, I want to express my disapproval of a point raised by Ms Anna WU just now. She said that in case of similar incidents in the future, a Private Member's Bill should be put forward right away. I cannot quite catch what she really means. However, since every Bill should be carefully handled and considered by Members of this Council, I think that a Member simply should not spring to his feet during a Legislative Council sitting, put forward a Private Member's Bill and expect it to be carried instantaneously.



Mr President, I hope the Government can learn a lesson from this incident and refrain from similar behaviour in the future. I admit that the executive should have its own powers, but it is just as important to recognize that the ultimate legislative power resides in the Legislative Council. How can this conflict be resolved? I believe that the relationship between the executive and the legislature must be overhauled so that some Legislative Councillors can sit on the Executive Council to participate in the formulation of Government policies. It is only in this way that greater acceptance can be ensured when Government policies are considered by this Council.

Finally, I agree with Ms Anna WU that the resources available to the Legislative Council are insufficient. Other things aside, Mr President, you should know only very well that, our library, or archives room, manned only by a few staff members, is just a room of empty bookshelves. This has been the case for more than a year already. If the Government really wants to assist the work of the Legislative Council, why has it failed to equip us with the most basic necessities. We all know that access to information implies power. The Government does not want Members to have greater access to information, as such an access would enable us to monitor the work of the Government more effectively. However, we will certainly continue our efforts in securing these things.

With these remarks, I support the motion.

DR YEUNG SUM (in Cantonese): Mr President, it is regrettable that Mr Michael LEUNG, Secretary for Education and Manpower, withdrew the Employment (Amendment) Bill 1994 after its Second Reading.

The Government has emphasized time and again that the withdrawal conforms with Standing Orders and is therefore legal. Furthermore, it has argued that, as an executive-led Administration, it certainly has the power to withdraw the bills proposed by it at any time it deems fit during the legislative process. I think these two points are open to question. First of all, let me make it clear that the Hong Kong Government, as an executive-led Administration, can of course propose bills and recommend policies and budgets to this Council. However, the word "executive-led" does not mean dictatorship of the executive, under which the Secretaries are free to do whatever they want, in total disregard for the operation principles of this Council. The Government has all along stressed that it holds itself accountable to the legislature, which in turn acts as its monitor. Under this principle, Members of course have the power to amend the bills put forward by the Government. But to our surprise, Mr Michael LEUNG, Secretary for Education and Manpower, withdrew the Employment (Amendment) Bill after amendments to the Bill moved by the Honourable LAU Chin-shek was carried in the Second Reading, dealing an abrupt blow to the operation of this Council.

Mr President, given the principles of representative democracy, there is no guarantee that all the bills proposed by the Government can be passed, unless Government Members are in the majority in this Council, or all Legislative Councillors are appointed, as was the case in the past. However, since the introduction of some directly elected seats in 1991, the Government has had only three votes in this Council. This situation, coupled with the fact that all directly elected Members have to be accountable to the public, has exerted pressure on the Government to a certain extent.

In the past, the Government often managed to obtain enough backing both in this Council and the Finance Committee largely because the government officials concerned had conducted adequate lobbying beforehand. But this time, before the debate on the Employment (Amendment) Bill, the officials concerned simply did not conduct any lobbying. Then, when it realized that things were going against it, the Government hastened to withdraw the Bill for lack of a better alternative in order to uphold its authoritative image. Unfortunately, however, the withdrawal of the Bill has achieved the opposite result of impairing the Government's authoritative image, in addition to violating the principle of accountability. Mr President, I am of the opinion that once it has proposed a bill, the Government should abide by the rules of representative democracy and the decisions so reached, in much the same way as Legislative Councillors do, unless amendments moved by Members would seriously affect the administrative operation of the Government.

Mr President, the amendment moved by the Honourable LAU Chin-shek differed slightly from the official amendment. I just wonder if the administrative operation of the Government would really be seriously affected by increasing the combined amount of long service payment and severance pay from \$180,000 to \$230,000? I tend to feel that instead of adopting a pragmatic approach, the Government was just trying desperately to defend its authoritative image. Mr President, the Government's withdrawal of the Bill is at best legal under Standing Orders, but certainly not sensible and reasonable. In my opinion, the principle of open government can be realized only when the Administration's acts of governance are in line, not only with legality, but also with good sense and reason. The Government officials' mechanical application of Standing Orders in disregard for good sense and reasons will only lead to tension between the executive and the legislature.

We can still recall how the Government tried to rationalize its decision to withdraw the Bill by quoting the consensus of the Labour Advisory Board (LAB) as an excuse. Let us recall what has happened so far. Has the Government really given full respect to the opinions of all advisory committees, including those of the LAB? Furthermore, a LAB member has pointed out that the LAB had hardly been given any chance to deliberate on the \$180,000-ceiling again. This shows that the so-called consensus of the LAB is merely an excuse used by the Government so that it could back down without losing face.

Mr President, I hope that the withdrawal of Bills by the Government will not become a regular practice in future. Mr PATTEN, the Governor, has pointed out that in the representative assemblies of some foreign countries, the ruling parties may also withdraw bills that they have proposed, when warranted by circumstances. Mr President, the example cited by the Governor tells only part of the story because members of representative assemblies in other countries and the ruling parties are returned by popular elections, and, thus, to a certain extent, they have the people's mandate. Since they are returned by popular elections, the ruling parties have to be accountable to the voters. But what we have in Hong Kong is still a colonial system, which has remained undemocratic so far. Although some of the seats in this Council are directly elected, ours is still not a democratic system. Given this, swift reforms to this Council's operation are certainly required. We are of the opinion that since neither the Governor nor his Secretaries are returned by popular elections and thus they do not have the people's mandate, it is inappropriate for them to rationalize the withdrawal of the Bill by citing the parliamentary practice of other countries.

Mr President, for the good operation of this Council in future, I would like to suggest that the Government should respect the relationship between the executive and the legislature, which means that it must pay due regard to the operation of this Council. Before a bill is proposed, the officials must conduct adequate lobbying. Once a bill is introduced, the Government should abide by this Council's decision and should not withdraw the bill rashly unless the decision would seriously affect the operation of the Government. If we are to establish a reasonable system of parliamentary democracy, both the executive and the legislature have their own part to play. Finally, I would like to point out that the unanimous support in this Council for our decision this time can aptly illustrate the success of the last-ditch efforts made by the LAB, the Government and Legislative Councillors. This shows that co-operation is possible after all. This lesson is one that the Government must learn.

As a conclusion, the colonial style of government and the related mentality should be completely abandoned. Nostalgia for the style of governance in the past is no longer in keeping with the times.

MISS CHRISTINE LOH: Mr President, what have we really learnt from the Employment (Amendment) Bill affair? The message from the Administration seems to be: amend at your peril. The Honourable Anna WU describes it as a hostage-taking strategy, and I am afraid I tend to agree with her. The strategy abandons dialogue and compromise and transforms the legislative process into a zero-sum game: either pass the legislation in the form the Administration can accept or run the risk of having no legislation at all.

This Council deals with matters of great importance to the people of Hong Kong. The Administration cannot treat the legislative process as a game in which everyone has to use the same ball which they provide. We do not accept the Administration's notion of accountability: where it explains its policy to this Council, it listens to our suggestions and our criticisms and then it can proceed to ignore them. And if we persist, then the Administration has shown itself to be quite capable of bullying us.

I worry that we are seeing the same strategy in action in the way that the Administration is dealing with the Equal Opportunities Bill. Suggestions that the Administration's own Sex Discrimination Bill is deeply flawed are consistently met by assertions that modifications might delay the passage of the Bill. Surely that sort of argument is purely technical, not a matter of substance. Many Members would like the Administration to address all areas of discrimination and to abolish the small house policy. But what sort of response are we getting? Knowing its positions to be weak, the Administration now says that it is ready to consider consulting the public on age, sexuality, marital status and maybe even union membership. But let us not mistake that vague promise to consult the public as a commitment to legislate for those important areas. It is plain that the Administration is only trying to delay the Equal Opportunities Bill. As for political and racial discrimination, oh, no! They are too difficult — too difficult for the Administration to try and tackle right now.

As its arguments fail to persuade us, I fear that the Administration might use the Equal Opportunities Commission to hold us hostage. Why do I say this? Firstly, the Administration knows that we want the Equal Opportunities Commission. Secondly, the legislative provision to establish the commission is controlled by the Administration since a Private Member's Bill cannot be used to set it up without the Administration's approval. Therefore, from the way the Administration has dealt with the Employment (Amendment) Bill, I fear that it could use the commission to make sure that we do not stray too far from the Administration's own Sex Discrimination Bill. Otherwise, the Administration could threaten to withdraw the entire Bill. Sorry, friends, no commission.

The Administration also tries to paint our complaints in these areas as unreasonable. It argues that the legislative and financial priorities are carefully formulated by the executive, or even by an advisory body, like the Labour Advisory Board, and so should not be altered by legislators. The Administration likes to point to practices elsewhere to buttress its argument to limit legislators' powers to amend government bills, or, God forbid, move entire Private Member's Bills. But such comparison, as Dr the Honourable YEUNG Sum has explained, is wholly inappropriate and misleading in the case of Hong Kong.

Mr President, I regret to say that Hong Kong is not yet a democracy. In a democracy, of course, a government's decision to block consideration of important matters of public interest can ultimately be overcome by a vote to remove the Government from power. Unfortunately we do not have the privilege to do so. In Hong Kong, the Administration, which is the Government's party, is wholly unelected. Policy is made by a handful of civil servants along with a small coterie of unelected, unaccountable, part-time advisers to the Governor. Is this the kind of executive-led government which is good for Hong Kong? I doubt it very much.

Mr President, we need to urgently re-define what is meant by an executive-led government. The Honourable Miss Emily LAU has already spoken about the need to have legislators in the Executive Council. Both Miss LAU and Ms WU have called for more resources to the legislature to give it the efficiency and professionalism to play its role as a legislature worthy of the people of Hong Kong. I agree with them both wholeheartedly on these two points. The Administration should not be allowed to keep this Council underfunded, to keep us weak and ineffective. The Administration should not be allowed to do it because it is wrong and that it is bad for Hong Kong.

Mr President, I support the motion.

MR JAMES TIEN: Mr President, the crux of the motion debate today is not about the Employment (Amendment) Bill or the resignation of Mr LAU Chin-shek from the Legislative Council but about whether the Government should be executive-led.

The business sector has always viewed Hong Kong's economic success as a direct result of a government which makes policy decisions through consultation with relevant boards and committees. The Legislative Council's role is to monitor, advise and amend proposals which the Administration can accept. There is no question of the Legislative Council being a rubber stamp for the Government whose bills it scrutinizes, expenditure it vets, performance it grades and mistakes it cites. We are bound by oath to do all these things. However, we are not out to stifle the Administration or be a Council vested with executive powers.

The business community had impressed on both China and Britain to keep such an executive-led government. The principle is now enshrined in the Joint Declaration and reaffirmed in Articles 59 and 62 of the Basic Law.

I believe deeply in the work and responsibilities of the Legislative Council, for I am one of the few whose family members have had the honour of serving the Council for two generations. I would be the last to want to devalue the legislature.

Nevertheless, we legislators have to understand our constitutional position in Hong Kong where there are checks and balances. The pillars of such a system are the executive administration which includes the Governor, the Executive Council and advisory committees, the Legislative Council and an independent judiciary.

More than ever, such checks and balances must be preserved. At present, this Council has three government officials out of 60 legislators. By September there will be none. How then can the executive function when this Council may amend any government proposal to such a drastic point where a bill's initial intention is negated?

The only alternative is for the Government to withdraw the bill for another Reading as a last resort — I do emphasize "last resort". Standing Order 52 of the Legislative Council grants the Government such a power. This power may prompt more Councillors to co-operate with the Administration for a consensus. The outcome of this should be one with Councillors listening to the Government's opinions and they to ours.

The Government rarely takes back proposals. Why? Because any time the Government withdraws a bill after finding the Legislative Council amendments unacceptable, it goes out on a limb. But this cannot be one-sided. A legislator should have the same right so that anyone who puts up a bill may recall it if it is amended to beyond recognition.

The Honourable Anna WU, for one, should have the option of withdrawing her Private Member's Bill on equal opportunities if, for argument's sake, it is not only voted down but turned upside down.

The Employment (Amendment) Bill which sparked this row was not just a government proposal. The Labour Advisory Board (LAB) stood behind the agreement on severance and long service payment compensations after several long reviews. The LAB is more representative of employer-employee relations than the legislators behind the motion debate today. Half of LAB's members are elected from the labour union sector and the other half from the employers' ranks such as the Federation of Hong Kong Industries and the Hong Kong General Chamber of Commerce.

The LAB's employer representatives have made a series of three concessions — in July and December 1994 and recently — to reach an agreement that satisfies the democratic camp in this Council. But there has to be a limit to what the employers can afford. Coupled with more labour benefits, we have continuing high inflation, high annual salary increases, rising interest cost, shrinking export market, and recently a sharp fall in property prices and the stock market. It is not easy to survive in business. I dread the day when more small employers decide it is not worth the effort to be in business and wind up for good. After all, the foundation of Hong Kong's economic success rests with small entrepreneurs whose fighting spirit is admired around the world.

The LAB mandate is to strike a balance between the two sides and it has done well. By fostering cordial labour-management ties, it has a direct impact on Hong Kong's success.

A similar balance in the Council is likely to be tipped in this coming September when there will be nine new functional constituencies which are direct election seats in disguise. By then, the Government must be able to stand up for the overall interest of Hong Kong rather than cave in to unreasonable demands of those who always claim to act in the name of one-person-one-vote populism.

I resist the downgrading of the LAB whose importance should increase, not decrease on employer-employee matters. The Legislative Council can do much but it cannot displace the advisory committees which pool together public opinion and private sector expertise this assembly sometimes lacks. I object to Councillors discrediting institutions whose powers and influence they want to take over. The Legislative Council and the advisory committees have co-existed for a long time. They complement each other. They are not mutually exclusive.

Investors still rate Hong Kong as the best place to do business. They would not be so enthusiastic about the territory if it is racked with labour-management tensions and if its government becomes ineffective.

Mr President, the views I have expressed today also reflect overwhelmingly those of the general committees of the Federation of Hong Kong Industries, of which I am its Legislative Council representative, and the Hong Kong General Chamber of Commerce, of which I am its vice chairman. The Liberal Party took the matter into consideration and will vote for the motion as expressed by the Honourable Allen LEE. I have sought exemption from the Liberal Party stance under its Article of Association 8.6.3 and I will vote differently. Mr President, with these remarks, I oppose the motion.

MR ROGER LUK (in Cantonese): Mr President, the three winners of the Nobel prizes in Economics this year are scholars engaged in research on the game theory. In short, the game theory is an analysis of a zero-sum game in which a player either wins or loses. It is an analysis of the behavioural pattern of each player in his attempt to defeat his opponent. If a player wants to gain the upper hand in a game, besides seeking for his own advantages, he also has to estimate his opponent's strength and chance of winning. Couple with the fact that the response of the opponent is always an unknown factor, the player has to encounter always changing developing circumstances and "one wrong move would jeopardize the whole game".

The game theory is a profound subject, incomprehensible to the economist and totally mystifying to the layman. However, the game theory has now been extensively applied in studies in real life behaviours, such as the determination of prices, voting inclinations, military strategies and so on. When this Council met on 14 December last year, the whole process of debating and voting on the amendments to the ceiling of long service payment and severance payment moved by Mr LAU Chin-shek during the debate on the Second Reading of the Employment (Amendment) Bill is a practical example of an ingenious application of the game theory.

I remember that on 6 July last year, although Mr LAU Chin-shek had surprisingly succeeded in amending the Bill during its Second Reading, the Bill was rejected during the Third Reading. After this incident, when the Bill was introduced in this Council again, the Government and Mr LAU had already thought of the possible moves by the other party and had worked out the "best strategy". Hence, both parties insisted on what they believed to be the best and would not change their stance in the middle of the process, and yet both parties did not know what cards their opponent was actually holding; so when one side threatened to withdraw the Bill, the other side threatened to resign in gratitude for the public's support. Both parties refused to give ground and this resulted in a deadlock. However, whoever ties the bell is in the best position to untie it. After consultation with the Labour Advisory Board (LAB), the Government introduced a new bill which provided a solution to the issues this Council was concerned with, namely, the ceilings of the reckonable years of service and the total payments. Last week, this Council finally passed a Bill that was welcomed by all. After all these rows over the years, the reforms on the long service payment and severance payment were settled before the Chinese New Year.

The welfare of employees is actually linked with the people's livelihood. It was totally unexpected that it should become a political issue. On that day, both parties refused to give ground, swords were drawn, bows were bent, and the atmosphere was even more disturbing. Parliamentary politics is an art of compromise and balance. If everyone insists on his own views, refuses to give ground and is easily swayed by personal feelings, it would not do anything good.



Another party involved in this incident was the LAB. Mr James TIEN has just expounded the role played by the LAB in this incident. The prosperity of Hong Kong owes much to the mutually forbearing attitude of the employers over the years. The achievements of the LAB as a statutory advisory body are also obvious to all. Therefore, the consensus reached by the LAB should be respected. However, any consensus reached by the LAB can only be put into effect through legislation and public opinion has to be taken into account. Take the present amendments to the long service payment and severance payment as an example, most Members of this Council had reservations in respect of the existing methods of calculation of the reckonable years of service and the ceiling of total payment. This showed that the consensus reached by the LAB was still not satisfactory enough, otherwise, Mr LAU Chin-shek's amendments would not have gained the support of the majority.

Mr LAU Chin-shek's uncompromising attitude which could lead to destruction of good and bad alike is not commendable either. Although the LAB has at last come up with a better package, it is politically unwise to take such a risky step of either success or death.

Mr President, the 14 December incident is a blemish in the history of the development of parliamentary politics in Hong Kong. Withdrawal of a bill or threatening to resign as an effort to persuade to the last should never happen again. I hope that such incidents would not happen in the future, in particular, after September this year, as the Government will have a fully elected Legislative Council.

Based on these remarks, I shall cast an abstention vote.

MR NGAI SHIU-KIT (in Cantonese): Mr President, during the late transitional period, not only the Government should take up the responsibility to maintain social stability and reduce internal conflicts, we as Members of the Council should also dedicate ourselves to performing our duty and try our best to maintain the existing system which has been proved to be effective so that the public will continue to have confidence in our constitutional structure. Neither the Government nor Members should try to stir things up and cause unnecessary disputes, thereby jeopardizing social stability and unity.

Mr President, every kind of game has its own set of rules and the participants should respect the rules, otherwise the game would be reduced to a farce. This is why the various parties concerned have agreed that the Labour Advisory Board (LAB) should discuss the issue of amending the Employment Ordinance. The LAB is composed of representatives recognized by both the employees and the employers. Moreover, the decision of the LAB is arrived at after repeated discussions and careful deliberations. Conclusion is made only after taking into full consideration the interests of all parties involved. If we

override such a conclusion and strike a blow at the normal operation of this consultative mechanism just because the conclusion departs from the subjective expectations of certain people, such an action will only reveal the hypocrisy of the perpetrators who would "hold cards just to their advantages".

As regards the Government, it has mishandled the issue of the Employment (Amendment) Bill. It just withdrew the Bill without making any efforts to secure support beforehand or arguing strongly on its grounds afterwards. Judging from what it has done, it seems that the Government also pays no respect to the agreement reached by the LAB. It challenges the effective mechanism established by itself. It is not only a farce. In fact, the Government has destroyed its bulwark and brought troubles upon itself. Why did the Government try to dismantle the mechanism which has been running effectively over the years? What is its objective? The Government owes to the public an explanation.

Mr President, the executive branch has always been the final decision-maker in respect of policies of our society, whether big or small. It is an irrefutable political fact and this system has proved to be effective. Under the basic principle of being executive-led, the Legislative Council is of course vested with the power to move amendments to bills drafted by the executive branch; this does not mean that the Legislative Council can take the place of government departments and manipulate the policies of the whole territory, nor does it mean that all decisions made by the Legislative Council are sacrosanct while the drafted bills presented by the executive branch can be completely ignored. Every Member who is familiar with the operation of our political system and is determined to maintain social stability will agree that the overriding principle of being executive-led should not and must not be impaired.

Mr President, some people may think that opposing Ms Anna WU's motion means supporting the Government's practice, while favouring Ms WU's motion means disagreeing with the Government's practice. However, I must point out that it is not necessary to put an equal sign between the two because they are not necessarily related logically. I do not agree to the way in which the Government has handled the case and, indeed, I was quite disappointed. Yet, this does not mean that I support Ms Anna WU's motion. It is because I believe that the maintenance of the public's confidence in the Legislative Council and the democratic system rely very much on upholding the principle of being executive-led. Only an executive-led government can promise smooth operation of the political system of Hong Kong, maintain social stability and sustain prosperous development of the economy. Professionals from the industrial and commercial fields attribute the success of Hong Kong to this very factor.

Mr President, the democratic system which we have adopted in should be able to accommodate the interests of society as a whole, implementing policies in accordance with established mechanisms. The opinions of the minority should of course be taken into account but the agreement reached by the LAB, which comprises representatives of both the employers and the employees, should also be respected and put into practice. This is the spirit of democracy. However, some opportunists have tried to distort this belief, attempting to gain popularity through sensational appeals and to win over political support under the disguise of upholding democracy. In view of this, how can the people of Hong Kong not lose confidence in the Legislative Council and the democratic system?

Mr President, we need Council Members who are pragmatic, fair and just to strive to safeguard the stability and prosperity of Hong Kong both at present and in future. To understand a person, one should look at his performance. I believe that every citizen "who has a clear head" will be able to differentiate those who really want to serve our society and work for the betterment of Hong Kong from those politicians who only know how to stage political shows and shout empty slogans.

Mr President, these are my remarks. Because of the principles I has stated in the foregoing, the constituency to which I belong and I oppose the motion.

MR JAMES TO (in Cantonese): Mr President, my speech will be very short as I just wish to discuss one issue today.

The Government has not answered but I believe its answer will not be much different from the argument it put forward on 14 December last year. Why did the Government withdraw the Bill? The answer is as follows: it is because the Government is executive-led, the views of the Labour Advisory Board (LAB) have to be respected, no amendment should be put forward without prior discussion with the LAB, and the LAB being a time-honoured mechanism, its decision should not be disregarded, or else the consensus mechanism established for decades between the employers and employees will be damaged.

I wish to unmask the hypocrisy of the Government in putting forth such an argument. The repeated claims made by the Government that it respected the LAB were in fact false. The main reason is that the Government would "lose-hit, win-take". Why do I say that? It is because when Mr LAU Chin-shek moved the amendment to the Employment Ordinance for the first time in the last Council session, the Government did not propose to withdraw the Bill at the Third Reading. Why did it not withdraw the Bill at that time? The reason was simple. It was because the Government, having counted the votes, knew from the number of Members present and that of those who could be summoned back that the Liberal Party could summon sufficient number of Members to vote so

that the amendment would definitely be voted down. Therefore, Mr LAU Chin-shek was allowed to be responsible for moving the Third Reading and the Government just did nothing. Neither did it move the Third Reading nor propose to withdraw the Bill. According to the Government's current logic, it should have withdrawn the Bill at that time because so long as the Bill had the chance of being carried at the Legislative Council, it would have already contravened the Government's logic. Nevertheless, the Government did not withdraw the Bill last time. This time, after counting the votes, the Government found that there would not be enough votes to negate the Third Reading. As a result, it immediately withdrew the Bill. What the Government has done is actually self-contradictory. As the Honourable NGAI Shiu-kit just said, the Government has never respected the LAB. It was only when there were enough votes that the Government would allow this Council to vote down the motion at the Third Reading and then go back to the negotiation table again. It is the Government itself that has put on a hypocritical appearance.

Secondly, I would like Members to know that the Government did threaten this Council before. Many people might not know about this and I wish to put it on record. During the deliberation of the Landlord and Tenant (Amendment) Bill, two issues were being discussed. The first issue concerned with the gradual relaxation of rental control while the second concerned with raising compensation to tenants of demolished buildings. Officials of the Home Affairs Branch told this Council at that time that if Members voted down the provision concerning the relaxation of rental control and only supported an increase in compensation to the owners in the Bills Committee, the Government might withdraw the whole Bill as the Bill was a unified package. They also warned that if this really happened, many tenants of demolished buildings might suffer losses and Members had to bear the liability. We can see that a precedent had already been set at that time. Nevertheless, after counting the votes, the Government eventually managed to find enough Members to vote for the whole Bill. As a result, there was no need for the Government to resort to the abovesaid tactic. But I wish to bring this up just to let everyone know that the Government did use this to threaten us before.

Thirdly, the Government has mentioned something about the rules of the game. A number of Members have also touched on this point. Our rationale is that legality does not equate with reasonableness. If the Government says it can withdraw any Bill at any time, I cannot but ask the Government to inform us that besides the LAB' consensus, what other committees' consensus would be taken as an infallible law that no amendment can be made at all. I wish that the Government can give us a reply. In a law-governed society, if the Government considers such committees are superior to the Legislative Council, should it propose a Bill providing that the legislative power of the Legislative Council is subject to limitation and resolutions made by certain Committees are beyond amendment? If these can be clearly specified, it will be in better conformity with the practice of a law-governed society.

With these remarks, I support the motion.

DR TANG SIU-TONG (in Cantonese): Mr President, last year, despite strong opposition from this Council and members of the public, the Government drastically increased the rates beyond reasonable limits irrespective of our enormous surplus. Using the Letters Patent as a defence, the Government even rejected the proposal of this Council to amend the Rating (Amendment) Bill, thus leading this Council to move an unprecedented motion to reprove the Government some seven months ago. After the rating incident, rather than learning from its errors, the government slipped back into its old ways in handling the Employment (Amendment) Bill and once again withdrew an amended bill passed by this Council. While the Government have enough legal backing for what it did, its bureaucratic mentality that "official authority should permit no challenge" has been entirely revealed. This type of bureaucratic mentality, marked by disrespect for the Legislative Council and neglect of public opinions, certainly deserves moral reproof.

Under the principle of separation of powers, apart from playing a legislative role, Members of the Legislative Council are duty-bound to serve as a watchdog of government policies and to reflect public opinions. The Legislative Council is the most representative of all the institutions within our system of representative Government, and the Members, be they returned by direct elections or functional constituency elections, all have considerable public support. For that reason, their opinions are a conglomeration of those of the public. Constitutionally speaking, the executive and the legislature are, on the face of it, in a "checks-and-balances" type of relationship, although in reality ours is more an executive-led system. We respect this time-honoured executive-led system, but, at the same time, we are of the view that the Government should respect the consensus of the majority of Members of the Legislative Council. Neglect of the Legislative Council, and therefore of public opinions, should never be the proper attitude adopted by an open and responsible Government. The difference between an executive-led government and an executive dictatorship is indeed very subtle. The issues of the Rating and the Employment (Amendment) Bill have clearly demonstrated the Government's totalitarian nature beyond any question.

I have served in the Legislative Council for 27 months. At one time during this period, the Government went to great lengths to boost the status and esteem of this Council. The reason was that the Governor wanted to rally the support of this Council for his "1995 political reform package", and to use it as a counter in his negotiations with the Chinese Government. He also wanted to use this Council as a chip in the confrontation with the Chinese side. Regrettably, except during this brief period of honeymoon, the Government has turned a deaf ear to most of the opinions expressed by Members. Over the past 27 months, we have held over 100 motion debates on government policies. Towards the motions carried by this Council, the attitude displayed by the Government has been one of rejecting in the main. Rarely has it responded to our motions, and still less rarely has it ever implemented any of them. Worse still, the Government sometimes even regards the consensus of Members as noise nuisance. For instance, on the issue of toll monitoring for the Western

Harbour Crossing, the Government made some irresponsible remarks that "monitoring by the Legislative Council will scare off investors." Also, both the Secretary for the Treasury and the Chief Secretary have strongly attacked the well-intentioned criticisms made by this Council to the Government, making allegations that this Council was trying to curry favour with the public at the expense of civil service morale. All this reflects the determination of government officials to maintain a "strong administration". It also reveals that the Governor and government officials in general still cannot outgrow the outdated "Supremacy of the Government" mentality. The community is moving ahead; democratization is making progressive headway; the public is making increasing demands. These are social realities. Is it that the Government has been unable to grasp these changes? Or, is it that it simply refuses to march with the times? I think it is time the Government reconsidered its position thoroughly.

However, as the saying goes, "Respect yourself if you want to be respected." The Government's disrespect for the Legislative Council, though very much caused by a bureaucratic mentality, is also the inevitable result of the Members' behaviour in some respects. Some Members move motions just for the sake of moving; propose amendments just for the sake of proposing; and put questions just for the sake of putting. Examples of this kind indeed abound. More often than not, apart from conducting arguments on the basis of ideological and standpoint differences, they often "direct their arguments at political parties, at individuals, but not at the issues in question". Some Members speak to criticize their counterparts; some speak to put on a political show; some even speak for the publicity of election candidates. Such behaviour completely deviates from the rational attitude one should adopt for discussion and arguments. The Government is quick to take advantage of this and often uses the tactic of "drawing in one party and hitting out at another" in policy debates and passage of bills. It simply watches a fire from the other side of the river and tries to reap a third party profit. The Legislative Council has thus been reduced to a venue for City Forum. And, Government officials can "complete their tasks" simply by "watching with folded arms". Although Legislative Members come from different walks of life and thus represent different interests, when it comes to policy discussions, they should always remain objective and neutral, putting partisan conflicts and interests aside. Their prime concern should always be the interests of the community at large. While opinions may vary, arguments must be objective and fair. Only this positive attitude should be adopted when discussing issues and resolving problems. United, and we can prevent the Government's tactic of "drawing in one party and hitting out at another" from succeeding.

Mr President, in less than eight months, this Council has moved twice to reprove the Government. Similar actions will certainly come one after another if the Government refuses to review its position and continues to take the Legislative Council for a rubber-stamp. Erosion of public confidence in and support for the Government is bound to occur. Therefore, to the Government, I advise caution.

Mr President, these are my remarks.

MRS SELINA CHOW (in Cantonese): Mr President, the Liberal Party has repeatedly discussed and deliberated over Ms Anna WU's motion. It was not at all simple because there was pressure from all sides. Finally, the Liberal Party did make a rational and correct decision. We think that the motion is worthy of our support. Our Party leader the Honourable Allen LEE has stated the reasons clearly.

I would like to give a detailed account of the factors which the Liberal Party has taken into consideration during the process of discussion leading to such a decision. We all know that the Hong Kong Government does not have its own party in the Legislative Council to act as its convoy. As a result, bills proposed by the Government will always be subjected to substantial amendments. All of us realize that under the principle of an executive-led government, the Administration has the absolute power to withdraw a bill if, during the consultation period, it is amended to such an extent that it is completely different from the original one. This serves as a passive resistance on the Government's part when it has no alternatives. A recent example is the Hong Kong Arts Development Council Bill. During the process of examining the Bill by the Bills Committee, the Government had clearly set down the bottom line and pointed out that any unacceptable amendments would certainly lead to the withdrawal of the Bill. I do not think such a move is intended to intimidate the Members. Rather, it might be a bottom line set down by the Government from an administrative point of view. According to the current rules of game, I think it is understandable and acceptable for the Government to exercise its power of withdrawal openly. As regards our present Legislative Council and constitutional arrangements, we can even say that such a move is fair and just.

Regrettably, during the Second Reading of the Employment (Amendment) Bill on 14 December last year, the Government had evidently dealt with the matter in an inappropriate manner and had aroused strong responses in society and the press. Despite the previous experience and the fact that Mr LAU Chin-shek had already notified us that he would move an amendment, the Government did not even bother to do any lobbying work and explain to the Members beforehand. It merely informed the Members that the Standing Orders of the Legislative Council allow anybody who has proposed a bill to withdraw it. The Government was just trying to pave the way for its most effective means. It had done nothing to promote the Bill. It was obvious that

the Government was not handling the case in the proper manner. In addition, it had not shown any respect to the rules and traditions of this Council. In fact, if we ask those colleagues who were present at that time, I guess they will all agree that the amendment motion might not be passed so easily if the Government had done its part.

I would now like to respond to Mr James TO's remarks made just now. He thought that the Government could have adopted the same method it used last time when Mr LAU Chin-shek moved his first amendment to the Bill. However, it did not do so because it had counted the votes. Instead, the Bill was not allowed to proceed to the Third Reading. However, I remember very clearly that the Secretary for Education and Manpower had informed this Council before the Bill was put to a vote during the Second Reading that the Government would withdraw the Bill if it was not passed. But it was already too late when the Government informed this Council and its stance had caused us to react emotionally.

Mr President, I would like to comment on the Government's response to Ms Anna WU's motion. Since the motion is evidently unfavourable to the Government, it is natural that the Government should be dissatisfied with the motion and should have embarked on lobbying work vigorously. Such a move to protect itself is expected and gives little cause for criticism. But the arguments which the Government has put forward when lobbying are misleading. The Liberal Party has all along been in favour of the decisions and consensus of the Labour Advisory Board (LAB). However, we think that the Government has handled the issue of the Employment (Amendment) Bill in an inappropriate manner. Yet, it does not mean that the Liberal Party does not support the employers or the LAB. We indeed hope the Government will not make use of the employers again as a "scapegoat" and give a false impression that the Legislative Council and employers are in opposition to each other in order to protect itself and cover up the Government's faults.

Finally, I have to make it clear that while we support today's motion, we are not conspiring, as some people have said, to change the present executive-led government into a legislative-led government. The Liberal Party is in favour of an executive-led government. This is why the Liberal Party requests the Government to do all that an executive-led government should do. If the Government has made any mistake, it should have the courage to admit and learn a lesson, it is only in this way then the Government can earn trust and respect from the people.

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



PRESIDENT: Yes, Mr TO.

MR JAMES TO (in Cantonese): I wish to clarify my position and I feel that I have been misunderstood.

PRESIDENT: So you wish to clarify your position and you feel that you have been misunderstood?

MR JAMES TO (in Cantonese): Mr President, I think that I have been misunderstood because I did not say that the Government had not given any notice on the occasion of the second amendments made on 14 December. The Government did give notice before the Second Reading. However, when the Employment (Amendment) Bill was first tabled, the Government did not withdraw the Bill even after its Second Reading. However, on the second occasion, that is, on 14 December, the Government withdrew the Bill after the amendments had been carried. On the first occasion, there was no withdrawal and Members were allowed to move the Third Reading, but on the second occasion, the whole Bill was withdrawn. This was a self-contradictory move which showed that the Government had made such a decision not really because it respected the Labour Advisory Board.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, my comments on today's motion is divided into three parts: firstly, the significance of this motion; secondly, the authority of the Administration; and thirdly, my own feelings.

The first part concerns moving the Bill to the Third Reading on December 14 last year. As we all know, during its Second Reading, the Bill was carried by just one more vote. Even if the Administration proceeded to the Third Reading of the Bill, I dare say the Bill would not be passed because Members who would vote against the amendments had returned. Anyway, it was not as Mr James TO said that the Administration had counted the votes beforehand.

I have been with this Council for more than three years. I think as far as motions or bills in this Council are concerned, what matters most is whether the Administration respects or follows the decisions of this Council. We often have motion debates and the Administration only responds by saying that it has noted of our points of view. Has any action been taken at all afterwards? Even if today's motion is passed, in what way will the Administration be affected? This is a very important question that needs be addressed first and foremost.

The second part concerns the authority of the Administration. We understand that the Administration doubtlessly has the authority to withdraw bills. It had stated beforehand that it would withdraw the Bill if it were not passed in the way intended. If the Bill were not withdrawn at that time, we would not have reached an agreement for \$210 000. The amount might amount to \$230 000. At least, the present agreement will not cast greater pressure on some employers. By withdrawing the Bill, the Administration has acknowledged defeat, but you still do not want to let it go. The Administration has already proceeded with amendments so that most Members representing various sectors might continue to add amendments so as to make the Bill acceptable to all parties. What is wrong with that? Why are we being so nervous? The Administration has heeded well-meaning advices but you still force it to submit the Bill, which, if submitted, would not be acceptable to all sectors. I think we should not play up this issue. I stated last time that I would respect every member's decision, be it a decision to resign, or continue to stay in this Council or not to participate in elections. People come and go all the time. Would Hong Kong collapse just because somebody is leaving? Our former Chief Secretary, Sir David FORD, was once regarded as a "tiger". He has gone, but has the Legislative Council collapsed? Would the Administration collapse? I think what we should do is to act rationally. Do not worry, Mr President. I am not going to criticize any particular Member. I am just trying to give an example. I only want to say that the Administration does have the authority. Why do we want to reprove the Administration when it has been defeated? I originally thought that I should oppose the motion, but I have finally decided that I should abstain. The reason is that I do not know what the Administration is doing. It says it is not afraid of being defeated but it wants to maintain its dignity despite defeat. The Administration took us as expendables in this battle in which it had lost. It is totally unacceptable and unreasonable.

Thirdly, Ms Anna WU is an appointed Member. She is not directly elected. The Administration has appointed her to challenge itself. Are there any backdoor deals between them? Are they trying to achieve certain goals, thereby challenging the executive-led government of Hong Kong and then bringing the challenge to the post-1997 era so that the Chinese Government will in future find this challenge a burden in the administration of Hong Kong? Have all of you considered this possibility? I hope Ms WU would not mislead the public or Members into believing that we now have more power, and if we now succeeded in reproving the Administration, we might set up a difficult precedent for the post-1997 government, which would have to respond to similar situations. This kind of sentiment is particularly widespread among the so-called "democrats", who are in fact anti-China people. One must bear in mind that Hong Kong is not an independent state. Articles 1 and 12 of the Basic Law clearly state that there is a Central Government. Members and the people of Hong Kong should not be so naive. If the interests of the Central Government are challenged, it will not sacrifice its own interests. It will not allow regional interests to prevail over those of the Central Government. What we can hope for is to look after the interests of Hong Kong, conditional upon the interests of the Central Government having been secured. We may then

make use of her laws and regulations to the best of our advantage. Thus we may be in a better position to obtain more benefits for ourselves. In this way, both Hong Kong and the Central Government may exist in harmony. Some may want to share the benefits enjoyed by the Central Government or even to place Hong Kong interests above those of the Central Government through the phrases of "Hong Kong people ruling Hong Kong" and "with a high degree of autonomy". This is absolutely out of the question.

Mr President, I am prepared to tell the truth of the whole incident. The Administration is making use of conflicts that exist among various sectors. It has not only created conflicts in the labour sector, it has also caused conflicts within the Liberal Party. Unlike Mr Martin LEE's Democratic Party which has headed for a one-way road with no return, the Liberal Party is standing at a crossroad. It can make its choice from a number of options. Is it the Governor's policy to create conflicts within the Liberal Party with a view to splitting it? It is difficult to tell. I am now speaking as a believer in political conspiracy. The fact remains that we are probing into each other with a view to securing more votes. Therefore we have good grounds to be suspicious and to carefully scrutinize the matter. Nevertheless, I hope that every citizen in Hong Kong will not be misled into irrationality, whether or not they think that we Members, including me, are arguing about facts or staging a show in this Council.

Originally, I wanted to support the Hong Kong Government by opposing the motion. Now, it says that it wants to maintain its dignity despite the defeat, and that the Administration in future will not carry out lobbying in such a manner.

Mr President, with these remarks, I will abstain from voting on the motion.

DR CONRAD LAM (in Cantonese): Mr President, I believe many Hong Kong people do not object to an executive-led government. Yet, I am absolutely certain that most people would oppose an autocratic government. What the Government did on that day, however, has removed any remnants of disguised democratic posture that it might have.

That incident has revealed two things. First, will the Hong Kong Government continue to adopt the attitude and tactics of a colonial government? Does the Government have the determination to change and improve itself? Is it going to cast off such a burden? Second, the Government indeed has set a dangerous precedent. In fact, many Hong Kong people worry about the question of whether Hong Kong will have a high level of autonomy after 1997. If the Government has set such a precedent, it will really cause their anxiety that the Government can bully a fully-elected legislature into submission by invoking this precedent. Therefore, I hope the Government can consider the people's

concern seriously and formulate policies which can make people feel that the Government is striving for improvement instead of being autocratic.

I support Ms Anna WU's motion.

PRESIDENT: Mr Andrew WONG, I have to interrupt you, though, in two minutes.

MR ANDREW WONG (in Cantonese): Mr President, I speak to support the Honourable Anna WU's motion.

I feel that many Members have used rather strong language in speaking to support the motion, such as "dictatorial", or "the system is totally unsound", etc. My view is that basically it would be quite a big deal for the Government to withdraw a bill unless it is against public interests, or it causes any obstruction to administration, or it has breached any international covenant. I think it is quite immature and unwise to take such a drastic action. For this reason, when I heard Mr Michael LEUNG, Secretary for Education and Manpower, said in his conclusion speech of the debate for the Second Reading that should the amendment motion of the Honourable LAU Chin-shek be carried at the Committee stage, he would withdraw the bill, I had then remarked that it was a shameful thing. This is because it is not worth it for the Government to produce its trump card.

The whole story is really a simple one. On 6 July, 1994, the last meeting of the last Legislative Session, when the Honourable LAU Chin-shek succeeded in amending the bill, the Government did not choose to adjourn or withdraw the bill. It merely did not propose its Third Reading of the bill. Later when someone proposed its Third Reading, the proposal was defeated. It could be that the Government was considering the "withdrawal" move, but decided subsequently not to do so. It seems likely that the Government had figured that it could not get enough vote counts, or simply it had not made any vote count at all. I have not tried to count it myself. However, I doubted whether the Government was familiar with the Standing Orders at all.

It is likely that on 14 December, the Government was totally unfamiliar with the Standing Orders. This is because there were in fact two options for the Government, one of which was to withdraw the bill and the other was to adjourn it. But why did it choose to have the Bill withdrawn? If the Bill were to be adjourned, then there was the whole Christmas holidays to make compromises. If this were the case at the last meeting of the 1993-94 Legislative Session, then there was the whole of the long summer holidays to make compromises at leisure. However, the Government had not drawn any moral from the past exit by 14 December and had the bill withdrawn. In fact, the Government could have adjourned the bill instead of withdrawing it. Under these circumstances, I think the crux of the whole matter is not in whether there

can be any mechanism within the system to withdraw a bill. As some Members have put it, if your own bill was so amended that it was no longer recognizable, you would also want to have it withdrawn. Of course it may not have too much bearing on the whole situation, as others can also propose one which is conceived afresh and it may be passed without any change. But, at least, it will not be some other bill that one is not intended to have at all, but which is passed in one's own name. Such a mechanism is acceptable. However, as the Government, it should have some tolerance under these circumstances. In this case, it looks obvious that the Government is politically immature, and it may also be that it is not familiar with Standing Orders. This may be the kind of training or learning badly needed by a transitional government, and the best occasion to learn is probably in the assembly.

8.00 pm

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

ATTORNEY GENERAL: Mr President, with your consent, I move that Standing Order 8(2) should be suspended so as to allow the Council's business this evening to be concluded.

*Question proposed, put and agreed to.*

MR ANDREW WONG (in Cantonese): As to the question of the Labour Advisory Board (LAB), Members who belong to the Liberal Party, in supporting this motion, were still saying that the LAB's views should be respected, and that is I think where the crux of the matter lies. If it is a must that the views of the LAB be respected, then the Government would totally be blameless for what it has done. Some Members also pointed out that Hong Kong Arts Development Council Bill had been so amended that it was no longer recognizable, meaning that adding elected representation to the Council might not be acceptable to the Government. This is exactly where the crux of the matter lies. Everybody speaks highly of the LAB because it has elected representation. Besides, it is considered most representative as it has not only had representatives from the employers' side but also representatives from the employees' side, and that is why its views should be respected. What if other advisory bodies also have elected representation? Does that mean we also have to respect their views and that the Legislative Council therefore cannot amend whatever agreements they have been reached by them? This is the most important point. My opinion is that all advisory bodies or policy-making committees appointed by the Government are accountable to the executive in the first place, and the executive in turn is accountable to the legislature. If the matter concerns legislation, then it is the responsibility the executive to introduce the relevant bill to the legislature in respect of any agreement reached

at the LAB or, for that matter, by any advisory body, whatever representativeness it might have, and the legislature has the right to amend it. We will amend the bill by virtue of our territory-wide popular representation. Therefore, the question is not whether the decision of the LAB should be respected but whether we think it is right or wrong. Should the LAB be raised to such a high status, other advisory bodies could also be raised to very high status, and the result would be that the Legislative Council is completely unable to ask the Government to be accountable to it in future, and the accountability of such organizations as the Kowloon Canton Railway Corporation and the Mass Transit Railway Corporation to the legislature might diminish as a result. But my view is that they can be allowed to run independently and their operation will then be monitored by officials concerned, who in turn will be accountable to the legislature.

The second point is the question of an executive-led government. It seems that Members have overstated the seriousness of the matter as if the executive could become totalitarian. Perhaps we may say that it is not totalitarian but it is exercising some kind of checks and balances. In fact, the conception of an executive-led government has been clearly explained in the Governor's policy address. The Government is of course responsible for the administration, but we can negative on any policy we disagree with, which means it cannot be decided unilaterally by the executive. This is not a question of whether Hong Kong has a democracy or not. Rather, we are talking about a parliamentary system. A parliamentary system plays the role of counterbalancing the government, and the government plays an active role in governing and administration. In regard to regulations and institutions, the government has been given flexibility or even privileges to introduce bills. Therefore, it has all along been my opinion that this is the issue of an executive-motivated instead of an executive-led government. This is exactly where the spirit of the system lies.

Thirdly, it is about the relationship between the executive and the legislature. Just now I have already said that it is one of checks and balances. As for the relationship between officials and Members, we can refer basically to the systems adopted by Britain, France and Germany respectively. In the British way, officials must also be members of the Parliament; for the French, officials cannot also be Members of Parliament at the same time; and in the German way, which is also what we adopted previously, both Members and other people may be appointed as officials, but the crucial thing about it is that the executive must have the supporting or unopposing votes of over half of the Members. The support need not be ironclad, though. The above three kinds of relationship are basically the relationships between the executive and the legislature.

This time, it is merely an occasion when the Government did not have all the odds to its favour. The Government should not always say that what it does is in keeping with the Standing Orders. If it says so, the Honourable Anna WU's motion also conforms to the Standing Orders, except that it requires our approval.

*The digital timer showed 0700*

PRESIDENT: Mr WONG, I am sorry, time is up.

ATTORNEY GENERAL: Mr President, it is a pity that some Honourable Members have chosen to use strong language in their speeches today. When they criticized the Administration for withdrawing the Employment (Amendment) Bill 1994, I would have hoped that they would have considered the impact that there would have been on our system of consultation through advisory boards and committees, had we taken a different course of action. We need to see the wood for the trees.

Contrary to the allegations made by some Honourable Members, the Administration did not withdraw this Bill because we felt that our authority was being challenged, nor because we had little regard for the welfare of employees in Hong Kong. We withdrew the Bill because we considered it essential that we should first consult the Labour Advisory Board (LAB), the well-recognized and long-established advisory body on labour issues, on the substantial amendment that Members had made to the original proposal on which the board had achieved a broad consensus.

As Honourable Members know, the members of the LAB are elected by employers and employees. Because of their conflicting interests, any agreement reached in the board is inevitably a compromise that has been achieved through serious and often lengthy negotiations. The LAB has an excellent record in reaching agreements on important labour issues. To ignore the views of the board, or to overturn its proposals lightly, would not only damage the credibility of the LAB as a forum where a reasonable balance between employers' and employees' interests can be struck, but would also put our labour relations at risk. A harmonious relationship between employers and employees is an integral part of Hong Kong's economic success.

Mr President, over the years, a number of amendments have been made to the Employment Ordinance. On every occasion, the Administration has consulted, and obtained the agreement of the LAB on the proposals before the amendment bill was submitted to this Council. Because Bills Committees were normally set up to study previous bills to amend the Employment Ordinance, the Administration was always able to go back to the board for further consultation in the event that Legislative Council Members disagreed with any proposed amendments. However, as has been pointed out, no Bills Committee

was set up to examine the Employment (Amendment) Bill 1994. We had no opportunity to consult the LAB on amendments to the Bill proposed by the Honourable LAU Chin-shek. Since these were substantially different from the broad consensus reached by the board, we would have failed in our duty had we allowed the Bill as amended by him to be enacted.

It has been suggested that the Administration could have adjourned the debate on the Bill rather than withdrawing it. But what would that achieve? Had that course been followed, we would have to reintroduce at Third Reading the same Bill, that is, the Bill as amended in Committee. Withdrawal of the Bill enabled the Administration to come forward with a new bill, as indeed it did. So withdrawal would give much greater flexibility.

As the Secretary for Education and Manpower has already assured this Council, the sole purpose of withdrawing the Bill last month was to enable the Administration to consult the LAB again on the important issues of severance payment and long service payment. This we did. The new package of improvements endorsed by the board was embodied in the Employment (Amendment) Bill 1995 which was passed by this Council last week.

Mr President, it is wrong to see our action in withdrawing the Employment (Amendment) Bill 1994 as a challenge to the rights of Honourable Members in this Council. We simply exercised the power provided under Standing Order 52 of this Council. This Standing Order explicitly allows the Member in charge of a bill to withdraw or postpone a bill at the beginning of the proceedings on a bill at a sitting. A bill withdrawn, I stress that word, may subsequently be reintroduced in the same Session as another bill with the same objects or with the same provisions as the one which has been withdrawn. We were surprised that Members reacted so strongly to our action. Although this action is unusual in Hong Kong, there are many examples in the United Kingdom, on whose parliamentary practice ours is based, where the Government withdrew bills when they had been significantly amended in Committee.

At no stage in this process did the Administration intend any disrespect to the important role that this Council plays in the law-making process, as has been suggested. On the contrary, we have always placed great weight on the views expressed by Honourable Members in this Council, in Bills Committees and elsewhere. So I am naturally disappointed that some Honourable Members should seek to reprove the Administration for the withdrawal of the Employment (Amendment) Bill simply because we made the prudent decision to consult the recognized advisory body on labour issues before reverting back to this Council, significantly with an improved package.



We have never denied the constitutional right of Honourable Members to amend our legislative and expenditure proposals. The suggestion that the Administration sees this Council as a "rubber stamp" is simply wrong. This is a travesty of the truth. We know better than that. We know that we have no divine right to expect Members to support our proposals automatically, and that it is up to us to persuade Members that they are in the best interests of the people of Hong Kong. Indeed, Honourable Members have on many occasions amended or rejected our proposals in the past. A recent example is the Residential Care Homes (Elderly Persons) Bill which was passed by this Council on 12 October last. We supported the Third Reading of the Bill, even though it contained a Committee stage amendment which we had opposed.

Mr President, it is however true that the Administration and the Members of this Council have different roles to play and different spheres of responsibility in the law-making process. This is an executive-led government. When the Administration considers policy issues, our prime concern is the overall interest of Hong Kong. This may, on certain occasions, mean that some sectional interests advocated or represented by Honourable Members cannot be fully satisfied. It is no disrespect to this Council to say that we cannot afford to allow sectional interests to be put above the overall interests of Hong Kong. The fact that on a few occasions, other considerations do not allow us to accept the views of the Legislative Council does not in any way undermine the role of this Council in the law-making process. The fact that the Administration decides to withdraw a proposal does not mean that there can be no further discussion on it. On the contrary, in the case of the Employment (Amendment) Bill, we made great efforts to refine and improve our package. If we were practising some form of "dictatorship", as alleged by some Honourable Members, we would surely not bother to go to such trouble.

To conclude, Mr President, the Administration recognizes that important role played by Members of this Council. We have paid, and will continue to pay, respect to this role, and to the right of Honourable Members to interpret it as they wish. But we too have a role to play, and I hope that Members will in turn respect that role, and our right to interpret it in the way that we believe is in the best interests of the people of Hong Kong as a whole. That is surely the best way to maintain the public's confidence in this Council and in the entire system of government in Hong Kong.

With these remarks, I urge Honourable Members to vote against this motion.

MRS SELINA CHOW: Mr President.

PRESIDENT: Yes, Mrs CHOW.

MRS SELINA CHOW: Can I ask for a clarification?

PRESIDENT: Are you prepared to elucidate, in fact, Attorney General? Perhaps the question first.

MRS SELINA CHOW: The Attorney General referred to Standing Order 52 which states that "the Member in charge of a bill may, at the beginning of the proceedings on a bill at a sitting, announce that he withdraws or postpones the bill". But at the sitting of 14 December, in fact, the Secretary for Education and Manpower withdrew the Bill after the Bill had been voted on. Is that in contravention to Standing Order 52?

PRESIDENT: That is a matter for me, Mrs CHOW, not a matter for the Attorney General.

MRS SELINA CHOW: Mr President, because the Attorney General referred to that particular part in his speech. I was just wondering whether you would allow clarification.

PRESIDENT: I would have ruled against the withdrawal if it was contrary to Standing Orders. It is for me to interpret.

PRESIDENT: Ms Anna WU, you are now entitled to reply and you have four minutes 37 seconds out of your original 15 minutes.

MS ANNA WU: Mr President, I believe it is necessary and important that a collective protest be registered against the Government. To hold the legislature hostage is not something that this Council should allow or permit. The Government, by doing so, effectively imposed a ceiling on what the Legislative Council can do or cannot do, can say or cannot say. If the Government is saying that it would only accept suggestions that it agrees with, then there is no point in having accountability by the executive to the Legislative Council or in having a system of checks and balance.

What is saddening is the fact that, despite the powers and authority of the executive-led government, it should choose to use heavy-handedness and attempt to scuttle a process of amendment, which forms the heart of the Legislative Council work. It is also saddening that, despite the achievements of the Government, it should lack the confidence to engage Legislative Council Members during the legislative process, but should instead choose to obstruct and deny the existence of the Legislative Council.

Members have expressed views that the executive must remain strong. But it is strong. It initiates bills. It sets policies. It decides on the Budget. It has the ability to postpone and withhold money bills being laid before this Council indefinitely.

Mr IP talked about the checks and balances between the executive and the legislature as if the executive branch is the weaker party. I am surprised. The checks and balances is a formula provided to the legislature constitutionally to be used on the executive branch because it is an executive-led government, not the other way around. The fact that it came back with an improved Bill meant that the executive admitted that it could do better, but only under extreme pressure and embarrassment.

This is not a debate about not respecting the Labour Advisory Board. The Attorney General made reference to sectional interests. If the Attorney General was suggesting that disagreement between the Legislative Council and the executive represents a difference in terms of sectional interests, I beg to differ. His statement reflected the practice by government of selective and manipulative consultation. I am surprised also to hear that the Attorney General did not expect the Council to react the way it did upon the withdrawal of the Bill. It seems to me that there is a real departure and a real difference in terms of political perspectives between the legislature and the executive, and the Government is far removed from the political reality of the day.

I was asked by Members as to whether or not we have any democratic process in Hong Kong. My answer is simple: of course we do not have any democratic process, but we all would like to have it. And in the course of evolution into a democratic process, we would like to have a government that would respect the checks and balances and the constitutional role that exists in Hong Kong today.

Miss LAU queried the suggestion of allowing a Private Member's Bill to be introduced immediately. This is a very limited measure to expedite the introduction of a Private Member's Bill. It does not remove the need for executive consent where money bills are involved and, given the situation faced by the Employment (Amendment) Bill 1994, where the original Bill and all amendments have been fully vetted, there would have been no unfair advantage gained by anyone. It is in those circumstances that this is proposed for consideration.

I am not aware of any previous case where the Government has withdrawn a bill as a result of amendments made at Committee stage. This is the rule hitherto observed by the Government. I see no reason why the Government should have withdrawn the Bill in the manner that it did. This was a departure from the long-standing convention of the Legislative Council.

Mr President, I cannot ask for a compliment higher than that paid to me by Mr CHIM. I am an appointee of the current Administration. I am not obliged to support its position. This is the spirit of the Legislative Council, and this is something that the Government should respect.

Thank you, Mr President.

*Question on the motion put.*

*Voice vote taken.*

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

MISS EMILY LAU: I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Would Members please proceed to vote?

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

Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr Martin LEE, Mr SZETO Wah, Mr Andrew WONG, Mr Edward HO, Mrs Miriam LAU, Mr LAU Wah-sum, Dr LEONG Che-hung, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr Conrad LAM, Miss Emily LAU, Mr Fred LI, Mr MAN Sai-cheong, Mr Henry TANG, Mr James TO, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Miss Christine LOH and Ms Anna WU voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr NGAI Shiu-kit, Mr LAU Wong-fat, Mr Martin BARROW, Mrs Peggy LAM, Mr Jimmy McGREGOR, Mrs Elsie TU, Mr Vincent CHENG, Mr Marvin CHEUNG, Mr Timothy HA, Mr Simon IP, Mr Eric LI, Dr Samuel WONG, Dr Philip WONG and Mr James TIEN voted against the motion.

Mr CHIM Pui-chung, Dr TANG Siu-tong and Mr Roger LUK abstained.

THE PRESIDENT announced that there were 24 votes in favour of the motion and 17 votes against it. He therefore declared that the motion was carried.

**ADJOURNMENT AND NEXT SITTING**

PRESIDENT: I extend to all Members best wishes for the Lunar New Year. In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday 15 February 1995.

*Adjourned accordingly at half past Eight o'clock.*

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Legal Aid (Amendment) Bill 1995, the Public Health and Municipal Services (Amendment) (No.3) Bill 1994 and the Timber Stores Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

