

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 14 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 SUEN MING-YEUNG, 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.

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

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

THE HONOURABLE 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 ALBERT CHAN WAI-YIP

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

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 PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

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

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

THE HONOURABLE ANNA WUHUNG-YUK

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

THE HONOURABLE ALFRED TSO SHIU-WAI

THE HONOURABLE LEE CHEUK-YAN

ABSENT

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

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

THE HONOURABLE MOSES CHENG MO-CHI

IN ATTENDANCE

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

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

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

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

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

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

THE DEPUTY SECRETARY GENERAL
MR LAW KAM-SANG

PAPERS

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Road Traffic (Public Service Vehicles) (Amendment) (No.2) Regulation 1995.....	225/95
Schedule of Routes (Citybus Limited) Order 1995.....	226/95
Schedule of Routes (Kowloon Motor Bus Company) Order 1995	227/95
Schedule of Routes (New Lantao Bus Company) Order 1995	228/95
Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 1995	231/95
Protection of Children and Juveniles (Places of Refuge) (Amendment) Order 1995.....	232/95
Hospital Authority Ordinance (Amendment of Schedule 1) Order 1995.....	233/95
Immigration (Amendment) (No.2) Regulation 1995 (L.N.217 of 1995) (Commencement) Notice 1995	234/95
Specification of Public Office	235/95
Official Languages (Authentic Chinese Text) (Sale of Land by Auction Ordinance) Order	(C)43/95
Official Languages (Authentic Chinese Text) (Privileges and Immunities (Joint Liaison Group and Land Commission) Ordinance) Order	(C)44/95
Official Languages (Authentic Chinese Text) (Drug Addiction Treatment Centres Ordinance) Order	(C)45/95
Official Languages (Authentic Chinese Text) (Motor Vehicles (First Registration Tax) Ordinance) Order	(C)46/95

ORAL ANSWERS TO QUESTIONS

Witnesses Claiming to Have Lapse of Memory

1. MR JAMES TO asked (in Cantonese): *Mr President, will the Government inform this Council:*

- (a) *of the annual breakdown, by types of offences, of cases in the past three years which have resulted in the discontinuance of prosecution on account of the witnesses claiming to have forgotten details of the events or contradicting their testimony made previously; and*
- (b) *what measures the Government will take to prevent cases as described in (a) above so as to ensure justice and safeguard the rule of law in the territory?*

ATTORNEY GENERAL: Mr President, in the past three years, there have been three cases in the High Court where defendants were acquitted because key prosecution witnesses gave evidence at the trial which was contradictory to their earlier statements. All three were murder cases.

During the same period, there were 27 District Court cases where the defendants were acquitted because key witnesses for the prosecution either suffered a lapse of memory or gave evidence in court contradictory to their earlier statements and damaging to the Prosecution's case. A breakdown of such cases by reference to the type of offences is shown at the table attached to this reply. We do not have statistics of such cases in the Magistrate's Courts. To put these figures into context, during the past three years, there have been 2299 cases in the High Court and 4481 cases in the District Court.

As regards the second part of the question, the following arrangements are already in place:

- (a) It is a civic duty of every citizen to give true and full evidence in legal proceedings. The Government has published posters and leaflets to assure the public of their rights as a witness and to give sensible and useful guidance to witnesses as to what is expected of them when giving evidence in court. There are also Announcements of Public Interest and television programmes like "Crime Watch" and "Police Magazine" to encourage witnesses to come forward to testify in court;
- (b) The Government is making every effort to ensure that witnesses will be given adequate protection and assurance where necessary. The police have in place a wide range of witness protection

arrangements. A Police Central Witness Protection Unit has been set up to implement and co-ordinate these arrangements;

- (c) Those who try to intimidate witnesses or interfere with witnesses are liable to be prosecuted, subject to the availability of evidence, with the offence of attempting to pervert the course of public justice which carries a maximum penalty of seven years' imprisonment; and
- (d) The courts are equipped with the power to punish those who refuse to give evidence. Under section 21(4) of the Magistrates Ordinance, if a person comes before a magistrate as a witness but refuses to be sworn, or, having been sworn, refuses to answer questions put to him, he is liable to be imprisoned for a period of 12 months. Section 36 of the Criminal Procedure Ordinance confers a similar power on the High Court and District Court to punish such witnesses for contempt of court up to a maximum period of two years' imprisonment.

Mr President, in addition, the Criminal Procedure (Amendment) Bill 1995 now being studied by this Council contains proposals which will enable witnesses in fear to give evidence in all levels of court through live television link. This will add to the existing arrangements I have just mentioned.

These arrangements provide a comprehensive range of measures designed to ensure that criminal cases are heard on their merits with witnesses willing and confident to give full testimony in court. In order to support the rule of law, we also need the co-operation of the community to come forward, report offences and give evidence in court.

District Court Cases

<i>Types of offences</i>	<i>Failure of prosecution due to</i>	
	<i>Contradictory evidence</i>	<i>Lapse of memory</i>
Attempt to pervert the course of public justice	1	
Blackmail	2	1
Causing grievous bodily harm	1	
Counselling and procuring blackmail		1

<i>Types of offences</i>	<i>Failure of prosecution due to</i>	
	<i>Contradictory evidence</i>	<i>Lapse of memory</i>
Criminal intimidation		1
False imprisonment	1	
Lending money at an excessive rate	2	
Possession of identity card relating to another person	1	
Robbery	2	
Trafficking in dangerous drugs	1	
Unlawful sexual intercourse with girls under 13	1	
Wounding with intent	10	2
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	22	5
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MR JAMES TO (in Cantonese): *Mr President, if a witness intentionally forgets details of events or contradicts his or her testimony made earlier due to threats and inducements, resulting in the discontinuance of prosecution and acquittal of the accused, that will largely affect the rule of law. If we look at the figures, there were three so-called "lapse of memory" cases in the District Court relating to charges of blackmail, attempted blackmail or criminal intimidation. Will the Government please inform this Council of the three High Court cases and the 27 District Court cases over the past three years, how many were followed with subsequent prosecution against the persons involved after investigations; and how many were believed to have involved threats, inducements or bribery despite a lack of evidence for bringing about prosecution in the criminal court?*

ATTORNEY GENERAL: Mr President, I will check and let Mr TO know in writing, but I believe it to be the case that there was no prosecution following any of those cases. (Annex I)

MR LEE WING-TAT (in Cantonese): *Mr President, it is mentioned in paragraph (c) of the main reply that subject to the availability of evidence, those who try to intimidate witnesses or interfere with witnesses are liable to be prosecuted. Mr President, since it is very important for witnesses or victims to give evidence entirely free from pressure and threats, we are very concerned about a recent case in which several witnesses said repeatedly that they were not able to testify due to loss of memory. With regard to many of such past cases, did the police ever bring prosecution against those who were suspected to have administered threats or other forms of pressure to the victims or witnesses?*

ATTORNEY GENERAL: Mr President, as I have said in my main answer, subject to the availability of evidence, it is an offence to attempt to intimidate a witness or to interfere with a witness. If the evidence is available, we will not hesitate to prosecute for the serious offence of attempting to pervert the course of public justice and there have been several successful prosecutions for that offence in recent years.

MR SIMON IP: *Mr President, in paragraph (b) of the Attorney General's answer, he says that the Government is making every effort to ensure that witnesses will be given adequate protection and assurance where necessary. Will the Administration please tell this Council when it will be possible for identities of witnesses to be changed and for witnesses to be relocated overseas as part of the witness protection programme?*

ATTORNEY GENERAL: Mr President, if I can take the second part of the question first, the Central Witness Protection Unit, was set up in April of this year. Members will know that that Unit is responsible for co-ordinating all arrangements over witness protection. Witness protection programmes can take many forms, ranging from advice and counselling through to 24-hour protection and in suitable cases relocation.

As regards the first part of the question, that is a matter that is still being discussed between the police, my Chambers and the Judiciary. But as soon as a conclusion has been reached, I will let the Council know.

DR CONRAD LAM (in Cantonese): *Mr President, I would like to ask about the issue of witnesses losing their memory which affected prosecution work as a result. As far as I know, there may be two reasons for a person to lose his or her memory, one is morbid amnesia caused by disease leading to tissue problems; the second is functional amnesia, of which one of the cause is pretending to be suffering from amnesia. With regard to those cases involving "witnesses claiming to have lost their memory", did the Government take any actions to ascertain the kind of amnesia those witnesses had claimed to be*

suffering from? In the event that the amnesia suffered by a witness is proved fictitious, should the Government take some proper actions?

ATTORNEY GENERAL: Mr President, when a witness for the prosecution claims to have lost his memory or cannot recall events, it is open to the court to permit him or her to refresh his memory by referring to his earlier written statement — a statement that would have been taken from him or her at the time of the investigation of the offence by the police, and that is a matter which happens from time to time and it is with the permission of the court. If, despite that, the witness claims that he cannot remember the contents of his statement, or claims to have lost his memory, it is open to the prosecution then to declare that witness as a hostile witness and that enables the prosecution to cross-examine the witness as to his statement. But that is only likely to assist the prosecution case if the witness, having been declared hostile, under cross-examination admits the truth of his earlier written statement. Failing that, then it is seldom the case that having declared a witness hostile, that his evidence, his testimony will be beneficial to the prosecution.

Mr President, Members will understand that it is improper for Prosecuting Counsel to attempt to interview witnesses except under very limited circumstances. It would not be proper for Prosecuting Counsel to attempt to interview a witness as to his loss of memory.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, a witness, when testifying in court, shall only give evidence which is favourable to the prosecution or the defence. In case the witness suffering from a loss of memory recovers within a certain period of time, does the Government have the power to request to re-open the case; or does it have the power to prosecute the accused under a different charge?*

ATTORNEY GENERAL: Mr President, if a key prosecution witness suffers from a loss of memory and as a result the trial is aborted leading to an acquittal, it is not open to the prosecution or anybody else to start again. An acquittal is an acquittal and that ends the matters.

Sit-ins at the Entrance to New China News Agency

2. MR FREDERICK FUNG asked (in Cantonese): *Mr President, on the evening of 23 May, a political group petitioned the Xinhua News Agency (NCNA) for the release of a political dissident in China, but the police did not allow the group consisting of ten people to stage a sit-in at the entrance to the NCNA. In view of this, will the Government inform this Council of:*

- (a) *the number of organizations allowed to stage sit-ins at the entrance to the NCNA, as well as the number of those prohibited from doing so, in the past year; and*
- (b) *the criteria adopted by the police in determining whether sit-ins should be allowed to take place at the entrance to the NCNA?*

SECRETARY FOR SECURITY: Mr President, as regards the first part of the question, during the past 12 months, the police have had to deal with 191 public gatherings outside the New China News Agency (NCNA). None of the organizations which took part in these gatherings were allowed to stage sit-ins at the entrance to the NCNA. However, on two occasions in the past year, demonstrators acted contrary to police advice and staged sit-ins at the entrance to the NCNA. After repeated police advice and warnings, the demonstrators subsequently moved away from the main entrance to less obstructive locations, where they continued their demonstrations.

As regards the second part of the question, as a general rule, the police do not allow petitioners to stage sit-ins at the entrance to the NCNA, because they would cause obstruction and inconvenience to other members of the public.

MR FREDERICK FUNG (in Cantonese): *Mr President, as far as I know, and as reported in the press, there was another group which staged a sit-in with the approval or acceptance of the police at the entrance to the New China News Agency (NCNA) from 2 to 4 June. They then proceeded to the Victoria Park and joined the candlelight vigil in memory of the June Fourth Incident. Was it because of the June Fourth Incident that the Secretary for Security permitted that group to stage the sit-in?*

SECRETARY FOR SECURITY: Mr President, no. On both the occasions referred to by the honourable gentleman, there were small groups of people who initially sought to sit-in at the NCNA but, after, as I explained in my main answer, advice and warnings from the police, they subsequently moved away and continued the demonstration in a less obstructive location.

MR LEE CHEUK-YAN (in Cantonese): *Mr President, as far as I know, apart from refusing to let petitioners to stage sit-ins at the entrance to the NCNA, the police also refused to let any group of more than 20 people to petition there. Why does the Government refuse to let any group of more than 20 people to petition at the entrance to the NCNA? Is there any "under-the-counter deal" between the Hong Kong Government and the NCNA to restrain the people of Hong Kong from petitioning the NCNA ?*

SECRETARY FOR SECURITY: Mr President, I cannot give a definite answer on what is permitted and what is not permitted under certain circumstances. The police consider each case on its merits. Factors such as the size and the mood of the demonstrators, the prevailing circumstances of the surrounding area and other public safety and public order considerations will be taken into account before a decision is made. There is certainly no under-the-counter deal.

MR JAMES TO (in Cantonese): *Mr President, in the second paragraph of the Secretary's reply concerning the criteria for allowing the staging of sit-ins or not, he had only one sentence to say, and that is: they would cause obstruction. I hope the Secretary will understand that peaceful sit-ins is one of our rights. If causing obstruction is used as a reason for not allowing petitioners to exercise their right of staging a peaceful sit-in at a particular site, I think the Secretary must give us some objective criteria. Examples are first, the flow and size of the crowd; second, the width of the road in question; and third, the number of people involved in the sit-in. Should the Government lay down objective criteria like these? Even if there are no statutory provisions, perhaps there should be some internal rules? If the answer is in the affirmative, then what is the width of that part of the road in front of the NCNA; what was the flow and the size of the crowd at that time, that is, on the evening of 23 May; and what was the number of people participating in the sit-in? Did the above factors constitute a sufficiently objective reason for disallowing the sit-in? If the Secretary could not give an answer, would it not cause suspicion that there is an "under-the-counter deal" which deliberately marks the area outside the entrance to the NCNA as a forbidden place?*

SECRETARY FOR SECURITY: Mr President, police tactics vary according to the circumstances of each case, depending on the size and the mood of the crowds. Sometimes Mills Barriers are used for the purpose of protecting property and ensuring the safety of the demonstrators. When large crowds gather outside the NCNA, the police field commander may restrict access to the immediate vicinity to small groups. This is to allow the police to prevent any possible breach of the peace while at the same time allowing the public to express their views freely.

I would like to stress again that there is no single crowd control strategy or operational policy and that each occasion is a separate case. The police consider each case on its merits and their only objective is to preserve public order and safety.

PRESIDENT: Not answered, Mr TO?

MR JAMES TO (in Cantonese): *Mr President, will the Secretary for Security inform this Council of the number of people participating in the sit-in on the evening of 23 May; whether there was any road construction project going on in front of the entrance to the NCNA; the width of the road at that time; and the flow and size of the crowd on that evening? Were those factors causing obstruction? Could we please have these objective facts recorded in the Hansard?*

SECRETARY FOR SECURITY: Mr President, the Honourable Member has asked for a little more than I have. I can give him some of the information that he requires.

On the day in question, seven people gathered on the pavement outside the Queen Elizabeth Stadium. They brought with them banners and placards. At about 8.30 pm that evening, they arrived at the main entrance of the NCNA through the pedestrian subway. After discussion with the police authorities, the group then returned to the pavement outside the Queen Elizabeth Stadium where they staged a sit-in. The demonstration was peaceful throughout. The group did not at any stage attempt, or even indicate their intention, to stage a sit-in at the entrance to the NCNA. At its peak, the number of people involved was less than 20 persons. I am afraid I do not have with me the width of the pavement, but I can certainly provide that in writing. (Annex II)

DR CONRAD LAM (in Cantonese): *Mr President, the Secretary for Security pointed out in the second paragraph of his reply that as a general rule, the police would not allow petitioners to stage sit-ins at the entrance to the NCNA, because they would cause obstruction. He said it as a general rule but not according to law. Can I ask the Secretary for Security, while as a general rule sit-ins are not allowed because the participants might cause obstruction, then if they just walk around or just stand in front of the entrance, and the organizers can guarantee that they would not cause obstruction, will the Secretary for Security give his approval under such circumstances?*

SECRETARY FOR SECURITY: Mr President, the police are acting within the law. Under section 17 of the Public Order Ordinance, any police officer of or above the rank of inspector may prevent the holding of, stop, disperse or vary the place or route of any public gathering if he reasonably believes that the public gathering is likely to cause or to lead to a breach of the peace. The police also have a duty under section 10 of the Police Force Ordinance to take lawful measures for preserving public peace, for regulating processions and assemblies in public places and for controlling traffic and removing obstructions. Throughout this, as I have referred to in two of my previous supplementary answers, they try and strike a balance between the rights of the individual to demonstrate and to preserve peace and order in the vicinity of the demonstration.

MR FREDERICK FUNG (in Cantonese): *Mr President, in his replies to Members' follow-up questions, the Secretary for Security was saying every now and then that it depended on the actual circumstances and the merits of each case. But that seems contradictory to his answer in the main reply, because it was noted in the first paragraph of the main reply that no approval had ever been given. It does not depend on the merits of an individual case, for*

approval is basically not given. The second paragraph of the main reply mentioned that the reason for not giving approval was because as a general rule, sit-ins would cause obstruction. I was there that evening at about 8 pm to 10 pm. I recall that at that time apart from the 10 petitioners participating in the sit-in on the opposite side of the road, basically only the police were present. So how could they have caused any obstruction? You said in the main reply that no approval had ever been given, and that seems to be in contradiction with what you have just said that each individual case will be considered on its merits. I do not believe that you will make your decision on the merits of each individual case.

PRESIDENT: Try to refrain from asking or putting questions directly to the public officer. Put them through me please, Mr FUNG.

MR FREDERICK FUNG (in Cantonese): *Thank you, Mr President. I will rephrase my question. On that evening I was at the scene too, from 8 pm to 10 pm. As far as I can remember, at that time there were basically no other passers-by at the entrance to the NCNA, apart from the police. But in the second paragraph of his main reply the Secretary for Security used causing obstruction as a reason for refusing to grant approval. Secondly, the Secretary for Security has just said that it depended on the merits of each case, but in the main reply he said that no approval had ever been given. Evidently there is a contradiction here. How would the Secretary for Security explain this contradiction?*

SECRETARY FOR SECURITY: Mr President, I apologize to the Honourable Member. I may have misunderstood his question. I do not, frankly, understand it too well, but I think he is suggesting that perhaps the police were causing an obstruction. If that is the case, then I can suggest that that is not true. The police were not causing an obstruction there.

As regards each case being judged on its merits, that is simply the facts of the matter. There is no general rule; but, if an obstruction is caused or if there is a threat to public order or safety, then the police will ensure that the type of demonstration concerned is not permitted because, as I have said, they have to balance the rights of the individual to demonstrate in the way that they wish, with the rights of the community to be protected against threats to public order and safety.

PRESIDENT: Yes, Mr FUNG?

MR FREDERICK FUNG (in Cantonese): *Mr President, allow me to put the same question again, please. According to the main reply of the Secretary for Security, petitioners were not allowed to sit-in at the entrance to the NCNA because that would cause obstruction. But I personally saw that no other people but the police were passing by the NCNA. If the Secretary for Security really was considering the merits of each case in deciding whether an approval would be given, then the reason given in the second paragraph of his main reply could not be established. Furthermore, the Secretary for Security mentioned that in the past no approval had been given to stage a sit-in at the entrance to the NCNA, but on the other hand he said he would consider the merits of each individual case. Unless the Secretary for Security could tell us that it was all a coincidence and no sit-in was ever allowed because it so happened that all factors leading to a disapproval of a sit-in occurred at the same time every time. But could there be such a coincidence that not even one single case could have obtained the approval of the Secretary for Security? Under what conditions would the Secretary for Security actually approve a sit-in at the entrance to the NCNA, may I ask?*

SECRETARY FOR SECURITY: Mr President, as I have explained in reply to an earlier supplementary, the people involved in the demonstration on the day in question first gathered on the Queen Elizabeth Stadium side of Queen's Road East. They then went across to the NCNA side. As a result of discussions with the police, they then ceased to cause the obstruction and moved away. If I understand the Honourable Member's question correctly, the reason why only the police were left was because the obstruction had been removed by the agreement of the group in question to move over to the other side of the road.

As regards the fact that no sit-ins are allowed immediately outside the entrance to the NCNA, I think that that falls completely within the spirit of what I have said several times. The fact remains that, at that particular location, both traffic and pedestrian flow is particularly heavy and a congregation of even a small number of people can result in obstruction.

British Nationality Selection Scheme

3. DR LEONG CHE-HUNG asked: *In the light of the recent media report that some persons who have been successful with their applications for a British passport under the British Nationality Selection Scheme (BNSS) have given up their British passports and instead applied for the British National (Overseas) passports, will the Administration inform this Council:*

- (a) *of the actual number of such persons;*

- (b) *of the actual number of those who have given up their certificates of registration as a British Citizen; and*
- (c) *whether the Government will ensure that the quota of the Scheme thus released will be re-allocated to those still on the waiting list until the total quota of 50000 families have been exhausted?*

SECRETARY FOR SECURITY: Mr President, as regards the first part of the question, as the British passports issued to successful applicants under the BNSS are the same as those issued to all other British citizens, we cannot distinguish scheme beneficiaries from other British citizens who give up their British citizen passports. Therefore, we do not have statistics on the number of beneficiaries who have given up their British passports. However, we believe the number to be low.

As regards the second part of the question, so far, six successful applicants under the BNSS have renounced British citizenship. However, the places taken up by them cannot be re-allocated to other applicants, because, under the law, these persons are entitled to revoke their renunciation and to resume their British citizenship, provided they apply before 1997.

As regards the third part of the question, subject to the caveat concerning the small number of renunciations I have just mentioned, every step possible will be taken to ensure that all 50000 places available under the Scheme are taken up.

DR LEONG CHE-HUNG: *Will the Administration inform this Council whether the Secretary of State has actually defined a final date for those who have acquired a certificate of registration as British Citizens to take up their British passports? In other words, if they do not take up on that particular date, they will not have a chance and be revoked before July 1997, so that the total number of vacancies by that time would be known for re-allocation to those who are still on the waiting list.*

SECRETARY FOR SECURITY: Mr President, the answer is no. There is no final date. Once the certificate has been issued, it is up to the successful beneficiary to choose any time, both before and after 1997, to take up the passport.

MISS EMILY LAU: *Mr President, I want to follow up on Dr LEONG's question. I am sure the Administration recognizes that 50000 places on this Scheme is woefully inadequate and it would be a crying shame if they are not all taken up because press reports, Mr President, recently showed that some people, for one reason or another, are not too keen to take it up. So will the*

Administration negotiate with the British Government to find a mechanism whereby if some people decide to renounce and do not take it up by 1997, that these places would be allocated to people on the waiting list? After all, in the second phase it was seriously over-subscribed. So will the Administration please go and talk to the British Government to find a way? I know it is provided for in the law but if there is a will, there is a way. So will the Administration make sure that all the 50000 places will be fully taken up?

SECRETARY FOR SECURITY: Mr President, I have already given Honourable Members the assurance that all of the 50000 places will be taken up. I think I would like to very gently correct the premise on which the Honourable Member's question is based, which is that there is a reluctance of people to apply. As I pointed out in my main answer, out of the very large number of the 50000 which have already been processed, we have only six people who have renounced their British citizenship. I think that suggests that the take-up rate is very high and, as the Honourable Member herself has pointed out, there has been a significant over-subscription of places in each of the two phases of the BNSS.

DR LEONG CHE-HUNG: *Mr President, while I agree with the Secretary that there is no way to differentiate the British passport issued under the BNSS or otherwise, I wonder whether there is any figure of the number of British passport holders who have given up their British passports in exchange for BNO status, since the BNSS has come into effect? It is because through that we might be able to know at least the possible number of people who do not want a British passport and maybe we can go into some details to see whether we can re-allocate those to somebody else.*

SECRETARY FOR SECURITY: Mr President, I regret that the answer is no. As I pointed out, it is impossible for us to differentiate between the BNSS beneficiaries and those who apply for a British Citizen passport in the normal way.

But Mr President, if I may, I hope it will be helpful — it is intended to be helpful — if I clarify the citizenship status of BNSS beneficiaries. These people gain British citizenship but they do not lose their status as British National Overseas. Under both the United Kingdom and Hong Kong law, it is possible to hold both categories of British Nationality at the same time. However, only one British passport can be held at any one time. Beneficiaries under the Scheme must, therefore, decide whether to take out a British Citizen passport or to continue to travel on their BNO passports. It may be of help to the Honourable Member if I say that about 40% of the beneficiaries in fact have elected to continue to use their BNO passports. But, can I be quite clear, that does not mean that they have renounced or refused; it is just that they have not chosen to exercise their options.

MR HOWARD YOUNG: *Mr President, can the Secretary clarify the meaning of the last bit of the penultimate paragraph in his reply which reads "these persons are entitled to revoke their renunciation and to resume their British citizenship, provided they apply before 1997"? Does that mean that for people who, have revoked it, they can only reapply provided they do so before 1997? Or does it mean that after 1997 they cannot revoke the citizenship any more?*

SECRETARY FOR SECURITY: Mr President, what is intended by that phrase is that it is not a once and for all act. A beneficiary who takes out a British Citizen passport, but subsequently feels that a BNO passport better fits his or her needs, is quite free to do so. Such a beneficiary can again, later on, take out another British Citizen passport, so long as the appropriate fees are paid. This will remain the position until 1997. Thereafter, no new BNO passports will be issued.

PRESIDENT: Mr YOUNG, not answered?

MR HOWARD YOUNG: *Yes, but I was wondering what would the position be if someone, after 1997, revoked their citizenship and then of course did not take up a BNO passport. Would that person then be allowed to revoke after 1997? If he did that, then would he be subsequently allowed to reinstate it even though it was after 1997?*

PRESIDENT: Do you have the answer, Secretary?

SECRETARY FOR SECURITY: Yes, Mr President. The answer is yes. The renunciation can take place. It is a matter of filling out a form and the revocation of the renunciation can take place as well. It is a matter of filling out another form.

MISS EMILY LAU: *Mr President, regarding the six applicants who have renounced their British citizenship, could the Secretary please inform this Council whether they have to give reasons; and if so, what those reasons were?*

SECRETARY FOR SECURITY: Mr President, no, they are not required, to give reasons and I feel that I am unable therefore to inform the Council. We do not know the reasons.

Powers of the Stock Exchange of Hong Kong

4. MR CHIM PUI-CHUNG asked (in Cantonese): *Mr President, the recent incidents of non-compliance with the regulations of the Stock Exchange of Hong Kong Limited (SEHK) by the chairmen and directors of certain listed companies concerning non-declaration of their criminal offence records have aroused public concern. In this connection, will the Government inform this Council:*

- (a) *what kind of an organization is the SEHK;*
- (b) *whether SEHK is empowered to formulate regulations which have a legally binding effect; and*
- (c) *whether persons who do not comply with the regulations of SEHK are legally responsible for such non-compliance?*

SECRETARY FOR FINANCIAL SERVICES: Mr President,

- (a) The Stock Exchange of Hong Kong Limited (SEHK) is a company incorporated in Hong Kong which has the right to establish, operate and maintain a stock market in Hong Kong pursuant to section 27(1) of the Stock Exchanges Unification Ordinance (Cap.361). Due to its unique role in our financial markets, the Stock Exchange has a duty to perform in the public interest. This is stipulated in section 27A of the Ordinance which requires the Exchange to ensure an orderly and fair market in securities trading through its facilities. In performing this duty, the Stock Exchange shall act in the interests of the public, in particular the investing public, and must ensure that such interests prevail where they are in conflict with any other interests that the Exchange is required to perform under any other law.

In the regulatory framework for securities trading, the Stock Exchange is a front line regulator responsible for the day-to-day monitoring of the operation of the Hong Kong stock market. The Securities and Futures Commission has a statutory function to be responsible for supervising and monitoring the activities of the Exchange and to promote and develop self-regulation by the Exchange and other relevant bodies.

- (b) The Listing Agreement between an issuer and the Stock Exchange of Hong Kong Limited setting out the continuing obligations which the issuer undertakes to comply with as a condition of listing is a legally binding contract. Section 34(1)(a) of the Stock Exchange Unification Ordinance empowers the Exchange to make rules in respect of listing requirements. However, the regulations are not subsidiary legislation of the Ordinance and there are no penalties

under the Ordinance for contravention of the regulations. The regulations are enforced under the Listing Agreement which is a commercial contract.

- (c) Finally, Mr President, persons who do not comply with the regulations of the Stock Exchange may be sanctioned under the rules and regulations of the Exchange. However, contravention of such regulations is a civil matter and not a criminal offence.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, from the Secretary's main reply, we can see why the whole matter has become so complicated. Firstly, almost at the outset, the Secretary confirms the function of the Stock Exchange as a public institution. The Secretary has specifically mentioned that in the Stock Exchange, public interests will prevail. In paragraph (b) of his reply, the Secretary has indicated that the Listing Agreement is a legally binding contract. But it must be remembered that the contract has a civil effect rather than a criminal one. So, will the Administration and the Secretary state unequivocally whether the Administration will conduct a comprehensive review of the matter to enact laws which according to paragraph (a) of his reply shall be in the interests of the public? I very much hope that the position of the entire matter can be made clearer. The reply, as it is, is not satisfactory as it says in paragraph (a) that the interests of the public must prevail but then in paragraphs (b) and (c) it is noted that the matters are only of a civil nature.*

SECRETARY FOR FINANCIAL SERVICES: Mr President, the listing division of the Stock Exchange and the Securities and Futures Commission have jointly established a working party which is considering all issues relevant to this subject. And they are focusing on, in particular, the scope of the offences that have to be disclosed which currently relates only to fraud and dishonesty, the appropriateness of existing due diligence requirements on sponsors and underwriters, and the appropriateness and sufficiency of the disclosure requirements for prospectus under the Companies Ordinance. Those are some of the items, but they are actually looking at all the relevant issues. So to that extent a comprehensive review is already underway. When that working party has completed its deliberations, which will be quite soon, it will produce a document for public consultation.

As regards possible legislation, I think I should make clear that the civil nature of the activity of the listing committee nevertheless has a legal effect. The distinction I was making was between civil and criminal. There is now a criminal aspect to this because since 1993, it has been a requirement that the declarations made to the listing committee in respect of previous convictions should be made under oath and making a false declaration under oath might constitute a criminal offence. Indeed one of the recent cases has been referred to the Commercial Crimes Bureau of the police for consideration for that type of prosecution.

DR HUANG CHEN-YA (in Cantonese): *Mr President, whether or not the Stock Exchange is operating properly has a direct bearing on the interests of Hong Kong investors and the status and reputation of Hong Kong as an international financial centre. I am glad the Secretary would still recall that since 1993, it has been a requirement that the declarations made to the listing committee in respect of previous convictions must be made under oath and making a false declaration under oath might constitute a criminal offence. The problem is that there are at the moment about 3000 directors who have not given their oaths or have never made any declarations in respect of previous convictions at all. Does the Administration think that this is fair to those directors who have made their declarations on oath? Will this undermine the status and reputation of Hong Kong as an international financial centre? How will the Administration deal with the matter?*

PRESIDENT: Some of this is seeking an opinion, Secretary. Answer as to the factual side.

SECRETARY FOR FINANCIAL SERVICES: Mr President, it is true that there is an impact on reputation here, but the reputation that is at stake is the reputation of the individual directors involved, the reputation of the companies to which they belong and the reputation of the sponsors whose duty it was to verify the contents of the declarations. It is unfortunate that there has been an effect on the reputation of Hong Kong itself, but again this is a matter of opinion. If there is such an effect, it is more likely to result from the way in which this whole subject has been presented and sensationalized rather than from the nature of the cases themselves. Hong Kong's reputation as a financial centre depends on having a credible regulatory system. There is a regulatory system in place. It is because of the requirements of these rules that these cases have come to light and it is unfortunate therefore that there has been a degree of public concern arising from the way that these cases have been presented. It was in response to that public concern that the working party I mentioned previously was established.

Mr President, as for the other part of the question that relates to the numbers of directors that have made declarations, I think the important point here is what was the state of the listing rules at the time of the listing concerned. There have been three different periods. Up until 1989, there was no requirement for a declaration at all and listings were quite properly made at that time without any declaration as to previous convictions. In 1989, the requirement for a declaration was introduced and again in 1993 the requirement that it be made under oath was introduced. Those requirements had no retrospective effect. They were to change the situation with regard to new listings from that point in time onwards.

Now I think it is also necessary to look at the reason as to why these declarations are required. It is to enable the listing committee to form a view as to the fitness and properness of the director to be a director of a listed company. That is a decision that is made at a particular point in time, at the time of the listing. So it has already been taken for those that were listed prior to 1989 and the question of equity therefore is as to what set of rules you should be looked at with regard to the listing. And as I say, the present situation is that there are three sets of rules and it depends at what point in time the listing took place. Of course, some of those older listings might be affected by the newer requirements because if there is a change among the directors, then the new incoming director would have to make a fresh declaration under the new procedure. Similarly, if a director of one of those older listings was to accept a position on a board of another company, he would again have to make a declaration.

For these sorts of reasons, actually the situation is changing a lot faster than the figure quoted by Dr HUANG really illustrates. In fact, 80% of the 5000 or so directors involved have already made declarations. 40% of them have done so on oath and only 20% are from the pre-1989 period who have made no declaration. Now those percentages are changing all the time. So before too long, we will arrive at a situation where everyone has made a declaration and has done so under oath.

So, I think it is important to have that background and to understand the situation rather than to simply look at this as something which has to be dealt with on a blanket approach with everyone making fresh declarations.

MR JAMES TO (in Cantonese): *Mr President, just now the Secretary has been trying to convince us that only a small fraction of the directors have not made any declarations on oath. I would like to tell the Secretary what I think. In a system in which legal sanction may result and in which good reputation is valued, even only 10% or 20% of the directors have not made the declarations on oath is unacceptable. I am at a loss as to why the Secretary can say that the "fitness and confidence" of the directors would be considered by the listing committee only at the time of listing. Is this "fitness and confidence" not meant to be continuous? Do we not need a continuous system of regulation? If the Secretary thinks we do not need such a system, I would like him to state clearly his position. Does it mean that a director who is fit and proper at the time of listing will automatically continue to be okay so long as he has made a declaration on oath? I find it hard to believe. So, I hope the Administration can review and consider the matter carefully.*

SECRETARY FOR FINANCIAL SERVICES: Mr President, yes, this question is indeed under consideration by the working party that I mentioned. But the reason I went into some lengthy explanation on it is to point out that it is not so straightforward a question as it might seem. The question of fitness and

properness is one that has to be determined at the time of the listing, but after that time there is a continuous period and I think this addresses what Mr TO is saying. There is a continuous period in which the director establishes a track record as a director of a listed company and if he can demonstrate over a lengthy period that he can be trusted to comply with the listing rules and not to behave dishonestly in that capacity, then that is in itself a *prima facie* case for him being a fit and proper person.

Of course, it may well emerge that he has had previous convictions and that may well be a factor that the listing committee would wish to take into consideration in determining whether he is still a fit and proper person to continue. But as I say, I think it is an issue which is not entirely clear cut as to whether it is fair to require retrospectively declarations from those who quite properly were not required to make declarations at the time of the original listing and who have over a lengthy period demonstrated fitness and properness to be directors of listed companies.

Renewal of CMB's Franchise

5. MR LEE WING-TAT asked (in Cantonese): *Mr President, it is learnt that the China Motor Bus Company Limited (CMB) has refused to negotiate with the Government its franchise and that the company has purchased expensive fuel oil from an oil company, both of which are to the detriment of the interests of passengers. In this connection, will the Government inform this Council:*

- (a) *of the present progress of the negotiation on the renewal of CMB's franchise,*
- (b) *of the criteria adopted in determining whether CMB's franchise should be renewed, and*
- (c) *whether the Government will consider introducing measures to make the CMB management accountable to both this Council and the public; if so, what the details are?*

SECRETARY FOR TRANSPORT: Mr President, the China Motor Bus (CMB) Company Limited's franchise will expire on 31 August 1995. The Administration is prepared to award CMi3 a new franchise. This has been supported by the Transport Advisory Committee in principle. We have been negotiating the terms and conditions with CMB for several months and have now reached the final stages of this exercise. I expect to be able to put a recommendation to the Executive Council within the next few weeks.

Let me provide some basic facts: CMB now operates about 1000 buses on 133 routes and carries some 540000 passengers per day. The Administration's prime consideration is to ensure that this level of demand can be satisfied

through the provision of an efficient bus service. In this respect, the main criterion in determining whether or not CMB should be awarded a new franchise is whether CMB can provide a standard of service which is acceptable.

Admittedly, there have been many complaints about CMB and its service. It is not for the Administration to defend the company, but it is our responsibility to assess CMB's performance in a dispassionate manner.

The Administration's conclusion is that, whilst there is certainly room for CMB to further improve its overall performance there have, nonetheless, been improvements since its current franchise was granted in September 1993 when 26 routes were excised. The Transport Department's surveys show that CMB has been able to meet the scheduled requirement. In short, CMB at least deserves a pass mark and for that reason, we are prepared to offer a new three- year franchise to CMB which will comprise a reduced network of routes which we believe CMB can effectively manage.

Regarding accountability on the part of the CMB management, the measures now in place will be retained and further steps taken. At present, the Transport Department closely monitors CMB's daily services and where deficiencies are found warning letters will be issued to require CMB to rectify the situation. Failure to comply will result in the imposition of severe financial penalties which will have to be borne by their shareholders. These procedures follow the provisions laid down in the Public Bus Services Ordinance. As part of the new franchise conditions, we shall also make it a mandatory requirement for CMB to disclose certain financial and operational information. At present, the provision of such information is only on a voluntary basis.

Mr President, the Administration is satisfied that, all factors taken into account, the award of a new franchise to CMB is in the interests of the travelling public.

MR LEE WING-TAT (in Cantonese): *Mr President, please allow me to ask a rather long follow-up question. Mr President, and Honourable colleagues, what sort of a company is the China Motor Bus Company Limited (CMB)? The CMB:*

- (1) *has not implemented the system of concessionary fares for senior citizens to its fullest extent;*
- (2) *has refused to join the Smart Card Scheme which serves to link up various transport companies;*
- (3) *has been the subject of a consistently large number of complaints;*

- (4) *has refused to co-operate since the Economic Services Branch announced its policy last year requiring public utility companies to disclose information;*
- (5) *has jumped the gun and signed a contract of property development with another company in order to avoid statutory regulation;*
- (6) *has had incidents in which fares have been stolen from its collection boxes;*
- (7) *has purchased fuel oil at a price higher than the market price; and*
- (8) *had experienced a strike in 1991.*

Mr President, I can go on and list dozens more substantial blunders and faults committed by the management of CMB. Therefore, I object to the Government's renewal of CMB's franchise. If renewal of franchise could be granted even to a company which is so poorly managed, will the Secretary for Transport tell us how much further should a company be poorly managed before the Government would actually refuse to renew its franchise? Are the franchise negotiations between the Government and these companies held at a few year intervals merely a rubber-stamping procedure or acts of pretence? Mr President, will the Secretary for Transport tell us frankly whether renewal of franchise would be granted to any other company whose performance is even poorer than CMB ?

SECRETARY FOR TRANSPORT: Mr President, can I first say that I believe some of the views expressed by the Honourable Member of course are personal views and I respect those views. But may I also remind Honourable Members that when the Legislative Council debated a motion on bus franchises and increases in fares, part of the motion debated was that "this Council urges the Government in the best interests of the public to cancel some of CMB's franchised bus routes when its franchise expires in August this year". Mr President, this motion was carried and indeed in our approach in dealing with franchise negotiations, this is precisely what we are doing.

I know, Mr President, that the Honourable Mr LEE Wing-tat has advocated the non-renewal of CMB's franchise and that some Members of this Council support his view. But Mr President, as I have referred to in my response, CMB operates some 1000 buses. They are the second largest bus operator in Hong Kong and we have got to be realistic. If, for argument's sake, a bus company is told that their franchise will not be renewed way in advance, it is inevitable that they will begin to run down their services.

Secondly, as far as the Administration is concerned, the Company has demonstrated certain improvements in the services, perhaps not to the level acceptable to the Honourable Member but nonetheless there has been some

improvement. It is for this reason that the Government believes that the offer of a new franchise to CMB is in the widest public interest. But as part of this exercise, because we recognize that there are deficiencies which can be improved, we will be reducing the network of services.

DR YEUNG SUM (in Cantonese): *Mr President, the Government is going to recommend the renewal of CMB's franchise to the Executive Council despite the very poor services provided by CMB, particularly regarding the routes which it has been running in Island South and Chai Wan. If there is sufficient evidence, will the Secretary for Transport tell us, whether the Government will withdraw those routes which CMB has been running poorly from the franchise, find a replacement operator for these routes by open tender and induce competition in order to improve the services?*

SECRETARY FOR TRANSPORT: Mr President, because the negotiations are still ongoing, I am not at liberty today to disclose the routes which the Government proposes should be excised from CMB's present network.

Insofar as competition is concerned, in principle, the Administration of course accepts that franchises should be let by open tender, but in Practical terms when it comes to bus services, there is a lead time and it is not practical to replace an operator by tendering. So I think in this case, the Government will have to decide how best to find a replacement operator for the routes which are to be excised from CMB's franchise.

MR LEE CHEUK-YAN (in Cantonese): *Mr President, the Secretary for Transport has mentioned in his reply that the Transport Department has been monitoring the services and the operations of CMB and the Honourable LEE Wing-tat has noted in his question the purchase of expensive fuel oil by CMB from an oil company. If CMB has purchased expensive fuel oil, it will obviously shift the costs to the passengers in the end. What kind of monitoring work has the Government been doing in this regard? Can the Government also confirm whether the expensive fuel oil will have any effect on the fares?*

SECRETARY FOR TRANSPORT: Mr President, the allegation that CMB has purchased expensive fuel is now under investigation by the Independent Commission Against Corruption and for that reason, of course, I cannot go into full details. But I can say that when the current franchise granted to CMB in September 1993 was executed, part of the franchise conditions required the bus company to submit to the Government information on fuel prices and indeed we have got this information. I think the only other point I can add today is that when we compare the fuel costs, for example, of CMB and Kowloon Motor Bus, in both companies they constitute about 5% to 8% of the overall operating costs.

So, Mr President, whilst perhaps in years gone by the discrepancy has been higher, I am satisfied that today the current contracts on fuel, which have been let by CMB and this is a commercial decision, are competitive.

MRS MIRIAM LAU (in Cantonese): *Mr President, just as the Honourable LEE Cheuk-yan has indicated earlier on, the costs and expenditure of public transport companies would have a direct bearing on fare increases. The companies concerned are, however, often unwilling to disclose such details on the grounds of trade secret. The Government has told us not to fear and not to worry because the Transport Department and the Finance Branch would monitor the situation closely. Will the Secretary for Transport inform this Council, how is it possible for the company concerned to purchase expensive fuel oil under such a system of close monitoring? In fact, does the Government have any means to ensure that the company concerned is operating in a cost-effective way?*

SECRETARY FOR TRANSPORT: Mr President, the purchase of fuel by the bus companies is purely a commercial matter for the bus companies concerned. But obviously as the Honourable Member has pointed out, fuel costs are an important component of overall operating costs and for this reason, when we look at the annual accounts, we do monitor this.

But as I have said, because the case is under investigation, I am not able today to provide Members with further details.

REV FUNG CHI-WOOD (in Cantonese): *Mr President, one of the main reasons for the present poor services of CMB is that it is a monopoly and faces little competition. If the Government does not adopt some punitive measures towards CMB in order to make it improve, the punishment would be on the public. Does the Secretary for Transport consider the simple punitive measure of cutting certain routes to be sufficient?*

SECRETARY FOR TRANSPORT: Mr President, as Honourable Members will recall, the Public Bus Services Ordinance was in fact amended in July last year to provide for financial penalties and the fines which can be levied are as follows: \$10,000 per route for the first offence; \$20,000 for the second offence and \$50,000 for any subsequent offence. Now this obviously is a deterrent and the Transport Department has been monitoring this very closely.

Insofar as financial penalties are concerned, obviously because they will have to be borne by the shareholders, they will be punitive. But more important than that, and perhaps a more punitive measure, is to cut routes and this is precisely what we are going to do when we complete the franchise negotiations as part of the package.

On-the-job Training Scheme

6. MR JAMES TIEN asked: *Regarding the On-the-Job Training Scheme, will the Government inform this Council of the following:*

- (a) *whether it will promote the Scheme to a larger number of establishments in the private sector so as to reduce the number of unemployed in the territory;*
- (b) *the current number of corporate participants in the Scheme; the respective percentages of participants from the service sector and the manufacturing sector out of the total number of participants, as well as the respective numbers of trainees involved; and*
- (c) *the number of trainees who will stay on their jobs after completing the three-month on-the-job training; and whether the three-month training period is sufficient; if not, whether the training period will be extended?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) The Employees Retraining Board (ERB) and the Labour Department have been actively promoting the On-the-Job Training (OJT) Scheme through their liaison networks with major employers associations and individual employers. Over 20000 OJT pamphlets have been sent by the ERB to employers informing them of the Scheme. The ERB training bodies also contact employers in their locality to promote the OJT Scheme and to assist in the placements of retrainees. The ERB reviews such promotion efforts regularly and will step up publicity where necessary. In the coming months, the Government will conduct a more detailed survey on job vacancies. The information will help the ERB to target retraining at the occupational groups with high vacancy rates and those jobs that would benefit more through OJT rather than the more traditional classroom studies.
- (b) By the end of May 1995, 1314 firms have joined the OJT Scheme. Of this total, 64% are from the service sector and 22% are from the manufacturing sector. The number of retrainees currently undergoing OJT is 1803 in the service sector and 363 in the manufacturing sector.
- (c) Although we do not keep statistics on the number of OJT participants who remain in employment after completing three months' training, the feedback from individual employers indicated that the majority of participants have stayed on their jobs. Furthermore, the findings of an independent study commissioned by

ERB indicated that the turnover rate of ERB retrainees has been relatively lower than that of other employees.

A large proportion of the jobs under this Scheme are general clerical jobs which do not require a high level of skill. The duration of three months for the OJT Scheme is therefore considered adequate. However, if there are other job types suitable for the OJT Scheme which require longer training, the ERB will consider whether the duration should be extended in order to enhance the effectiveness of the Scheme.

MR JAMES TIEN: *Mr President, I am delighted to hear that the turnover rate of ERB trainees has been relatively lower than that of other employees and that the majority of the participants have stayed in their jobs. If that is the case, and in view of the fact that we have about 80000 people out of job right now, will the Government, under ERB, divert more funds to OJT because right now they have only roughly about 2000 trainees, instead of other institutions like the Vocational Training Council or industry specific training boards and authorities?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the ERB is in a very healthy financial situation. It does not require funds to be diverted for this purpose. The OJT Scheme in fact only requires, since its inception, \$1.7 million to be paid as reimbursement to employers who have participated in the Scheme. It is different from the other types of training provided by the ERB which is classroom type training. For the OJT Scheme, we reimburse up to one-third of the wages of the OJT who are in the first three months of their job training with employers. As I said, the ERB does not require funds specifically to be diverted for this particular Scheme.

PRESIDENT: Not answered, Mr TIEN?

MR JAMES TIEN: *Would the Secretary answer whether they will increase the places for OJT?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the places for the OJT Scheme is determined by the types of job which are suitable for this type of scheme. These are jobs which require more hands-on experience through direct job experience rather than classroom type training. I mentioned earlier that the ERB will be reviewing the types of OJT jobs and if there are new types of jobs which employers would wish to have OJT trainees, then we would certainly consider extending the types of jobs under the Scheme.

MRS ELSIE TU: *Mr President, I think it is rather confusing to have the two Schemes going, so I may be out of order in asking this question. We have heard about 2000 were trained and back on their jobs. Is it correct that we have 38000 on the waiting list wanting training?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, could I ask for clarification, waiting for what jobs? Waiting for training?

PRESIDENT: Mrs TU?

MRS ELSIE TU: *Mr President, training.*

SECRETARY FOR EDUCATION AND MANPOWER: The ERB has already trained well over 60000-odd people and those who are unemployed have first priority for receiving training under ERB training courses. The waiting time for training depends on the nature of the jobs, for example, the job search skill training classes only require a waiting time of about one to two weeks.

MR MARTIN BARROW: *Mr President, regarding part (a) of the answer, would the Secretary inform this Council about the nature of the new vacancy survey? In particular, can steps be taken to obtain vacancy figures as promptly as unemployment figures to help reduce the mismatch? And if not, why not?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the Census and Statistics Department carries out a quarterly survey of vacancies and they have a very large sample size already of between 60000 to 70000 employers. What we intend to do is to increase the number of questions that we cover in the survey, so that we get more information on what these vacancies are and we are already in discussion with the Census and Statistics Department to enhance these surveys.

PRESIDENT: Not answered, Mr BARROW?

MR MARTIN BARROW: *Mr President, I think my question was: Can the survey be done more promptly so that we can see unemployment figures at the same time as we see vacancy figures, because I believe at the moment there is about a three-month gap between the two?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, both the vacancy survey and the survey of unemployment are carried out very regularly. We announce our unemployment figures regularly and the next set will be announced tomorrow. I will certainly enquire from the Census and Statistics Department whether we can synchronize the two surveys in a better manner.

MR LEE CHEUK-YAN (in Cantonese): *Mr President, I have received a complaint from a worker that at an employment plaza organized by the Labour Department to promote on-the-job training, he was told that certain establishments made it plain that no worker over 35 would be employed. In part (b) of the main reply, it was mentioned that 1803 and 363 workers were respectively in the service sector and the manufacturing sector. Is there any information regarding the age groups of these workers so that we can see whether or not there is age discrimination on the part of the establishments participating in the On-the-Job Training Scheme?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the OJT Scheme, when it was started, was initially intended for those who were aged 30 and above. Following a review, the age limit was raised to 40. This was because the OJT Scheme was intended to provide an incentive to employers to take on trainees under their employment. During the review, it was found that those aged below 40 did not require any incentive for employers to take them on under the Scheme. This is the reason why the OJT Scheme is now restricted to those aged 40 and above.

MRS SELINA CHOW: *As is disclosed in the last paragraph of the reply, a large proportion of the OJT are general clerical jobs. Yet we all know that the shortage of labour is most acute in the service industry sector, particularly in retailing and catering. How proactive is the ERB in designing the necessary courses to meet the demand of sectors where the shortage of labour is most acute, as was mentioned? And is the responsibility of course design left to initiatives of non-government agencies which would have to apply for funds, allocations, with detailed submissions of schemes to the ERB before they are decided on and conducted?*

SECRETARY FOR EDUCATION AND MANPOWER: The ERB and its training bodies are in regular discussions with employers to ascertain the type of job training that needs to be provided. There is already a tripartite committee under the ERB of employers as well as training bodies and the ERB itself which look at the curriculum proposed by the training bodies. There are many types of training courses. The OJT is just one aspect of the services provided through the ERB. Other courses provided — and these are classroom teaching as opposed to the OJT — are job search skill courses, job specific skill courses, general skill courses, and skills upgrading courses. And in the context of these

classroom type training, there are courses which are geared towards those in service industries.

PRESIDENT: Not answered, Mrs CHOW?

MRS SELINA CHOW: *I do not think my question was answered. I asked the Secretary to confirm whether the initiative lies with the ERB in terms of course design or whether they lie with the training agencies, in which case the ERB in fact does not take on the responsibility of designing courses to meet the demand of employers. Can that be confirmed?*

SECRETARY FOR EDUCATION AND MANPOWER: The ERB and the training bodies work together. There is, as I mentioned earlier, a tripartite committee looking at curriculum. Both the ERB and the training bodies take initiatives, but they work together to determine the type of training which should be provided.

MR TAM YIU-CHUNG (in Cantonese): *Mr President, in part (a) of the Administration's main reply, it was mentioned that in the coming months, the Government would conduct a more detailed survey on job vacancies. Many vacancies arise due to harsh conditions imposed by employers, or long working hours and low pay. Can I ask how problems in this respect can be solved by on- the-job training ?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the OJT is intended to provide on-the-job training for trainees. This will enable them to understand the environment in which they work. This would include the hours of work which is offered by that particular company providing the OJT places. I do not think we should automatically assume that vacancies are due to harsh long hours of work. Vacancies which are not taken up may be due to many many reasons, including the fact that those looking for jobs may wish to choose the locality closer to their homes, and other reasons.

WRITTEN ANSWERS TO QUESTIONS

Sewage Charges for Restaurants and Hotels

7. MR HOWARD YOUNG asked: *In view of the concern expressed by restaurants and hotels regarding the substantial increase in their water bills because of the recently introduced sewage charges, will the Government inform this Council of the following:*

- (a) *What measures restaurants and hotels can take to reduce such charges;*
- (b) *What the Government has done to publicize the measures mentioned in (a) above to the establishments concerned; and*
- (c) *What assistance and advice can such establishments expect from the relevant departments on water conservation or sewage treatment?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, it may be useful to first clear up some degree of confusion regarding water charges and sewage charges which are different utility charges. Water is charged at \$4.58 per cum whilst the general sewage charge is \$1.20 per cum. The general sewage charge, which is paid by those who discharge effluent into the public sewerage system, is billed together with the water charge by the Water Supplies Department. In addition, a Trade Effluent Surcharge, which is paid by those trades and industries whose strength of effluent is higher than that for domestic discharges, is billed separately by the Drainage Services Department. The trades and industries which are subject to this surcharge, and the respective rates of the surcharge, are specified by the Sewage Services (Trade Effluent Surcharge) Regulation. The Sewage Charge and Trade Effluent Surcharge are based on the "polluter pays principle" whereby the more one pollutes, the more one pays for its treatment.

- (a) The following measures will help reduce sewage charges:
 - (i) install on-site treatment facilities to reduce the strength of effluent — a less polluted discharge as measured by its COD (Chemical Oxygen Demand) would reduce sewage charges;
 - (ii) reduce the volume of discharge by good housekeeping methods to conserve water; and
 - (iii) proper installation and maintenance of grease traps.
- (b) The Government has publicized the measures mentioned in (a) above via a booklet on the proper design, installation and maintenance of grease traps (published and distributed by the Environmental Protection Department in 1993, shortly to be reprinted), the provision of materials and briefings by the Drainage Services Department to all their customers to explore measures to take to reduce the pollution level of restaurant and hotel effluent, and through municipal council health inspectors when they visit restaurants and hotels.

- (c) Apart from disseminating the information described above, assistance are provided by the Trading Fund Branch of the Drainage Services Department on information regarding in-house measures for waste water treatment; by the Environmental Protection Department's Local Control Offices on advice on sewage treatment measures; and by the Water Supplies Department on water conservation measures. In addition, the Planning, Environment and Lands Branch has set up a liaison group with representatives of restaurateurs to discuss their concerns.

KMB's Depot Redevelopment Plan

8. MR FRED LI asked (in Chinese): *It is learnt that the Kowloon Motor Bus Company Limited (KMB) is negotiating with the Government the redevelopment plan of its depot in How Ming Street, Kwun Tong, and that the KMB intends to rent the vacant site in the neighbourhood of Shun Lee Estate for use as its temporary depot during the redevelopment period. In this connection, will the Government inform this Council:*

- (a) *of the number of bus parking spaces the KMB plans to provide in the redeveloped How Ming Street depot, and what is the number of parking spaces which the Government requires the KMB to provide;*
- (b) *whether the Government intends to carry out an environmental impact assessment to examine if the site near Shun Lee Estate is suitable for constructing a temporary depot before deciding whether the site should be leased; if not, why not; and*
- (c) *whether the Government will consult the Kwun Tong District Board and local residents about leasing the site near Shun Lee Estate to the KMB for use as a temporary depot; if so, when such consultation will take place; if not, why not?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) Kowloon Motor Bus's (KMB) proposed re-development is still being considered by the Government. In this connection, KMB has also applied for a short-term tenancy near Shun Lee Estate to facilitate its redevelopment project. However, the release of this temporary site to KMB will be considered in conjunction with the redevelopment proposal. The existing depot provides 159 bus parking spaces, mainly for parking two-axle double deck buses. According to the proposal, the new development will provide 215 bus parking spaces, including 146 for three-axle double deck buses, 63 for medium coaches and six for small coaches. The proposed

provision will meet the Government's requirement for KMB's overnight bus parking in East Kowloon.

- (b) The Government does not intend to carry out a full Environmental Impact Assessment covering the proposed temporary site near Shun Lee Estate because the site is quite far away (about 180 m) from residential areas. The two adjoining users are a playground, and a temporary housing area which will shortly be cleared for the proposed Fire Service Recreational Club. The Environmental Protection Department has however been consulted, and in the event that the tenancy to KMB does proceed, adequate environmental safeguards will be included into the tenancy conditions.
- (c) The Kwun Tong District Office has sought the preliminary views of individual district board members and the Area Committee. They have raised no objection to the proposed tenancy subject to the provision of a physical partition to protect users of the adjoining playground.

Security Services in Public Housing Blocks

9. DR TANG SIU-TONG asked (in Chinese): *The Housing Authority has decided to provide entrance grilles, closed-circuit TVs and 24-hour security services in most public housing estates. In this connection, will the Government inform this Council whether:*

- (a) *the Housing Authority will provide round-the-clock security services in public housing blocks where iron grilles have not yet been installed at the entrances; and*
- (b) *the Housing Authority has any plan to provide entrance grilles, closed-circuit TVs and round-the-clock security services in all public housing blocks; if so, when the work is expected to be completed?*

SECRETARY FOR HOUSING: Mr President, the Housing Authority has a security improvement programme for different types of public rental housing blocks. All new and existing Harmony and Trident blocks will be provided with security devices including gates at all entrances, doorphones and closed circuit television (CCTV) inside lifts and at the main entrance. A guard will also be provided at the main entrance of each block round the clock. For blocks of other designs, CCTV will be installed inside lifts, with link-up to a control room for central monitoring by security guards.

Under the programme, about 1000 rental blocks, other than blocks to be redeveloped shortly or without lifts, will be provided with security devices by the end of 1997 in phases. Installation work is now in progress.

Given the open environment in public housing blocks where gates have not yet been installed at the entrances, the Housing Authority will not provide round-the-clock security service as it will involve several thousand security guards and will not be cost-effective. Meanwhile, the Housing Authority has deployed additional security guards to patrol in estates where crime rates are relatively high.

Control of Foreign Exchange Investment Companies

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

- (a) *what measures are currently adopted by the Securities and Futures Commission to control foreign exchange investment companies which have not been issued with licences in the territory; and*
- (b) *what protection is provided to investors in the event of the closure of such companies due to operational problems?*

SECRETARY FOR FINANCIAL SERVICES: Mr President,

- (a) Under the Leveraged Foreign Exchange Trading Ordinance (Cap.451) (LFETO), it is an offence for any person to carry on a business of leveraged foreign exchange trading without a licence. The maximum penalty on conviction for such an offence is \$10 million and seven years' imprisonment.

Since the coming into force of the LFETO on 1 October 1994, there have been no complaints from the public of unlicensed leveraged foreign exchange trading. Nevertheless, the Securities and Futures Commission (SFC) has committed substantial resources to preventing unlicensed activity. Twenty-three addresses which were identified as possible locations where unlicensed activity might be occurring were visited by SFC staff but no unlicensed activity has been detected.

Separately, there has been one successful prosecution of a company which held itself out as carrying on a business of leveraged foreign exchange trading whilst unlicensed. The company was fined \$60,000 and ordered to pay the SFC's costs of \$30,495.

In two other cases, search warrants were executed. The first case involved a securities dealer who was suspected to have offered facilities to his clients to trade foreign exchange on a leveraged basis. The other case involved the issue of a pamphlet to a solicitor which offered a scheme involving investment in foreign exchange in a manner which could infringe the LFETO. Enquiries into both these cases are continuing.

The SFC will continue to take vigorous action against unlicensed leveraged foreign exchange traders to protect investors. However, a distinction should be drawn between unlicensed companies operating illegally and those which have applied for a licence under the transitional provisions of the LFETO. These latter companies, although legally unlicensed, are allowed to continue trading until their applications have been determined. In order to apply for a licence, these companies are required to have a minimum \$30 million capital, *ab initio*, but they do not have to comply with the Financial Resources Rules, the Conduct of Business Rules and the Accounts and Audit Rules until they are licensed.

In actual practice, however, such companies by and large tend to respect the regulatory requirements pending approval of their licences, as they are not in a position to forecast when a licence may be issued but will have to meet these rules once a licence is approved.

For this reason, since the introduction of the Ordinance, the number of complaints against the industry has fallen dramatically. The nature of the complaints has also changed — from essentially fraud related complaints prior to the introduction of the legislation to essentially trade dispute related complaints since the introduction.

In the event of an application being rejected, the LFETO obliges the company to cease trading within 14 days and provides the SFC with the necessary powers to ensure that investors' positions are closed out in an orderly manner and that their assets are protected.

- (b) Apart from the normal civil remedies, there is no protection for clients of an unlicensed leveraged foreign exchange trader in the event of a closure.

While the legal position is largely the same in respect of licensed leveraged foreign exchange companies, the combination of the capital requirements under the financial resources rules and the segregation of client assets requirements under the conduct rules which licensed companies are required to respect, is likely to afford an appropriate level of protection of client assets should a licensed company go into liquidation.

For this reason, in addition to its enforcement efforts, the SFC has repeatedly urged investors to ensure that they deal only with leveraged foreign exchange companies which are authorized to conduct such activities. To assist investors, the SFC has established a hotline service to advise whether the companies they are dealing with are indeed authorized.

Prisoners' Wages and Prices of Canteen Items

11. MR TAM YIU-CHUNG asked (in Chinese): *Will the Government inform this Council of the mechanism adopted by the Government to adjust the wages received by the prisoners for their work and the prices of the canteen items they are permitted to purchase during their terms of imprisonment; and whether the Government would consider adjusting the wages of the prisoners and the prices of the canteen items simultaneously; if not, why not?*

SECRETARY FOR SECURITY: Mr President, the tender for the supply of canteen items is renewed once a year, in October. When the result of the tender is known, the prices of canteen items can be fixed; prison wages are then adjusted correspondingly in order to maintain prisoners' purchasing power.

Prisoners' wages may also be adjusted in line with increases in the prices of some canteen items which are dutiable items. This typically happens in March each year, at the time of the Budget, but may exceptionally happen at other times of the year.

All adjustments in prisoners' wages are made at the same time as increases in canteen prices.

Land Use in Industrial Estates

12. DR HUANG CHEN-YA asked (in Chinese): *Regarding the land use in industrial estates, will the Government inform this Council:*

- (a) *how many hectares of land in the industrial estates at Tai Po, Yuen Long and Tseung Kwan O are now available for leasing respectively;*
- (b) *how many hectares of land were leased, and at what prices, in each of the industrial estates last year and in the first quarter of this year;*
- (c) *whether the joint applications made recently by a number of pharmaceutical factories, as well as a number of electroplating factories, for the grant of land in the industrial estates reflect that*

there is demand for industrial land among the medium-sized and small enterprises; if so, whether the Hong Kong Industrial Estates Corporation will review its existing policy on the leasing of land in industrial estates with a view to meeting the growing demand of the medium-sized and small enterprises; and

- (d) *when the Hong Kong Industrial Estates Corporation will decide on the joint applications for the grant of land made by the pharmaceutical and electroplating factories; what factors will be taken into consideration in making the decision and whether the size of the factories is a decisive one?*

SECRETARY FOR TRADE AND INDUSTRY: Mr President,

- (a) The Hong Kong Industrial Estates Corporation (HKIEC) presently has 4.3 hectares available for leasing at its estate in Tai Po, 7.5 hectares in Yuen Long, and 5.8 hectares in Tseung Kwan O.
- (b) The HKIEC's figures are collated on the basis of the financial, rather than the calendar year. During the year ended 31 March 1994, 1.34 hectares was granted at Tai Po, 4.75 hectares at Yuen Long, and 3.37 hectares at Tseung Kwan O. Since 1 April 1995, no land has been leased at Tai Po or Yuen Long, but 1.1 hectares has been leased at Tseung Kwan O, and a further 4.08 hectares has been offered to applicants. The land premiums per sq m are as follows: \$2,500 at Tai Po (\$2,200 up to 31 March 1994), \$2,000 at Yuen Long (\$1,800), and \$2,400 and \$3,000 respectively for inland and waterfront sites at Tseung Kwan O (\$2,100 and \$2,650).
- (c) As only two groups of small and medium-sized enterprises have expressed interest in leasing land from the HKIEC, it is not possible to say whether this reflects a more general demand for industrial land from such enterprises. It is likely that only enterprises which cannot operate in conventional industrial buildings would seek land, because of the additional financial commitment which development entails.

The HKIEC's existing policy already allows it to consider joint applications from multiple users, including small and medium-sized enterprises.

- (d) A group of pharmaceutical companies has submitted a joint application, and detailed discussions are taking place. It is not possible to say when these will be concluded. Preliminary discussions have also taken place with a group of electroplating companies, although no application has been received to date.

All applicants must show that they meet the HKIEC's basic criteria, which are that applicants' activities must be of a nature which cannot effectively be carried out in an ordinary multi-storey building, they must not be classified as an offensive trade, and the primary activity must not be storage or warehousing. Practical considerations, such as the financial ability of joint applicants to complete the project, and how they would replace occupants of a multi-user building who vacate their premises, will also be taken into account.

District Officers' Attendance at Functions

13. MR WONG WAI-YIN asked (in Chinese): *Regarding the attendance of District Officers at various kinds of ceremonies, will the Government inform this Council:*

- (a) *of the respective number of ceremonies attended by each of the District Officers last year, together with a breakdown by month of the number of attendances and the time spent;*
- (b) *of the criteria adopted by the District Officers in deciding whether to attend such ceremonies or not; and*
- (c) *how the District Officers can avoid causing disruption to other areas of their work caused by their frequent attendance at ceremonial functions?*

SECRETARY FOR HOME AFFAIRS: Mr President,

- (a) No statistics pertaining to attendance of District Officers at various kinds of functions have been kept. As a rough indication, District Officers attend an average of four to five functions each month and spend between one to two hours at each function.
- (b) Attendance by District Officers at functions is an indication of government support. In deciding whether or not to attend a particular function, District Officers generally take into account factors such as the purpose of the occasion, the status of the organization, and whether their attendance would contribute positively to the Government's community building efforts.
- (c) As invitations to functions are received well in advance, District Officers are able to plan their work schedule around these functions. Also, many of the functions are held outside office hours.

Polluted Sewer near Kingswood Villas

14. MR TANG SIU-TONG asked (in Chinese): *Residents of Kingswood Villas in Tin Shui Wai, especially those living in Tin Oi Court, have been suffering from the stench emitted from the nearby stormwater sewer. In this connection, will the Government inform this Council of:*

- (a) *the reasons for the emission of stench from the stormwater sewer despite the closing down of the pig rearing industry; and*
- (b) *the measures and the time frame for cleaning up the polluted sewer so that residents will no longer have to suffer from the stench?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) The odour in the stormwater channel near Tin Oi Court is the result of water pollution from the indiscriminate dumping of waste, particularly livestock waste, upstream. There is also a minor problem with domestic sewage discharges.
- (b) A number of measures are being implemented to alleviate the problem. Eighteen Low Flow Interceptors (LFI), commissioned in 1994, intercept the polluted base flow during the dry season and divert it to the public sewerage system for proper treatment and disposal. An inflatable dam assists in the downstream dispersal of the pollutants in the channel. A full scale desilting of the channel, completed in January 1995, removed polluting material deposited, thus removing odour and improving flows. The Deep Bay area, which covers the Tin Shui Wai catchments, was declared a Water Control Zone in December 1991; factories in Kiu Tau Wai are now required to connect their industrial effluents into the public sewers newly completed. This has resulted in diverting a total flow of over 2000 cum per day and a pollution load equivalent to about 10000 people away from the channel. The small number of domestic sewage discharges into the channel will also be removed when new sewers are provided under Stage 2 of the Yuen Long and Karm Tin Sewage Master Plan in mid-1999. Finally, livestock waste, the main cause of odour problem in the channel, will be controlled under the Livestock Waste Control Scheme when controls for the Tin Shui Wai catchments are implemented in mid-1996.

Employment Situation of Retrained Workers

15. DR DAVID LI asked: *The unemployment rate has increased in the recent months against the background of a faster than expected growth in the territory's labour force. The growth rate of the labour force in 1994 was 3.5%, which was the highest recorded in the last three years. It has been suggested that one of the reasons for this rapid growth in labour force is that most retrained workers take a long time to find a job. In this connection, will the Government inform this Council how long retrained workers take on average to find a job after they have received retraining under the Employees Retraining Scheme?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, most of the participants of the retraining programmes who wish to acquire new skills with a view to taking up employment are already unemployed persons. They are by statistical definition already part of our labour force. The length of time they need to find a job after retraining has therefore no impact on both the growth rate of our labour force and the overall unemployment figure.

According to the statistics gathered by the Employees Retraining Board, the average time for a retrainee who is an active job seeker to secure a job after retraining ranges from one to four weeks. As far as those retrainees who seek employment assistance at the Local Employment Service of the Labour Department are concerned, about 60% are able to find jobs within one month after registration.

Hospital Authority's Management of Donations

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

- (a) *the system adopted by various hospitals under the management of the Hospital Authority (HA) in determining the use of funds raised in fund-raising activities; and*
- (b) *a detailed breakdown showing how each HA hospital allocated and spent the funds raised in last year's fund-raising activities?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the use of donations generated from fund-raising activities organized by individual hospitals is determined by the Hospital Governing Committees or charitable trusts set up for this purpose. A breakdown showing the donations received by different public hospitals in 1994-95 and their way of disbursement is at Annex.

Some charitable organizations are engaged in a wide spectrum of community services not confined to those provided by public hospitals. As a historical practice, the governing boards of these organizations including the Tung Wah Group of Hospitals, Yan Chai Hospital and Pok Oi Hospital may determine and allocate the use of donations obtained from fund-raising activities. The Government has no intention to interfere with this established arrangement.

The Hospital Authority Board will review on a regular basis the philosophies, directions and parameters for fund-raising activities as part of its overall strategy on community involvement.

Annex

Disbursement of Funds Generated
From Fund Raising Activities in 1994-95

	<i>Queen Mary Hospital</i>	<i>Pamela Youde Nethersole Eastern Hospital</i>	<i>Queen Elizabeth Hospital</i>	<i>Princess Margaret Hospital</i>	<i>Prince of Wales Hospital</i>	<i>Kwai Chung Hospital</i>	<i>Tuen Mun Hospital</i>
Amount of donations obtained from fund-raising activities	\$7.5 million	\$2.7 million	\$12,000	\$207,480	\$6.675 million	\$256,000	\$300,000
Use of donations obtained from fund-raising activities	Patient education and screening for high-risk cancer patients	Patient Resource Centre	Staff Welfare Fund	Patient Service Centre	Pending formation of a charity trust	Patient Resource Centre	Hospital Open Day

Job Security for Local Drivers

17. MR TAM YIU-CHUNG asked (in Chinese): *Will the Government review the Immigration Ordinance and other related ordinances with a view to clearly stipulating that foreign domestic helpers are prohibited from taking up employment as drivers, so that the employment opportunities of local drivers will not be affected?*

SECRETARY FOR SECURITY: Mr President, foreign domestic helpers are admitted for employment with specific employers under a standard employment contract. Domestic duties are defined in the Explanatory Notes of the employment contract to include domestic cooking, household chores, baby-sitting and child minding, but this is not an exclusive definition.

Under the present arrangements, whether foreign domestic helpers are allowed to perform driving duties depends on whether the driving duty is incidental to, or forms part of, the foreign domestic helper's domestic duties. In other words, it has to depend on the context and circumstances in which the duties are performed. Therefore, each case is considered on its merits. At present, we have no plans to review the Immigration Ordinance, or other ordinances, in relation to this matter.

Suspension of Works on Land Development Corporation Sites

18. MR CHIM PUI-CHUNG asked (in Chinese): *Regarding the suspension of building works on some Land Development Corporation sites, will the Government inform this Council:*

- (a) *whether the relevant development projects which have been approved by the Town Planning Board will be cancelled due to the suspension of building works on those sites;*
- (b) *whether it will consider allowing the owners to redevelop their own properties; and*
- (c) *if the answer to (b) is in the negative, whether those owners can demand compensation on the ground that their properties cannot be redeveloped; if not, why not?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the Land Development Corporation is currently redeveloping five sites. Works have not been suspended on any of these sites. The Corporation has re-confirmed its intention to complete the developments as early as possible.

In the light of the above, we have no comment on parts (a), (b) and (c) of this question.

Economic Restructuring

19. MR HUI YIN-FAT asked (in Chinese): *Regarding the unemployment problem caused by the structural transformation of the territory's economy, will the Government inform this Council of the following:*

- (a) *whether, taking into account the economic restructuring and the ups and downs of different industries, the Government has formulated development strategies to deal with problems arising in the course of such restructuring; and whether the Government has come to grips with the present situation; and if so, why the Government has not yet adopted appropriate preventive and remedial measures;*
- (b) *whether the concept and mode of training under the Employees Retraining Scheme as well as the source of income of the Employees Retraining Fund will be reviewed, so that the Scheme may be changed to one which will enhance community education for adults, provide occupational training to employees in various industries and help employees to become more flexible and adaptive in changing over to other occupations in future; and*

- (c) *whether it has any plan to encourage employers in the manufacturing sector to place more emphasis on human resources investment locally, so as to remove the mentality of short-term investment and solve the problem in recruiting skilled labour?*

FINANCIAL SECRETARY: Mr President,

- (a) The Government's economic policy is to allow market forces to determine the pace and direction of economic development, while providing an environment that is as friendly and as supportive to business as possible. This policy has enabled rapid and large-scale restructuring of the economy to take place with remarkably little impact upon employment. During restructuring, some impact upon employment is inevitable, given the mismatch between the skills demanded by employers, and those offered by employees. Since the scale and speed of the process depends upon market forces, it is not possible to predict in advance precisely what the impact will be. To mitigate the effects of unemployment upon those displaced from their jobs, the Government operates the Employees Retraining Scheme, to enable displaced workers to retrain for other jobs.

- (b) The primary objective of the Employees Retraining Scheme is to provide retraining courses to help those displaced by the economic restructuring process to re-enter the workforce. To this end, the Employees Retraining Board (ERB) provides training in both job-related technical skills and general techniques for adapting to new job requirements. On the other hand, the adult education programme, which is co-ordinated by the Education Department, provides general educational opportunities for adults who may have missed the opportunity to receive formal education.

The ERB is funded by a specific levy imposed on employers of imported workers, which is solely designated to finance the Scheme set up in accordance with the Employees Retraining Ordinance. It is not appropriate to expand the role of the ERB and the ambit of this levy to cover adult education and other purposes which are already provided for and funded separately.

- (c) The Government already operates a number of schemes which are intended to encourage manufacturers to upgrade the skills of their workforce. These include the New Technology Training Scheme, which offers matching grants to employers training staff in new technologies, the Engineering Graduate Training Scheme which subsidizes employers who provide graduate engineers with the training needed to meet the requirements of the Hong Kong institution of Engineers or similar professional bodies, and the Employees Retraining Programme, under which employers are

offered subsidies to retrain people in skills for which there is unfulfilled demand.

Bilingualism in Government Forms and Documents

20. MR CHEUNG MAN-KWONG asked (in Chinese): *Regarding section 3(2) of the Official Languages Ordinance which stipulates that both English and Chinese possess equal status and enjoy equality of use, will the Government inform this Council:*

- (a) *of the number of ordinances requiring that documents should be set out or submitted to the authorities concerned in English, together with the titles and summaries of the contents of such ordinances, excluding those ordinances listed in the Chief Secretary's reply to a question regarding the measures to implement the provisions in section 3(2) of the Official Languages Ordinance at the Council sitting on 16 November 1994; and*
- (b) *whether a schedule will be drawn up for all the ordinances stated in (a) above to be amended in stages before 1 July 1997, so that their provisions will accord with the spirit of section 3(2) of the Official Languages Ordinance; if so, what the details are; if not, why not; and whether the Government has considered the effect of non-compliance with Article 9 of the Basic Law of the Hong Kong Special Administrative Region in respect of those ordinances which have not been amended?*

CHIEF SECRETARY: Mr President,

- (a) The ordinances listed in the Chief Secretary's reply on 16 November 1994 related to documents which were required to be submitted in English only. There are also a number of ordinances which require documents to be set out or submitted to the authorities concerned in English as well as Chinese. These are listed in the Annex.
- (b) A review of all ordinances is being undertaken by a unit in the Legal Department to ascertain whether amendments to these ordinances could be introduced to provide for bilingualism in the preparation of the documents involved. The Government is fully aware of the need for consistency between Hong Kong Laws and the Basic Law, and the Chinese side is being consulted on proposed amendments to the laws where necessary.

Annex

Landlord and Tenant (Consolidation) Ordinance (Cap.7)

Section 47(1) The forms in the Second Schedule are prescribed for use under this Part and shall in each case be accompanied by a translation thereof in the Chinese language.

Boilers and Pressure Vessels Ordinance (Cap.56)

Section 15(2) Where a copy of a document referred to in subsection (1) is not written in the English or Chinese language, it shall be accompanied by an English translation.

Births and Deaths Registration Ordinance (Cap.174)

Section 4(3) Entries of births and deaths shall, in the case of non- Chinese, be in the English language and, in the case of Chinese shall be both in the English and the Chinese languages.

Matrimonial Causes Rules (Cap.179) sub. leg. A

Rule 40(2) Where a document produced by virtue of paragraph (1) is not in English it shall, unless otherwise directed, be accompanied by a translation certified by a notary public or authenticated by affidavit or affirmation.

Rule 109(3)(b)if the petition is to be served and there is reasonable ground for believing that the person to be served does not understand English, the petition shall be accompanied by a translation in the official language of the country in which service is to be effected

Commodities Trading Ordinance (Cap.250)

Section 45(2) The records referred to in subsection (1) shall be kept -

- (a) in writing in the English language; or
- (b) in such a manner as to enable them to be readily accessible and readily converted into written form in the English language.

[The records referred to in subsection (1) are those records to be kept by a dealer which will sufficiently explain the transactions, and reflect the financial position, of the business of trading in commodity futures contracts carried on by the dealer and will enable true and fair profit and loss accounts and balance sheets to be prepared from time to time.]

Housing Ordinance (Cap.283)

Section 35 If any dispute arises in respect of any difference between the English version and the Chinese version of any lease, assignment, agreement, deed of mutual covenant, letter, notice or other documents required, granted, issued or made by, under or for the purposes of this Ordinance, the English version shall prevail.

Adoption Rules (Cap.290) sub. leg. A

Rule 2(3) In any discrepancy between the English and the Chinese version of any matter or in any form, the English version shall prevail.

Securities Ordinance (Cap.333)

Section 83 The records referred to in subsection (1) shall be kept -

- (a) in writing in the English language; or
- (b) in such a manner as to enable them to be readily accessible and readily converted into written form in the English language.

[The records referred to in subsection (1) are those records to be kept by a dealer which will sufficiently explain the transactions, and reflect the financial position, of the business of trading in securities carried on by the dealer and will enable true and fair profit and loss accounts and balance sheets to be prepared from time to time.]

Demolished Buildings (Re-development of Sites) Ordinance (Cap.337)

Section 7(1) Where a re-development notice has been served in respect of any property, there shall be published in the Gazette and (with a translation in Chinese) affixed to the property

MOTIONS

ROAD TRAFFIC ORDINANCE

THE SECRETARY FOR TRANSPORT moved the following motion:

"That the period for which there remains in force the limit on the number of vehicles which may be registered as public light buses specified in the Public Light Buses (Limitation on Number) Notice published as Legal Notice No.146 of 1986 and extended to 20 June 1989 by Legal Notice No.155 of 1987 and to 20 June 1991 by Legal Notice No.152 of 1989 and to 20 June 1993 by Legal Notice No.222 of 1991 and to 20 June 1995 by Legal Notice No.216 of 1993, be further extended to 20 June 1997."

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

Section 23(1) of the Road Traffic Ordinance provides for the Governor in Council to specify a limit on the number on any class of vehicles, whilst section 23(3) provides for the Legislative Council to extend the period such a limit remains in force. In exercise of these powers, the number of public light buses (PLBs) has been limited to 4350.

PLBs play an important supplementary role in our transport network, particularly in providing essential feeder services. That is why the Administration continues to convert non-scheduled red minibus services to green minibus services which operate on specified schedules along fixed routes at approved fares.

But the fact remains that PLBs are less efficient road users than high capacity franchised buses. They also cause traffic and other problems. That is why it has been our policy to limit their numbers.

The last major review of the policy on the role of PLBs was conducted in 1988. It is now time to undertake another comprehensive review and I intend to put this in train. In the meantime we need to maintain the status quo on the number of PLBs. Mr President, the motion before Honourable Members provides for this.

Mr President, I beg to move.

Question on the motion proposed.

MRS MIRIAM LAU (in Cantonese): The number of public light buses (PLBs) has been frozen since 1976 and currently it is still maintained at the level of 4350. Previously they were not under any form of control and the number of

PLBs had increased so rapidly that they not only posed a serious threat to toad traffic but also affected the co-ordination among various modes of public transport. Under such circumstances, one could not really criticize the Administration for imposing regulatory control over them. Although the concerns then are still valid today and it may still be necessary to maintain a control over the number of PLBs, the community's demand for public transport has changed after 19 years. The Government should now conduct a general review on the role of PLBs and also its policy towards PLBs so that it can step up its regulation to allow PLBs to play a more important role in their capacity as a mode of public transport. I am very glad to hear the Secretary for Transport saying just now that he is going to review the situation in this respect and I hope that the Government will speed up the process.

Many have criticized that the Government does not have a policy towards PLBs. Although PLBs have served as a supplementary mass transit carrier, the Government seems to lack a sense of direction as to how PLBs should perform their function in this aspect. The Government has imposed many restrictions on PLBs. For example, PLBs are not allowed to enter public housing estates or run on certain roads. These restrictions have caused a lot of inconvenience to many people and also made it difficult for PLBs to compete with those large buses and other modes of public transport.

The Government has little control over the fares and service quality of red PLBs. Although the Government once said that it would encourage the operators of red PLBs to convert their vehicles into green PLBs and it started to launch this conversion scheme in the 1970s, it is disappointing that up till 1994, out of the 4350 PLBs in operation, only 1700 were green PLBs with scheduled services. Only a hundred or so red PLBs are converted to green PLBs every year. There is certainly a need for improvement in this snail-like efficiency in doing things. As a matter of fact, the Government has the absolute dominating power as regards whether to open more green minibus routes, and so it can completely control the speed of red PLBs converting into green ones. Some operators of red PLBs once told me that they had actually been running on certain scheduled routes for a long time. They wished to be able to change and operate scheduled service PLBs but the Government did not approve. It seems that the operators want to be regulated, only that the Government is not willing to regulate. I think that the Government should do its best to speed up the process of converting red PLBs into green ones and put this conversion scheme into effect systematically so that more PLBs are included in the scope or regulated scheduled services. In this way, the overall service quality of PLBs can be improved and their efficiency can be heightened.

The number of PLBs is limited and so is Hong Kong's road surface. Under these circumstances, we need to fully utilize our limited resources of transport. At present, the Government has deliberately limited the number of seats on a PLB to only 16 when in fact 20 seats can be installed. I feel that it is a waste. I have repeatedly advocated over the past that the Government should consider whether it is possible to allow PLBs to carry more passengers on

condition that this would not affect other modes of public transport. This should allow PLBs to operate in a more cost-effective way and be able to provide a cheaper and better service to the public. Actually, if the competitiveness of PLBs is strengthened so that they can play a more active role in public transport, it will help to stimulate other modes of public transport to provide services of better quality at the lowest possible cost. In the end, it is the public who will reap the benefits. I hope that the Government can include this recommendation in its review.

Mr President, these are my remarks.

MR LEE WING-TAT (in Cantonese): Mr President, I support this resolution, but I also welcome the Administration's review of the policy on public light buses (PLBs).

There is one point which I cannot fully agree with the Secretary for Transport and that is when talking about the role of PLBs, he said that PLBs are the main cause of traffic congestion. While we talked about controlling the growth of private cars, the Transport Branch said that private cars were the main cause of traffic congestion. However, when we discuss the policy on PLBs, the Government put the blame on PLBs. As a matter of fact, there are only some 4000 PLBs in Hong Kong. PLBs occupy a definite position in public transport, but they are hardly the main cause of traffic congestion.

Apart from the above, there is another point which I do not quite agree with and that is the Administration has, over the years, never reviewed the number of PLBs. Although the passenger capacity of a PLB is smaller than that of a bus, I am sure the Secretary for Transport cannot deny that, after all, the passenger capacity of a PLB is larger than that of a taxi. While there is a steady growth in the number of taxi licences issued every year, how come the number of PLBs has never been reviewed after so many years? Mr President, although I may not be able to decide immediately whether to support the Administration in increasing the number of PLBs, it is indeed astonishing to note this absence of any review in that respect for more than 10 years.

Mr President, in my opinion, this review should be based on a clear principle and that is, the best interests of commuters should be taken as the basis for consideration. I do not wish to find in the review such arguments like increasing the number of PLBs will take away the passengers from the bus companies, or increasing the number of PLBs will render the operation of the existing franchised bus companies even more difficult. These arguments are in fact unfounded. If PLB services are to be regarded as an option somewhere between private transport (that is, private cars) at one end and mass transit carriers (that is, buses and the Mass Transit Railway) at the other, this option is necessary. I hope that the Secretary for Transport, when doing the review, will pay attention to the following questions. The first question is whether the

Government should continue to freeze the number of PLBs or allow the number to increase moderately?

Secondly, when the Government continues the policy aiming at controlling the ownership and use of private cars, how is it going to encourage those who normally use their private car to take instead the medium-sized buses, that is, PLBs, which are more acceptable to them? As we all know, many private car owners do not wish and are not willing to take the bus. In this regard, the situation in the new towns is particularly obvious. In areas like Tuen Mun, Yuen Long, Sha Tin and Tai Po, if there are more comfortable and directly accessible PLB services available, I believe that the private car owners in these areas will be quite willing to consider giving up their own cars. As a matter of fact, when considering restricting the growth in the number of private cars, the Government should also take into account other modes of transport available to these private car owners as a replacement. But it is regrettable that the Secretary for Transport has not yet adopted this policy at this stage. I hope that the Secretary will cover this point in the review.

Thirdly, under the existing legislation on public transport, large public transport operators such as the bus companies are entitled to price discounts on fuel and tax concessions. However, PLB operators and owners are treated the same way as any ordinary business concern whether in the licence fees paid when purchasing PLBs or in the cost of fuel. We think that this should be reviewed.

Fourthly, although PLBs are smaller in size and they do sometimes cause traffic congestion, we think that the many unnecessary restrictions currently imposed on PLBs are open to question. Therefore, I hope that the Secretary for Transport will cover this point in the review.

SECRETARY FOR TRANSPORT: Mr President, may I first say I am grateful to the Honourable Miriam LAU and the Honourable LEE Wing-tat for their comments. As I said, I intend to put into train a review of the role and other aspects of PLB and the policy and I shall certainly take into account the various suggestions that they have raised.

Thank you, Mr President.

Question on the motion put and agreed to.

BIRTHS AND DEATHS REGISTRATION ORDINANCE

THE SECRETARY FOR SECURITY moved the following motion:

"That with effect from 1 July 1995 the Births and Deaths Registration Ordinance be amended -

- (a) in section 9(2) by repealing "\$80" and substituting "\$110";
- (b) in section 9(3) by repealing "\$400" and substituting "\$540";
- (c) in section 13(2) by repealing "\$80" and substituting "\$110";
- (d) in section 13(3) by repealing "\$250" and substituting "\$340";
- (e) in section 22(1) by repealing "\$80" and "\$160" and substituting "\$110" and "\$220" respectively;
- (f) in section 22(2) by repealing "\$80" and substituting "\$110";
- (g) in section 22(3) by repealing "\$400" and substituting "\$540";
- (h) in section 23 by repealing "\$40" and substituting "\$55";
- (i) in section 27(c) by repealing "\$250" and substituting "\$340"."

He said: Mr President, I move the first motion standing in my name in the Order Paper. This proposes increases in the fees specified in the Births and Deaths Registration Ordinance for the registration of births and deaths and related matters.

A recent review of fees and charges collected by the Immigration Department has indicated that in various areas, the Department is not recovering its costs: these are, the registration of persons, when the average shortfall is about 16%; the registration of births, deaths and marriages, where the average shortfall is about 26%; and the issue of travel documents, where the average shortfall is about 16%.

It is government policy to provide services to the public on a cost-recovery basis, unless there are good reasons for doing otherwise. We are, therefore, proposing to revise the fees in the three areas I have mentioned. Full details of the increases proposed are contained in the Annex which I have tabled for the information of Members.

The fees to be revised were last revised in July 1994. If approved, the new fees will be introduced on 1 July this year.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

FOREIGN MARRIAGE ORDINANCE

THE SECRETARY FOR SECURITY moved the following motion:

"That with effect from 1 July 1995 the Foreign Marriage Ordinance be amended -

- (a) in section 5 by repealing "\$40" and substituting "\$55";
- (b) in section 6 by repealing "\$400" and substituting "\$540"."

He said: Mr President, I move the second motion standing in my name in the Order Paper. It seeks to increase the fees specified in the Foreign Marriage Ordinance.

The Foreign Marriage Ordinance provides a means whereby Commonwealth citizens can give a notice of marriage in Hong Kong, even though the marriage has taken place at the British Embassy abroad. Fees are payable for the issue of a certificate by the Registrar of Marriage. The fees were last revised in July 1994 and it is now proposed to increase them from \$40 to \$55, for a certificate by the Registrar of Marriages, given under section 5, and from \$400 to \$540, for a Governor's licence, given under section 6 of this Ordinance.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

LEGITIMACY ORDINANCE

THE SECRETARY FOR SECURITY moved the following motion:

"That with effect from 1 July 1995 the Schedule to the Legitimacy Ordinance be amended -

- (a) in paragraph 5 by repealing "\$200" and substituting "\$270";
- (b) in paragraph 6(1) by repealing "\$80" and substituting "\$110"."

He said: Mr President, I move the third motion in my name in the Order Paper. It seeks to increase the fees specified in the Schedule to the Legitimacy Ordinance.

The Legitimacy Ordinance provides for the re-registration of the births of legitimated persons. Fees collected relate to the re-registration of births and the issue of certified copies of entries of the birth of legitimated persons. The

fees were last revised in July 1994. It is now proposed to revise the fees from \$200 to \$270, for re-registration of births, and from \$80 to \$110, for a certified copy of an entry of the birth.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

BILLS

First Reading of Bills

HONG KONG COURT OF FINAL APPEAL BILL

MANDATORY PROVIDENT FUND SCHEMES 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

HONG KONG COURT OF FINAL APPEAL BILL

THE ATTORNEY GENERAL moved the Second Reading of: "A Bill to establish a Court of Final Appeal for Hong Kong, and for matters incidental thereto and connected therewith."

He said: Mr President, I move that the Hong Kong Court of Final Appeal Bill be read the Second time. This Bill provides the legislative framework for setting up the Court of Final Appeal in Hong Kong.

The Sino-British agreement

Last Friday (9 June), Members of this Council were briefed by the Governor about the agreement we had reached with the Chinese side on the question of the Court of Final Appeal, immediately after the agreement had formally been signed by the Senior Representatives of the Joint Liaison Group. The Governor commended the agreement to this Council as an agreement which serves the best interests of Hong Kong. Our objective has always been to find an acceptable way of ensuring the continuity of the rule of law in Hong Kong through the transition in 1997. Our major aim in this process was to safeguard two key principles — that the Court of Final Appeal should be a proper Court of Final Appeal and that there should not be a damaging judicial vacuum in 1997. The agreement we have now concluded safeguards both these two points.

Point 4 of the agreement sets out the Chinese side's agreement to the Court of Final Appeal Bill and also their agreement that the legislative procedures for the Bill should be taken forward immediately to enable them to be completed as soon as possible before the end of July 1995. This guarantees that the Court of Final Appeal to be set up on 1 July 1997 will be in accordance with the Bill now before this Council. This Bill is based on the principles and practices of the Judicial Committee of the Privy Council. Its early enactment will end the uncertainty about the form of the Court of Final Appeal to be set up in Hong Kong, which has had a damaging effect on public and international confidence in the judicial system. It will help maintain public and international confidence in the Court of Final Appeal and in our judicial system as a whole.

I am pleased that some Members of this Council have already expressed their support for the agreement we reached with the Chinese side, including the early enactment of the Bill within the current Session. However, a few Members have queried some aspects of the agreement. I wish to respond to these queries, with particular reference to the relevant provisions in the Court of Final Appeal Bill.

Jurisdiction of the CFA

First I would like to discuss the proposed jurisdiction of the court and to refute the suggestion that we are restricting the jurisdiction of the Court of Final Appeal by including in the Bill the formulation of "acts of state" in Article 19 of the Basic Law. Frankly, I do not understand the logic of this argument, which is devoid of any legal merit. It is, as the Governor has said, a red herring.

Clause 4 of the Bill reflects Article 19 of the Basic Law by providing that the court shall have no jurisdiction over acts of state such as defence and foreign affairs. It has been alleged that the provision is the result of a concession by the British side of the Joint Liaison Group. This allegation has no foundation whatsoever. Indeed, Mr President, it is strange that when we propose to align the Court of Final Appeal Bill on this point with the Basic Law, we are accused of "kow-towing"; but when others propose to amend the Bill to align it with the Joint Declaration in the Basic Law then that becomes a matter of principle.

As a matter of law, Article 19 of the Basic Law will operate as from 1 July 1997. Article 19 provides that the Courts of the Hong Kong Special Administrative Region shall have no jurisdiction over acts of state such as defence and foreign affairs. The Hong Kong Court of Final Appeal Ordinance will come into operation on the same day and cannot, of course, override the Basic Law. So as a matter of law, the jurisdiction of Hong Kong Courts will be subject to Article 19. The recognition of this inescapable fact is not a concession, nor does it restrict the jurisdiction of the courts further than is provided in the Basic Law.

Before I leave the jurisdiction of the Court of Final Appeal, I should point out that the Chinese side have agreed that there is no need for any further legislative or other provisions in relation to the power of the courts to enquire into the constitutionality of laws or to provide for post-verdict remedial mechanisms. All Members of this Council will, I am sure, agree that this is an important point, as it will ensure that the jurisdiction of Hong Kong's Court of Final Appeal will, subject to the provisions of the Basic Law, be the same as that of the Judicial Committee of the Privy Council.

Setting up the court on 1 July 1997

I now turn to the commencement provision in the Bill. It has been all along our objective to introduce the Court of Final Appeal Bill into this Council with the agreement of the Chinese side, because only that would guarantee that the Court of Final Appeal will endure after 1 July 1997. We have now agreed with the Chinese side that the Court of Final Appeal should be established on 1 July 1997. It is no secret that we would have preferred to establish the Court of Final Appeal by July 1996 to give it about a year to build up experience before the transfer of sovereignty. But we would have had to pay a very big price to achieve that. Introducing the Court of Final Appeal Bill into this Council without Chinese agreement and with no guarantee that any court set up as a result would survive 1997 would have meant a loss of public and international confidence in the form of the Court of Final Appeal after 30 June 1997.

Thus, as stated in the agreement, the Court of Final Appeal will be established on 1 July 1997 in accordance with the Court of Final Appeal Bill after it has been passed by this Council. Clause 1(2) of the Bill makes it clear that that will be the case. The Court of Final Appeal Ordinance will come into operation on the day after 30 June 1997, that is, 1 July 1997, and it will be amended to the extent necessary to ensure that it conforms with the Basic Law.

The provision for this legislation to come into operation on 1 July 1997 has given rise to some legal controversy. Some have argued that it is unconstitutional because of Article 18 of the Basic Law. I wish to reject that suggestion in no uncertain terms. Article 18 of the Basic Law provides that the laws in force in the Hong Kong Special Administrative Region shall include "the laws previously in force in Hong Kong as provided for in Article 8" of the Basic Law. Some have argued that as the legislation will not be in operation before 1 July 1997, it will not be a "law previously in force" and will not therefore be a law in force in the Hong Kong Special Administrative Region.

This argument overlooks two vital points. First, the Chinese text of Article 18 does not refer to "laws previously in force in Hong Kong", but (in effect) to "laws which Hong Kong originally had." The Court of Final Appeal Ordinance would clearly be such a law. Secondly, the English text of Article 18 refers to the laws previously in force in Hong Kong "as provided for in Article 8". Article 8, in referring to "the laws previously in force in Hong Kong" says

(and I quote) "that is, the common law, rules of equity, ordinances, subordinate legislation and customary law". Once the Court of Final Appeal Bill is enacted it will clearly be an Ordinance, and will therefore be a law previously in force in Hong Kong within the meaning of Article 8, even though it is not brought into operation before 1 July 1997. There is therefore no merit whatsoever in the argument that this legislation cannot be brought into operation on 1 July 1997.

The commencement provision, combined with other arrangements I shall refer to shortly, will ensure that there is no judicial vacuum as a result of the establishment of the Court of Final Appeal. Nobody will be deprived of his or her right of appeal because of the inevitable and short gap between the ending of appeals to the Privy Council and the establishment of the court. As I mentioned earlier, this has been one of our key objectives.

According to the agreement reached in the Joint Liaison Group last week, the preparatory work for the establishment of the court will be done before the transfer of sovereignty. On 1 July 1997, therefore, the judges can be appointed, the rules of court made, and the court can commence work immediately. With regard to appeals lodged before the transfer of sovereignty, the Judicial Committee of the Privy Council will keep its jurisdiction to hear appeals from Hong Kong until 30 June 1997. We have received the British Government's assurance that the Privy Council will continue to retain its jurisdiction over cases from Hong Kong up to 30 June 1997, and will give priority to Hong Kong appeals in the months immediately prior to July that year.

There are other provisions in the Bill which will help to ensure a smooth transition. First, clause 49 of the Bill provides that any appeal to the Privy Council in respect of which leave to appeal has been granted but which has not been finally disposed of before 1 July 1997 shall proceed in the Court of Final Appeal. That court is empowered to give such directions as to the continuation of the appeal as it thinks fit. We will discuss with the Judicial Committee and the term designate of the Special Administrative Region the implementation of this transitional provision to ensure the orderly transfer of any business unfinished by 30 June 1997. In addition to clause 49, clauses 24 and 33 make it possible for appeals to the Court of Final Appeal to be made outside the normal period of 28 days if leave is obtained. This will enable the court to hear appeals from decisions made in the period shortly before the transfer of sovereignty.

Composition of the CFA

I turn now to the composition of the Court of Final Appeal which, as Members will know, is based on the four plus one formula. This formula was agreed by the British and Chinese Governments in the Joint Liaison Group in September 1991. According to this agreement, the Court of Final Appeal, in every sitting, will consist of the Chief Justice, three permanent Hong Kong judges and one non-permanent judge, who could be either from Hong Kong or

from another common law jurisdiction. The permanent and non-permanent Hong Kong judges could be either local or expatriate.

It has been argued that the four plus one formula breaches the Joint Declaration and the Basic Law. This assertion is not correct, and has been rejected by both British and Chinese Governments. Our view that the four plus one composition is consistent with the Joint Declaration and the Basic Law is supported by a number of authoritative independent legal opinions.

I spoke at length on this subject during the motion debate in this Council on 3 May, and I will not repeat now what I said then. Suffice it to say that we have not the slightest doubt that the four plus one composition is a perfectly acceptable way of implementing the provisions in the Joint Declaration and the Basic Law that provide for judges from other common law jurisdictions to sit on the Court of Final Appeal. Indeed the Bill itself reflects this consistency. In clause 5, which provides for the Constitution of the Court, subclause (3) includes the wording of the Joint Declaration and Article 82 of the Basic Law that "the Court may as required invite judges from other common law jurisdictions to sit on the Court". The four plus one composition is reflected in clause 16(1) of the Bill, which specifies the composition of the court when it hears a particular appeal.

Other provisions

Mr President, I have dealt so far with those provisions in the Court of Final Appeal Bill which concern the three main questions that have been raised on the agreement reached with the Chinese side on 9 June. I would now like to take Members through the other principal provisions of the Bill.

Part I of the Bill sets out the provisions for the establishment of the court. The appointments of the Chief Justice and of the other Court of Final Appeal judges are provided for in clauses 6 to 9, which provide that those appointments shall be made by the Governor (the Chief Executive as from 1 July 1997) in accordance with the recommendation of an independent commission. This commission will be known as the Judicial Officers Recommendation Commission.

Clause 12 prescribes the qualifications of the Chief Justice and the other judges of the Court of Final Appeal. These are based on the existing qualifications for appointment to the Supreme Court, and incorporate additional qualifications suggested by both the legal profession and the Preliminary Working Committee.

The tenure of office of the Chief Justice and other judges of the Court of Final Appeal is provided for in clause 14. The term of office of a permanent judge, including the Chief Justice, may be extended beyond retirement age for a maximum of two terms of three years each; and each term of office of a non-permanent judge is to be for three years. The term of office of a Chief Justice

may be extended by the Governor (the Chief Executive as from 1 July 1997) in accordance with the recommendation of the Judicial Officers Recommendation Commission. The term of office of any other judge may be extended by the Governor (the Chief Executive as from 1 July 1997) in accordance with the recommendation of the Chief Justice.

Parts II and III of the Bill set out the provisions in respect of civil appeals and criminal appeals, respectively. These are based on the established principles and practices of the Judicial Committee of the Privy Council. Some of these provisions have been amended to take into account the comments of the Law Society and Bar Association when the draft Bill was sent to them at the end of last year. I would like to express my appreciation to those two bodies for their helpful comments on many technical aspects of the Bill.

Part IV contains miscellaneous provisions, including the transitional provisions under clause 49 to which I referred earlier. Clauses 38 to 48 provide for the making of rules, the setting up of the Registry, the appointment of the Registrar and the regulation of the sittings and business of the Court of Final Appeal. These provisions are in line with current court practices in Hong Kong.

Clause 50 provides for consequential amendments to other legislation as set out in the Schedule. These are mainly related to the statutory powers of the Chief Justice. They transfer most of the current Chief Justice's statutory powers to the Chief Justice of the Court of Final Appeal, to reflect the fact that the latter will be the head of the Judiciary. However, the current Chief Justice's powers in relation to the operation and jurisdiction of the High Court and Court of Appeal are preserved for the Chief Justice of the Supreme Court. We have also included in the Schedule an amendment to section 83P of the Criminal Procedure Ordinance. The amendment makes it clear that the Governor's power to refer certain cases to the Court of Appeal under that section will apply to appeals heard and determined by the Court of Final Appeal.

Conclusion

Mr President, Members of this Council now have a clear choice. Passage of the Hong Kong Court of Final Appeal Bill will guarantee the establishment of a proper Court of Final Appeal on 1 July 1997 with Sino-British co-operation and in accordance with this Bill, which is based on the established practices and procedures of the Judicial Committee of the Privy Council; the alternative of rejecting this Bill will leave the establishment of the Court of Final Appeal to the Hong Kong Special Administrative Region after 1 July 1997, creating damaging and unnecessary uncertainty about the eventual form of the Court of Final Appeal. I very much hope that Members will agree with the Administration that the interests of the people of Hong Kong are clearly best served by passing this Bill.

The agreement that we have reached with the Chinese side has received a warm welcome from the business community, both in Hong Kong and overseas. Hong Kong's major partners have firmly endorsed it. An independent survey commissioned by Ming Pao has shown that it also has the wide support of the Hong Kong public. It is clear that both the local and international communities wish to see the early enactment of the Court of Final Appeal Bill to provide certainty about the form of the Court of Final Appeal to be set up in Hong Kong on 1 July 1997. I hope that we can count on the support of all Members for the Court of Final Appeal Bill.

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

MANDATORY PROVIDENT FUND SCHEMES BILL

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to provide for the establishment of non-governmental mandatory provident fund schemes for the purpose of funding benefits on retirement, to provide for contributions to such schemes, to provide for the registration of such schemes, to provide for a regulatory regime in respect thereof, to provide for the creation of a Mandatory Provident Fund Schemes Authority to oversee the administration and management of registered schemes, to exempt certain classes of persons from contributing to registered schemes, to provide for the approval of persons (other than public officers or statutory corporations) as trustees of registered schemes, to provide for the control and regulation of approved trustees, and to make consequential amendments to other Ordinances including pension related Ordinances, and for connected purposes."

She said: Mr President, I move the Second Reading of the Mandatory Provident Fund Schemes Bill.

The object of this Bill is to provide for the mandatory establishment of non-governmental provident fund schemes for the purpose of funding benefits on retirement. It will be beneficial for those in the workforce. There is then the separate question of social security: this is being reviewed elsewhere.

The Bill itself constitutes a framework for the mandatory provident fund schemes system. Certain matters are provided for substantively in the Bill, while other important matters will be provided for in future subsidiary legislation. The subsidiary legislation will, of course, be the subject of full and detailed discussion with all the parties concerned.

The Bill is divided into six parts, and nine schedules, covering the main features of the Mandatory Provident Fund (MPF) Schemes system, which I believe Members will be familiar with, so I shall concentrate on specific clauses.

Part I

Clause 4 provides for exemptions from the mandatory provisions of the Bill for persons listed in Part I of Schedule 1. Exempt persons include civil servants who are governed by pensions legislation, teachers to whom the Subsidized Schools Provident Fund Rules and Grants School Provident Fund Rules apply and persons who are already 64 years of age by the time the Schedule comes into operation. There is also provision for exemption for persons coming from overseas to work in Hong Kong who are already covered by a retirement scheme outside Hong Kong; persons, regardless of coverage, who come here from overseas to work for a period of less than 180 days; and also those persons who have been employed for a continuous period of less than 30 days. The employers of such persons are also exempted.

Part II

Clause 5 of the Bill provides for the establishment of the MPF Schemes Authority. The functions of the Authority include ensuring compliance with the provisions of the legislation, the approval, regulation and prudential supervision of trustees, and the registration of provident fund schemes.

Part III

The heart of the Bill is in clauses 6(1), 6(2) and 6(3). Under clause 6(1), the employer must arrange for a registered provident fund scheme to receive contributions in respect of his relevant employees. Clause 6(2) requires the employer to contribute to the registered scheme the employer's contribution of 5% of relevant income of each relevant employee, to deduct from the relevant income of each relevant employee the employee's contribution of 5% of that income, and to remit the whole contribution to the trustee of the registered scheme no later than seven working days following payday. Clause 6(3) imposes a relevant requirement on self-employed persons to contribute 5% of their income.

Clause 8 of the Bill allows employees or self-employed persons whose relevant income is less than the minimum level specified in Schedule 3 to elect whether or not they wish to contribute to a provident fund scheme. On the advice of the Labour Advisory Board, employers of such persons will still have to contribute, irrespective of the employee's election. The provision will benefit the 240000 members of our workforce whose income is below the current prescribed level of \$4,000 a month.

Clause 10 of the Bill provides that contributions made in excess of the percentage level specified in Schedule 4, or after retirement age when an employee remains in employment or a self employed person in business, shall be voluntary.

An important feature of a mandatory system of provident fund schemes is the preservation of benefits until retirement age, that is, under normal circumstances benefits are not paid out upon each change of job, but are preserved until retirement. Benefits may be transferred from one scheme to another upon change of job. Under clause 12, scheme trustees are prohibited from paying out accrued retirement benefits to any scheme member other than in accordance with clause 14. Clause 14 allows preserved benefits to be withdrawn as of right, in a lump sum, once a scheme member reaches the age of 65. It also provides for the early withdrawal of benefits by a scheme member who has reached the age of 60 and who has left the workforce permanently, as well as for the early withdrawal under such circumstances as total disability or incapacity, or permanent departure from Hong Kong. Clause 13 deals with the transferability of benefits from scheme to scheme.

A major area of public concern has been the safety of accrued retirement benefits, and the provision for compensation in the event of losses. This is provided for under clause 16(1), which enables the Authority to establish a compensation fund to deal with benefit losses brought about by misfeasance or illegal conduct. Clauses 16(2) and 16(3) provide for a compensation fund to be financed by a levy on the assets of registered schemes, to be paid by approved trustees. Clause 16(5) allows the Financial Secretary to provide grants or loans, payable from General Revenue, to the compensation fund. There will be no guarantee against losses arising from poor investment performance as this would only encourage unscrupulous investment managers to take the kind of undue risks which we would all wish to avoid.

Part IV

Clause 19 deals with scheme administration. A registered scheme, other than a master trust scheme, must be administered by an approved trustee, who could be an individual or a corporate trustee, while a master trust scheme must be administered by a corporate trustee. Trustees or corporate trustees may apply to the Authority for approval as an approved trustee of a registered scheme. Clause 20 enables approved trustees to apply to the Authority for the registration of a provident fund scheme as a registered scheme.

Clause 22 of the Bill allows the Authority to authorize a corporate trustee to be the approved trustee of a residual provident fund scheme. This would allow access to a scheme for those persons whose employers were unable to find one on the open market, serve as a receptacle for unclaimed benefits from other schemes, and facilitate the portability of benefits between schemes.

Clause 27 allows the Authority, after consultation with the Financial Secretary, to make guidelines in respect of forbidden investment practices, which, if undertaken by approved trustees, might prejudice the financial soundness of these schemes. Clause 28 requires trustees to comply with limitations or prohibitions in respect of restricted investments, that is, loans or to investments in the employers of scheme members. Clauses 29, 30 and 31

confer power of regulation of trustees by the Authority. The Authority may require special audit reports, disclosure of information and production of documents (clause 29), appoint inspectors to investigate the affairs of a scheme (clause 30) and in appropriate circumstances, remove trustees (clause 31).

Part V

Clauses 33 to 38 deal with the establishment of the Mandatory Provident Fund Schemes Appeal Board, and matters relating to appeals.

Part VI

Clauses 39 and 40 deal with the disclosure of information acquired while carrying out any function under the Bill.

Clause 41 provides for offences which may be committed by employers, self-employed persons and scheme trustees. We believe that offences in respect of mandatory contributory provident fund schemes are serious, especially where an employer may deduct the relevant employee contribution, for example, but fails to remit it to the scheme trustee within the stipulated time, and therefore the penalties provided for in clause 43 are commensurate with the gravity of the offences.

Clauses 44 and 45 enable the Governor in Council and the Authority respectively to make regulations and rules regarding a wide range of issues, for the effectual carrying out of the provisions and objects of the Ordinance, including provision for the early withdrawal of benefits, the operation of the compensation fund, the management of registered schemes and the maintenance of employees' accounts.

Thank you.

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

LEGAL AID (AMENDMENT) BILL 1995

Resumption of debate on Second Reading which was moved on 25 January 1995

Question on Second Reading proposed.

MR RONALD ARCULLI: Mr President, the Legal Aid (Amendment) Bill 1995 was introduced into the Legislative Council on 25 January 1995. The Bill seeks to implement miscellaneous amendments relating to the scope and the operation of the legal aid scheme as recommended in the report of the working group set up to undertake a comprehensive review of the law, policy and practice governing the provisions of legal aid services in Hong Kong.

A Bills Committee, of which I am the Chairman, was set up to study the Bill. The Bills Committee held five meetings with the Administration and met a deputation from the legal profession, which had made a joint submission to the Bills Committee, at the third meeting.

Let me briefly go into the main areas of concern to Members and the legal profession.

The first concern is whether the monthly personal allowance adopted in the Standard Legal Aid Scheme is appropriate. A Member considers that the present monthly personal allowance of \$1,045 per family member is unrealistic and that it should be adjusted to a level which can reflect the normal expenditure of an individual. The Administration points out that the allowance is in fact the standard for an able-bodied person under the Comprehensive Social Security Assistance Scheme but it undertakes to consider the proposal in the next comprehensive review of the overall approach towards assessing the financial eligibility of applicants in 1997.

The second issue of concern is the proposal to give the Director of Legal Aid the discretion to waive the means test in any civil case where the applicant has a meritorious Bill of Rights claim. In determining whether such a case is "meritorious", the Director would, in accordance with section 10(3) of the Ordinance, consider the merits of the case, including whether there are reasonable grounds for the court proceedings and the chance of success.

The legal profession is concerned over the use of the phrase "meritorious case" which appears to be yet another form of the merits test. Its representatives point out that if the intention is to apply a merits test, the tried and tested formula of "reasonable grounds" in section 10(3) should be sufficient. They also point out that the present wording "a breach of the Hong Kong Bill of Rights (BOR) Ordinance (Cap.383)" is much too narrow in scope and propose that it be expanded to cover other equally deserving cases. For example, proceedings where a declaration of rights is asserted as opposed to alleging a breach or where a challenge to legislation is based on the Letters Patent/Basic Law.

The Administration has reviewed the wording of the clause and will move an amendment to substitute a re-worded section 5AA which incorporates the legal profession's suggestions.

The third concern is over clause 9, in particular the proposed new section 24(7), which imposes a criminal sanction on those who disclose the personal information of an applicant for legal aid. The Bills Committee and the legal profession share the view that there appears to be no reason why criminal sanction should be attached to a breach of confidentiality of the type of information in question.

The Administration explains that the intention of the new subsection is to encourage an applicant for legal aid to disclose his personal information fully and frankly. On review, the Administration agrees that the disclosure of such information should not amount to a criminal offence and will delete the proposed subsection (7) under clause 9.

Another concern is over the excepted proceedings proposed in clause 13. Members consider that there are some election petition cases, other than those based on BOR grounds, which also merit the provision of legal aid. In response to Members' request, the Administration has provided a list of all past election petitions since 1988. Members note that there has only been one election petition arising from procedural errors made by public officers. Since this is an isolated incident and as the Registration and Electoral Office has introduced improved guidelines for polling staff, the Administration considers that legal aid should not be further extended to cover election petitions based on non-BOR grounds, lest it would encourage frivolous and vexatious petitions. However, it will review in due course the need to extend legal aid to cover election petitions based on non-BOR grounds if more cases of this nature are received in the future.

Members suggest that the list of excepted proceedings in Part II of Schedule 2 to the Ordinance should be made more comprehensive by adding stocks and options and by providing definitions for commercial loans and derivatives of securities. The legal profession considers that the list should include trading in gold and silver commodities. It also points out that all taxation of cost cases should be excluded from the grant of legal aid. Members consider that as taxation of cost cases are normally complicated and require much time and effort to conduct the merits test, it would not be cost effective to include this category of cases in the scope of legal aid.

On review, the Administration has provided a more comprehensive list of excepted proceedings which includes, *inter alia*, all proceedings relating to taxation of costs, to replace the present list in clause 13 of the Bill.

A further issue of concern to the legal profession is the proposal in clause 14 to expand the scope of the Supplementary Legal Aid Scheme (SLAS) to include claims involving professional negligence on the part of lawyers, doctors and dentists. The Administration explains that doctors, dentists and lawyers are included because these professions have more frequent contacts with individual members of the public. The legal profession considers the Administration's explanation unacceptable as other professions also have frequent contact with the public.

The Administration explains that SLAS is a self-financing scheme aimed at providing legal assistance for the sandwich class. In view of the limited funds available, as a start, only negligence claims against three professions are included. The Administration will review in due course the result of this

expanded scheme and assess the need to further expand the scope of SLAS to cover negligence of other professions.

A majority of Members accept the Administration's explanations. However, they suggest that the Chief Secretary should, in her speech on the resumption of Second Reading debate of the Bill, highlight this particular issue and explain why some professionals have been singled out and the way ahead. I trust that the Chief Secretary will in her speech later elaborate on the proposal.

Apart from the various amendments mentioned earlier in my speech, the Administration will move a number of other amendments incorporating suggestions made by the legal profession.

Mr President, the provisions in the Bill are aimed at expanding the scope and improving the operation of the legal aid scheme and will directly benefit the public.

With these remarks, Mr President, I commend the Legal Aid (Amendment) Bill 1995 to Honourable Members.

MR SIMON IP: Mr President, the two branches of the legal profession are united in their support for an expansion of legal aid.

Clause 14 of this Bill seeks to expand the Supplementary Legal Aid Scheme which was originally designed to meet the needs of the sandwich class who would otherwise be refused legal aid on means grounds. The financial resources of applicants under the Supplementary Legal Aid Scheme will be raised from HK\$280,000 to HK\$400,000 and the scope of the Scheme will be broadened to include claims in negligence against doctors, dentists and lawyers. While supporting this expansion, the legal profession does not think it goes far enough.

As currently proposed, the expansion is unfair to the sandwich class and unfair to the three professions which are to be specifically included in the expanded scheme. It is unfair to the sandwich class because as the size of that class grows with Hong Kong's increasing affluence, members of that class would naturally increasingly require the services of other professionals such as accountants, stock brokers and real estate agents. Indeed, before seeing a lawyer, a client will frequently have seen an estate agent. There is no reason for depriving the sandwich class of legal aid to pursue their legal rights and remedies against other providers of professional services if the standard of those services should prove wanting. Equally, the expanded scheme is unfair to the medical, dental and legal professions as they have been singled out as potential targets of legal proceedings.

The justifications given by the Administration for limiting expansion of the Scheme to those three professions are unconvincing. Two reasons have been advanced. First, it is claimed that those three professions have more contact with the population than other professions. I question the accuracy of that statement. As I have said earlier, the sandwich class will have sufficient resources to make investments and thus require the services of other professionals such as estate agents, stock brokers and accountants. Even if the Administration's claim is accurate, it still does not provide the justification for denying the sandwich class legal aid to pursue its lawful remedies against others.

The second reason advanced is that the Administration proposes to inject a sum of \$27 million into the Supplementary Legal Aid Scheme Fund in order to support claims against doctors, dentists and lawyers and that if the scope was further broadened to cover other professions, the Scheme might become non-viable given the limitation of financial resources. Mr President, this argument in my view is fallacious for these reasons.

First, the Supplementary Legal Aid Scheme is self-financing. The self-financing policy is officially confirmed in paragraph 5 of the 1994-95 Estimates for the Legal Aid Department. Successful claimants are required to pay back to the Fund the costs and expenses of litigation incurred plus 15% of any damages recovered. Further, section 30 of the Legal Aid Ordinance empowers the Director of Legal Aid to borrow funds in the private market. Thus, the Fund is self-generating and if properly managed and invested, will increase in size. Under section 27 of the Legal Aid Ordinance, it is provided that the expenses incurred under the Supplementary Legal Aid Scheme shall not be paid out of the general funds provided to the Director by the Legislative Council except insofar as those expenses cannot be paid out of the Fund. In other words, there should be no effect on public revenue. Consequently, the effect of the statutory provisions in the Legal Aid Ordinance is that the Director is required to have regard to the financial health of the Fund when deciding whether or not to grant legal aid under the Supplementary Legal Aid Scheme and to prioritize applications by, for example, accelerating cases which are likely to produce a cash return to the Fund more quickly. In the circumstances, given the self-funding quality of the Scheme and the power of the Director to borrow monies in the private market, it should be viable notwithstanding a further expansion of the scope to include other professions.

Mr President, I therefore support clause 14 of this Bill under protest that its scope is too restrictive. That apart, I support the Bill. Given your ruling, Mr President, I shall not be moving my amendment.

DR LEONG CHE-HUNG: Mr President, everybody would welcome the expansion of the legal aid system to include a wider sector of the public. Similarly, it should also be welcome to extend the legal aid system to issues concerning professional negligence because this would help those who have in such a way been victimized and at the same time, ensure that the professionals

can be kept on their toes as it were and provide the best possible professional service within their own limits. The spirit and principle therefore is commendable. It came therefore as a surprise that the Bill only provides legal aid assistance to possibly professional negligence of lawyers, doctors and dentists. It remains unfair for the sandwich class who feels victimized by professional negligence of other professions. In short, as my honourable colleague, Mr Simon IP, put it, the Bill does not go far enough. Furthermore, it has, with regret, not reflected the whole spirit of the Bill. Furthermore, it is also regrettable, as I was put to understand, that the Honourable Simon IP was not given the permission to introduce an amendment to clause 14 to bring it in line with the spirit of the Bill on the possible financial implication. In such a case, the least the Government can do will be to assure this Council and the people of Hong Kong that in the course of time, given the necessary experience, the Scheme should be reviewed to include other professions to ensure that the spirit of this Bill is put into good effect. I therefore support this Bill with reservation.

CHIEF SECRETARY: Mr President, on 25 January this year, the Legal Aid (Amendment) Bill 1995 was introduced into this Council. This Bill seeks to implement the recommendations made by an interdepartmental working group set up to undertake a comprehensive review of the law, policy and practice governing the provision of legal aid services, taking into account the comments on a consultation paper published in April 1993. The objective of the Bill is to improve the scope and the operation of legal aid services in Hong Kong.

I would first like to thank Members of the Bills Committee, especially its Chairman, the Honourable Ronald ARCULLI, for their hard work and thorough examination of the Bill. We have responded positively to most of the ideas put forward by Members of the Bills Committee and these are reflected in the Committee stage amendments which I will move later. I believe the Bill has the support of most Members of the Committee, and I hope it will now receive the full support of this Council.

Mr President, I would now like to continue by outlining briefly the three major elements of the Bill.

First, the Bill will raise the financial eligibility limit for the standard legal aid scheme from \$120,000 to \$144,000. This proposed increase has taken into account the level of inflation since the current limit was set in 1992. The Administration will in future revise the limit every two years in the light of inflation. We will also conduct a comprehensive review of the overall approach that we take to assessing the financial eligibility of applicants every five years.

Secondly, the Bill seeks to expand the scope of the standard civil legal aid scheme. It gives the Director of Legal Aid the discretion to waive the financial eligibility limit in any civil cases where an applicant has a meritorious Bill of Rights (BOR) claim. This will include individuals making election petitions

based on meritorious BOR claims. As a matter of human rights policy, legal aid will also be extended to persons making applications to the Mental Health Review Tribunal against detention in a mental hospital or the Correctional Services Department Psychiatric Centre.

Thirdly, the Bill introduces improvements to the Supplementary Legal Aid Scheme which provides assistance to the "sandwich class" whose financial resources are in excess of the amount prescribed for the standard legal aid scheme, but may not be sufficient to meet the high costs of conducting litigation on a private basis. The first improvement is to increase the upper financial limit under this supplementary scheme from \$280,000 to \$400,000, taking into account inflation since the introduction of the Scheme in 1984. This limit will also be revised in future on a biennial basis to take inflation into account.

At present, legal aid under the supplementary scheme is restricted to a number of civil proceedings, including certain claims in the District Court for damages and compensation for personal injuries. The Bill now expands the scope of the supplementary scheme to cover claims involving professional negligence on the part of medical doctors, dentists and lawyers, the three professions which have most frequent contacts with individual members of the public.

We have heard just now that both the Honourable Simon IP and Dr the Honourable LEONG Che-hung are in favour of expanding the Supplementary Legal Aid Scheme to cover professional negligence against all professions. We are concerned, however, that any further expansion at this stage to cover more new types of cases would jeopardize the financial viability of the Scheme. Furthermore, we have a practical problem in defining "all professions" for this purpose. However, let me say for the record and let me reassure Members that we will keep the operation of the Scheme under review and negligence claims against members of other specific professions will be considered for inclusion at a later date when we consider that the Scheme is financially capable of further expansion.

Finally, in the light of the operational experience of the Legal Aid Department, the Bill includes a number of detailed amendments to formalize or to improve the practices relating to the provision of legal aid in both civil and criminal cases. For example, it recognizes the present practice whereby the Director of Legal Aid does not impose a first charge on maintenance payments to children.

Mr President, with these remarks, and subject to the Committee stage amendments proposed by the Administration, I commend the Legal Aid (Amendment) Bill 1995 to Honourable Members for approval.

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).

MERCHANT SHIPPING (SEAFARERS) BILL

Resumption of debate on Second Reading which was moved on 30 November 1994

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

Bill read the Second time.

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

NUCLEAR MATERIAL (LIABILITY FOR CARRIAGE) BILL

Resumption of debate on Second Reading which was moved on 15 February 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.

LEGAL AID (AMENDMENT) BILL 1995

Clauses 1, 3, 5, 7 and 11 were agreed to.

Clause 14 was agreed to.

Clauses 2, 4, 6, 8, 9, 10, 12 and 13

CHIEF SECRETARY: Mr Chairman, I move that the clauses specified be amended as set out in the paper circulated to Members.

The amendment to clause 2 seeks to expand the definition of "domestic proceedings", to include cases under the Matrimonial Causes Ordinance (Cap.179) and the Guardianship of Minors Ordinance (Cap.13).

The amendment to clause 4 seeks to give the Director of Legal Aid the discretion to waive the financial eligibility limit in any civil case where an applicant has been granted a legal aid certificate in proceedings in which a breach of the Hong Kong Bill of Rights Ordinance (Cap.383) or an inconsistency with the International Covenant on Civil and Political Rights as applied to Hong Kong is an issue.

The amendment to clause 6 is mainly technical in nature.

The amendment to clause 8 seeks to clarify some technical concerns expressed by the legal profession.

The amendment to clause 9 to remove the potential criminality for people who breach confidentiality.

The amendment to clause 12 seeks to clarify how the Director of Legal Aid will apportion the contribution payable by a person aided under both the standard legal aid scheme and the Supplementary Legal Aid Scheme.

The amendment to clause 13(2)(a) is related to the amendment to clause 4. This also clarifies that applicants will not subject to double merits tests.

The amendment to clause 13(2)(d) better defines the expected proceedings and clarifies the term "derivatives of securities".

Mr President, I beg to move.

Proposed amendments

Clause 2

That clause 2 be amended, in the definition of "domestic proceedings" by adding ", the Matrimonial Causes Ordinance (Cap.179), the Guardianship of Minor Ordinance (Cap.13)" after "(Cap.192)".

Clause 4

That clause 4 be amended, by deleting the proposed section 5AA and substituting —

**"5AA. Director may waive upper
limit of means test**

The Director may waive the limit of financial resources imposed under section 5(1) where the Director is satisfied that, having regard to the matters set out in section 10(3), a person would be granted a legal aid certificate in proceedings in which a breach of the Hong Kong Bill of Rights Ordinance (Cap.383) or an inconsistency with the International Covenant on Civil and Political Rights as applied to Hong Kong is an issue."

Clause 6

That clause 6 be amended, by deleting paragraph (b) and substituting —

"(b) in subsection (3) -

(i) in paragraph (d) by repealing "or" at the end;

(ii) by adding -

"(f) the applicant has allowed an offer of legal aid to lapse or has indicated that he wishes to withdraw his application; or

(g) there are other persons concerned jointly with, or having the same interest as, the applicant in seeking a substantially similar outcome of the proceedings unless the applicant would be prejudiced by not being able to take his own or joint proceedings."

Clause 8

That clause 8 be amended, in the proposed subsection (5)(e), by deleting "for the unpaid contribution, if any, or".

Clause 9

That clause 9 be amended, by deleting the proposed subsection (7).

Clause 10

That clause 10(1) be amended, by deleting everything after "amended" and before "by repealing".

Clause 12

That clause 12 be amended, in the proposed section 32A —

- (a) by renumbering it as section 32A(1);
- (b) by adding-

"(2) The Director shall apportion the contribution payable having regard to the time for which the person was aided under the Supplementary Legal Aid Scheme and the period taken to resolve the claim."

Clause 13

That clause 13(2)(a) be amended, in the proposed paragraph 4 —

- (a) by adding "or an inconsistency with the International Covenant on Civil and Political Rights as applied to Hong Kong" after "(Cap.383)";
- (b) by deleting "the petitioner has a meritorious case";
- (c) by adding ", the petitioner would be granted a legal aid certificate" after "section 10(3)".

That clause 13(2)(d) be amended, in the proposed paragraph 1 l, by deleting subparagraphs (a), (b) (c) and (d) and substituting-

- "(a) involving money claims in derivatives of securities, currency futures or other futures contracts;
- (b) for the recovery of a loan made in the ordinary course of a business conducted by the person seeking legal aid;

- (c) involving disputes between limited companies or their shareholders regarding the respective rights of the company and the shareholders;
- (d) arising out of disputes over partnerships;
- (e) for the taxation of costs, unless the person was previously aided in the action for which an order for costs was made.

For the purposes of this paragraph -

"derivatives of securities" (證券衍生工具) means options to buy or sell interests in, certificates of interest of participation in, warrants to subscribe to or rights (other than shares) in, the capital of, or an instrument issued by, a company, government authority or other body."

Question on the amendments proposed, put and agreed to.

Question on clauses 2, 4, 6, 8, 9, 10, 12 and 13, as amended, proposed, put and agreed to.

MERCHANT SHIPPING (SEAFARERS) BILL

Clauses 1, 2, 4 to 33, 35 to 39, 41 to 47, 49, 51, 52, 53, 55, 58 to 67, 71 to 81, 83 to 95, 98 to 103, 105 to 114, 116 to 122, 125 to 133 and 135 to 143 were agreed to.

Clauses 3, 34, 40, 48, 50, 54, 56, 57, 68, 69, 70, 82, 96, 97, 104, 115, 123, 124 and 134

SECRETARY FOR ECONOMIC SERVICES: Mr Chairman, I move that the clauses specified be amended as set out in the paper circulated to Members.

Members will recall that the Merchant Shipping (Seafarers) Bill is part of our ongoing exercise to localize United Kingdom legislation applying to Hong Kong so that the existing system of laws will continue after 1997. The Bill will also consolidate existing Hong Kong legislation which regulates the employment and conditions of work of seafarers.

All but one of the proposed amendments are changes to the Chinese text, which would remove possible discrepancies in meaning between the two texts of the Bill.

The other is in respect of clause 124 of the Bill which empowers the Seafarers' Authority, meaning the Director of Marine, to prescribe various forms. These forms, which will be prescribed to replace the current sets in use, are routine, administrative documents which enable the Seafarers' Authority to discharge his functions effectively. The existing forms are not subsidiary legislation. We intend to maintain this system in the Bill and the proposed amendment will make this clear.

Mr Chairman, I beg to move.

Proposed amendments

Clause 3

That clause 3(2) be amended, by deleting "不影響" and substituting "不損害".

Clause 34

That clause 34(2)(e) be amended, by adding "如他作證的話" after "作證的海員".

Clause 40

That clause 40(5) be amended, by deleting "不影響" and substituting "不損害".

Clause 48

That clause 48(5) be amended, by deleting "顯示" where it twice appears and substituting "證明".

Clause 50

That clause 50(2) be amended, by adding "所基於的" before "理由".

Clause 54

That clause 54(1)(d) be amended —

- (a) in subparagraph (iv), by deleting the semicolon at the end and substituting a comma.

(b) by adding at the end -

"但如他並非不信納以上事宜，則不可拒絕發給許證；"

Clause 56

That clause 56(3) be amended, by deleting "不影響" and substituting "不損害".

Clause 57

That clause 57(2) be amended, by deleting "不影響" and substituting "不損害".

Clause 68

That clause 68(1) be amended, by deleting "不影響" and substituting "不損害".

Clause 69

That clause 69(1) be amended, by deleting "本人".

Clause 70

That clause 70(2) be amended, by deleting "不影響" and substituting "不損害".

Clause 82

That clause 82(2) be amended, by deleting "不影響" and substituting "不損害".

Clause 96

That clause 96(2) be amended, by deleting "不影響" and substituting "不損害".

Clause 97

That clause 97(2) be amended, by deleting "不影響" and substituting "不損害".

Clause 104

That clause 104(2) be amended, by deleting "不影響" and substituting "不損害".

Clause 115

That clause 115(2) be amended, by deleting "不影響" and substituting "不損害".

Clause 123

That clause 123(3)(b)(ii) be amended, by deleting "不" and substituting "非合理地".

Clause 124

That clause 124 be amended —

- (a) by renumbering it as clause 124(1).
- (b) by adding-

"(2) For the avoidance of doubt, it is hereby declared that a form prescribed under this section is not subsidiary legislation."

Clause 134

That clause 134(5) be amended by deleting "不影響" and substituting "不損害".

Question on the amendments proposed, put and agreed to.

Question on clauses 3, 34, 40, 48, 50, 54, 56, 57, 68, 69, 70, 82, 96, 97, 104, 115, 123, 124 and 134, as amended, proposed, put and agreed to.

Schedule 1 was agreed to.

Schedule 2

SECRETARY FOR ECONOMIC SERVICES: Mr Chairman, I move that the Schedule specified be amended as set out in the paper circulated to Members.

Schedule 2 to the Merchant Shipping (Seafarers) Bill sets out the consequential amendments to various enactments required by the Bill. Since the Bill's introduction, we have identified additional provisions which also require minor consequential amendments to make them consistent with the Bill. Some of the consequential amendments have to be replaced because the authentic Chinese texts of the affected ordinances have been declared since the publication of the Bill.

Mr Chairman, I beg to move.

Proposed amendment

Schedule 2, Part 1

That Schedule 2, part 1 be amended —

(a) in item 4, in column 3, by deleting paragraph (a) and substituting -

"(a) Repeal section 4(2)(d) and substitute -

"(d) to a person who is serving under a crew agreement within the meaning of the Merchant Shipping (Seafarers) Ordinance (of 1995), or on board a ship which is not registered in Hong Kong."."

(b) by adding -

"4A. Pilotage
Ordinance
(Cap.84)

In section 4(3)(i)(i), (ii) and (iii), repeal "under the Merchant Shipping (Certification of Officers) Regulations (Cap.281 sub. leg.) or a certificate which is under regulation 5 of those Regulations" and substitute "or deemed to be issued under the relevant regulation made under the Merchant Shipping (Seafarers) Ordinance (of 1995) or a certificate which is under that regulation"."

(c) by adding -

- | | |
|---|--|
| "17A. Merchant Shipping (Safety) (Fire Protection) (Ships Built Before 25 May 1980) Regulations (Cap.369 sub. leg.) | In regulation 1(2), in the definition of "crew space", repeal "2 of the Merchant Shipping Ordinance (Cap.281)" and substitute "97(7) of the Merchant Shipping (Seafarers) Ordinance (of 1995)". |
| 17B. Merchant Shipping (Safety) (Fire Appliances) (Ships Built On or After 25 May 1980 but Before 1 September 1984) Regulations (Cap.369 sub. leg.) | In regulation 1(3), in the definition of "crew space", repeal "2 of the Merchant Shipping Ordinance (Cap.281)" and substitute "97(7) of the Merchant Shipping (Seafarers) Ordinance (of 1995)". |
| 17C. Merchant Shipping (Safety) (Passenger Ship Construction) (Ships Built before 1 September 1984) Regulations (Cap.369 sub. leg.) | In regulation 1(2), in the definition of "crew space", repeal "2 of the Merchant Shipping Ordinance (Cap.281)" and substitute "97(7) of the Merchant Shipping (Seafarers) Ordinance (of 1995)". |
| 17D. Merchant Shipping (Safety) (Minimum Safe Manning Certificate) Regulation (Cap.369 sub. leg.) | In section 4(2), repeal "5(1)(a) and (c) of the Merchant Shipping Ordinance (Cap.281)" and substitute "72(1)(a) and (c) of the Merchant Shipping (Seafarers) Ordinance (of 1995)". |

Schedule 2, Part 1, item 4

That Schedule 2, Part 1, item 4 be amended, in the Chinese text, in column 3, by deleting paragraph (b) and substituting —

"(b) 在第 50(3)條中，廢除(b)段而代以 —

“(b) 在根據《商船（海員）條例》（1995 年第 號）發給或視為根據該條例發給的維持船員部的許可證下所經營者；” 。”。

Schedule 2, Part 1, item 6

That Schedule 2, Part 1, item 6 be amended, in the Chinese text, in column 3, by deleting paragraphs (a), (b) and (c) and substituting —

"(a) 在(a)(i)段中，廢除“各商船法令或《商船條例》（第 281 章）（視屬何情況而定）”而代以“《商船（海員）條例》（1995 年 號）”；

(b) 在(a)(ii)段中，廢除第二次出現的“攜帶”之前的所有字句而代以—

"(ii) 《商船（海員）條例》（1995 年第 號）並未規定該船”；

(c) 在(d)段中

(i) 在“正式航海日誌”的定義中，廢除“各商船法令或憑藉《商船條例》（第 281 章）”而代以“《商船（海員）條例》（1995 年第 號）”；

(ii) 在“商船海員管理處”的定義中，廢除“根據《商船條例》（第 281 章）指定的商船海員管理”而代以“《商船（海員）條例》（199 年第 號）所指的海管” 。”。

Question on the amendment proposed, put and agreed to.

Question on Schedule 2, as amended, proposed, put and agreed to.

NUCLEAR MATERIAL (LIABILITY FOR CARRIAGE) BILL

Clauses 1, 2, 3, 5, 6, 7, 9 to 15 and 17 were agreed to.

Clauses 4, 8 and 16

SECRETARY FOR ECONOMIC SERVICES: Mr Chairman, I move that the clauses specified be amended as set out in the paper circulated to Members.

The purpose of the Nuclear Material (Liability for Carriage) Bill is to replace, through the enactment of local legislation, the relevant provisions of the United Kingdom's Nuclear Installation Act 1965 as applied to Hong Kong by three Orders in Council made between 1972 and 1976. The purpose of the proposed amendments to clauses 4 and 8(2) of the Chinese text of the Bill is to

reflect better the meaning of the words "incurred" and "jettisoned" in the corresponding clauses of the English text of the Bill.

The proposed amendments to clause 16 of the Chinese text of the Bill are consequential to the authentication of the Chinese text of the Foreign Judgments (Restriction on Recognition and Enforcement) Ordinance which took place on 24 February 1995.

Mr Chairman, I beg to move.

Proposed amendments

Clause 4

That clause 4 be amended, by deleting "遭受" and substituting "引致".

Clause 8

That clause 8(2) be amended, by deleting "拋棄" wherever it occurs and substituting "投棄".

Clause 16

That clause 16 be amended, by deleting the clause and substituting —

"16. 違反爭議和解協議的外地判決

《外地判決（限制及強制執行）條例》（第 46 章）第 3(4)(a)條現予修訂，廢除“由《Nuclear Installations (Hong Kong) Order 1972》（附錄 IIIDC1 頁）引伸而適用於香港的《Nuclear Installations Act 1965》（1965 c.57U.K.）第 17(4)條”而代以“《核材料（關於運載的法律責任）條例》（1995 年第 號）第 10(4)條”。

Question on the amendments proposed, put and agreed to.

Question on clauses 4, 8 and 16, as amended, proposed, put and agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

LEGAL AID (AMENDMENT) BILL 1995

MERCHANT SHIPPING (SEAFARERS) BILL and**NUCLEAR MATERIAL (LIABILITY FOR CARRIAGE) BILL**

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

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

Bills read the Third time and passed.

PRIVATE MEMBER'S MOTIONS**INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

MR VINCENT CHENG moved the following motion:

"That in relation to the Waste Disposal (Charges for Disposal of Waste) Regulation, published as Legal Notice No.161 of 1995 and laid on the table of the Legislative Council on 17 May 1995, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance for amending subsidiary legislation be extended under section 34(4) of that Ordinance until 21 June 1995."

MR VINCENT CHENG: Mr President, I move the motion standing in my name in the Order Paper.

The Legislative Council Complaints Division received some representations from the public on the Waste Disposal Regulations. The Duty Roster Members met to study the charges for disposal of wastes and have identified some issues which will require further consideration. To allow time for the Duty Roster Members to consider those points in depth, it is necessary to extend the time allowed for making amendment to the subsidiary legislation until 21 June 1995.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

PRESIDENT: I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates and Members were informed by circular on 12 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.

HONG KONG'S ECONOMY

MR HENRY TANG moved the following motion:

"That, in view of the various kinds of social problems brought about by the closing down of many businesses as a result of operating difficulties due to the economic transformation and the slow-down of the economy in recent years, this Council urges the Government to expeditiously formulate a short-term and a long-term economic strategy to stimulate economic activities and create employment opportunities in order to accommodate a greater number of unemployed workers and avoid further deterioration in labour relations."

MR HENRY TANG (in Cantonese): Mr President, I have always believed in the principle of free economy which requires the Government to have the minimum intervention in the economy, allowing the market to function freely. Mr CHAU Tak-hay also said so in his reply to the motion that I moved on 27 May 1992. The success in the economic development for Hong Kong over the past few decades is also attributed to the upholding of the principle of free economy. I believe that it is also on this ground that our economic success in future is cultivated. Yet, it is not entirely true to say that Hong Kong is fully observing the principle of free economy because there is a certain degree of intervention from the Government at present, for example, the labour importation policy, the provision of cheap industrial sites at industrial estates or the Mandatory Provident Fund which was read the First and Second times just now, just to name a few. These can, in one way or another, be taken as interventions in the market. However, I am not those "diehards" who never get out of their ruts and who resist changes. Therefore I support this kind of flexible and limited intervention. It is acceptable so far as it is beneficial to the overall economic development of Hong Kong.

Hong Kong is gradually growing into a financial and trading centre with the service sector taking the lead. My observation is that Hong Kong should lay emphasis on tertiary industries, such as communication, shipping, finance, trading, tourism and other related service industries, in the direction of our economic development ahead. I think these are the mainstream industries and the locomotive of the territory's economy.

Take the shipping industry for an example. Judging from the two-digit economic growth in China, the container terminals in China cannot possibly handle all the freight in China on their own. In this connection, container terminals in Hong Kong will not be replaced by those in China in the foreseeable future. I think Container Terminals 9, 10, 11 and 12 will all have important roles to play. However, when I met Mr CHEN Zi-ying, Deputy Director of the State Council's Hong Kong and Macau Affairs Office, on the day before yesterday, he said the Hong Kong Government had yet to table the proposals for Container Terminals 10 and 11 to the Sino-British Joint Liaison Group for discussion. If the Hong Kong Government does not expedite the proposals, the terminals at Yantian and Shekou will snatch our business. Some people worry that Shanghai will take over Hong Kong as an international financial centre. These worries, I think, are totally groundless. Frankly speaking, in view of the rapid and enormous development in China, even if Shanghai and Hong Kong are to handle all of China's financial business exclusively, I think the future prospects of these two cities will be extremely promising. The development in the United States created several financial centres such as New York, Chicago, Los Angeles and so on; let alone China, the economy of which will certainly be bigger than that of the United States in future. The question lies in whether this financial centre of Hong Kong is capable of escalating its edge over other cities continuously and preventing itself from being replaced by other up-and-coming cities.

Mr President, the prediction that I made just now about the direction towards which Hong Kong's economy should head in the next decade or two is merely my personal inference. It cannot be considered as mature and may have certain inaccuracies. Therefore, I call on the Government to expeditiously conduct a detailed trade-by-trade economic study to formulate long-term and short-term projections of the economic development in Hong Kong and meanwhile, forecasting and evaluating the potential employment opportunities in all sectors in the community that those projections may bring, thereby to draw up an ideal blueprint for the future development of Hong Kong. I think this is vitally important.

In fact, many countries will devise strategies and set goals for their economic development in order to compete in the world market. The Chinese officials have repeatedly stated that a great majority of civil servants under the Hong Kong-British Government will transit 1997 and be confirmed as officials of the Hong Kong Special Administrative Region. Therefore, they have the duty to consider and study an ideal blueprint for economic development. They should also provide a good investment environment including the support of infrastructures, the training of human resources and so on. This is the correct approach and role of the Government.

Mr President, I would like to draw the attention of Mr CHAU Tak-hay, the Acting Financial Secretary, to the fact that what I have proposed is absolutely does not imply "planned economy", so please rest assured. If the Government should fail to do even those things, it will be difficult indeed for the Government to give the public an explanation. Why is the Government being indifferent and doing nothing? The summit meeting chaired by the Governor, Mr Chris PATTEN, which was aimed at combating unemployment, saw a rare occasion where employers and employees reached a consensus and joined force in denouncing the Government for not leading any support and assistance to the manufacturing industry in the past but remaining indifferent to its decline and relocation northwards, hence paving the road for the serious shrinkage to take place in the manufacturing sector today. Similarly, due to the shortsightedness on the part of the Government and its failure to conduct any evaluation of the economic restructuring of Hong Kong, an enormous pool of unemployed workers is resulted. It is only in recent years that the Government has roused itself to remedy the situation by providing retraining to workers. Yet, this hasty and "spoon-feeding" sort of remedial action is far from effective because it need time to produce results.

Basically, the restructuring of Hong Kong from a manufacturing to service-based economy can be considered as rather successful, but it is so only superficially. Generally, the restructuring is featured by manufacturing workers in junior positions switching to similar positions in the service sector. For instance, working as operators in paging companies, salespersons in the retail industry, delivering dishes in restaurants, working as room attendants in hotels and so on. This is not enough. We have to raise the level of training before we can cope with the second phase economic restructuring which has already emerged in Hong Kong now. If we do not do so, I am worried that the unemployment rate in Hong Kong will increase steadily in the next few years for the skills of our labour force will be lagging behind.

As far as I know, certain service industries and some leading firms have, one after another, started to relocate some of their logistic and supporting operations to mainland China, Australia and Southeast Asia. Some may find it strange that there are companies relocating their business to places as far away as Australia where wages cannot be considered as cheap. It is true that the cost of relocation of these companies is not cheap by any standard. Their relocation is not necessarily prompted by cheaper costs. Yet, they still think their relocation is worthwhile because according to these companies, Hong Kong is short of technological experts of high quality. Nowadays there are marked advances in technology. Computer network such as the Internet are widely used all over the globe. Given the lack of talents in Hong Kong, many companies have to turn to some neighbouring countries for intake of talents or even relocate their operation to Australia, Singapore or Malaysia. They do not have to hire talents to come to work in Hong Kong. All they have to do is to operate through the computer network and this will enable them to operate in a way as if they were in Hong Kong. Let us think about this. If one can move one's business to Quarry Bay, Tuen Mun or Yuen Long, why can one not move to Singapore or Canton? In fact, this kind of restructuring would deal an even more severe blow to Hong Kong when compared to the one in the past when industries with low-added value were involved.

I would suggest that a "three-tier system" be instituted by the Government in its training and retraining programme. Under this so-called "three-tier system", the first tier is targeted at workers with only a low level of skills, like those from the manufacturing industry who are now undergoing training provided by the Retraining Board. Generally, they have not received the full nine-year free education and they take up jobs in the service industry in their middle age after their displacement from the manufacturing industry. I think the Government must keep improving the training programmes to dovetail with the actual demands in society, thereby to increase the employment opportunities for workers.

The second tier is meant for the group of people who are educated and can absorb new skills and knowledge rather easily. Training can be provided to them to enable them to take up jobs which require a higher level of skills and work in higher positions. This will give them the chance to equip themselves, raise their level of competence and prepare for better jobs. This is the channel through which the general public can seek to improve the quality of living and their financial conditions.

The third tier refers to training on a higher level. At present, the Government's goal is to provide 18% of our young people of the relevant age group with the chance to go to university. On the principle of a balanced development in basic education, I hope that this percentage can increase to 20%. The number of students who have undergone professional training such as diploma holders, professional nurses, graduates of Institutes of Education and so on should be increased substantially. The third-tier training for professionals has a direct bearing on our future economic lifelines. We should also aim at training experts of advanced technology in particular.

Mr President, my good friend, former Member of the Council, the late Mr Stephen CHEONG, pointed out in 1992 in this Council when I moved a motion debate on industrial development that "there must be a certain proportion of our people who need to seek employment and they may not always be able to find suitable employment in the service sector. There is a need to maintain a manufacturing base in Hong Kong, if for nothing else, to provide job opportunities to our citizens so there will be stability and prosperity. Along those lines, the Government should start thinking of a long-term strategy of industrial development." He had already envisaged at the time that industrial restructuring would aggravate the unemployment problem.

Regrettably, it is unfortunate that Mr Stephen CHEONG can no longer hear a positive reply from the Government. I hope that the Government can reply positively to my motion today. It is never my wish that I still do not hear it from the Government even on the day that I die. I particularly hope that before he leaves his post as the Secretary for Trade and Industry, Mr CHAU Tak-hay will offer the general public a macroscopic and ideal economic forecast.

Later on, my colleagues of the Liberal Party will give their views with reference to a diversity of aspects.

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

Question on the motion proposed.

PRESIDENT: Dr HUANG Chen-ya has given notice to move an amendment to the motion. Mr James TIEN has also given notice to move an amendment to Dr HUANG Chen-ya's proposed amendment. As Members were informed by circular on 12 June, I will call upon Dr HUANG to move his amendment to the motion first. After Dr HUANG has moved his amendment, I will then call upon Mr James TIEN to move his amendment to Dr HUANG's proposed amendment. After Members have debated the main motion as well as the amendments listed in the Order Paper, Mr TIEN's amendment to Dr HUANG's amendment will be voted on first. I now call upon Dr HUANG Chen-ya to speak and to move his amendment.

DR HUANG CHEN-YA moved the following amendment to Mr Henry TANG's motion:

"To insert ", high rental" after "economic transformation"; to insert "actively take measures to alleviate the pressure of high rental," after "urges the Government to"; and to insert "as well as introduce tax concessions" before "to stimulate economic activities"."

DR HUANG CHEN-YA (in Cantonese): Mr President, I rise to move that the Honourable Henry TANG's motion be amended as set out under my name in the Order Paper.

I move to amend Mr TANG's motion because the wording of his motion failed to take into account the problem of high rental, which has resulted in difficulty in running businesses. Moreover, it is one of the most fundamental factors affecting the future development of the Hong Kong economy that we must not evade. The Honourable James TIEN, however, moved to amend my amendment.

Mr TANG's motion, as well as Mr TIEN's amendment, enables us to see a fact clearly. The Liberal Party, which is repeatedly proclaiming to protect the business sector's interests, is in fact protecting the interests of those big property developers and big property-owning enterprises. For those medium- and small- scale enterprises which have to pay high rentals and are on the verge of closing down, the Liberal Party adopts an indifferent attitude and simply ignores them. In fact, there is nothing surprising as Mr TANG's motion and the recent gestures of the Liberal Party are but "crocodile's tears". The Party encourages the importation of labour on the one hand and pretends to sympathize with the unemployed workers on the other. Now it plays the same old trick again. It defends the unreasonably high rental levels on the one hand and shows an affected sympathy toward the operators of small-scale businesses and factories, which are actually the victims of high rental. It simply makes people wonder how a political party can be as hypocritical as that.

Mr President, rental accounts for quite a large portion of the operating costs of enterprises. Business enterprises, especially medium-to small-scale ones the financial strength of which is relatively weak, are suffering hardship in face of soaring rental in recent years. During the past 10 years from 1984 to 1994, commercial rental increased by four fold whereas rental for retail shops and industrial premises by three fold. Many enterprises often complain that their hard-earned profits have all ended up in the pockets of property developers and that to run a business seems no different from working for property developers. In fact, at a time when the economy is booming, part of the rental costs can be shifted on to the consumers in order to maintain the business' marginal profit. But when the market is weak and consumers can no longer afford to buy, it will be difficult for the enterprises to shift the rental costs into them. In such a case, profit will decrease or loss may be incurred. Even worse, the enterprise may go bankrupt. To relieve the pressure exerted by soaring rental will help reduce the burden of medium-to small-sized enterprises and tide them over the difficulty. Meanwhile, the existing high inflation rate can also be curbed. In view of the fact that our economy is in stagflation, any move aimed at curbing high rentals will be, I believe, an important and effective measure.

For the recent years, rental of commercial premises in Hong Kong has reached the top levels in the world. But we should not take pride in such "reputation" because high rental will directly weaken our enterprises' competitiveness and erode Hong Kong's attractiveness to foreign investors. According to a report of an international property consultancy, the monthly rental of good quality office premises in Hong Kong has reached \$998 per square metre in the latter part of 1994, which is higher than Tokyo where the corresponding figure is \$800. It is also higher than the rental in Singapore, our main competitor, by 130%. Rental of good quality retail shops and industrial premises does not lag far behind and is very much higher than the same in Tokyo and Singapore. Besides, surveys conducted by the Industry Department on overseas enterprises having set up headquarters in Hong Kong indicated that high rental is the major difficulty they faced. Mr TANG just mentioned that some enterprises have moved overseas. According to a number of surveys, rental is one of the reasons of their removal.

The Liberal Party may argue that it is detrimental to our economy by pressing down our rental level. This argument has in fact indicated a hidden crisis within Hong Kong's economic structure, which is: too many companies are relying on real estate business. In the long run, this trend is much more detrimental than advantageous to our economy. Hence we urge the Government to pay proper attention to the problem of high rental and not, as Members of the Liberal Party have urged, protect the interests of big enterprises and the Party's own interests at the expense of Hong Kong's long-term economic development.

The Democratic Party does not call for drastic action to induce a slump in the rental or property prices of commercial premises. We, in fact, ask for proper measures by the Government to contain the rental of commercial premises within a reasonable and competitive level. Besides, policies concerning the industrial and service sectors should be formulated to ensure a diversified economy and to reduce our reliance on real estate business.

In fact, the Government should be responsible for the continuous escalating commercial rental because of its long-pursued high land price policy and its protective attitude towards the monopolistic position enjoyed by Hong Kong's major property developers. This has resulted in a situation where the unscrupulous landlords, realizing that they have strong backing, feel secure and rentals therefore become downward resistant. Shops and factories find it hard to meet that levels of rental. As a Chinese saying goes, "Let them untie the knot they themselves tied". The only effective measures to combat high rental is the abandonment of the high land price policy and high rental policy by the Government, the elimination of monopolization and increase of land supply.

Mr President, I am not going to repeat what the Democratic Party has put forth concerning the industrial and service sectors as I have discussed these proposed policies time and again. Regarding tax concessions, other Members of the Democratic Party will talk about it on my behalf.

It is better later than never. While an economic crisis has manifested itself time and again, I hope the Government will face up to the problem of high rental and accept our proposal for tax concessions. In addition, it should also formulate some long-term policies concerning the well-being of our industrial and service sectors as well as a long-term manpower policy.

With these remarks, I move the amendment motion.

Question on Dr HUANG Chen-ya's amendment proposed.

PRESIDENT: As Mr James TIEN has given notice to move an amendment to Dr HUANG Chen-ya's amendment, I now call upon Mr James TIEN to speak and to move his amendment.

MR JAMES TIEN moved the following amendment to Dr HUANG Chen-ya's amendment to Mr Henry TANG's motion:

"To delete ", high rental"; to delete "actively take measures to alleviate the pressure of high rental," and to replace "concessions" by "incentives"."

MR JAMES TIEN: Mr President, I move that Dr HUANG's amendment be amended as set out under my name in the Order Paper. I agree with Dr the Honourable HUANG Chen-ya that the economy is in trouble, however, I disagree with him about what is to be done.

Only recently, the Governor proposed several ways to ease unemployment. The measures — an intensified crackdown on illegal workers and an improved placement programme to match job vacancies with skills — do not create jobs. They may only save some jobs for our people. The Immigration Department arrested more than 1600 illegal workers in the first quarter of this year and on Monday some 130 of them were caught. All this may be remedial or even a public relations exercise. But then it is not the Administration's function to create jobs. Rather the Government's role is to encourage business which then stimulates economic growth and investment that produces the jobs. We must give the latest government initiatives a certain time to prove their worth.

Some argue simplistically that the hiring of 20000 foreign workers is depriving 90000 locals of their jobs. The fact is that foreigners are doing the menial work locals shun. The irony is that, if all these contract workers are expelled tomorrow, only some of these jobs will be passed to Hong Kong residents, while some businesses will have to close due to inefficiency and cause even more local unemployment.

Dr HUANG is today further pressing the Government to take action or to impose rent control when the property market is already adjusting downwards from new supply, high interest rates and softening demand. The treatment he is prescribing is appropriate 18 months ago, but now, if taken, may cause more harm than good. Ever since the middle of last year, when the Government acted on the prompting of this Council, the Task Force on Land Supply and Property Prices has taken measures to reduce property prices by some 30%.

Today's grade A commercial rent in Central of about \$80 to \$90 per sq ft is not more than that of our regional competitors. Surveyors are predicting, with the new supply of offices on the new airport railway sites, grade A commercial rent in Central will fall to \$50 to \$60 by 1998. Rent will then comprise of only 12% to 15% of a company's expenditure.

Some 6.8% of commercial properties were not occupied at the end of last year compared with 6.1% in 1993. Since then, the situation has worsened as anyone who strolls through the retail districts of Causeway Bay and Mongkok these days can see. Nearly 6 million sq ft of commercial space were vacant half a year ago. Many more have since been added to the list. Throughout Hong Kong, rents for offices, factories and shops are falling.

Mr President, the Hong Kong economy, the Hong Kong stock market is closely related to property prices and therefore rents. A lot of our citizens own homes and have bought properties for investment. The current weak retail and consumer market is partly due to the loss of wealth of our people due to the property prices fall since last year. Weak retail and consumer market causes businesses to close down and further create unemployment.

Mr President, Hong Kong used to have a perfect climate for business. Taxes were low, regulations few and economic growth was our guiding light. We pointed to our housing, health care, compulsory education and social safety net with pride because they were the results of our free economy working to the benefit of everyone.

But over the past few years, our Council has got into the bad habit of over-legislating. Now regulations pile on regulations which have become a crushing weight. A recent example is the sewerage levy called the "Trade Effluent Surcharge". The textile industry was devastated because dyeing plants were starting to pay two-thirds more for water. Most of these factories, already marginally profitable if not already in the red, are moving to places which cherish business and jobs the way we used to.

Now the catering industry is suffering as restaurant operators face punishing water charges. The rising overheads come at a terrible time when wages are escalating and diners are cutting back on outside meals. One large restaurant group is warning that it may have to close a couple of establishments and shed hundreds of jobs, with more to come, unless it gets respite.

Mr President, the Democratic Party are champions of painting grim scenarios. I would like to give Members some statistics and a cause for thought. In 1994, some 5780 companies shut down. But for the first four months of this year, 4260 odd companies already folded. We have to accept the reality that whether you are a worker or a boss, we are in this together and have to find a solution together. Life is not like the movies in which there are the villains and then there are the heroes, the good guys and the bad guys. Employers too are trying to make it.

I second my colleague's, the Honourable Henry TANG's, request for a long-term strategy to create quality jobs for our workers who deserve no less. From training to practical apprenticeships and to diverting some research and development funds from universities to industries for a quicker return on investment, I am for each and every one. There is no pretending that the Government can be completely aloof from the private sector. Other governments — Singapore and Japan, to cite two nearby examples — have industrial policies to aid their economic transformation. I do not advocate Hong Kong following its neighbours. I do ask that our Government keep an open mind and be a partner in economic growth.

Mr President, these summer months ahead are the campaign season. Politicians striving for the populist votes are naturally tempted to capitalize on the unemployment issue by blaming the plight of the jobless on bosses. But now and then, there are matters more important than electioneering. I ask that we, for the sake of all the Hong Kong people, take politics out of the economy and put the economy on the top of our agenda. Nothing we do in this Council is as important. If it is employment that we want, then let us bury our differences. Let us get our priorities right and it is really as simple as that.

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

Question on Mr James TIEN's amendment to Dr HUANG Chen-ya's amendment to Mr Henry TANG's motion proposed.

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

DR DAVID LI: Madam Deputy, the motion before us is ill conceived. Factually, it is an overstatement. It ignores economic fundamentals. It risks politicizing economic issues. It invites the Government to intervene where the Government should not.

Yes, it is true that more people are out of work in Hong Kong than there have been for almost a decade. It is true these are not the Financial Secretary's "statistics of success". These are people who have been deprived of their livelihood, their social status and their sense of self worth. Their suffering, their frustration, are as real as Hong Kong's economic achievements. Their plight could, and should, have been avoided. But the colonial Administration's shortsightedness victimizes these people.

No wonder they angrily ask, "點解我無工做呢?" But this motion misleads the public, creating false expectations of what this Council can do, and what the Administration should do. It suggests that the Government can deliver a society free of risk, that it can solve every problem. This is not true.

I am not defending inaction by the Administration. I have long disagreed with the expediencies of the Administration. The economic policy straitjacket imposed by the linked exchange rate system is driving Hong Kong's inflation rate higher and higher. Yet the Administration is happy to fiddle its surplus, while the social contract implicit in our free-market economy bums. People who work hard are being laid off, rudely woken from the Hong Kong dream.

What is being done? Too little. Too late. The Administration stood by for 10 years as economic restructuring shifted more and more people, once ranked among the world's most skilled manufacturing workers, into low paying service-sector jobs. Because attempts at retraining and educating have been woefully inadequate, the Administration has failed to ease the crucial supply constraint — that of skilled labour for the growth industries of today and tomorrow.

We import the workers we need while our own unemployed languish. What does imported labour do? It obscures our shortcomings. If we had effectively policed our labour importation scheme in the past, we would know where to concentrate our efforts at training and retraining. The Administration's inability to formulate and execute a comprehensive education policy has dire implications for the well-being of our people, and for the capacity of our economy to expand.

For years, the educational standards have fallen at the hands of financial expediency. Already, deficiencies in spoken and written English threaten our viability as an international business centre. Why is English not widely taught as a valuable vocational skill? Why are our young people not gaining the expertise that they need or that Hong Kong needs? Can our economy continue to evolve? If it does, will some young people, disenfranchised by their education, face the same fate as their parents?

This motion suggests that the Administration has failed. Why then does it ask the same people to micro-manage economic strategies for the future? That is absurd — almost as absurd as calls for rent controls and tax concessions. What is next? Subsidies? Once the Government starts tinkering with market mechanisms, the inefficiencies build. In a small economy like Hong Kong, that can be devastating, as our experience with the peg has shown.

That is not to say that we should squander our human capital by neglecting those who have lost their jobs. The Government should offer the unemployed effective assistance, providing targeted training. We should build core competencies. We should fortify the skills of our workforce. If we did, we could further enrich our economy, and our workers.

The Administration should rededicate itself to enhancing Hong Kong's economic competitiveness. That is what it did so effectively in the past. That is what will create jobs, and that is where the Government must be aggressive, in policy and in promotion. The Administration should begin by attacking the inflation that is pricing Hong Kong out of its markets, costing people their jobs and sapping confidence in the future.

First, it should stop its expenditure-driven approach to budgeting. If the Financial Secretary's forecasts prove correct, we will suffer an inflationary deficit in 1996.

Second, the Administration should worry less about grandiose projects and more about our fragile human infrastructure. We need to do more than retrain the workers of the past. We need to ready the workers of the future. Value-added service means adding value.

Third, the Administration should speed targeted infrastructure development in the new towns, reducing such cost pressures as high rentals in prime areas. The Kowloon-Canton Railway Corporation, Mass Transit Railway Corporation, waterworks and Post Office could all be privatized, transferring public investment to this new development.

Fourth, the Administration should reaffirm its commitment to non-interventionist government. It is the responsibility of the Government to make workers, not to make work.

Madam Deputy, despite my serious reservations about the policies of this Administration, I cannot support this motion.

MR MARVIN CHEUNG (in Cantonese): Madam Deputy, the direction of Hong Kong's economic development is crystal clear. It is the general trend that China will gradually open up and the economic transformation of Hong Kong will continue. Our long-term development shall be targetted at serving as a financial and trading services centre in support of the Mainland market. In other words, how many job opportunities are available and in what industries is determined by the law of economics. It is not that job opportunities can be created as soon as the Government does something to stimulate the market.

The problem with the original motion and the two amendments is that they have wrongly mixed up the economic transformation which Hong Kong has undergone in the past 15 years with the recent cyclical economic adjustments. The call for the Government to create job opportunities has also committed the error of subscribing to the theory that "the Government is omnipotent". However, I am not saying that the Government should sit with its arms folded in face of the economic problems.

The Government can and should do three things. The first thing is in respect of education. As a result of the economic transformation, Hong Kong requires more competent persons who are capable of adapting to the operation of a financial and commercial centre. The Government should therefore ensure that local universities provide sufficient and appropriate courses to meet the demand and that the basic education provided by primary and secondary schools is improved, with a view to raising the Chinese and English standards of our students. The Government should also ensure that our curriculum can sufficiently enhance a balanced understanding among our young people of what is happening in China and elsewhere in the world.

Secondly, the Government should unpeg the retraining programme from the Importation of Labour Scheme and the expenditure incurred in the retraining programme should be paid out of our General Revenue. In the meantime, the Government may continue to levy charges on those employers who employ imported labour. Since the increase in unemployment rate and the importation of labour are two separate things, there is no reason that the expenditure incurred in training our workers should continue to be pegged to the Importation of Labour Scheme.

Thirdly, training and counselling services for the unemployed should be strengthened. There is now a situation whereby "people cannot find jobs while job vacancies cannot be filled". On some occasions, it is not that the unemployed workers cannot acquire the new vocational skills but rather that they cannot attune themselves to the new work environment. For example, those workers who have been working with some medium-or small-sized garment factories may find it difficult to get accustomed to the system used in large factories, such as the system that requires workers to punch cards to register their work attendances. The workers may feel that the system is unnecessarily restrictive. Those who have long been working in the manufacturing industry may also feel that it is difficult to adapt themselves to the service sector which requires the employees to be more subservient.

To effectively assist the workers to change jobs, we need more than teaching a female garment worker how to type. As far as I understand, those staff working in the Labour Department who are responsible for providing training to workers and assisting workers in securing jobs have attended only very brief training courses on counselling themselves. I propose that the Government should step up training in this respect and co-operation with the Social Welfare Department and other voluntary agencies is a viable means. The Government should maintain close contact and facilitate co-operation with trade unions because trade unions are in a better position to understand what the workers need.

Madam Deputy, government policies should of course be dedicated to promoting economic development and improving people's livelihood. However, experience in many countries has demonstrated that we cannot rely on the Government to stimulate the economy, nor can we expect the Government to create job opportunities. By the same token, when the Finance Committee of this Council scrutinizes an application for fund for a government project, it will not take into account the number of short-term or long-term job opportunities that the project can bring when deciding whether or not approval should be granted. But this is exactly the tone underlying the original motion and the two amendments.

In view of this, I cannot support the three motions. The Honourable Vincent CHENG has asked me to say that he entirely agrees with my argument. We therefore will oppose the original motion and the two amendments.

MR JIMMY MCGREGOR: Madam Deputy, I cannot for the life of me understand the motivation giving rise to Mr Henry TANG's motion. The wording of his motion makes an assumption that the closure of business in recent years, coupled with what he terms as a slow-down of the economy, has created a potentially serious situation and that the observed trend will take us further into economic and social disorder.

He urges the Government to formulate a short and long-term strategy to combat and correct this allegedly worrying trend. The Government is asked to actively intervene and therefore to change significantly its traditional and highly successful economic policy in order to create jobs; in other words, to use public funds to take new initiatives in public spending essentially to create work for the jobless and improve labour relations.

Had this motion emanated from the Democratic Party, I would have understood it better. At least, I would have understood its motivation and its purpose although I would have strongly disagreed with its proposals. But this motion has been put forward by an experienced businessman, who is also a valued member of a business-oriented political party and who has also enjoyed high positions in business organizations for many years. I am really astonished that he should be proposing a major change in government economic and social policy, indeed a significant change in government economic philosophy.

If Hong Kong and the Hong Kong economy were in a desperate situation with a weakened economy, a high level of unemployment and a serious public debt burden, I would understand businessmen beginning to panic and pushing the panic buttons. But our present economic situation is, in fact, the envy of the world. Our economy is strong and vibrant and expanding at an average which most countries aim at but never achieve. Our fiscal reserves are huge by any standard and our budgeted income and expenditure invariably results in a sizeable surplus year after year. We have, by international criteria, full employment and this encompasses the employment of several hundred thousand people who have foreign passports including, incidentally, many in this Chamber. Over 100000 maids from the Philippines, Sri Lanka, Thailand and other Asian countries provide an essential support system within our job market which we cannot provide from our own manpower resources.

Our economy is, in fact, so successful that the greatest problem we have is to stop those who want to join our workforce from doing so. Tens of thousands of illegal workers are caught and evicted from Hong Kong every year. Try telling them that our economy is in deep trouble. Try comparing the Hong Kong economy with those of our Asian competitors, some of whom really do suffer from stagnation and serious unemployment. It is, in my view, laughable to infer or suggest that our economy is headed in the same direction. It is folly to suggest that the Government should adopt the Keynesian principle of spending its way out of an alleged but unobserved downward recessionary trend.

The Government must do no such thing. If ever there was a time to adhere to the tried and proven economic philosophy of non intervention, it is now. The Government can study what it likes and it can come to conclusions on the causes of the minor problems which our economy faces at the moment and incidentally which will recur with every economic cycle. If it makes people happy and even some of our Councillors happy, then let the Government spend public funds on a comprehensive study which would be needed if Mr Henry TANG's proposals were to be adopted. But such a study would only duplicate several other major economic and social studies carried out during the last seven or eight years which broadly came to the same conclusions.

One that I recollect was done in about 1988 or 1989 by the Stanford Research Institute and published in Hong Kong. Another later study was done by Booze Allen and Hamilton. Both were comprehensive and were commissioned by the largest trade and industrial organizations in Hong Kong including several represented in this Chamber. Both major studies concluded that, whilst promotion, supervision, and efficiency should be improved in various ways, our basic economic system, philosophy and policies were sound.

Whatever difficulty we now face, and that is by no means statistically clear, it is minor compared to the very large problems we have faced and overcome in our long march to stability and prosperity. We have defeated these challenges by tackling them with an economic philosophy which provides the private citizen, the businessman, the industrialist, the investor and the worker with probably the greatest freedom in any economy in the world today to use initiative, skill, and determination to make the fullest use of opportunity. Surely the lesson for all of us in witnessing the economic problems in those countries which do not understand the meaning of free enterprise and a market economy is that we should aim for less government not more government.

I believe I detect a thin tinge of politics in Mr Henry TANG's motion and I expect many Councillors will support it, and its amendments, to show deep concern for the unemployed, in an election year. I wish some of the Councillors had been as much concerned with our aged citizens when we were considering the old age pension. Many of those shaken out of employment as a result of economic transformation will be aged because they are the first ones to lose their jobs. They will not now have a pension, thanks, in my view, to this Council.

The Council should not compound their plight by seeking a Keynesian solution to a normal economic cyclical movement. Mr Henry TANG's motion, if adopted, will endanger the system which has given us economic growth and stability and a steady improvement in social justice.

It is not change we should seek but confidence in our system and in ourselves. Remember the old adage, "Don't fix it if it ain't broke."

I will vote against the motion and the amendments, neither of which has any merit.

MR LAU WAH-SUM (in Cantonese): Madam Deputy, I did not intend to speak, but now I must rise to speak in opposition to Dr the Honourable HUANG Chen-ya's amendment.

When Dr HUANG spoke to elaborate on the two points in his amendment, he claimed that the Liberal Party defended the interests of the real estate developers while ignoring the interests of small businessmen. His attitude is somewhat like a shrew shouting abuse in the street. What he did mean to say is to ask the Government to adopt positive measures so that the pressure of high rental could be relieved. No one wants to see rents standing at a high level, but the level of rent is closely linked with property prices. What is in his mind is to urge the Government to implement rent control. However, we all know too well that rent control has brought serious consequences not only to Hong Kong, but also, to other countries. Whenever rent control is mentioned, no one would bother to come and invest. As to the second point, he also mentioned the need to grant tax concessions. Of course, if we have a lot of money in the coffers, we can grant concessions to some people but where does the money come from? This will surely increase the rate of tax payable by some other people. These two points contained in his amendment give no constructive suggestions for the Government's reference.

I would like to make a suggestion for the consideration of the Government. I hold that rent and rates are of similar weight in the eyes of businessmen because both are expenditure items. Members may recall that when rates were revaluated the year before, the level of rent was quite high and the Financial Secretary set the ceiling at 10% to cap the increase of rates because the full amount of rates payable after the revaluation exercise might be too high. In the second year, that is this year, the ceiling is removed and for many premises, the rental value after revaluation nearly doubles. In view of this, the pressure starts to yield effects when the ceiling is removed in the second year. If the Government really wants to lend a helping hand to the business sector, the most direct method is to cap the increase of rates also for the second year, say at 10%. This is what the Government can do. Since another revaluation exercise is to be conducted next year and we all know that the level of rent will slowly drop in the next year, the revaluated value may be even lower than that in the past two years. If the cap of 10% is set this year, the level of rates should be able to reach the value after the upcoming revaluation. This can render direct assistance to the commercial and industrial sector.

I support the Honourable Henry TANG's suggestion that the Government must formulate an economic policy. I believe the last policy review was made couples of years ago. It is obvious that every trade and profession is declining since the beginning of this year. We should not wait and conduct a review when each and every trade collapses one after the other. I hope that the Government can take the practical step of formulating a policy. While long-term policy cannot be changed, a short-term policy may be drawn up to save the commercial and industrial sector so that unemployment can be contained because the existing unemployment rate is obviously higher than that in the past many years.

Madam Deputy, I hope that the debate today will not be too politicized because politicization will only reduce a debate into a tongue-lashing show where we are only pointing accusing fingers at one another. I do not want to do that. I hope that the Government can take a serious look at the possibility of revising its economic policy and take into consideration my proposal so that the pressure from rates can be reduced.

MR NGAI SHIU-KIT (in Cantonese): Madam Deputy, the slow-down in the economy has given rise to many operating difficulties as experienced by the industrial and commercial sector and the rise in unemployment. This is not a welcomed scene and yet it is a reality that we all have to face. To enable Hong Kong to pull through this difficult time unharmed, it takes the combined efforts of the workers, the employers and the Government. Only with their whole-hearted co-operation can they tide over this crisis.

As a Member representing the industrial sector, I am of course concerned about the employment of local workers, but I also share the feelings of the local factory owners who have experienced great difficulties in recent years. Having been faced for years with pressures such as high land prices and increase in wages, the industrial sector other than moving gradually all or part of their production process into China to maintain their competitive edge, also seek development in high technology in order to actively expand their survival space.

In the process of such industrial upgrading, there has been an obvious change in job types in factories as compared with before. Because people of the younger generation are better educated, most of them are unwilling to go into the manufacturing industry. Hence the industrial sector has the labour shortage problem.

Some policies that the Government launched in recent years have further increase the burden of the industrial and commercial sector. These policies include the levying of sewage charges which started in April this year. As the industrial and commercial sector has to pay a surcharge, to industries such as the bleaching and dyeing industry which consume large quantities of water, this is yet another burden added to their already high operation costs. Those in the catering service even criticize the trade effluent surcharge rate set by the Government as unfair. When there is an obvious drop of consumption power in the community, the various service industries have to face even greater operating difficulties.

As regards the mandatory privately-run provident fund scheme just passe by the Executive Council, its immediate effect on small businesses which make up the majority of the industrial and commercial sector is a rise in the wage cost. On the other hand, labour groups also oppose allowing the employers to off-set the long-service gratuity with the provident fund payments. In other words, the employers have to bear duplicated costs of the provident fund payments and the long-service payments, this is a further pressure on their operation.

Recently, there have appeared some phenomena which are worth noting — some Members attempt to drastically change the long-time practice of gradually improving labour benefits along with economic growth. These Members want to use radical means to achieve these goals. They ignore the executive-led principle, using labour benefits as their means to win political votes. Before fully consulting both the workers and employers to reach a consensus, some Members use motions or private members' bills to propose improving the benefits such as the long-service gratuity and fully-paid maternity leave for the women. All these have made it impossible for employers to accurately forecast their wage cost. With the many uncertainties the employers are already facing, they have added difficulties in their operation.

Another big blow to Hong Kong's economy is inflation. Hong Kong has been suffering from inflation for many years and the negative consequences are gradually surfacing. The Government has to assume the full responsibility of resolving this problem. In the Budget debate this year, I already predicted in my speech that the Government's forecast regarding the inflation was far too optimistic and it turns out to be so. Not long ago, the Government adjusted the annual inflation rate from the original 8.5% to 9%; this shows that the Government has failed to curb inflation effectively. While the economy is experiencing a contraction, people's living quality is affected by their lowered income. As a result, social conflict is intensified.

Madam Deputy, in the face of the present economic difficulties, I totally agree with the Honourable Henry TANG who, in his motion, says that the Government must act immediately to conduct a comprehensive study on Hong Kong's economic situation so as to formulate short-and long-term strategies to stimulate the economic growth. As the manufacturing industry is an important section of the economy, the Government should take even more active measures to help the industry to further upgrade its technologies. The proposed "Applied Research Centre project" which involves the co-operation between China and Hong Kong should be launched as soon as possible. The Government should at the same time address the difficulties faced by the various industries and sectors and provide various technological aids. More importantly, Hong Kong must maintain harmonious labour relations so as to attract international investors. Only then can more employment opportunities be created. If there are too

many politicized turmoils in society, it will only scare the investors off and create an obstacle to economic development. This will be too great a price to pay.

Madam Deputy, Hong Kong experienced many ups and downs in its economy in the past and every time it came out safe and unscathed. According to the Government's latest statistics, it is forecast that the growth of the GDP is still maintained at the 5.5% level. Also, because of the strong exports, the growth in the export of local products is forecast at 5%, up from the 2% as forecast at the beginning of the year. I firmly believe that the present economic slowdown is only temporary. With the joint effort of the Government, the workers and employers, that is, we need unity and not confrontation, co-operation and not polarization, Hong Kong's economy can then be led to yet another new height.

Madam Deputy, with these remarks, I support the motion. If the motion is not carried, then I will support the Honourable James TIEN's amendment.

MRS PEGGY LAM (in Cantonese): Madam Deputy, since the beginning of 1995, there has been a general state of recession in all trades. Such phenomenon rarely occurred over the past few years. Industrial and commercial enterprises have now found it difficult to operate their business and the unemployment situation of workers has currently become the focus of discussions in our society. Recently, there had already been three motion debates in this Council concerning the problem of employment.

The general public is certainly the first to be affected in the current economic recession. Many employees would lose their means of livelihood if they should lose their jobs. It is therefore not surprising to hear cries of discontent from among the working class. However, can the problem of unemployment be solved while employers and employees are adopting a hostile attitude of criticizing and attacking each other? I hope that today's debate can put an end to the recently growing tension in the relations between the employers and the employees. We should adopt a positive attitude and put forward proposals to improve the general economic situation of Hong Kong.

The wording of the motion moved by the Honourable Henry TANG is nevertheless disappointing. Urging the Government to formulate economic strategies to stimulate economic activities is no doubt a step which should be taken without delay. However, if the motion merely seeks to solve the unemployment problem and to improve the relations between the employers and the employees but does not proceed from the general economic situation of Hong Kong, then the motion is certainly flawed with the defects of "political short-sightedness" and "opportunism".

In fact, during the recent discussions on the unemployment problem among the community, many people have failed to see the wood for the trees. The media and even some Members have indiscriminately blamed the importation of labour for causing the problem. I think the real question is whether the job opportunities of local workers could be increased if the policy of the importation of labour was abolished altogether. If the answer is positive, I will take the lead to give full support to the abolition of the importation of labour. However, the real situation could not be anything as simple as that. Once the policy of the importation of labour is abolished, we cannot rule out the possibility that some trades will be forced to go out of business because of various operational difficulties. That would only be a further blow to the economy of Hong Kong.

Although the Governor has recently assumed a high profile and wanted to solve the problem of employment, I am not optimistic at all. The dilemma is caused by the negative and passive attitude that the Government has all along adopted towards promoting the healthy economic development of Hong Kong and by its indifferent attitude towards improving the employment conditions of local workers. In fact, the current problems of economic downturn and the rise in the rate of unemployment are the results of the faulty economic and labour policies that the Government has adopted over the last decade.

At present, the economy of Hong Kong is basically dominated by the service industry, whilst the manufacturing industry has kept on shrinking. Although Hong Kong's economic transformation is going in the right direction, the business performance of the service industry is rather unstable and it can be easily affected by the economic situation in foreign countries. Considering the plunge of the Hong Kong stock market last year as a result of the retreat of foreign capital and the significant adjustment of the property market, which dealt a definite blow to the overall economy of Hong Kong, one can see the vulnerability of the economic structure of Hong Kong. Had these unfavourable influences not been overpowered by the favourable factor of the rapid economic development in China, so that it has been possible for Hong Kong to maintain its facade of prosperity for some time, I believe the problem of unemployment would have arisen even earlier.

Madam Deputy, if we are not forgetful, we should be able to remember that the Legislative Council had actually urged the Government many times to take positive measures to upgrade our industrial technology in order to further consolidate the economic basis of Hong Kong. However, the result is disappointing. The Government has adopted a passive and negative attitude towards supporting the industries and there has been little change in this attitude over the years. Our economy has thus been left to develop in an unhealthy and ill-balanced direction.

As regards the policy of the importation of labour, controlled importation of labour should be one of the effective ways to adjust demand and supply in the labour market. However, the Government has used the importation of labour as a major step to check inflation and to maintain the competitiveness of the economy of Hong Kong. I really cannot agree with such an approach. With our inflation rate persistently standing close to two digits, can imported labour really help to check the inflation rate? The answer is obvious. In my view, it is because of the Government's blind faith in the policy that imported labour can help to check inflation that it has turned a deaf ear to the complaints against loopholes in the policy of the importation of labour, turned a blind eye to the increasingly serious problem of illegal workers and adopted an indifferent attitude towards the cries of those ordinary people who are unemployed.

The Government is anxiously seeking counter-measures only after the unemployment rate has risen to its current 3% level. This price of "mending the fold after some of the sheep have been lost" is indeed too dear for the grassroots.

When the Financial Secretary, Sir Hamish MacLEOD, delivered his last budget speech in March, he put forward the slogan "prosperity through consensus". In only three months' time, however, the angry cries of employees and the helpless sighs of employers have shattered the subjective desire of the Financial Secretary. The Government should be awakened to the reality and immediately map out a direction for the future development of Hong Kong. The system of low taxation should be maintained and low inflation policies should be implemented. The purpose is not just to help the workers or the employers, but for the benefits of all the people of Hong Kong.

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

MR MARTIN BARROW: Madam Deputy, during the Budget debate in March this year, I quoted from Laozi's *Dao De Jing*, and I do so again today. "When the government is too intrusive, people lose their spirit; act for the people's benefit, trust them. Leave them alone!"

All of us in the community share the concern that certain sectors — and I must emphasize and we must all remember it is only certain sectors which are slowing down, and our trade for example continues to be strong — have suffered and of course thus affected and caused a small increase in unemployment. But we must not over-react. And this motion and the amendments encourage an interventionist government which I oppose.

The free play of market forces in a capitalist society and the economic prosperity which they generate is a far more efficient and effective way of improving the living standards of all people than intervention by government in economic activity in an attempt to divert those market forces towards particular social or political goals. The remarkable partnership between the people of Hong Kong and its entrepreneurs has made Hong Kong one of the most prosperous territories in the world. The Government's job is to provide the playing field and act as referee; no more and no less. Providing the playing field means creating the infrastructure and making rules which are clear, fair and entail the minimum interference with the game. Acting as a referee means ensuring that Hong Kong is a caring society with appropriate standards of industrial safety, consumer protection, health, education and so on. What it does not mean is that we build a so-called great society or try to artificially redistribute wealth. The former leads the big government to bureaucracy and a growing national debt, the latter stifles enterprise and increase poverty rather than abating it.

Madam Deputy, there is however one specific action that we should take to stimulate our economy, and that is to have smaller government, not larger government, as Mr McGREGOR had just said. During the March Budget debate, I recommended that the Government should set up a deregulation unit which would review all areas of government activity, with a view to simplifying life for both the consumer and the business community. This in mm will help stimulate the economy, and thus employment, as well as the development of Hong Kong as an international commercial centre. The alternative of carrying along the current path of over-regulation will discourage investment, and lead to other centres in the region taking over Hong Kong's leading position in East Asia.

With these words, Madam Deputy, I oppose the motion and the amendments.

MRS SELINA CHOW (in Cantonese): Madam Deputy, although some Honourable Members have just indicated their support for the Government's so-called "positive non-intervention policy", I believe the policy is already outdated as Hong Kong is now an economically strong community which cares for various aspects of its people's livelihood, and shows solicitude for their hardships. Today, we need to examine as far as possible how society has changed from a free market economy perspective. Whilst the Government should help the needy, it should also observe the principle of a free market economy.

Many people are concerned about the problem of rising unemployment rate because it has already cast a shadow over them. I believe it is difficult to say for sure who is right and who is wrong on this issue. However, if people continue to feel insecure, panic will ensue. Given that unemployment is now an existing problem, it is futile to find a solution if the crux of the issue is not fully grasped. Grumbling is of no help as well. In order to prevent the unemployment problem from becoming a territory-wide confidence crisis, I think the Government should expeditiously carry out a survey on and analyze the data regarding the current unemployed population, its distribution, the names of the unemployed, their age and working experience and so on, and compare these data to those of trades suffering from labour shortage, so that the problem can be studied in depth from these two aspects and an effective solution be formulated. I believe nobody will deny that for some service industries, such as retail and catering, job vacancies are still abundant. Apart from the salary factor, people are reluctant to accept these jobs because they are not psychologically prepared to take up a job of an entirely different working schedule. For both retail and catering industries, the peak hours are from 7 pm to 10 pm, and the busiest days are weekends and holidays. How would employees not feel disgruntled when they have to work while other people are enjoying themselves? But having a hard job is better than being unemployed, and every trade has its merits. As the saying goes, "Respect your work and you will enjoy it". One can derive enjoyment from achieving good results.

Madam Deputy, at the recent Summit on Employment, the Governor emphasized the need to step up retraining. We cannot agree more. As a matter of fact, I approached the Employees Retraining Board (ERB) on many occasions to put forward various recommendations on retraining courses. However, they responded by requesting us to identify for them institutions that provide retraining courses. Having been given the full power by the Governor, the ERB talked about strengthening the work of retraining at meetings, yet it would only take up the work after other people have arranged all the details for them. It really puzzles me how the ERB views its role.

In order to ensure that the Employees Retraining Scheme would be more effectively implemented and gain the support of employers and employees alike, I would like to make three concrete recommendations. With regard to employers, I suggest that a special tax allowance, that is a certain multiple of the retrainees' wages, be granted to those who employ retrainees as part of the company's expenses. By so doing, employers are encouraged to employ workers who change their jobs after retraining. This may be a temporary measure rather than a permanent one, but will undeniably alleviate the unemployment problem to some extent.

Secondly, in a bid to attract more employers to join the On-the-Job Training (OJT) Scheme, ERB should, apart from maintaining the current policy of granting subsidies to on-the-job trainees over 40, also give further consideration to granting wage subsidies to employers hiring retrainees aged between 30 and 39, amounting to one fifth of the retrainees' wages for a period of three months.

As for retrainees, I recommend the introduction of a cash bonus scheme. Under this scheme, any on-the-job retrainee or retrainee who has continuously worked for his first employer in a different trade for six months is entitled to a cash bonus equivalent to his one month's wages. As retrainees may not be able to adapt to their new jobs initially and are likely to think of resignation, the cash bonus scheme may motivate them to adjust to the new working environment. Having settled down and familiarized themselves with the colleagues, they will no longer think of resigning.

It is my hope that these three recommendations will practically enhance the effectiveness of both the Retraining Scheme and the job referral exercise. Meanwhile, the authorities concerned can review these measures from time to time to examine their effectiveness and the prospect of continuing them.

There is probably only one solution that can solve the problem thoroughly and effectively, and that is to reinvigorate the economy. It is only when more people are willing to invest in setting up factories and shops that more jobs can be created, hence more job opportunities be made available to job seekers. But who is going to be responsible for this? If we believe in a free market economy, then the Government should not be made responsible, and it is incapable of accomplishing the task as well.

Dr the Honourable HUANG Chen-ya has, in his amendment, urged the Government to take measures to maintain rental at a reasonable level. Has the Government the capabilities to do so? What method is to be adopted? Will rent control be imposed? Can a so-called "reasonable" rent level be stipulated? In my view, these measures are completely at odds with the principle of a free market economy, and so we are absolutely against them. Undeniably, many business operators will mention the question of rental. It is my hope that landlords will be more farsighted and will not kill the goose that lays golden eggs, thus undermining the overall economy.

I fully support the various departments' efforts to crack down on illegal workers. However, I hope they would submit reports to this Council so that we can monitor their progress and effectiveness in this area.

Madam Deputy, with these remarks, I support the amendment moved by the Honourable James TIEN.

MR MAN SAI-CHEONG (in Cantonese): Madam Deputy, the Democratic Party has five constructive suggestions concerning tax concessions:

- (1) Implement progressive rates, a lower tax for the medium-sized and small business to encourage development and a higher one for big corporations.
- (2) Introduce a new tax concession for research and development to encourage and help enterprises to spend more on scientific research.
- (3) Raise the tax allowance for depreciation to encourage enterprises to invest more in machinery.
- (4) Introduce a tax concession for staff training to encourage enterprises to provide on-the-job training for their staff and employ those who have been retrained.
- (5) Introduce a tax concession for hiring old people to encourage enterprises to hire older workers who have to switch jobs.

It is obvious that the tax concessions proposed by the Democratic Party are directional. Firstly, they are to assist the medium-sized and small businesses in their development; secondly, they are to create more employment opportunities for workers. That is different from just the cut in the profits tax as emphasized by the Members from the industrial and commercial sector. In fact, Hong Kong's current profits tax is not only lower than that of the developed countries, it is also lower than that of the developing countries in the region. A further cut in the profits tax will only encourage the factory owners to reap short-term profits but will not encourage enterprises to reinvest and redevelop. That will not benefit the long-term development of Hong Kong's economy.

As regards the sky-high rental, the rents of offices, shops and industrial buildings keep rising substantially year after year and now they are at a level so high that many local and foreign business find it very difficult to afford. Recently, many department stores, retail shops and factories have gone out of business because they cannot afford the sky-high rental costs. We are worried that if the Government continues to ignore this dangerous phenomenon, more and more companies will be put out of business. At the same time, enterprises will also continue to move to other places with lower rents.

In districts such as Causeway Bay, Central and Tsim Sha Tsui where the retail business concentrates, the vacancy rate of shopping centres and large shopping malls is very high. I wonder if this situation will awaken those greedy landlords amid the tenants' grievances against the sky-high rents. Recently, in the analyses and reports in newspapers, we can often find what the members of an association of the retail business mostly talk about is that in the past decade, landlords have chosen to ignore the hardship of the small business owners as a

result of rent increases. They say that these landlords just raised the rents as many times as they liked irrespective of the small business owner's difficulties. All these are seriously threatening the development of Hong Kong's economy. If we mention nothing about the sky-high rents but prattle about formulating long-and short-term economic policies, it will only be "gestures with no substance". Madam Deputy, the Democratic Party thinks that it will only be meaningful to talk about Hong Kong's long-and short-term economic policies when we can look squarely at this problem.

Now I want to talk about the policies regarding the industries and the service industry. The Democratic Party has always demanded the Government to formulate policies as regards the industries, the service industry and manpower but the Government still holds on to the approach of "dealing with whatever comes up first". As for the industries, the Government has not set down any long-term development direction and this in turn results in our industries becoming an empty shell today.

As regards the service industry, the United Democrats of Hong Kong already requested the Government to formulate a policy on the service industry at the end of 1992, but not until 1994 did the Government set up an inter-departmental sub-group to monitor the studies about the service industry. The report on the service industry was finally published recently but the result has been very disappointing. The Government's support for the entire industry is only limited to motivation and promotion but nothing has been mentioned about assisting the industry in raising its productivity or expansion of the overseas market. Neither has the Government the intention to set up a department or an effective mechanism to promote the development of Hong Kong's service industry. The films industry and design industry are the two most obvious examples. The films industry has called upon the Government to set up a Film Commission for years but the Government has given no heed to such requests. The design industry has contributed to the growth of Hong Kong's economy but we cannot even find the term "design" throughout the report.

Crises have repeatedly arisen in Hong Kong's economy. The myth of the non-intervention policy has been completely shattered. The Government should face up to the reality and formulate a set of long-term economic strategies with definite directions as soon as possible.

With these remarks, I support the motion.

MR TAM YIU-CHUNG (in Cantonese): Madam Deputy, one of the most important indicators of Hong Kong's economic achievements is whether everyone has a job and whether workers can share the prosperity pie. The reality is that during the past decade or so, our workers have been victimized or otherwise hard hit by the economic transformation in Hong Kong.

Why do I say so? Many of our workers, in particular those in the manufacturing industry, have to face enormous difficulty of having to switch jobs and in the process of switching jobs, they encounter adjustment problems. On the other hand, because the skills that they possess are no longer in demand in the market, their income level is lowered and with reduced job opportunities, they have fewer choices. When the manufacturing industry of Hong Kong was still a boom industry, local workers could work in factories. When the number of orders received by factories dropped, they could join the service sector or work in restaurants. However, with economic transformation underway and the factories moving north across the border, the number of jobs available in the manufacturing industry keeps dropping, from almost one million to 300000 or 400000. I believe that the figure will keep going down and relatively speaking, employment choices opened to workers will greatly diminish. In the process of economic restructuring, the Government is still so short-sighted as to say that we have a temporary labour shortage and the labour importation policy has to be expanded. That results in the situation today - the unemployment rate reaches its nine-year high and many workers are under the threat of unemployment.

In the past week, I went on to the street to undertake an unemployment registration exercise. Among those many unemployed workers who I came across, some of them were not really old, some in their thirties, while others in their forties or fifties. They told me that despite their skills, they had difficulty in getting jobs. Some of them had driving licences or had some skills or other. They unanimously told me that it was hard to get a job. One of the main reasons is that the location of the work places are far from where they live and they therefore have to spend quite a lot of money, and time, on transportation. However, the biggest problem is the low wages. After paying the expenses for transportation and meals, not much is left. That really puts the workers in the dilemma of whether or not they should take up the jobs. Although the Government claims that jobs are there but no one comes to fill them and even claims that there are 60000 vacancies, detailed study reveals that many of those 60000 vacancies, from a worker's point of view, are the "bad odd jobs". These "bad odd jobs" carry long working hours and low wages, and are therefore extremely difficult to attract potential workers.

Madam Deputy, I hold that it is high time for the Government to conduct a serious review. Last week when I attended the Summit Meeting, I already told the Government that it should draw up longer-term plans for the future economic development of Hong Kong. We support the initiatives of assisting the growth of industries. We work towards this objective and we ask the Government to work in the same direction. It is far from sufficient to only focus on the development of the tertiary industry. It will also bring no benefit to the workers because they are left with even fewer employment choices.

When it comes to assisting industries, the Government always says that it subscribes to the policy of positive non-interventionism. However, is it true that the Government really does not intervene? I do not think that it is quite the case. Many a time, the Government does intervene and it is merely a matter of when the Government so chooses. One example of such government intervention is the supply and demand in the labour market.

In addition, there are many industries to which the Government may offer assistance. Take the waste recycling industry for example, there is still a lot the Government can do. Recently, some small factories revealed to us that whilst they are undertaking waste recycling work, the Government does not offer assistance in a pro-active manner, neither is land provided nor is land use for this purpose approved. In fact, these are what the Government can really help. I feel that as long as that can increase jobs or as far as that is beneficial to the economy of Hong Kong as a whole, the Government should take the initiative to offer assistance with a view to promoting the development of these industries.

Madam Deputy, as representatives of the labour sector, we fully understand that the employers may not or will not share the fruits of a booming economy, with their workers, but when the economy takes a downturn, the employers require the workers to share the burden. I therefore hold that the Government should be responsible for the provision of more protection for workers. It is the responsibility of the Government to guarantee employment.

MR FREDERICK FUNG (in Cantonese): Madam Deputy, prosperity and the creation of job opportunities are something everyone welcomes because basically, everyone can share the fruits of economic development. On such a premise, I support the motion. However, if one thinks that the problem of employment of local workers can be so solved, one would be oversimplifying matter and looking at things too superficially.

When the local economy booms, both employers and employees are benefited and "there is money for everyone to earn", so to speak. Although the larger portion of the fruits of economic development would go into the pockets of the employers, most employees will not complain if their employers do not make excessive deductions from their entitled share. Despite such a subtle but real unfairness, the employers and employees of Hong Kong have been "living in harmony" for some decades. Hence, while the motion under debate urges the Government to formulate economic strategies to stimulate the economic activities of Hong Kong for the benefit of everyone, with this kind of "harmonious" labour relations, the employers will remain the ultimate beneficiaries who continue to enjoy the larger portion of the fruits of economic development.

However, when the economic development is unsatisfactory, the ones to be first affected will be the workers at the grassroots level. Their "rice-bowls" can be broken at any time, so to speak, and there is nothing to protect their livelihood. Workers have toiled and sweated for the economic development of Hong Kong, but what they get in return are wages disproportionate to what they have given, "rice-bowls" which are highly fragile, and the so-called protection under the labour laws. With our real growth rate standing at 5.5% per annum, not only have workers not received a reasonable rise in their wages, they also have to face the risk of dismissal any time. According to an international survey last year, the work place pressure on workers of Hong Kong ranks highest in the whole world. That shows how difficult it is to be a worker in Hong Kong.

Besides the pressure at work, workers of Hong Kong have to endure the increasingly great pressure of unemployment. The capitalists think that the transformation of the economy of Hong Kong is the main cause of our unemployment problem. Hence, they think that if the economic forces are stimulated, and job opportunities are created to provide more vacancies, then the problem of unemployment will be solved and labour relations will be improved.

On the face of it, the creation of job opportunities means more vacancies. When everyone has a job, no one will be unemployed. However, as the competitiveness of the majority of those who are now unemployed are relatively low, and they are also older, they may not be able to manage even if there are vacancies. I wish to point out that as our economy progresses, the skills of some workers have failed to catch up with our economic development. That is also one of the reasons they are unemployed. Therefore, I urge the Government to formulate long-term development plans for retraining programmes to go with its long-term economic strategies in order to avoid unbalanced development of the two.

The suggestion to avoid further deterioration of labour relations by creating job opportunities to absorb more workers into the workforce is probably an oversimplification. With the formation of labour organizations and with workers' awareness of their own rights, the most thorough way to achieve harmonious labour relations is to give workers reasonable statutory protection. In this competitive capitalist society, workers can no longer rely on their employers to give them "rewards" out of "benevolence", or out of their employers' "wish to develop a noble character when they have become rich". On the contrary, workers have to fight for reasonable statutory protection. Employers and employees can only communicate and reach a consensus under fair circumstances. Having established a harmonious relationship, employers and employees can then work together for the economic development of Hong Kong and share the fruits equitably.

I agree with Dr the Honourable HUANG Chen-ya's proposal to reduce the pressure of high rental and to introduce tax concessions to stimulate economic activities. High rental is an undeniable fact in Hong Kong, pushing up the operating costs of shops resulting in higher inflation, and reducing the consumer desire. As regards housing, the high prices have made the public toil day in and day out just to pay their mortgage instalments and the general retrenchment as a result also contributes to the stagnation of economic activities. It will be beneficial to the overall economy if the Government is willing to somehow contain property prices and make suitable adjustments. Besides, keeping money in the pockets of the public through tax concessions will help to increase their purchasing power. However, I am referring to concessions on personal tax and not on corporate profits tax.

The amendment moved by the Honourable James TIEN obviously seeks to protect the interests of property developers and capitalists. The last thing property developers want, I believe, is the fall in property prices. It is therefore easy to understand why Mr James TIEN's amendment only calls for tax incentives and not alleviation of high rental. I am worried that Mr TIEN's amendment will eventually benefit the businessmen and not the general public, further widening the gap between the rich and the poor. When the economy is not doing well, the businessmen demand to pay less tax, but they will not offer to pay more in good times. As they have been asking for tax reductions year after year, I find the proposal unacceptable.

With these remarks, I support the original motion as well as Dr HUANG Chen-ya's amendment and I oppose the amendment moved by Mr James TIEN.

MR CHIM PUI-CHUNG (in Cantonese): Madam Deputy, as I have mentioned, Hong Kong undergoes minor changes every five years and major changes every 10. To sum up, the past 45 years can be divided into three stages.

The first stage commenced in the year 1949 after China was taken over by the Communists. At that time, an influx of refugees and working people immigrated to Hong Kong. During the period from 1950s up to 1967 when riots broke out, Hong Kong might be described as a cheap labour market, the advantage that came with this attracted overseas investors. At that time, many Hong Kong people's wages were several tens of dollars a month. This period of hard time lasted close to two decades.

The 13 years or so from the 1967 riots up to 1980 could be described as the adolescent period for all sectors of Hong Kong. During this period, Hong Kong was able to give its potential full play, especially the development of its light industries which led the development of the whole community. Hong Kong's development could largely gear to the inflow of foreign capital and investment. Such an advantage stimulated the growth of all sectors which enabled Hong Kong to rank as a developed region, one of the so-called "Four Dragons".

Then came China's open-door economic policy of the 1980s. It is now more than 10 years since, and apart from its internal success, Hong Kong has been able to enjoy the cheap labour brought by China's open-door policy, especially those millions of cheap labour in the Pearl River Delta that have benefited most manufacturers of Hong Kong. At the same time, this has led to an industrial and commercial transformation.

Undeniably, over the past few years, Hong Kong's productivity mode has undergone transformation as influenced by China's dynamic vitality and development. Such kind of transformation will continue for some time into the future. It is undeniable that economic transformation will improve people's standard of living. It will be out of line with the reality if we attempt to return them to the bad old times. Hong Kong has seen a gradual development of consumer market. I have also pointed out that the consumer market, upon reaching the climax of its prosperity, will certainly be subject to the challenges of objective factors.

Madam Deputy, for the past years, property developers enjoyed most of Hong Kong's economic success. The profits they reaped are really unbelievable. But the fact before us is that Hong Kong has created such a miracle. Meanwhile, some listed companies have acquired great wealth by taking advantage of their listing on the stock market. The banking sector, under the protection of government policies in the past few years, also earned a handsome profits. Some factories made lots of money through the quota system. Nevertheless, Hong Kong's success today, be it measured in terms of our productivity, or economic development potential in an international environment, both of which place Hong Kong on the list of top tens, and our transportation services even on the top of the world, is attributed to our unique conditions and objective factors. Of course, the Government's established *lassize-faire* policy plays a vital role, this policy carries free enterprise to its full extreme.

The spirit of today's motion debate is to urge the Government to do this and to do that. When our economy was booming, however, no one was around to propose tax increases. But when our economy has slackened, government intervention is called for. If Mr PATTEN, our Governor, were a clever person, he should have been the Prime Minister of Britain, instead of being the Governor of Hong Kong. If he could create another economic miracle, he would be the world's daring. Further, our Secretary for Trade and Industry, would not simply be the acting Financial Secretary, he would have been invited by Japan to serve as its Prime Minister to give full play to his talents in economic issues. So we cannot push our responsibilities around.

Having touched upon positive non-interventionism adopted by the Government, I would like to discuss matters relating to the financial sector. The truth, actually, is not as simple as it looks. Many small brokers as well as securities brokerage companies are losing money. We should not take a superficial look and think that a daily turnover of \$2 billion to \$3 billion in the stock market is quite large. In fact, with a market turnover of about or slightly below \$1 billion, the commission that a company can earn is only \$3,000 to \$5,000 a day. If it goes on like this, I believe some people in the financial sector will face difficulties and even unemployment. I have also pointed out that this situation is a result of the vigorous intervention of the Securities and Futures Commission (SFC). The SFC, in case the transactions involving second-liners, third-liners and fourth-liners are a bit higher than usual, will step in to ask why, what has happened, and will even issue statements. All these actions are found to be annoying by some listed companies which are subject to tiresome questioning. I hope the Government would pay more attention to this problem. This reason aside, such practice is in breach of the Government's positive non-intervention policy by asking investors questions when they are buying and selling stocks.

Madam Deputy, I am much concerned about our unemployment and related social problems in recent years. In fact, the overall economic situation and slackening consumption desire have reached an horrifying stage. I am personally of the opinion that level of consumption has lowered by 33% over the past 18 months. So the Government should advise the Hong Kong Trade Development Council to formulate relevant policies. This is not intervention but concern.

Madam Deputy, having said that, I will object to all the motions concerned.

MR LEE CHEUK-YAN (in Cantonese): Madam Deputy, I was to speak only on economic issues today. However, as the Honourable NGAI Shiu-kit still chose to add a strong political flavour to our debate, notwithstanding the fact that I heard the Honourable LAU Wah-sum has asked us not to politicize the subject matter, I have no alternative but speak on labour issues as well. Mr NGAI Shiu-kit did not name me in his speech, but he did mention my proposed amendment concerning full-pay maternity leave and criticized it as a radical move. Obviously, he was pointing his finger at me.

Mr NGAI criticized me for being radical. May I ask, what on earth have I proposed to make him feel that I am radical? I have only proposed full-pay maternity leave for which, according to the Government's calculation, employers have to increase their cost by 0.024%, that is, an extra \$2.4 for every \$10,000 they pay. Regarding my proposal on long service payment, I am just attempting to make a slight improvement on the present situation. Even Bangladesh can afford to make the payment at full pay, how come the same policy cannot be applied in Hong Kong? As the rate of payment I propose is the

same as that of Bangladesh, why should I be dubbed radical? At a Bills Committee meeting, an old worker said that he was 68 years old but he could not receive his long service payment until he reached the age of 75. All I want to do right now is to improve such situations. Am I really that radical?

Then, who are the radicals? Before the direct election in 1991, it was the business sector which completely dominated the Legislative Council and had the final say in all decisions. On the contrary, from the time I started to fight for labour rights from 1978 to 1991, a period which spanned a dozen years, I had no opportunities to put forward any proposal on improving labour benefits. Indeed, we were at the mercy of the business sector for these benefits every time. (I am sorry, the Honourable James TIEN!) To tell the truth, it is the business sector which radically suppressed labour benefits. Why do the businessmen not check for their own faults? I remember that before the direct election in 1991, the Government passed a piece of legislation that July to allow the linking and looping procedures for knitwear to be carried out in Mainland China. Yet long service payment has never been revised, despite our striving for many years. The Ordinance, which provides that the rate of long service payment shall be equivalent to wages of four weeks and 12 days, an amount barely enough to keep body and soul together, has never been changed since its enactment a long time ago. Similarly, the Central Provident Fund is still a wishful thinking though 20 years have passed. So, who are the radicals? Is it the business sector which has been suppressing labour benefits by radical means over a long period of time; or is it me who is radical? I remember Mr James TIEN mentioning the song "Love Him (labour) More And More Each Day", but I have to dedicate another song, titled "The Ungrateful One", to him. After so many years, our hearts have been broken through and through. For more than a decade, improvement in labour benefits has been going on at a snail's pace. I am just putting forward a small proposal, yet I am already dubbed radical.

Furthermore, I would like to respond to Mr NGAI's comment that I do everything for the sake of votes. When I first stood up for labour benefits, direct election had not yet come into being. Now there is direct election and I am alleged to be fighting for labour benefits to get more votes. I hope that the people who have made such an allegation do not imagine other people have a mentality similar to theirs.

Finally, I would like to talk about the relationship between employees and employers, which should be harmonious. They should foster mutual endurance and forbearance. However, for a long time, the situation has been that "the workers endure, the workers forbear". It is the workers who show understanding and it is the workers who give way. The business sector is spoiled. Businessmen are used to eating "rice with shark's fin soup". Now we workers are just making a request for the businessmen to eat shark's fin alone and save the rice for us, and yet you called us radicals. Hence, I make an appeal here, hoping that they will not say something like that again. I hope that we can really have mutual endurance and forbearance in the future, and talk things over truthfully and pragmatically.

Unemployment is a burning issue these days. Recently, the press reports that unemployment rate has dropped to 2.9%. I hope that the Government will not become complacent and lower its guard with such a slight decrease in unemployment rate because the factors that caused unemployment still exist. The Government should keep on paying attention to the problem of unemployment, especially when the quota for immigrants from China will be relaxed from 105 to 150 every day. Among the additional 45 immigrants, 30 of them may join the workforce. The number will come to 10000 a year. With these 10000 job-seekers and other new immigrants who are to join the work-force, labour supply will increase sharply. Hence I really hope that the Government will abandon its policy on labour importation, because labour supply is beginning to increase.

With regard to economy, when compared with the past, the manufacturing sector has been on the wane in Hong Kong. The number of workers employed in this sector dropped from one million to 400000. At present, the manufacturing sector is becoming an empty shell. The service sector, which is highly volatile and entirely unreliable, is unable to create a large number of job opportunities for most of the time. Besides, our service sector has already suffered a heavy blow from the high rental policy. Hence, we believe that revitalize of the manufacturing sector is an essential way out for the industries of Hong Kong. At present, the manufacturing sector only spends \$20 million on industrial research, which represents a mere 0.002% of our Gross Domestic Product. This is a very low percentage, much lower than that of Taiwan, which is 1%-3%. I sincerely hope that the Government will review its policy and lend a hand to the manufacturing sector. Lastly, I request the establishment of a committee comprising representatives from the three sides, with an objective of making genuine efforts to conduct researches on the future development of Hong Kong's economic and industrial policies.

THE PRESIDENT resumed the Chair.

MR ROGER LUK (in Cantonese): Mr President, I believe most of us are quite familiar with these two verses from a *ci poem* written by SU Shi, which say: "There are ups and down in life, just as there are times when the moon is full and there are those when it is eclipsed." Although SU Shi was a scholar who talked about scenery and romance without bolstering anything about economics, his two verses can aptly reflect the economic cycle. To describe it with our economic jargons, SU's two verses may be changed to read: "There are ups and downs in the market, just as there are times when a business makes a profit and there are those when it incurs a loss."

As a rule there are bound to be cyclical ups and downs in a market. Since World War H, Hong Kong has experienced a number of cycles and the economy has grown passing from one cycle to another. As a matter of fact, every economic upturn was related to an influx of immigrants from China, as they were able to inject new vigour into the Hong Kong economy by providing the skills, the capital and the all-important labour force.

However, since the abolition of the "touch-base" policy in 1980, labour supply in Hong Kong has undergone a fundamental change and it has relied for its labour supply solely on natural population growth at a low annual rate. In 1982, a second oil crisis hit the world. This, together with the uncertainty about the future that was bothering Hong Kong, drove the economy in Hong Kong to a trough. Gross Domestic Product growth in real terms was 4.5%, down from 9.3% in the previous years. Unemployment rate, however, went slightly down to 3.6% but then rose to 4.5% in the following year.

Following the signing of the Sino-British Joint Declaration in 1984, uncertainties in the future of Hong Kong were removed. China went ahead with its economic reform and open-door policy at a quicker pace, and things change for the better in the Hong Kong economy. One major contributing factor for the change is the transfer of production operations by manufacturers to the Peal River Delta to make full use of the cheap land labour there. This is labour importation in disguise. Domestically, Hong Kong turns its focus of attention to the service industry to provide logistical support for an expanded manufacturing industry. From a macro point of view, the economy in Hong Kong is still export oriented, although industrial production has been transferred to associate plants in China. Since 1984, unemployment rate in Hong Kong has continued to fall. It reached a historical low of 1.1% in 1989.

The cost advantage of setting up plants in China has diminished in recent years as costs in Mainland China began to rise. World economy is also beginning to slow down. Hong Kong's economic boom for 10 years has begun to falter and there is now an adjustment.

Towards the end of the 1980s, economic overheating was once detected, as could be seen from the high inflation, high growth rate and low interest rates then. Excessive expansion of commercial and industrial undertakings had produced shortages in the labour market. That the economy has shown signs of cyclical adjustment in recent years is just a manifestation of the general forces of the market.

In recent months, businesses have focussed their attention on controlling operating costs in order to enhance their competitive edge. This has directly and indirectly caused a slowdown in the demand for labour and a drop in rentals for office space and shops. All these are but the effects of market mechanism in operation. In particular, it is the proper functioning of economic adjustment mechanism. Today's motions, whether the original motion or the amendments, basically aim at urging the Government to use administrative to regulate the operation of the market with a view to saving the market from a downturn in the economic cycle. It is hoped that this will reverse a cyclical surge in unemployment rate. This, however, runs counter to the laissez-faire policy Hong Kong has followed. It is an irony to Hong Kong's economic philosophy original motion is proposed by a party that hold itself out as "liberal" but represents the business sector in essence.

In recent months, local unemployment rate has reached a nine-year high of 3% and has attracted the attention of all sectors. A rise in unemployment rate justifiably cause concern. However, judging from our records over the last 20 years, the rate is actually not too high. Indeed, the rise is not as simple as what public opinion has regarded a second economic transformation or the outward movement of the service industry from Hong Kong. We can look at some figures to understand this. Unemployment rate in the fourth quarter of 1994 was 1.9%. During this period, demand for labour exceeded that for the same period in 1993 by some 80000. Unemployment rate in the fourth quarter of 1993 was 2.0%. During the period, however, demand for labour was less than that of the same period in 1992 by some 20000.

We saw marked increases in the labour force in 1993 and 1994, which were 80000 and 100000 respectively. Returning emigrants were the major reason for the increases. In these two years, professionals, executives and managers accounted for 12% of the unemployed, which was markedly high than the 6% recorded in 1992. These figures show that unemployment is not necessarily confined to the lower level workers. Dramatic increases in the labour force probably caused the rise in unemployment in the short-term. We should not base our judgment just on the figures of a few months and jump to the conclusion that to round the economy, the Administration's all-out support is needed.

Mr President, during the Great Depression during the 1930s, United States President Roosevelt adopted the "New Deal" to turn the American economy round through government expenditure in infrastructure projects and a social security system. He succeeded and the world benefited from his policies, which won him domestic and international applause. But 60 years later, sequelae of his policies began to emerge. Today, his policy is still criticized by economists. There is a lesson to be learned here.

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

MR FRED LI (in Cantonese): Mr President, we have just listened to some verses from the latest issue of the *Hang Seng Economic Monthly*. My speech will be very brief. It deals mainly with the issue raised by Dr HUANG concerning rentals.

Although the recent property market is a bit sluggish, office rentals have still remained at a fairly high level. Statistical reports released by the Rating and Valuation Department reveal that the rental index for office space in the first quarter of 1995 went down slightly by 1% compared with the fourth quarter of 1994, but exceeded those in the first three quarters of 1991 to 1994. Rental index for shops is also high, despite a slight drop in the first quarter of this year. High rentals not only directly affect the operating costs of small and medium-sized enterprises but also indirectly intensify inflation, thereby seriously affecting the quality of life of our people. Members from the Liberal Party, however, have turned a blind eye to this and are determined to further amend Dr HUANG's amendment by deleting those words concerning the rising rentals.

In recent years, the prices of office space and shops have continued to up, leading to increases in rentals. Businesses have no choice but to raise the prices of goods and services to cover the rising costs. This has stimulated inflation. For eight years in a row, inflation has been on the way up, and both the working class and the business sector are finding it too much to bear.

Since the banks raised the interest rates at the beginning of 1994, the property and stock markets have begun to make adjustments, thus making things even worse. The whole effect has been a drop in consumption power and a decline in the rate of recruitment by the business sector. All these, together with the importation of labour, have pushed unemployment rate to an extremely high level. This is why the Democratic Party has requested the Administration to take the problem of rising rentals seriously, to take steps to ease the problem of rising costs and eliminate the pressure therefore, and to enhance employment opportunities. Some may argue that controlling rentals would harm Hong Kong's economy. I do not think that would be the case. Indeed, what the Democratic Party is asking for is not government measures to effect a drastic fall in commercial property rentals, thereby causing a tremble in the Hong Kong economy. What we are asking for is government measures to maintain commercial property rentals at a reasonable and competitive level, and government efforts to formulate policies to industry and the service industry so that our economy may diversify and minimize its dependence on the property sector.

Since 1982, real estate and construction activities have accounted for more than 20% of the Gross Domestic Product of Hong Kong. In recent years, the figure has risen to about 25%, a percentage far exceeding that of the declining manufacturing industry. This 25% weighting, however, has not included property-related businesses such as banking and the stock market. Therefore, one may justifiably say that the property sector is the lifeline of Hong Kong's economy. We may try to understand Hong Kong's economic structure by looking at the composition of the Hong Kong stock market. Property shares and construction shares account for 45% of the total market value of the Hong Kong stock market. This weighting is way above what is found in other international stock markets. For example, in the United States, the same two categories account for less than 5%; in Tokyo and Britain, they account for less than 10%; and in Singapore, only around 11%. Thus, these figures show that all or most of Hong Kong's major enterprises have concentrated their activities in property development and real estate investment. For the sake of Hong Kong's long-term economic development, I think it is high time that we look at the problems of high rentals and the economy's unhealthy bias towards the property market.

Mr President, it seems neither of the two amendments would be adopted after the debate. This can be attributed to the successful lobbying efforts of the Administration. As far as the original motion is concerned, I find it quite acceptable. But the position of the Democratic Party with regard to the motion is such that we would just abstain. The Administration, however, will oppose the motion and will be lobbying for negative votes from Members. In the circumstances, I can only wish the Liberal Party good luck in their efforts to obtain sufficient votes for the original motion. This situation is indeed regrettable.

With these remarks, I support Dr HUANG's amendment.

MR HOWARD YOUNG (in Cantonese): Mr President, the motion before us is in fact a very popular topic. Hong Kong is now experiencing an economic transformation and the market is now in the doldrums, thereby arousing the community's attention to such problems as employment opportunities, high unemployment rate and so forth. At the outset of the debate, some Members have failed to focus on an objective analysis regarding the reasons behind and the solutions for that situation but have applied the usual tactics of framing up and playing up by attacking the Liberal Party. They have labelled the Liberal Party as "acting only in the interests of the commercial and industrial sector". I do not need to respond to that because the Honourable MCGREGOR has just said that the Liberal Party is not defending the interests of the commercial and industrial sector. I will therefore not dwell on this point.

Mr President, the difficulties in solving Hong Kong's current problem of employment opportunities are multi-faceted. But I cannot see any direct bearing of office rentals on this problem. There may of course be indirect links, but I would not regard it as an objective analysis if office rentals are taken to be the main culprit. I can cite some examples. I was once directly involved in the relocation of a company from Hong Kong to another place. I can tell you that the company moved away from Hong Kong at that time not in any way because of the rentals. They were relatively low at that time as the company was based in San Po Kong. Then why did the company choose to move away from Hong Kong? The two main reasons were wages and recruitment difficulties, followed by the high inflation rate in Hong Kong. If you ask me whether the moving out of factories from Hong Kong should be attributed to high office rentals or inflation, I would say that the main culprit is inflation. Then how come Members do not make recommendations on how the inflation problem should be tackled but instead just focus on office rentals and even imply that some sort of rent control should be adopted in the future?

In addition, I was once in charge of a travel agent and my experience shows that office rentals account for about 15% to 20% of the operating costs of a travel agent while wages represent more than 50% of the operating costs. If an owner is going to continue operating while losing money, the biggest expenditure is wages rather than rentals. You have no choice when it comes to wages because if you are going to employ someone in Hong Kong, whether in Central, San Po Kong or the New Territories, you have to pay the same wages for the same job. However, when it comes to office rentals, many companies can take the initiative to solve the problem. The travel agent that I have just mentioned has recently moved from Central to Quarry Bay, thereby alleviating a lot of the difficulty in office rentals. Insofar as companies are willing to think of some ways out, they can move away from those prime areas where rentals are high. I admit that the rentals for Grade A offices in Central are quite high, but do all trades need to use offices of that grade? In case more and more companies move to Quarry Bay or areas farther away from Central, such as Sheung Shui or Yuen Long when their existing leases expire, those employees who now have to travel a long way to work through the Tuen Mun Highway will benefit. Therefore, to point an accusing finger solely at office rentals is, though not a big mistake, at least a grave prejudice. I believe the more significant factors are inflation, wages and recruitment difficulties.

I would now turn to taxation. What should the Government do to stimulate the economy? According to the classical economic theory, the Government should employ some people to dig holes and then employ another group of people to fill the holes up. That may satisfy the call in the motion to avoid further deterioration in labour relations. However, this would in no way help the economy out. Then what further action can the Government take? Shall the Government just stand by and do nothing? On the one hand, I agree that the Hong Kong Government should maintain its positive non-interventionist policy, but I, on the other hand, concur that the Government should consider adopting some adjustment measures. However, I do not think that the problem can be solved solely by granting tax concessions. Tax concessions may allow factory owners and entrepreneurs to earn more money or to slightly shift their direction of investment, but I cannot see how tax concessions can really create job opportunities. I have never heard of any factory moving away from Hong Kong because Hong Kong's tax rate is too high. I really have not heard anything like that. Maybe some Special Economic Zones in Guangdong have a tax rate lower than that in Hong Kong because they grant a three-year tax exemption period plus a two-year tax concession period to investors. However, are there many places where the tax burden differs so much from Hong Kong that factories would move away from Hong Kong to another place to avoid a heavier tax burden?

I feel that we should seek solutions from a more positive perspective. If you accept that Hong Kong is now experiencing an economic transformation and more service trades should be allowed to flourish, then we should take some measures to stimulate the development of the service industry which will in turn create more employment opportunities. I would therefore harp on the same string by reminding Members of the debate some time ago on the development of the tourism industry and the capacity of the Airport. I noted at that time that nine million tourists visiting Hong Kong could bring about 150000 jobs in the tourism industry. I have just made some simple calculations and deduced that one job opportunity can be created with every 60 tourists. However, we are telling people that the capacity of the Kai Tak Airport has been saturated and the Government has to turn away 300 possible flights every week. The Secretary for Economic Services has also told us that if the capacity of the Kai Tak Airport is not increased, the number of tourists that we turn away will be in the region of 2.5 million. And 2.5 million tourists can give us some 40000 job opportunities. We should therefore look into more viable ways that the Government can go, so that it will not intervene in the market on the one hand but can do something to create more job opportunities on the other. As far as I am concerned, stimulating the development of the tourism industry would encourage more tourists to visit and spend money in Hong Kong, thereby creating more employment opportunities.

DR YEUNG SUM (in Cantonese): Thank you, Mr President. In today's motion debate, I feel that the Liberal Party has probably been taken by surprise. Indeed, many of those from business associations, the banking sector and the accounting profession have the feeling that the Liberal Party has unexpectedly switched to side with the Democratic Party, that is, to give consent to government intervention.

Mr President, while members from the Democratic Party were preparing for today's motion debate, I had a chance to look at the Honourable Henry TANG's motion and could not help feeling surprised because the motion was so worded that it seemed to favour government intervention. There are in fact two views held in this Council. There are those who advocate a totally free economy. They think market forces can solve all sorts of problems. Naturally, today, Members from the banking sector and the accounting profession or those representing business associations have spoken with this thinking in mind. They regard unemployment as something temporary and people should not worry about it. The self-adjustment mechanism of the market will alleviate the throes of unemployment. As throes, the pains are temporary and so people should not worry too much. Then there are those who think that the Administration can take care of everything and people should leave everything to the Administration.

Mr President, I want to tell everyone that the Democratic Party in fact think that a free economy is basically something desirable, and Hong Kong's success is attributable to a free economy. At the same time, we do not agree that people should leave everything to the Government, although the Administration sometimes need to intervene. This time, we put forward an amendment because we feel that the Administration must tackle the unemployment problem as things are getting serious. I do not believe that the unemployment problem is temporary. The rate of unemployment may continue to rise, mainly because the industrial, commercial and other sectors have experienced a structural transformation. As Hong Kong undergoes this major transformation, the Administration really must not just sit back as before and adopt a non-interventionist policy. What the Honourable Martin BARROW quoted from Laozi really meant to say that there should not be too much intervention. But, please remember, "to rule by doing nothing" is an extremely ideal situation. This is realized only when everything goes well, in which case the Administration does not have to do too much. Hong Kong, however, has not reached that stage yet.

Hong Kong has come to a stage that the Administration must do something to help the community to undergo changes, in particular, industrial transformation. The transformation of industries has undoubtedly been the cause of a rise in the rate of unemployment. That is why we urge the Administration to intervene where necessary. First, a short-term measure would be to stop the importation of labour, that is, labour imported under the General Labour Importation Scheme. Please not that the Democratic Party is not advocating that all importation of labour should be stopped. We are only saying that the general importation of labour should be stopped. Despite the some 20000 job vacancies, workers imported under the general scheme have taken them all. According to a survey conducted by the Hang Seng Bank, whereas previously those unemployed would be able to find job vacancies somewhere else to be filled, such opportunity has vanished now because of the imported workers. So if one is out of work, he or she will have no chance to find another job. To pacify people's discontent, in the short run, the Administration should immediately stop the general importation of labour.

Second, the Administration should try to curb the rise in rentals. Just now the Liberal Party was saying that we demanded rent control. The Honourable LAU Wah-sum also said we wanted it. However, the Democratic Party has never said in any of our speeches that we wanted rent control. This is because rent control is based on a belief that the Administration is capable of controlling rentals. Rather, we feel that the market can play a definite role in this regard. But how can rentals be lowered? The answer is simple. All the Administration has to do is to provide more land. With more supply of land, property prices will go down automatically. That is why we have never wanted the Administration to impose a rent control. There are many ways through which the Administration may bring down the rentals of commercial property.

A short while ago, the Honourable Howard YOUNG seemed to suggest that rising rentals should not be a problem to business operations. But the Democratic Party has already received a lot of complaints from the industrial and commercial sector, coming mainly from medium-sized and small enterprises. Large corporations certainly do not have the need to come to us. Those medium-sized and small enterprises told us that rising rentals had put them out of business. Earnings are hardly sufficient to cover the increases in rentals. So, I think the Administration should as a short-term measure stop at once the General Labour Importation Scheme. In addition, instead of imposing a rent control, the Administration should adopt alternative ways such as increasing land supply to curb the rise in rentals so that businesses may continue their operations.

Regarding long-term measures, the Administration should first of all develop human resources and formulate relevant education policies. The Honourable Marvin CHEUNG was right when he said that we should find ways to develop human resources through education to enable our industrial transformation to meet the needs of the market. Secondly, it is important to provide tax concessions as suggested by the Honourable MAN Sai-Cheong. The Administration should find ways to encourage, by means of tax concessions, businesses to recruit retrained workers or older workers, particularly those workers over 30 years old. I am sure these can be achieved through tax concessions. I also think that the Administration ought to use tax concessions to encourage businesses to conduct research and development or develop human resources. Lastly, I think the Administration should assist in the transformation of Hong Kong's industries. It may do so by providing financial assistance or by encouraging research and development through tax concessions. It is the unshirkable responsibility of the Government to help industries to transform. If the Administration still thinks it should rule by doing nothing, I think that is a dangerous idea.

The Democratic Party is not saying that the Administration should solve all problems that have cropped up. Rather, the Administration should take appropriate action and do what it can when there is a need to do so, for example, when the industries are undergoing transformation or the rate of unemployment is on this rise. The Administration may grant tax concessions, develop human resources, finance research and development and so on. And there is really no need for any drastic increase in taxes. I believe it would be a blessing for Hong Kong if the Administration can do its part in assisting industrial transformation, pacifying people's discontent, and curbing any rise in the rate of unemployment under the circumstances of low tax rates and free competition. I must reiterate, however, that the Democratic Party is not saying that the Administration should take charge of everything. It should just do what is appropriate. Now is the right time to do what is appropriate. Thank you, Mr President.

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

MR HENRY TANG (in Cantonese): Mr President, the amendment moved by Dr the Honourable HUANG Chen-ya consists mainly of two aspects. First, measures to alleviate the pressure of rental and second, measures to provide tax concessions.

As regards the alleviation of the pressure of rental, I believe many medium or small enterprises and businesses are, in fact, suffering from the pressure of high rental at present and they have great difficulties in paying rents. However, I believe most of us here have read the recent figures in a very long article in the *South China Morning Post* that reflected that rental has begun to fall this year and the rents of commercial and retail premises on Hong Kong Island, in Kowloon and the New Territories have already dropped a few per cent. Hence, I believe the free market mechanism has begun to take effect. At present, many retail shops have closed down or there is no one to rent the shop premises. I believe the rents will drop even further.

Why then should Dr HUANG Chen-ya's amendment be amended? That is because we do not agree with him on any further rental reduction nor on urging the Government to take measures to reduce the rents further. In the past, we supported the Government to take measures to curb property speculation. The Liberal Party does not support any policy of high property prices. We approve of reasonable property prices, we approve of property prices which the users can afford but we do not approve of exorbitant property prices caused by irrational speculation. However, now that the free market mechanism has begun to take effect and property prices have already fallen, we do not want to press them down to the bottom. If we make the Government take more actions, then the Government may ask the Secretary for Housing to take more actions because everyone wishes to push the property prices even further down. But let us think for a moment. Many people have bought flats and many are paying off their mortgages. If we push down the market price or cause it to plummet, will it benefit these people at all?

Dr the Honourable YEUNG Sum has earlier on said "we, the Democratic Party" (and I almost said we, the Democratic Party), I mean, they, the Democratic Party, do not approve of pushing down the property prices. I was very pleased to hear that. However, today we are talking about rental

PRESIDENT: Mr Henry TANG, you know that remarks ought to be addressed to the Chair.

MR HENRY TANG (in Cantonese): Mr President, the Democratic Party has not mentioned rent control. I am very surprised to hear it from Dr the Honourable David LI. Although Dr David LI did not say that he wished to have rent control, this term, as I heard, was first mentioned by him today.

As regards tax concessions, I very much support Dr HUANG Chen-ya because tax concessions can in fact help create job opportunities. For example, the Government can consider giving employers tax concessions if they employ a retrained worker or a worker displaced from the manufacturing industry. I believe the enterprises would then have more incentive to employ such a worker. Besides, that would also alleviate the hardship of those who have been unemployed because of industrial transformation.

Finally, I was very disappointed to hear the Honourable Jimmy McGREGOR suggesting earlier that it was only natural to have some people unemployed in a free economy. I was very disappointed that such a suggestion should come out of the mouth of Mr Jimmy McGREGOR. Just imagine how difficult it is for the unemployed. Not only are they jobless, they may also have to find the money for their next meal. I am indeed very disappointed because Mr Jimmy McGREGOR does not understand and sympathize with these people at all.

FINANCIAL SECRETARY: Mr President, I share the concern expressed by many Honourable Members today about the genuine difficulties encountered by people displaced from jobs they have held for many years. Indeed, my colleagues and I agree with the underlying message of the motion, which is that everyone who wants a job should be able to find one.

Turning to substance, however, the motion urges the Government to formulate both short and long-term strategies to stimulate the economy and create employment opportunities. The proposed amendments call for tax concessions or tax incentives, and measures to address high rentals. These apparently attractive requests would, in fact, require a drastic change to Hong Kong's fundamental economic philosophy. This philosophy has helped Hong Kong not only to cope so well with the restructuring of its economy in the past decade, but also to become the economic miracle that it is today. Let me explain why.

The proven value of our economic philosophy

Despite the impression given by the wording of the motion, we do have an economic strategy which we have pursued consistently, with conviction, and with proven success. It stems from our fundamental philosophy that allowing market forces to determine the allocation of resources generates the most wealth and the greatest benefit to the community. Within this framework, our economic policy is simple and effective. On the one hand, we refrain from interfering with either the pace or the direction of economic development. On the other hand, we provide what is arguably the best business environment in the world.

It is a policy which recognizes that economic development is best guided by the people who stand to win or lose by the business decisions they make. Centrally-determined visions of the future are not only most likely to be wrong, as experience in other economies has clearly and abundantly shown. To the extent that they blind us to alternative paths to economic development, they are also unhelpful. Who, for instance, could have envisioned in 1985, that Hong Kong investors would today, 10 short years later, control a huge trans-border manufacturing base, stretching far up into the Pearl River Delta, and beyond, employing more than 3 million manufacturing workers in Guangdong Province alone, and fuelling an enormous growth in our service sector? Certainly not the bureaucrat, and if a bureaucrat had provided such a vision in 1985, no one, including those then in this Council, would have believed him.

Our economic policy recognizes that market forces allow Hong Kong's economy to respond far more efficiently and effectively to changing circumstances than any intervention could ever do. It is no accident that despite enormous changes to its economy during the 1980s, Hong Kong suffered remarkably little disruption to employment or to the overall growth in our economy by comparison with many other economies.

Between 1982 and 1994, our manufacturing workforce halved, while industry's contribution to GDP fell from 20% to just over 11%. In many other countries, this rapid change would have spelled disaster. Not in Hong Kong. During the same period, total employment increased from 2.4 million to 2.9 million, an increase of 21%. During the same period, per capita GDP increased in real terms by 80%.

With such a large shift in the economy, it would be surprising if there was no dislocation. Indeed, in an economy as open as ours to the shifting business cycles of our trading partners, cyclical variations in the pattern of labour demand are inevitable. But our economic policy minimizes these imbalances and helps to ensure that they are quickly corrected. For example, while the unemployment rate rose to a cyclical high of 4.1% in 1983, it then drop quickly, falling to 2.6% in 1986, and further to 1.9% by 1987. We firmly believe that remaining true to our basic economic philosophy will be the quickest way of remedying the present problems.

By the same token, we do not agree that there is a need, or that it is desirable, for the Government to intervene to bring down rentals, be they for office, commercial or industrial space. On the contrary, we believe that prices and rentals should continue to be adjusted by market forces. In this connection, it should be clear that what is a reasonable rental is one that is set by the free play of market forces or by supply and demand. In the case of office accomodation, an additional 500000 sq m of new office space was completed in 1994, representing an increase of 22% over 1993; and it appears that office

prices and rentals are already softening. Large amounts of office space will become available in the next two years, with a further boost from developments connected with the airport railway and reclamation projects which will certainly include a significant supply of commercial and industrial space. If we were to take precipitate action to reduce rentals, we would simply make it less attractive to construct new buildings, thereby reducing the supply in years to come.

The policies and measures we pursue to make Hong Kong business friendly

Mr President, through you I would respectfully ask Honourable Members to note that our economic policy is not one of positive non-intervention which is of course a contradictory term and which I have never thought was a particularly clever slogan. Our policy is one of minimum intervention. Our policy of minimum intervention is balanced by a commitment to maintain the most business-friendly environment that we can. We make it easy to set up in business in Hong Kong. Our taxation system is simple and consistent, and levels of tax are very low by world standards. Regulations governing businesses in such areas as employment, the environment and health and safety are transparent and relatively uncomplicated. Our trade regime is straightforward; there are no import or export tariffs, and licensing controls are kept to the minimum.

In addition, we provide an extensive and growing range of services to equip both employers and employees to respond to the changing demands of the market place. As both the Governor and my colleague, the Secretary for Education and Manpower, have only last week outlined the measures the Government is taking to improve the employment situation over the short to medium term, I will not reiterate those. But I should like to reiterate that measures such as the Employees Retraining Scheme have proved to be genuinely useful in helping displaced workers to re-enter the job market. As the Secretary for Education and Manpower has undertaken, we shall review this and other measures to see how we can make them even more effective.

Since some Honourable Members have drawn particular attention to the need for active measures to help the manufacturing sector, I should like to mention some of the measures we are taking to help manufacturers to adjust to changing economic circumstances.

How that Hong Kong is no longer a low-wage economy, it is inevitable that many lower value-added processes such as fabrication, assembly and packaging have been relocated elsewhere, notably China. If manufacturers are to remain competitive in world markets, it is vital that they focus on higher value-added activities such as design, tooling, pilot production, manufacture of complex components, testing, marketing, and distribution.

For this reason, we have, over a period of several years, pursued a consistent policy of upgrading Hong Kong's technological infrastructure and support services, in order to help industry move up-market. For example, during the last few years, we have established the Industrial Technology Centre, set up the Industrial Support Fund and the Applied Research and Development Fund, opened a new industrial estate, stepped up accreditation of local laboratories, and expanded the services of the Productivity Council and the Standards and Calibration Bureau.

Incidentally, Mr President, I would dare anyone to say that our industrial support policy is a do nothing policy or a passive one when the Industrial Support Fund went up from zero — naught in 1993-94 to \$180 million, an infinite increase in mathematical terms in 1994-95 and further to \$210 million in 1995-96. On top of all that, we also spent \$250 million in building the Industrial Technology Centre and \$180 million in funding it. And a further \$200 million has been allocated to the Applied Research Fund.

We intend to go on upgrading our technological infrastructure. Next week, we shall seek approval from the Finance Committee of this Council for funds to establish the Co-operative Applied Research and Development Scheme, to be run by the Applied Research Council in co-operation with research institutions in China. In addition, we are studying the possibility of a second technology centre, a fourth industrial estate, and a science park.

Why a more interventionist strategy would be impracticable

But for those Honourable Members convinced that the Government should intervene to stimulate the economy artificially, let us consider what tools we could use:

- Not interest rates. Even if we were able to manipulate interest rates, it is by no means certain that lower interest rates would act as a boost to the economy, since many economic activities may not be particularly sensitive to interest rate movements, again as experience in other economies have shown. But the vital importance of maintaining exchange rate and monetary stability in the run-up to 1997 and beyond requires us to maintain the peg with the US dollar. This means that there is no scope for lowering interest rates to stimulate the economy.

- Not subsidies. Even if we believed that distorting market forces was a good thing — which we emphatically do not, to provide subsidies to our export-oriented manufacturing industries would be contrary to our obligations under the World Trade Organization and would lay us open to challenge and trade sanctions by our trading partners.
- Not more imported labour. Even though the present comparatively modest levels of labour importation secure many more jobs for Hong Kong workers than they displace, I doubt that there would be much support in this Council for even a small increase, let alone a scheme on the much larger scale of that in Singapore, which, incidentally, is one of the reasons why, in the past several years, Singapore has been able to achieve substantially higher economic growth rates than Hong Kong and considerably lower inflation rates than Hong Kong.
- Not higher public spending. The policy of keeping the growth rate of public expenditure in line with the trend growth rate of the economy is a vital ingredient of Hong Kong's success. In any case, adding to our already substantial programme of infrastructure investment would simply divert resources from the private sector, suck in more imports and increase inflationary pressures.
- And last, but not least, not tax concessions or tax incentives. Given the already low rates of corporate tax in Hong Kong, and the generous depreciation allowances for expenditure on equipment and buildings, tax concessions are more likely to stoke inflation than to stimulate the economy. In any case, substantial tax cuts would either require corresponding cuts in public expenditure, or entail a significant budget deficit, which is not desirable on fiscal grounds.

Finally, Honourable Members may wish to know that a recent IMF, that is, International Monetary Fund, report suggests that given the economic situation of Hong Kong and the prospective acceleration of infrastructural investment, our budget should be formulated in such a manner as to avoid providing additional stimulus to the economy.

Conclusion

In sum, given an economy as open as ours and as dependent on world markets as ours, the Government's policy of minimum intervention with market forces is not only the best for Hong Kong. It is the only realistic economic policy. Government measures to stimulate economic activity in order to generate employment opportunities would not only be impracticable within the framework of our economic philosophy, but would also produce undesirable side-effects, which would negate any beneficial impact that they might have in the short term and damage our economy and our economic prospects in the long term. So while my colleagues and I recognize the sincere concerns underlying this motion and the proposed amendments, and while the Government is committed to alleviating the situation through the measures which my colleague, the Secretary for Education and Manpower, spelled out clearly and in detail during last week's lengthy motion debate in this Council on unemployment, the *ex officio* Members will demonstrate the courage of the Government's convictions by voting against the motion as well as the proposed amendments.

Mr President, for too long now this Council has been a chamber of doom and gloom. Let me dare to put it to Honourable Members that political leadership does not consist only in exposing the dark side of our community and telling our citizens how badly off they are. Not too long ago, there was an American President who indulged in telling himself and his people, again and again, about the malaise that their country was in. He managed to make American voters feel so depressed that he became a one-term President because, at the next election, most of them voted for his opponent, who ran an upbeat election campaign which made them feel good again about their country.

Mr President, Honourable Members ought to know that there is such a thing as talking the economy down. If people do not feel good about their prospects, their desire to consume is inevitably reduced and that will have unfavourable knock-on effects on the economy as a whole. So, Mr President, at the risk of delaying Honourable Members' supper by a few more minutes, please allow me to take Honourable Members on a tour of the sunlit uplands of our still prosperous economy and to end my speech on an optimistic note by quoting a few facts about Hong Kong, of which the people of Hong Kong can justly be proud.

- Hong Kong is today the eighth largest trading entity in the world. If the member states of the European Union are counted as one which they should be, then Hong Kong is the world's fifth largest trading entity. America with a population 40 times that of Hong Kong, has a total trade value which is only four times that of Hong Kong.

- Hong Kong's per capita GDP is the highest in Asia after Japan. In the past two years, we have overtaken developed countries such as Canada, Australia and the United Kingdom, which all now have lower per capita GDP than ours.
- According to the World Bank, Hong Kong's per capita income, expressed in terms of actual purchasing power, is the sixth highest in the world, after Luxembourg, the United States, Switzerland and two oil-rich Arab states, and ahead of Japan and Germany.
- Our port is the largest in the world in terms of container throughput.
- Our airport is the world's second busiest in terms of international passengers and fourth busiest in terms of international cargo.
- Hong Kong is one of the world's leading financial centres — fifth largest in terms of the volume of external banking transactions; sixth largest in terms of foreign exchange transactions; eighth largest in terms of stock market capitalization.

In short, when you measure all of those achievements against our very small physical size and population and our lack of natural resources, the only conclusion you can come to is that Hong Kong is an economic miracle. This miracle has not come about as a result of any direction or blueprint developed by the Government or indeed any vision provided by bureaucrats like me. The Government's role has been limited to the maintenance of an environment in which business can thrive — a free and open society; the rule of law; a low, simple and stable taxation system; superior physical as well as human infrastructure; and the Government's sound macro-economic policies and firm belief in the benefits of minimum intervention in market forces. Clearly, it is not the Government, but rather it is a combination of the hard work of our people of Hong Kong, their ingenuity and their entrepreneurial spirit, that has created this economic miracle. And long may this continue to be the case!

Mr President, many commentators have predicted that the 21st century will be the Asia Pacific Century. I am convinced that they are right I am equally convinced that, under the principle of "one country, two systems", and as a highly autonomous Special Administrative Region under Chinese sovereignty — as a separate customs territory, as a separate member of the World Trade Organization and as a separate economic entity which will continue to enjoy autonomy in the conduct of our external economic relations — Hong Kong is set to enter the Asia Pacific Century as the world's most brilliant example of the triumph of free trade, of free enterprise and of capitalism. Thank You.

Question on Mr James TIEN's amendment to Dr HUANG Chen-ya's amendment put.

Voice vote taken.

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

MR JAMES TIEN: I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Would Members please proceed to vote?

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

Mr Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr TAM Yiu-chung, Mr Edward HO, Mr Ronald ARCULLI, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Dr LAM Kui-chun, Mr Eric LI, Mr Steven POON, Mr Henry TANG, Mr Howard YOUNG, Dr TANG Siu-tong and Mr James TIEN voted for the amendment.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr HUI Yin-fat, Mr Martin LEE, Dr David LI, Mr SZETO Wah, Mr Andrew WONG, Mr Martin BARROW, Mr Jimmy McGREGOR, Mr Albert CHAN, Mr Vincent CHENG, Mr CHEUNG Man-kwong, 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 TIK Chi-yuen, Mr James TO, Dr Samuel WONG, Dr Philip WONG, Dr YEUNG Sum, Mr WONG Wai-yin, Mr Roger LUK and Mr LEE Cheuk-yan voted against the amendment.

Mrs Elsie TU, Mr CHIM Pui-chung and Ms Anna WU abstained.

THE PRESIDENT announced that there were 16 votes in favour of the amendment and 30 votes against it. He therefore declared that the amendment was negatived.

PRESIDENT: Now that Mr James TIEN's amendment has been negated, we will take a vote on Dr HUANG Chen-ya's amendment to Mr Henry TANG's motion.

Question on Dr HUANG Chen-ya's amendment put.

Voice vote taken.

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

DR HUANG CHEN-YA: 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 Martin LEE, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael Ho, Dr HUANG Chen-ya, Dr Conrad LAM, Mr 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 and Mr LEE Cheuk-yan voted for the amendment.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Dr David LI, Mr NGAI Shiu-kit, Mr Andrew WONG, Mr Edward HO, Mr Ronald ARCULLI, Mr Martin BARROW, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Jimmy MCGREGOR, Mr Vincent CHENG, Mr Timothy HA, Dr LAM Kui-chun, Mr Eric LI, Mr Steven POON, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG, Mr Roger LUK and Mr James TIEN voted against the amendment.

Mrs Elsie TU, Mr CHIM Pui-chung and Ms Anna WU abstained.

THE PRESIDENT announced that there were 19 votes in favour of the amendment and 27 votes against it. He therefore declared that the amendment was negated.

PRESIDENT: Mr Henry TANG, you are now entitled to reply and you have five minutes 20 seconds out of your original 15 minutes.

MR HENRY TANG (in Cantonese): Mr President, the success of the economy of Hong Kong over the last several decades has been the result of co-operation between the employers and the employees. The success of our economy has been achieved through mutual understanding and accommodation, and through the willingness to share in good times and in bad times.

Over these decades, the positive non-intervention policy of the Government has undoubtedly created a favourable environment for economic development. This policy has allowed many people to enjoy the freedom of development. As the Secretary for Trade and Industry, who is also Acting Financial Secretary, has said, the freedom of development includes the freedom of business negotiations, the freedom of moving factories to China and so on. Although the Secretary for Trade and Industry has said that "positive non-intervention" was a contradictory term, it is undoubtedly the basis of our economic success over these decades. However, positive non-intervention does not mean no intervention at all. As I said in the beginning, policies such as the policy for the importation of labour are in fact a kind of intervention. Therefore, I think we should not say "positive non-intervention", because the Government is actually intervening.

I hope that today's debate will not develop into a partisan or factional battle. The only resource Hong Kong has is the co-operation between the employers and the employees. If even this only resource is destroyed by polarization, with employers and employees accusing and blaming each other, then the prospects of success of the future Government of the Special Administrative Region of Hong Kong would not be as optimistic as the Secretary for Trade and Industry has said.

Besides, I believe some Members will vote against my motion today because they misunderstood that I intended to call on the Government to intervene positively. I would like to respond to that. I believe those who so think did not listen to my speech carefully. I said twice in my speech, I stressed also twice, and I am going to say for the third time, that I am not asking the Government to intervene in our economic activities very positively. I am just asking the Government to explore the opportunities for future development and then to create a good environment for investment which seeks to make use of those opportunities. The Government itself cannot make investment.

The Honourable Jimmy McGREGOR also misunderstood me earlier on. He spoke about the Keynesian principle which is about how the Government should spend to assist the economy. However, I have never asked the Government to do anything like that. In 1946, the Government of the United States promulgated the Employment Act and invested the its reserves to stimulate economic activities in order to achieve full employment, thus making

employment protection entirely the responsibility of the Government. If intervention really meant that the Government of Hong Kong should do what the Government of the United States has done, that would lead to inflation and become a heavy burden to the Government. I would like Mr Jimmy McGREGOR to ask himself honestly whether I said that.

Besides, the Honourable Marvin CHEUNG also said that it would be best for the Government not to intervene at all. However, in a consultative report on the service industry compiled by Mr Marvin CHEUNG's firm of accountants, it was written in black and white that the Government should take the lead in the long-term development of the service industry. Did Mr Marvin CHEUNG not discuss the issue with his colleagues?

Some Members either said or asked other Members to say on their behalf that the Government should neither intervene nor have an economic policy. They include Dr the Honourable David LI, the Honourable Vincent CHENG, the Honourable Jimmy McGREGOR, the Honourable CHIM Pui-chung and others. However, I would like to remind these Members that when I moved my motions about industrial policies on 27 May 1992 and on 9 June 1993, not only did they not raise any objections, they even supported my motions. Hence, it is difficult to understand why these Members who supported the idea of having an industrial policy formulated by the Government have not supported the formulation of an economic policy now. In particular, the Honourable Martin BARROW has insisted that we should support the importation of labour. In response to a statement that I made which reflected a more flexible stance on the issue, Mr BARROW called to reprove me. That is not positive non-intervention because the importation of labour is actually an intervention of the market. Irrespective of my support, importation of labour is really intervention of the market. I hope Mr Martin BARROW will think about it.

Besides, the Honourable Roger LUK also said earlier on that he did not oppose the formulation of an industrial policy on 9 June 1993. Why then did he object to the formulation of an economic policy today? I hope that Members whom I have named will consider very carefully the issue before they vote.

Question on Mr Henry TANG's motion put.

Voice vote taken.

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

MR HENRY TANG: Division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Would Members please proceed to vote?

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

Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr Martin LEE, Mr NGAI Shiu-kit, Mr SZETO Wah, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr LAU Wah-sum, Mrs Elsie TU, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Dr LAM Kui-chun, 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 LEE Cheuk-yan voted for motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Dr David LI, Mr Andrew WONG, Mr Martin BARROW, Mr Jimmy McGREGOR, Mr Vincent CHENG, Mr Timothy HA, Dr Samuel WONG and Mr Roger LUK voted against the motion.

Mr CHIM Pui-chung and Mr Eric LI abstained.

THE PRESIDENT announced that there were 33 votes in favour of the motion and 11 votes against it. He therefore declares that Mr Henry TANG's motion was carried.

SPECIAL EDUCATION

MR TIK CHI-YUEN moved the following motion:

"That, in view of the fact that the Government has not paid much attention to special education services for more than 30 years, this Council urges the Government to make a positive commitment to implement the improvement recommendations to be finalized shortly by the Board of Education; and at the same time, to give immediate funding priority for certain urgent issues, including —

- (a) reduction of the class size and improvement to the teaching staff ratio;
- (b) enhancement of the establishments of non-teaching staff and tackling the manpower wastage problem of such staff including social workers, dormitory staff, physiotherapists, occupational therapists and other professional auxiliary personnel;
- (c) increase in nursing staff; and
- (d) enhancement of the existing support services to ensure the effective implementation of the policy of helping students with special educational needs to integrate into mainstream education."

MR TIK CHI-YUEN (in Cantonese): Mr President, "special education" in Hong Kong has a history of over several decades. At the moment, there are over 8000 children who need special education. They are now studying in 63 special schools of various kinds. Children of pre-school age with a disability may enrol in special child care centres financed by the Social Welfare Department or in the Support Remedial Scheme established by non-profit-making kindergartens.

Every general education system should cater to the different levels of ability of students, their different needs and interests. "Special education" provides the means and a system to satisfy children with special needs. Its clients include not only children who are mentally and physically handicapped (such as children who are blind, deaf or with a mental handicap), but also children with slight learning difficulties (such as children who are partially-sighted or partially-hearing or slow-learning), and even children who are extremely gifted. Is "special education" providing effective service to these children? This is what today's debate is all about.

Mr President, if you talk to a special education worker or a parent about special education, you will hear them talk on and on about the many difficulties they face. Having looked into special education, I also come to understand the complexity of the problems. Teachers, care professionals, parents and students all have different problems to face. Different kinds of schools have their own difficulties. I would describe the current state of special education as being "miserable and full of problems".

This is due mainly to the fact that the Administration has not attached any importance to special education in the past several decades. Mr President, in the past few years, the Administration proposed and implemented some improvements in university education, basic education and even Pre-School education. In 1989, the Administration suddenly announced a phenomenal increase in the number of places in the universities and allocated a huge amount of resources for developing tertiary education. In addition, in the past several policy addresses, the Administration recommended some elementary measures for improvement in basic education, for example, the creation of smaller classes and an increase in the proportion of graduate teachers. Regarding pre-school education, the Administration has, agreed to subsidize kindergartens as from September this year, after repeated demands from the public.

It is a pity to see that there has not been any marked changes or comprehensive reviews on special education, which is an important part of education in Hong Kong. I cannot find any proposals for a comprehensive review on special education in Hong Kong in the five reports published by the Education Commission in the last 10-odd years. Recently, the Health and Welfare Branch released a *White Paper on Rehabilitation*. Although there was mention of special education in Chapter 6 therein, the chapter of over 10-odd pages only reiterated the work on special education and the relevant policies. There was no mention of measures for improvements, let alone any constructive or forward-looking recommendations. It can be said that, as far as special education is concerned, the issue is totally ignored in the *White Paper on Rehabilitation*. The last sentence of the said Chapter 6 points out that as for general educational issues such as age coverage and class size, they are being examined by the Board of Education. In other words, the responsibility for improvement was shifted to the Board of Education.

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 TIK CHI-YUEN (in Cantonese): Mr President, compared with four years ago, the Administration has increased recurrent payment for university education by 90%, that for basic education (that is primary and secondary education) by 35% despite a drop in enrolment, but that for special education by only 13%, the last increase can hardly cover even inflation. These figures show how generous and determined the Administration is in expanding the number of places at university level. Little has been done for special education, however.

The parent of a child receiving special education once told me with some hard feelings that what parents expected was not a Rolls Royce-Class service, but just service at the level of a Japanese car that could satisfy the basic needs of their children. What the Administration is providing for special education falls far short of such expectations, it is in its primitive stage. Parents with children receiving special education often face problems such as a lack of continuing in curriculum as their children are transferred from child care centres to special schools resulting in their children doing worse and not better; curriculum at special schools cannot meet the demands of the community; class size too big to allow students to receive due care and attention; transport arrangement leaves much to be desired. The standards required in enrolment at special schools are dropping: the degree of disability tends to increase in complexity and seriousness. In short, parents think that the quality of special education at present is maintained at a very low level.

As the Administration has never had a comprehensive review of special education, social development over time has made the problems multi-faceted and more complex. There is, however, no co-ordination among the relevant service providers. In the past, special education workers used to make silent contribution and stick to their posts, but obviously some of them have recently chosen to leave in the face of the extremely difficult working conditions.

Recent data from the Administration show that last year special schools recorded a 70% wastage of physiotherapists, a 40% wastage of occupational therapists, and a more than 65% of speech therapist posts are vacant. A major reason for the acute shortage of such professionals is that the Hospital Authority can offer them 20% more in terms of pay and benefits than what special schools can offer. The Honourable Michael HO and the Honourable CHEUNG Man-kwong of the Democratic Party will later give more details about the difficulties faced by therapists working at special schools. Mr HO will also highlight the shortage of nurses at special schools and the issue of training gifted children.

In recent years, there has also been a noticeable drain on social workers at special schools. In 1993, wastage of social workers working at schools for pupils with visual impairment reached 70% and that at special schools for mentally handicapped children, 40%. Some social workers told me that fewer and fewer of them were willing to work at special schools. This is due not only to the complexity of cases at special schools but also to the fact that seniority and experience of these social workers are not recognized when they switch to work in other welfare organizations. Hence, many social workers try to avoid going to work in special schools, a cul-de-sac of which they fear they may never get out. Those who stay on to work at special schools have in the past several years reflected their views to the Administration. They put forward a lot of Specific proposals, which however have never received any positive response. The Honourable Fred LI of the Democratic Party will later express our views on the matter in detail.

Since the 1970s, the main trend of special education has been one of helping children with a disability to integrate into the mainstream as far as possible so that they can receive an appropriate education alongside their peers. At present, ordinary schools in Hong Kong house 458 special education classes, providing over 7000 places. Unfortunately, results have been disappointing despite the policy of assisting such children to integrate into mainstream education in the last 10-odd years. It is regrettable to hear parents saying to us that it really breaks their hearts to see their children face discrimination from others. Therefore, they would rather send their children back to special schools than ordinary schools.

As a matter of fact, great courage is required for children with a need to receive special education to integrate into ordinary schools. There, they need to cope with a different learning environment, a different curriculum and they would have a group of teachers without training in special education. With a total lack of support, some of these children have to go back to special schools. Later, the Honourable WONG Wai-yin of the Democratic Party will explain in detail how to give support to assist these children to integrate into mainstream.

Mr President, the problems I highlighted just now represent only the tip of the iceberg. There has been no commitment on the part of the Administration towards special education, resulting in wastage of special education expertise, over-sized classes, and inadequate support. How can parents be expected to have any confidence in the present special education policy?

The Board of Education is conducting a comprehensive review on special education. Recommendations are expected at the end of the year. As far as I know, the Board has reluctantly established a Working Group, mainly a result of the strong demands of non-government members. We are not sure how much sincerity the Administration has in completing the review. I call on the Administration to state clearly in this year's policy address to the effect that it will assume full responsibility for the implementation of the recommendations to be put forward by the Board of Education so that special education workers may remain in their posts with greater confidence, and parents may have more faith in sending their children to receive special education.

Mr President, children with a disability may have an eternity of "misfortunes". Their parents, who need to raise them, have a life-long burden to shoulder. One of the parents told us that his child attracted strange gazes and gestures from people as he brought his child to school. Sometimes, when he was in a hurry and wanted to take a taxi, some taxi-drivers did not stop their taxis when they saw the face of his disabled child. Often, after school, his child indicated a reluctance to go to school as teachers and classmates, did not like the child. This is a tragedy for most children with a disability. They need our help.

Mr President, I put forward today's motion debate on special education with a view to making the Legislative Council pay more attention to the issue, and to making the public know more about the same. More importantly, I wish to urge the Administration to take special education more seriously by putting in more resources and making thorough improvements on special education.

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

Question on the motion proposed.

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 speak and to move his amendment now so that Members may debate the motion and the amendment together.

MR HENRY TANG moved the following amendment:

"To delete "enhancement of the existing support services to ensure the effective implementation of the policy of helping students with special educational needs to integrate into mainstream education." and substitute by "adopting an integrated approach as a policy objective for special education, and strengthening the existing support services as well as promoting public awareness of the policy to ensure that students with special educational needs can gradually integrate into mainstream education."."

MR HENRY TANG (in Cantonese): Mr President, before the debate, I want to talk about two incidents first.

Incident 1: Six years ago, residents of Cheung Hong Estate in Tsing Yi were so strongly against the setting up of a hostel for mentally-disabled people that they broke 20 glass windows in a week and even threw urine and excrement at the hostel. The harassment went on for nine months.

Incident 2: In 1993, the Social Welfare Department set up a hostel for the severely mentally-disabled in Tung Tau Estate and stirred up a great storm again. The residents there forced the decoration workers to stop their work and even threatened to take more radical actions.

Actually, the mentally-disabled are only one category of people who need special education and everyone understands well that their rehabilitation depends on society's acceptance of them. However, the above incidents still happened and therefore, I put forth my amendment. I think that the idea of "helping children with special educational need to finally go back to ordinary schools" is basically correct and the aim of "integrated education" means different kinds of special education and formal education intermingling with and supporting one another so that the children in need can receive the best education opportunity available. Nevertheless, because the public do not understand this concept, if we do not step up the publicity campaign aiming at them when this policy is launched, I believe that the incidents that happened in Cheung Hong Estate and Tung Tau Estate will recur in the schools.

The implementation by the Government of this policy is even more disappointing. Take the physically disabled children as an example. Actually, it is easier for these children to integrate into mainstream education as compared to other categories of children who need special education. In the *White Paper on Rehabilitation* in 1977, the Government explained in detail its policy on integrated education which is to let physically disabled children with equivalent capabilities to go to ordinary schools. It is a shame that the Education Department has not given adequate publicity to this policy and as a result, many

principals and teachers of secondary schools are unaware of this policy. Some teachers even asked me why more and more disabled students and those who had special problems were assigned to their schools every year.

All these incidents have fully indicated that schools and teachers have not been adequately preparing for caring for and educating students with special needs, whether in recognizing their role psychologically and technically, or in the resources they get.

In Hong Kong, there are about 9000 students with special educational needs in mainstream schools but most teachers in Hong Kong have not received training on special education. There are only seven inspectors of school, specially assigned to take care of this programme; few teachers from ordinary schools bother to participate in the relevant seminars organized by the Education Department in July each year; the peripatetic teachers sent to schools to help the physically-disabled children only come once every few months and every time they come, they only take the students out for counselling; hardly anyone in the school knows what they have done and these teachers seldom contact the class teachers or the panel co-ordinators. Such low-profiled approach is not much different from "doing nothing at all"!

Recently, the Government indicated that it would allocate money for improving the design of new school buildings to allow easier access to the schools by physically-disabled students. This seems to be a great piece of good news amidst the depressed state of affair. Yet, such small good news was soon covered by the surging big waves. At the meeting of the Panel for Education of the Legislative Council a few days ago, when Members asked about the manpower shortage of occupational therapists, speech therapists and physiotherapists, the Government refused to admit that there was a shortage and that it lacked a long-term strategy. On the contrary, the officials said such things as, "The reality is cruel!" and "One has to wait when the resources are inadequate!" We have to understand that those who receive such cutting remarks are the fathers of autistic children and the mothers of the disabled. They are most worried that once they pass away, their children would not be taken care of. And the Government has gone so far as making such remarks now. We have to understand that educationalists already criticized that the number of speech therapists was seriously inadequate way back in 1985 and it was know in 1987 that Hong Kong extremely lacked educational psychologists. All these problems do not emerge today out of nowhere, but the Government goes so far as to call the results of its own short-sightedness the reality. Dear Members, to such children who have special educational needs, the price of "waiting" is not only patience but also life-long irreparable physical defects.

Actually, comparatively speaking, the sum of money that Hong Kong spends on special education is by no means small. The Government spends over \$109,000 on subsidy for a severely retarded child every year, this is more than four times the money spent on a student of a government secondary school. However, we have not obtained relatively good results in special education. This is obviously the result of the Government's indifferent attitude towards the special education services for over three decades. We have to understand that special education is a very extensive field. Other than the regular students of the 63 special schools, those students who do not want to go to school, those with learning difficulties, those slow learners who need to go to resource classes, those who receive remedial teaching arrangements in an ordinary secondary school, those who have emotional problems and even the 20000 gifted children in the territory are all target groups of special education. The issues are both numerous and complicated. Therefore, I think that after the release of the report by the review group of the Board of Education by the end of this year, the Government must take positive actions immediately, including allocating funds to strengthen the existing support services and launching a publicity campaign, assisting qualified students needing special education to integrate into mainstream education and ensuring that the students who continue to receive education at special schools can receive sufficient care. This last task naturally involves improving their learning environment and the manpower ratio of teachers, social workers, paramedical and other ancillary professional staff. I believe that it is the earnest hope of the special educationalists as well as the needy children and their parents.

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

Question on Mr Henry TANG's amendment proposed.

MR ERIC LI (in Cantonese): Mr President, before delivering my speech, I would like to declare an interest. I am either the honorary chairman or the adviser of a number of educational organizations. I would also like to take this opportunity to congratulate the Honourable TIK Chi-yuen on the birth of his second child. He is now father of two children. In no time, his children will grow up and I believe he will soon have to face the question of how to treat his two children even-handedly.

Talking about impartiality towards one's children, I recall a question put to me by an experienced special educational worker: How should a couple with scanty means take care of their two children, of them one is normal and the other is handicapped? Should money be evenly spent to nurture these two children, or should more money be spent to develop the normal child because of the future economic returns? Conversely, should the handicapped child, who needs special attention, be given more care and resources so that he can have an equal chance of receiving adequate nurturing? This question bears great similarity to our motion today. Should this Council give funding priority to the education of normal children, or to that of children who have special

educational needs? Should our actions be dictated by economic benefit, or be based on love and social conscience?

The issue may just be a debate topic for this Council, yet for many parents of handicapped children, they have to face the question directly. If you also have the chance to meet these parents as frequently as I do, you can easily feel the love and support they give to their handicapped children. As parents, they simply will not regard economic returns as a major factor of consideration, but will throw their whole weight behind their handicapped children. It is my hope that a good conclusion will be drawn from today's motion.

During the past three years in this Council, I have been very concerned with the problems of the handicapped, and have spoken and raised a lot of questions on this issue. Today, I am very glad to see that Mr TIK Chi-yuen and the Democratic Party have done ample homework on this matter. As a token of congratulation to the birth of his second child, I avoid vying with him to speak on the same subject. Hence, apart from giving him my full support, I have reached an agreement with him, that is a division of labour, with me speaking on a different type of special education.

As a matter of fact, various forms of special education were mentioned in the Education Commission Report No. 4, one of which relating to helping students with learning problems. This issue has been mentioned many times in debates on practical education. It is evident that the Education Department has now given a relatively higher priority in allocating resources for this kind of education, such as the deployment of extra social workers and the development of additional curricula and so on. Therefore, I consider it unnecessary to discuss this topic in particular. I would instead like to touch on a new subject which is rarely discussed, that is, the education for child prodigy, or currently more popularly known as the education for gifted children.

If we use the metaphor of a snail's pace to describe the development of special education for handicapped children, then the development of education for gifted children lags even further behind. Even the slow-crawling snail has a destination, it just heads towards it slowly. However, as far as education for child prodigy or gifted children is concerned, we do not even know where we are heading. Four-and-a-half years ago, that is after the release of the Education Commission Report No. 4, we still could say that it would take us three years to conduct research and investigation. Four-and-a-half years have elapsed and now, what are the findings of the research and investigation? What are our objectives? The answers to these questions are still up in the air.

I believe the Education Department somehow dares not face this problem, hence there has been much talk but no action. In my view, there are two problems the Education Department dares not face. Firstly, they are afraid of the social prejudice towards the education for gifted children. They are worried that many people do not understand that gifted children are actually children with high IQs who have special educational needs. What we advocate is

not the so-called elitist education, nor the pooling of resources for the education of a group of elite students. The Education Department is worried that people will not lend their support to the education for gifted children if they equate it with elitist education. The Department also fears that the unsupportive group will also include political parties, even the Democratic Party. With the recent wide press coverage on the education for the gifted, people are becoming more aware of this issue. I also believe it unnecessary for me to explain to Legislative Council Members of the Democratic Party at this Council sitting that education for the gifted has actually nothing to do with elitist education. If even this point needs special explanation, I believe it would be an insult to their intelligence. On the contrary, I hope the Democratic Party will, through the response of Mr TIK Chi-yuen to my speech, indicate their strong support for the education for the gifted. In so doing, the Government is given a shot in the arm as it would know by then that its fear of lack of support from Members is wide of the mark.

Secondly, another worry of the Education Department is the Government itself. In other words, it does not dare to face itself. Fearing that public opinion towards the issue is lukewarm, the Department is reluctant to apply to the Financial Secretary for funds. I have mentioned time and again in the policy report that these children have their particular needs, and I think time is opportune for solving this problem.

As a matter of fact, if we do not adequately develop education for the gifted, many gifted children, or children of high level of intelligence will not be stifled. Without proper nurture, they will turn out to be of ordinary calibre. After a few years, they will be no different from any other children. An unaccountable number of talents have been wasted because of the Government's failure to develop education for gifted children over the years. Many scholars have clearly indicated that education for gifted children has great inspirational effect for general education, and this statement has been proven by research. Under the mainstream education system, gifted children will still have outstanding performance if they are given appropriate training. Actually, not all children of Hong Kong are of average intelligence. For children with appropriate aptitude, they will definitely achieve remarkable results if they are given suitable nurturing.

I will use some time to put forward my proposals. I have spoken to parents of gifted children. The first thing they demand is the introduction of courses on the education of gifted children, or the provision of special curriculum in both the local universities and the institutes of education. It is also hoped that more master's degree places can be made available so that those who intend to work in this field can have a chance to pursue further study. It is also my wish that the Gifted Education Centre, to be opened sometime in July or August this year, will provide information not only to teachers, but also to social workers, and most importantly to parents as well. In this way, parents can, with the assistance of the Centre, buttress the development of our youth.

MR HUI YIN-FAT (in Cantonese): Mr President, after more than 30 years of development, special education in Hong Kong should have been made so common that everyone would know about it and would find it nothing special. Unfortunately, just as the favourite excuse of government officials goes when they choose not to co-operate with this Council, Hong Kong is an exceptional place, but I am afraid, it is in terms of the development of special education in Hong Kong that has been exceptionally slow, with exceptionally meagre resources and an exceptionally outdated service provision system.

I believe no professionally trained teacher, social workers, supporting health care worker or parent would doubt the objectives and functions of "integrated education". In other words, to integrate students who need special education into mainstream schools is definitely the correct approach. However, at present, no ordinary school in Hong Kong will make special arrangements to facilitate the access of students who have locomotive difficulties. It will be as late as 1998 when the Government will provide a secondary and a primary school in each district to cater to disabled students. Such a unique arrangement will inevitably produce a labelling effect and students concerned will have even less choice then. Besides, at present, an ordinary school has to take in more than eight mentally handicapped students in order to obtain extra resources to offer a so-called "adjustment unit". Teachers concerned do not have to receive any special training and they have very little knowledge about mentally handicapped students, especially the autistic ones. Under those exceptional circumstances, the integration of special education into mainstream education has become empty talk and wishful thinking.

In order to integrate special education into mainstream education successfully, it is most important to provide sufficient, school-based support services to schools which have taken in pupils who need special care. I think that in addition to the improvement of passages in ordinary schools to facilitate the access of physically disabled students, special training has to be provided to administrative staff and teachers of such schools, so that they will have a thorough understanding of the character, emotions and needs of these students and avoid undue punishment and wasted teaching efforts, which will otherwise be common in the schools. Besides, co-ordination of the curriculum is also very important. In particular, sex education and pre-vocational training should be made compulsory to satisfy the demand of parents. The Administration should also improve the working environment and the remuneration for the staff of the non-governmental institutions to stop the brain drain of supporting health care workers like occupational therapists, physiotherapists and speech therapists so that proper and regular services to the students will not be adversely affected.

Mr President, the integration of special education into mainstream education can be successful only if teachers, students and the community no longer look at special education "from a different perspective". The Administration should take the initiative to inject resources and to formulate policies to co-ordinate the various services.

With these remarks, I support the motion.

MR SZETO WAH (in Cantonese): Mr President, some of us here have to wear spectacles to read papers; some of us have to rely on interpretation service to follow the speeches; still some of us have to hire assistants to help cope with our work as legislators. However, we are so used to it that we think nothing of it, because we understand that everyone of us has some difficulties, to varying degrees and of varying nature. We may well say that we are "disabled" in certain aspects or to a certain degree. However, we believe that with proper aid, all these problems can be readily remedied. Spectacles can rectify and restore our eyesight; interpretation services can facilitate effective communication and message transfer. The support services provided by Members' assistants make our work more efficient and effective. Viewing from this perspective, how many of us are "disabled" if we really look around and count ourselves in? Are we not, at all times, growing, living and creating a better tomorrow for Hong Kong together with the "disabled" under the same sky?

Generally speaking, we are surely not "perfectly healthy and invulnerable" because physically, psychologically or in terms of ability, we do have some inadequacies and these are our "disability aspects". However, we will surely adopt positive attitude towards these "disability" problems and we will think of some ways to resolve the difficulties so caused. In fact, the most important thing would be to recognize the value of every individual and to appreciate the unique characteristics of each individual, firmly believing that everybody's potential can be developed under proper guidance and with adequate assistance. This is the original definition of "special education" and is the most direct and the simplest interpretation of what "special education" is about. In a narrower sense, for those who are mentally, physically or emotionally handicapped or those who are handicapped in terms of sense perception, proper "special education" is an indispensable service through which we can offer assistance to them with a view to develop their potential, revitalizing their lives and facilitating their integration into society. Over the many years, our special education workers have been devoting themselves to accomplishing these education objectives. We have to take a retrospective look at this issue and to respond to their reasonable aspirations.

In 1975, the United States enacted the Act on Education for Disabled Children, affirming the right of disabled children to proper education. In 1978, the United Kingdom published the Warnock Report, defining in a broad sense special education as "any additional teaching method or arrangement designed to remove or overcome the hurdles students may have in receiving education". These two epoch-making documents give clear insight for and produce far-reaching impacts on policy makers and service providers of special education around the world. The documents have also symbolized a brand-new orientation for the integrated development of special education and regular education.

In the 1970s, although the rehabilitation policy of Hong Kong basically followed this blueprint, it was unfortunate that, over the years, there were lots of twists and turns in the pace of development. Since the Administration has never sought to come up with an organic policy through legislative means and there has never been appropriate co-ordination of the overall resources allocation, what we have now is a scenario where "individual attention is given but on overall plan is drawn up". The Special Education Act and the other relevant regulations have been enacted in Taiwan while at the same time, law on compulsory education and law on protection of the disabled have been enacted in mainland China. They form the basis of practical operation. With the enactment of laws, effective communication and co-ordination between the making and the implementing of policy can enhance the overall development of special education. It is a pity that the development of Hong Kong in this aspect is lagging far behind, and the Government seems to be up in the air when it comes to a comprehensive review and the upgrading of special education.

Objectively speaking, special education, which requires heavy investment and enormous expenditure, would be able to take root and develop only in an affluent, stable, open and progressive society. The overall resources we spent on special education are quite ample. However, with prosperous development in the local economy and the founding of our superior position in the international economic and trading arena, the objective conditions required for improving special education have matured and we believe that the education authorities must devote even more efforts to further strengthen and develop quality service in special education.

Mr President, the Honourable TIK Chi-yuen moves to urge the Government to make a positive commitment regarding the review report on special education soon to be finalized by the Board of Education; and at the same time, to give immediate funding priority for four urgent issues, including: reduction of the class size; enhancement of the establishments of non-teaching and professional support staff and tackling the manpower wastage problem of such staff; increase in nursing staff; enhancement of the existing support services to ensure the effective implementation of "integrated education". Although the Report of the Working Group under the Board of Education will not be finalized until the end of the year, I strongly request the Administration to make a firm pledge that the recommendations in the Report will be given positive policy and financial support in order to reaffirm its unshirkable responsibility in special education. This does not only represent Members' support for the development of special education, but also gives great encouragement to special education workers so as to relieve their pent-up emotion over the years. On the other hand, substantial improvements to these four issues require the special attention of Members of this Council to accord priority in funding research projects and subsidizing the relevant proposed options. This will ensure that proper care and attention will be given to those children, parents and special education workers who are bearing the brunt.

Mr President, I so submit in support of the original motion and the amendment.

DR TANG SIU-TONG (in Cantonese): Mr President, special education is not only an education system which integrates curriculum, teaching and supporting services but also an important element in the context of an integrated rehabilitation service. Though special education is intrinsically different from normal education in certain aspects, it must interweave with normal education to form a net which facilitates mutual communication, co-ordination and complementation. In this way, school-age pupils in need of special care can be provided with services to which they are entitled. It has been some 30 years since special education was first introduced in the 1960s. During this period, some achievements have undoubtedly been attained, but the overall pace of development cannot meet the actual demand due to insufficient resources and other objective factors. Though I will not describe the existing special education services as "in a state of disaster", it is an indisputable fact that people working in the field and parents of children with special educational needs have consistently urged the Government to increase the number of school places, improve the teacher-to-pupil ratio, increase the number of various auxiliary and nursing staff as well as allocate more resources. Such demands indicate that it is necessary for the Government to carry out an overall review and commit itself positively to solve various problems in connection with special education services.

According to the estimate of the Education Department, the number of special education places to be supplied in 1995-96 will exceed the demand by 720. The overall supply seems sufficient except that there is a shortfall of 346 places for "maladjusted children". This indicates that there is still a shortage of places for certain groups of children and that figures can only reflect superficial phenomenon but not the genuine need. It is my grave concern that in some remote districts such as the new towns in Tin Shui Wai, Tseung Kwan O and Ma On Shan, the demand for special education may be rather high, yet since no special schools have been built in these districts, pupils with special educational needs have to travel a long way to other districts to attend schools. Parents who are reluctant or incapable of taking care of their children may refuse to send their children to special schools. As a result, pupils in need of help cannot receive due services. I think the Government should carry out a survey to understand the demand for special education in these new towns and make proper arrangements so that resources can be used more effectively.

Pre-school services has not been included in the statistics on the supply and demand for special school places. I want to emphasize that whilst we must take care of pupils in need of special education services, we must not neglect their need for pre-school services.

According to the forecast of the Social Welfare Department (SWD) made in 1990 on the demand of disabled children for services such as pre-school education, training centres, special child care centres and integrated child care centres, the shortfall was 600 in 1994, but there was a surplus of some 100 places in special child care centres. However, when the SWD adopted another mode of more scientific computation in January 1994, it was found that there was deviation in the estimate made in 1991. The shortfall of the above services was as much as 1500 places in 1994-95, two and a half times of the number estimated four years ago. At present, there are on average 600 disabled or autistic children waiting to be admitted to pre-school education centres each year and the waiting period is one year at least. In the policy address of 1991, the Government promised that "the issue of insufficient pre-school education places for disabled children would be solved before 1997". Likewise, in last year's policy address, the Government reiterated that pre-school special education places would be increased during the year. That included 150 places in mainstream child care centres, 120 places in pre-school service centres, and 66 places for the caring of autistic children in child care centres. Despite that, provision of services cannot meet the needs of people. Judging from the present supply and demand situation, the objective of satisfying the need cannot be reached until 1999-2000 at the soonest. That means the Government will take at least three more years to fulfil its promise made in 1991.

Last week the Health and Welfare Branch released the *White Paper on Rehabilitation* and indicated that the Government would increase 900 pre-school places over the next five years. I hope the Government would expeditiously fulfil the pledge. Another difficulty faced by pre-school special education service is the arrangement of having disabled and autistic children to study in the same centre. This is far from proper. Generally speaking, autistic children have problems in three aspects during their growth which include language problem, poor comprehension and expression. Some of them are unsociable and eccentric and have difficulties in communicating with others; while some are very keen to get close to people but fail to understand the ways of the world and will easily become a nuisance. Since autistic children need a special kind of counselling and therapy services which are different from those required by disabled children, it does harm to both parties by putting them in the same special education centre. I think the Government should set up a pre-school education centre solely for autistic children and make appropriate changes to the ratio of six pupils to one "resource teacher", so that autistic children can obtain proper counselling, care and training.

Mr President, I would like to turn to the issue of nurses for special schools. According to the Code of Aid for Special Schools, schools with 40 or more physically disabled or severely mentally handicapped pupils can receive a subsidy to employ one full-time registered nurse. However, the above provision is not proportional to the number of pupils, so only one registered nurse will be employed irrespective of the number of pupils. At present, there are 17 such special schools throughout the territory and all of them have more than 40 pupils. 10 schools with 40 to 80 pupils, three with 80 to 119 pupils, two with 120 to 160 pupils, and one with 166 to 200 pupils. The pupils in special schools are poorer in health than normal children and they may have complications and accidents at any time. Some of them may even require trained nurses to feed them medicine and give simple treatment. One nurse cannot possibly look after dozens or even more than 100 pupils. It is high time that the relevant Code of Aid should be reviewed.

Apart from the above problems, it is necessary to review and to improve special education in respect of the teacher-to-pupil ratio, the staffing requirement of social workers, the wastage of professional therapists, ways to help pupils integrate into normal education as well as subsidy and commitment in these respects. I hope the Government will respond positively.

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

MR CHEUNG MAN-KWONG (in Cantonese): Mr President, the essence of education is not only to develop the long suits of students but more importantly, also to supplement and remedy their deficiencies. To be more specific, we must teach students in accordance with their aptitude and needs, and fully develop their individual potential. For disabled students, it is even more important to adopt the student-oriented approach because we do not merely provide them with a chance to receive education, but also enable them to receive individual counselling and therapy, so that they get the best care in a proper environment.

Mr President, the motion proposed by the Honourable TIK Chi-yuen today is to urge the Government to commit itself actively to special education services and give priority to the provision of funds for issues that require prompt solution. This is no excessive demand. It merely seeks to restore fair treatment to parents and students who have been misled and even deceived by the Government's so-called "special education" over the years. We can tolerate no more special schools with perennial shortage of school nurses, physiotherapists, occupational therapists, and social workers. These "empty shell schools" are products of the Government's policies and have misled hopeful parents to think that their children can get proper assistance and therapy through special education. This is nothing but a beautiful illusion. In such "empty shell schools", their children are still being neglected and abandoned to their own fate. This is a dreadful fact. More regretful still, the Government has, over the years, only made piece-meal amendments in respect of special education at the administrative level. It has never made timely allocation of more resources to resolve the pressing problems.

The first issue the Government must face squarely is the "one school one nurse" policy implemented in schools for the physically handicapped and those for the severely mentally retarded. The policy is ridiculous in the sense that a school with 40 or more students can employ at most one full-time registered nurse. Even if the school expands and has more than 40 students, it cannot increase the nursing staff. At present, all such school have more than 40 students, some of which have as many as 180 students, which is four times the number of students a nurse is supposed to look after. This situation is so appalling that it can be described as "inhuman". These children suffer from bad health and some of them require regular feeding on medicine, blood testing or gastro-intubation and so on. Furthermore, because of their inability to look after themselves, these students often suffer from fall wounds, fracture and difficulty in swallowing and so on. Hence, one can imagine the immense work pressure of a nurse. Shortage of nursing staff not only affects students' health, but also constitutes a direct threat to their lives as well. I am sure the Government is aware of the appalling situation and the real problem lies in the administrative procedures. As the Government is slow in amending the relevant provisions, children who are desperately in need of care fall victims to the indifferent bureaucracy.

Apart from registered nurses who suffer from staff shortage, other professional supporting staff such as physiotherapists, occupational therapists, speech therapists, and social workers also have to face similar problems. Among them, physiotherapists and occupational therapists suffer the most serious long-standing wastage because serving professionals or newly graduates prefer to join the Hospital Authority which offers better conditions and benefits. The vacancy rate of school physiotherapists is as high as 70% and that of occupational therapists more than 35%. These appalling figures have persisted for a few years. Yet, up till now the Government is still at a loss what to do, or it has never tried to resolve the problem. Officers from the Education Department had once said in a consultative meeting that when the Hospital Authority had absorbed sufficient personnel, the staffing problem in special schools would naturally be solved. I am concerned with the Government's passive attitude of "governing by doing nothing" and strongly denounce it. Obviously, the Government fails to discharge its duties in this respect, because it could have considered transitional measures, such as the "buying" of therapists' services on contract basis, or secondment of staff from the Hospital Authority and so on, to relieve the staffing problems. What the Government lacks is sincerity and determination to resolve the problem. Disabled children who enrol in these special schools have already suffered from mental or physical deficiencies. If they do not receive timely treatment, they may be beyond treatment in future, and this will cause permanent damage to them for the rest of their lives.

Mr President, in recent years, disabled children studying in special schools suffer from more serious and complicated disabilities than those in the past. The number of multi-handicapped children is growing and their poor learning and adaptation ability, makes teaching and counselling more strenuous. Since staffing ratio had not been improved for years, teachers who have to work under enormous pressure have not been able to give full and individual care to every student. Yet, individual teaching is precisely the characteristic of a special school. Thus, our society cannot accept "empty shell schools", nor the Government's so-called "incomplete" special schools. The Government should readily accept good advice and change its past perfunctory attitude to act in the spirit and principle of special schools. Only then can we face our disabled students, their parents, and ourselves with a clear conscience.

Mr President, as far as special educations is concerned, I also fully agree with the Honourable Eric LI's comment that concern should also be given to provide education for gifted children. The notion of teaching students according to their aptitude is not just applicable to the mentally and physically handicapped, but also to gifted children as well. Gifted children are like a piece of uncut jade awaiting to be carved and polished. They need suitable cultivation before they can make the most of their potential and shine brightly. No gifted children should be left stifled in a vacuum-like educational environment; nor

should mentally and physically handicapped children be abandoned to worldly indifference. Both share the same significance in terms of educational spirit and principle.

Mr President, with these remarks, I fully support Mr TIK Chi-yuen's motion and the Honourable Henry TANG's amendment to the motion.

MR TIMOTHY HA (in Cantonese): Mr President, in recent years, there has been certain progress in special education in terms of quantity in Hong Kong. In the face of rapid developments in science and technology and in the economy, corresponding progresses should be made in the quality of special education.

The purpose of special education is to provide suitable education to children with special educational needs to help them develop their potential fully. These children usually have difficulties in learning or certain physical disabilities that make it impossible for them to fully utilize services provided by schools as other children of similar ages do. However, their right to receive education, whether in ordinary or special schools, should be the same as their ordinary counterparts. The difference lies perhaps in the way education is provided for them.

Under present government policy, children with special educational needs are placed in ordinary school as far as possible so that they may mix and communicate with ordinary children in an ordinary learning environment to get the most out of their education.

According to the recommendations in the Education Commission Report No.4 published in 1990, there should be at least approximately 14% of the schoolchildren who need to receive special education provision in ordinary schools. Since special education is now regarded as a part of general school education, we need to secure concrete improvements in teacher training, curriculum, and auxiliary facilities to enable schoolchildren to receive an ideal education, if we want to improve the quality of the education for children with special needs studying in ordinary schools.

Indeed, there has been a panel established within the Board of Education to rigorously study and review special education, including the needs of special students in ordinary schools and in special schools. I hope the Administration can give due consideration to proposals for improvement to be finalized by the panel so as to better the quality of special education.

In recent years, there have been a large number of schoolchildren with serious and multiple learning difficulties studying in special schools. Hence, the code for special schools should be suitably reviewed and amended to cater to the needs of schoolchildren with physical or intellectual handicaps. Due emphasis should be given to the quality of teaching in teacher training. Teachers should be suitably assessed to see if they master effective teaching methods and if they can solve learning problems of students, so as to ensure that students achieve personal progress and have a chance to receive total education.

Improvement is badly needed in the establishment of school nurses. Irrespective of size, currently schools are allowed one nurse in each school. Imagine a scenario in which the school nurse takes a student to the hospital for emergency treatment. There will be no one to assist the rest of the students when they go to toilet, or take their medicine or temperature. More nurses should be stationed at schools without delay.

Another important measure in improving quality is of course the reduction of class-size and the increase of the number of teachers in accordance with the number of classes in special schools. The Administration should give due consideration and respond positively to the improvement to the establishment of non-teaching staff in such schools, including clerical staff, social workers, auxiliary medical staff (including physiotherapist, occupational therapist and speech therapist) and hostel staff. The fact that the last academic year saw a 70% wastage for physiotherapists tells us how badly we need improvements.

Mr President, I have some reservations about today's motion put forward by the Honourable TIK Chi-yuen. I cannot agree to the statement: "the Government has not paid much attention to special education services for more than 30 years" contained in the motion. Although there is a lot of room for improvement in special education, as I mentioned a short while ago, the kind of care and training given to special children in Hong Kong compares favourably with other regions.

I have taken part in the drafting of the Education Commission Report No.4 and am a signatory to it. I can tell everyone that the Administration has not entirely ignored special education. I am glad to know that the Board of Education will be making proposals in the near future for improvements on special education, and I look forward to its findings as well.

I support today's motion and amendment.

MR FREDERICK FUNG (in Cantonese): Mr President, the Hong Kong Government has always put emphasis on economic benefits, and its attitude towards improving special education is far from positive. As a result, students with special needs do not receive appropriate care, and their families are placed under tremendous psychological and mental pressure. I believe, with our ample fiscal surpluses, the Hong Kong Government has a duty to give substantial support to the disabled in Hong Kong, numbering approximately 264000. I regret on the Government's unwillingness to make a positive commitment and its disregard for the matter.

Although the chance of recovery of children with special needs is minimal, it does not mean that we can ignore them. Furthermore, the conditions of those with minor disability, such as those who are mildly retarded or having emotional problems, can be improved by appropriate treatment. There is no reason for the Government to adopt an indifferent attitude and abandon them to their own fate. The fundamental responsibility of the Government, I believe, is to provide appropriate care to children with special needs so as to prevent their conditions from deteriorating and to help them integrate into the community. I do not think such a demand is excessive. That exactly is what a responsible government should do.

Education Commission Report No.2 recommends that special education teachers should be provided with on-the-job training. However, for nearly 10 years, there has been no significant improvement in training in the field of special education. We must understand that the care required by children with special needs is several times that needed by ordinary children, and this warrants a higher manning ratio. An ordinary class teacher will probably find it difficult to deal with a group of 35 to 40 normal children, let alone a special education teacher having to deal with a special class of over 20 students! It is, therefore, necessary to reduce the class size. The more important issue is, special education teachers do not simply teach their students knowledge, but also have to look after their movements. This imposes a very heavy psychological burden on the teachers. The limited number of special education teachers and the serious wastage problem both give an impression to people that special education is a difficult job and an unattractive profession. Although the Government has stated in response that improvement has been made in the aspects of establishment, manning ratio and transfer arrangements, the situation is still unsatisfactory. I am worried that in order to solve or relieve the problem, the Government will eventually "sing the same old tune" and import labour to work in this field. That exactly is the method employed by the Government to deal with the shortage of nursing staff at homes for the aged. Does it mean that we also have to import labour to meet the shortage of special education staff later on? I hope the Government will not use this excuse anymore. I think when the Government formulates special education policies, it must at the same time put emphasis on manpower planning. In particular, efforts must be made to retain serving staff and attract new blood.

Although the resources earmarked for special education by the Government has been on the rise in terms of the actual amount of funding approved, I think the amount is insufficient and perhaps not meaningful in real terms. For instance, the Government is prepared to earmark \$700 million for special education this year, which represents a 7% increase over last year. However, we all know that the inflation rate this year is as high as 9%. We understand we should not be too aggressive in achieving progress. To request the Government to overhaul local special education services in one move may be an excessive demand. But what can a 7% increase in funding do to improve local special education? Does the Government think that the problem can be solved simply by allocating \$700 million? What a wishful thinking! Such an amount has no significant effect on the improvement of special education as a whole. Furthermore, I believe the crux of the problem lies in the absence of a government policy to support special education. It is useless if the Government just increases by a small amount the allocation of resources year by year on a "piecemeal" basis.

Being pressed by various bodies, the Government eventually issued the *White Paper on Rehabilitation* last month and recommended greater support for disabled children to integrate into the mainstream education system. The implementation of the measures recommended in the White Paper requires co-ordination of all parties and the deployment of resources. The White Paper, however, does not discuss these two areas. What is the amount of resources the Government actually wants to use to implement the recommendations? I hope the Government will provide an answer later on. I also hope that it is not just the sum of \$700 million which I have just mentioned. Furthermore, what is the timetable for the implementation of the various recommendations? Again, I hope the Government will later elaborate on this.

As the Government has a plan to help disabled children integrate into mainstream schools, it should therefore consider adopting the integrated approach of education as mentioned in the amendment to the motion. This approach of education gives the public a better understanding of the disabled and puts an end to the estrangement or misunderstanding between the public and the disabled. The Government should then stop blaming people for being uncooperative.

The Secretary for Education and Manpower has been in charge of policies relating to special education since April. I would like to ask him to seriously consider the opinions of this Council in the review report which will be completed soon.

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

MR MICHAEL HO (in Cantonese): Mr President, my speech will focus on several aspects of special education, including the establishment of special health care workers and nurses and education for gifted children.

In the field of special education, many students need special services like occupational therapy, physiotherapy and speech therapy because of their various physical and intellectual problems. Looking at the manpower in this area, we would realize that there has been very serious staff shortage at the close of the financial year on 31 March 1995. Physiotherapists have an establishment of 46 posts, but a strength of only 17.5. Mr President, in fact we have to note that the number of posts on the establishment is often already smaller than that demanded. Even with such an establishment, the percentage of posts filled is only as low as 70%. The problem of shortage is indeed very serious. For occupational therapists, there is also a shortage of about 30%. Speech therapists have an establishment of 51 posts but a strength of 18. With such a size of staff, the level of special education services that we are now providing is obviously lower than what it should have been.

Concerning the problems of shortage and wastage, we can look at some more figures relating to wastage. The situation of wastage shown by these figures is far more serious than that of the nurses of the Hospital Authority (HA) which I have often mentioned. In 1993-94, the wastage rate of physiotherapists was 69.6%, that is, almost 70%; occupational therapists, 49.4%, almost 50% and speech therapists, 33.3%. Recently, the Union of Hong Kong Speech Therapists also informed me that half of the first batch of speech therapy graduates of the University of Hong Kong would leave the service this year. Why is that so? Certainly, as many Members of this Council have said, it is due to the terms and conditions of employment offered by the HA. That is a fact and I hope the Government can do something about it.

Besides, I would also like to point out that, their present promotion prospects are obviously very different from those offered by the HA which is a big organization. In this regard, I think the Government should set about to improve the situation at this stage without delay. Without more reasonable promotion prospects, I cannot see why these people should remain in these institutions.

Another reason, a little-known one, is the expansion of the services of the HA that has resulted in competition for manpower. Recently, the director of an aided institution complained to me that a hospital in his district started to provide a service which was very similar to and overlapping the service his institution had been providing. He said the introduction of the service by the hospital had not only snatched away his occupational therapists, but also his patients. After treatment, the doctors of that hospital would tell the patients that they could get all the similar services in the hospital which had been provided by some specific places formerly, and there was no need to go elsewhere any more. Thus this hospital has not only taken away his staff, but also his patients. In this regard, I think the Health and Welfare Branch can actually do a bit more.

When the HA was first established, we told everyone clearly the purposes of setting it up. We should not allow the HA to expand indefinitely beyond hospital services. The Government has its policies, it should monitor the HA and make sure that it does not go beyond its bounds nor expand indefinitely. The most amusing thing the said director told me was that someone in the HA advised him that he could buy services from the Authority and that the Authority could deploy some staff to help if he really had no staff in his institution. I think that this can only be taken as an expedient measure, it must not be a permanent arrangement. We have to check how much services have been duplicated and we cannot allow such duplication to exist.

As far as speech therapists are concerned, I would like to raise a rather special point. The speech therapists told me that under the present arrangement, there was only one speech therapist in each aided institution. They also told me that speech therapist was a one-rank grade with no promotion prospects. In other-words, after leaving university, physiotherapists and occupational therapists will get jobs with promotion prospects, but not speech therapists, their grade is a one-rank grade, where they will remain in the same rank until the day they reach 60, should they choose to stay that long. Hence, there is no reason for these people not to leave, nor is there any reason for them not to switch to another job. I hope the Government will tackle the situation as soon as possible.

As regards manpower shortage, I think we cannot leave it to the mercy of God. The funding for universities for the years 1995-98 has already been granted. Do we have to wait until the grant allocation exercise for 1999-2001 before we make preparations to increase the university places concerned? If not, what should the Government do now to increase manpower?

MR FRED LI (in Cantonese): Mr President, I will speak on the issues of the establishment and wastage of social workers and dormitory staff in special schools.

Of the 63 special schools in Hong Kong, 18 of them provide boarding service. In other words, about one eighth of the pupils who require special education services get the support of dormitory services. At present, the establishment of social workers in special schools is 105 and the social worker to pupil ratio is 1:70.

In the past three years, nearly 70% of the welfare workers in special schools left their jobs and the wastage rate of wardens was as high as 34%.

As to social workers in special schools, the problem of wastage is also fairly grave. The average wastage rate in 1993 and 1994 exceeded 30%. Some of my friends in the social work sector told me that most of the people who quit are veterans with much experience in the field.

Why do so many social workers and wardens leave the special schools? It is simply because the Government has all along treated them indifferently and turned a deaf ear to their opinions.

Each pupil in a special school, in fact, has unusual characteristics. Each of them needs to be nurtured and well taken care of. It requires the incomparable devotion of the staff who choose to join the profession and take it as their career. Everyone in the profession of special education deserves our respect.

Regrettably, the Government, for many years, has neither recognized their contribution nor tried to listen to them. Hence many social workers in special education had no alternative but to quit. Wastage of social workers is a loss to special education services and a direct cause for the inferior quality of the services provided.

Mr President, many colleagues of mine in the field of special education talk to me about their work. With the development of society, special schools have to admit many different types of pupils. The workload of social workers is gradually getting heavier. Some teachers in special schools have told me that on top of teaching their pupils to wash up, dress themselves, go to toilet and eat their meals, they have to assist the professional therapists in all kinds of therapy and even go so far as feeding the pupils, changing their diapers and carrying them around.

In addition to their daily duties, social workers in special schools have to take care of the pupils' emotional and psychological well-being, to offer career counselling to school-leavers. On the other hand, the dormitory staff, who spend a lot of time with the pupils, not only have to arrange room and board for the children and ensure that they are well taken care of, but also have to pay attention to the pupils' character development, help them with their homework and provide them with medical care.

The responsibilities and job duties of the staff in special education have changed both in terms of nature and quantity. As compared with the situation some 10 years ago, the community has much higher demands on them today.

Hence, I urge the Government to conduct a review in the following respects and make improvement in order to meet the substantial needs of special education services:

(1) *Social Workers in Special Schools*

Regarding social workers in special schools, under the existing Code of Aid, only the 28 special schools accommodating maladjusted pupils, offering classes in senior forms and employing more than three categories of professionals are eligible to employ graduate social workers. The remaining 35 schools, which cannot meet these three requirements, can only get non-graduate certificated social workers.

Such unreasonable and inflexible provisions, drawn up in 1982, are out-dated and no longer compatible with the present needs. Many schools, social workers and parents hope that the establishment of social workers in special schools can be standardized so that the schools can make their own choice in employing graduate or certificated social workers.

Another problem faced by social workers in special schools is their heavy workload. The ratio of social workers to pupil in special schools is 1:70. However, many schools actually enrol more than 100 students. In addition, social workers have to follow up the pupils who have left the schools. As a result, social workers, in fact, have to handle more than 100 cases most of the time. With such a heavy workload, they cannot take good care of the needs of all students in every respect. Thus, I hope that the ratio will be changed to 1:50.

Moreover, I also suggest that the Government create the post of professional supervisor on the establishment of special schools. As far as I know, if a social worker in a special school encounters any difficulties at work, the principal is the only person who will make arrangements and provide guidance to the social worker concerned though he/she is not a professional in this field. Yet eventually, the case will be referred to other organizations for further assistance.

I believe that if the post of supervisor is created, not only will social workers be assisted in the follow-up of cases, experienced social workers will have more chances of promotion. Consequently, social workers can be attracted to stay on and the problem of wastage will not worsen.

(2) *Dormitory staff in Special Schools*

Not only does the establishment of social workers fail to meet the present needs, the same problem is faced by dormitory staff in special school.

At present, the duties of a warden in a special school include taking care of 50 to 100 physically handicapped pupils, following up over 100 cases, supervising over 20 to 60 dormitory staff including nurses, houseparents, and programme workers, co-ordinating all specialized departments in the school, and paying attention to the feeling and behaviour of pupils. Can such heavy and complicated duties be handled by a senior social work assistant, that is, a certificated social worker? I believe that the answer is no.

As a matter of fact, residential service in many special schools is subsidized by the Social Welfare Department and the Education Department respectively. The post of the heads of dormitories subsidized by the Social Welfare Department, whose job nature and duties are the same as those of wardens in special schools subsidized by the Education Department, has been upgraded to a post equivalent to social welfare officer. This move illustrates that the establishment of wardens drawn up by the Education Department 12 years ago lags far behind reality.

Last year, 34% of the wardens left their jobs. In a dormitory, the warden is like a parent of the pupils living there as well as the soul of dormitory. Though some vacancies have been filled, the frequent change of wardens eventually will adversely affect the pupils. I think that if the Government does not face squarely to the problem concerning the establishment of wardens, the phenomenon of a frequent turnover of wardens will persist.

The existing Code of Aid stipulates that a dormitory with 50 pupils should only have one warden and an assistant warden without training in social work. However, at present, among the 18 special schools in Hong Kong, more than half of them have admitted over 50 resident pupils. Given such heavy workload and such a large number of pupils, is it fair for these schools to have just one warden?

Mr President, we discussed the issue of unemployment in Hong Kong last week. Today we understand the fact that the wastage and vacancy rates in special schools are high. Under the present depressing economic state, special schools still "have jobs that no one will take". It can reflect how serious the problem faced by this profession is.

I urge the Government to take heed of the opinions of the staff are working in special schools now and devise measures as soon as possible to remedy the situation. It is time for action.

I support the motion of the Honourable TIK Chi-yuen.

MR LEE CHEUK-YAN (in Cantonese): Mr President, many Members mentioned a phrase in their speeches just now, and that is "manpower shortage". It makes me feel that the special education in Hong Kong is just like an "empty shell policy". Looking from the outside, it has everything, physiotherapists, speech therapists, teachers, nurses, social workers, everything. But it is empty inside. It is like a sugar-coated bitter medicine, one who eats it as delightful candy will find it bitter put. The present special education system is so very disappointing.

In a forgotten comer, there is a group of disabled children waiting desperately to go to school but only the lucky ones are able to. Because of the improper allocation of resources by the Government, the staff harbour bitterness and the children do not receive their needed care. This and society's discrimination against disabled children make it harder for these children to integrate into society in future. Ignoring is not the solution to the problem. In this society where the law of the jungle prevails and the distinction between right and wrong is blurred, the strong always dominate and the weak and always bullied, discriminated against and helpless. These people have always been abandoned by society, trodden upon at the bottom of society, and have never received proper care. This is the reality that we cannot evade from. Should we continue to pretend that we can look without seeing and hear without listening, why do we need a government? Why do we need the Legislative Councillors who serve as the people's mouthpiece?

Perhaps the government departments concerned are raising their voices against injustice. As for the issue of the disabled children's education, has the Government not provided sufficient school places? Has it not invested a large amount of resources in it? As compared to other countries, should we not be considered very good? So they would ask. I think that the present situation is that the Government has not done a good job in providing the necessary support. According to my observation of the Government's work in the past, I have found that the departments involved in an inter-departmental job have been always passing the buck among one another. As long as they have deployed the staff and prepared the expenditure budget, they are satisfied that they have already finished the task. I consider this out-does the ostrich that buries its head in the sand. Just listen to what I am going to say, Members will see how the Government leaves out the simple task but chooses the complicated ones and how their ways of doing things are a complete mess and yet how much they regard themselves as being correct.

Firstly, starting from April last year, the Government altered the procedures for the disabled children to enter a special school, this increased the complexity of transfer cases and required very complicated papers to be filled out. As a result, some school places are not filled. Thus, the Government can very well tell us that the supply of school places exceeds the demand. Secondly, the Administration is in such chaos and the arrangements are such a mess that one is just amused and yet annoyed. I know some children who go to special schools in New Territories North and Sha Tin have to travel there all the way every day from their hostel in Lei King Wan in Quarry Bay, accompanied by their parents, because the authorities concerned fail to provide them living quarters near their schools. Such an arrangement imposes a heavy toll on the parents physically, mentally and financially. Thirdly, regarding the ratio between the teachers and staff of non-teaching grades, as professional groups are constantly assessing it and making suggestions for improvement. I will not repeat here. I just hope that the Government will be willing to accept their good advice.

Nevertheless, I have to point out that it remains a mystery to me as for how the Government decides on the policy on the ratio of staff. First, the present staff ratio of physiotherapists and occupational therapists to the students in special schools is one to 30. But for the pre-school education and training, that is, for the children of zero to two years old, the ratio is one to 120 while for children of two to six years old, the ratio is one to 60. It is common sense that treatment should start early but how come the younger the children are, the fewer resources they get? Also, at present, if the number of students in a special school reaches 40, the school can hire a school nurse. The problem is, there is one special school with 180 students which also hires only one nurse. This nurse must be a superhuman with three heads and six arms. What kind of policy is that which has the minimum standard set but without any reasonable manning scale in respect of staff?

Human resources is of course a problem but what is more important is the quality and effect of education. To help disabled children to integrate into society, the Government transfers the disabled children with learning ability to ordinary schools. However, the Government does not provide the necessary support to go with that to help the teachers of ordinary schools to learn to understand the disabled students and to teach them. The result is usually that these children are not teachable and eventually sent back to special schools. This is not the children's fault, nor is it the teachers'. What goes wrong is that there is the policy but no way of implementing it. I suggest the Institute of Education to include teaching of disabled children as a compulsory subject so that the teachers know how to deal with this pattern of combined education. The

teachers not only teach disabled children knowledge and social life but also teach the children of normal intelligence how to get along with disabled and their parents not to discriminate against the disabled children. This is the question of the chicken and the egg. When all the teachers can teach disabled children who have been assessed and found to be able to attend ordinary schools, the authorities can then feel at ease to let large numbers of disabled children integrate into mainstream education so as to achieve the ideals of education.

I have to emphasize again, when there is no proper supporting arrangements, no matter how ideal the policy is, it will only turn out to be a fantasy. I hope that while reviewing the special education policy, the departments involved will not simply go through the motion. I call upon the authorities concerned to make a pledge to resolve the problem of shortage in human resources in special education. If there is inadequate funding, I hope that the Government will allocate funds and commit itself to put special education on the normal track.

Other than the fact that the internal operation of special education requires active reviewing and improvement, the other factor which we can absolutely not overlook is civic education. I remember that many years ago, the Government planned to set up a hostel for disabled children in Pak Fuk Road in North Point but the plan was shelved in the end because of the residents' objection. Several years later, the Government then succeeded in setting up a hostel in the nearby Lei King Wan. That people discriminate against those who are unable to help themselves and even deprive them of their survival space clearly demonstrates the complete failure of our civic education. I hereby call upon the Government to educate the public to accept disabled children into mainstream education when reviewing the special education policy so that they can get along with ordinary children and both can accept each other. This should be considered as a matter of very high priority.

Educating children at a very early age not only helps disabled children to learn at an early stage to lead a normal life but also helps those children of normal intelligence to understand and accept them and also to identify with them. I believe that if we can do this properly, our future masters will have more wisdom, knowledge and experience when formulating the concerned policies in the future.

These are my remarks. Thank you, Mr President.

MR LEE WING-TAT (in Cantonese): Mr President, in regard to nursing services, I personally have something to add.

Nurses, apart from providing treatment services, should also work in the direction of primary health care. Apart from treating patients, they should also improve the patients' health. And that is also in line with the Administration's policy in developing primary health care services. I hope that in the inter-departmental working group meeting chaired by the Secretary for Health and Welfare today, there will be some concrete ideas. The Honourable Michael HO also agrees with me in that regard.

MR WONG WAI-YIN (in Cantonese): Mr President, my speech will focus on how to assist students with special educational needs integrate into mainstream education.

Since 1982, the Education Department has implemented a series of intensive remedial teaching service to enable children with special educational needs to integrate into mainstream education. At present, around 7000 such children are studying at ordinary schools. But because in the last 10-odd years, the Government has not been able to plan systematically and carefully to give support to these children and the educational staff involved, a number of problems have arisen.

Ratio of teacher to pupil

The Government has not improved the teacher-to-pupil ratio at ordinary schools which have accepted students with special educational needs. With a one to 40 teacher-to-pupil ratio, it is extremely difficult for a teacher to cater for the special needs of individual students. Such a situation would not do any good to the students. It would only give increasing pressure to teachers, whose morale and quality of teaching would be adversely affected.

Teacher training

The policy of integrating children with a disability into the mainstream has been in place for a number of years but the Government has not provided corresponding training to the teachers concerned. This has made it impossible for integration to be effective, and has a negative effect on students with special educational needs. A parent who had a child with a disability once said to us, rather helplessly, "I have an autistic son. During his first couple of years of study at an ordinary school, the headmaster and the teachers alike often tried to convince me to transfer my son to another school!" In the absence of support and training provided by the Government, the attitudes of the education workers are understandable.

Indeed, allowing children with special educational needs to integrate into ordinary schools, and allowing them to learn with other children is a move in the right direction. A prerequisite, however, is that there must be adequate corresponding supporting measures. Simply chanting slogans and letting children with special educational needs either swim or sink after being thrown into the deep end of ordinary schools would not do!

Mr President, I was given to understand that there was a case in which a slightly mentally handicapped student was found on assessment to have worsened mentally several years after having been transferred to an ordinary school. Consequently, he was transferred back to a special school.

Cases like the above one are common.

In short, the Government's efforts in promoting the integration policy are counter-productive, albeit well-meant, increasing the pressures on the staff concerned, inevitably to the detriment of the students.

Mr President, we think that the Government must stop the harm it is doing, strengthen existing support immediately and ensure effective implementation of the integration policy. In this connexion, the Democratic Party has the following proposals:

(1) *Reduce class size*

Integrated schools should have a smaller class size and more teachers. As far as we know, integrated child care centres have smaller classes than normal, and if such a centre accepts more than six such children, they are allowed to hire a child care worker with training in special education. We therefore think that integrated primary schools and integrated secondary schools which accept children with a disability should be given the same treatment.

(2) *Provide extra "school-based" support services*

We want to urge the Government to increase support according to the needs of individual schools.

Students with special educational needs normally take time to adapt to life at an ordinary school because there the curriculum, environment and system are all different. During this time, these students particularly need understanding and care from their teachers, social workers, and their peers. Therefore, the Government should strength support for integrated schools. For instance, teachers in such schools should be given more training, and less non-teaching work so that they may have more time to help such children.

(3) *Establish a working group to follow-up on the integration policy*

At present, some of the disabled students who are qualified to enrol in ordinary schools face great difficulties when they want to transfer to such schools because of insufficient support from the Education Department.

For example, wheelchair-bound disabled students who have obtained good results in the Hong Kong Certificate of Education Examination must first consider if the schools they want to transfer to have elevators and ramps, whether there are any obstacles to the access to the schools, or whether the elevators can accommodate wheelchairs.

From the *White Paper on Rehabilitation* recently released, I was delighted to know that access facilities for physically handicapped children who are wheelchair-bound or who have locomotive problems will be provided in new schools scheduled for completion from 1998 onwards.

Nevertheless, to ensure that students with special needs can find ordinary schools that match their needs, we propose that the Government should take the initiative to establish a working group to liaise with schools to enhance the chance of these students to enrol.

Mr President, in the integration process, students with special educational needs, their parents, and their teachers are subject to immense pressures. We hope everyone in the community will accept and care about children with a disability. To achieve this, we must begin with educating the public. It is through publicity and education of the public that principals, teachers and peers closely associated with children with a disability will come to understand the roles they play and their importance.

I do hope that everyone in the community will hold a receptive attitude towards children with a disability so that they may live with dignity and grow up in a healthy environment!

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

PRESIDENT: Mr TIK Chi-yuen, do you wish to speak? You have five minutes to speak on the amendment.

MR TIK CHI-YUEN (in Cantonese): Mr President, my response is simple. From the wording of Mr TANG's amendment and what he said in his speech, I know that the purpose of my motion and that of his are the same, namely, we both want to improve special education services. Mr TANG's amendment stresses the importance of integration into mainstream education and the promotion of public awareness of the policy. Presumably, this is meant to avoid any discriminatory effect that may be brought about by special education services. In the circumstances, I see no opposing differences between us. I regard Mr TANG's amendment as supplementary to mine and well-meant. The Democratic Party will support Mr TANG's amendment and will call on the Liberal Party to continue to stand firm and work hard for the improvement of special education services, as the Democratic Party does.

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, I am grateful to Members who have spoken this evening about special education services. Let me reassure Members that the Government is just as concerned as Members that special education services should continue to develop and improve. This commitment is clearly re-affirmed in the White Paper on Rehabilitation tabled at the Legislative Council on 7 June 1995. But first of all, I would like to spend a few minutes on the premise of this debate, which provides the broad parameters within which Members have put forward their views and suggestions. The premise is that the Government has paid insufficient attention to special education services for more than 30 years. Is this true? What are the facts? A brief review will be helpful.

In the sixties, special education services comprised no more than two special schools, one each for the mentally and physically handicapped and a handful of special classes in primary schools for slow-learning children — special education was at its infancy.

During the seventies, special education services began to develop. By 1976, the number of special schools grew to 35, that of special and resource classes to 287 and these catered not only for slow-learning children but also children with other disabilities such as maladjustment. The first Special Education Services Centre under the Education Department was established in Kowloon to provide assessments, diagnosis and intervention programmes for children with special educational needs.

The publication of the White Paper "Integrating the Disabled into the Community: A United Effort" in 1977 set out for the first time the Government's comprehensive objectives in services for the disabled.

In line with other service areas, this White Paper announced an ambitious programme of expansion in the next decade of special education services — a rapid increase in special school places and a much enhanced standard of provision of support services in special and resource classes in ordinary schools.

The policy enshrined in the 1977 White Paper that as many disabled children as possible should be enabled with appropriate support services to receive education in ordinary schools has been a cardinal principle guiding the development of special education services.

In accordance with the ambitious targets set in the White Paper, the number of special schools was increased by mid-1980s to 61 offering a total of 8092 places. Special and resource classes expanded in parallel — there were 426 such classes giving a total of 9265 places. To improve the quality of special education, the teacher to classes ratio was increased from 1.3 for primary or 1.4 for secondary to 1.5 for both. The reduction of class size which had already started in the seventies was extended to other categories of disability including the maladjusted. Other provisions in the Code of Aid for Special Schools were revised to include enhanced provisions of paramedical and ancillary staff such as physiotherapists, social workers, and so on. As an integral part of development, teacher training in the education of children with special education needs was improved.

Two other important developments also took place around the same time. The first related to the introduction of a combined screening programme for children at Primary I level to facilitate the early identification of hearing, vision, speech or learning problems so that children identified could receive early remedial services. This service has since become an exceptionally useful tool in planning our special educational services.

The second related to the introduction of an Intensive Remedial Support Service for children being educated in special or resource classes in ordinary schools. This service was subsequently developed to include peripatetic service, school-based remedial service and non-school-based support services at resource centres. This comprehensive range of remedial and support services enabled more and more handicapped children, in particular, those who were visually or hearing-impaired, physically or mildly mentally handicapped children to receive school education alongside their peers, thereby laying the ground for further development in integration.

Developments in the late 1980s and early 1990s was characterized by further improvements in teacher education, a new approach in meeting the special needs of junior secondary students through curriculum restructuring and extending the concept of special education to gifted children.

To raise the quality of teacher education, the part-time in-service course of training in special education was upgraded to a one-year full-time course in 1993. In the same year, following the recommendation of the Education Commission, the Government decided that a programme of new practical schools and skill opportunities schools with emphasis on practical subjects or vocational skills should be established in the mainstream education to cater for junior secondary students who are unmotivated by the normal school curriculum or who experience learning difficulties. As Members may recall, a sum of \$340 million was subsequently earmarked for the construction of three new practical schools and seven skill opportunities schools in the next four years.

Similarly, efforts were reinforced to assist low achievers in our secondary schools through the provision of school-based curriculum, specially tailored to the needs of these students and the provision of extra graduate teachers. As Members know, the scheme has proved so successful that it is being extended to 70 schools in September 1995.

In striving to assist students at the lower end of the ability spectrum, it is important that we do not overlook the special needs of those at the upper end of that ability spectrum. In 1994, a pilot project started in our primary schools where academically gifted children were identified and given special assistance in terms of curriculum and learning materials. A special training programme for teachers of these children was also started. A site for a new resource centre to help both teachers and children alike was identified. Construction work started in late 1994 and has just been completed. The centre will be opened for use shortly.

Given these encouraging integrative developments in our mainstream schools and given that today we have enough special school places for all children with a disability — 63 special schools with a total provision of 8638 places — I believe Members will agree that we have taken major steps in the development of our special education services and have achieved concrete results of which all of us can be proud.

This does not mean that we should rest on our laurels — in our Hong Kong style, we never do. As with the development and expansion of any of our services, we must be on the constant alert to problems that may arise and tackle them robustly so that we can move forward to the next stage of development. In this regard, I agree fully with Members that the current difficulties in recruiting and retaining paramedical and other specialist staff for our special schools are adversely affecting the quality of our service and must be dealt with. I also share the concern, too, that it is high time we should have a fresh look at the standards of provision including our teaching and non-teaching staff as well as the question of class size in our special schools — although I would hasten to add that our average pupil to teacher ratio at 5.7:1 compares favourably with some advanced countries such as the United Kingdom which happens to have the same ratio.

For these reasons, the Administration had asked in mid-1994 the Board of Education to conduct a comprehensive review on special education services to advise on further development both in the short and longer terms. The Board subsequently appointed a subcommittee to undertake the review. This subcommittee commenced work in October last year and expects to complete its task by the end of 1995. Separately, a Working Group on Allied Health Personnel has been established under the Health and Welfare Branch to look into the question of shortages of paramedical and other allied health professionals and to propose solutions. I know that this Working Group has selected, as a matter of priority, physiotherapists and occupational therapists as their next targets for examination.

Thus, while I fully share the sentiments and concerns of Members on the need for further improving our special education services, it would be presumptuous of me to preempt the recommendations of the Board of Education's subcommittee and indeed the Board's own considerations of such recommendations by seeking priority funding at this stage to undertake the areas of improvements as set out in the motion. Such action may not adequately reflect the valuable advice which the Working Group on Allied Health Personnel may subsequently tender. Furthermore, to do so would not only do injustice to the Board of Education as a whole, but may be misconstrued by an outsider, if not by the Honourable Member himself, as a sign of disrespect to Honourable TIK Chi Yuen in his capacity as a member of the Board's subcommittee. What I can do is to assure Members that I will accord priority to the examination of the Board of Education's recommendations as and when these are received and to seek funding support for the proposals on the basis of their merits.

For the reasons already stated, Mr President, the Administration is unable to support the motion and will abstain from voting.

Question on Mr Henry TANG's amendment put and agreed to.

PRESIDENT: Mr TIK Chi-yuen, you are now entitled to reply and you have three minutes 49 seconds out of your original 15 minutes.

MR TIK CHI-YUEN (in Cantonese): First of all, I would like to thank the dozen or so Members who have spoken and participated in this discussion today. I think all these views would serve as additional reference material for the Government and members of the public. To me, there is no disagreement among Members throughout today's debate. Nor is there any on the part of the Government. We have a common goal, and that is, we all hope to find ways to improve special education.

I would like to respond in brief to the speeches of several Members. Firstly, with regard to the issue of gifted children mentioned by the Honourable Eric LI, let me make it very clear to Mr LI that the Democratic Party supports education for gifted children and it is also our hope that the Government will commence work as soon as possible. If there is anything in this area that we can help, I hope Mr LI will liaise with us more often in future. We also think highly of the achievements that Mr LI has made in this respect. The Honourable Timothy HA remarked that certain progress has been made where quantity is concerned and we share his view. Yet, in terms of quality, there still leaves a lot to be desired. Obviously, Mr HA's comment on the performance of the Government in the past 30 years is different from mine but we both agree that there is still plenty of room for improvement and further actions are warranted. The Honourable LEE Cheuk-yan said that special schools, which are hollow in substance, are tantamount to "empty shell schools". We share this feeling immensely. The feedback from parents with whom we exchange views shows that parents also share this feeling. We hope to see substance put into these "empty shell schools" as soon as possible.

As regards the reply from the Government, I know that at the very beginning the Government intended to oppose the amendment or the original motion that I proposed but today, the Government changed its mind at the eleventh hour and abstained. I think in doing so the Government is trying to show sincerity in improving special education. However, in its reply just now the Government spent much time on describing the work that the Government did in the past. I agree that in the past 30 years the Government did show some performance and make some efforts to improve the situation. Yet, its performance and efforts still fall short of the expectations of those who work in this field as well as parents and children, especially in respect of improvement of quality. Therefore, I think this only presents a disparity in expectations, but not a point of contention.

The Government emphasized that a working group set up by the Board of Education will oversee the task now. I hope that the working group will work seriously after it has been entrusted with the task because I think that it is a very meaningful task for which much work has been done. People with extensive representative base have taken part in it and have contacted many organizations and individuals. There has been thorough exchange of views. I hope the Government will not leave the recommendations made in the forthcoming report on the shelf but accord priority to this issue seriously and seek resources to make improvements, just as the Secretary for Education and Manpower said earlier on.

It is the hope of the Democratic Party that the forthcoming report will set out a specific timetable and required resources with a view to making improvements in an orderly manner. I would like to stress that the moving of this motion calling for the improvement of special education is one of the actions, one of the tasks of the Democratic Party. We will be persistent to strive for improvement in this area in future. We do not rule out the possibility of moving another motion in the Legislative Council after the Board of Education has released the report, to see whether the Government has honoured its pledge to accord priority to this issue and seek resources to implement this task.

Question on Mr TIK Chi-yuen's motion as amended by Mr Henry TANG put and agreed to.

PRIVATE MEMBER'S BILL

First Reading of Bill

BRITISH RED CROSS SOCIETY (HONG KONG BRANCH) (AMENDMENT) BILL 1995

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

Second Reading of Bill

BRITISH RED CROSS SOCIETY (HONG KONG BRANCH) (AMENDMENT) BILL 1995

DR DAVID LI moved the Second Reading of: "A Bill to amend the British Red Cross Society (Hong Kong Branch) Ordinance. "

DR DAVID LI: Mr President, at the outset, I must declare my interest as a Member of the Advisory Council of the British Red Cross Society (Hong Kong Branch).

I move the Second Reading of the British Red Cross (Hong Kong Branch) (Amendment) Bill 1995.

The British Red Cross Society (Hong Kong Branch) Ordinance was enacted in 1976 to further and protect the activities of the Hong Kong Branch of the British Red Cross Society, and to incorporate the Hong Kong Branch.

Over the years, the mode of operation, and the internal management of the Hong Kong Branch have changed. As a result, the present Ordinance has become deficient in several respects. This amendment Bill addresses these issues.

The proposed amendment Bill would formally rename the British Red Cross Society (Hong Kong Branch) as the Hong Kong Red Cross.

Other major amendments would give the organization of the Hong Kong Red Cross, rather than its officers, corporate status.

The Hong Kong Red Cross Council, as the official decision-making body which has legal responsibility for the internal management of the organization, would be given statutory recognition.

The clauses protecting the use of the Red Cross emblem and title would be updated and revised, preventing unauthorized bodies from using the name of the Red Cross in the territory.

The amendments would also provide for the revesting of all rights and obligations of the former Hong Kong Branch to the Hong Kong Red Cross, and other consequential amendments as a result of the change in corporate status.

When the sovereignty of Hong Kong reverts to China on 1 July 1997, in accordance with the Rules of the International Red Cross, the Hong Kong Red Cross will change its present affiliation as a branch of the British Red Cross Society and become a branch of the Red Cross Society of the People's Republic of China.

The mechanism of such a change of affiliation will be the subject of a separate adaptation exercise to be carried out by the Hong Kong Government. It is not the concern of this Bill. This Bill deals only with the internal operation and management of the Hong Kong Red Cross, and is intended to restructure the Ordinance so that minimal amendments will be required when the time comes to change affiliation. It is thus an essential step to facilitate a smooth transition without causing unnecessary disruption to the service and operations of the Hong Kong Red Cross.

Mr President, I beg to move.

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

ADJOURNMENT AND NEXT SITTING

PRESIDENT: In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday, 21 June 1995.

Adjourned accordingly at fifteen minutes to Ten o'clock.

Note: The short titles of the Bills/Motions listed in the Hansard, with the exception of the Foreign Marriage Ordinance, the Legitimacy Ordinance, the Hong Kong Court of Final Appeal Bill, the Mandatory Provident Fund Schemes Bill, the Legal Aid (Amendment) Bill 1995, the Merchant Shipping (Seafarers) Bill, the Nuclear Material (Liability For Carriage) Bill and the Interpretation and General Clauses Ordinance, 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 Attorney General to Mr James TO's supplementary question to Question 1

I can now confirm that, after due consideration, no further action was taken in respect of those cases.

Annex II

Written answer by the Secretary for Security to Mr James TO's supplementary question to Question 2

The width of the pavement is 5.45 metres.

