

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 7 June 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 MICHAEL LEUNG MAN-KIN, C.B.E., J.P.

THE FINANCIAL SECRETARY

THE HONOURABLE CHAU TAK-HAY, C.B.E., J.P.

THE ATTORNEY GENERAL

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

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

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

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

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

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

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

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

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

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

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

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

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

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 STEVEN POON KWOK-LIM

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

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE 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

THE HONOURABLE LEE CHEUK-YAN

ABSENT

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

DR THE HONOURABLE PHILIP WONG YU-HONG

IN ATTENDANCE

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

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

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

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

MR GORDON SIU KWING-CHUE, J.P.
SECRETARY FOR ECONOMIC SERVICES

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

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

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

MR PETER LAI HING-LING, J.P.
SECRETARY FOR SECURITY

MR BOWEN LEUNG PO-WING, J.P.
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

MR KWONG KI-CHI, J.P.
SECRETARY FOR THE TREASURY

MISS JACQUELINE ANN WILLIS, J.P.
SECRETARY FOR EDUCATION AND MANPOWER

MR FRED TING FOOK-CHEUNG
SECRETARY FOR RECREATION AND CULTURE

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>
Immigration (Amendment) (No.2) Regulation 1995	217/95
Boundary and Election Commission (Electoral Procedure) (Functional Constituencies and Election Committee Constituency) Regulation	220/95
Boundary and Election Commission (Electoral Procedure) (Geographical Constituencies) (Amendment) Regulation 1995	221/95
Official Languages (Alteration of Text) (Pawnbrokers Ordinance) Order 1995	222/95
Rules of the Supreme Court (Amendment) (No.3) Rules 1995	223/95
Employees Retraining Ordinance (Amendment of Schedule 2) Notice 1995	224/95
Official Languages (Authentic Chinese Text) (Urban Council Ordinance) Order	(C)41/95
Official Languages (Authentic Chinese Text) (Hong Kong Tourist Association Ordinance) Order	(C)42/95

Sessional Papers 1994-95

- No.94 — Director of Social Welfare Incorporated
Statement of Accounts for the Year Ended
31 March 1994
- No.95 — Report of the Independent Police
Complaints Council 1994
- No.96 — Regional Council Revised Estimates of
Expenditure 1994-95

MISCELLANEOUS

White Paper on Rehabilitation, Equal Opportunities and Full Participation: A Better Tomorrow for All and its Executive Summary

AFFIRMATION

Mr CHAU Tak-hay made the Legislative Council Affirmation.

ADDRESSES

Report of the Independent Police Complaints Council 1994

MR ANDREW WONG: Mr President, on behalf of the Independent Police Complaints Council (IPCC), may I present the IPCC's Annual Report for 1994.

The IPCC, formerly known as the Police Complaints Committee (PCC), is an independent body appointed by the Governor to monitor and review the investigation of complaints made by the public against the police. Whilst the physical investigation work is carried out by the Complaints Against Police Office (CAPO) of the Royal Hong Kong Police Force, the results of the investigations, together with all the relevant CAPO files and documents, are examined in depth by the Council, which is supported by a full-time secretariat. A case will not be finalized until the IPCC has endorsed its investigation results. In the examination of investigation reports, the IPCC ensures its best that fairness is applied to both the complainants and the complainees.

During the year under report, the IPCC reviewed and endorsed a total of 2997 complaint cases involving 4148 allegations. Of these, assault, over-bearing manner/impoliteness and neglect of duty made up the bulk of the complaints, representing 81.9% of the total number. As in previous years, assault cases still topped the list, constituting some 44% of all the cases. Of the 4148 allegations endorsed, 569 were resolved by informal resolution. Of the remaining 3579 allegations, 105 were classified as "Substantiated" or "Substantiated other than Reported", 18 as "Not Proven", 613 as "Unsubstantiated"/"Curtailed", 52 as "False", 2704 as "Withdrawn/Not Pursuable" and 87 as "No Fault".

In the course of its deliberations, the IPCC often raised queries on the investigation reports compiled by CAPO. A total of 280 queries on 213 cases were raised in 1994, part of which led to the reclassification of 24 cases. Arising from the investigation results endorsed by the IPCC, criminal proceedings, disciplinary and other forms of internal action (including advice and warning) were taken against 174 police officers in 1994.

So far, I have reported on the scrutiny of investigation reports by the IPCC and the attendant results. I shall now turn to some of the major issues dealt with by the IPCC in 1994, a summary of which is given in Chapter 1 of the Report, which is tabled today.

During 1994, the IPCC continued to foster a number of reforms. These included the retitling of the PCC to "IPCC" to reflect its independent role, making the IPCC a statutory body, the commencement of the Interviewing Witnesses Scheme to enable the IPCC to clarify matters directly with the witnesses and the launching of publicity programmes, including a logo design competition to enhance the transparency of the work of the IPCC. As at today, the IPCC has interviewed 10 witnesses against 13 invitees and considers the scheme very effective in clarifying doubtful points.

Alongside the reforms, a number of studies/reviews have also been conducted by the Council. Last year, when I presented the Council's 1993 Annual Report here, I mentioned about a study on withdrawn and not pursuable cases. In 1994, a supplementary study was carried out and the findings broadly validated inferences on the reasons for withdrawal or non-pursuability made during the main study. Recommendations arising from the two studies were conveyed to CAPO for consideration with a view to improving existing police procedures and practices. A review of subjudice procedures was also carried out in 1994, in collaboration with CAPO. These procedures, which have been introduced since 1992, are aimed at protecting the interests of defendants — complainants in that their lines of defence need not be revealed to the prosecution prior to their court trials. Consequent upon the review, some of the subjudice procedures were more clearly spelt out to remove anomalies.

In 1994, the IPCC started to collate background information on overseas police complaints systems. A Tripartite Working Group comprising representatives from the IPCC, CAPO and the Security Branch has just been formed for a comparative study, including visits to selected overseas jurisdictions. It is hoped that this study will throw light on possible improvements to the police complaints system in Hong Kong.

During the year, the IPCC advised on a CAPO's proposal to install CCTV facilities in interview and report rooms of CAPO Offices to enhance the transparency of complaints investigation work. The IPCC also supported a Police Courtesy Scheme to promote politeness and tactfulness in dealing with the public. The former proposal has already been implemented by CAPO, while the Police Courtesy Scheme is being actively pursued.

In short, Mr President, 1994 was a year of reforms for the IPCC. Before I end my presentation, on behalf of the IPCC, I would like to record our appreciation of the contribution given by four out-going members. They are Mr Linus CHEUNG Wing-lam, J.P.; Dr Natalis YUEN Chung-lau, J.P.; Mr AGARCIA, CBE, J.P., the former Commissioner for Administrative Complaints; and Mr A P DUCKETT, Q.C., the former Acting Solicitor General who

represented the Attorney General on the IPCC. I would also like to thank the Commissioner of Police and his staff in CAPO for their co-operation during the year.

DR CONRAD LAM (in Cantonese): Mr President, the Honourable Andrew WONG has just mentioned the launching of public involvement programmes, including a logo design competition, to enhance the transparency of the Independent Police Complaints Council (IPCC). Will Mr WONG please clarify what exactly these so-called public involvement programmes are? How can these programmes, including the logo design competition, help enhance the transparency of IPCC? Is he referring to the enhancement of reputation or the transparency?

PRESIDENT: Yes, under Standing Order 14, I may allow short questions to be put to the Member making the address for the purpose of elucidating any matter raised by the Member in the course of his address.

MR ANDREW WONG: Mr President, I thank the Honourable Member who sits on the IPCC with me as Vice-chairman. I think what he referred to was the publicity programmes and I will provide him with a list of such programmes in writing after the meeting.

As for the general question of transparency, I think the important thing is that we aim at increasing our transparency day by day and at the next meeting perhaps the Honourable Member and myself might raise the issue of trying to make our meetings more transparent, although not open to members of the public because sensitive information about individual complainants and complainees could be revealed if meetings were opened to members of the public.

White Paper on Rehabilitation, Equal Opportunities and Full Participation: A Better Tomorrow for All and its Executive Summary

SECRETARY FOR HEALTH AND WELFARE: Mr President, tabled today is the White Paper on Rehabilitation entitled "Equal Opportunities and Full Participation: A Better Tomorrow for All". The White Paper is a comprehensive document which sets out our policy directions for the further development of rehabilitation services over the next decade and beyond. To make the White Paper more accessible to a wider audience, we are also publishing separately an Executive Summary.

Since the publication of the Green paper on Rehabilitation in 1992, we have made significant progress in implementing its key recommendations. We are working hard to achieve in full the targets of providing over 7000 day and residential places for people with a disability by 1997. We are improving the accessibility of our public transport system. We are enhancing job opportunities for people with a disability. We are strengthening public education on integration. We have also reviewed the Mental Health Ordinance and have drawn up a package of proposed improvements to it and, last month, we also introduced the Disability Discrimination Bill into the Legislative Council. All these measures will help us to achieve our policy objectives of full participation and equal opportunities for people with a disability.

We aim to provide a full range of services for people with a disability of all ages:

- (a) We have stepped up prevention, identification and assessment of disabilities so as to prevent impairments or to ensure that impairments do not degenerate into more limiting disabilities. For example, preventive measures have been put in place during pregnancy, infancy and childhood. Disabilities in children and adults are identified through various means including the Comprehensive Observation Scheme for all children from birth to the age of five and contacts with out-patients and emergency units of hospitals.
- (b) After an abnormality is detected in a child, he or she is given a comprehensive assessment so that appropriate treatment can be given or referral for placement can be made. Adolescents and adults suffering from acquired disabilities through, for example, diseases, are treated and initially assessed in clinics and hospitals. Further assessment and rehabilitation services are provided to them after the acute phase of their illness or injury is over.
- (c) We provide a comprehensive range of rehabilitation services to people with a disability in order to maximize their physical, mental and social capabilities to the fullest extent possible. These services include early education and training; education; medical rehabilitation; employment and vocational rehabilitation; and access and transport.

We are spending \$7.4 billion in 1995-96 on rehabilitation services, representing an increase of 18% over last year. We have further secured \$596 million to improve rehabilitation services between 1995 and 1998 in line with the provisions of the White Paper. The services involved cover social, vocational, and medical rehabilitation, special education, transport and public education. Certain policy decisions in this White Paper can be implemented through better co-ordination among service providers or by re-targeting existing resources, without incurring additional expenditure. As regards those

improvement measures where funds have not yet been secured, for example, the projected requirement for social rehabilitation services arising from the adoption of a new demand formula, we will bid for the necessary funds in the annual Resource Allocation Exercise and implement them as resources permit.

The significant progress which has been made since the publication of the Green Paper and the successful completion of the White Paper are due largely to the tireless efforts of a wide range of people dedicated to the goal of integrating people with a disability into our community. I would like to take this opportunity to record today my sincere gratitude to the Working Party on Rehabilitation Policies and Services and its three subcommittees for their hard work, the Rehabilitation Development Co-ordinating Committee for its invaluable guidance and the Governor for his personal support for rehabilitation services.

We have set out clearly our way forward in the White Paper for the future development of rehabilitation services. I am confident that with the support of the community at large and the firm partnership between the non- governmental sector and the Government, we will achieve the goals of full participation and equal opportunities. We shall work together with people with a disability to build a better tomorrow for all.

ORAL ANSWERS TO QUESTIONS

Prohibiting Sale of Cigarettes to Young People

1. MR ALBERT CHAN asked (in Cantonese): *Smoking among young people in the territory has become a serious problem, and many parents feel that there is nothing they can do to prevent their children from smoking. Many shops now unpack and sell the cigarettes on a piecemeal basis and their major sales targets are young students, including those from primary school. In view of this, will the Government inform this Council:*

- (a) *when and how the Government will enforce the legislation prohibiting the selling of cigarettes to young people under the age of 18 years which was passed by this Council on 19 October last year but has not yet been brought into effect; and*
- (b) *what specific plans it has to dissuade young people from smoking?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, with effect from 28 April 1995, retailers have been prohibited from selling or giving for the purpose of promotion or advertisement, any tobacco product to a person under the age of 18. Offenders, under summary conviction, are liable to a maximum fine of \$25,000. A sign must be displayed at the place of sale to remind retailers and purchasers alike of the law. Police officers on beat patrol together with other law enforcement agencies will look to see if retailers violate the law. Members of the public can also report contravention and should come forward as a witness after making their report. Their support and testimony is essential to the eventual conviction of offenders.

The Administration is also planning to introduce a further package of anti-smoking measures into this Council in December 1995. This will prohibit the sale of cigarettes in packages of less than 20 sticks or individually. It will also impose tighter controls on tobacco advertising, since a strong correlation has been found among school children between smoking and attractiveness of cigarette advertisements.

Smoking is a lifestyle choice and young people look to their seniors and parents when making their choice. The positive influence and sustained persuasion of the family members and teachers are a great influence to young people to make an informed choice of not to smoke. Only through the collaborative effort of different sectors of society can the problem of smoking amongst the young be addressed. To this end, the Administration, the Hong Kong Council on Smoking and Health and other voluntary agencies have dedicated much effort to promoting a smoke-free culture among the community. We will continue to monitor the smoking prevalence among young people and consider introducing further legislative and publicity measures as appropriate. Meanwhile, parents and adults generally can best set an example for young people by not smoking themselves.

MR ALBERT CHAN (in Cantonese): *Mr President, I am pleased to learn that the Administration has already put into effect the legislation prohibiting retailers from selling cigarettes to young people under the age of 18. However, we still can see youngsters buying cigarettes everywhere. Some shops, in particular stores in public housing estates, even unpack the cigarettes so as to sell them individually. This is a very common practice. May I ask the Government what plans it has in order let to retailers know that the legislation has already come into effect so that they will not break the law again? Also, how many shops have been warned by the Government and are there any actual prosecution actions initiated since the legislation has become effective on 28 April?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, I shall certainly alert the Police Force to the situation described by the Honourable Member of offenders in public housing estates selling cigarettes to young people under the age of 18.

As for statistics on warnings and other prosecution actions, I shall need to collect the statistics from the Police Force and provide a written reply. (Annex I) We must not forget that the law only came into effect on 28 April, so it is early days yet. But certainly I shall provide the statistics as requested.

DR HUANG CHEN-YA (in Cantonese): *Mr President, the Government told us that in fact teachers can dissuade students from smoking. However, in its reply to my written question today, that is Question 17 about health education, the Government stated that primary and secondary students have not been taught not to smoke through a formal curriculum. I would like to ask the Government what methods will teachers use — whether phenomenal talents are employed as a means — to deter students from smoking? Will the Government undertake to introduce a formal compulsory curriculum for all students in order to teach them that smoking may cause diseases such as cancer, stroke, cardiac diseases and impotence?*

PRESIDENT: Are you able to answer all of that, Secretary?

SECRETARY FOR HEALTH AND WELFARE: Mr President, I think we must rely on teachers to decide how best to inform and to influence the students in adopting healthy lifestyles and healthy habits. I think we should give maximum discretion to how teachers pass on these very important messages. But as an additional service that the Government is going to provide in September, we will provide a student health service in September which will initially cover all primary school children and will be extended to the secondary school sector in 1996. As an integral part of this health service, it will promote a healthy lifestyle. It will also attempt to identify school children who smoke and the underlying causes of why they smoke, so that individual counselling and health education can be provided where necessary, and the health status of these students will be followed up and monitored.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, statistics show that the number of smokers in the territory tends to drop but the number of smoking youngsters, quite on the contrary, soars and what is more, the age at which they take up smoking is found to be younger. It thus proves that the smoking problem among young people is serious and that they are easily influenced by their peer groups or advertisements. Can the Government inform this Council whether it will impose restrictions on tobacco companies in sponsoring recreational and sports events for young people as well as in organizing*

complimentary film shows and so on, so as to ensure that youngsters will not form a wrong conception that there is a positive correlation between smoking and recreational or sports activities, or that they will not take up the smoking habit simply because they want to see their idols?

SECRETARY FOR HEALTH AND WELFARE: Mr President, perhaps I should clarify some of the statistics which were quoted by the Honourable Member. According to the August-September 1993 General Household Survey, 4.2%, or 16000 persons aged 15 to 19 were smokers. This is a decline from 4.6%, or 20600 persons, compared with the July 1990 survey.

As for sponsorship of sports and other cultural events, the Government will need to take into account the community's wish for tighter controls over indirect advertising, which includes sponsorship of arts and sports events. Current views appear to be more concerned about ensuring that the arts and sports events continue to be provided rather than how they are funded. We will certainly be studying this problem in greater depth and come up with further measures to this Council later in the year.

DR CONRAD LAM (in Cantonese): *Mr President, "undercover raids" are usually adopted by the police in taking actions against law offenders. In this regard, may I ask the Government whether it will send law enforcement officers to disguise as customers to patronize shops selling cigarettes illegally? If not, what are the reasons?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, if such measures are found to be necessary and subject to the availability of very scarce police resources, the Administration is prepared to organize such undercover raids or other offensive action against retailers who fail to comply with the law. But for maximum effect, this should be done in conjunction with other publicity events and also we need to look to family members and teachers for counselling of students. All these together would help in deterring young people from smoking.

Guidelines or Rules for Police Officers to Deal with Autistic Persons

2. DR YEUNG SUM asked (in Cantonese): *Thank you, Mr President, my question is going to be rather long, so first of, all my apologies. I have received a complaint from a parent recently whose son suffers from autism and this boy was window shopping outside a well known hotel one day, but because he looked suspicious to the security guards, he was chased after by the security guards and out of fear he leapt out of a window to a podium and broke his right*

leg. A police officer called his family and asked the parent if his son was crazy. The police then dropped the case. Therefore, as the parent of the autistic person has lodged a complaint alleging that police officers have failed to fully consider that autistic persons have definite difficulties in expressing themselves when dealing with cases concerning autistic persons, will the Government inform this Council whether there are guidelines or rules governing the manner and attitude to be adopted by police officers when handling cases involving autistic persons; if so, what are the details; if not, why not?

SECRETARY FOR SECURITY: Mr President, there are no specific guidelines or rules on the manner and attitude to be adopted by police officers when handling cases involving autistic persons.

This is because, apart from persons with autism, whose numbers are estimated to be 5000 to 7000 in Hong Kong, there could be many other people with different types and degrees of physical or mental disability. It simply is not practicable for the police to draw up specific rules and guidelines to deal with each and every group of disabled persons.

However, the Police Force Procedures Manual has a section which deals with statement taking from mentally handicapped persons. There is a requirement that any person known or suspected to be mentally handicapped should only be interviewed or have a written statement recorded from him in the presence of his relative, guardian or other persons responsible for his care or for his custody or someone who has the experience of dealing with mentally handicapped persons, such as a social worker outside the Police Force.

Police officers are fully aware of the need to take into account the special circumstances of all handicapped people when carrying out their duties. In response to a suggestion made at this Council's Working Group on Separate Legislation for Mentally Handicapped in 1993, the Social Welfare Department has been helping the police to develop and to refine the curriculum of the Police Training School in order to improve the skills of police officers when dealing with a mentally handicapped person. Police officers are briefed on:

- (a) the common circumstances under which they could come into contact with a handicapped person; and
- (b) the steps they can take in identifying persons who are likely to be mentally handicapped, for example, by observing the appearance, gestures and behaviour of the individual, and by asking some simple questions.

As 70% of autistic persons are estimated to have some degree of mental handicap, the procedure and training should help police officers to deal with them in the appropriate manner.

Finally, Mr President, I should just add that all police officers are under a duty to deal with all members of the public with courtesy and with care.

DR YEUNG SUM (in Cantonese): *Mr President, many autistic persons are born with such a handicap, consequently their fate and dignity after birth are controlled by others. Through the request made by this Council, the police have now improved on their manner in handling cases involving disabled persons and that is praiseworthy. Given that the police have included the warp of dealing with disabled people in the curriculum of police training and in their operation instructions, can the Government extend the scope to further include the autistic persons? Although 70% of the autistic persons are found to be mentally handicapped, 30% of them have rather high intelligence with some of them being very smart. I would like to ask if the Government will review the case in this respect?*

SECRETARY FOR SECURITY: Mr President, the training for police officers to help them identify a mentally handicapped person has only been introduced early this year. It is too early to say whether there is a need to further strengthen police training in this respect. The police will keep in view the progress of the training and any trend in the extent of encounters and any difficulties that might be encountered between police officers and autistic or mentally disabled persons before deciding further whether there is a need to fine-tune the existing curriculum or to extend the training any further in consultation with the Social Welfare Department.

MR FRED LI (in Cantonese): *Mr President, the Legislative Council's Working Group on Separate Legislation for the Mentally Handicapped is very grateful that the police have accepted its proposal to draw up guidelines for taking statements from the mentally handicapped persons. The problem now is that autistic persons are no different from normal people in their appearance, but they have great difficulties in communicating with other people. I would like to ask if the Secretary for Security can conduct a study in conjunction with the Commissioner for Rehabilitation shortly as to whether the police should similarly follow the guidelines for dealing with the mentally handicapped when they come in contact with the autistic persons, who are in case committing crimes, facing prosecution or standing as witnesses? Is it possible to set up a working group with the Commissioner for Rehabilitation to study this matter as soon as possible?*

SECRETARY FOR SECURITY: Mr President, the training I have just described is not to enable police officers to diagnose or to attempt to diagnose on the spot whether an individual is autistic or mentally handicapped, mentally ill or suffering from a specific type of mental disorder. The purpose is to help them to identify whether there are reasons to suspect that a person might suffer from some form of disability which requires the officer to handle that person carefully before approaching him or her and to seek early assistance from others such as social workers where necessary.

As most autistic persons display symptoms like poor language skills, inability to interact with others and repetitive behaviour, and so on, it should not be too difficult for police officers to identify them by observing their behaviour or by asking them some relevant questions. Where they do not display any of these symptoms and where they behave and answer questions like any normal person, it should be possible for police officers to deal with them in the same courteous and careful manner as they adopt in dealing with ordinary members of the public.

However, as I have already said, the additional training that has been adopted by the police in dealing with mentally handicapped persons has only been put in place for a very short time, certainly the Commissioner of Police would wish to keep it under very careful review and, if necessary, consider whether these training programmes could be extended in any way, including the possibility of including references as to how to deal with autistic persons.

DR HUANG CHEN-YA (in Cantonese): *Mr President, last week I raised a problem on juvenile delinquency. At that time, I asked for the numbers of juvenile criminals who suffered from epilepsy, mental illness or mentally handicapped respectively. The Government replied that there were no such statistics. This shows that the police have basically not carried out their duties according to those guidelines. Otherwise, they would have been able to make those statistics available. Therefore, I feel what the Secretary has said are merely official jargons. I want to ask the Secretary if he can promise this Council that he will conduct a study on juvenile delinquents to find out how many of them are in fact mentally handicapped, mentally ill, autistic or suffering from other illnesses so as to reduce the possibility of being treated unfairly?*

PRESIDENT: Are you able to answer that question which is slightly outside the main question, Secretary?

SECRETARY FOR SECURITY: I shall do my best, Mr President. First of all, let me just state that all the training that I have described has been put in place and all the procedures that I have described are in the Police Force Procedures Manual and they are required to be followed by all police officers.

As to the question of statistics, no, Mr President, we do not have very detailed statistics about young offenders as regards whether they suffer from different kinds of disabilities and so on and so forth. I am not persuaded as yet that the efforts and the resources that will need to be devoted to such an exercise is worth the benefit that it will bring. Although we do not have comprehensive statistics of that kind, the impression that I have obtained from my police force colleagues are that in very rare instances do they actually encounter autistic persons.

Breach of Electoral Legislation

3. MR ERIC LI asked (in Cantonese): *The number of voters who are eligible to register in the nine new functional constituencies is about 2.7 million. Under the Boundary and Election Commission (Registration of Electors) (Functional Constituencies and Election Committee Constituency) Regulation, employers are required to furnish to the Registration and Electoral Office information about their employees within the prescribed time limit, failing which they are liable to a fine of \$5,000. In this connection, will the Government inform this Council of the number of employers who have been convicted and fined because of a breach of the relevant provision of the above Regulation, and the effect that it has produced on the number of registered voters?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, under the Boundary and Election Commission (Registration of Electors) (Functional Constituencies and Election Committee Constituency) Regulation, which was made by the independent Boundary and Election Commission (BEC) this January, the Registration Officer may require employers to provide the names and identity card numbers of working persons in their establishments within a specified period. Failure to comply with such a requirement is liable to a fine of up to \$5,000.

The information so obtained is used to facilitate the registration of working persons in the nine new functional constituencies. For working persons who are already registered as geographical electors and whose names and identity card numbers are included in the employers' returns, they will be registered in the appropriate functional constituencies through a simple notification arrangement. The information also facilitates the Registration and Electoral Office (REO) to reach out to working persons who have not yet been registered as geographical electors, inviting them to get registered as geographical and functional electors at the same time.

Since mid-January, the REO have sent letters to over 700000 employers, requesting them to provide the required information. As at the end of May 1995, the REO have received some 240000 employers' returns covering about 1.8 million employee records. For those which have not responded, we suspect that many are shell companies or not active in business.

The response shows that many of the employers are civic minded. The penalty provision for non-compliance primarily serves as a deterrent and has not been invoked so far. As to whether any further action would be taken against employers who have not responded, this is a matter which the BEC will be looking into.

MR ERIC LI (in Cantonese): *Mr President, although the Government has thoroughly devoted both financial and manpower resources to promote voter registration in respect of the nine new functional constituencies for the Legislative Council, only 240000 employers responded out of 700000, representing less than 35% of the employers. It is thus estimated that as many as 900000 potentially qualified electors have not registered because their employers fail to supply their information to the Government. This result is far from satisfactory. The Government explains that a majority of these 560000 employers, or over 65% of the employers, are not active in business. This is quite incredible. In view of the fact that the employers have reacted towards the complex election procedure with such lukewarm attitude, why does not the Government specify in clear terms during the registration period the criteria under which prosecution will be instituted in order to enhance the registration rate? Why does the Government resort to the tactics of "considering to rake things up" after the registration period? If the relevant regulation serves only as a deterrent, is it totally meaningless to enforce the regulation after the end of an election which may probably be held only once? If the Government intends to take further action, I hope that the Government will elaborate on the criteria for the pursuit of further action to the Council.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, Mr LI's supplementary question covers a very wide range of issues but I will attempt to cover some of the points he has made.

Firstly, the law is very explicit as regards what is required and the criminal sanction is clearly stated and laid down in the law passed by this Council, and we have publicized that legal provision all along, so there is no question of the law not being clear and not being understood.

Secondly, as with any other legal sanction, whether the authority concerned would eventually take action, obviously will depend on the circumstances of the case. I have said in my principal answer that so far the REO and the Commission have not invoked the provision, but they are looking and will be looking into the need to take follow-up action.

Right now, the Commission is obviously tied down with the other more urgent task of ensuring the election in September is proceeded with smoothly. But the question of criminal sanctions against employers who have not responded is a subject that the Commission would look into.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, we can see from the voter registration form that a qualified voter should comply with seven conditions, including having to be registered, being resident in Hong Kong for seven years, having reached the age of 18 at the time of registration, the signatures of two persons and so on. There are also nine points to note because you have to study the Notes to the form. Moreover, there are altogether 10 items to fill in. The following of such a complex procedure warrants the award of money but in the end there involves the liability of a fine of \$5,000 and to imprisonment for six months. I therefore hope that the Secretary will answer the Honourable Eric LI's question on whether the complex procedure would have implications on the registration of voters. He has failed to provide an answer to this point just now. The original question also asks whether such a complex procedure is detrimental to the enhancement of voter registration, resulting in a rate on the low side. The Secretary did not furnish an answer to this point either. I very much hope that the Secretary can give us an answer in detail. Meanwhile, is the Government going to conduct a review them? This is an unshirkable responsibility of the Government because, after all, it is the Government who draws up the complex procedures.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, I would like to clarify one point mentioned by Mr CHIM in his comments. The criminal sanction is only for a fine of \$5,000; there is no prison term. Indeed, the prison term proposal was specifically denied by this Council and an amendment was moved to take away the imprisonment term. So, if any criminal sanction is in the end imposed on any employer who has not responded to the request, it would be no more than the penalty of not more than \$5,000.

I would like to make a few general points about the response to the registration. To start with, our procedures for registration have been designed from the outset to make them user-friendly — to make them simple, to make them clear, to make them user-friendly. And it is from that basis that we devised this arrangement of requiring employers to provide data about their employees so that we can match such data against records that are on our computer. But of course not all employees, not all members of the workforce in Hong Kong, are already registered voters, so quite obviously you would not expect that we would have records of all of them in our previous geographical register.

But nonetheless, one must not forget that notwithstanding the short time limit and the fact that the nine new functional constituencies is a new feature, we have received a response from 240000 employers covering about two-thirds of the workforce — 60% of the workforce, or 1.8 million employees' particulars. So, that there are a lot of returns from employees obviously is because of their prompt response and, I believe, not just because of the threat of criminal sanctions.

As regards the response to the voter registration drive, I would like to comment that we generally have got a very satisfactory response overall. The figures are still being tallied but I would like just to mention a few salient facts. Overall, for the geographical constituencies, we have an increase of close to 200000 first-timers registered in this current exercise. With the deletions of inaccurate or addresses unknown, we should in the end fetch out with roughly 2.5 million voters in the geographical constituencies. This compares with only 1.89 million in 1991, so there is a good increase of almost 600000 people in the geographical constituencies.

For the functional constituencies, in the past it was no more than a total of 70000 for the 21 functional constituency seats. This time round we would have close to 1 million voters in the 30 functional constituencies — an increase of 14- fold against 70000, so this is obviously a much larger franchise compared to the previous exercise.

Obviously, we would like to have more voters registered. We would like to have 100% of voters in each and every constituency but unfortunately this is something we cannot achieve in this exercise. We certainly look forward to a better result in future. But one cannot deny the fact that the response this time round has resulted in a much larger franchise, and the objective of the whole exercise is to ensure that our electoral system will be more open and fairer.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, I have a copy of the form in my hand specifying that contravention of the law will result in an imprisonment term of six months. I do not want to dispute further but I will show the Secretary the form later in order to prove that I am not misleading the public.*

PRESIDENT: I am sure the Secretary can deal with that. Do you wish to deal with it now or in writing, Secretary?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, with your permission, I would like to deal with it now.

When I mentioned the criminal sanction of \$5,000, that was in respect of employers not responding to the request from the REO to supply information on employee data and that specific criminal sanction, as approved by this Council, only relates to a fine of \$5,000.

There is an additional criminal sanction which includes both a fine and/or imprisonment for false information provided to the REO. Now this is for a person who willingly and willfully supplies false information in his declaration or in his form. That is a different category of offence and that also provides for a different category or different type of criminal sanction.

MR LEE CHEUK-YAN (in Cantonese): *Mr President, 240000 is a figure on the low side because a total of 460000 employers have failed to supply information. Has the Government considered extending the closing date of 1 June, so that these 460000 or one third of the employees can join the voters in the nine new functional constituencies? If the answer is in the negative, can the Government explain why?*

PRESIDENT: These are employers, I think, Secretary.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, 1 June has been six days away. But there was obviously a request, a suggestion, that we should extend our closing date for registration to beyond 1 June, but the practical reality is that we really did not have the luxury of more time for the voter registration exercise. Leaving aside the fact that the deadline and all that is prescribed in law which we could not lightly change, we do have a time problem. Between now and the election on 17 September, there is no more than a very tight period of three and a half months and in that three and a half months we need to finalize the voter register, we need to allow time for people to comment on the provisional voter register which must be published before 22 June, and the final voter register has to be in place before 8 August. And as Members know, we will start accepting applications from candidates on 1 August before the election takes place on 17 September.

So, there are plenty of practical tasks to be completed before the election can take place and the time pressure is such that there really would not be any room for manoeuvre in terms of relaxing the voter registration deadline.

Nonetheless, one must remember that we started this voter registration exercise in January this year; we did not start the exercise in a matter of one month or two months. We started in January. We focused on the old functional constituencies and shifted to the new functional constituencies after the March Municipal Council Elections, so there was plenty of time for the exercise to be conducted.

Setting up of Public Access Channel

4. MR LEE CHEUK-YAN asked (in Cantonese): *With regard to the Recreation and Culture Branch's assessment that the establishment of a public access channel would not be suitable for the territory, will the Government inform this Council:*

- (a) *whether, despite the information supplied by the Branch concerning the successful examples of establishing public access channels in other countries as well as examples overseas which have encountered problems, the Government has considered the setting up of a public access channel modelled on the successful examples in other countries, if not why not, and*
- (b) *whether, having regard to the concern expressed by the Recreation and Culture Branch about the "waste of public resources" because the "usage" and "public demand" for a public access channel cannot be determined, the Government has conducted any survey to substantiate that a public access channel is of interest to a minority only?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, in determining whether a public access channel is suitable for Hong Kong, the Administration has drawn on overseas experience in operating the service. Not many examples are available, Public access television is not found anywhere in Asia. Even in the few western countries with public access television, the experience is not an entirely successful one. For example, those in the United States tend to be well-funded and properly set up by cable franchises, which help users with technical assistance. However, there are problems preventing unacceptable programming from being shown. This has led to abuse in many cases. To overcome the problem of unacceptable programming, as in the case of Canada, cable operators are given responsibility for programme content. This, therefore, tends to compromise the principle of free access and freedom of expression.

In the case of Hong Kong, we do not impose pre-censorship or pre-viewing of programmes. Instead, we rely on post-broadcast sanctions. However, introduction of any public access channel would require pre-viewing programmes so as to maintain the same quality and standards as existing TV broadcasting licensees and to ensure that the service would not be misused for political, commercial or pornographic purposes. Bearing in mind that television is a very powerful media and the impact it has on the viewing population, any damage done would be difficult to rectify.

As to the second part of the question, the subject of a public access service had been discussed at the Legislative Council Recreation and Culture Panel on numerous occasions. These Panel discussions had been widely reported in the media, and despite this, only three written representations were received on the matter. Given the very real problems found by the working group in setting up a public access service in Hong Kong and the subsequent decision by the Executive Council on the matter, wider consultation amongst the public will not serve any useful purpose.

MR LEE CHEUK-YAN (in Cantonese): *Mr President, the Acting Secretary for Recreation and Culture has adduced a number of reasons in support of the decision not to establish public access channels, but are they the real reasons? He mentioned in his reply that this is "to ensure that the service would not be misused for political purpose". Does the Government make the final decision of not establishing public access channels because it fears that public access channels would be used to criticize government policies; or that the public will conduct open political discussions; or, in particular, that the future Hong Kong Special Administrative Region (SAR) Government, that is the Chinese side, will oppose? Are these the real reasons?*

SECRETARY FOR RECREATION AND CULTURE (in Cantonese): *Mr President, the Hong Kong Government is full of confidence in dealing with any matter. We would never show the white feather. As I have just replied, we refused to establish public access channels mainly based on the consideration of the various difficulties that may arise when such service is provided.*

MR ALBERT CHAN (in Cantonese): *Mr President, the reply of the Acting Secretary for Recreation and Culture is self-contradictory because a couple of years ago when the Government issued licence to Cable TV, it was specified in the licensing conditions that three channels had to be made available as public access channels. Therefore, the proposal on the establishment of public access channels was made by the Government itself. After a lapse of three years, the Government backs down on this issue upon some specious grounds. At present, nowhere else in the world provides the Video-on-Demand (VOD) Service, but the Government is courageous enough as to allow the relevant company to try its hands at providing this service. But at the same time, the Government backs*

down on the proposal of establishing public access channels. Can the Government inform us, in clear terms, why it makes such a "U-turn" within a period as short as only two to three years? Is the Government under some sort of political or invisible pressure enabling it to change its established policy?

SECRETARY FOR RECREATION AND CULTURE (in Cantonese): Mr President, I have just replied this question. We are not under any pressure. Basically speaking, we disapproved of the provision of this service on the ground that we have to take into consideration the difficulties that may be associated with the establishment of public access channels and other major difficulties as well.

MR ERIC LI (in Cantonese): *Mr President, users of public access channels, for example television stations, shall abide by users' guidelines. We believe that our society will not regard the drawing up of reasonable guidelines as a measure to restrict the freedom of speech. Why cannot the Government consider drawing up some sort of similar guidelines for public access channels so that all users of public access channels would have to abide by them, and any violation of such will be subjected to fines or other methods may also be used to prohibit the public access channels from being abused? If such restrictions can be set without jeopardizing the freedom of speech, why does not the Government consider using this approach?*

SECRETARY FOR RECREATION AND CULTURE: A public access service by definition is, as far as possible, to maintain the principle of freedom of access for all and freedom to express yourself as you wish. So, if you take into account what has been suggested, this will no longer be called a true public access service. Thank you, Mr President.

MR MAN SAI-CHEONG (in Cantonese): *Mr President, will the Government's decision on public access channels be temporarily shelved and the case may have a chance to reappear within one to two years, just like the case of the comprehensive broadcasting legislation which is now being drafted? If such an opportunity does exist, will the Secretary inform us the timetable for the review? If there is no such a chance, does it mean that the Government has foregone the requirement for Wharf Cable to make available to the Government three television channels? Does it constitute a blatant case of sacrificing the interests of the public and the audience?*

SECRETARY FOR RECREATION AND CULTURE (in Cantonese): I have answered this question a number of times. The issue of providing public access channels had been scrutinized in detail by a working group and the Executive Council has taken into consideration all sides of views. This is therefore an awfully clear decision.

MS ANNA WU: *Thank you, Mr President. I have a very short question. Can the Secretary confirm that if the technical problems can be overcome, there will be no obstacle to having a public access channel in Hong Kong?*

SECRETARY FOR RECREATION AND CULTURE: Even if all the technical problems are overcome, there are still other difficulties as identified by the working group in the report.

DR CONRAD LAM (in Cantonese): *Mr President, the Acting Secretary for Recreation and Culture has highlighted time and again that the decision not to establish public access channels is made because it is envisaged that a lot of difficulties will arise. However, the real question lies in whether the provision of public access channels is, in principle, beneficial to the public. If that is the case, shall we try our very best to surmount these difficulties? Is it the principle of the Government that it will give up the pursuit of a cause in face of difficulties, despite the fact that this is in the interests of the public?*

SECRETARY FOR RECREATION AND CULTURE (in Cantonese): The principle of the government practice is simple enough — all considerations are made on the premise of whether they are in the very interests of the people of Hong Kong. Many things are desirable in nature but even so, they can sometimes be taken advantage of. Based on this reason, we hold that we have sufficient grounds to disapprove the establishment of public access channels.

Quality of Water Supplied to Hong Kong from China

5. REV FUNG CHI-WOOD asked (in Cantonese): *It is recently reported that despite the effort made by the Shenzhen authorities to improve their hygienic conditions in the Dongjiang River and the Shenzhen Reservoir, which supply water to the territory, the pollution problem is still serious. With the arrival of summer season in which infectious diseases are prevalent, the people in the territory are concerned about this matter. In view of this, will the Government inform this Council whether;*

- (a) *the Water Supplies Department and other Government departments have conducted regular checks on the quality of the water supplied to the territory from China, if so, whether they have detected any deterioration in water quality; and what measures have been put in place to ensure that the water quality is up to the standard required; and*
- (b) *the Government has reflected the concern of local people to the relevant Chinese authorities; and whether the Government is aware of the measures taken by the Chinese authorities to solve the problem ?*

SECRETARY FOR WORKS: Mr President,

- (a) The Water Supplies Department carries out routine tests at a frequency of three times daily to check the quality of raw water supplied from China. The latest equipment and techniques are used in a comprehensive monitoring programme for all water in the supply and distribution system, in accordance with the internationally acceptable practice.

Over the years, the Water Supplies Department has noticed some fluctuations in water quality in the raw water supplies from the Dongjiang River and Shenzhen Reservoir, but these fluctuations are well within the treatment capabilities of our treatment works, and the potable water which is supplied to consumers is up to the standard set by the Department which complies with the requirements of the World Health Organization (WHO).

Furthermore, the quality of raw water from the Dongjiang River has met the requirements laid down by international guidelines.

- (b) There are regular liaison meetings between the Hong Kong and Guangdong authorities on water quality matters. These include the Annual Business Meeting with myself leading for Hong Kong, and the Director of Guangdong Provincial Bureau of Water Conservancy and Hydro-Power leading for the Chinese side. In addition, an Operation and Management Technical Sub-group meets at working levels, to discuss water quality control and operational matters, at least twice a year. Further ad hoc contacts by telephone can take place at any time if water quality or other operational reasons make this necessary.

The Guangdong authorities have followed up on the meetings with actions whenever needed to improve the quality of water supplied to Hong Kong. These include legislative and enforcement actions to protect the water source from the Dongjiang River, as well as engineering measures such as the introduction of sewage diversion schemes and building additional sewage treatment works.

REV FUNG CHI-WOOD (in Cantonese): *Mr President, although the quality of our potable water is up to international standard, we still worry that the water quality of the Dongjiang River is deteriorating without any sign of improvement. In January this year, the Deputy Director of Dongjiang Shenzhen Water Work Administration of Guangdong Province pointed out that the water quality of Dongjiang River which was classified as "Grade 1" in 1990, has been downgraded to "Grade 2" this year, thereby causing potential danger to the consumers. The Secretary seems to have evaded this point in his reply who only mentioned that there are some fluctuations in the water quality. Would the Secretary please clarify whether these fluctuations are for improvement or for deterioration? If the situation continues to worsen, does it indicate that the measures presently adopted by the government of Guangdong Province is insufficient and there is a need to step up further enforcement measures?*

SECRETARY FOR WORKS: Mr President, fluctuations imply improvement as well as deterioration and, of course, seasonal rainfall and storms and the urbanization of areas along the Dongjiang River and the supply aqueducts are the reasons for such fluctuations. But over the years — and I go back, Mr President, over 10 years — although there have been some increases in the values of certain parameters, which include turbidity, nitrate and chloride content, they still remain well within acceptable levels.

The other factor which should be remembered, Mr President, is that our own treatment facilities in Hong Kong are entirely capable of dealing with these fluctuations, and I would emphasize that the quality of water which is supplied to consumers in Hong Kong is well up to WHO standards.

DR HUANG CHEN-YA (in Cantonese): *Mr President, I have asked the same questions last year and this year again in relation to the levels of heavy metals and industrial chemicals in water. Every time, the Government told us that the levels were up to the WHO standard, but there were no specific figures provided so far. I am not sure whether we can trust the Government or whether the Government is trying to hide some facts from us? Can the Government provide us in a written form details on the levels of heavy metals and industrial chemicals in water over the past year as well as the standards adopted by the Government? Also, can the Government publicize the figures monthly to the public?*

PRESIDENT: Is this in regard to the two rivers that are the subject of the question, or more generally, Dr HUANG?

DR HUANG CHEN-YA: *Yes, it is with regard to the water from those two rivers.*

SECRETARY FOR WORKS: Mr President, we are certainly not trying to hide any figures. Any Member is welcome to visit our laboratories and we would be very happy to supply the information. However, I should say that it is not possible to state the levels of heavy metals and organic contaminants in numerical terms without going into a large number of figures, as the number of elements and the compounds analyzed is very large and the guideline values differ for each element and/or compound one to the other.

But I would like to just emphasize again that the levels of heavy metals and such contaminants detected in our raw water are in fact close to or even below the detection limits of the very sensitive analytical instruments which are employed. To give an example, the acceptable standard level for lead is 0.01 mg per litre whilst the detection limit of our instruments is 0.004 mg per litre. In other words, Mr President, we are trying to detect traces in raw water which are well, well below allowable standards and our instruments, although extremely sensitive, are only just finding such traces in the water itself. But I say again, Mr President, we will be very happy to supply such information in writing to the Honourable Member (Annex II)

WRITTEN ANSWERS TO QUESTIONS

Statutory Registration System for Social Workers

6. MR HUI YIN-FAT asked: *Will the Government inform this Council whether it will introduce legislation to set up a statutory registration system for social workers in the territory, if so, when it plans to introduce such legislation?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the short answer to the first part of the question is "yes". On 30 May 1995, the Executive Council approved the drafting of a government bill to provide for the statutory registration of social workers in Hong Kong.

The bill will establish a board:

- (a) to register and discipline "registered social workers" and "enrolled social workers";

- (b) to set the qualifications needed for registration and assess those qualifications; and
- (c) to issue a Code of Practice or Code of Conduct.

We also propose that the board would comprise a majority elected by and from the council made up of registered social workers with the rest appointed by the Governor and representing, for example, employers, academics and the community at large.

The bill would restrict the use of titles such as "registered social worker" and so on to those who are registered, while not preventing those who are not registered from providing social work or social welfare services.

We have been discussing our proposals with the Honourable HUI Yin-fat and other members of the Hong Kong Social Welfare Personnel Registration Council and have reached a wide measure of understanding on these issues. We will be continuing our discussions with them and the profession as a whole as we develop our proposals further and draft the legislation.

We aim to introduce this bill into the Legislative Council during its next Session.

Relocation of Obstructive Bus Stops

7. MR ROGER LUK asked: *As many franchised bus stops in the urban area are located at the road junction or the kerb side of major trunk roads causing unnecessary obstruction to other road users, will the Administration inform this Council whether there are plans to relocate these bus stops and what are the criteria for the selection of locations of bus stops in the urban area?*

SECRETARY FOR TRANSPORT: Mr President, the factors taken into account in determining the locations for bus stops include passenger demand, safety and convenience, the availability of kerb side space, traffic circulation and road safety.

As a general rule, bus stops are not located within 15 m of a road junction, on trunk roads or elevated sections of primary distributor roads. However, given limited road space in the urban areas and the network of bus routes designed to serve the needs of the travelling public, it is inevitable that many bus stops have to be located on major thoroughfares, for example, Gloucester Road and Lung Cheung Road. Wherever possible, bus laybys and service lanes are provided to minimize obstruction to other vehicles.

The Transport Department considers all suggestions and complaints about the location of bus stops and, when appropriate, will relocate bus stops in response to changes in passenger demand and traffic conditions.

Central-Wan Chai Bypass and Island Eastern Corridor Link

8. MRS MIRIAM LAU asked (in Chinese): *Regarding the proposed Central-Wanchai Bypass and Island Eastern Corridor Link, will the Government inform this Council:*

- (a) *of the design and construction programme of the whole project;*
- (b) *of the progress of construction works to date; and*
- (c) *whether a dual two-lane or a dual three-lane design will be adopted; what the planned traffic capacity is, and when such capacity is expected to be reached?*

SECRETARY FOR TRANSPORT: Mr President,

- (a) *Design and construction programme of the project*

Site investigation work for the proposed Central-Wan Chai Bypass (CWB) and Island Eastern Corridor Link (IECL) started in March 1995, for completion in February 1996. Since the road will be built on reclaimed land, the detailed design and construction will be carried out in stages, matching the various phases of the reclamation. On this basis, design work will take place from June 1995 to October 1999. Administrative and statutory procedures will be completed and funds sought with a view to construction starting in January 1997 for completion by December 2003.

- (b) *Progress of construction works to date*

Construction has yet to begin. However, site investigations commenced in March 1995 and work on the detailed design will start this month, in accordance with the programme set out in paragraph (a) above.

- (c) *Planned capacity of the new road system*

The CWB will be a dual-two lane road, with capacity for 3400 vehicles per hour in each direction, while the IECL will be dual- four lane with capacity for 6700 vehicles per hour in each direction. When account is taken of the 15 traffic lanes that will run parallel to the CWB alignment and the 10 traffic lanes that will

run parallel to the IECL alignment, the new road system is expected to be adequate to meet demand at least up to the year 2011.

Illegal Sale of Marked Oil

9. MR WONG WAI-YIN asked (in Chinese): *Regarding the illegal sale of marked oil, will the Government inform this Council:*

- (a) *of the number of cases detected, together with the amount of tax involved, in each of the last three years; and what the penalty is generally on those convicted;*
- (b) *whether there is an upward trend of such cases, if so, whether it is related to the leniency of sentences passed; and*
- (c) *how the illegal sale of marked oil can be eradicated more effectively; whether the authorities concerned are adequately staffed; if not, whether additional staff will be provided?*

SECRETARY FOR THE TREASURY: Mr President,

- (a) The information sought by the Honourable Member is set out in the following two tables:

	<i>1992-93</i>	<i>1993-94</i>	<i>1994-95</i>
<i>Misuse of marked oil and detreated oil</i>			
Cases detected	268	326 (+22%)	461 (+41%)
Seizures (litre)	130438	64576 (-50%)	699774 (+984%)
Duty Potential (\$)	268,826	146,609 (-45%)	1,728,530 (+1079%)

Statistics on Penalties *

Statutory maximum penalty under the Dutiable Commodities Ordinance (Cap.109):

- Use, sell, place marked oil in the fuel tank of a motor vehicle: Fine \$100,000 and two years' imprisonment
- Remove any marker or colouring substance from marked oil: Fine \$5,000 and six months' imprisonment

<i>Range of penalty imposed</i>	1992 <i>Fine:</i>	1993 <i>Fine:</i>	1994 <i>Fine:</i>
	\$200 - \$20,000	\$500 - \$12,000	\$500 - \$10,000

* Statistics based on financial year are not available.

- (b) The volume of seizures in the past three years has not shown a consistent trend. It dropped in 1993-94 and then increased substantially in 1994-95. Nor can we draw any clear correlation between the sentences imposed and the number of cases of contraventions. Nevertheless, we consider that there is a need to increase the maximum fines substantially to maintain their deterrent effect. For this purpose, we are planning to introduce amendments within this Legislative Session to raise the present maximum fines in respect of the offences under the Dutiable Commodities Ordinance (Cap.109) set out in (a) above from \$5,000 to \$50,000 and from \$100,000 to \$1 million respectively.
- (c) The Government tackles the misuse of marked diesel oil through vigorous enforcement action. The Customs and Excise Department has deployed one dedicated team (comprising seven officers) to investigate the illegal import of diesel oil and illicit distribution and use of marked oil. In addition, the Department has eight patrol teams (each comprising seven officers) which devote about 25% of their time to combat the illicit sale and use of diesel oil at street level, paying special attention to illegal oil filling operations. We keep under constant review the resources deployed on enforcement work. We also encourage the public to provide information on activities involving the misuse of diesel oil through an incentive scheme which offers rewards to informers.

Improvement of Government Services for Islands District

10. MR LEE WING-TAT asked (in Chinese): *As the level of medical, welfare and education services provided by the Government in some areas of the Island District (such as Tai O, Lamma and Peng Chau) falls short of that enjoyed by the people in urban areas, will the Government inform this Council whether it has any plans to improve the level of such services in the Island District so as to bring it on par with that enjoyed by the people in urban areas; if so, what the details of the plans are; if not, why not?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, to achieve optimal use of resources, medical and health facilities are planned in accordance with the geographical distribution of population.

General out-patient clinics are provided on the larger islands where there is a bigger population. The Department of Health operates a total of five clinics in Lantau, Peng Chau and Cheung Chau, operating either full-time or part-time. These provide out-patient medical services, maternal and child health services, maternity, tuberculosis and chest services. Four of the clinics provide 24-hour first aid services. Remote and sparsely populated areas are served by a floating clinic.

In addition to a general out-patient clinic, the St John Hospital in Cheung Chau provides 93 beds, 24-hour emergency treatment and other general hospital services for Islands District residents.

Patients on the outlying islands who require secondary or tertiary care are referred by primary care physicians to hospitals or clinics on the mainland for treatment. Emergency transfer of accident and emergency patients to mainland hospitals is provided either by helicopter or police launch.

The average occupancy rate for St John Hospital in 1993-94 was only about 55%. Clinic services are similarly not yet fully utilized. Having regard to this, the present level of medical and health services for Islands District is considered adequate and on par with the urban area provision.

As for welfare services, a meaningful comparison between districts is possible only with regard to those services where population-based planning standards are adopted. All of these types of services (listed in the appendix) as provided in Islands District meet the prescribed standards, except for places in care and attention homes for elderly persons where there is currently a shortfall of 50 places. This shortfall will, however, disappear on the completion of the Chung Shak Hei (Cheung Chau) Home for the Aged in 1996-97.

The Administration takes a flexible approach in providing necessary services even when such are not strictly justified under the current planning standards. So, whereas the population of Islands District may not justify the establishment of certain full-fledged welfare facilities according to the planning standards, a more flexible approach has been adopted, for example, by setting up youth centres (as in Mui Wo and Peng Chau) or by providing extension and outreaching services from units in the Central and Western District, as in the case of family life education programmes and family service centre services offered to families in Islands District.

Some services, such as many rehabilitation services, are provided on a territory-wide rather than on a district-by-district basis. Comparison between the Island District and the urban areas is neither possible nor appropriate in these cases. Residents of Islands District in need of these types of services are fully entitled to use the facilities provided on a territory-wide basis.

As for education services, all such services provided in Islands District meet the Government's planning standards. There is no difference in the level of services enjoyed by people in urban areas and people living on the islands.

Petitions to Government House

11. MR TAM YIU-CHUNG asked (in Chinese): *Will the Government inform this Council of:*

- (a) *the number of petitions received by Government House during the past year; and*
- (b) *the breakdown of the types of articles which some organizations have presented to the Governor when lodging their petitions; and how these articles have been dealt with by the Governor?*

CHIEF SECRETARY: Mr President,

- (a) Government House received 1258 petitions in 1994.
- (b) The types of articles received can be broken down into the following categories:
 - (1) letters (1252);
 - (2) compilations of signatures (35);
 - (3) banners (37); and
 - (4) miscellaneous items (55).

The letters are kept on file in Government House and in the Policy Branches concerned. The other items are disposed of after follow-up action has been initiated.

Measures Combating Inflation

12. DR DAVID LI asked: *As Japan is our second largest importer, supplying almost 16% of the territory's imports and 24% of retained imports, the current appreciation of the Japanese yen is having a direct impact on the territory's inflation. Moreover, the average rate of inflation for the first quarter of this year was 9.5%, one percentage point higher than the Government's original estimate. In particular, those components in the Consumer Price Index having a high import content, such as clothing, footwear and miscellaneous goods showed rather faster price increases. In this connection, will the Government inform this Council what are the short-term and long-term measures which the Government will implement in order to keep the inflation rate within the Government's estimate and maintain the territory's competitiveness?*

FINANCIAL SECRETARY: Mr President, in the May update of the economic forecast for 1995, we have revised the forecast of consumer price inflation, in terms of the Consumer Price Index (A), upwards from 8.5% to 9.0%, in the light of the higher actual outturn in the first four months of the year.

In recent months, consumer prices have come under greater pressure from the higher import prices, due to a weakened Hong Kong dollar in line with the US dollar, faster increases in world commodity and product prices, and the high inflation in China. The prices of goods imported from Japan, Taiwan and China have shown more distinct pick-ups. The various external factors contributing to greater imported inflation are, however, beyond the Government's control. In the circumstances, Hong Kong's importers have an important role to play in reducing the impact of imported inflation on local consumers by seeking cheaper supplies from more diversified sources.

On locally-generated inflation, there are nevertheless some helpful developments. Following the decline in the prices of residential flats since April last year, rentals of flats have also softened more recently. This should have a dampening effect on the rental component of the CPI, albeit with a time lag. Prices and rentals for office space and shop premises have likewise moderated from their peak levels. This should have a dampening effect on the cost of doing business in Hong Kong. Labour market conditions have eased somewhat in the first quarter. This should help to relieve pressures on local resources and hence domestic inflation.

It is clear, however, that the level of inflation in Hong Kong is still high. Ongoing vigilance in the inflation situation is therefore necessary. Accordingly, we continue to exercise firm control over government expenditure, and avoid fuelling inflation through excessive tax cuts. We continue to restrain growth of the Civil Service, and seek to follow rather than lead the market in its pay increase.

For the longer term, we are working intensively to increase the supply of land and to remove bottlenecks on growth by implementing our infrastructure programmes. On human resources, we adopt a more pro-active approach in assisting the unemployed by expanding the services on job matching and placement. In addition, various training and retraining courses are run to better equip our workers with new skills required by the market. There is, moreover, a general improvement in education opportunities, particularly on tertiary education. All these measures should contribute to raising our productive capacity and efficiency, thereby enhancing our overall competitiveness and indirectly also helping to contain inflation.

Vacant Public Rental Flats

13. MISS EMILY LAU asked (in Chinese): *Figures released recently by the Housing Authority showed that as at the end of March this year, there were over 14000 vacant public rental flats, of which a third have been unoccupied for at least one year. In view of this, will the Government inform this Council:*

- (a) *how many of these vacant flats have never been allocated and the reasons for this; and for the other vacant flats which have previously been allocated, could the Government provide a breakdown by the number of times of allocation;*
- (b) *of the number of flats remaining unoccupied for one year and above, together with a breakdown by location of the housing estates concerned, duration of vacancy, numbers of flats and reasons for such flats remaining vacant; and whether all these flats have ever been allocated;*
- (c) *of the total number of casual vacancies out of the 14000-plus vacant flats; what procedures have to be completed before these flats can become available for re-allocation; and how long it will take to complete those procedures; and*
- (d) *whether any measures will be adopted to reduce the number of vacant flats so that people in need can be allocated public housing units as soon as possible?*

SECRETARY FOR HOUSING: Mr President, at the end of March 1995, there were about 14000 vacant public rental flats, representing about 2% of the total stock. Of these, 6800 flats were reserved for clearance and redevelopment exercises, 4400 flats were under offer to applicants or were being processed for allocation, and 2800 flats were under refurbishment. Of the 11200 lettable flats, 1257 were vacant for one year or more.

Answers to the four specific points raised are:

- (a) Among the 1257 flats vacant for one year or more, about 600 have never been allocated. They have been reserved for various clearance and redevelopment exercises which may take nine to 24 months to complete, depending on the scale of the exercise concerned. For the remaining flats, the number of offers made to eligible households ranges from one to 39. No breakdown is readily available.
- (b) The flats reserved for clearance or redevelopment exercises, which have been unoccupied for one year or more, are mainly in Tin Shui, Kwai Shing (East), Cheung Hang and On Yam Estates as shown below:

<i>Estate</i>	<i>Vacant flats</i>
Tin Shui	222
Kwai Shing (East)	145
Cheung Hang	139
On Yam	107

	613

The other flats vacant for one year or more are scattered over a hundred housing estates, and are mostly unpopular and non-self-contained flats without lift service, or are stigmatized by incidents of homicide or suicide. As indicated at (a) above, the number of offers made to eligible households ranges from one to 39. No further breakdown by duration of vacancy for both categories is readily available.

- (c) Among the 14000 vacant flats, 6300 are vacated flats requiring refurbishment which usually takes three months. On average, two allocations will have to be made before a flat is eventually let. This means that the total time taken for a vacant flat to be refurbished, allocated and occupied is usually around six months.
- (d) In order to reduce the vacancy period of flats under refurbishment, the Housing Department has introduced a centralized allocation system under which flats are allocated one month before refurbishment is completed. A working group has been set up recently to examine ways to reduce the number and period of other flats left vacant.

Hospitalization Period of Patients

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

- (a) *of the average hospitalization of period of patients in each of the public hospitals in the last three years; and*
- (b) *whether there is an indication of a downward trend in the hospitalization period of patients in certain public hospitals; if so, what the reasons are and whether it is due to a shortage of hospital beds?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, a breakdown on the average length of stay in each public hospital over the last three years is provided in the Appendix. There is no evidence to indicate a consistent downward trend during the period.

In general, the average length of stay is affected by rationalization of service through hospital clustering or networking, advancement of medical technology, development of ambulatory care or outreach medical services and improved rehabilitation. The supply and demand of hospital beds has no direct relevance in this regard.

Appendix

Breakdown on Average Length of Stay (1992-93 - 1994-95)

	<i>1992-93</i>	<i>1993-94</i>	<i>1994-95</i>
<i>Hong Kong</i>			
Alice Ho Miu Ling Nethersole Hospital (Note 1)	5.1	4.7	N/A
Cheshire Home Chung Hum Kok	610.8	375.5	453.3
Duchess of Kent Children's Hospital	14.7	13.1	18.8
Fung Yiu King Hospital	28.7	26.3	29.9
Grantham Hospital	22.1	19.0	15.6
MacLehose Medical Rehabilitation Centre	57.5	55.5	62.6

	<i>1992-93</i>	<i>1993-94</i>	<i>1994-95</i>
<i>Hong Kong</i>			
Nam Long Hospital	55.5	56.0	39.8
Pamela Youde Nethersole Eastern Hospital (Note 2)	N/A	6.0	6.2
Queen Mary Hospital	5.6	5.7	5.5
Ruttonjee Hospital	21.5	14.2	10.4
St John Hospital	37.3	24.6	21.9
Tang Shiu Kin Hospital	6.2	7.5	7.0
Tsan Yuk Hospital	4.7	5.2	4.2
Tung Wah Eastern Hospital	8.6	10.5	11.2
Tung Wah Hospital	17.4	16.7	15.6
<i>Kowloon</i>			
Caritas Medical Centre	10.2	10.4	9.9
Hong Kong Buddhist Hospital	12.8	12.8	11.6
Hong Kong Eye Hospital (Note 3)	N/A	N/A	N/A
Kowloon Hospital	18.5	19.5	21.3
Kwong Wah Hospital	6.6	6.3	5.9
Margaret Trench Medical Rehabilitation Centre	61.1	65.9	59.7
Our Lady of Maryknoll Hospital	7.4	7.4	7.8
Queen Elizabeth Hospital	6.6	6.5	6.2
United Christian Hospital	5.5	5.1	5.0
Wong Tai Sin Hospital	59.1	57.8	56.4

	<i>1992-93</i>	<i>1993-94</i>	<i>1994-95</i>
<i>New Territories</i>			
Castle Peak Hospital	251.6	241.6	243.2
Cheshire Home (Sha Tin)	23.4	22.6	25.8
Fanling Hospital	19.5	20.9	18.0
Haven of Hope Hospital	34.3	28.8	27.0
Kwai Chung Hospital	202.5	191.1	184.0
Lai Chi Kok Hospital	2794.0	5216.2	3255.6
Pok Oi Hospital	8.3	9.0	10.0
Prince of Wales Hospital	5.8	5.4	5.2
Princess Margaret Hospital	4.9	6.3	6.4
Sha Tin Hospital	87.9	54.1	48.3
Siu Lam Hospital (Note 4)	N/A	548.7	1118.1
Tuen Mun Hospital	7.7	7.2	7.0
Yan Chai Hospital	7.8	8.3	7.8
Total	10.8	10.9	10.4

Note 1 : closed with effect from September 1993

Note 2 : operated with effect from October 1993

Note 3 : no in-patient facilities

Note 4 : re-opened in September 1993

Privately-run Residents' Coach Services

15. MRS MIRIAM LAU asked (in Chinese): *Regarding privately-run residents' coach services, will the Government inform this Council:*

- (a) *of the number of applications for a licence to operate residents' coach routes received by the Government, and the success rate of such applications, in the past three years;*
- (b) *of the criteria used in determining whether approval will be granted to such applications; and*
- (c) *whether it has any information concerning the number of residents' coach routes which are being operated without the relevant department's approval, and whether it will consider regulating or banning these services?*

SECRETARY FOR TRANSPORT: Mr President, in the past three years, the Transport Department received a total of 117 applications for the operation of residential coach services. Overall the success rate of applications which have been processed is about 60%. A detailed breakdown is as follows:

	<i>Successful</i>	<i>Unsuccessful</i>	<i>Being processed</i>	<i>Total</i>
1992-93	13	11	0	24
1993-94	17	9	0	26
1994-95	25	19	23	67
Total	55	39	23	117

The purpose of providing residential coach services is to supplement franchised bus services, particularly during peak hours. In considering applications for residential coach services, the Transport Department takes into account the following factors:

- (a) the need for the service;
- (b) the level, quality and adequacy of services being provided or planned by other public transport operators;
- (c) traffic conditions along the proposed routing and availability of terminal facilities in the areas to be served; and
- (d) the support and preference of users of the service.

If the application is considered acceptable, a passenger service licence will be granted by the Transport Department to a new operator stipulating the conditions for the operation of the residents' service in question.

Any unauthorized operation of residential coach services usually come to light quickly. The Transport Department will act on information and has dealt with a total of 38 cases of such unauthorized services in the past three years. If a case is substantiated, the Transport Department will issue a written warning to the operator to stop the unauthorized service. This has generally proven to be effective as most such services have been withdrawn almost immediately. In those relatively rare instances where repeated warnings are ignored, the passenger service licences of the operators will be cancelled and, if the Commissioner for Transport deems it appropriate, he will refer the case to the police for investigation and prosecution.

Benzene Content of Unleaded Petrol

16. REV FUNG CHI-WOOD asked (in Chinese): *The findings of a research conducted in Britain last year indicate that the benzene content of unleaded petrol is excessively high, and that vehicles which are not equipped with catalytic converters cannot effectively eliminate this carcinogen in the petrol and are thus unsuitable to use unleaded petrol. Despite the carcinogenic nature of benzene, the Environmental Protection Department has still not informed the public of the benzene content of unleaded petrol. In view of this, will the Government inform this Council:*

- (a) *whether any research has been conducted on the benzene content of unleaded petrol;*
- (b) *of the anticipated benzene content in the air in the territory in each of the next ten years;*

- (c) *whether there is any difference between the readings of benzene content in the air recorded by the air quality monitoring stations set up at the roof-top of buildings and those recorded at the ground level; and*
- (d) *whether consideration will be given to encouraging owners of vehicles which are not equipped with catalytic converters to use leaded petrol so as to reduce the level of carcinogen in the air?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) Fuel surveys conducted by the Environmental Protection Department (EPD) show that the average benzene content for unleaded petrol is 3.4%, while that for leaded petrol is 3.2%. Both are below the United Kingdom standard of 5%.
- (b) As I informed this Council on 17 May in answer to another question on benzene (Legislative Council Question 5 (Oral)), the current benzene level is about 3 to 7 microgrammes per cubic metre. This is extremely low. It is not possible to provide a precise year-by-year prediction of benzene levels. However, since all petrol vehicles imported into Hong Kong after 1992 are required to be fitted with catalytic converters, we expect the ambient benzene level to remain low in the coming years.
- (c) Benzene levels at road sides are not significantly different from those recorded at roof-top monitoring sites.
- (d) As the difference in benzene content between leaded and unleaded petrol is small, and as lead is itself a major pollutant which could accumulate in human bodies and cause adverse effects on the central nervous systems, especially among children, it is not appropriate to encourage vehicles without catalytic converters to revert back to use leaded petrol.

Health Education in Primary and Secondary Schools

17. MR HUANG CHEN-YA asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the number of hours of health education classes attended by primary and secondary school students each year;*

- (b) *what plans have been drawn up by the Education Department to improve and update the syllabus of primary school health education which has not been revised since the publication of its first edition in 1980;*
- (c) *what education do secondary school students receive regarding the prevention of critical illnesses like AIDS, heart disease, stroke and cancer; and*
- (d) *what qualifications teachers of health education are required to possess and what continuous training they receive?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) For primary schools, the average number of hours on health education attended by students is 25 each year. In secondary schools, health education is taught through formal subjects (for example, Social Studies, Biology and so on), cross-curricular lessons on selected topics (for example, sex education, civic education and so on) as well as through the informal curriculum. The number of hours devoted to health education varies with the class level and with the individual school, ranging from 40 hours to over 80 hours per student per year. In addition, many primary and secondary schools organize informal sessions on health related topics for their students.
- (b) The Education Department has restructured the syllabus of primary school health education by integrating Social Studies, Primary Science and Health Education into a new core subject of General Studies. The new General Studies syllabus will be introduced in 1996.
- (c) As indicated in paragraph (a) above, secondary school students are taught through the formal curriculum about different diseases like heart diseases, cancer, AIDS and major infectious diseases including their prevention. Details of the topics covered are annexed. Similar topics are also covered through cross-curricular lessons on civic education, moral education and sex education. In addition, students are encouraged to take part in extra-curricular activities on health education such as the Student Health Ambassadors Training Project organized by the Department of Health. This project aims to provide health education to secondary school pupils through a training programme consisting of a series of lectures and site visits.

- (d) Most if not all teachers of health education in primary schools should have attended this subject in their pre-service or in-service teacher education courses in the former Colleges of Education or the new Institute of Education. Secondary school teachers teaching subjects related to health education are usually subject-trained. On continuous training, the Education Department in conjunction with the Department of Health organizes regular in-service teacher education courses and seminars on health education for teachers for both the primary and secondary levels.

Annex

Critical Illnesses as Taught in the School Curriculum

Secondary

<i>Subject</i>	<i>Level</i>	<i>Topic</i>
Social Studies	S1-S3	My Health - Personal Hygiene - Balanced Diet and Food Hygiene - Exercise and Rest
Selected Types of Diseases in Hong Kong		
- airborne diseases, foodborne diseases, heart diseases and cancer		
AIDS Awareness and Cancer Education		
Economic and Public Affairs	S1-S2	Public Health - Indicators of good public health - Medical services in Hong Kong - Other efforts of government to promote public health: Health education; Prevention and control of infectious diseases
Biology (Advanced Level)	S6-S7	Microorganisms and diseases: A Review of common human diseases and their causative microorganisms, social aspects of AIDS A brief review of methods and cost to control the spread of diseases

Biology	S4-S5	The heart and blood vessels: The structure and action of the heart
Human Biology	S4-5	<p>Healthy living and factors affecting health</p> <ul style="list-style-type: none"> - Healthy living includes: physical, mental and social health. <p>A general introduction to a balanced diet.</p> <ul style="list-style-type: none"> - Dietary habits and their effects on the body - A general account on the causes of stress and means to reduce stress - A general introduction to drug abuse, alcoholism, tobacco smoking and overeating as habits affecting health <p>Causes and prevention of infectious diseases</p> <ul style="list-style-type: none"> - An introduction to bacteria viruses, fungi and protozoa as disease causing microorganisms - The spread of infectious disease by air, water, food, vectors and by contact. <p>Sexually transmitted diseases</p> <ul style="list-style-type: none"> - The spread of STDS and the preventive measures against the spread of STDS as exemplified by syphilis, gonorrhoea and AIDS (Acquired Immune Deficiency Syndrome)
Physical Education	S4-5	<p>Effect of regular exercise for the maintenance of good general health and well being</p> <ul style="list-style-type: none"> - Exercise effect on the cardio-respiratory system; the alleviating of coronary heart disease, high blood pressure and obesity

Acute Hepatitis B and Hepatitis C Cases among Prisoners

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

- (a) *the number of cases and the incidence of acute Hepatitis B and Hepatitis C respectively among prisoners in each of the past three years; and*
- (b) *the incidence of acute Hepatitis B and Hepatitis C respectively among the public as compared with those among prisoners?*

SECRETARY FOR SECURITY: Mr President,

- (a) The number of reported Hepatitis B cases among prisoners over the last three years is:

<i>Year</i>	<i>Cases</i>
1992	10
1993	17
1994	27

There have not been any reported cases of Hepatitis C among prisoners over this period.

- (b) According to the Director of Health, the numbers of reported cases of Hepatitis B and Hepatitis C in the general population over the last three years, including those cases in the prison population, are:

<i>Year</i>	<i>Hepatitis B cases</i>	<i>Hepatitis C cases</i>
1992	157	-
1993	116	-
1994	102	2

However, these figures may not represent the total number of Hepatitis B and Hepatitis C cases occurring in Hong Kong. From experience, not all cases of Hepatitis are reported or diagnosed as such. We cannot, therefore, accurately compare the incidence of Hepatitis B and Hepatitis C in the general population with that among prisoners.

Accommodation for Divorced Tenants of Hong Kong Housing Society's Rental Flats

19. MR ALBERT CHAN asked (in Chinese): *It is learnt that since its establishment, the Hong Kong Housing Society (HKHS) has not laid down any policy on the splitting of tenancies on compassionate grounds for tenants of rental housing estates under its management. In view of this, will the Government inform this Council whether:*

- (a) *it will provide assistance to divorced tenants of HKHS's rental flats who have to move out of their flats but are unable to find alternative accommodation due to the lack of financial resources;*
- (b) *it is aware of the reasons why the HKHS refuses to offer separate rental flats for a couple whose divorce has been declared by the court; and*
- (c) *it will require the HKHS to formulate a policy on the splitting of tenancies on compassionate grounds similar to that of the Housing Authority so as to enable divorced couples to live separately?*

SECRETARY FOR HOUSING: Mr President,

- (a) The Compassionate Rehousing Scheme, administered by the Housing Authority, caters for people in the territory with an urgent need for housing as a result of special medical or social problems. Public rental housing may be offered, subject to the assessment by and recommendation of the Social Welfare Department. The scope of the scheme was extended in 1991 to cover the urgent housing needs of those seeking divorce. Like people living in other types of accommodation, divorced tenants living in rental flats of the Housing Society may also apply for compassionate rehousing under this scheme.
- (b) The Housing Society normally allows the divorced party who has been granted custody of the children to continue to occupy the flat previously occupied by both spouses. If the party concerned is not the principal tenant of the flat, the Housing Society will persuade the principal tenant to give up the tenancy. If persuasion fails, the

Housing Society may serve a notice to quit. Non-compliance will be dealt with in the District Court. Because of its small number of rental flats and the low turnover rate, the Housing Society does not have adequate resources to grant extra flats to divorced tenants. Those with housing difficulties are advised to contact the Social Welfare Department with a view to applying for assistance under the Compassionate Rehousing Scheme.

- (c) Since the Compassionate Rehousing Scheme already meets the purpose, it is not necessary to require the Housing Society to set up a new scheme for divorced tenants.

Special Schools

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

- (a) *the demand and supply in respect of special school places in various districts for the next academic year;*
- (b) *the number of classes and the size of different types of classes in special schools, including the classes for the severely mentally handicapped, the moderately mentally handicapped, the mildly mentally handicapped and the physically handicapped, as well as the skills opportunity classes, the classes for the deaf, the blind, the maladjusted and the multi-handicapped, in each of the past ten years; and*
- (c) *the turnover rates of physiotherapists, occupational therapists and speech therapists in special schools in the past three years?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, special school places are provided for pupils who have more complex special educational needs and/or who cannot benefit from education in ordinary schools because of the severity of their disability.

- (a) The estimated demand and supply of special school places by category and by district for the 1995-96 school year is set out at Annex A. Special school places are provided on a territory-wide basis although in practice special schools have been built as far as practicable in areas with demonstrated demand.
- (b) The provision of different types of special school places including the class size and the number of classes for each of the last 10 years is set out at Annex B. Skills opportunity schools have not been included because they are not classified as special schools. With the exception of blind children with mental handicap, multi-handicapped children are placed in special schools appropriate to their major handicap. Their provision is, therefore, not shown separately.
- (c) The wastage rates of physiotherapists, occupational therapists and speech therapists for the past three years are as follows:

	<i>Wastage rates</i>		
	<i>1991-92</i>	<i>1992-93</i>	<i>1993-94</i>
Physiotherapist	41.7%	73.4%	69.6%
Occupational therapist	12.5%	22.6%	49.4%
Speech therapist	33.3%	42.9%	33.3%

In this context, wastage rate is defined as the number of staff who have left their posts during the school year expressed as a percentage of the strength in their relevant grade at the beginning of that school year.

Annex A

Estimated No. of Special Schools Places for 1995/96

(Projection made in June 1995)

	BL		DF		PH		MAL		MIMH		MOMH		SMH		HS		TOTAL	
	Demand	Supply	Demand	Supply	Demand	Supply	Demand	Supply	Demand	Supply	Demand	Supply	Demand	Supply	Demand	Supply	Demand	Supply
CW	7		23		25		49		107		70		31					
WC	4		14	140	15		29		64	200	42	100	18	64				
E	15		51	90	56		108		234	200	153	190	67	72				
S	7	210	24		26	200	52	240	111	140	73	180	32					
HK Sub-T	33	210	112	230	122	200	238	240	516	540	338	470	148	136				
YTM	7		23		24		48		103	200	68		29					
SSP	8		27		30		58	420	124	200	82	130	36	320				
KC	9		29		32		62	105	133	200	88	100	38					
WTS	10		33	270	36		69	90	149		98	200	43					
KT	13		44		47	230	94		198	200	130	190	57					
Kln Sub-T	47	0	156	270	169	230	331	615	707	800	466	620	203	320				
K&T	16		51	240	55	120	110		236	360	155	220	68	72				
TW	7		22		24	40	45		98		64		28	64				
TM	18		60		65		130		277	300	182	150	79					
YL	12		41		47		89		198	200	129	100	57					
N	9		28		31		61		133	240	87	30	38					
TP	11		35		39		78		168		110	110	48	120				
ST	18		62		68	100	136		287	400	189	160	82					
SK	8		24		28		53		117	200	77		34	80				
Is	1		2		3		5	75	11		8		3					
NT Sub-T	100	0	325	240	360	260	707	75	1525	1700	1001	770	437	336				
TOTAL	180	210	593	740	651	690	1276	930	2748	3040	1805	1860	788	792	-	499	8041*	8761

Note:

BL: Blind
DF: Deaf
PH: Physically Handicapped
MAL: Maladjusted
MIMH: Mildly Mentally Handicapped
MOMH: Moderately Mentally Handicapped
SMH: Severely Mentally Handicapped
HS: Hospital School at 15 different locations

* excluding hospital school, the provision of such places is planned according to actual need

[Excel SSPLA95a.XLS]

Provision of Special Education School Places by Category 1988/89 - 1994/95

Category		1988/89		1989/90		1990/91		1991/92		1992/93		1993/94		1994/95		
		Primary	Secondary	Primary	Secondary	Primary	Secondary	Primary	Secondary	Primary	Secondary	Primary	Secondary	Primary	Secondary	
Blind	Places	105	75	105	75	105	75	105	75	105	75	105	75	105	75	
	Classes	11	5	11	5	7	5	7	5	7	5	7	5	7	5	
	Class Size	15	15	15	15	15	15	15	15	15	15	15	15	15	15	
Blind with Mental Handicap	Places	20	20	20	20	20	20	20	20	20	20	20	20	20	20	
	Classes	2	2	2	2	3	2	3	2	3	2	3	2	3	2	
	Class Size	10	10	10	10	10	10	10	10	10	10	10	10	10	10	
Deaf	Places	810	300	800	300	800	300	800	300	800	310	820	300	820	300	
	Classes	51	28	49	30	48	31	48	31	48	31	47	31	47	31	
	Class Size	16	10	16	10	16	10	16	10	16	10	17	10	17	10	
Physically Handicapped	Places	480	180	480	180	480	180	480	180	480	200	480	200	480	200	
	Classes	48	18	48	18	48	18	48	18	48	21	48	21	48	21	
	Class Size	10	10	10	10	10	10	10	10	10	10	10	10	10	10	
Hospital School	Psychiatric	Places	40	0	40	0	40	18	18	18	40	18	40	18	40	18
		Classes	5	1	5	1	5	2	5	2	5	2	5	2	5	2
		Class Size	8	0	8	0	8	9	9	9	8	9	8	9	8	
	Non-psychiatric	Places	285	20	270	40	285	40	285	40	285	40	285	40	285	40
		Classes	19	2	18	4	19	4	18	4	18	4	18	4	18	4
		Class Size	15	10	15	10	15	10	15	10	15	10	15	10	15	10
Maladjusted	Places	525	510	525	510	540	595	540	595	540	595	540	595	540	595	
	Classes	38 (17)	42 (19)	38 (17)	42 (19)	35 (15)	43 (19)	35 (15)	43 (19)	35 (15)	43 (19)	35 (15)	43 (19)	35 (15)	43 (19)	
	Class Size	13.8	12.1	13.8	12.1	15.4	13.8	15.4	13.8	15.4	13.8	15.4	13.8	15.4	13.8	
Mildly Mentally Handicapped	Places	1280	800	1280	840	1420	850	1400	840	1400	840	1400	840	1400	840	
	Classes	59	40	59	42	71	41	60	40	60	40	60	40	60	40	
	Class Size	20	20	20	20	20	20	20	20	20	20	20	20	20	20	
Moderately Mentally Handicapped	Places	1040	500	1050	500	1070	500	1050	500	1050	500	1050	500	1050	500	
	Classes	104	51	105	51	107	50	105	50	105	50	105	50	105	50	
	Class Size	10	10	10	10	10	10	10	10	10	10	10	10	10	10	
Severely Mentally Handicapped	Places	200	184	198	144	194	198	198	214	198	214	198	214	198	214	
	Classes	40	18	37	18	38	21	37	18	37	18	37	18	37	18	
	Class Size	5	10	5	8	5	9	5	12	5	12	5	12	5	12	
Slow Learning	Places	-	300	-	300	-	300	-	300	-	300	-	300	-	300	
	Classes	-	15	-	15	-	15	-	15	-	15	-	15	-	15	
	Class Size	-	20	-	20	-	20	-	20	-	20	-	20	-	20	
Sub-total	Places	4885	3107	4884	3107	4920	3414	4874	3400	4874	3400	4874	3400	4874	3400	
	Classes	383	325	383	325	400	247	394	247	394	247	394	247	394	247	
Total	Places	8992		8991		9334		9200		9200		9200		9200		
	Classes	618		622		641		640		640		640		640		

1. 1 No. of classes in Hong Kong Sea School
 2. Except for Hong Kong Sea School which had 30 pupils per class

(Continued on Page 2)

Category		1993/1		1993/2		1993/3		1993/4		1993/5		
		Primary	Secondary	Primary	Secondary	Primary	Secondary	Primary	Secondary	Primary	Secondary	
Blind	Places	105	45	105	45	105	45	105	45	105	45	
	Classes	1	3	1	3	1	3	1	3	1	3	
	Class Size	105	15	105	15	105	15	105	15	105	15	
Blind with Mental Handicap	Places	30	30	30	30	30	30	30	30	30	30	
	Classes	3	3	3	3	3	3	3	3	3	3	
	Class Size	10	10	10	10	10	10	10	10	10	10	
Deaf	Places	450	200	450	200	450	200	450	200	450	200	
	Classes	45	20	45	20	45	20	45	20	45	20	
	Class Size	10	10	10	10	10	10	10	10	10	10	
Physically Handicapped	Places	480	210	480	210	480	210	480	210	480	210	
	Classes	48	21	48	21	48	21	48	21	48	21	
	Class Size	10	10	10	10	10	10	10	10	10	10	
Hospital School	Psychiatric	Places	48	24	48	24	48	24	48	24	48	24
		Classes	4	2	4	2	4	2	4	2	4	2
		Class Size	8	8	8	8	8	8	8	8	8	8
	Non-psychiatric	Places	280	40	210	40	210	40	280	40	280	40
		Classes	28	4	21	4	21	4	21	4	21	4
		Class Size	10	10	15	10	15	10	15	10	15	10
Maladjusted	Places	240	800	240	800	420	800	420	450	450	480	
	Classes	24	43 (17)	24	43 (17)	21	43 (17)	21	30	30	32	
	Class Size	10	18.6	10	18.6	10	15.8	15	15	15	15	
Mildly Mentally Handicapped	Places	1800	2040	1780	1740	1780	1840	1820	1740	1800	1840	
	Classes	90	92	89	87	89	92	91	87	90	92	
	Class Size	20	22	20	20	20	20	20	20	20	20	
Moderately Mentally Handicapped	Places	1120	680	1160	720	1140	720	1100	720	1140	720	
	Classes	112	68	116	72	114	72	111	72	114	72	
	Class Size	10	10	10	10	10	10	10	10	10	10	
Severely Mentally Handicapped	Places	472	220	480	240	480	240	480	220	504	224	
	Classes	47	22	48	24	48	24	48	22	50	22	
	Class Size	8	8	8	8	8	8	8	8	8	8	
Slow Learning	Places	-	300	-	300	-	300	-	-	-	-	
	Classes	-	15	-	15	-	15	-	-	-	-	
	Class Size	-	20	-	20	-	20	-	-	-	-	
Sub-total	Places	8118	2820	8228	6000	8242	6000	8204	5981	8224	6004	
	Classes	414	272	421	287	422	288	414	284	424	277	
Total	Places	8922	-	9277	-	9267	-	9208	-	9228	-	
	Classes	467	-	528	-	528	-	528	-	528	-	

() No. of classes in Hong Kong Sea School

Except for Hong Kong Sea School which had 20 pupils per class

(continued on 3)

MOTIONS

MAGISTRATES ORDINANCE

THE SECRETARY FOR HEALTH AND WELFARE moved the following motion:

"That the Third Schedule to the Magistrates Ordinance be amended by adding -

"12. Smoking (Public Health)

An offence against section 3(2) or 4(1) of the Smoking (Public Health) Ordinance (Cap. 371)."

She said: Mr President, I move the motion standing in my name in the Order Paper. This motion seeks to incorporate two smoking offences under the Smoking (Public Health) Ordinance (Cap. 371) into the Third Schedule of the Magistrates Ordinance. Details of the two smoking offences are set out in the motion.

The Third Schedule of the Magistrates Ordinance provides defendants with an opportunity to plead guilty by letter without attending court to answer summonses if they decide not to dispute their liability for any of these offences.

Incorporating the two offences into the Third Schedule will have three benefits: first, each defendant need not spend time in court attendance; second, the time of prosecuting officers in the relevant departments will be saved; and third, the workload of the court will be reduced in terms of staff and time.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

THE SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS moved the following motion:

"That -

- (a) the functions exercisable by the Director of Buildings by virtue of section 3(2)(a)(ii) of the Chinese Permanent Cemeteries Ordinance (Cap. 1112) be transferred to the Director of Lands;

- (b) section 3(2)(a)(ii) of the Chinese Permanent Cemeteries Ordinance (Cap. 1112) be amended by repealing "Director of Buildings" and substituting "Director of Lands".

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

At present, the Director of Buildings serves as an *ex officio* member of the Board of Management of the Chinese Permanent Cemeteries having inherited that function from the former Director of Buildings and Lands when the Buildings and Lands Department was split. Experience indicates that the issues involved are more on the "land" side than on the "building" side, and it is more appropriate for the Director of Lands rather than the Director of Buildings to serve as an *ex officio* member of the Board.

This resolution provides for the transfer of statutory functions under section 3(2)(a)(ii) of the Chinese Permanent Cemeteries Ordinance (Cap. 1112) from the Director of Buildings to the Director of Lands and replaces the reference to the Director of Buildings in that Ordinance, with a reference to the Director of Lands.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

BILLS

First Reading of Bills

ELECTORAL PROVISIONS (MISCELLANEOUS AMENDMENTS) BILL 1995

HONG KONG ASSOCIATION OF BANKS (AMENDMENT) BILL 1995

MEDICAL REGISTRATION (AMENDMENT) BILL 1995

WONG WAI TSAK TONG (RENEWAL AND EXTENSION OF SUB-LEASES) BILL

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

Second Reading of Bills

ELECTORAL PROVISIONS (MISCELLANEOUS AMENDMENTS) BILL 1995

THE SECRETARY FOR CONSTITUTIONAL AFFAIRS moved the Second Reading of: "A Bill to amend the Legislative Council (Electoral Provisions) Ordinance, the Electoral Provisions Ordinance, the Oaths and Declarations Ordinance, the Regional Council Ordinance, the District Boards Ordinance and the Independent Commission Against Corruption Ordinance."

He said: Mr President, I move that the Electoral Provisions (Miscellaneous Amendments) Bill 1995 be read the Second time.

The current Bill comprises two sets of amendments. The first set proposes to transfer a number of statutory powers and functions vested in the Governor in his former capacity as the President of the Legislative Council to other authorities. The second set of amendments proposes to reduce the residential qualifying period for candidature.

Let me start with the first set of proposals. Following the Governor's stepping down from this Council's Presidency in February 1993, some statutory powers and functions vested in the Governor in his former capacity as the President will need to be transferred to other authorities. I shall briefly explain these powers and functions, and the respective amendments in the Bill.

Firstly, at present, a Member elected to this Council shall be treated as having accepted office unless he gives notice in writing to the Governor of his non-acceptance within seven days after the election result is published in the Gazette. Clauses 2 and 10 of the Bill provide that the requisite notice should henceforth be given to the Clerk to this Council.

Secondly, an elected Member of this Council may now resign by giving notice in writing to the Governor. Clauses 3 and 11 provide that in future such notices should be given to either the Legislative Council President or the Clerk to the Legislative Council. The Clerk is included as one of the "authorized recipients" to cater for situations where it is the President who resigns, or when the President is not available.

Thirdly, existing electoral legislation provides that an elected Member of this Council who has failed for three consecutive months in the same Legislative Council Session to attend any sitting of the Council will be disqualified, unless the absence is excused by the Governor. Clauses 4 and 12 provide that in future the President of this Council shall have the power to excuse non-attendance.

The Bill also provides that if it is the President who is absent for three consecutive months, this Council shall have the power to excuse his non-attendance.

Fourthly, under current legislation, the Governor shall declare, by notice published in the Gazette, that a vacancy exists in this Council within 21 days after the vacancy has come to his knowledge. Clauses 5, 6, 13 and 14 provide that when a casual vacancy arises in future, the declaration is to be made by either the President or the Clerk to this Council.

Lastly, under the Oaths and Declarations Ordinance, a Member of this Council is required to take the appropriate oath before the President or any other Member presiding as soon as he is appointed or elected. With the Governor stepping down from the Presidency, the question will arise as to who should administer oaths to Members at the first sitting in October 1995 before the election of the President. Clause 18 provides that oaths taken by the Members of this Council at the first sitting and before the election of the Legislative Council President shall be tendered by the Clerk to the Council, while oaths taken at any other sitting shall be tendered by the President or the Member acting in his place.

I now turn to the other set of proposals in the Bill. Under our electoral laws, a candidate, regardless of whether or not he is a permanent resident, must have ordinarily resided in Hong Kong for the 10 years immediately preceding his nomination. In addition, he must be a registered elector. The rationale for having some form of residential requirement is to ensure that candidates have sufficient local knowledge so that, if elected, they can effectively represent their constituents.

We have reviewed the residential qualifying period in the light of a recent court case and public comments. Clauses 8 and 16 now propose to relax the requirement from ten-year immediately preceding the date of nomination to three-year immediately preceding the date of nomination. We believe that this new qualifying period is sufficiently short to meet the Bill of Rights requirement, but sufficiently long to ensure that candidates have adequate first-hand and up-to-date knowledge of local conditions.

Mr President, I should like to say a few words on timing. Nominations for the Legislative Council Elections will start on 1 August. Amendments to the residential qualifying period for candidature should be enacted well before then so that aspiring candidates can have a clear idea of where they stand. In addition, the various amendments arising from the Governor stepping down from the Presidency of this Council should also be in place before the end of the current Legislative Council Session. I would therefore urge this Council to give early and favourable consideration to this Bill, which has indeed been discussed

with Members, especially with Members of the Subcommittee on Procedural Matters and the Constitutional Affairs Panel.

Thank you, Mr President.

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

HONG KONG ASSOCIATION OF BANKS (AMENDMENT) BILL 1995

THE SECRETARY FOR FINANCIAL SERVICES moved the Second Reading of: "A Bill to amend the Hong Kong Association of Banks Ordinance."

He said: Mr President, I move the Second Reading of the Hong Kong Association of Banks (Amendment) Bill 1995.

The principal purpose of the Bill is to enable the Bank of China to rotate as Chairman and Vice-Chairman of the Committee of the Hong Kong Association of Banks, along with the Hongkong and Shanghai Banking Corporation and the Standard Chartered Bank. We agree with the Committee of the Hong Kong Association of Banks, which has initiated the proposal, that this is a logical step forward in recognition of the increasingly important role played by the Bank of China in the local banking system. Members are aware that the Bank is one of the continuing members of the Committee of the Hong Kong Association of Banks and it became the third note-issuing bank in 1993.

At present, there are no explicit criteria on eligibility as a continuing member. We have taken the opportunity to define continuing members by reference to their status as note-issuing banks, which is now their main distinguishing characteristic.

The present two-year term of the chairmanship of the Committee will be shortened to one year. We agree with the Hong Kong Association of Banks that a two-year term is probably too long given the increasing demands placed on the chairman bank. Furthermore, a shorter tenure would mean that a continuing member would only have to wait for two years before serving as the Chairman, instead of the present four years.

As regards the rotation sequence of the chairman banks, the Bill enables the incumbent bank, the Standard Chartered Bank, which has an original term ending in 1996, to serve a one-year term until the end of 1995, to be followed by the Bank of China in 1996 and the Hongkong and Shanghai Banking Corporation in the following year. The three banks will normally rotate in that sequence thereafter.

Besides provisions on chairmanship, the Bill also seeks to introduce a number of other amendments to the Ordinance, including provisions to cater for the introduction of a new inter-bank payment system and changes to the authority for some of the powers exercisable by the Governor in Council with a view to ensuring consistency with amendments already proposed to the Banking Ordinance recently, and to relieve the burden on the Governor in Council of considering matters which do not involve major policy issues.

Mr President, the Bill contains a number of useful amendments necessary to enhance further the stature of the banking system in Hong Kong and to cater for developments in the banking sector.

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

MEDICAL REGISTRATION (AMENDMENT) BILL 1995

THE SECRETARY FOR HEALTH AND WELFARE moved the Second Reading of: "A Bill to amend the Medical Registration Ordinance."

She said (in Cantonese): Mr President, I move that the Medical Registration (Amendment) Bill 1995 be read the Second time.

Certain legislative provisions for the administration of the medical profession are outdated as a result of changes in circumstances over time. This Bill proposes six major areas of change.

The first proposed change is concerned with the composition of the Medical Council, which at present comprises 14 members appointed by the Governor. Since 1978 the number of registered medical practitioners has grown from 3 029 to 7 779, the number of complaints has increased from 27 to 170 and the number of formal disciplinary hearings has increased from 4 to 29. The Council needs to be expanded to enhance its representation and to meet this increasing workload. The Bill proposes a new Council of 24 members, with expanded representation from, *inter alia*, the University of Hong Kong, Chinese University of Hong Kong, Hong Kong Medical Association and the lay sectors. These 24 members shall include 12 elected members - six to be elected from all registered medical practitioners on the General Register and the rest to be elected by the council members of the Hong Kong Medical Association. The introduction of elected members in the Medical Council is in line with Government's policy of encouraging greater involvement of the profession in its own affairs.

Under the existing Medical Registration Ordinance, holders of the United Kingdom, Irish and certain Commonwealth diplomas are automatically entitled to register as medical practitioners in Hong Kong. This is discriminatory and would appear to contravene the provisions of the General Agreement on Trade in Services. Our second proposal is to introduce a universal licensing

examination which practitioners seeking registration in Hong Kong will have to pass, no matter where they received their training. This will provide a level playing field to those seeking to enter the profession in Hong Kong. I hope that, within this much fairer structure which we are proposing, the enlarged Medical Council will consider entry to the profession by foreign-trained medical practitioners in as liberal a spirit as possible without compromising patients' safety or standards of medical care.

The introduction of a Specialist Register is our third proposed change. We have at present a register of medical practitioners. However, the community has no means of knowing which of those practitioners may be qualified to practise in a certain medical speciality. A Specialist Register is proposed to be established to allow for the formal registration and control of medical specialists. A General Register will take the place of the existing register.

Our fourth proposal paves the way for medical practitioners-in-charge of exempted clinics to apply for limited registration. These practitioners have, over many years, provided a useful service to the community, especially to those who are less well off. They should be allowed, without comprising patients' safety and standards of professional care, to practise under the provisions of limited registration.

The existing Ordinance provides for the establishment of a Licentiate Committee and a Preliminary Investigation Committee. We propose to enshrine in law various other important aspects of the Council's work through the establishment of three other statutory committees. They are the Health Committee, the Education Committee and the Ethics Committee.

Our last proposed change concerns disciplinary proceedings. We propose that the Medical Council and its Health Committee should be empowered to prohibit the disclosure of information relating to an inquiry by the Council or a hearing by the Health Committee, if it is in the interests of the complainant, defendant or witness.

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

WONG WAI TSAK TONG (RENEWAL AND EXTENSION OF SUB-LEASES) BILL

THE SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS moved the Second Reading of: "A Bill to provide for the renewal and extension of certain sub-leases of land on Cheung Chau held by Wong Wai Tsak Tong, and for related matters."

He said: Mr President, I move the Second Reading of the Wong Wai Tsak Tong (Renewal and Extension of Sub-leases) Bill.

The Wong Wai Tsak Tong is the registered owner of about 90% of the private land on Cheung Chau. The Tong holds the land under the Block Crown Lease dated 18 March 1905 and under several new grants made after that date, with the leases and grants expiring on 27 June 1997. Most of the land owned by the Tong has been sub-leased on renewable five year terms.

The New Territories Leases (Extension) Ordinance extended the term of most New Territories leases, including that of the Tong, to 30 June 2047.

During the late 1980s, disputes began to arise between the Tong and the sub-lessees. The main areas of concern were related to the renewal of sub-leases, payment of government rent and redevelopment of the sub-leased land. Attempts to resolve the disputes in the courts failed. In November 1994, most of the sub-leases expired. However, owing to the disputes between the two parties, we understand that a majority of the sub-leases have not been renewed.

These are *prima facie* private disputes between the Tong and its sub-lessees and should be resolved between the two parties. However, the disputes have over the years built up to the extent that they are undermining the Government's proper land administration in Cheung Chau and causing social unrest in the community. Property transactions in Cheung Chau are currently effectively frozen as a result of the dispute, which has led to many sub-leases not being renewed, creating uncertainty to title. These are public issues which the Government must address.

The purpose of the Wong Wai Tsak Tong (Renewal and Extension of Sub-leases) Bill is to introduce an objective, practical and fair solution to address the points of dispute between the Tong and its sub-lessees.

First, the Bill provides for the automatic renewal and extension of sub-leases. All sub-leases which expire before the commencement of the legislation, provided that they have at some time in the past been registered in the Land Registry, will be deemed to have been renewed from the date of expiry to the day immediately before the commencement of the legislation. New sub-leases will be deemed to be granted from the date of commencement of the legislation. These new sub-leases will expire on 27 June 2047.

When sub-leases registered in the Land Registry expire after the commencement of the legislation but before 1 July 1997, they will be deemed to be granted upon their expiry as sub-leases which will end on 27 June 2047.

Second, the Bill proposes that government rent will be payable directly to the Government by the sub-lessees whose sub-leases are renewed under clauses 4 and 5 of the Bill. From 1 July 1997, government rent will be set at 3% of the rateable value of the property as provided in Annex III to the Sino-British Joint

Declaration. These amounts will be payable by the sub-lessees direct to the Government from 1 July 1997.

There is one exception to the renewal and payment of government rent provisions. These are sub-leases which have been granted or renewed for terms extending beyond 9 November 1994 and under which the Tong and the sub-lessee have agreed on the amount of rent payable to the Tong after 30 June 1997. These sub-leases are excluded because they result from agreements freely entered into and it is the Government's intention to keep its interference with private contracts to the minimum.

The Bill also proposes that unless the Tong satisfies the Director of Lands that it has reasonable grounds for objecting to a modification or exchange, or the Director of Lands considers that the application should be refused for other reasons, the Director may approve the modification of exchange applied for. Upon such approval and tendering of the specified amount to the Tong, the Tong will be deemed to have agreed to the modification or exchange and will be obliged to execute the necessary documentation for the modification or exchange.

The Tong will be entitled to charge sub-lessees an amount equal to 10% of the premium payable to the Government in respect of the modifications and exchanges. This is to recognize the Tong's status as the lessee under the Block Crown Lease and the fact that, but for the legislation, the Tong would not have been obliged to agree to enter into any modifications and exchanges of land sub-leased.

If the Bill is enacted, sub-lessees will have certainty as to their sub-leases through to 27 June 2047. They will pay government rent direct to the Government. The Tong will not be able to delay redevelopment proposals requiring modifications and exchanges. As a result, the sources of much of the friction between the sub-lessees and the Tong should be removed.

Under the Bill, the Tong's legal position will be maintained in the sense that the rights and liabilities of the Tong and a sub-lessee under the sub-leases extended and renewed by the Bill will not be affected by the Bill, except as specifically provided for under the Bill.

While we were formulating this Bill, there were calls for the status of the Tong as the Crown Lessee to be abolished and the sub-leased land be granted to the sub-lessees.

Mr President, I would like to emphasize that one of the most important foundations for Hong Kong's society and its success over the years has been the Government's long-standing policy of respecting and protecting private property rights. Although legislating to remove the Tong's interest in the sub-leased land would be in the interest of the sub-lessees, it obviously deviates from this policy and might be seen as setting an undesirable precedent for the

Government to use legislation to abolish private property rights. We therefore do not propose such a course of action.

The proposed Bill will achieve a fair, objective and practical solution to the dispute between the two parties and recognize as far as possible the legitimate interests of both parties, without taking away any property rights. I commend it to Members for favourable consideration.

Thank you, Mr President.

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

PENSIONS (SPECIAL PROVISIONS) (THE HONG KONG INSTITUTE OF EDUCATION) BILL

Resumption of debate on Second Reading which was moved on 17 May 1995

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).

ROAD TRAFFIC (AMENDMENT) BILL 1995

Resumption of debate on Second Reading which was moved on 22 February 1995

Question on Second Reading proposed.

MR WONG WAI-YIN (in Cantonese): Mr President, the Road Traffic (Amendment) Bill 1995 was introduced into the Legislative Council on 22 February 1995. The main provisions in the Bill seek to set a prescribed limit for alcohol concentration in a driver's breath, blood and urine and to impose a legal obligation on suspected offenders to be subject to tests. Other provisions in the Bill seek to:

- (a) empower the Secretary for Transport to make regulations to cancel or withdraw special vehicle registration marks and to adjust the level of special fees to be charged for registration marks;

- (b) empower traffic wardens to require a traffic offender to give his name and address and lift the restriction on traffic wardens to join trade unions; and
- (c) delegate the Governor's power to the Financial Secretary to vary fees charged at car testing centres and vehicle emission testing centres.

A Bills Committee, of which I am the Chairman, was set up to study the Bill. The Bills Committee held two meetings with the Administration.

I will briefly go into the main issues considered by the Bills Committee.

The first area of concern is whether the prescribed limit of alcohol concentration proposed in the Bill is appropriate. Some Members considered that the proposed limit of 80 mg of alcohol in 100 ml of blood should be lowered to 50 mg. They pointed out that the proposed limit of 80 mg, which is the standard adopted in the United Kingdom and most European Union countries, might not be suitable for Hong Kong where local traffic conditions required higher concentration on the part of drivers and called for tighter control on drunken driving. In support of their proposal, they referred to a relevant research conducted by the Hong Kong Medical Association which recommended a lower limit of 50 mg in Hong Kong.

The Administration considered that there was no strong justification for a lower limit of 50 mg in Hong Kong at the present stage. It explained that since this was the first time a prescribed alcohol concentration limit was set in Hong Kong, references were made to the limits set in other countries. As the more commonly adopted standard was 80 mg, it was reasonable to use it as a starting point in Hong Kong. It would conduct a review one year after the introduction of the limit to assess the need to lower the prescribed limit. Most Members in the Bills Committee had no objection to the Administration's explanation. My colleague, Dr the Honourable LEONG Che-hung, will move an amendment at the Committee stage to lower the prescribed alcohol concentration limit.

The second area of concern to Members is how the proposed provisions will be enforced by the police. In response to Members' request, the Administration provided a paper setting out the police internal guidelines for the enforcement of the new legislation for Members' reference.

Members were concerned over the number of trained officers and equipment available to conduct the breath tests and the time gap between the screening breath test and the evidential breath test. The Administration informed Members that a total of 50 hand-held samplers would be purchased for the five police regions. In each region, there would be up to nine trained breath sampling officers on a shift. As regards the time gap between the screening and evidential breath tests, it was estimated that there would be about

15 to 20 minutes and its effect on the alcohol level in the suspected drunken driver's blood would not be significant.

A Member also voiced his concern over the proposed new section 39E(3), which provides that if the medical practitioner objects on medical grounds, the requirement for the provision of a specimen of breath, blood or urine for analysis/test shall not be made. The Administration explained that the new provision was made to cover situations where a medical practitioner might raise objection to the police's request that breath, blood or urine specimen had to be taken from the patient because conditions of hospital inmates were so serious that priority consideration had to be given to them. In view of Members' concern, the Administration will move an amendment at the Committee stage to require the examining medical practitioner to state in writing the reasons for refusing to allow his patient to provide such specimen.

Another area of concern to Members is the penalty for drunken driving. The Bill provides that a person who commits offences connected with drunken driving is liable on summary conviction to six months' imprisonment, same as for careless driving offences, compared with 12 months' imprisonment for reckless driving. A Member considered that drunken driving was a serious offence comparable to reckless driving and called for heavier penalties.

The Administration explained that the proposal to increase the penalty would necessitate a corresponding increase in the penalty for second and subsequent offences to the level of reckless driving causing death, which was the next more serious offence provided in the Road Traffic Ordinance. The proposal would also raise a possible Bill of Rights issue arising from the guarantee of equality in Article 22 of the Bill of Rights. Under the proposal, in the Magistrates' Court, first offenders are given penalties equivalent to those for reckless driving, but on a second or subsequent offence they are treated as if they were guilty of reckless driving causing death. On indictment, in the District Court, however, the maximum penalty for a second and subsequent offence is equivalent only to reckless driving and not reckless driving causing death. It thus may be argued that placing someone in the Magistrates' Court for a second or subsequent offence is unfair to him or her because of the unequal treatment when compared with someone transferred to the District Court.

In the light of the above consideration, Members agreed to the Administration's suggestion that the existing penalty provisions in the Bill be retained but their effectiveness would be included in the review to be conducted 12 months after the introduction of the new drunken driving provisions.

The Administration has informed Members that it will conduct a review 12 months after the enactment of the legislation to assess the need:

- (a) to lower the prescribed alcohol concentration limit;
- (b) to increase the penalty for drunken driving;
- (c) to conduct random breath testings; and
- (d) to provide more resources for breath testing.

Mr President, with these remarks, I commend the Road Traffic (Amendment) Bill 1995 to Honourable Members.

DR LEONG CHE-HUNG: Mr President, the medical profession welcomes the introduction of the Bill in bringing the Road Traffic Ordinance, in particular the prosecution of drunken driving, into actual effect.

This is done through imposing a legal obligation upon suspected offenders to be subject to levels of alcohol testing. But, Mr President, with regret, the proposed Bill does not go far enough and as usual it projects the issue that the Government is always testing the water and there is no political wit nor determination to put things into perfection even if it is for public safety. It is on this basis, for public safety, that I will be moving amendments to this Bill on behalf of the medical profession at a later stage.

The related Legislative Council Brief stated very clearly that "drunken driving is now a matter of public concern and there is evidence that it has been the cause of some recent traffic accidents". The local statistics is that 6.4% of drivers killed in road accidents are the result of drunken driving. Mr President, this must be a gross underestimation of traffic accidents during drunken driving, for unless the driver is dead there has not been a compulsory requirement for alcohol testing so far. Furthermore, the number of non-drivers, that is, passengers and ordinary pedestrians, either killed or injured because of the driver driving under the influence of alcohol are not taken into account. In essence, therefore, driving under the influence of alcohol is a menace.

Mr President, at the end of the day, for real public safety, the motto must be "Do not drink if you want to drive" or "Drink if you must but do not drive".

Medical opinions have shown that if the alcohol blood level is in the region of 50 mg or above/100 ml, it might affect the driver's ability to identify risks, and at the level in the region of 80 mg/100 ml or above, it would likely affect the driver's ability to drive. In essence therefore a blood alcohol level of 50 mg/100 ml and above is just as dangerous as it may cloud the person's decision during the many processes of driving.

Medical opinion too indicates that the effect of the influence of the level of alcohol varies with person to person. Even in the same individual it varies with his general well-being, for example his mood, whether there is any lack of sleep and so on and so forth.

The medical profession therefore stands firm to the effect that if the Government is serious in preventing the danger of drunken driving, the level of blood alcohol must be dropped to at least 50 mg/100 ml as the highest level. This is supported by the World Health Organization. Using a level of 80 mg/100 ml serves only a primitive purpose, while dropping to 50 mg will be of preventive nature.

Mr President, our public deserve much more than a second-rate protective measure.

With regrets, some Members of this Council have approached me to raise their objection to any amendment. They said, "This is too draconian." They say, "You would not allow people even to have a couple of glasses of beer." With respect, whilst the medical profession do realize that there could well be harmful effect in drinking, we are not here to ban alcoholic consumption. Rather, what we are saying is "Drink any amount if you like. But if you do, do not drive or if you want to drive, do not drink". Remember, the danger is not only to yourself — the driver, but to the innocent pedestrians and the possibly sober passengers whom you may be carrying.

The Administration has said and I am sure it will say again that this is the first time a prescribed alcohol concentration limit in drivers' blood is being introduced and that a review will be conducted in a year's time to assess the need of lowering the prescribed limit.

Let me sound a word of warning and that is, the review may well see a need to lower the limit in the course of time, but before that, many innocent and useful lives would have been destroyed or lost.

Mr President, if the Administration is true to public safety, if Members of this Council really have the safety of our people at heart, then support my amendment. After all, there is very little to give up if you are drivers by forgoing the transient pleasure of drinking for the total safety of our population.

MR LEE WING-TAT (in Cantonese): Mr President, I do not drive but would occasionally drink, though I am not a heavy drinker. So I believe that I will not hurt any innocent passers-by as a result of drunken driving.

On this issue, the Democratic Party basically supports the Government's suggestion. Although in the long run, we will throw our support behind Dr LEONG's proposal that "Do not drink if you want to drive. Drink if you must

but do not drive, we support this first step of the Government's for the following reasons: First of all, there is basically no such provision in the existing laws. This is therefore a good first step to serve as a reminder to the public, in particular drunken drivers, that drunken driving is detrimental to both the drivers and the other people. Secondly, there has been a lot of debates in the medical profession on the level of alcohol concentration above which a person will be affected. The 50 mg limit suggested by Dr LEONG and the 80 mg limit suggested by the Government have been adopted in various countries and regions, there is yet to be a consensus. We believe that 80 mg would be an acceptable starting point. Thirdly, we are worried that a stringent requirement may, on the surface, impose severe punishment on the drunken drivers, but actually it will be doubtful whether the law will be effectively enforced for the police may not have adequate manpower to undertake examination and prosecution duties because merely one to two glasses of beer may render the drivers liable to punishment for breaching the law.

The other point that we agree is the availability of statistical figures relating to traffic accident investigations and the number of casualties resulting from drunken driving in the territory after the legislation has been enacted for some time. When the figures on drunken driving causing casualties are available, the accumulated data can reveal to us the seriousness of drunken driving causing casualties in Hong Kong. If it turns out that the seriousness is as Dr LEONG has put it, the Democratic Party wholly supports a review one year after the enactment of this Ordinance, with a view to amending the legislation to lower the prescribed limit of alcohol concentration.

Mr President, last but not least, I wish to touch upon a point that we raised when scrutinizing the Bill, that is, nuisance may be caused to drivers when the police use the power in this respect and also the possibility of abusing that power. Since drunken driving can give rise to disputes between drivers and law enforcement officers, allegations involving human rights may be easily entailed if that power is not exercised properly. Unnecessary troubles would then be created between drivers and police officers. In view of this, I hope that the Government can pay attention to this point when enforcing the law.

SECRETARY FOR TRANSPORT: Mr President, may I begin by expressing the Administration's gratitude to the Honourable WONG Wai-yin and all the other Honourable Members who served on the Bills Committee, for their thorough and painstaking study of the Road Traffic (Amendment) Bill 1995.

There is now clear evidence, based on autopsy reports conducted on drivers killed in traffic accidents, that drunken driving is a real problem in Hong Kong. Indeed, drunken driving is already an offence under the Road Traffic Ordinance but enforcement and prosecution have proven to be very difficult because the present legislation does not specify a blood alcohol limit, nor are suspected offenders required by law to provide samples of their breath, blood or urine. Drunken driving results in traffic accidents causing death and

injuries, often to innocent third parties, and Hong Kong is one of the few places that does not have effective legislation to tackle the problem. Action is needed.

The main purpose of the legislation now before Honourable Members is to provide the necessary legislative teeth by stipulating a prescribed limit for the permitted alcohol concentration in a driver's blood, urine and breath, and to imposing a legal obligation on drivers to provide samples of blood, urine or breath for testing in certain specified circumstances. We are not introducing random breath testing, but drivers may be required to take a breath test if they are involved in traffic accidents, commit a moving traffic offence or if the police have reasonable grounds to suspect that they have been drinking. As the Honourable WONG Wai-yin has said, members of the Bills Committee have been fully briefed on the internal guidelines for applying these procedures.

We propose setting the prescribed alcohol limit at 80 mg of alcohol per 100 ml of blood because we believe it provides a reasonable starting point in Hong Kong, since, as I have explained, our present legislation contains no blood/alcohol limit whatsoever. Indeed, this follows the standard adopted in most European Union countries and is also the practice in many states in the United States and elsewhere.

Dr the Honourable LEONG Che-hung has given notice that he intends to propose a Committee stage amendment to reduce this limit to 50 mg. The Administration's view is that this more stringent standard, which would equate to about two or three drinks for most people, is difficult to justify at present. The *ex officio* Members will therefore vote against this proposed amendment.

But we certainly appreciate the intent behind the proposed amendment and the Administration undertakes to gather information based on the results of tests on drivers conducted in the first 12 months after the legislation takes effect. We will then review this information and consult the Legislative Council Transport Panel before deciding whether or not the blood/alcohol limit needs to be adjusted. Let me point out that the Bill has been drafted in such a way that the Secretary for Transport can vary the prescribed limit quite easily by means of a Gazette notice, which would then be subject to vetting by Members of this Council in the normal way.

We will also review the adequacy of penalties and equipment available to the police. Dr LEONG's criticism that the Administration is only prepared to test the water and not seek perfection is, with respect, unfounded. His proposal was discussed in depth by the Bills Committee but rejected. I thank the Honourable LEE Wing-tat for so eloquently presenting some of the counter arguments. And as I have said, what is important, Mr President, is that the Administration undertakes to review this within a year.

Mr President, the opportunity has also been taken in this Bill to make a number of minor amendments to the Road Traffic Ordinance relating to vehicle registration marks, the powers of traffic wardens, and the authority to vary the

fees charged at vehicle testing centres and vehicle emission testing centres. These amendments have, likewise, been fully supported by the Bills Committee.

I shall be proposing a number of amendments to the Bill at the Committee stage which seek to improve the working of the proposed legislation.

Mr President, as Dr LEONG has said, the simple but essential message that the Administration is seeking to put across is that drink and drive do not mix. We will launch a publicity campaign but we need legislation to facilitate enforcement. With these remarks, I commend the Bill to Honourable Members.

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

Bill read the Second time.

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

TELEPHONE (AMENDMENT) BILL 1995

Resumption of debate on Second Reading which was moved on 10 May 1995

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).

ESTATE DUTY (AMENDMENT) BILL 1995

Resumption of debate on Second Reading which was moved on 3 May 1995

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).

DUTIABLE COMMODITIES (AMENDMENT) BILL 1995**Resumption of debate on Second Reading which was moved on 3 May 1995**

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.

PENSIONS (SPECIAL PROVISIONS) (THE HONG KONG INSTITUTE OF EDUCATION) BILL

Clauses 1 to 8 were agreed to.

ROAD TRAFFIC (AMENDMENT) BILL 1995

Clauses 1, 3 to 6 and 8 to 14 were agreed to.

Clause 2

DR LEONG CHE-HUNG: Mr Chairman, I move that clause 2 be amended as set out in the paper circulated to Members.

Proposed amendment

Clause 2

That clause 2 be amended, in the proposed definition of "prescribed limit" —

- (a) in paragraph (a), by deleting "35 micrograms" and substituting "22 micrograms".
- (b) in paragraph (b), by deleting "80 milligrams" and substituting "50 milligrams".

(c) in paragraph (c), by deleting "107 milligrams" and substituting "67 milligrams".

Question on Dr LEONG Che-hung's amendment put.

Voice vote taken.

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

DR LEONG CHE-HUNG: I claim a division.

CHAIRMAN: Council will proceed to a division.

CHAIRMAN: We are in session, so would Members please preserve order?

CHAIRMAN: Would Members please proceed to vote?

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

Mr PANG Chun-hoi, Dr LEONG Che-hung, Dr LAM Kui-chun, Mr Eric LI and Dr Samuel WONG voted for the amendment.

The Chief Secretary, Mr Attorney General, Mr Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Andrew WONG, Mr LAU Wong-fat, Mr Edward HO, Mrs Peggy LAM, Mr LAU Wah-sum, Mr Jimmy MCGREGOR, Mrs Elsie TU, Mr Peter WONG, Mr Albert CHAN, Mr Vincent CHENG, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Timothy HA, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr Steven POON, Mr Henry TANG, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Dr TANG Siu-tong, Ms Anna WU, Mr James TIEN and Mr Alfred TSO voted against the amendment.

THE CHAIRMAN announced that there were five votes in favour of the amendment and 40 votes against it. He therefore declared that the amendment was negatived.

Question on the original clause 2 standing part of the Bill put and agreed to.

Clause 7

SECRETARY FOR TRANSPORT: Mr Chairman, I move the amendments set out under my name in the paper circulated to Members.

The amendment to the new section 39B(2) seeks to standardize the wording used, so that "reasonable cause to suspect" will be a precondition in all cases before a police officer may require a person to provide a specimen of breath for a screening breath test.

The amendments to the new sections 39C, 39D and 39E are minor textual refinements.

The amendment to the new section 39E(3) requires a medical practitioner to state in writing his diagnosis justifying any objection he may have to his patient providing a specimen of breath, blood or urine for testing.

All these amendments have been discussed and agreed by the Bills Committee.

Mr Chairman, I beg to move.

Proposed amendment

Clause 7

That clause 7 be amended —

- (a) in the proposed section 39B(2), by deleting "reasonable cause to believe" and substituting "reasonable cause to suspect".
- (b) in the proposed section 39C(2)(b), by adding "or the hospital where the requirement is made" after "the police station".
- (c) in the proposed section 39C(3)(a), by adding "certifying" after "as the statement)".
- (d) in the proposed section 39C(4) and (5), by deleting "purporting to certify" and substituting "certifying".
- (e) in the proposed section 39D(2), by adding "the" after "has provided".
- (f) in the proposed section 39E(1), by deleting "is not required" and substituting "shall not be required".

(g) by deleting the proposed section 39E(3) and substituting -

"(3) The requirement shall not be made if the medical practitioner objects on the ground specified in subsection (4) and states in writing the diagnosis justifying the objection."

Question on the amendment proposed, put and agreed to.

DR LEONG CHE-HUNG: Mr Chairman, I move that clause 7 be further amended as set out under my name in the paper circulated to Members.

Proposed amendment

Clause 7

That clause 7 be amended, in the proposed section 39D(2), by deleting "50 micrograms" and substituting "32 micrograms".

Question on the amendment proposed, put and negatived.

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

TELEPHONE (AMENDMENT) BILL 1995

Clauses 1 to 11 were agreed to.

ESTATE DUTY (AMENDMENT) BILL 1995

Clauses 1 to 5 were agreed to.

DUTIABLE COMMODITIES (AMENDMENT) BILL 1995

Clauses 1 and 2 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

PENSIONS (SPECIAL PROVISIONS) (THE HONG KONG INSTITUTE OF EDUCATION) BILL**TELEPHONE (AMENDMENT) BILL 1995****ESTATE DUTY (AMENDMENT) BILL 1995** and**DUTIABLE COMMODITIES (AMENDMENT) BILL 1995**

had passed through Committee without amendment and the

ROAD TRAFFIC (AMENDMENT) BILL 1995

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 5 June. 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.

UNEMPLOYMENT PROBLEM

MR FRED LI moved the following motion:

"That in view of the fact that the unemployment rate has risen in recent months to the highest level in nine years, this Council urges the Government to adopt emergency measures to protect the employment of local workers and solve the livelihood problems of workers during periods of unemployment."

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

Hong Kong has long prided itself on its low unemployment rate. It was not until the recent escalation of unemployment rate to 3% that has sounded the alarm, waking the nine-year-long prosperous dream of the Government and capitalists. We have been complacent about the low unemployment rates for so long that when we are faced with the highest unemployment rate in nine years, we cannot help but feel at a loss as to what to do. What is worrying is that the unemployment problem may continue to aggravate. In accordance with the forecast in the latest issue of the *Hang Seng Economic Monthly*, unemployment rate of 1995 will climb up to 3.2%. Therefore, we must take all the effective emergency measures immediately to solve the problems brought about by the high unemployment rate.

Nevertheless, regrettably, there are still government officials and people in the industrial and commercial sector who consider that an unemployment rate of 3% is not that serious and we should not be so alarmed because many advanced countries often have their unemployment rate reaching the level of 10% to 20%. Therefore, by comparison, our 3% is not worth mentioning. It is true that an unemployment rate of 3% may be considered as full employment in many foreign countries. But I have to strongly stress one point, that is, the labour force participation rate is only 66% in Hong Kong which is far lower than advanced countries in Europe and America as well as Japan. If Hong Kong's labour force participation rate were the same as that of the developed countries, the unemployment rate in Hong Kong might have in fact been as high as 7% to 8%. Because many people have been unable to find jobs for so long that they are forced to leave the labour market, like women who decide to stay at home as housewives and some become hawkers, and they are not listed as "unemployed" in the statistics.

Besides, advanced countries in Europe and America have a much better social security system to take care of the unemployed, such as the unemployment insurance payment and social security. But there is nothing like these that Hong Kong can boast of. Just like what we have been saying, "our people are living from hand to mouth". Even several ten thousand of unemployed workers will shock the community. According to the latest statistics of the Social Welfare Department, there were 5 302 cases of people receiving the Comprehensive Social Security Assistance (CSSA) on account of unemployment in April this year while in January this year, that is about four or five months ago, there were only 4 985 cases. From January till now, there has been an obvious upward trend in the number of unemployed workers receiving the CSSA allowance. In comparison with the same time last year, the increase is as high as 30%. If we do not solve the problem of high unemployment as soon as possible, it will become a heavy burden on the Hong Kong society.

The Democratic Party launched a 120-hour relay hunger strike from 26 May to 31 May and another 24-hour hunger strike on 5 June. That means we have had a hunger strike for a total of 144 hours. Some of our regional branches, though not having participated in the hunger strike, have collected signatures. To date, we have collected over 70 000 signatures from the public who support our moving this motion to call upon the Government to halt the importation of foreign labour. I believe that before colleagues entered this chamber to attend the meeting today, they had all seen the pieces of cloth outside the Legislative Council Building with the signatures of people who supported my motion on them. All these signatures were collected by the Democratic Party in various districts and the total length of the cloth is enough to almost completely round up this building. These are also the people's heartfelt wishes. Concerning the solution to the unemployment problem, the Democratic Party insists on four basic principles:

- (1) to legislate on the termination of the labour importation policy as soon as possible;
- (2) to review the present retraining programme;
- (3) to step up prosecution against illegal foreign workers; and
- (4) to resolve the problems faced by the unemployed concerning their livelihood.

The Governor has been responding to the problem of high unemployment in high profile recently. He even convened a summit meeting yesterday to demonstrate that the Government has had the sincerity to resolve the problem. But as regards the termination of the labour importation policy, their attitude is still "no entry" and "no negotiation". There no wonder that ordinary people, especially the labour classes and unionists, all eyed this summit meeting of the Governor as "putting on a show". The Governor put forth 13 long, interim and short-term measures, part of them have in fact responded to the Honourable TAM Yiu-chung's amendment concerning increasing the manpower on the prosecution against illegal workers and imposing more severe penalties on those employers concerned. I believe that the Government's response later will also include these points. But unfortunately, the Government still refuses to face up to the question whether or not it should review the overall labour importation scheme, which includes the quota for 1 000 professionals, the quotas for airport workers and imported domestic helpers, to decide whether they have any impact on the employment of local workers. Why does the 13-point proposal not include the study of these problems?

The unemployment problem is imminent and we should not let the Government delay any longer. The amendment to be moved by the Honourable Henry TANG of the Liberal Party calling upon the Government to first study the increase of the unemployment rate will no doubt give the Government an excuse for stalling. Therefore, the Democratic Party will by no means support

Mr Henry TANG's amendment, especially the part regarding the labour importation policy. The Democratic Party insists that the Government must put a stop to the labour importation policy at once. In the long run, the Legislative Council should be given the power to monitor and veto the labour importation policy through legislation. Therefore, we have decided to draft the Private Member's Bill on employment protection 1995. Members of the Democratic Party also submitted the outline of the Bill at the meeting with the Governor on 29 May.

Mr President, we have only one purpose for doing this, that is, we hope that through legislation, the Legislative Council can be given the power to monitor the labour importation policy. Of course, what is more important is that the Legislative Council can be given the legal power to abolish the labour importation policy so as to protect the employment opportunities of local workers. However, after we had announced our plan to move the Private Member's Bill, Mr Henry TANG and Mr TAM Yiu-chung, whether they were forced to respond or responded on their own, openly criticized the Employment Protection Bill of the Democratic Party. Mr TANG was so very efficient that he issued to the press via facsimile his response to our Private Member's Bill point by point. That was highly efficient, but unfortunately, Mr TANG had mistaken the spirit of our Bill and it is very puzzling. Mr TANG is a Member of the Liberal Party who represents the interests of the industrial and commercial sector. He deliberately said that we had accepted the labour importation policy and therefore he was glad. I feel that that was distortion, but I bear him no grudge. Because he represents the industrial and commercial sector, I do not have any particular feeling. But the fact that Mr TAM Yiu-chung, who represents the labour sector and is also the Vice-chairman of the Hong Kong Federation of Trade Unions, followed suit to criticize that we had confusing stand has really left me in a fog.

Firstly, the notion that the Democratic Party has shifted its stand to support the importation of foreign labour on the issue of labour importation has totally distorted the spirit of our moving the Bill. The present labour importation policy of the Government is entirely an administrative measure. The Government imports foreign labour via various channels such as the General Labour Importation Scheme, the Importation of Labour Scheme for Airport Core Programme Projects, the scheme for importation of domestic helpers, and various forms of importation in the name of training programme and in the name of introducing technical experts and so on. The Legislative Council has no power to monitor or veto any of them whatsoever, let alone the termination of the labour importation policy. Therefore, we need the real monitoring power and vetoing power. Only through legislation can the Legislative Council effectively approve, examine and limit the quotas of the various kinds of imported labour and even completely terminate a certain or all quotas for the importation of labour and abolish the labour importation policy.

Actually, another Members of the Democratic Party, the Honourable Michael HO, moved a Private Member's Bill on Immigration (Amendment) earlier demanding in the form of subsidiary legislation that administrative departments should submit all details of the importation of labour to the Legislative Council for examination and endorsement before they can become effective. And Dr the Honourable HUANG Chen-ya also moved a motion debate in the Legislative Council on the promotion of employment last month. At that time, Dr HUANG already revealed the Democratic Party's plan to move a Private Member's Bill on employment protection. Unfortunately, Mr Michael HO's amendment and Dr HUANG Chen-ya's motion were both negated by the Government in alliance with the Liberal Party. Actually, there are precedents in other countries where local workers are protected through legislation. In Singapore, the foreign worker programme is monitored under their ordinance for foreign labour employment. And in Taiwan, there is the employment service law protecting local workers' employment from the impact of imported labour.

The Democratic Party's stand against labour importation is so very clear that it should leave no room for any unreasonable misinterpretation. If anyone fears that the Legislative Council will be controlled by employers because many employers will be returned to the Legislative Council in October and thus make it more dangerous, this idea, I feel, is downright incomprehensible. Because without proper monitoring under legislation, the public's voice can never influence the Government's decision. However hard they chant the slogans, the Government can turn a deaf ear and refuse to budge. In the long run, only the formulation of a well-defined piece of legislation for employment protection can ensure that the local workers' employment opportunities can be protected and the labour importation policy effectively controlled.

Relatively more colleagues of the Democratic Party will speak on the motion that I propose today to supplement in detail our stand on the solution to the problem of the rise in unemployment rate. To state our stand, Mr Michael HO will analyse clearly the relationship between labour importation and the increase in unemployment rate; Dr HUANG Chen-ya will put forth the suggestions on how the retraining programme can be effectively carried out and how to step up the prosecution of illegal foreign workers; Dr YEUNG Sum will discuss in detail the provision of emergency assistance to the unemployed to solve the problems that they face at a welfare policy level. The Democratic Party will oppose Mr Henry TANG's amendment but support Mr TAM Yiu-chung's amendment.

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

Question on the motion proposed.

PRESIDENT: Mr Henry TANG and Mr TAM Yiu-chung have given notices to move amendments to this motion. As Members were informed by circular on 1 June, under Standing Order 25(4) I shall ask Mr Henry TANG to speak first, to be followed by Mr TAM Yiu-chung; but no amendments are to be moved at this stage. Members may then debate the main motion as well as each of the two amendments listed in the Order Paper.

MR HENRY TANG (in Cantonese): Mr President, if yesterday's summit meeting attended by representatives of both the employers and labour sides has been accused of "putting on a show", I believe there is a greater chance for the Honourable Fred LI's motion debate today to be accused of "putting on a show".

It is mentioned in Mr Fred LI's original motion that the Government is urged to solve the livelihood problems of workers during periods of unemployment, but just now he did not talk about it at all. I think he will definitely raise the question of unemployment benefits at a later stage. In my view, we should take a more prudent attitude in handling this proposal, not purely out of worry as an employer who has vested interests, but rather as examples in countries overseas have told us that inappropriate award of unemployment benefits would only increase the burden of the Government in providing welfare services. It is quite common that people in those countries have voluntarily become unemployed. We need to heed this point. I think the Government should immediately conduct a review on the present public assistance scheme and increase the rate of public assistance so that those families in need would benefit from it. This is a more practical approach than the introduction of unemployment benefits.

As a member of the business sector, I have to move an amendment to Mr Fred LI's motion. Even if I were not a member of the business sector, I would still move this amendment because I am a practical person. I deeply appreciate the labour sector's urgent request for protection to local workers in employment, because their request is in line with the basic principle that I have held all the time. I believe also every sector in our community would not oppose such a request. We all understand that local workers at the basic level have in a way been the foundation upon which a prosperous and dynamic Hong Kong is built. These workers have been working hard for many years without complaints, we should not let them fall prey to unemployment without any protection. Now can the labour sector's great dissatisfaction and resentment towards the importation of labour policy help resolve the problem immediately? I think the inciting slogan of scrapping the policy, which of course has its market value among the furious crowd, is just an irrational expression of their strong feelings. Such a slogan, I am afraid, is "more forceful than practical" in improving the situation.

At the moment, the problem of unemployment has emerged. I believe it would not do much help by shouting strong slogans, which I suppose are for increasing one's political capital. Nor would it help by putting the blame on the

capitalists or the importation of labour policy for an everrising unemployment rate. As everybody knows, capitalists believe in the principle of cost effectiveness. If they cannot acquire the marginal profit and obtain reasonable returns in their business, they will reduce their investment for lack of inducement. And this will further aggravate the unemployment situation. In yesterday's summit meeting, representatives of a number of enterprises of various sizes clearly voiced their opinions towards importation of labour. In many examples quoted, it was pointed out that imported workers filled the posts in the "bottle neck" regions of their companies and thus linked up their production lines. Other examples also illustrated how these imported workers helped fill the posts which were repeatedly left vacant by wastage. Of course, Members of the Democratic Party or Members of the labour sector in this Council today may quote a lot of other examples alleging that importation of labour has broken the rice bowls of local workers. Since different sides are holding different arguments and it is still not understood where the root of the problem lies, could we just be rational and calm down, and try to examine the crux of the problem and find out a reasonable and effective solution?

I have no intention of forcing Members of the Democratic Party or Members of the labour sector to accept the view that importation of labour is definitely conducive to the well-being of Hong Kong. My advice is, however, even if the Private Member's Bill to be tabled by the Democratic Party is passed, the Governor, who has the supreme power under the Letters Patent and the Royal Instructions, can veto the Bill by political finesse of an executive-led government. Therefore I hope every colleague could now cast away his or her original views and fully consider my proposal, that is, to expeditiously set up a tripartite committee on importation of labour comprising employers, employees and the Government, where both the employer and the labour sides would have the right to take part in the process of allocating imported worker quotas, making the relevant administrative measures fairer, more reasonable and proper. I think this committee should also review on a regular basis the present scheme and monitor the enforcement procedures with a view to combatting various crimes involving illegal hiring of workers. I believe the establishment of the committee will increase the transparency of the importation of labour scheme. The participation of the labour and the employer sides would also help ease the tense labour relations at the moment.

It is expected there is a conceptual difference of views between the business sector and the labour sector over the question of importation of labour. I also appreciate that it is a problem that cannot be resolved instantly. However, I have always reiterated that importation of labour policy is only one of the issues to be discussed in the face of the rising unemployment rate. There are some long-term measures to resolve the unemployment problem, on which everyone would agree unanimously. Representatives of both the labour and the employer sides already had a detailed discussion on the matters for which they reached a consensus at the summit meeting yesterday. May I take this opportunity to give a brief summary as follows:

Firstly, we should lay down the direction for our development and conduct economic research by different categories of trades. Since Hong Kong is an economy-led community, when the market turns quiet, we should find out the way to stimulate our economy and generate employment opportunities. We therefore have to identify the way forward in the first instance. I propose that the Government should carry out an economic research on various categories of trades as soon as possible. Particular attention should be paid to the service industries relating to finance and trade because they will become our major business in our development. If the Government can draw up an effective development plan, it will be of great assistance to the development of our economy. Regarding the subject of making economic strategies, I will bring it up for discussion in the debate next week.

Secondly, we should step up the development of the manufacturing sector and encourage the industries to move towards high-technology and high-value-added manufacturing. Regarding this point, we have reached a consensus yesterday that any economy should not depend solely on service industries but also on manufacturing.

Thirdly, the Employees Retraining Scheme should be strengthened. Apart from training local workers for various professions in a bid to develop further our international market, another very important task is to clamp down on illegal workers and severely punished those unscrupulous employers. At the present moment, many employers are illegally employing imported workers and workers without work permits, or hiring foreign domestic helpers for non-domestic duties. All these problems should be tackled.

The rising unemployment rate in Hong Kong is a temporary phenomenon during the structural transformation of our economy. In order to resolve this problem, we have to get to its root. The problem could not be resolved by just shouting "Imported workers go home and give us relief for unemployment!" I will bring up this point again in the Legislative Council sitting next week.

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

MR TAM YIU-CHUNG (in Cantonese): Mr President, to start with, I would like to make it clear that moving an amendment to the Honourable Fred LI's motion by no means suggests that I object to the substance of the motion. On the contrary, I support the spirit of it. I only think that the phrase "emergency measures" in the text of the original motion is not clear enough and it also lacks direction. The authorities concerned, very easily taking advantage of this, will selectively and perfunctorily do something and deem the work done. In this connection, I will later move an amendment which seeks primarily to highlight the need for the Government to amend the existing legislation, impose heavier penalties on employers of illegal workers and further increase the manpower of the Immigration Department to enforce the relevant legislation.

As for the amendment moved by the Honourable Henry TANG, despite its careful wording, I cannot give it my support for two reasons. Firstly, Mr Henry TANG has raised the need to study the causes of the rising unemployment rate. Regarding this issue, I have already had my view, of which I am sure you are all aware. Therefore, there is little point in talking about it anymore. My concern is that if no time limit for concrete action is set in the motion and it only calls for a study of the issue, the Government is likely to adopt delaying tactics in the name of a study. Secondly, Mr Henry TANG's amendment only mentions the need "to strengthen enforcement of existing legislation" without urging the imposition of heavier penalties on employers of illegal workers, and I consider that inadequate. In this connection, if Mr Henry TANG's amendment is carried, I will move another amendment to it.

Regarding my amendment, it comprises two demands and a time limit. The first demand seeks to amend the relevant legislation and impose heavier penalties on employers of illegal workers. There are primarily three relevant provisions in force, namely section 17I, 38A and 41 of the Immigration Ordinance. In simple words, section 17I is mainly invoked to prosecute contractors employing black-market workers with no identity cards on construction sites. Section 38A also principally applies to employment on construction sites but differs from the former in that failing the arrest of the contractor concerned, an offence under this section will result in the prosecution of the construction site owner. As for section 41, it has a broader scope of application covering all employers aiding and abetting foreign workers in breach of the condition of stay.

Under section 17I, the maximum penalties are imprisonment for three years and a fine of \$250,000 whereas under section 38A, offenders are only liable to a maximum fine of \$250,000. On the face of it, the penalties appear to be rather heavy, yet the actual sentencing pattern tells quite a different story. Take last year as an example, more than 800 employers were convicted of employing illegal workers. Only four of them were fined from \$20,000 to \$250,000, while for the rest fines were all under \$20,000. Just take a construction site subcontractor as an example. Let us suppose that he hires 50 workers, of whom 20 are illegal workers. In terms of the present remuneration rate, the daily wage for a bar-bender is \$870 and that for a skilled worker ranges from \$600 to \$650. Even a general labourer earns a daily rate of \$350 to \$450. However, an illegal worker may only receive \$100 a day. Suppose this subcontractor goes undetected by Immigration Officers for half a month, he can earn an extra \$100,000 which should be more than enough to pay the fine in case of a conviction. In respect of the custodial penalties imposed, 89 employers were sentenced to imprisonment last year, yet 76 of them were let go lightly, only given suspended sentences varying from one to 15 months. Only 13 ended up in jail. How can punishment as mild as that carry sufficient deterrent effect? In the light of it, many employers also expressed at the summit meeting yesterday their support of heavier penalties for employers of illegal workers.

Regarding the development of more immigration staff in this area of work, the Immigration Department set up a 48-strong task force last year, charging it with the responsibility to combat the employment of illegal workers. The Governor yesterday pledged at the summit meeting that the strength of the team would be doubled by the end of this year. However, the duty of this task force is not confined to taking enforcement action against illegal workers. It will be deployed to the immigration control points at the airport and other places such as Lo Wu to assist in directing and diverting the flow of passengers during the Chinese New Year, Christmas, the Ching Ming Festival and the Double Ninth Festival. The task force will probably spend only eight or nine months in a year carrying out enforcement action against illegal workers. In fact, even if the team is fully dedicated to the task of clamping down on illegal employment, it can in fact achieve little given the fact that there are now hundreds of thousands of foreign workers in the territory. In this connection, I suggest deploying an additional number of immigration staff to enforce the relevant legislation. Otherwise, it will be useless if there is only the law but no one to enforce it.

Moreover, I have added the phrase "in the current Legislative Council Session" in my amendment. My aim is to urge the Government not to employ delaying tactics in finding a solution to the unemployment problem. The relevant legislation is already in force. What we need to do is to impose heavier penalties on the offenders. I believe this will not involve much technical difficulty. I am also aware that the Government has already been working on it. So the addition of this time limit simply aims to urge the Government to speed up its pace of work.

Lastly, I would like to reiterate our stand on the issue of labour importation. We have all along been objecting to the existing policy of labour importation. We believe that the policy is wrong as it ignores the point that labour shortage may be only a temporary matter in the course of economic development. We therefore demand that the Government should terminate the policy of labour importation immediately. At the summit meeting yesterday, the three labour representatives including myself, unanimously called for the abolition of the labour importation scheme. On the same occasion, Mr Henry TANG suggested the establishment of a committee comprising employees, employers and the Government to monitor and supervise matters relating to the importation of labour. We cannot agree to his suggestion. The reason is very simple. Our endorsement of the establishment of such a committee at this stage will be tantamount to our acceptance of the continuation of the Government's labour importation policy. This committee will be unnecessary in the first place if the Government abandons the policy.

I will move my amendment to the motion later.

Thank you, Mr President.

MRS ELSIE TU: Mr President, the Government's past denials that an unemployment problem exists has allowed it to escalate and now urgent action is needed to solve the problem. I will begin by saying that I do not believe that giving Comprehensive Social Security Assistance is to be commended because most people want to work. Handouts may be necessary as a short-term measure, but we do not want to start on the slippery slope of discouraging people from working. The employment problem must be solved by getting people back to work.

So far, the only half-hearted effort the Government has implemented is the retraining programme, but clearly that does not meet the need. Those over the age of 30, especially women, are having difficulty in finding employment even after retraining, and many of those who have found jobs complain that they are earning less than they earned before.

As the Governor pointed out last week, importation of labour is one factor in unemployment, but it would be naive to claim that it is the only factor depriving Hong Kong people of their jobs. Following the example of businessmen in the advanced countries, Hong Kong employers very often avoid paying the wages and benefits demanded by trade unions by taking their business elsewhere, and for some years now Hong Kong industrialists have been going across the border where labour is cheaper, and safety and environmental requirements less stringent. A great deal of this exodus of the factories must be blamed on the Government for its expensive land policies. They make it almost impossible to set up small or medium-sized businesses here.

Trade unions too, although they do good work for the workers, should consider very carefully every step they take in case their demands aggravate rather than solve the workers' problems. While I deplore the attitude of those who look for more profit by going over the border to China where land is cheaper, labour less demanding and safety and environmental requirements probably less stringent, the fact remains that this is actually happening. Every new labour demand could prove to be another nail in the coffin of employment opportunities here in Hong Kong. It is to be hoped that this side of the problem could be solved by improvements in the conditions of labour and other factors in China, but that aspect of the unemployment problem is not in our hands.

Let me suggest some ways in which the Hong Kong Government could help the employment situation. As I have repeatedly said, the provision of low-cost housing for all low-paid workers would be a security measure, as it was in the early days when the housing programme began. Now we are back to the bad old days of making squatters homeless and providing no acceptable housing programmes. We must never forget the part played by low-cost public housing in our past economic successes.

The Government could also help by relaxing the stringent policies which prevent foreign domestic workers from taking temporary contracts for domestic work while awaiting Labour Tribunal or court cases. It goes without

saying that they have to work to live, and that means taking other jobs illegally. On the other hand, the Government must also deport all illegal immigrant workers who can be found operating on construction sites, in shops, driving cars, in hairdressers and beauty parlours, in offices and even hawking illegally. Employers find illegal workers cheaper to employ and will continue to break the law unless the law is applied more stringently, not only on workers but on employers who employ illegal labour.

On the positive side, the Government could help by training workers for the many building programmes that are going on. We are now building new roads, tunnels, schools, care and detention homes, old people's hostels, day care centres and other projects. Would it not make sense to insist that unskilled labour on the infrastructural projects must be able-bodied local persons directed into these jobs from factory close-downs? I am sure that the "old women" aged 30-plus could be trained to work in care and attention homes, child care centres, offices and even on the underground railways. On no account should these new jobs bring in imported labour.

Mr President, I partially support the motion, but I also see merit in some of the amendments.

MR NGAI SHIU-KIT (in Cantonese): Mr President, the primary problem that Hong Kong must face now is a slackening economy and a rise in unemployment rate. Insofar as today's motion debate is concerned, it is my hope that we can deal with it from a positive perspective by expressing views on the ways to improve employment opportunities for local workers rather than merely enlarging the divergence between employers and employees, thus intensifying contradiction in society in a destructive way.

I think we all understand that both employees and employers are victims of a slow economy. While employees face certain difficulties in seeking employment, employers are also under pressure because of operational hardships. Where the employment issue is concerned, it is the common goal of both employers and employees that full employment is attained. They have common interests and should work together to overcome the hurdles.

Hong Kong is an economy-led society. Economic prosperity is the prerequisite of social stability. In view of the current economic slowdown which pushed up the unemployment rate, the Government must come up with measures to address the problem immediately. I would agree with the Honourable Henry TANG's amendment. The Government must, first and foremost, conduct a comprehensive study on the causes of a higher unemployment rate because there are many reasons for an increase in the number of the unemployed. In addition to the direct impact as a result of the ebb and flow of the economy, other factors include a change in the economic structure, the implications of economic restructuring, a shift in the demand and supply in the labour market, employment conditions of local workers and so on.

I am very pleased to learn that the Government has decided to examine the job vacancies in various sectors, the types of unemployed workers and so on to find out why there is the phenomenon of people being unable to find jobs but vacancies remained unfilled at the same time.

Many academics have looked into the recent rise in the unemployment rate and made some objective analysis. They consider it only a brief partial and structural phenomenon amidst the economic restructuring that Hong Kong is undergoing. Following the relocation of the manufacturing sector northwards which began some 10 years ago, many of the workers who used to work in the manufacturing sector shifted to the service sectors. This is a natural process of the repositioning of employers and redeployment of employees and it happens in the course of economic development everywhere. The difficulties workers face in finding jobs in another sector are only due to a reduced capability of the service sectors in absorbing workers displaced by the manufacturing sector because the service sectors are affected by weakened consumer spending recently.

However, some people adopt an "one-sided" approach by putting all the blame on the labour importation policy for a rising unemployment rate, pointing the finger at the imported workers for depriving local workers of their jobs. This conclusion which is based on sheer assumption is doubtlessly too arbitrary. What is more, it simplified the causes of unemployment. At a time when the relations between employers and employees are strained as a result of the economic downturn, neither employers nor employees will benefit from making the labour importation policy the "scapegoat".

In fact, unemployment rate and the labour importation scheme are basically not directly related. The reason is very simple. The labour importation policy was put into effect in the territory as early as in 1989 and in the past few years, the unemployment rate, though varied, fluctuated within a certain range without going up continuously. This clearly shows that the two are not too directly affected by each other. Besides, there is no sign of economic instability during this period of time.

The causes of the territory's unemployment may be multifarious. The Government must conduct a comprehensive study to identify the crux of the problem of a rising unemployment rate. Only by so doing can the Government give the right prescription directed at the different causes, whereby short-term and long-term measures can be formulated to improve the employment opportunities of workers.

Mr President, the problem of the hiring of illegal workers and that of foreign domestic helpers engaging in non-domestic works such as shopkeeping, waiting in restaurants and in other parts of the service sectors and so on also have a significant bearing on the unemployment rate in the territory. The industrial and commercial sectors will support the Government by all means in stepping up efforts to combat such illegal practices. Under the existing law,

employers who hire illegal workers, if convicted, are liable to a maximum fine of \$5,000 and imprisonment of two years. Of the 919 successful prosecutions last year, a total of 13 employers were sentenced to imprisonments ranging from one to 15 months, showing that the existing law already has a certain deterrent effect. I would suggest that the Immigration Department increases the number of inspections and deploys additional staff for this purpose. Meanwhile, publicity is to be strengthened to encourage the public to report cases in which illegal workers are hired. Employers should also refrain from breaking the law. This is where the root of the problem lies and the Government should expeditiously dig it up.

All in all, in order to improve employment opportunities for local workers, the Government, employers and employees are all required to make efforts to create a better investment environment and pursue more harmonious labour relations on the basis of maintaining Hong Kong's economic advantage. Only under the circumstance where the economy prospers with industries and businesses flourishing can more employment opportunities be created and this, in turn, will benefit both employers and employees.

Mr President, with these remarks, I support Mr Henry TANG's amendment.

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

MR PANG CHUN-HOI (in Cantonese): Madam Deputy, the unemployment rate in Hong Kong has risen to an all-time high in nine years and is likely to continue to worsen. This has aroused obvious anxieties in the community. The problem of unemployment and the difficulties in getting alternative jobs are attributable to some very complex and wide-ranging factors. In this debate today, I hope we can pool our wisdom and try to find out ways from a diversity of perspectives to prevent further aggravation of the crisis.

In fact, industrial restructuring began in Hong Kong as early as in the late 1970s and gained momentum in mid-1980s. The labour-intensive manufacturing industry gradually lost its competitive edge. Yet, the Government simply stood by and watched, giving the industry a free hand to go whichever way it liked and this paved the road for today's troubles.

It is highly imperative that improvements be made to the high unemployment rate. Workers in Hong Kong are also looking to the Government to take effective measures to protect their employment. The Government has repeatedly denied that there is indeed a correlation between the importation of labour and the number of unemployed persons. However, how can the Government turn a blind eye to the fact that the importation of labour by employers has affected the livelihood of the lower-middle classes?

Of course, it is indeed difficult to solve the unemployment problem completely at this time when consumer spending is weak and the economy slackening. In order to protect the employment opportunities of local workers, the Government must put in more efforts, strengthen its retraining programmes and take vigorous prosecution actions against illegal workers. These measures will benefit the community.

I think it is most important for employers and employees to voice their views frankly and sincerely and to co-operate. This is the best way to overcome difficulties and solve problems. If the unemployment problem is turned into a political tug-of-war in this Council, I do not think this will do the community any good. Representatives of employers and employees were invited to attend a summit meeting on employment chaired by the Governor yesterday. Though the summit failed to bring any pleasant surprises to the labour community, it well indicated that the Government is awake to the seriousness of the problem. I earnestly hope that we could stay calm and look for every possible alternative. Only in so doing can the problem be resolved.

Madam Deputy, I hope that the capitalists, the labour sector or people from every sector will not fight one another here. I think this is not conducive to resolving the problem.

MR MICHAEL HO (in Cantonese): Madam Deputy, while the Governor, Mr Chris PATTEN, and senior officials were actively preparing for a so-called summit meeting, there occurred several cases recently in which someone committed suicide as a result of prolonged unemployment. These events are indeed horrible, bearing in mind the fact that Hong Kong claims to be one of the few most prosperous cities in the '90s.

Other people, who are unemployed, may feel uncertain about their future and may suffer from great emotional pressures. For wage-earners who live from hand to mouth, unemployment means no income whatsoever. The Administration should not turn a blind eye to the matter any more.

The Administration has long been telling the public that labour importation is not related to unemployment. However, in last week's Question Time, the Governor admitted directly that the two were related. Despite this, the Administration's analysis of the issue of unemployment and that of labour importation fall greatly behind the reality. The Administration is now saying that the rise in unemployment is only temporary. Of course, "temporary" means not permanent, but it will probably continue for some time. The Administration also goes on to say that the cause of the rise is the continuing move of the manufacturing industry north into China.

The manufacturing industry first started to move north into China more than 10 years ago. The bulk of the move should have completed by now. However, when the Administration approved a further relaxation in the

importation of labour in May, 1990, surprisingly the manufacturing sector got the highest quota: altogether 2 374. This not only drove some of the workers in the manufacturing sector out of their jobs but also made the worsening underemployment situation worse.

In April, 1992, the Administration announced approval for 12 000 imported labour. Of these, most went to wholesale, retail and import/export trade, altogether about 30% of the quota. Restaurants had the next biggest share of the quota. The Administration in August 1994 again publicized distribution by trade for a quota for 11 000 imported labour under the General Importation Scheme, most of which went to the service industry.

Allocation of imported labour to various trades has been depriving local workers of job opportunities. Workers in the manufacturing sector were made jobless as a result of labour importation and moving of local industries to China. They were hoping to find jobs in the service industry where no special skills are required. However, they now find it impossible to do so as the Administration allows the importation of a large number of workers in the service industry. Imported labour has been driving local workers to a hopeless situation.

The above situation has been existent since labour importation was first implemented. Things worsen because of the recent economic slowdown and the present market conditions in the catering and retail sectors, which start to deteriorate. This analysis is endorsed by the May issue of the *Hang Seng Economic Monthly*, which points out that "While the imported workers merely account for around 1% of the labour force, they nevertheless represent a source of competition for the displaced manufacturing workers seeking employment in the services sector".

A review of some figures shows that quotas for imported labour are 1 733 for the retail trade and 1 624 for restaurants. Both are trades in which workers from the manufacturing industry find it relatively easy to get jobs, but a large number of workers in these trades have been imported. Have imported workers not snatched job opportunities which should have been given to local workers from the manufacturing industry who intend to change their jobs? Obviously, another factor which makes it impossible for displaced local workers from the manufacturing industry to find jobs is the fact that there are some 300 to 400 quotas for imported workers for the metal products industry, the clothing industry, the communication industry, and the construction industry.

Allocation of imported labour to various trades have been seriously depriving local workers of opportunities to change jobs. While the services industry is gradually moving north into China, importing labour into the industry will further diminish job opportunities for local workers. So, the labour importation policy should be abolished immediately.

Madam Deputy, with these remarks, I support the Honourable Fred LI's motion.

MR FREDERICK FUNG (in Cantonese): Madam Deputy, the plain fact is that employment for local workers has come to a hellish state. The Government can no longer turn a blind eye and a deaf ear to things now. The saying has it that "no one but the wearer knows better where the shoe pinches", and as the Government fails to understand and sympathize with the misery of workers' employment situation, members of the public are disheartened. The Legislative Council had debates, time and again, on the employment of local workers in the past year. But what is the outcome? The fact is that the Government is not willing to brace itself up, provide protection and commit itself to ensuring local workers' employment, thus worsening the problem further. This is something the Government is definitely to be held responsible.

The latest figure of the rate of unemployment for the last quarter is 3%, a record high in nine years and a really shocking one. However, the Government remains unruffled and merely utters some useless words of consolation like "the situation is not serious". I have to remind the Government that Mr Piers JACOBS, former Financial Secretary, had promised that once the rate of unemployment reached 3%, the labour importation schemes would be shelved. I wonder if the present Financial Secretary will honour the promise of Mr Piers JACOBS? Perhaps the present Financial Secretary would insist on the continuation of the labour importation schemes with various justifications that are not acceptable to us and workers in general. If that the case, what more can I say!

Calculating on the basis of the about 2.9 million-strong local labour force, an unemployment rate of 3% means there are 87 000 people unemployed. According to a questionnaire survey on the people's livelihood and economic index conducted in May this year by the Hong Kong Association for Democracy and People's Livelihood (ADPL), nearly 70% of the 1 000-odd respondents said that it was their worry that the unemployment of local workers would further worsen before 1997. And according to the forecast of the latest issue of the *Heng Sang Economic Monthly* published by the Heng Sang Bank, the unemployment rate of this year would be as high as 3.2%. So it is understandable how very uncertain the prospect of local workers' employment is and how disturbed workers are.

Recently, our community has seen dismissal of workers on a massive scale and hundreds of workers are laid off each time it happened. Such incidents have brought about restlessness in our community. Over the past several years, our economy has been enjoying a 5% growth in real terms, but the masses of workers who have made the contribution are unable to secure their means of livelihood. Why have the workers come to such a miserable state? They are willing to put in their hard work in exchange for basic food and shelter. However, the Government cannot even provide them with this kind of basic protection. What competence does the Government have, and how can it prove that it is an efficient government?

For the sake of protecting the employment of workers, I urge the Government to immediately stop the labour importation schemes so that not only can local workers have the priority of employment but the loopholes in the labour importation policy (which aggravates the unemployment of local workers) exploited by employers can also be filled up. Apart from that, there is the problem of employers dismissing workers on all sorts of unreasonable grounds. It is true that workers may receive compensation required by the law, but the difficulties faced by them having lost their jobs can never be compensated. Therefore, I urge the Government to enact a law against unfair dismissal as soon as possible so that workers will be protected from unreasonable dismissal and will be able to receive certain compensation. Although the Government claims that the existing Employment Ordinance and the Employees' Compensation Ordinance have already provided workers with reasonable protection, my view is that a law ought to be enacted against unfair dismissal, and provisions must be legislated to safeguard the statutory rights of workers. Also, the Government must step up prosecution against the disguised form of importation of low-cost labour from China in the name of "training". I also urge the Government to refer the Employment Act of 1946 passed by the Government of the United States of America in 1946 as the Government is duty-bound to formulate policies to promote and achieve full employment. As a matter of course, the Government should take the lead in employing workers who have participated in the retraining programmes, and in doing so it encourages other employers to do likewise so that the objective of full employment can be achieved.

Unemployed workers are people who live from hand to mouth, and if they remain unemployed for some time, their meagre savings will be exhausted. They are the people who urgently require relief for their pressing needs. In providing help to the unemployed to overcome problems of livelihood, what the Government has done is very insufficient. Under such circumstances, the mental pressure unemployed people have to withstand is very great. Unemployed people can apply to the Social Welfare Department for financial assistance only if they cannot find employment even with the help of the Labour Department, and it is after a series of assessments and verifications that the unemployed people will know whether their applications are approved, probably in two or three months' time. I suggest that the Labour Department and the Social Welfare Department should work more closely together and coordinate their efforts to provide the very basic financial assistance to unemployed people who are seeking jobs and who have not yet received any financial assistance from the Social Welfare Department.

The amendment motion proposed by the Honourable TAM Yiu-chung is in principle similar to the original motion moved by the Honourable Fred LI, and I will support it. Though the Government has capped the number of imported workers at 25 000, the employment opportunities of local workers are under an invisible kind of threat, which is the very serious problem of illegal workers in Hong Kong. According to the statistics of the Immigration Department, there has been a rise in the number of cases of illegal workers as

well as overstaying over the past three years. For example, in 1994, the number of people prosecuted for the former offence was 2 906, and for the latter as high as 10 426. One dare not think about the number of cases that have gone undetected. This year the Immigration Department will have 92 people tasked to deal with the problem of illegal workers. However, it is not sufficient with this number of people to tackle the problem of illegal workers. Therefore, I urge that the Immigration Department should increase its staff for this task.

As to the amendment motion moved by the Honourable Henry TANG, I will not support it. One of the reasons is that he is still asking the Government to carry out a study, which will provide the Government with an excuse to stall things. Furthermore, the amendment motion merely ask the Government to strengthen enforcement of existing legislation, which is, I think, inadequate in dealing with the problems of imported workers and unemployment that we have now.

Therefore, I support the original motion and the amendment motion by Mr TAM Yiu-chung and oppose the amendment motion moved by Mr Henry TANG.

DR SAMUEL WONG (in Cantonese): Madam Deputy, the unemployment rate has been rising since the end of last year to the present 3% and about 80 000 people are now unemployed. The situation calls for concern.

What we have in Hong Kong is a market economy and there are ups and downs in any market economy. Considering that Hong Kong has only started to experience the first slowdown in its economy in eight years, we must say that we are exceptionally fortunate.

The present slowdown in economic activities is a natural adjustment to the overheating a few years ago. No matter what administrative measures we might take, it is difficult to go against the laws of market economy and avoid this adjustment.

The issue of foreign labour has become a strategically important one in the fight in this election year. On the one hand, we have to adequately meet the needs in respect of the livelihood of the people and work out solutions immediately. On the other hand, we cannot allow any overreaction over the issue to ensure that the general climate for investment will not be affected. It is hoped that all parties will try to debate rationally, enhance their mutual communication and seek to reach a consensus.

As Chairman of the Employees Retraining Board, I am particularly concerned about the difficulties faced by the unemployed.

Although as many as 80 000 people are unemployed in Hong Kong, there are still 60 000 job vacancies in the market. That obviously shows that the market mechanism has not been functioning most effectively.

The Employees Retraining Board thinks that there are three main obstacles:

- (1) lack of information — employers do not know where to look for suitable candidates to employ;
- (2) inadequacy of skills — job-seekers do not have the skills required by the jobs available; and
- (3) outdated work-combination and recruitment policies and the lack of academic qualifications which has also become an impassable chasm for many workers who have not had the opportunity to receive secondary education.

In connection with the lack of information, the Employees Retraining Board has now changed its focus from retraining to job-placement. The Employees Retraining Board intends to allocate an extra \$3 million to create seven posts to strengthen the job placement services within the retraining network. Besides, about \$10 million which will be obtained from cutting courses offered will be used to strengthen the career counselling services in the retraining centres.

The setting-up of Retraining Resource Centres (or "careers workshops") serves to provide career counselling services to the unemployed and give them individual pre-employment training and practical drills in the basic skills required by the jobs that they would like to get. That would gradually replace the care courses on job-search skills.

The job-search services provided to redundant workers intend to provide job-search training and services to workers who are affected immediately after they have been dismissed or even before redundancy.

The Employees Retraining Board has allocated about \$8 million to design and set up a "computer network of retraining services" to collect information of job vacancies and the particulars of job-seekers. It is estimated that the services will be available early next year and the communication of information about the market will then be greatly enhanced.

As regards the inadequacy of skills, the Employees Retraining Board is having discussions with many big companies which have a serious shortage of skilled workers about the provision of a simplified six-month apprenticeship programme for unemployed adults with the Employees Retraining Board bearing part of the costs.

Outdated work combination and recruitment policies are major obstacles to the maximum utilization of human resources. The majority of organizations, including the Government, are still using a recruitment policy which was designed for a labour market of mainly young people. That policy has not been amended accordingly to suit the needs of a gradually aging society.

Some apparently perfectly proper entry requirements for posts, for example, office assistants or messengers job holders are required to have Form 3 level, have kept a whole generation of factory workers out.

The Employees Retraining Board is not suggesting that the present standard of service should be lowered. Instead, we are proposing to create a new category of posts to absorb those middle-aged primary-school-level job-seekers to undertake the simpler, routine duties in the office. The Employees Retraining Board will provide all the necessary training in basic English and in the use of computer so that staff having a higher standard of education can have more time to perform the more complicated duties. This arrangement will not only help to solve the problem of staff shortage in the office, it will also help the companies to cut expenditure or salaries.

The Employees Retraining Board intends to help at least 10 000 people to find jobs within the next 12 months.

The Employees Retraining Board will also continue to run evening enhancement courses for those who are working to improve their long-term working capability. These enhancement courses will provide opportunities of enhancement for 22 000 students in this financial year.

It is hoped that employers having labour shortage problems will contact the Employees Retraining Board as soon as possible so that their existing vacancies can be filled by local workers. We also hope that more job-seekers will join our retraining programmes and be able to find a job soon.

Madam Deputy, with these remarks, I support the Honourable Henry TANG's amendment.

MR CHEUNG MAN-KWONG (in Cantonese): Madam Deputy, more than 600 old and middle-aged workers were dismissed by Winsor Industry Corporation Limited in the wake of the removal of its two dyeing factories to China. With the closing down of the Mitsukoshi department store in Tsim Sha Tsui, over 230 of its staff were dismissed. More than 1 000 workers got the sack when Hilton Hotel and Hotel Victoria in the Central are to be redeveloped. This entailed the reduction of staff in the property management company under The Wharf (Holdings) Limited. In the coming few months, news about companies lining up to wind up will reach us successively and people are getting scared. It was said that some chain stores and fast food shops will close down some of its outlets which perform poorly or for which high rent is paid. Some other companies

will reduce its staff by changing their systems and by switching to automation. The Hongkong Telecom is one of the conspicuous examples.

During the past few months, countless appeals and complaints from the people and debates held in this Council all indicated that unemployment problem is extremely serious. In March, Mr LEUNG Man-kin, the Secretary for Education and Manpower, warned the people not to make a fuss because the unemployment rate was less than 3%, which could be regarded as virtually full employment. No sooner had he finished his speech than the unemployment rate broke through the 3% barrier, not to mention the repeated large-scale dismissal of workers and retrenchment. Even the Governor had to admit the fact that above Hong Kong "dark clouds appear in the sky and it is turning dusky", and that the unemployment rate has reached a level which we all have to face up to it, that is, we have to deal with the problem with our wisdom and clear minds in order to pursue good fortune and avoid disaster. These can be described as the Government's only honest words in the past few months.

The Governor said that the reason for a rise in unemployment rate was the gradual decrease in consumer spending and shrinking of the service sectors. Both of these have led to a reduced demand for labour. Besides, under economic transformation, not only factories are moving to China but also financial service and catering industry establishment. I completely agree to the Governor's observations. But there is one fundamental difference between the Governor's Viewpoint and mine, that is, the Government should actively adopt measures to help local workers get employment and terminate the importation of labour scheme which is detrimental to the employment opportunities of local workers.

We are faced with economic transformation. There are over 500 000 workers displaced. The old and middle-aged workers have found themselves difficult to get new jobs and the women over 30 years of age have found it difficult to get a job. What has the Government done to tackle the problems? I dare say that the Government has not done anything positively to assist the workers to get alternative jobs. Quite on the contrary, the Government has continuously expanded the importation of foreign labour scheme, therefore, breaking the "rice bowls" of the workers. For the past six years, quotas for imported workers increased from 3 000 to over 50 000. At the same time, unemployment rate increased from less than 2% in 1989 to 3% in the first quarter of 1995. It is forecasted by the *Hang Seng Economic Monthly* that it will rise to 3.2%.

At this critical moment, the Governor still refuses to terminate the importation of labour scheme on the ground of protecting Hong Kong's long term interests. I have but to ask: whose long term interests are we protecting? Obviously, the Governor has to protect the interests of the business sector. The employers ask for importation of cheap labour in order to maintain Hong Kong's competitiveness, labour-intensive and low-technology products and services so as to get maximum profit and let, instead, the workers suffer from

unemployment and underemployment. I do not think that these are the long term interests that Hong Kong society has to protect!

The Honourable Henry TANG is of the opinion that Hong Kong is facing the second economic transformation. After the manufacturing industry has moved to China, there is again a trend of our service sectors moving north. As a result, the number of jobs decreases and the number of the unemployed people increases. Mr TANG is in fact suggesting that should the Government terminate importation of labour, it will accelerate the export of capital which will result in the removal of our manufacturing sector and service sector to China and therefore, will aggravate the unemployment situation. So the importation of labour is an inducement for investment which will keep the capitalists in Hong Kong.

However, is this the whole truth? Let us look at what happened recently. Big enterprises and big hotels were closed down for redevelopment projects so that huge profits can be reaped from land appreciation and redevelopment. It is precisely due to the high land price policy pursued by the Government, the real estate business prospers and outshines others. Industrialists are therefore attracted to real estate business and they give up manufacturing. The manufacturing sector and services sector, which can take up more labour, are suffering from high rent. Mr Chris PATTEN said yesterday that he hoped that Hong Kong could enjoy high salaries, high economic growth, high employment rate and high competitiveness. But when we look at the realities in Hong Kong, we find that he was just engaged in false, big and empty talk. The realities are: Hong Kong will suffer from high rent, high incidence of companies folding up, high inflation, high unemployment rate and people will lead a much harder life in the future.

The Governor's high-profile, summit meeting on the unemployment problem yesterday produced little result. There is neither a breakthrough nor far-sightedness in the 13 measures he put forth. His proposal of strengthening employees' retraining programme and enlarging the job matching scheme is mere window-dressing. The only measure which dovetailed the suggestions of both the Democratic Party and the labour sector is his proposal of imposing heavier penalties on employers of illegal workers. This, however, is in fact a something law enforcers should do. The Government's failure to do it in the past was in fact dereliction of its duty. Nothing new had been put forth to tackle the most crucial problems such as importation of labour, employment protection for local workers and promoting industrial development. The Governor is going to delay tackling these problems for four months. He ignored the social crisis that might be created by unemployment. We are too impatient to wait but the Government is unaware of the danger it is in.

With these remarks, Madam Deputy, I support the Honourable Fred LI's motion and the Honourable TAM Yiu-chung's amendment.

DR YEUNG SUM (in Cantonese): Madam Deputy, members of the Democratic Party have already expressed our ideas on how to solve the unemployment problem. I am going to focus on the problem of unemployment and poverty. From the angle of people's livelihood, I would like to analyze what difficulties the unemployed workers face and to see how inadequate our social security system is.

Perhaps, some people may regard a 3% unemployment rate not high as compared with the much higher rates in many advanced Western countries. However, we should understand that our unemployed workers are much worse off than their counterparts in the Western countries because we lack a comprehensive social security net in Hong Kong. The fact is that our Comprehensive Social Security Assistance (CSSA) Scheme is lagging behind our social needs. During the past two years, this problem was discussed in the Legislative Council several times. An independent study commissioned by the Hong Kong Council of Social Services has pointed out the inadequacies of our social security system in the MacPHERSON Report. Despite that, the Government still turns a deaf ear to it. What the Government has done and will continue to do are just a few adjustments here and there and a little increase in the allowances every year.

According to official statistics, the number of cases applying for unemployment assistance under the CSSA Scheme has been on the rise. In 1991, there were 2 248 cases, while in 1993, 2 974. In January 1995, the number jumped to 4 985, the figure doubled in four years. The unemployed have not only lost their jobs but also their dignity. According to the MacPHERSON Report, the allowances under the CSSA scheme can hardly enable the recipients to support a life with dignity. The lack of sufficient income support will lead to more serious social problems. The unemployed will first bear the brunt of family problems. As a Chinese saying goes, "A poor couple will lead a sorrowful life". The unemployed and his family, due to the financial stress, will suffer from family disputes such as husband-and-wife conflict, which may result in domestic violence and an undesirable impact on the growth of their children.

Another problem worth our concern is underemployment. The unemployed population in Hong Kong is 90 000 strong. If the underemployed workers, whose number is close to that of the unemployed, are included, the total population affected will be well over 100 000. If the unemployed worker is the bread-winner of a family, his unemployment will result in another member of his family taking up some part-time or lowly-paid job in order to support their livelihood. Given the strict income level requirement under the CSSA Scheme, these families will not be entitled to assistance and will continue to live in abject poverty.

According to a "poverty report" concerning those non-CSSA recipients leading a hard life produced in April 1995 by the Society for Community Organization Limited, families that are suffering from semi-unemployment and underemployment are earning an average monthly *per capita* income lower than

the *per capita* income of a family receiving CSSA. More often, they find it hard to make both ends meet and are short of \$770 a month on an average.

The overall picture is, due to inadequacies in our social security system, that families suffering from unemployment and eligible for CSSA are unable to lead a life with dignity because the level of assistance is too low, at the same time, families suffering from underemployment may even be worse off compared with the CSSA recipients because they cannot meet the rigid income assessment criteria.

Here I would like to warn the Government that unemployment will result in the poor getting poorer, with more resultant social problems. Our social security system should be reformed as soon as possible.

The Democratic Party would like to put forward some specific proposals as follows:

- (1) Poverty line should be redrawn. A new CSSA level should be determined with the concept of "relative poverty" aiming to enable the poor to lead a life with dignity and to reduce the pressure of life on the unemployed. Currently the Government is using "absolute poverty" as a yardstick to measure poverty.
- (2) CSSA for single persons as proposed by the MacPHERSON Report should be adopted immediately. The Report recommends that allowances for qualified single persons aged between 17 and 59 and the first adult of a family should be \$2,506 and allowance for the other family members should be \$1,902.
- (3) The method used in the calculation of disregarded income for CSSA applicants who are earning income should be reviewed. Currently the Government allows part of the applicants' income to be disregarded in assessing their eligibility for CSSA because the Government wants to encourage them to continue with their jobs. If the Government increases the level of disregarded income, I believe more unemployed and underemployed people will become eligible for CSSA.
- (4) Examination procedures of CSSA applications from the unemployed should be reviewed. I hope the Government will deploy more manpower and the Labour Department and Social Welfare Department will strengthen their co-operation in order to speed up the procedures so that an applicant, once found eligible, can obtain CSSA as soon as possible.

With these remarks, I support the Honourable Fred LI's motion and the Honourable TAM Yiu-chung's amendment.

DR TANG SIU-TONG (in Cantonese): Madam Deputy, while 100 000-plus workers are being haunted by unemployment or underemployment, quite a number of long-established big enterprises, department stores and hotels, with large establishment of staff, recently closed down one after another, resulting in the laying off of a large number of workers. Our unemployment rate, unfortunately as what we predicted, after reaching 2.8% in early 1995, recently soared to a new high of 3%, the highest rate in nine years. *Hang Seng Economic Monthly* estimated that the unemployment rate for the whole year would be as high as 3.2%. Although the Government has said this as a temporary matter, I am worried that the situation is not as optimistic as we would like to think. The gradual rise of our unemployment rate, coupled with the fact that inflation rate for the first quarter of this year has increased to 9.6% which is higher than the Government's estimate of 8.5%, has put pressure on ordinary citizens. Should this situation persist, there will be grave consequences.

Madam Deputy, the Legislative Council has had repeated debates on the issue of employment during this session. Although consensus cannot be reached on the causes of rising unemployment rate or the termination of importation of labour policy, the true picture of these problems has basically been clearly told. I therefore will not elaborate these two problems any more. Rather, I will concentrate on clamping down on illegal workers.

Illegal workers can be broadly divided into the following types. The first type is overstaying visitors who are termed the "black-market labour", the second type is illegal immigrants; the third type is foreign domestic helpers who are forced to work in their employers' shops and companies. Besides, some organizations have taken advantage of the foreign labour quotas they have by either renting out foreign labour they have imported to other companies or deriving profits from these workers by allowing them to work freely outside. The existence of a large number of illegal workers, no matter which type they belong to, have snapped up the jobs of local workers.

Among various types of illegal workers as mentioned above, the "black-market labour", who come as visitors, are the most obvious ones. According to information, 8 383 overstayers were found in 1990, among them, 1 005 were found to have worked illegally in Hong Kong. In 1992, the number of this type of illegal workers increased by 150% to 2 506. In 1994, the number of overstayers jumped to 15 864, among them, 10 426 were illegal workers, representing an astonishing 10-fold increase compared with the number in 1990. To eliminate these illegal workers who are visitors in Hong Kong, I would like to put forward some suggestions as follows:

First, screening should be stepped up. The Indian and Pakistani people form the majority of the above-mentioned illegal workers. The Immigration Department, starting from September last year, has implemented new measures under which the tradition of visa-free access long enjoyed by Indian and Pakistani people has been removed. Some "suspected" Pakistani visitors are

only permitted to stay here for one or two weeks and have to leave the territory after a further extension of visa by seven days only. I welcome this new measure. However, as far as I know, quite a number of arrested Indian and Pakistani people have overstayed and worked illegally here for more than once. After being arrested, they will be ordered to leave Hong Kong. But some time later, they will come and work illegally again. These illegal workers come and go and cannot be totally removed. In addition to stepping up our screening procedure, I think we have to keep a record of visitors who have been found working illegally in Hong Kong so that they will be prohibited from entering Hong Kong within a specified period of time.

Secondly, prosecution against employers hiring workers who are not lawfully employable should be strengthened and heavier penalties should be imposed on them. While 1 416 employers were arrested last year for the suspected offences of hiring illegal workers, only 919 of them were successfully prosecuted. It is provided under the relevant Ordinance that the maximum penalty for employers of overstayers is a fine of \$5,000 and two years' imprisonment. I think the Government should review the prosecution procedures in order to improve the effectiveness in prosecuting these employers who have broken the law. Besides, the maximum fine of \$5,000 should be increased in order to increase the deterrent effect.

Thirdly, the double standards governing the prosecution of illegal workers should be made uniform. Currently different penalties are being imposed on illegal immigrants and overstayers for working illegally in Hong Kong. The maximum penalty for the former is one year's imprisonment while the latter will mostly be prosecuted on charge of overstaying and be imposed a fine ranging from \$1,000 to \$125,000. As both are illegal workers, there should not be different treatments. The relevant provisions in the law concerning these two types of illegal workers should therefore be made the same.

Fourthly, report against illegal workers should be encouraged. The Government should encourage the public to report illegal workers. The setting up of a hotline will be an effective means to improve the effectiveness of its enforcement operations. Reward may even be provided as an inducement.

Fifthly, manpower resources allocated to enforcement measures should be increased. Although joint operations are conducted by the police and the Immigration Department from time to time, it is impossible, due to limited manpower, to station staff at some "black spots" permanently. As a result, law enforcement officers are kept constantly running around looking for illegal workers. I hope the departments concerned can allocate more manpower for this purpose and strengthen their operations.

Further, to prevent employers from forcing their foreign domestic helpers to engage in non-domestic work and to prevent organizations from abusing the availability of imputed workers, the Government should conduct

more vigorous inspections and impose heavier penalties on them. In addition, offenders must not be allowed to continue to hire foreign domestic helpers or to have access to quotas of imported labour. This will serve as a deterrent and as a measure to protect the employment opportunities of local workers.

Madam Deputy, rising unemployment rate and persisting high inflation rate are the two factors attributing to the harder life that common people are facing. In my opinion, the Government should deal with unemployment as quickly as possible. Fees charged for various public services and public housing rental should be frozen for one year. Other public utilities should also be persuaded to make similar moves in order to avoid further escalation of inflation. The inflation rate for the first quarter of this year reached 9.5%, which is higher than the corresponding figure, 7.3%, in the same period last year by more than 2 percentage points. Economists have expected that inflation rate for the whole year to be as high as 11% or 12%. If this estimation turns out to be correct, the common people will have a much harder time under the dual pressure of these two problems. I therefore urge the Government to be compassionate towards people's straitened circumstances and to do what it did in 1991 — to freeze charges for public services as a leading measure to curb inflation. By so doing, the common people will be able to have a breathing spell and to overcome the difficulty.

With these remarks, Madam Deputy, I support the Honourable Tam Yiu-chung's amendment.

MRS SELINA CHOW (in Cantonese): Madam Deputy, it definitely arouses people's great concern that our unemployment rate has reached the highest in nine years. Yet another fact is being overlooked: that is, there exist a large number of vacancies in some trades.

This phenomenon can only be explained by a mismatch between labour supply and demand. And the existence of vacancies in retail and catering industries is obvious. To help the unemployed to find employment, the first thing we have to do is to ascertain which types of work in our job market need labour. Having done that, we can help the unemployed enter these fields by providing them with suitable technical training and psychological counselling. That will be a more appropriate approach than mere yelling that we have to protect the employment opportunities of local workers on the one hand and denying the existence of job vacancies which urgently need to be filled on the other.

The Honourable Henry TANG has been explicitly urging the Government to rigorously enforce the regulations governing the employment of foreign domestic helpers and imported labour, and those against employment of illegal labour. He has just reiterated this point again. Mr PATTEN, the Governor, also stressed at summit meeting yesterday that law enforcement would be strengthened and retraining would be improved. In fact, the Liberal Party and I

have been urging the Government to launch these initiatives. We are glad to learn that the Government is eventually willing to face up to the problems in our labour market.

The Liberal Party believes, taking the following three measures simultaneously, difficulties faced by the unemployed can be effectively alleviated. Meanwhile labour shortage can also be solved.

Firstly, jobs taken up by illegal workers should be recovered for our workers. The most conspicuous example is that many foreign domestic helpers are engaged in non-household work. By doing so, they have not only infringed on the employment guidelines which they should observe but have also deprived local workers of many employment opportunities. As a result, our employment situation worsened.

Secondly, we should develop new employment opportunities, which include the provision of retraining to cater to new types of work and the need of our market. Earlier on, the Liberal Party has put forth a proposal on the retraining of our woman workers to take up the jobs of domestic helpers. At present, we are also studying how to ensure that retraining courses can cater to the actual needs of our sales personnel in the retail trade. In fact, the Government should have done this. However, the Government or the Employees Retraining Board has adopted stalling tactics. In view of this, the Liberal Party cannot but put forth this proposal in the hope that the Government will seriously organize more retraining courses which suit the needs of the market.

Thirdly, the job placement service of the Labour Department should be strengthened. In regard to this point, I have earlier heard that the Chairman of the Employees Retraining Board mentioned that the Board would like to play a supporting role and that it would collate data on vacancies in various trades. In addition, it would also provide career counselling on district basis in order to make the unemployed better informed of vacancies in their neighbouring districts and, as a result, to enhance their employment opportunities.

The Governor mentioned yesterday that retraining needed to be strengthened. But I think retraining in skills alone cannot guarantee that the unemployed can change jobs. I suggest that the Government should provide psychological counselling to retrainees in order to ensure that they are aware of the need to adapt themselves to overall economic transformation and that they have to accept certain realities after changing job. For instance, as beginners in new jobs, they have to start everything afresh. But they should also understand that after joining a new trade, their advancement prospects will be better than sticking to a declining industry although their new positions may be of a lower rank.

Only sufficient psychological and technical preparation can effectively assist the workers in changing jobs. By doing so, the unemployment crisis can

be alleviated while at the same time, labour shortage in individual trades can also be managed. To match the expectations and needs of both the employers and the employees, the Government should strengthen on-the-job retraining and provide psychological counselling to the workers concerned both before and after they have changed jobs.

The present mismatch of demand and supply in the labour market is a result of the failure on the part of the Government to take up more responsibilities in helping local workers adapt themselves in the aftermath of economic and industrial transformation. The Government cannot shirk this responsibility. The so-called "free market economy" does not mean the Government can sit back and do nothing. The Government should still play a guiding role, and provide advice and adequate support.

Sir Hamish MacLEOD, the outgoing Financial Secretary, in his speech during the Second Reading of this year's Budget, expressly pointed out that the government had to provide entrepreneurs and investors with the essential framework within which wealth could be created. What he said has clearly indicated that the Government, in dealing with problems connected with industrial transformation, has an unshirkable responsibility.

Madam Deputy, we should not overlook problems brought about by foreign domestic helpers when discussing how to improve the employment opportunities of local workers. As I have just said, they often take up non-household work. Although the Governor also mentioned this problem at the summit meeting yesterday, he failed to touch upon the crux of the problem. The issue of foreign domestic helpers is totally out of the Government's control in all aspects from the management of such helpers, arrangement for their importation, relevant legislative control and, lastly, to their identity. All are in a mess. The fact that the control of foreign domestic helpers has been exercised under a set of guidelines accounts for such a situation. In fact, there lacks an integrated legislative framework and legal powers for the effective control of these foreign domestic helpers.

I believe all the people of Hong Kong will recognize the need of importing foreign domestic helpers. The Liberal Party urges that the Government should draw up clear and definite laws for their control. We are not trying to ban them from working in Hong Kong. We only hope that employment opportunities of local workers will not be adversely affected by any administrative loopholes or insufficient control on them. Singapore's legislation governing the importation of foreign domestic helpers is worth our study. The Liberal Party will not rule out the possibility that, after having consulted all quarters, a private member's bill on the control of importation of foreign domestic helpers will be moved with a view to putting the whole management work on the right track.

MR ALBERT CHAN (in Cantonese): Madam Deputy, Hong Kong is a place full of legends. In this tiny place there are many rich people. Of the three richest ethnic Chinese in the world, two are from Hong Kong. Hong Kong is also ranked as the most successful commercial city in the world. In terms of *per capita* Gross National Product, Hong Kong is also among the top 10. But, at the same time, Hong Kong is a metropolitan which is full of contradictions and absurdities. In this affluent society there are lots of poor people. We have a vast number of unemployed, but our Government has imported tens or even hundreds of thousands of foreign workers.

Madam Deputy, no normal person would ever want to live in poverty. Neither would the great majority of the people of Hong Kong want to live on government dole. The people of Hong Kong all wish to depend on themselves and, through their own labour, earn a living for themselves and for their families. Nevertheless, Madam Deputy, social changes and the transformation of our economy have resulted in reduction of wages, declining standards of living and unstable employment for our workforce, the majority of whom have been working in Hong Kong in the past 20 or 30 years and upon whose work the good foundation of our economy was built. Many of them have even lost their jobs, and their lives are becoming more and more difficult. As the saying goes: When the birds are gone, the bows are cast away; and when the hares are hunted, the hounds are slaughtered. But these are workers who have dedicated the better part of their lives to Hong Kong. Should they really be fated to face unemployment in their forties and fifties? "At thirties, one is difficult to get a job", this has become a real life portrait in the '90s of Hong Kong.

It can be argued that the Government has single-handedly created the recent unemployment and employment difficulties. The high land price policy and high inflation policy the Government has adopted over the years ended up in many manufacturing industries moving north. Skyrocketed rent has also forced many retail industries into closing down. Most ironically, in the hotel industry, which is the pillar of our tourism industry, many hotels are being, or will be, demolished simply because it is more profitable to rebuild them into commercial buildings. With big hotels closing down, hundreds or even thousands of their staff are dismissed. Unemployment problem are gradually extending to the retail and the service industries from the manufacturing sector.

Madam Deputy, it can be said that families living in the new towns suffer most badly from unemployment. Because of the mistakes in town planning, many families living in the new towns are suffering from structural discrimination in respect of employment. Taken Tuen Mun as an example, according to the 1993 statistics, of those living in Tuen Mun, only 41.8% of women aged between 30 to 49 were employed, which is far lower than the territory-wide figure of 53.9%. In terms of household income, the average monthly income of those Tuen Mun families in 1993 was \$11,000, which is also lower than the \$17,500 in Wan Chai and \$17,000 in the Eastern district. Only 5.8% of the Tuen Mun families have a good household income, that is \$30,000

or above, and there is also a wide gap when compared to the figure of 27.7% for Wan Chai and the figure of 24.1% for the Eastern district.

The figures I have cited reveal that in the midst of the current employment and economic difficulties, because of the less favourable structural position of the new towns families in relation to other districts, they are having greater hardship. The education background of the new towns families are lower than those of other districts in Hong Kong. Many members of these families were engaged in the manufacturing industries or the service industries, and most of them were front-line workers. The recent employment difficulty has a greater impact on them than on anybody else. If we say the people of Hong Kong are having difficulties in getting employment, then women living in the new towns are having even greater difficulties. Job opportunities in the new towns are not many, to start with, and many residents have to take a long journey to work in downtown districts, the Central District in particular, and the travelling expenses are high. If they only earn \$5,000 or \$6,000 per month, then after spending on travelling, they do not have much money left to feed the family.

New town families are in a way trouble-ridden both internally and externally. Therefore, I urge that while the Government is importing workers, they should consider some development measures for the development of new towns with special reference to the economic aspect so as to create more job opportunities in the new towns. The government's metroplan and regional planning are in their final phases. I hope that we planning the overall land use of Hong Kong, the Government will consider the needs of the new town families, particularly their needs in respect of employment. The Government should set up more satellite commercial-industrial centres in the new towns to attract investors to set up business and provide more job opportunities there by means of land premium and other concessions so that in terms of regional development Hong Kong can be more balanced. This will also be benefit Hong Kong's overall economy.

With these remarks, I support the motion.

MR JAMES TIEN (in Cantonese): Madam Deputy, over the past 10-odd years, Hong Kong has been blessed with all the benefits in terms of timeliness, geographical advantage and popular support. It has developed into a uniquely endowed "paradise for money-making". Many of my friends from overseas have asked me why Hong Kong is so successful economically. I cannot give them an answer. Anyway, Hong Kong has been extremely successful. Entrepreneurs never need to worry about business: there has always been business to do. Executives have been getting raises and promotions year after year. With unemployment rate lower than 3%, the grassroot class has no difficulty at all finding jobs.

For Hong Kong residents, the *per capita* Gross Domestic Product has risen from US\$3,000 in 1980 to US\$21,800 at present, ranking second in Asia and 15th in the world. Most European and American countries, including our sovereign state, the United Kingdom, lag far behind. The problem is Hong Kong's economic environment has reached maturity and we cannot have a very good economic growth rate. Nor can we have phenomenal rebound within a short period of time. Economic development is cyclic. Ups and downs are inevitable.

For years, the Administration has been adopting a policy of positive non-intervention. In reality, this means the business sector operates on its own. The Administration collects tax from those business that make profits. Tax money collected supports the operation of the Administration. The Administration, however, has never assisted the industries or the businesses in their development. I feel that since we have reached such a high economic level now, it is inappropriate for the Administration to do nothing and leave our business sector to fend for themselves. Furthermore, I find the Administration reluctant to formulate long-term strategies to ensure a smooth development of the economy of Hong Kong. To "treat the head when the head aches, treat the foot when the foot hurts" is not a good way to tackle the present problem of unemployment.

Madam Deputy, talking about the way of "treating the head when the head aches, and treating the foot when the foot hurts", I recall that at the beginning of last year, many people, including a number of Members in this Council, in the light of rocketing property prices, wanted to curb the same. They put forward a number of measures for the Administration to implement. Incidentally, in the middle of last year, the United States increased the interest rate significantly, causing property prices and the stock market to plummet. Indeed, when the Hang Seng Index went down from some 11 000 points to some 7 000 points, the total market value saw a loss of a thousand billion dollars. Many market players are overseas investors. Many are local ones, however, when they made less money, naturally they spent less. Retail businesses such as restaurants were adversely affected. A recession followed. In the circumstances, many people lost their jobs, although this is not the only reason why these people lost their jobs.

Should we adopt a "treat the head when the head aches, treat the foot when the foot hurts" policy just because there is a 3% unemployment rate? In his original motion, the Honourable Fred LI mentioned measures to protect the employment of local workers and solve the livelihood problems of workers during periods of unemployment. I believe what he really meant by "employment for local workers" is the unemployment benefits issue as the Honourable Henry TANG put it.

Talking about unemployment benefits, let us look at the job situation in Hong Kong. Currently, we have 90 000 unemployed. But, let us not forget that we have 3 million people in employment. Of course, I do hope there is equality between both sexes in employment. Going back to the 3 million who are employed, some may only be marginally employed. For instance, some may be hanging on to jobs with poor wages and less than satisfactory working conditions. Should we introduce unemployment benefits, the unemployment figure may not stay at the present 90 000, it will skyrocket. Such situation has already appeared in the United States, the United Kingdom, Canada and Australia. There, many are better off being unemployed than being employed. If they work, they need to pay taxes. One would rather not work if one gets a low pay and does not really like the job. Available data show that in the United States, a black lady, divorced and with more than three children, would certainly be better off by staying unemployed.

As far as unemployment benefits are concerned, I think the stand of the Liberal Party and the business sector has been that we must help those in need but not everyone. Mr Fred LI has not made things clear enough about this in his speech. If he meant to say that he wanted to help those who need help among the 90 000 unemployed, we would support that. If, however, he meant to say that he wanted to help all the unemployed, we have reservations about that.

Mr President, regarding short-term measures the Administration should adopt to boost the economy of Hong Kong, I think that in view of the huge amount of fiscal surplus, the Administration should consider freezing those fees and charges that have an impact on the development of our businesses. Let me just cite a few examples. In the import/export trade, the fee for an export licence was \$65 in 1992, but is now \$185 because the Administration said that it needed to recover the costs from the business sector. Many exporters, such as manufacturers, need several thousand export licences every year, and the amount they have to pay range from \$400,000 or \$500,000 to over \$1 million. Another example is sewage charges. Water charges for many restaurants and bleaching and dyeing factories have doubled. A prominent example is Winsor Industrial Corporation Limited, which has its sewage charges and trade effluent surcharges increased to over \$10 million. Some proprietors of major local restaurants complained to us about the increase of monthly water charges to several hundred thousand dollars. In addition to this, their trade effluent charges have increased by several hundred thousand dollars as well. These increased expenses will be an added difficulty to their operation. If the Administration freezes these charges, will it enable employers to provide more job opportunities? I think so, in the short term at least.

In the long run, the Administration should try to start the building of major infrastructural projects such as the New Airport and Container Terminal Nine as soon as possible so as to maintain investors' confidence. Furthermore, the Administration should help employees acquire professional knowledge. Many of those who are working have given up the chance to study in the

evening or to further their studies. I hope the Administration can do more in this respect.

Madam Deputy, with these remarks, I support Mr Henry TANG's amendment.

MR JAMES TO (in Cantonese): Madam Deputy, I only want to discuss the problem of loopholes in the legislation. A moment ago, the Honourable TAM Yiu-chung quoted the Governor as saying that it was hoped that the level of fines would be raised, for example, the fine imposed on illegal labour in breach of the condition of stay would be increased from \$5,000 to \$50,000 while that on employers of illegal labour from \$250,000 to \$350,000. I would like to highlight one point, which is, increasing the fines, particularly on the latter, is not going to have any deterrent effect at all. Even though the level of the fines is currently set at \$250,000, in general, the fines imposed range from \$20,000 to several ten thousand dollars only. In most cases, the fines imposed are below \$20,000. Bearing in mind the daily wages of an illegal worker are several hundred dollars less than what a local worker gets and there is a difference of about \$20,000 to \$30,000 in their monthly wages. We can see that the fines are disproportionately incommensurate with the extra benefits to the employers employing large numbers of illegal workers. Even one or two of these workers are arrested and employers themselves fined, the several ten thousand dollars is just the sum of which will be some insignificant.

Therefore, I hope the Government will consider taking other measures and referring to other parts of legislation such as those relating to forgery of certificates of origin or documents for customs clearance. It is stipulated in such legislation that the fines should be equivalent to about 40% of the FOB value [*The term "FOB value" was used in the speech]. The reason for a company to forge documents or employ illegal workers is simply to spend less money. Therefore, if there are specific provisions laid down in law or guidelines drawn up as a result of appeals by the Attorney General to ensure that the amount of a fine is pegged to the possible benefits gained by the company, it will directly deal a blow to the company which makes profits from it.

In my view, this is similar to many of the laws, for example, the Government would confiscate the proceeds from drug trafficking on the ground that the money was obtained through trafficking in dangerous drugs. On this basis, all of the proceeds should, of course, be confiscated. Similarly, where illegal workers are employed or foreign domestic helpers are assigned to non-domestic duties, for example, working as salespersons in shops, the law may specify that all the profits obtained by such company as a result of the employment of illegal workers shall be confiscated. The court may assess the merits of the case and impose a fine with an adequate deterrent effect and, of course, in addition there may be a term of sentence as well. I believe

imprisonment has the best deterrent effect because employers only want to make money.

In this respect, therefore, we must send a clear message to employers along this line to make them realize that they cannot make money by employing illegal workers or assigning other duties to foreign domestic helpers. Like the Independent Commission Against Corruption, it often reminds the public not to be corrupt or else they will lose everything including the money obtained from corruption. Only by sending out this message can we make employers give up such practice. On top of that, they should be made to realize that they may be sentenced to imprisonment. Only by so doing will there be any deterrent effect.

With these remarks, I support the Honourable Fred LI's motion.

MR CHIM PUI-CHUNG (in Cantonese): Madam Deputy, I believe there would be two or three more debates on this issue before the end of this session. However, I cannot agree that the meeting held yesterday was a summit meeting, as many people have put it. Are the representatives present yesterday so influential that they can implement the agreed measures? If not, the meeting was only a forum, calling people together for some good ideas. Can the people who were present yesterday, including the Governor, have absolute command of things; can they put whatever was agreed into immediate effect? One should not indulge too much in self-inflation by calling the meeting a summit meeting, whether one is a representative of the labour or the commercial sector. There is only one summit meeting in the world, that is the GT meeting for the seven nations. However, even that summit has achieved little. If Hong Kong makes use of this issue for publicity purpose or to sing one's own praises, then it is not facing up to the reality at all.

Madam Deputy, what kind of problem is the labour problem and who is at fault? First, it can be said that the community is at fault. To whom does the community belong? We would certainly say it belongs to the Government. In other words, the Government is at fault. Where does the fault lie? First, it flatters the public and makes them self-inflate, boasting that our income ranks among the top 10 in the world. People therefore think that they cannot accept an ordinary job; if they do, they would lose face. They therefore think that foreign labour should be recruited to work as domestic helpers and housewives should go out to work as far as possible. That is the self-inflation which the Government has helped foster in the public mind. Second, exorbitant rent has caused much hardship to many retail trades, even to the operators of the food and beverage business. I can tell everyone that poor business will continue for the next year and a half. That is the second blunder of the Government. Besides, I sympathize with the staff of the Labour Department concerned because the recent problems have worried them a lot.

However, no matter which motion is carried in today's debate, the Government is still an executive-led one and it can treat what Members of the Legislative Council have carried as "nonsense". Therefore, it is only when a bill is tabled, in which case the Government has to act according to the stipulations in the Bill, can there be a different situation. Otherwise, the present discussion is in a way a waste of time. In fact, no matter which motion is carried today, the Government should wake up to reality and formally make a comprehensive review so that it would not be criticized as "putting on a show" by the public or the press. This question has been discussed for a long time. We should work together and express our own views. Certainly, the public should be made to understand that "a man has to resort to walking after his horse died". Now that the hope of becoming rich or enjoying a better standard of living has vanished, one should accommodate oneself to the situation and accept a humbler job or temporarily settle for a job with less good terms. We realize that 20% of the nursing positions in the Government are vacant. Perhaps the terms are different, but even that is so, these positions should be taken. Rather than merely await assistance provided by the community, one should ask oneself: "Have I tried to solve the problem myself?" My personal view is that Hong Kong is not a welfare society. Regardless of the way society transforms, we cannot expect society to fend for us. Hence, my advice for the general public is "those who help themselves will be helped; those who love themselves will be loved". Waiting for others to yell for help on your behalf is not only useless, it is unrealistic.

I think the pace of transformation in the whole of Hong Kong has been too rapid. Since the labour intensive industrial and commercial operations have moved to China, one third of the community's activities have undergone transformation making it necessary for several hundred thousand people to make their own choices. Besides, as regards the so-called "consumption-led society", consumption naturally requires money. However, if consumption is driven to too high a level, people would feel their pockets and then they would realize that they have to be more thrifty in their spending. If positions held have not been reverted to their original levels, they might have gone half-way down. When both situations exist at the same time, that kind of trend is sure to be felt by the community as a whole. In addition, the general public have to keep their expenditure within the limits of their income. When income derived from speculation in real estate and investments in the stock market has been greatly reduced, or has not been as good as expected, people would naturally become more frugal. As a result, that kind of trend begins to develop in society. How would things change? My personal view about the future is that there will still be big challenges ahead.

Therefore, a responsible government or department has no alternative but to raise the problem for discussion in order to work out ways to face it. I suggest that the Government could set a minimum wage so that local workers can decide whether to take up a job. As to the jobs they choose not to take up, we have to decide whether it is necessary to import labour to fill them. In addition, many operators have to understand that their trades or businesses have been or about to be phased out by the reality of society. As it would not be necessary for them to develop in those trades, they should put their efforts in development in other areas. Therefore, workers and employers are interdependent, they should try to solve problems together, not to create conflicts.

Madam Deputy, I support the Honourable TAM Yiu-chung's amendment.

MR MARTIN BARROW: Madam Deputy, yet again we are debating the unemployment situation. Perhaps I should declare an interest as an imported labour myself.

All responsible employers will share the community's concerns at the evolving situation in our economy and our labour market in particular, but it is essential that we do not over-react to short-term fluctuations. I hope that yesterday's summit meeting will be the start of a constructive dialogue which will focus not only on immediate issues but also on the longer-term macroeconomic picture. I hope employers and employees alike will prove Mr CHIM's somewhat pessimistic view on the meeting to be wrong.

Mismatch between supply and demand

Although employees may suggest that the labour force has had concerns for some years, the mismatch has only become apparent in 1995, with unemployment rising above 2% on a consistent basis for the first time for 10 years. Given that the unemployment percentage has hovered around 2% or below for 10 years, one may assume that this number of around 50 000 represents a constant and perhaps inevitable core of people in between jobs or school leavers. Somehow, however, the 30 000 who have been added to this figure have not been absorbed by those sectors where vacancies totalled 64 000 at the end of 1994. The mismatch is the nub of the problem.

The reality is that many sectors still face shortages — let me provide a few examples: fitters to maintain our thousands of elevators, welders to build new bridges to the new airport, nurses to look after our sick people, hotel staff to maintain our service standards in that vital industry, and retail counter and check out staff to give our consumers good service.

Macroeconomic picture

The transformation of Hong Kong from a manufacturing to a service centre over the past 10 years has been a remarkable achievement. In particular, 600 000 people have moved out of manufacturing without any difficulty, demonstrating the flexibility of both our workforce and employers. The movement away from manufacturing is also demonstrated by the fact that 23% of those in manufacturing are now in managerial rather than operative positions, compared with 15% 10 years ago. It is encouraging that labour productivity in manufacturing has increased — output per person rose 16% in 1994.

Perhaps we are, however, now seeing an end to this period of relatively easy transformation.

An average of 73 000 people per year have left manufacturing during each of the last five years and now there are less than 400 000 remaining, of whom around 300 000 are operatives. It would, however, be wrong to artificially restrain the further movement of industry to China.

The energies of all of us should be focused on this mismatch — are we now reaching a group of people who due to age or other factors find it difficult to move into other sectors? Although the rate of people moving out of manufacturing may slow, this is what we must now examine.

General importation and airport schemes

There is no real evidence that these people under the General Importation Scheme have taken jobs from those displaced by industry. The numbers under the General Scheme are well below 20 000. Indeed, without these people, our standards in some sectors would fall to the detriment of all in the community. Even if there was some linkage, the number is tiny compared with those being displaced by industry and I urge all concerned to look at how to generate opportunities for those being displaced by industry. How can we stimulate our economy and expand long-term job opportunities, without moving away from positive non-interventionism? Our workforce has grown by supplying 205 000 during 1993 and 1994 compared with a growth of only 37 000 in the preceding five years and thus the general labour quota is a small share of this recent increase. As it is, there are 150 000 people displaced by manufacturing over the past two years. We must therefore not get deflected away from the real issues by what is largely a red herring. It is a remarkable and encourageable development that the economy has absorbed over 300 000 additional people in the past two years.

On our new airport and related projects, I hope employee groups will be realistic. It is in the interest of the entire community that the projects should be finished as quickly as possible at minimum cost. It is quite clear that there are not nearly enough Hong Kong people with either willingness to work at those remote locations or with the skills needed to achieve these objectives. Of course, Hong Kong people should get the jobs first if they are willing to fill them, but the Government must ensure that it explains the position to the community. 80% of those employed at Chek Lap Kok are local people; without the 20% from overseas, many of the local people would not have a job. The airport has already provided jobs for 4 000 local people and will provide many more in the future.

Hong Kong's future role

There is a further point which our community must bear in mind. Hong Kong is a unique international city both now and when it becomes a Special Administrative Region of China. Its value to China as a gateway and as a source of investment would be seriously eroded if we allowed protectionist pressures, of one sort or another, to creep in. Mobility of labour is widespread in many parts of the world and indeed it has been the effect of people moving into Hong Kong over the last 50 years, mainly from China, that has created our success. Added bureaucratic impediments, putting up barriers against those with needed talents and skills, would do nothing but harm.

Conclusion

The 12 suggestions which I tabled at yesterday's meeting represent no magic solutions but hopefully will stimulate some positive actions. Interestingly, many of them were identical to those made by employees' representatives. For example, firstly, the penalty for some abuse should be increased from the ridiculously low \$5,000 to \$250,000; and secondly, the Hong Kong Government must produce a better analysis of the underlying situation. In that connection, I tabled yesterday a list of 17 key questions on labour supply and demand and on the economy, all of which need answering. None of us can wave a magic wand and eliminate the mismatch overnight, but employers are committed to working in a responsible manner with the Hong Kong Government and employee groups to find a way forward.

Mr Vincent CHENG has asked me to say that he supports my remarks. With these words, I support Mr Henry TANG's amendment.

MR LEE CHEUK-YAN (in Cantonese): Madam Deputy, I entirely agree with what the Honourable CHIM Pui-chung said earlier. The meeting held yesterday should not be called a summit meeting. I think it should be called a "valley" meeting, because the final outcome of the meeting has propelled the hopes of workers down to the abyss of the valley. After the "valley" meeting was concluded, we realized that, in respect of the unemployment problem, we could not tell the unemployed that they would be able to find a job in the future at all.

I think at the "valley" meeting yesterday, there were two camps holding different basic assumptions. Such basic assumptions held by the two camps differed so much that the answers they got also differed. For example, the officials and the businessmen basically assumed that the present state of unemployment was caused by the problem of mismatch. The solution they suggested therefore was simply to have better job matching. Hence, the number of Local Employment Service offices under the Labour Department would be increased from five to nine. Retraining centres, which previously organized retraining programmes, would now focus their effort on career counselling. The assumptions held by the officials and the businessmen were all concerned with how to solve the unemployment problem of the 80 000 workers and the short-term measure they suggested was to help these workers find new jobs.

However, the basic assumption of the labour sector was different. Our basic assumption was that there were no jobs for the unemployed workers because jobs had already been taken up by foreign labour. As the basic assumptions of the two camps were different, the measures suggested at yesterday's "valley" meeting were also different. We thought that the termination of the General Labour Importation Scheme should immediately be declared an emergency measure so that the unemployed workers could have some hopes of getting their job opportunities back after the foreign workers left.

Besides, I would like to respond to what Mr Martin BARROW said earlier about the airport. I also spoke with Mr BARROW yesterday. He thought that we should not restrict the number of imported workers to work in the airport projects. However, I would like to raise a question which I hope the Government would really attend to. Out of about 2 000 people who registered for jobs in new airport projects, about 1 000 were interviewed and only 200 were eventually hired. In that case, how can the Government often boast that jobs will first be given to local workers and that employers will not be allowed to import foreign labour if they do not employ local workers? How can such statements convince anyone? When we look at the concrete figures which show that only about 200 got the jobs out of about 2 000 people who registered and would like to work but were unfortunately not given the chance to do so, how can we be convinced that foreign labour should be imported to work in the airport projects?

However, I promised everyone that I would not discuss the ways to solve the problem of obtaining employment again today. As everyone knows, I have spoken a lot about this topic recently and I spoke a lot about it yesterday. Today I would like to share my views with you on two important issues. The first issue concerns the problem of unemployment in general and the measures to assist the unemployed workers. At present, there are about 80 000 people in Hong Kong unemployed, but in April, it was known that only 5 482 unemployed people were obtaining Comprehensive Social Security Assistance (CSSA) payment. In other words, over 70 000 unemployed workers are not receiving any assistance. One may suggest that the reason is that the condition of these unemployed people has not fallen below the criteria for CSSA. However, one should not forget that, to put it in rather unpleasant terms, the CSSA payments can only be obtained if the whole family is unemployed. If an applicant has any income at all, he will probably not be eligible for any payment. However, even if one is not qualified for CSSA payment, it does not necessarily mean that one does not have any financial difficulties. We can look at some recent examples. A few days ago, a worker committed suicide by jumping off a building because of unemployment. Such tragedies are something we would not like to see, but how should we help these people who are unemployed? The Hong Kong Federation of Trade Unions proposes to establish an unemployment protection fund, to provide protection and a safety net for the unfortunate people who are unemployed so that people would not be at a loss even if they become unemployed.

Do not be worried that a lot have to be paid under the unemployment protection fund we have in mind. We are thinking of providing protection for a period of no more than six months for those who have been unemployed for at least a month. If these people remain unemployed for more than six months, they can only obtain protection for six months. If the amount of unemployment protection payment is set at the same rate as that of the payment now received by a day-time attendee in the employees retraining programmes, that is \$3,800, given that the period of protection will vary from one to six months, that about 48 000 out of the 80 000 people who are unemployed have been unemployed from one to six months according to our estimate and that each of these 48 000 unemployed people each receives \$3,800 per month, the expenditure per month would be \$180 million, and the total expenditure for a year would be \$2.2 billion. We hope that the \$2.2 billion can be obtained in two ways. In the short term, payment can be made by the Government. In the long term, a chapter can be taken from the financing of the Old Age Pension Scheme. Contributions can be collected from employees, employers and the Government to establish a social insurance system. We would very much like the Government to consider this suggestion.

The second topic I would like to discuss in particular is the problem of illegal workers. At present, there are two kinds of illegal workers and the law has stipulated different punishments for their employers. The first kind of illegal workers are illegal immigrants. Their employers are liable to a fine of \$250,000 and three years' imprisonment. The other kind of workers are those who have been aided and abetted to breach their condition of stay. Employers of this kind of illegal workers have not employed illegal immigrants but visitors. These employers are liable to a fine of \$5,000 and imprisonment of two years only. However, a large majority of these employers are not actually be sent to jail. In fact, in 1994, only 13 out of 919 employers prosecuted were given custodial sentences. The length of their sentences varied from one to 15 months, rather light, I am afraid. I cannot understand why there are two standards and why the punishment for employers of illegal immigrants should be heavier than that for employers of visitors. We think that there should be uniform punishment.

There is another kind of illegal workers who pose a headache for the Government. These are the domestic helpers and the foreign workers who hold identity cards but are not allowed to work in Hong Kong. Very often, employers did not know it was illegal for them to work in Hong Kong and hired them. These employers therefore cannot be prosecuted. We think that to solve this problem the identity cards of this special group of domestic helpers and foreign workers should be specially marked.

Finally, I suggest that the authorities concerned increase their staff to tackle this problem.

THE PRESIDENT resumed the Chair.

MR LEE WING-TAT (in Cantonese): Mr President, the Government has kept on saying that unemployment is not linked to the labour importation policy. We all know that labour importation is a "lifeblood" of both the Government and the commercial industrial sector, so they have to keep it intact by whatever means. However, *Hang Seng Economic Monthly*, a publication from a major economic research unit in Hong Kong, has anticipated that the unemployment rate would climb to 3.2%, a situation which, it has further pointed out, has something to do with the labour importation policy. This is effectively a heavy slap across the Government's face.

Confronted with ever increasing unemployment, public representatives should do more than simply reflecting public opinions about this matter — they have to come up with some solutions. The Private Member's Bill on employment protection moved by the Democratic Party is a possible one. Regrettably, ever since the Bill was put forward, some of the Members in this Council representing the labour sector have been singing the same tune with representatives from the commercial industrial sector. They have tried very hard to distort the spirit of this Bill and to mislead the public. Since the Government announced in 1992 that the General Labour Importation Scheme would be expanded, labour importation has become an established long term policy. As early as then, the then United Democrats of Hong Kong had started drafting a Private Member's Bill to amend the Immigration Ordinance with a view to transferring the power to monitor labour importation from the executive to the Legislative Council. Our stance was clear and firm, and before the resumption of debate, it aroused strong reaction from the Chief Secretary, who accused that the Bill in question would cause immediate termination of the labour importation scheme with endless undesirable consequences. The stance of the Democratic Party is very clear. We hope very much what the Chief Secretary described as "endless undesirable consequences" will actually materialize, with the effect that they will put an immediate halt to the labour importation policy.

Although the words were spoken not long ago, Members appear to be rather forgetful. As a matter of fact, during the last debate many Members, including the Honourable TAM Yiu-chung, did support the Bill put forward by the Honourable Michael HO. What is more surprising is that the placards hung out by the Hong Kong Federation of Trade Unions (FTC) in fact carry slogans in large print calling for legislation to protect local workers' employment opportunities and a law of priority employment for local workers. Just now, before I entered this Chamber, I received a statement of stance from the Democratic Alliance for the Betterment of Hong Kong. Let me quote from its second point: "to enact as soon as possible a law of priority employment for local workers so as to fully protect local workers' employment opportunities". On the other hand, in the record of the debate held on 3 May earlier this year, I note Mr TAM Yiu-chung had said: "Lastly, I want to point out that the FTC is a leader in opposing labour importation and is an advocator of priority employment law for local workers".

Mr President, with mere slogans, and no substantive proposals, we simply could have no idea of what it is all about in the so-called law of priority employment for local workers. But we can understand that it aims to give priority to local workers, naturally, relative to foreign workers. I do not really understand it, if by what they called law of priority employment for local workers they could do it without even touching on the realm of the foreign workers issue. If there were no foreign workers at all and all those employed were local workers, then there would not have existed the question of the so-

called law of priority employment for local workers. If possible, I hope the group and the representatives who first came up with this idea and put forward this proposal would kindly advise us on the way of achieving it, as well as what is really in their minds when they talk about, either in the statements they issue or in the slogans they chant, the law of priority employment for local workers. Actually, nobody knows what it is now. Are we in fact supposed to support a law of priority employment for local workers under the labour importation scheme? It might be necessary for the colleagues who have come up with this idea to clarify this.

As a matter of fact, unemployment is a social problem. As public representatives, we have to respond to it, and this is our responsibility. When Dr the Honourable HUANG Chen-ya moved a debate on employment policy last April, we made it clear that we sought to protect local workers by means of legislation. Unfortunately, our colleagues at that time thought we were merely chanting slogans. As regards the response from the Honourable Henry TANG, we found it baffling. He might in fact have forgotten that he cast a vote against Mr Michael HO's Bill in the debate. The Government also lobbied Members to vote against Mr Michael HO's Private Members's Bill. The atmosphere at that time was very tense indeed.

The logic of interpreting the power of the Legislative Council to terminate the labour importation scheme as support to the Government's labour importation scheme is really something I cannot comprehend at all. I just want to say for the record that if Mr Henry TANG deems the Democratic Party's Bill on employment protection to be in line with his position, I hope that when this Private Member's Bill is put forward to the Legislative Council, he and his colleagues in the Liberal Party would support the Democratic Party's Bill wholeheartedly and unconditionally. As a matter of fact, the Government's attitude towards this Bill indicates that this Employment Protection Bill of the Democratic Party touches a very sore point of the Government indeed. The Deputy Secretary for Education and Manpower responded by remarking that the employment protection Bill suggested by the Democratic Party would put an immediate halt to the labour importation policy. To guard this labour importation policy, the Government certainly will have to work together with the industrial and commercial sectors to oppose it, and this does not come to us as a surprise. Therefore, I hope colleagues, representatives from the labour sector and colleagues who care about the rights of the "wage-earners" will seek to understand clearly the objectives of the Bill when it is put forward to this Council. Getting this Bill carried will bring benefits, not hazards to workers.

DR HUANG CHEN-YA (in Cantonese): Mr President, the summit meeting on unemployment convened by the Governor Mr Chris PATTEN, has in a way attracted a torrent of adverse comments. Today, many newspapers have commented on the summit as: "putting on a show on unemployment", "hesitant about labour importation", "measures proposed have no new ideas" and so on. In fact, as regards short-term measures to tackle the unemployment problem,

the Governor who always claims that he respects public opinion never uttered a word about halting importation of labour. He has just missed out the crucial solution to the unemployment problem and he has also ignored society's strong desire for halting labour importation. Neither is there any new ideas in the middle and long-term measures. For years, Members of the Legislative Council have demanded the Government to increase productivity, formulate long-term manpower policies and take heed of Hong Kong's economic change, but the Government has ignored them all along. Only up till the present, when great calamity is imminent, has the Government brought these policies up. But all these hastily proposed measures at a time of emergency lack specific substance and easily become mere slogans. They have made people doubt the Government's sincerity in working out middle- and long-term measures. The Government promised previously that when the unemployment rate reached 3%, it would stop importation of labour. Why does the Government not keep its promise now? Is it that the Government is only addressing the people's anxiety by "stalling" and "cheating"?

One of the amendments proposed by the Honourable Henry TANG today is to "urge the Government to study the causes of this development (that is the increase of unemployment)" which is in fact also a way of "stalling". The Government's First Quarter Economic Report 1995 has already pointed out that all sectors' demand for labour has slowed down and the vacancy rate has dropped in the first quarter with the unemployment situation in the manufacturing industry being particularly grave. The slowdown in the growth of the service sectors, on the other hand, has prevented the absorption of workers displaced by the manufacturing industry. The *Hang Seng Economic Monthly* and economists have also pointed out recently that the economic transformation, labour importation and illegal workers are the major causes of the increase in unemployment. According to these studies, the best ways to solve the unemployment problem are to halt labour importation immediately, crack down on illegal workers and formulate long-term manpower policies. What does Mr TANG need to "study"? How long should we go on studying before he is satisfied? Does Mr TANG consider that the above findings fail to match his conclusion that the unemployment rate is still low and even if it rises higher, Hong Kong is still able to accommodate? According to the experience of many countries, when unemployment rises, the suicide rate also goes up. Is the Liberal Party going to wait until there is a substantial rise in Hong Kong's suicide cases before they will agree not to stall any longer?

When I proposed the motion debate on employment policies on 8 May, I already pointed out that concerning the rise in unemployment rate, we could not afford to delay any longer the termination of labour importation, legislating to protect the employment of local workers and creating employment opportunities. Later developments proved that I was not over-worried. In less than a week after the motion debate, on 13 May, the Government announced that the quarterly unemployment rate from February to April had risen from 2.8% to 3%, followed by a number of big companies laying off their staff. And recently, reports about workers in the industry and commercial sector and the

service sectors being laid off seem to appear one after another. Basing on the 3.2% yearly unemployment rate as estimated by the *Hang Seng Economic Monthly*, we can calculate that there are already about 100 000 unemployed workers. With the inflation rate standing high, the unemployed workers' livelihood is a big worry. It will also become a time bomb which would in time threaten social stability. We cannot continue to "study" indefinitely because this will only lead to the continuous deterioration of the unemployment problem. Therefore, I will not support the amendment proposed by Mr TANG.

Mr President, in the face of these economic difficulties, the Democratic Party does not only advocate protection for workers, we also understand the difficulties that the employers are having in their operations. Therefore in the next motion debate, I will call upon the Government to take positive actions to ease the pressure of high rental. I will also propose to give enterprises a tax concession to assist them in the accumulation of capital, purchase of machinery and training of staff. All these suggestions can help lower the employers' operational costs so that the industrial and commercial sectors and the service industry in Hong Kong can shift to the high value added business and the employment opportunities can thus increase. At the same time, the recent deterioration of the problem obviously has something to do with the Government's lack of understanding of and alertness to the difficulties faced by the service industry. Therefore, I will also request the Government to set up a policy branch with specific responsibility in the affairs of the service industry and the co-ordination of its development.

Lastly, I want to discuss the problem of illegal workers. At present, the workers imported through various legal channels are numbered around 50 000, but the number of illegal workers is believed to have far exceeded this number. The illegal workers not only threaten the employment opportunities of local workers with their vast number, but the harsh working conditions that they tolerate, such as low pay, also would not be what the local workers want to compete for. Therefore, the Democratic Party considers it necessary to deploy more law enforcement staff to crack down on illegal workers on a regular basis and also publicize widely so as to encourage the people to report illegal workers. Moreover, the imposition of longer prison terms and heavier fines will have greater deterrent effect on employers.

To protect local workers' employment opportunities, I think that the immediate halt to labour importation and active cracking down on illegal workers are the necessary measures that the Government has to take now to prevent further deterioration of the employment situation before the middle and long term measures come into effect.

With these remarks, I support the motion.

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, yesterday, the Governor convened a summit meeting to discuss employment issues. The meeting was not a political show as implied by Mr Fred LI, but a genuine desire to bring together representatives of employers and employees and Legislative Council Members who all share a common concern. It is that common concern that has prompted today's motion debate on unemployment.

The unemployment situation

For many years, Hong Kong has been blessed with virtually full employment. However, in recent months, we have seen a rise in the number of people unemployed. Our latest unemployment rate of 3%, whilst low and enviable by international standards, is the highest in the past nine years. It is natural and understandable that we, as a community should be worried about this phenomenon. However, we should not let ourselves be panicked into taking "emergency" quick-fix measures no matter how well-intended the motivations may be. To do so could be counterproductive and could trigger off further retrenchment and push more industries to relocate.

The issues are complicated. We need to find out the underlying causes for the increase in the number of people in the labour market looking for jobs. We also need to find out why the vacancies in the job market are not snapped up by people looking for jobs.

The increase in unemployment in recent months is largely due to the cyclical moderation in some service sectors, which has given rise to a reduced uptake of workers displaced from the manufacturing sector. The period of unemployment for most of those who are unemployed has not been prolonged. The labour utilization rate also remains high, as indicated by the consistently low underemployment rate of around 1.5%. In addition, labour force growth in 1994 was an annual average of 3.5%, the highest in many years. It will probably take a bit of time for this additional labour supply to be absorbed. We know that there are about 80 000 persons looking for jobs and 60 000 vacancies waiting to be filled by suitable persons. All these indicate that the recent increase in the unemployment rate is not reflective of any particular fundamental weakness of our economy which needs to be tackled with "emergency" measures. This is rather a problem of "mismatch" in our labour market which has been made more acute in the recent months as a result of a cyclical downturn in the growth of some service sectors — the major absorbers of displaced workers. What we need is a thoughtful and prudent approach to resolve this problem. We also need to work together and not let our concerns polarize the community and drive a wedge between employers and employees and detract us from finding a solution.

Short-term measures

We have already a lot of common ground which can be pursued despite differences in opinions. In the short term, our immediate task must be to help

our displaced workers, who have been most hard-hit by the recent easing of our employment market, to re-enter the workforce. We will therefore step up our efforts on retraining and job placement assistance.

Retraining

The Employees Retraining Scheme, which was established in 1992, has so far successfully provided retraining for over 60 000 persons. The Employees Retraining Board (ERB) will set up new Retraining Resource Centres to provide career counselling services and intensive pre-employment training to retrainees. It will provide an Outplacement Service to retrenched workers. It will also strengthen the links with employers and trade unions. With these new initiatives, the ERB will make the Scheme more placement-focused and expects to be able to place not less than 10 000 retrainees in jobs in the next 12 months.

Job placement

As regards job placement assistance, the Local Employment Service (LES) of the Labour Department is meeting the challenge posed by the recent rise in the number of job seekers through the Pilot Job Matching Programme launched in April this year. This programme was designed specifically to assist displaced workers over 30 years of age to re-enter the workforce. This Programme is fully integrated with the Employees Retraining Scheme. Already, it has successfully matched 167 displaced workers out of a total of 612 registrants with the relevant job vacancies in the first two months of its operation. Additional resources will be provided to the Labour Department to extend the Programme from five LES offices to all the nine LES offices this autumn. Our aim is to triple both the number of registrants and placements by the end of the year. On top of these efforts, the Labour Department will provide prompt on-site employment assistance service for workers who are about to be retrenched, to help them secure alternative employment in good time.

Household survey

Our experience indicate that retraining and job placement are the two most effective means in facilitating displaced workers to rejoin the workforce. The challenge before us is to ensure that they are targeted exactly at those most in need of assistance. To ensure the effectiveness of these job placement and retraining measures, we will double the sample size of 13 500 households per quarter of the General Household Survey to obtain more detailed information in respect of the profile of both the unemployed and job vacancies. We will also include more items in our survey of vacancies. The enhanced General Household Survey will start in October. With such information, we should be able to devise better ways and means to "match" the unemployed with the vacancies.

Enforcement actions

We are firmly committed to taking tough enforcement actions to clamp down on abuses of our labour importation schemes and illegal employment. We will not tolerate those who abuse the labour importation schemes. Imported workers are not cheap labour to be exploited. The Labour Department will conduct more vigorous inspections at the places of employment and accommodation of imported workers to guard against abuses involving breaches of conditions of the Standard Employment Contract such as underpayment of wages and unpaid overtime work.

In 1994, we set up a Special Immigration Task Force to strengthen enforcement measures against illegal workers. As a result, we have been able to organize more operations and take prosecution actions against a larger number of illegal workers and their employers. The number of illegal workers and employers investigated increased by 2 500 and 900 respectively in 1994 over 1993, which is more than double the 1993 number. More than 1 000 operations were carried out, amounting to an average of almost three operations per day. We will double the size of the Task Force from the existing size of 46 to 92 to further enhance these efforts this year. This increase is a significant increase in manpower and we can expect a commensurate increase in the number of cases to be investigated. We should also bear in mind that the practice of stringent entry clearance procedures at entry control points also serves the purpose of reducing illegal workers. The police's combat against illegal immigrants is also very relevant to the work in this respect. But our enforcement actions will need the help of the public. The Immigration Department operates a 24-hour hotline for the public to report cases of illegal employment. We will add a fax-line for the same purpose in the near future.

Honourable Members have called for heavier penalties against those who employ illegal workers. Let me assure Members that we appreciate the need for these penalties to carry the desired deterrent effect. At present, employers are liable to three years' imprisonment and a fine of \$250,000 on conviction of hiring all categories of persons not lawfully employable, not only illegal immigrants. On conviction of failure to inspect identity documents, employers are liable to one year's imprisonment and a fine of \$50,000. The penalty for aiding and abetting is the same as the principal offence. The fines for hiring illegal workers and for legally unemployable persons to undertake work in Hong Kong are now being reviewed in the context of an overall review on the levels of fines on a number of offences. We hope to propose the new levels to this Council soon. The heavier fines to be proposed should boost their deterrent effects. For the period of imprisonment, we believe that the current penalty level has sufficient deterrent effect and is commensurate with the offence for both employers and illegal workers themselves. We will, of course, keep the level of penalties under regular review, but there is no strong evidence to suggest that, other than the rates of fines which will, as I mentioned, be updated, there should be an urgent need to revamp the other element of the penalty.

To take preventive measures, we have maintained a careful record of employers who apply for quota under the labour importation schemes. Employers with adverse records, such as having been convicted for deploying imported workers to do unauthorized work or for hiring illegal workers, can be denied quota.

To tackle the problem posed by visitors, as I mentioned earlier, we screen those who have a greater propensity to engage in illegal work with extra care at their point of entry. Those who cannot show proof of sufficient means of support during their visit, or are found to have doubtful intention of visit, are often granted a shorter stay than they requested or can even be refused entry.

Review of the General Labour Importation Scheme

As Members are already aware, we have started our comprehensive review on the General Labour Importation Scheme and will complete it by October. In the meantime, no new quotas will be allocated. We will take full account of the latest employment conditions in our labour market to see whether any changes should be made to both the number and types of workers permitted under the Scheme. This review will cover all the operational aspects of the Scheme, including the quota ceiling, the quota allocation formula as well as the vetting and monitoring procedures. We need to ensure that the Scheme will continue to meet the needs of the market and at the same time not erode the job opportunities of local workers. We will consider the proposal from yesterday's summit for a tripartite committee on importation of labour comprising the Government, employers and employees. We will also consult the Panel on Manpower of this Council and the Labour Advisory Board on the results of the review before implementation.

Medium term

In the medium term, we need to monitor closely the economic restructuring process and its effects on our labour force, in particular, the changes in the distribution of jobs between different sectors of industry. We also need to identify the characteristics of the core group of displaced workers with low employability. We also need to study whether discriminating practices might be contributing to the difficulties which displaced workers faced.

Long-term measures

In the long term, we are committed to improving both the productivity and efficiency of our manpower resources through education and training. This is in line with our employment policy to provide a well-trained workforce to meet the demands of our dynamic economy. We already have in place a well-established system of tertiary and continuing education provided by our tertiary institutions, as well as technical and vocational training through the Vocational Training Council and other training bodies. We will be reviewing our long-

term manpower planning strategies regularly so that this system is geared towards the needs of the labour market.

To terminate the importation of labour policy

Impassionate pleas have been made by some Members for the immediate scrapping of the importation of labour schemes. The Administration has already indicated at an earlier motion debate in this Council last month, that we do not support this proposal. There is no obvious and direct causal link between our importation of labour policy and the recent increase in unemployment rate. The number of workers remaining in Hong Kong has actually been declining during the last few months when the unemployment rate went up. Our importation of labour schemes are carefully controlled and targeted solely towards relieving specific areas of shortage. Safeguards are in place to ensure that local workers are given priority in employment and that they should not be displaced by imported workers. Our imported workers have been playing a vital role in supporting the continued operation and development of many business companies which may otherwise have to shut down their production lines and retrench local workers. There is a proven economic need for imported workers in a considerable number of sectors of industry as well as the Airport Core Project. We should not pre-empt the result of the review and put an end to the schemes prematurely.

Legislation to control the labour importation schemes

Some Members have called for control over importation of labour to be enshrined by legislation. We have yet to be convinced that legislative controls are necessary and in the best interests of our community. A Private Member's Bill and a motion advocating a similar proposal were debated recently. Neither were supported by this Council.

Legislation to give priority in employment to local workers

As regards legislation to give priority in employment to local workers, let me reiterate the Government's position: we do not see any need to legislate for this. There are, as I have said earlier, administrative safeguards under our importation of labour schemes to ensure that local workers will be given priority in employment. We will examine how to further strengthen the effectiveness of such measures in the context of our review on the General Scheme. Moreover, even if legislation were to be enacted, it would be extremely difficult if not impossible to enforce effectively, without at the same time causing serious disruption to the free market operation of our economy, damaging our harmonious labour relations, and unnecessarily restricting the freedom of choice for both employers and employees in the labour market, which will benefit nobody at the end of the day.

To solve the livelihood problems of workers during periods of unemployment

We understand the anxieties of those who are unemployed and unable to find alternative jobs. Those in genuine financial need would be taken care of by the existing Comprehensive Social Security Assistance (CSSA) Scheme which provides a safety net for individuals or families suffering from financial hardship for all kinds of reasons. This safety net covers a comprehensive range of social services including cash assistance, free medical care, compassionate rehousing and other free programmes organized by the Government and non-governmental organizations.

Publicity on CSSA has been enhanced to ensure that those in financial need know how and where to get assistance. A handbook on CSSA was published in June 1994 and copies of the handbook were widely distributed. Pamphlets on CSSA are made available for distribution to members of the public at social security field units, family services centres and district offices of the Social Welfare Department (SWD) as well as the public enquiry counters of the District Offices. Audio and video tapes on CSSA are played at social security field units to publicize the assistance available. Since April 1995, taped messages on the eligibility, criteria and application procedures for CSSA are also available on the departmental hotline of SWD.

We are undertaking a comprehensive review of social security arrangements. It will cover, *inter alia*, various aspects of the administration of the CSSA Scheme with a view to improving services to clients. It is expected that proposals would start to emerge from the review by the end of this year.

For those unemployed persons who are not eligible for CSSA but who may have genuine and urgent financial needs, emergency relief can be provided through grants made from the trust funds administered by SWD. A range of welfare services are also available to those individuals and families who need assistance to deal with their problems, such as counselling services, child care services, waiving of medical charges, home help services and family aide services.

Conclusion

I have just, in conclusion, outlined a series of measures — short, medium and long-term — to tackle the problem of the mismatch and abuse in our labour market. They are meant to help those who have difficulties in finding employment or are facing the possible threat of retrenchment. These measures are positive, practical and prudent. We are not in a state of emergency requiring emergency measures to be adopted. Therefore, the Administration opposes the motion and Mr TAM Yiu-chung's amendment to it. We support Mr Henry TANG's amendment and would urge Members to do likewise.

PRESIDENT: Mr Henry TANG 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 move his amendment now.

MR HENRY TANG moved the following amendment to Mr Fred LI's motion:

"To delete "adopt emergency" and substitute with "urgently study the causes of this development and monitor the labour market closely in order to formulate appropriate"; to insert "and livelihood" after "employment"; and to delete "and solve the livelihood problems of workers during periods of unemployment" and substitute with "as well as to strengthen enforcement of existing legislation relating to employment of illegal workers, foreign domestic helpers and imported workers.""

MR HENRY TANG: Mr President, I move that Mr Fred LI's motion be amended as set out under my name in the Order Paper.

Question on Mr Henry TANG's amendment proposed.

PRESIDENT: Mr Fred LI, do you wish to speak? You have a total of five minutes to speak to all the amendments.

MR FRED LI (in Cantonese): Mr President, I am going to spend more time on discussing the Honourable Henry TANG's amendment. Mr Henry TANG seemed to have the foresight and thought that I was going to propose the introduction of unemployment benefits as an emergency aid to the workers. However, although there was indeed a Member who had made a similar proposal, he was not Fred LI, but the Honourable LEE Cheuk-yan, a fellow clansman of mine. All Members of the Democratic Party including myself have not mentioned unemployment benefits in our speeches and we have no intention of proposing such. This is only a beautiful misunderstanding. Mr Henry TANG was mistaken. We have absolutely not requested the introduction of unemployment benefits. Dr the Honourable YEUNG Sum has stated our demand very clearly which is to raise the Comprehensive Social Security Assistance (CSSA) Allowance as well as to simplify and speed up the approval procedure. We still use this safety net and we have not mentioned unemployment benefits. The Honourable James TIEN was also mistaken. I want to clarify it here.

Secondly, as regards conducting a study, Mr Henry TANG or the Liberal Party that he represents wants to study the unemployment situation first. I feel that the unemployment rate has already reached 3% today and many Members have talked about the reasons behind, do we still need to have a study? I believe that Mr Henry TANG should understand it well because the Liberal Party is so

familiar with the situation of the industrial and commercial sector. There are several reasons behind the unemployment problem:

- (1) External factor. The lacklustre performance of the American and European economies has an impact on Hong Kong; and the depreciation of the American dollar has given rise to high inflation in Hong Kong because of the linked exchange rate system.
- (2) Internal factor. The continual move of our industries northwards results in the loss of 60 000 manufacturing jobs every year and that means 60 000 manufacturing workers displaced have to change jobs; some unscrupulous employers grossly abuse the quotas for imported labour; and also there is the abuse of domestic helpers who are made to undertake non-household work and that in a way also deprived local workers of some of their jobs.

The Government also admits the existence of such cases and is now therefore planning to double the manpower of the task force in the Immigration Department and impose heavier penalties on employers who abuse the imported labour or illegally bring in foreign labour. Apart from the various factors mentioned above, the unemployment problem has been aggravated by the downturn in the service sectors which used to take in many of the displaced manufacturing workers. As a result of the poor performance of our economy, people are unwilling to spend money freely, affecting the service sectors. Thus the displaced manufacturing workers have lost even this chance of going into another trade and their hardship becomes even greater. And the importation of labour has added to the contradiction. The knife that cuts into the job opportunities of local workers was not so sharp originally but is much sharper now. All these are the reasons for the high unemployment rate.

The *Hang Seng Economic Monthly* has stated very clearly that these are the factors that pushed up the unemployment rate. They are not my invention but are reported by the people who compile the financial/economic monthly. Why does the Government still agree to study and the Liberal Party says that they need to study? Have the reasons not been stated very clearly? Therefore, the only explanation that I can offer is that they are using this as an excuse for stalling and hence we are unable to support the motion.

I listened very attentively to the speech of the Honourable TAM Yiu-chung. He said that I only mentioned "emergency measures" in my motion and it was too general. But whenever we put forward a motion debate about a certain topic, it will be either very broad, and general as a result or it is very specific and then narrow". If I had put forward several emergency measures, say four, and Mr TAM might only support two. Hence he might oppose the motion or abstain from voting. As a result, the motion will be weakened. Therefore, I really hope that Members will treat my motion in a normal way. I do not know why the Government has to oppose it. I requested the Government to take emergency measures to protect the workers' employment and also

requested the Government to help the unemployed workers by way of, say, simplifying the assessment and approval procedures of the CSSA allowance. I feel that all these requests are not at all threatening but the Government still opposed them all. I really wonder why. Therefore, we totally agree with Mr TAM's other suggestions such as deploying more staff to enforce the law which I think the Government should agree but I do not understand why the Government also opposed Mr TAM's amendment. I do not know if our sufferings are imminent. I hope that the Government will think it twice. I really do not understand why the Government even opposed these amendments.

I reiterate, the Democratic Party considers that there is no need to conduct any further studies on the unemployment situation. Therefore, I oppose Mr Henry TANG's amendment and support Mr TAM Yiu-chung's amendment.

Question on Mr Henry TANG's amendment put.

Voice vote taken.

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.

The Chief Secretary, Mr Attorney General, Mr Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr Edward HO, Mr Martin BARROW, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mrs Elsie TU, Mr Peter WONG, Mr Moses CHENG, Mr Timothy HA, Mr Simon IP, Dr LAM Kui-chun, Mr Eric LI, Mr Henry TANG, Mr Howard YOUNG, Dr TANG Siu-tong, Mr James TIEN and Mr Alfred TSO voted for the amendment.

Mr HUI Yin-fat, Mr Martin LEE, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Andrew WONG, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH and Mr LEE Cheuk-yan voted against the amendment.

Mr PANG Chun-hoi abstained.

THE PRESIDENT announced that there were 22 votes in favour of the amendment and 23 votes against it. He therefore declared that the amendment was negatived.

PRESIDENT: Mr TAM Yiu-chung, you may move your amendment now.

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

"To add the following words after "emergency measures" ", including further increasing the number of immigration staff, stepping up enforcement action against illegal workers and amending the relevant legislation in the current Legislative Council Session to impose heavier penalties on employers of illegal workers, in order". "

MR TAM YIU-CHUNG (in Cantonese): Mr President, I move that the Honourable Fred LI's motion be amended as set out under my name in the Order Paper circulated to Members.

Question on Mr TAM Yiu-chung's amendment put.

Voice vote taken.

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

MR FRED LI: 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 HUI Yin-fat, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Andrew WONG, Mrs Peggy LAM, Mrs Elsie TU, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Timothy HA, Mr Michael HO, Dr HUANG Chen-ya, Mr Simon IP, Dr Conrad LAM, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Dr TANG Siu-tong, Miss Christine

LOH, Ms Anna WU, Mr Alfred TSO and Mr LEE Cheuk-yan voted for the amendment.

The Chief Secretary, the Attorney General, the Financial Secretary voted against the amendment.

Mr Allen LEE, Mrs Selina CHOW, Mr Edward HO, Mr Martin BARROW, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Peter WONG, Mr Moses CHENG, Dr LAM Kui-chun, Mr Eric LI, Mr Henry TANG, Mr Howard YOUNG and Mr James TIEN abstained.

THE PRESIDENT announced that there were 31 votes in favour of the amendment and three votes against it. He therefore declared that the amendment was carried.

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

MR FRED LI (in Cantonese): Mr President, I wonder if the "3T" tonight has anything to do with the absence of some Members. My amendment has been carried while that of the Honourable Henry TANG has been negated by a narrow margin of one vote. I would like to thank the 20 Members who spoke. I listened to all of their speeches. The Government, not Members present today, has disappointed me most.

After listening to the response of the Government, I wish to raise a few questions. First, the Government said that it would review the quota of 25 000 under the general importation scheme. It is totally beyond me as to why the question of imported labour for the airport projects cannot be reviewed at the same time; why should the quota of the general importation scheme alone be reviewed? As regards the airport project, the Honourable LEE Cheuk-yan mentioned earlier that only 200 people out of several thousand applicants were finally employed. Where does the problem lie? I have also heard that many visitors including Australians, Americans and New Zealanders had been recruited to work in the airport project. They worked only for two weeks and then left. I really hope that the Government would pay attention to the situation of imported foreign labour at the new airport site. There are indeed many illegal workers working there. I have also given the relevant information to the Commissioner for Labour, pointing out which company is involved.

Second, the Government said earlier on that the sudden termination of the policy on the importation of foreign labour might disrupt the demand and supply in the local labour market. The Secretary for Education and Manpower

also said earlier that we should not disrupt the free market economy of Hong Kong. I think the Government has been working with a double standard. In fact, the policy on the importation of labour has already interfered with the free market and the labour market. The importation of foreign labour has in effect affected the demand and supply in the labour market. Is it not self-contradictory to say that the termination of the policy on the importation of foreign labour would interfere with the free market? The policy itself has interfered with the principles of demand and supply. If an employer failed to recruit workers, he could raise the wages. However, have the wages of workers increased? The answer is "no". Take the wages of the manufacturing workers as an example, from 1993 to 1994, there was a 30.2% reduction in their wages. The real wages of workers have experienced a drop instead of a rise. That is because the importation of labour has struck a hard blow on attempts made by local workers to fight for higher wages and better working environment. This policy has disrupted the condition of competition. According to the official information supplied by Mr TANG Kwong-yin, among the 80 000 people who are unemployed at present, 10% have been unemployed for more than a year and 30% for more than three months. This shows that those who are unemployed have been unemployed for some time already, not just recently. I think the problem is not a simple one, nor is it as trivial a matter as it is said to be.

The Government has now deployed more Immigration Department staff, increasing the number of inspectors to 92, in the hope of stepping up inspection. I think that is a good step and I will fully support it. I hope the Government can thoroughly crack down on the illegal employment of visitors, domestic helpers and illegal immigrants as workers. I think the Government should tell us more about the successful cases that it has dealt with so that we can understand the effectiveness of its measures. I think the Government should not vote against my motion or the Honourable TAM Yiu-chung's amendment. It should at most abstain. That is because my motion only urges the Government to help the unemployed to solve the problem of their livelihood and I hope the problem can be solved by improving the Comprehensive Social Security Scheme. I have not, as the Government has worried, mentioned the question of unemployment benefits. Hence, I think the Government has over-reacted. The Government's over-reaction may be due to the demand by so many labour groups to terminate the policy on the importation of labour.

These are my remarks.

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

Voice vote taken.

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

MR HENRY TANG: 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 HUI Yin-fat, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Andrew WONG, Mrs Peggy LAM, Mrs Elsie TU, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Timothy HA, Mr Michael HO, Dr HUANG Chen-ya, Mr Simon IP, Dr Conrad LAM, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Dr TANG Siu-tong, Miss Christine LOH, Ms Anna WU, Mr Alfred TSO and Mr LEE Cheuk-yan voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr Edward HO, Mr Martin BARROW, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Peter WONG, Mr Moses CHENG, Dr LAM Kui-chun, Mr Henry TANG, Mr Howard YOUNG and Mr James TIEN voted against the motion.

Mr Eric LI abstained.

THE PRESIDENT announced that there were 31 votes in favour of the motion and 15 votes against it. He therefore declared that the amended motion was carried.

REVIEW OF THE PROSECUTIONS DIVISION OF THE LEGAL DEPARTMENT

MRS ELSIE TU moved the following motion:

"That this Council urges the Director of Public Prosecutions, with the assistance of independent experts, to carry out a review of the decision-making process in the Prosecutions Division of the Legal Department in

order to ensure that proper checks and balances are in place, and to report publicly to this Council the results of the review."

MRS ELSIE TU: Mr President, I wish to explain at the outset that the purpose of this motion is not to demoralize the Legal Department, nor to humiliate any particular person in it. Indeed, the reverse is the case. I want to see what improvements can be made in order to enhance the image of the Department, as well as to restore the confidence of the public in the integrity of the Department, without which the rule of law cannot exist.

I suppose I can claim to have developed a wider spectrum than most people in Hong Kong in my dealings with the public, and with the Department, over several decades. The Prosecutions Division in general, and the Attorney General in particular, enjoy enormous powers, holding in their hands, as they do, the right to prosecute or not to prosecute any person arrested on any charge, including corruption charges referred by the Independent Commission Against Corruption. Most worrying is the fact that they do not have to be accountable to the public, in that they need not explain why they have or have not prosecuted any particular person. It is due to this lack of transparency that I state my concerns and request that proper checks and balances be put in place.

I have good reason for my concerns and will now give examples of cases over the years that have caused those concerns. In order to do so, I shall have to go back into the past to explain why I have often wondered whether, in our legal system even now, there may still be some remnants of the old extraterritorial rights that was once the hallmark of justice, and injustice, in the old colonial era, both here and in the former foreign concessions in China.

I believe my first shock came with the case concerning a small girl who, in the days when Hong Kong tolerated child labour, about two or three decades ago, had been raped and under intimidation by her employer from the time she was sent to work at the age of nine. She was 13 when her parents brought her to me, and she was pregnant by her boss. For months I argued with the Prosecutions Division that the man should be charged, since this child was at least his second victim and the police had saved him from the other charge. The Legal Department was adamant that at 13 the child was too young to face the agony of a court case. She was apparently not too young to face the agony of bearing an illegitimate child. In the end there was no prosecution, but we served civil action and the man was ordered to maintain the child — an order was never enforced.

At about the same time, I received information from the brother of a policeman that a certain Prosecuting Counsel was to receive a bribe if he managed to lose a case in court against a triad member who had been intimidating hawkers, mostly handicapped hawkers. The triad member was being charged on a count of forging a cheque, and I attended the hearing which had been delayed for years, and for which I had supplied enough evidence to make the charge. The Prosecuting Counsel harassed the prosecution witnesses

by his questioning, and failed to ask relevant questions, but insisted on only "yes" or "no" replies, and finally the triad gangster was acquitted for lack of credible evidence. That Prosecuting Counsel remained in the Legal Department despite my protests. In fact, I was threatened with possible libel if I pursued the case. Later he went into private practice and is, at the time of my speaking today, serving a jail term for his involvement in the Warwick REID case.

Is it surprising that the Warwick REID case raised my suspicions that some rotten apples had remained in the Department, or connected with the Department, for a very long time?

Some years after these cases I have just mentioned, my confidence was further eroded during the MacLENNAN inquiry. I had already reported personally to the then Attorney General that the police were out to catch MacLENNAN by means of a frame-up, but nothing was done about it. And as you now know, a few weeks later MacLENNAN was dead, purportedly having committed suicide. When I went to ask the Attorney General why he had taken no steps to protect MacLENNAN after my report, I was shown some statements alleged to have been made by witnesses that Police Inspector MacLENNAN had indeed cases pending against him and that these charges were his motive for suicide. Two senior members of the Legal Department assured me that the cases, which they showed me and allowed me to read, were actually written by the Legal Department, and were not reports submitted by the police. Had they been police reports, I would not in the circumstances have believed them at that time. During the inquiry, I was asked to identify the statements that had been shown to me. I was unable to identify them as such because they were totally different in colour, size, length and content from those I had been shown in the Legal Department. Despite my firm denial that those statements had been shown to me, two officers of the Legal Department swore on oath that those were the statements I had been shown. Can anyone be surprised that my confidence in the Department was seriously eroded?

Yet worse was to come in the MacLENNAN case. During the course of the inquiry I was allowed to read internal files and discovered what later the Commissioner in the inquiry called "The Charter".

I must clarify that this Charter was connected only with the Special Investigation Unit of the police on homosexuals, known as the SIU. I have the chapter of the Charter with me today. It is an instruction from the Attorney General to those investigating homosexuals, saying that where credible leads pointed at senior members of the Government, such cases were to be considered on an individual basis, bearing in mind the position of the suspect in the Government and all other circumstances. Albert SANGUINETTI, my Counsel at the inquiry, labelled the Charter "a discrimination charter".

This was a mandate given at a period in time when all homosexual acts were criminal under the law. One is led to query whether there might not be similar mandates affording charters on other offences, to protect certain

government officials and other important persons from criminal prosecutions. This is one of the issues I would like to see investigated, because more recent cases still raise suspicions that, whether or not other charters exist and actual mandates, they may still exist in practice.

My suspicions that there might be other charters were raised some time later than the MacLENNAN case, when I received a letter just a few years ago, obviously written by some senior official who reported to me anonymously that a very senior policeman had been found involved in drug trafficking, but instead of prosecuting him, a high-level meeting had decided to allow this drug trafficker to take early retirement. The writer advised me to watch the press for the confirmation of what he had written. I did watch the press and soon after this senior policeman was reported to have retired on the grounds of health. Did he escape on another charter? That question still remains in my mind.

What I have said so far may not have been publicly known because I was one of the few pioneers who crusaded for justice without the powers and privileges now enjoyed by Members of this Council. However, during the past two or three years, the public have become more aware of possible injustices or even malpractices.

I will not go into detail about recent cases that have raised public concern, but will merely remind Members of the Vietnamese murder case, the HARRIS case in which a person known to have sexual fantasies (to say the least) was permitted to take up legal practice, as well as all the scandal surrounding the Carrian case, and queries about briefs given to certain private lawyers. The latest case, involving a group of witnesses all suffering from amnesia, merely adds to the mysteries surrounding the rule of law as carried out in Hong Kong.

A few years ago, I said, and I now repeat, that it seems that the law is the enemy of justice, because the greatest care is taken to protect the rights of some, though not all, accused persons, but where can we find the rights of their victims?

I recall one of the legal fraternity on this Council once quoting a legal cliché, that he would rather see 99 guilty persons go free than that one innocent person should be wrongfully found guilty. I dislike that cliché, and would prefer to see neither the innocent person found guilty nor the 99 guilty persons go free. I would have to consider the rights of all the victims of those 99 guilty persons.

To come back to my motion, I am urging the Director of Public Prosecutions to review the decision-making process of his Department. He has already suggested a review, but I believe that he needs the back-up of a few independent persons in order to make such a review credible. That should not be taken as a reflection on the Director. It is because I believe that the public prefer independent rather than in-house reviews. It is not for me to choose who

might be included in such a review, but I would suggest consideration be given to a well-respected retired lawyer, an officer of the Independent Commission Against Corruption and an ex-judge of the calibre of Mr BLAIR-KERR, who investigated the GODBER case and exposed corruption at all levels of the Government. It would be a review of the procedures of the Prosecutions Division, and proposals for checks and balances, and possibly changes in the legal system to plug the loopholes through which certain accused have been escaping prosecution.

Such an investigation would hopefully boost the morale of the majority of that Division, and at the same time restore the confidence of the public on the practice of the rule of law.

The Director of Public Prosecutions is fairly new to the job, and it has not been easy for him so far. The review, I suggest, would give him an opportunity to prove his mettle, and at the same time, protect him from the few who might resent a solo investigation by a new head of the Department.

Concerning Miss LAU's two amendments, it was my original intention to include something similar in my motion, but I decided not to do so when I heard that the Public Accounts Committee was dealing with a recent case, and it seemed likely that they would include similar recommendations in their report. However, since Miss LAU has proposed those amendments, I shall listen with interest to what Miss LAU has to say and will probably support her amendments.

Mr President, I so move.

Question on the motion proposed.

PRESIDENT: Miss Emily LAU has given notices to move two separate amendments to the motion. This procedure is unusual but I do not consider it out of order as her amendments are not inconsistent but in fact complementary. Members will be able to vote separately on the two amendments and I have previously, of course, at the request of Members, split the vote on a comprehensive motion. I shall ask Miss LAU to speak, but no amendments are to be moved at this stage. Members may then debate the main motion as well as the two amendments listed in the Order Paper.

MISS EMILY LAU: Mr President, I rise to support Mrs Elsie TU's motion calling for a system of checks and balances to be set up in the Legal Department to monitor the decision-making process of the Prosecutions Division. I would go further to argue that such a system should extend to the entire Legal Department.

Mr President, as one of proponents of the Legislative Council Panel on Administration of Justice and Legal Services, I have long felt that the various government departments involved in the administration of justice do not get sufficient public scrutiny. The setting up of the Legislative Council Panel in October 1993 was a belated attempt to rectify the situation.

The series of public scandals which has plagued the Legal Department in the past few years has not only undermined the Department's credibility but also called into question its effectiveness in delivering legal services. The latest row on briefing out has aroused public concern over whether taxpayers' money was expended with due diligence.

Hence, apart from supporting Mrs TU's motion, I would like to urge the Administration to institute an accounting system whereby time and costs incurred by the Legal Department on behalf of each government branch or department would be clearly identified and itemized.

This would inject greater transparency and accountability into the Department's operations and would facilitate the Attorney General and the Director of Public Prosecutions in monitoring the work of their staff.

For a start, the Attorney General must require all Crown Counsel to fill in time sheets, a point repeatedly queried by Mr Moses CHENG and other Legislative Council Members. Filling in the time sheets is normal practice within the legal profession and I cannot understand why government lawyers are not required to do so. A monthly review of the time sheets will give the Attorney General a better idea of who is working hard and who is getting an easy ride.

Since the Legal Department is setting up a computerized case management system, it should be possible to work into the programme a system for collating the number of hours each Crown Counsel spends on different cases and subjects, whether they involve giving legal advice, drafting or prosecution matters. Such information would be invaluable in the review of personnel performance.

Furthermore, a system which tells the Administration who-has-spent-how-much-time-on-doing-what should be an effective tool in cost control and must be welcomed by the Finance Branch. It is understandable that some government departments may not support this change because the present system allows them to hide their legal costs under the Legal Department's global expenditure.

However, the Attorney General and the Financial Secretary must surely appreciate that greater transparency in the accounts will not only facilitate the work of the Director of Audit but will assist Legislative Council Members in scrutinizing the operations of the department.

In addition, the Administration may want to consider appointing a senior professional administrator in order to support the Legal Department with a high level of administrative expertise, similar to that supplied to the Judiciary by the Judiciary Administrator.

Mr President, speaking as someone who has opposed the Administration's proposals to create two D8 posts, that is, the post of Secretary for Financial Services and the Commissioner in Washington, I put forward my proposal for a Legal Administrator with an understandable measure of reservation. Nevertheless I still think it is an idea which should be canvassed and I look forward to hearing Members' and the Attorney General's response.

I put forward this potentially expensive proposal because I feel that the Legal Department may be able to benefit from having a high-powered administrator to strengthen the Department's management capabilities. From talking to people within the Administration, I get the impression that at least some parts of the Legal Department are in a shambolic state like what the Judiciary was not too long ago.

Mr President, you will recall that it was the appalling state of affairs at the Judiciary which prompted Members to urge the Administration to appoint a Judiciary Administrator to assist the Chief Justice to impose some order on the management of the courts. So far Miss Alice TAI seems to be making some valiant efforts in tackling the intractable problems. Maybe a similar remedy is needed for the Legal Department.

I suggest appointing a senior administrator because the person must have sufficiently high rank in order to have the authority and to command the respect of senior legal officers. We may not like the fact that many government officials are rank conscious, but it is a fact of life that we have to live with.

The personality of the administrator is also important. He or she must be someone who not only has the administrative ability but also has the courage and conviction to get the job done and not be afraid of upsetting people. Most important of all, this person must have the full support and backing of the Attorney General and the Chief Secretary.

Mr President, like the Judiciary, the Legal Department has for far too long been allowed to get away without proper public scrutiny and without effective management. It is a supreme irony that while Hong Kong prides itself on the rule of law, government departments associated with the administration of justice should be in such an appalling state. I urge the Administration to take a hard look at the Legal Department and adopt the necessary remedial measures.

With these remarks, Mr President, I support Mr TU's motion and I urge Members to support my two amendments.

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 SIMON IP: Mr President, this debate on the Prosecutions Division of the Legal Department would be incomplete without a brief discussion about the Department itself and its leadership.

In recent years, the Department has been the centre of a few scandals. The cases of Christopher HARRIS and Warwick REID provide just two unforgettable examples which shook the Department to its very foundation. As a result, public confidence in the justice system itself, of which the Legal Department is a crucial pillar, has fallen. More recently, two events have again brought the Department under public scrutiny. These are the deficiencies in the briefing out of the prosecution in the BMFL case and the Director of Audit's Value for Money Report No. 24 in which the operation of the briefing-out system generally was severely criticized. I do not wish to pre-empt the deliberations of the Panel on Administration of Justice and Legal Services and the Public Accounts Committee on these issues, but at the very least, it is evident from these events that there has been a failure of proper planning and management and a lack of proper budgeting and cost controls for which the Attorney General, as head of the Department, must bear ultimate responsibility.

Mr President, responses by the Attorney General to criticisms of the Department have in the past been characterized by excuses and resistance to change until something goes seriously wrong. Changes are then made in an exercise of crisis management rather than as a programme of planned initiatives. This attitude has often brought a sigh of frustration from legislators and others wanting to see improvements. This is unfortunate, not least for those many talented individuals who work in the Department at all levels who are tarred by the same brush.

In order to confront the issue, it is necessary to ask a brutal question: Is the man at the top too small for the job or is the top job too big for one man? In my opinion, the truth lies somewhere in between.

In my view, the job of the Attorney General is now too diverse and too complex to be done by any one man, however capable he may be. But no matter what changes are made for the better, be they long-term or short, I do

not think the credibility of the top job can be restored without a change of leadership. I urge the Administration to consider a re-distribution of the functions and responsibilities of the Attorney General's Office as well as to identify appropriate persons to discharge those functions and responsibilities.

Mr President, the Prosecutions Division of the Legal Department is now headed by Mr Peter NGUYEN, Q.C., a respected and experienced practitioner from the Criminal Bar. He has inherited a system from the past which makes his job a difficult one. Although he has been in post only a short time, he has shown himself responsive to change. But I think he would be the first to admit that he is not an experienced administrator or manager, and I am sure he would welcome the assistance of independent experts to advise him on a comprehensive range of issues aimed at enhancing transparency, accountability, operational and management efficiency.

Not long ago in the 1980s, the Judiciary had a similar experience when the ROBINSON Report was commissioned. Although that report's recommendations were not universally embraced within the Judiciary at that time due to the familiar resistance to change, there is no denying that recent initiatives by the Chief Justice and the Judiciary Administrator based on those recommendations have already produced improvements to the system. The result of other measures taken will not be evident for some time, but it was the change in attitude and management culture that was so refreshing and encouraging.

I, therefore, whole-heartedly support the motion and urge the Administration to commission a management review by independent experts not only of the Prosecutions Division but of the Legal Department as a whole. Miss Emily LAU has made some specific suggestions in her amendments which I support in principle even though they may be premature if a comprehensive review is to be carried out.

Mr President, the reputation of the Legal Department has suffered badly in recent years. This inevitably has had a knock-on effect on the justice system itself. Trust and confidence in the Department must be restored. This can only be done when the system and the people operating it enjoy public support. There is no room for complacency and there is no time to lose. There must be a change.

With these words, Mr President, I support the motion and the amendments.

MR MOSES CHENG (in Cantonese): Mr President, basically, the Honourable Mrs Elsie TU's motion which calls for a review of the Prosecutions Division of the Legal Department has the full support of the Liberal Party. In fact, four years ago when I first became a Member of this Council, I was the first to point out that the management system of the Legal Department was outdated. Now,

not only the briefing-out system needs to be reviewed, the overall management and operation of the Legal Department warrants an across-the-board overhaul.

The briefing-out system of the Legal Department was severely criticized by many Members recently, mainly because the Graham GRANT incident revealed many problems on the part of the Government in the entire process from assigning cases to him, discussing with him his remuneration to approving and paying his remuneration. We were all shocked by the seriousness of these problems and under the circumstances, the Legal Department was urged to review the briefing-out system of the Prosecutions Division.

In dealing with these problems, we must, in the first place, figure out whether things have gone wrong only in the Prosecutions Division of the Legal Department. If we give the matter some more thoughts, the Prosecutions Division is merely a division of the Legal Department and can be compared to one hand of a man. If this hand becomes paralysed one day, what is sick is not the hand, but the brain and the nervous system of the man which control his thinking and movement of his whole body. Similarly, the deficiencies that we found in the operation of the Prosecutions Division are just symptoms. The source of the illness lies in the deficient in-house management system of the Legal Department. In this connection, in order to cure the disease that is plaguing the Prosecutions Division, we have to direct our efforts to the management system of the Legal Department and give the right prescription.

First of all, let us look at the briefing-out system. I repeatedly criticized the Legal Department in the past for lacking a set of equitable and objective criteria for briefing out cases, except simple cases of prosecutions before a Magistrate. In addition, the in-house control of the Legal Department is confused and the approving procedure for briefing out cases as well as the fees involved are neither closely nor effectively monitored. When problems arose, the higher echelon of the Legal Department failed to detect the problems at an early stage and to take remedial measures promptly. Although the Legal Department has learned a lesson from the Graham GRANT incident and stated that many measures had been taken to improve the situation, including the setting of a ceiling for litigation fees and setting different fees according to the degree of complexity of the cases, the human factor, in spite of those changes, still carries too much weight where the procedure is concerned and authority is vested in a handful of persons without proper checks and balances. The only thing that I am happy to see is that the Attorney General has accepted the Liberal Party's suggestion of setting up a working group to conduct a comprehensive review of the briefing-out system. However, as I pointed out at the outset, it is inadequate to simply review the briefing-out system or the operation of the Prosecutions Division. In order to solve the problem in its entirety, we must change the management system and framework of the Legal Department across the board. I called on the Legal Department before to lay down a proper standard for fees in briefing out cases and to contract out Government's legal services to the private sector by tender to enable a fair competition in the legal profession and ensure highly efficient services at a

reasonable cost. I hope that the working party will give serious consideration to this proposal.

Mr President, as I have said before, in order to plug loopholes in the procedure of briefing out cases by rectifying the system, we must change the outdated system of management of the Legal Department and introduce modern management concepts. In the meantime, those human resources management approaches which are now very common in the private sector should also be adopted with a view to giving a system to and institutionalizing the management of the Legal Department as a whole.

I would like to raise one particular point for the reference of the Legal Department in the course of reforming its system. Under the existing arrangements for staff appraisal in the Legal Department, the assessment of the duty performance of an officer is still based on his or her superior's personal impression. As a basis for promotion, this practice is already out of date. In order to assess the performance of an officer in a fair and objective manner, in particular in assessing the performance of someone in the professional grade, it is necessary to include in the criteria for assessment certain quantifiable data, such as records of the actual hours of work and so on, apart from the officer's quality of work. The introduction of modern human resources management practice into the Legal Department will enable the department to make more accurate projections of its demand of manpower and make deployments accordingly. Following an improvement in the working environment, the morale of the staff will be boosted significantly and that naturally improves efficiency.

In view of the successful precedent of the Judiciary, it is my hope that the Legal Department can, taking advantage of the computerization programme that has been implemented recently, carry out a comprehensive review of its management system to provide the community of Hong Kong with legal services of better quality.

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

MR JAMES TO (in Cantonese): Mr President, there are in fact several possible interpretations of the Honourable Mrs Elsie TU's motion which calls for a review of the decision-making process in the Prosecutions Division of the Legal Department. Coming after the recent Graham GRANT incident, the amendment moved by the Honourable Miss Emily LAU calls for the use of the value-for-money approach, instituting an accounting system and enhancing monitoring, and so on. However, after listening to Mrs Elsie TU's speech, I find that the decision-making process she mentioned does not seem to touch upon only such management issues as briefing out cases to outside lawyers or the costing procedures, but also includes the process of making decisions over whether or not to prosecute and whom to prosecute.

The motion suggests that a review should be conducted. The Democratic Party and I of course will not oppose any review, but the problem lies in the way to genuinely bring about some appropriate checks and balances within the mechanism where the Director of Public Prosecutions or the Attorney General is the final decision-maker of instituting prosecutions. In many democratic and free societies, in particular those countries which practice the common law, the Attorney General is usually the topmost decision-maker of criminal prosecutions. His role is provided in the constitution (in the United Kingdom, the role is provided in the unwritten constitution), in other words, his role is constitutionally incorporated into the system so as to preclude any possibility that someone would be able to interfere with this independent prosecution system, be it with political, administrative or legislative means, because that would breach the constitution. If Mrs Elsie TU, as it were, was asking for a review of even this form of the system, I am not convinced, with the examples that she gave, that there is any problem with the existing so-called independent prosecution system. She tried to enumerate quite a number of examples, such as the child labour case some decades ago, the MacLENNAN case, or even the recent cases in which some witnesses suffered amnesia. I do not really agree that memory loss has much to do with the Attorney General. She also mentioned the basic concept that "rather see 99 guilty persons go free than one person be wrongfully found guilty". This may not have anything to do with an independent prosecution system. I would respond to this issue later.

In view of the foregoing, what system will work? Shall we incorporate into the prosecution mechanism legislative participation? Or shall we make reference to the operation of the Independent Commission Against Corruption and set up an advisory committee or some other system? I have thought of many systems, but it seems that, at that moment, no system can be termed the most appropriate one. Moreover, the Basic Law has made it clear that we would have a prosecution system which is free from interference. Of course, if you do not trust the Basic Law or the entire system, then you will not trust any system. Whenever an external system of checks and balances are built into the decision making process of the Attorney General over criminal prosecutions, then some other mechanisms which may prejudice the Attorney General's independence in instituting prosecutions may also be introduced, such as administrative interference or the involvement of the legislature. It would then involve problems affecting the separation of the three powers, and interference may then be resulted. Therefore, I am against neither a review nor a research in this respect, but at this moment, I am not aware of any mode of external system that can strengthen checks and balances, and yet maintain intact the independent prosecution system.

The accounting system suggested by Miss Emily LAU is technically feasible because on many occasions where the Government wins in court proceedings, the court fees payable by the party losing the lawsuit can always be worked out. If the court fees cannot be worked out, then the Government would not be able to dicker with the losing party for a deal. In view of this, an accounting system is feasible but the problem lies in whether greater

transparency and accountability can be injected into the operations of the Department after instituting an accounting system. In general terms, the answer is in the affirmative but I worry that we may overdo in rectifying the problem because many Members, such as the Honourable Moses CHENG and Miss Emily LAU, have suggested the method of filling in "time sheets". Frankly speaking, many law firms and even the major ones, have in the past tried to implement the system of "time sheets". Although it is a good management system, squandering time on filling in "time sheets" may not be economically justifiable from the viewpoint of administrative costs.

Is "time sheet" actually a scientific method to quantify the efforts that lawyers spend on thinking and deliberating on legal problems? Is there any effective monitoring mechanism? Many law firms all around the world, which is not confined to British law firms, find that this system has its constraint. Whatever the constraint, this system, if properly designed, may be able to enhance the accountability. I hope that the design of the system will not result in overdoing, or it will become too time-consuming. I basically support this concept.

Regarding the suggestion that a senior professional administrator be brought in to provide professional administrative support, I throw my support behind that suggestion. We agree that the Legal Department, as a government department, should be provided with this mechanism under the present circumstances. The principle is that from the administration's point of view, a department, irrespective of its establishment and regardless of whether or not it is a professional department (apart from the Legal Department, there are many professional departments such as the Highways Department and other engineering departments), will have a Department Head and a Departmental Secretary. In many departments, managers are of the rank of Principal Executive Officers. All these departments have such administrators. However, we cannot say that a department requires that sort of senior administrators just because the department is large and the amount of money involved is huge. The Education Department is also a large department but it seems that there is no such post in the department; therefore, no objective criteria are available in a practical sense. Then, why should I say that I support the suggestion? Frankly speaking, I agree that the department is now a shambles, the time has come for a rescue operation, and I have a feeling that this is crisis management. The situation bears some resemblance to the then Judiciary. By the same token, I feel that someone is urgently required to help the Legal Department out.

With these remarks, I support both the motion and the amendments.

MR MARTIN LEE: Mr President, I doubt if there would be too many who will disagree that the public perception is that something is terribly wrong with the Legal Department today. The reason could well be that leadership is wanting. But the question, Mr President, is this. Does the fault lie with the system or with the head?

Now, we must not make the mistake of changing the song if we simply do not like the singer. The Honourable Mrs Elsie TU's examples of grave injustice, of course, shock people, but they do not show that there was something terribly wrong with the system for they can all be explained away by the misconduct, mistake or omission on the part of the individuals concerned. I agree with Mr James TO in analyzing some of the examples given. Take the very recent case of a prosecution before a magistrate when all the key prosecution witnesses suddenly found that they all suffered from amnesia. But that does not mean that the Attorney General's decision was wrong, or the DPP's decision was wrong because, after all, the accused was prosecuted. Of course, what is important now is for the police to take all efforts in trying to find out why all these prosecution witnesses suddenly forget. But it does not show, with respect, that there was something wrong with the system.

Whatever the system, Mr President, the final decision whether to prosecute or not to prosecute in a particular case must rest with an individual and not a computer. At least, not yet. Under the present system, it is the Attorney General who makes that decision. Mr President, we must ensure that he must not yield to outside pressure when he is deliberating whether to prosecute or not to prosecute. He must not ask himself this question, for example, what will the papers say, or what will the papers say if I either prosecute or not prosecute. He must feel completely at ease to decide on the merits of the case. Mr President, if the holder of the present office feels that he is not at ease in making important decisions of this kind, then perhaps he should no longer hold that office.

Mr President, whether we have a review of the whole system or not is the motion that we are debating today. I cannot see any good reason to oppose it but I doubt myself whether, at the end of such a review, there could be any useful conclusion to change the system. And so, with these words of caution, Mr President, the Democratic Party will support the motion. We will also support the amendments. But there is one thing I must repeat, and that is, we must continue to have a system under which the ultimate decision whether to prosecute or not to prosecute must be left to someone — it may well be the Attorney General — and we must not put him under unnecessary pressure, and that includes legislators. If we do not like a particular decision, we can ask him questions in this Chamber. But we must not put so much pressure on the Attorney General that he may feel compelled to make his decision in a particular way, because then we will be taking upon ourselves this duty to decide whether to prosecute or not to prosecute, and we are not; this is not our role as legislators. I think that point must be emphasized.

With these words, Mr President, I support the motion and the amendments.

ATTORNEY GENERAL: Mr President, I am grateful that this debate has taken place. I am grateful that we have an opportunity to discuss serious issues affecting not only the public's confidence in me, my Department, but also in the rule of law. I think it is a timely debate. I am glad that we have had it. It gives me an opportunity to address concerns about the decision-making process in the Prosecutions Division, to explain some of the major improvements that have been made to the running of that Division, and to set out some of our plans for further improvements. And I hope, as I go along, I will persuade Members that these are not the products of crisis management or quick fix.

Constitutional position

Mr President, let me start in the sense where Mr Martin LEE left off and that is, by setting out the constitutional position concerning prosecutions in Hong Kong. Decisions to prosecute are, under our constitution, the sole responsibility of the Attorney General. This constitutional doctrine was recognized in a statement released in February 1963 at the direction of the then Governor which said:

"It is the Attorney General who is responsible for all prosecutions in Hong Kong. It is for the Attorney General alone to decide whether or not prosecutions shall be instituted in any particular case or class of case, and his responsibility to control and conduct them."

That remains the position today. The important point to note is that when the Attorney General of the day makes a decision to prosecute or not to prosecute he does so independently of the Government. He acts in a semi-judicial way, free from orders or pressure from the Government or from any other quarter. And at this point, I would say, Mr President, that I am in full agreement with the sentence just expressed by Mr Martin LEE on this very important aspect. So the responsibility is his, and his alone. That constitutional independence, jealously preserved and guarded, is, I believe, a bulwark for the rule of law in Hong Kong, and I think it is reassuring to note, as Mr James TO has pointed out, that the Basic Law provides for the continuation of the principle, by stating that the Department of Justice shall control criminal prosecutions "free from any interference".

But how, in practice, does the prosecution process work? And what are the present safeguards, the checks and balances, to ensure that this awesome power, for such it is, is properly used, and that the public can have confidence in this vital aspect of the rule of law and the administration of criminal justice?

In most instances, as one might expect, the power to make decisions in relation to prosecutions has been delegated to the Director of Public Prosecutions and his officers. But not all powers have been delegated: some remain personal to the Attorney General, for example, decisions under the Complex Commercial Crimes Ordinance and under section 5 of the Organized and Serious Crimes Ordinance. Similarly, the power to enter a nolle prosequi,

that is, to discontinue a prosecution and to seek a review of sentence, have not been delegated. They are powers I exercise personally. Some offences cannot be prosecuted without my personal consent, for example, prosecutions under section 10 of the Prevention of Bribery Ordinance.

However, in reaching decisions in these cases where I have not delegated my powers, I have the benefit of advice from the Director of Public Prosecutions and his senior colleagues.

The prosecution process

Mr President, the decision-making process begins when the Prosecutions Division receives an investigation file from a law enforcement agency, in most cases either the police or the Independent Commission Against Corruption. It is important to note that, generally speaking, the Prosecutions Division are not involved in the investigation of crimes and that is quite deliberate. This separation of function ensures that decisions to prosecute are made by those who, because they have not been involved in the investigation, can view the evidence dispassionately and objectively. In some major and protracted cases, the advice of the Prosecutions Division may be sought during the course of investigation over the strength of evidence and its possible admissibility, but even then the separation of function is strictly adhered to.

Once received, the investigation file is assigned to one of the specialist units within the Prosecutions Division for evaluation. Each unit is headed by an experienced Counsel at the Directorate level, whose responsibilities include the supervision of counsel within that unit. All advice given is checked and countersigned by the Directorate officer. Where a case may fall within the jurisdiction of the High Court, for example, a possible prosecution for murder, the approval of a Directorate officer to prosecute will be sought. Similarly, prosecutions of major cases in the District Court will need the approval of a Directorate officer. In cases of particular weight, say, a major commercial crime, or cases which may involve a wider public interest, the papers will be passed to a Deputy Director of Public Prosecutions and then to the Director personally. The Director will, whenever he considers it appropriate, refer such decisions to me, either to endorse the decision or, in some instances, for me to decide.

Current safeguards and checks and balances

Mr President, I turn now to the important question of safeguards and checks and balances, and the allied issues of transparency and accountability.

I have described the internal processes by which prosecution decisions are arrived at, showing that all major decisions are reached only after careful consideration at various levels within the Prosecutions Division. This process aims at minimizing errors, and ensuring consistency of advice and policy, for it is important that decisions are made fairly and consistently.

There are a number of external safeguards and checks and balances. First of all, there is this Council. The ability of this Council to question an Attorney General about prosecutorial decisions is a valuable and significant safeguard. Of course, I can understand the frustrations of Members when I decline to go into the reasons for a particular decision. Let me say this, I, too, have experienced frustration in not being able to answer publicly the barrage of criticism, to which I and my Department have been subjected over decisions taken in certain cases. However, there are sound reasons of public policy why an Attorney General cannot discuss his decision to prosecute, or not to prosecute, in a particular case.

Mr President, the only forum, I repeat, the only forum, in which a person's guilt or innocence should be assessed is in a court of law, where that person has all the safeguards provided by the criminal law to ensure that he or she has a fair trial. Any discussion of the correctness of a decision to prosecute, or not to prosecute, a particular person is likely to raise the question of whether there was sufficient evidence to prosecute, which is just a step away from the question whether he or she was guilty. But, as I have said, that question is one exclusively for our courts.

Where a decision has been taken not to prosecute a particular case, there are other reasons why an Attorney General should not discuss the basis of that decision. To make public the grounds on which the evidence was judged to be insufficient, insufficient to secure the likelihood of a conviction would, in the first place, breach the confidentiality of police reports and statements taken by the police from potential witnesses. Disclosure of the reasons for not believing prospective witnesses might require revealing the criminal record of those witnesses. The same reasons would apply to making public details about the defendant with the result that there would be a public "trial" of the potential defendant without his or her having all the safeguards that are an integral part of a criminal trial in open court.

Mr President, I make no apology for repeating the explanation that I gave in a letter to the Chairman of the House Committee in May 1993, and which I gave to Members of this Council in answer to a question put to me in April of last year. In explaining why decisions to prosecute or not to prosecute should not be discussed, I gave the following three reasons.

- (a) If the defendant has been prosecuted but acquitted, it cannot be in the interest of justice and fairness for that acquittal or its reasons to be debated in public.
- (b) If the defendant has been prosecuted and convicted, it would hardly be proper to discuss whether the conviction was correct or not. If the defendant felt he should not have been convicted, he would appeal.

- (c) If criminal proceedings were not taken, it would not be fair or just to discuss why the accused were suspected and the reasons for not prosecuting. To embark on such a course would, as I have just explained, be tantamount to a trial but it would not be in accordance with court procedures and it would not be confined to evidence admissible in court.

I hope that Members will understand why I, and my predecessors, have taken the stand that I have referred to. I hope that Members will, on reflection, agree with me the soundness of that principle. But I also repeat, the stand, the principle that I adopt does not render me unaccountable to this Council. I would wager that I am probably the Attorney General who has been questioned more frequently and has appeared more often before this Council and Panels than any of my distinguished predecessors.

Further safeguards and checks arise through the detailed work of the Legislative Council Panel on Administration of Justice and Legal Services, before whom I and the Director frequently appear. The media, too, have a part to play in raising public concerns over particular decisions.

Then, Mr President, there are the courts. A decision to prosecute will frequently result in a trial, where the case against the defendant is tested by the defendant's lawyers, by the judge and, in the High Court, by the jury. But an acquittal does not mean that the original decision to prosecute was wrong, for the decision to prosecute is based on a reasonable prospect of securing a conviction, while a conviction requires proof beyond reasonable doubt. There are many and varying reasons why a defendant may be acquitted: witnesses may die or change their stories, or simply not be believed. New evidence may come to light.

At this point, I would remind Members that the proper role of Prosecuting Counsel is not to secure a conviction at any cost, but to lay out the evidence fairly and impartially for the court, or the jury, to decide guilt or innocence. With that caution in mind, I would note that the Prosecutions Division had the following conviction rates in the past year: 76% in the High Court, 67% in the District Court and 63% in the Magistrates' Court. By way of contrast the Crown Prosecution Service in England had a conviction rate in 1993-94 of about 57%.

Let me say a word about how the Division is staffed and what it does because I think it is important, Mr President, that in this important debate with the emphasis being laid on particular cases in the past, we should not lose sight, as I am sure Members will not, of the broader picture. At present, the Division has 99 Crown Counsel, 95 lay court prosecutors and 153 support staff. In 1994, they handled 2 416 appeal cases, 654 cases in the High Court, 683 cases in the District Court and 5 775 cases in the Magistrates' Courts. This represents an increase of some 38% over the number of cases handled in 1993 without a matching increase in staff, I should add. Apart from the day to day advisory

duties, counsel in the Division also provided 5 236 pieces of specialist advice to various law enforcement agencies in the financial year 1994-95 — an increase of 16% over the previous year. I would like to pay tribute to the officers in the Prosecutions Division — the Crown Counsel, the Court Prosecutors and our hardworking support staff whose dedicated work does not always get the recognition it deserves. I wish to place on record my tribute to their skills, experience, versatility and sheer hard work. Hong Kong is indebted to them.

Improvements

In this evening's debate, reference has been made to certain specific cases. These cases have all been the subject of detailed discussion in the past and I have answered questions in this Council in respect of many of them and in some cases at considerable length. Members will forgive me if I do not repeat what I have said previously about those cases and would understand for the reasons that I have just given while I do not intend to add what I have already said on previous occasions. Mr President, I would now like to set out some of the improvements made to the Prosecutions Division over the recent years, not as a result of laggard reaction to crisis, not as a reaction to quick-fix solutions, not some sort of delayed reaction, but as a steady process of improvement managed in a careful and measured way.

- First, the Division is now subdivided into 15 units each with its own specialist function and each headed by a Directorate officer. These units include a Court Advocates Unit which deals with nearly all High Court trials, Trial Preparation Units for High Court and District Court, an Appeals Unit, an Extradition Unit, a Drugs Asset Recovery Unit and a Bill of Rights Unit, to name just a few. Each unit is composed of specialists in those areas, increasing the level of professional expertise necessary to handle the complex nature of much of today's criminal work;
- Secondly, the Director of Public Prosecutions has recently put in place a research and general advice unit, whose duties include reviewing and recommending changes in criminal law and procedure and Members would have seen some of the products of that in the form of bills that have come before them recently; assisting in the giving of drafting instructions and commenting on criminal legislation; giving criminal advice to all government branches and departments which are not covered by other sections in units of the Prosecutions Division; and advising the Commissioner of Police in Magistrates' Court cases;
- Thirdly, in 1993, we published a booklet on Prosecution Policy. That was done with a view to furthering public understanding of the principles that are applied when a decision to prosecute is to be made. This explains, for example, the test to be applied in deciding whether there is sufficient evidence to prosecute, and the public

interest considerations that may properly lead to a decision not to prosecute; and

- Fourthly, with regard to our system of briefing-out cases on which some Members have spoken this evening, Members will be aware of several important measures recently taken, in particular, the capping of fees in non-standard cases and the establishment of a working party to review the briefing-out system, to be chaired by the Director of Public Prosecutions and including representatives of the Bar Association and the Law Society. The Director and I intend that to be a thorough-going review because we are determined that the briefing-out system would be such as to stand up to critical public examination in this Council and elsewhere.

So, Mr President, we have a Prosecutions Division that is hard-working and highly professional, in a process of steady improvement. But what of the future?

- First, the introduction of a fully integrated information technology system, now being installed, will greatly enhance our ability to capture information to aid the operation and management of the Division. And I have taken a careful note of the useful suggestions that have been made by some Members this evening about that, and I have gratefully acknowledged the assistance given by Members outside the debate this evening, freely giving their time and advice and I would like to say how grateful I am to them. In this connection, we shall be making a full progress report to the Panel on Administration of Justice and Legal Services early next month.
- Secondly, we look to a significant increase in the strength of the Division — long overdue in my opinion. This will enable the Director to beef up various units within his Division. This will help to improve the service provided to law enforcement agencies and other government departments in terms of the quality of advice we give.
- Thirdly, we shall facilitate the greater use of Chinese in the courts by assisting in the production of bilingual indictments and charge sheets, and by improving the ability of prosecutors to conduct cases in Cantonese.
- Fourthly, we will provide specialist training to Crown Counsel dealing with vulnerable witnesses so as to facilitate the implementation of the proposal to allow videotaping of evidence in such cases and for the better handling of trials involving vulnerable witnesses.

Mr President, I have set out at some length the improvements already made and what we have in the pipeline to demonstrate that these are not the product of crisis management and not evidence of resistance to change the ostrich-like attitude as we have been accused by some this evening.

It is against this background of steady improvements that I welcome the review proposed by the Honourable Mrs Elsie TU's motion. I say this for a number of reasons. Firstly, such a review would tie in with the process of improvements already started by the Director of Public Prosecutions. Secondly, the Prosecutions Division has grown in size over the years and will expand further. At the same time, the criminal law and procedures have grown in terms of specialization and complexity. Both factors suggest that there is a need to review the way in which decisions are made. Thirdly, it is vital that the decision-making process should be one which commands public respect and confidence, for the prosecution process is of such vital importance to the maintenance of the rule of law in Hong Kong. We must ensure that the proper checks and balances are in place.

For these reasons, I fully support the motion calling for the Director of Public Prosecutions, with the assistance of independent experts, to carry out a review of the decision-making process in the Prosecutions Division. And I have taken a careful note of the suggestion made by the Honourable Mrs Elsie TU as to its composition. The Director, I know, is anxious to press ahead with this review, with a view to producing to this Council and to the public a report before the end of the year.

A clear accounting system

I turn now, Mr President, to the amendments proposed by the Honourable Emily LAU. The first of these calls upon the Administration to institute an accounting system clearly identifying costs incurred by the Department including those incurred in advising, acting on behalf of, or representing government departments, thereby injecting greater transparency and accountability to the Department's operations.

Before responding to that amendment, I would like to describe briefly the Department's current accounting system and how we identify the cost of the services we provide. At present, the spending of my Department is grouped under five programme areas. Under each programme area, a breakdown is kept for costs incurred in each category of activity. For example, in the Prosecutions Division, we can identify the costs incurred for trial preparation, asset recovery, extradition, advisory work and prosecutions, and so on. Similarly, in the Civil Division, we can identify the costs incurred, for example, for civil litigation, for mutual legal assistance, for the drafting and preparation of construction contracts, and for advisory work. The costs cover staff costs, other operating costs such as office equipment, as well as costs for briefing out work to outside lawyers. These costs are incurred largely as a result of providing legal services to other government departments and law enforcement

agencies. This system allows us to have a more focused view on the cost of the services we provide. It also provides a basis for identifying savings and possible redeployment of resources.

So we already have a system of accounting which can identify cost. But, Mr President, I have no difficulty at all with the suggestion that we should look further at that system to see if it can be refined to provide better information as to costs, and I have taken on board the thoughts of Miss LAU over inter-departmental charging, something that I think she has raised in the past, and also questions over time-recording and performance indicators.

If I can just say a brief word about inter-departmental charging. My initial reaction to that is while there may be attraction in this, we must be careful that it would not bring in its wake unnecessary bureaucracy and since there are wide implications, I shall have to explore the idea further with my senior colleagues, including the Financial Secretary and the Secretary for the Treasury. But I have taken the point.

Appointment of a senior professional administrator

The Honourable Emily LAU's second amendment urges the Administration to consider the appointment within the Department of a senior professional administrator in order to support the Department with a higher level of administrative expertise, similar to that supplied to the Judiciary by the Judiciary Administrator.

We have, over the past few years, strengthened very considerably the Department's administration, starting with the creation in 1989 of the post of Chambers Manager with the specific objective of having a senior professional administrator to manage the Department. That innovation has been very successful. The Department has, in its Administration Division headed by the Chambers Manager, a body of skilled administrators and managers. The Departmental Secretary post has been recently upgraded to the Directorate level in order to strengthen the administration support in formulating and implementing major administrative issues such as localization and manpower planning for the Department, improving staff management and relations, deployment of resources, financial control and office automation. Each of the major divisions now has its own Divisional Executive Officer to assist in management and administration, thus freeing the Law Officers to concentrate on their major responsibilities as Heads of Department. These changes have provided the Department with efficient and effective management. I would like, at this point, to refute in strong terms the suggestion that the Department is in a shambolic state. Those who believe that are welcomed to come and visit us. We can find time in our busy schedules to fit you in.

Nevertheless, the suggestion to appoint a senior professional administrator within the Department will be seriously considered having regard to the following factors:

- (a) the need for the creation of such a post;
- (b) its level;
- (c) the way it would fit into the overall senior management of the Legal Department;
- (d) the quality and experience required of the incumbent filling the post;
- (e) the improvements to be expected as a result of the creation of the post; and
- (f) the experience of the Judiciary and its relevance to my Department.

In this connection, Members will be aware that the working party set up to review the briefing-out system will report to me by the end of the year. At the same time, the Information Systems Strategy Plan is expected to bring significant improvements to the management of the Department. These two major activities represent a considerable part of the work of the Administration Division. I would like to take these two initiatives into account when considering the possibility of appointing a more senior administrator.

Mr President, the Legal Department is a vital component in the structure of the Government. It bears a heavy responsibility, one which, I believe, it discharges with great skill and professionalism. But like all institutions, it is capable of improvement. I and my *ex officio* colleagues will vote in support of the original motion and the amendments.

PRESIDENT: Miss Emily LAU has given notices to move two amendments to the motion. Her amendments have been printed in the Order Paper and circulated to Members. I propose to call on her to move her first amendment now.

MISS EMILY LAU moved following amendment to Mrs Elsie TU's motion:

"To add at the end of the motion the following:

"; and also urges the Administration to institute an accounting system clearly identifying costs incurred by the Department including those incurred in advising, acting on behalf of, or representing government departments, thereby injecting greater transparency and accountability to the Department's operations"."

MISS EMILY LAU: Mr President, I move that Mrs Elsie TU's motion be amended by my first amendment as set out in the Order paper.

Question on Miss Emily LAU's first amendment proposed.

PRESIDENT: Mrs Elsie TU, do you wish to speak? You have a total of five minutes to speak to all the amendments.

MRS ELSIE TU: Mr President, I have very little to say on the amendments. Miss LAU calls for a clear accounting system on all aspects of the counselling system of the prosecutions department. Her purpose does not conflict with mine in calling for greater transparency and accountability. I believe this aspect is also being dealt with by the Public Accounts Committee.

I also support Miss LAU's second amendment, that is, for the Administration to consider appointing a professional administrator in order to achieve a higher level of expertise in the administration.

As mentioned in my speech, I support both of Miss LAU's amendments, and I urge Members to do likewise.

Question on Miss Emily LAU's first amendment put and agreed to.

PRESIDENT: Miss Emily LAU, you may move your second amendment now.

MISS EMILY LAU moved the following amendment to Mrs Elsie TU's motion:

"To add at the end of the amended motion the following:

"; and further urges the Administration to consider the appointment within the Department of a senior professional administrator in order to support the Department with a higher level of administrative expertise, similar to that supplied to the Judiciary by the Judiciary Administrator".

MISS EMILY LAU: Mr President, I move that Mrs Elsie TU's motion as amended by my first amendment be further amended by my second amendment.

Question on Miss Emily LAU's second amendment proposed, put and agreed to.

PRESIDENT: Mrs Elsie TU, you are now entitled to reply and you have one minute 47 seconds out of your original 15 minutes.

MRS ELSIE TU: I want to assure Mr James TO and Mr Martin LEE that I did not suggest that Legislative Council should decide on prosecutions, nor did I suggest changing the constitutional status of the Attorney General. I was suggesting a review to improve the internal procedures, and I do not know how they came to that conclusion.

Concerning the Attorney General, he has given us all the details of the constitutional procedures, which I am sure we all know, and I suggest that he will see the need for beefing up, or rather improving, the image of his Department if he will read the Gazette for this month, an article by his predecessor which really makes a great joke of his Department. And I think that it is time we should clear this up.

I am very glad to hear that the Attorney General is going to conduct a review through the Director of Public Prosecutions and other persons who are independent. In the terms in which he has described it, I am very satisfied.

Thank you, Mr President.

Question on Mrs Elsie TU's motion as amended by Miss Emily LAU's two amendments put and agreed to.

ADJOURNMENT AND NEXT SITTING

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 14 June 1995.

Adjourned accordingly at three minutes to Nine o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Magistrates Ordinance, Interpretation and General Clauses Ordinance, Wong Wai Tsak Tong (Renewal and Extension of Sub-leases) Bill and Pensions (Special Provisions) (The Hong Kong Institute of Education) Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

WRITTEN ANSWERS**Annex I****Written answer by the Secretary for Health and Welfare to Mr Albert CHAN's supplementary question to Question 1**

According to information provided by the Commissioner of Police, 16 prosecutions were instituted since the law came into effect on 28 April 1995 and 31 December 1995. As regards written and verbal warnings, no information was available for the period April to August and no warnings were issued from September to December.

Annex II**Written answer by the Secretary for Works to Dr HUANG Chen-ya's supplementary question to Question 5**

The following is a list of such information for the period 1994-95.

	<i>Acceptable Standard Level</i>	<i>Actual level in raw China water as detected by WSD</i>
Lead	0.01mg/litre	<0.004mg/litre
Mercury	0.001mg/litre	<0.001mg/litre
Cadmium	0.003mg/litre	<0.0002mg/litre
Chromium	0.05mg/litre (provisional)	<0.001mg/litre

Our records over the past 10 years indicate that there has been very little change in the level of the above chemicals in raw China water. Hence, we do not consider that there is a need to announce the test results on a monthly basis. The public can, if they so wish, approach WSD any time for such information.