

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 5 July 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 MRS ANSON CHAN, C.B.E., J.P.

THE FINANCIAL SECRETARY

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

THE ATTORNEY GENERAL

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

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

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

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

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

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

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

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

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

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

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

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

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

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

THE HONOURABLE MOSES CHENG MO-CHI

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

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

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

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

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

DR THE HONOURABLE LAM KUI-CHUN

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

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

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

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

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

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

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

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

THE HONOURABLE ANNA WU HUNG-YUK

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

THE HONOURABLE ALFRED TSO SHIU-WAI

THE HONOURABLE LEE CHEUK-YAN

IN ATTENDANCE

MR MICHAEL LEUNG MAN-KIN, C.B.E., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

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

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

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

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

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

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>
Merchant Shipping (Miscellaneous Craft) (Amendment) Regulation 1995.....	289/95
Shipping and Port Control (Hong Kong - China and Macau Ferry Terminals) (Amendment) Regulation 1995.....	290/95
Telecommunication (Amendment) (No.3) Regulation 1995.....	291/95
Telecommunication (Hong Kong Telephone Company) (Exemption from Licensing) (Repeal) Order 1995.....	292/95
Telecommunication (Fixed Telecommunication Network Services) (Exemption from Licensing) Order.....	293/95
Port Control (Public Cargo Working Area) (No.3) Order 1995.....	301/95
Port Control (Public Water-Front) (No.2) Order 1995.....	302/95
Telecommunication (Hong Kong Telephone Company) (Exemption from Licensing) (Fees) (Repeal) Order 1995.....	303/95
Housing (Tenancy Appeals) Rules.....	304/95
Housing (Amendment) Ordinance 1995 (24 of 1995) (Commencement) Notice 1995.....	305/95
Pensions (Special Provisions) (The Hong Kong Institute of Education) Ordinance (38 of 1995) (Commencement) Notice 1995.....	306/95
Banking Ordinance (Amendment of Third Schedule) Notice 1995.....	307/95

Telephone (Amendment) Regulation 1995	308/95
Factories and Industrial Undertakings (Suspended Working Platforms) Regulation (L.N.393 of 1994) (Commencement) Notice 1995	309/95

Sessional Paper 1994-95

- No.102 — Report of Changes to the Approved Estimates of
Expenditure Approved During the Final Quarter of
1994-95 Public Finance Ordinance: Section 8

ORAL ANSWERS TO QUESTIONS

Assistance for Young Immigrants from China

1. MR TIK CHI-YUEN asked (in Cantonese): *Regarding the Government's recent announcement that the Chinese Government will increase the quota of one-way permits to enable some children to settle in the territory, will the Government inform this Council:*

- (a) *whether it has taken into account the education needs of these children in formulating education policies;*
- (b) *what measures have been put in place to cope with the increased demand for school places; and*
- (c) *whether any measures will be formulated to help such children and their parents to settle down in the territory; if so, how much will it cost for implementing these measures and what is the timetable for implementation?*

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

- (a) The needs arising from the increase in Chinese immigrant children have been taken into account in formulating various aspects of education policies.
- (b) Based on past statistics on the profile of immigrants from China, the Education Department has fully assessed the capacity of the present system to cope with the revised forecast demand and the need for additional school places. The Government has now earmarked capital expenditure of \$208 million for building five new primary

schools for completion in 1997-98. It will also conduct a review of longer term requirements in 1996 in the light of more information on new arrivals. In the meantime, any additional demand for school places will be met by existing school vacancies and extra places made available by the decline in secondary school population from 1996.

- (c) The Education Department has also taken steps to help immigrant children and their parents settle down in Hong Kong. This is done through a special induction programme, school placement services, and school-based remedial teaching and counselling services. In April 1995, with the help of voluntary agencies, a new induction programme was launched by the Education Department to help immigrant children integrate more quickly into the local system. This is being expanded to cater for additional immigrant children arriving under the increased quota from 1 July 1995. The estimated cost for running this programme is \$8.3 million per annum, and 10000 new immigrant children are expected to benefit from it every year. For school placement services, District Education Offices will continue to assist in arranging newly arrived immigrant children into schools. In addition, schools have been advised to give special attention to these children, providing them with appropriate remedial teaching and school guidance and counselling services.

For parents of the immigrant families, adult orientation courses have been run by non-profit making voluntary agencies with Government subvention since 1981. A sum of \$0.27 million has been earmarked in 1995-96 for such courses.

On the welfare side, the Hong Kong Branch of the International Social Service, a subvented agency, provides post-migration programmes to help new immigrants from China settle down in Hong Kong. Orientation sessions, language and tutorial classes, and referral services are provided. In 1995-96, \$1.17 million was granted to the agency for this purpose. The Social Welfare Department has also secured another premise for the agency to expand its post-migration service in 1996. New immigrants from China who are in need can also use the counselling and family support services provided by the 62 family services centres throughout the territory.

MR TIK CHI-YUEN (in Cantonese): *Mr President, according to the information provided by the Government, after 1 July 1997, about 64000 children from China may be granted the right of abode in Hong Kong pursuant to the provisions of the Basic Law. The data furnished by the Government just now indicate that five primary schools will be built in the next two to three years. But this will provide no more than 10000 bisessional places. Will these*

10000 school places be sufficient to cater to the needs of the 64000 children who are due for schooling? Apart from the short-term measure of building a few schools in the next couple of years, has the Government formulated any long-term plans to meet demand in this respect?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, we have made detailed arrangements to address demands in this respect following a rise in population. According to estimated figures, more than 60000 children who are due for schooling will arrive in Hong Kong from China. In respect of the first year arrivals, we have fixed an age limit of zero to five and 16 to 20. In this regard, we have sufficient school places for this group of children and juveniles. We have sufficient child care centre places for children under five years of age. We will not have to provide extra school places for juveniles over 16 years of age because they will have been past the age for nine-year free education. In the next five to seven years, we will of course gradually increase the number of schools, including secondary and primary schools, so as to provide extra school places for these children. I believe there will be no problem in this respect.

PRESIDENT: Not answered, Mr TIK?

MR TIK CHI-YUEN (in Cantonese): *Mr President, my question will be very short. I wish to know more of the plan the Secretary mentioned a moment ago, that is to say, the plan to increase the number of secondary and primary school places in the next six to seven years. Can the Government provide us with specific dates in this regard? If such data are not available today, could they be provided later in writing?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, I can provide some rough data. As regards primary schools, we shall have five more in 1997-98, and in the following year we shall have two more, reaching three in 2001-02. This is our estimated demand for primary schools. As regards secondary schools, we shall have nine more in 1999-2000 and in the following year we shall have one more. This is our future estimated demand.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, in the main reply, the authorities state that \$8.3 million will be appropriated each year for running an induction programme for about 10000 immigrant children. This will work out to an average of \$830 per child. Moreover, the induction programme will only last for a short period of four weeks. Obviously, this is less than sufficient and will not solve the problem at all. It will not be of much help in terms of enabling children to integrate into society. Since immigration into Hong Kong is going to become a long-term trend, has the Government ever considered*

setting up special schools in districts where most of the new immigrants choose to live in order to cater exclusively to their needs? These schools will teach the immigrant children English and Chinese and provide induction courses for them. The courses may be for half a year so as to enable the children to integrate more speedily into society and the local education system. Has the Government considered doing this?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, the \$8.3 million will be used solely for the purpose of helping these children adapt to their new environment in Hong Kong. But if we should include the cost for existing services within other schools, the resultant figure would be many times the present figure. Members must not forget that the money is for meeting extra needs in helping these immigrant children adapt to their new environment. We are not in favour of segregating these children, which would be a bad way of doing things in terms of education. I believe Mr CHEUNG ought to understand that we should not segregate them for special treatment. They should live and be educated along with local children. This is what we should do. Therefore we are not in favour of setting up special schools for them.

PRESIDENT: Not answered, Mr CHEUNG?

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, I feel that the Secretary's answer patently distorts the original meaning of my question. If it is at all possible, please let me ask the question again. The schools to cater exclusively for immigrant children that I mentioned would be of a transitional nature and they would basically be no different from the four-week transition courses offered by the Government. If, in attempting to avoid this question, the Secretary is adamant that these would be schools of a segregation nature, I would say this is unfair. What I am asking relates to schools of a transitional nature. The immigrant children may not enter school immediately after their arrival in Hong Kong. If they can learn English and Chinese properly during the transitional period before they formally enter school, what impropriety would there be? Why should this be regarded as segregating education and condemned?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): I might have misunderstood Mr CHEUNG's question with regard to special schools. But the courses we are offering are mainly for the purpose of arranging a temporary counselling service for these children. We think that, in receiving education, they should not be placed outside the school system. This is our principle. I believe we should be able to deal with this matter in a flexible way. If there is the need for these children to continue to receive more or longer duration counselling, we shall be glad to consider beefing up these courses so

that these children will have a longer adaptation period. But we are not in favour of setting up special schools to teach them. This is our principle.

MR SZETO WAH (in Cantonese): *Mr President, if a young person from China is over 15 years of age but his academic standard, particularly in regard to English, is just up to Primary IV or V, what will the Government do if he wants to go to school?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, we are well acquainted with this problem because many immigrant children are over-aged in terms of schooling. Though they are over 15, their academic standard is below that of a child aged 15. We will deal with this in a flexible manner. If they need help in regard to English or other matters, we will of course arrange schools for them to study in. However, Members should know that this will not be compulsory.

Structural Safety of Old Public Housing Estates

2. MR TAM YIU-CHUNG asked (in Cantonese): *In view of the incident in which a concrete block fell from the ceiling in a flat at Kwai Chung Estate which is over 30 years old, will the Government inform this Council whether:*

- (a) *inspections will be carried out regularly on the structural safety of buildings in old public housing estates; and*
- (b) *the Housing Department will speed up the redevelopment and demolition of old public housing estates so as to prevent the recurrence of similar incidents?*

SECRETARY FOR HOUSING: Mr President, all housing blocks built before 1981 are inspected regularly by the Housing Department's structural engineers for structural safety. The frequency of inspections depends on the structural condition of each block, but a two-year cycle is typical.

Estate management staff also inspect the general condition of each flat at least once every 18 months. The focus of this type of inspection is on spalling concrete and water seepage. Where necessary, maintenance surveyors, structural engineers and consultants will participate in such inspections.

The Housing Authority has a Comprehensive Redevelopment Programme for old housing blocks. Redevelopment is determined having regard to various factors, such as structural and general conditions of the block, facilities available in each flat and community facilities provided in the housing estate. Another factor affecting the timing is the availability of flats for rehousing

existing tenants, particularly as most of them prefer to remain in the same district.

Of the 885 old blocks, 304 have already been demolished and redeveloped. In the next five years, the Housing Authority will develop another 185 blocks, comprising 77000 flats or nearly 12% of its total rental stock. This is a high proportion, and any further acceleration of the programme without very good reason will adversely affect the provision of public rental housing to families on the General Waiting List. Nevertheless, the Housing Authority will review its Redevelopment Programme regularly, and full account will be taken of any housing block found to have structural defects.

MR TAM YIU-CHUNG (in Cantonese): *Mr President, would the Secretary for Housing consider the following three-point opinion:*

- (1) *To shorten the two-year intervals between which old housing blocks are inspected for structural safety;*
- (2) *To conduct a questionnaire survey once every six months in order to understand the condition of spalling concrete and water seepage; and*
- (3) *To take structural safety as the prime factor for consideration in determining the order of priority under the Comprehensive Redevelopment Programme?*

SECRETARY FOR HOUSING (in Cantonese): Mr President, with regard to the first point, namely, to shorten the two-year intervals between which housing blocks are inspected for structural safety, the Housing Department has in fact taken structural safety as the prime factor for consideration and has therefore conducted thorough structural inspections once every two years. At present, there is no particular need to shorten the interval. If, during the interval, tenants should discover any problem they should report it to the Estate Housing Manager or Estate Office so that it can be looked into immediately.

As regards the second point, namely, whether the tenants can be consulted through questionnaires, the Housing Department carries out questionnaire surveys from time to time. Therefore, there should be no problem with launching a survey of this sort as suggested. As I said a moment ago, if the tenants have any particular problem they can report it to the Estate Office any time so as to enable the Housing Department to carry out repair works according to the actual condition.

As regards the third point, namely, the order of priority under the Comprehensive Redevelopment Programme, we must handle this with the utmost caution. As I said in my main reply, redevelopment is determined

having regard to various factors, one of them being the desire of the affected tenants to be rehoused in the same district. However, we have to ensure that available resources match overall demand, that is to say, we have to see if there are sufficient new housing units to rehouse tenants affected by redevelopment.

MR FRED LI (in Cantonese): *Mr President, recently I visited the old housing blocks in Sau Mau Ping Estate Kwun Tong which will not be redeveloped in the next five years. I discovered that spalling concrete and water seepage were common enough phenomena. When the tenants complained to the Housing Department's management staff, the latter said that the problem was not serious and that this happened to most housing blocks. I hope the Secretary for Housing will give a definite answer. Having regard to the fact that spalling concrete and water seepage are all too common among housing blocks over 20 years old and that tenants' complaints are not dealt with despite a long wait, what can the Housing Department do to effect thorough improvement in this respect in favour of the tenants?*

SECRETARY FOR HOUSING (in Cantonese): Mr President, to my knowledge, the Housing Department is implementing a CARE Programme. Under this programme, the Department will thoroughly inspect the interior and exterior conditions of these public housing estates. Such inspection is carried out once every six years. As I said a while ago, if a tenant finds any particular problem with his housing unit, such as spalling concrete or water seepage, he should immediately report it to the estate management staff. As I understand it, spalling concrete will not immediately result in concrete chunks falling off, which will happen only after a period of time. If tenants pay careful attention to the interior conditions of their housing units, they should be able to detect early signs of trouble and report same to the Housing Department so that repairs personnel can deal with it speedily.

PRESIDENT: Mr LI, not answered?

MR FRED LI (in Cantonese): *Mr President, the Secretary said that the tenants should report problems to the Housing Department. But the question is that despite reports being made to the Housing Department, the Department has been saying there are too many problems to be dealt with. I hope the Secretary will look into the matter to see how serious it is. Will it be possible to improve radically the condition of spalling concrete and water seepage in respect of those old housing blocks which will not be redeveloped in the next five years?*

SECRETARY FOR HOUSING (in Cantonese): Mr President, the CARE Programme I mentioned a while ago is of course a long-term programme. It is carried out once every six years. However, as I understand it, following the fall

of concrete chunks in Kwai Chung Estate and a couple of other housing estates, the Housing Department has been carrying out an overall inspection in respect of all old housing estates. After completion of this overall inspection exercise, I shall remind the Department of the need to deal speedily with the condition of spalling concrete and to carry out urgent repairs.

MR LEE WING-TAT (in Cantonese): *Mr President, the Secretary for Housing, Mr Dominic WONG said moments ago that a CARE Programme is being carried out in respect of old housing estates. This is not correct. It is because the programme is not being implemented in many of the old housing estates, including Kwai Chung Estate and others about to be redeveloped.*

Mr President, a thorough way to solve the problem of spalling ceiling in these old housing blocks is to speed up the pace of redevelopment of these old housing blocks. I also understand that there must be sufficient units to rehouse the tenants if redevelopment is to be speeded up. But the safety of the tenants must be a prime factor for consideration. I hope the Secretary will consider the two-point opinion that I am presenting:

- (1) *Can the Housing Branch discuss with the Planning Department to see if the plot ratio of public housing redevelopment sites — that is to say, the built-up density — can be slightly raised so that more units can be built on the same site to rehouse tenants?*
- (2) *Will it be possible to convert Home Ownership Scheme (HOS) flats now under construction to public rental housing units?*

These two methods will not affect applicants on the Waiting List for public housing.

SECRETARY FOR HOUSING (in Cantonese): Mr President, I already gave a detailed explanation earlier on in respect of the general redevelopment programme. With regard to the two-point opinion presented by Mr LEE, let me address the first point, that is, the question of whether the built-up density can be heightened. In fact, the Government has considered this proposal and carried out a study as to whether the use of a site can be maximized. In this respect, I shall discuss with the Secretary for Planning, Environment and Lands and the Planning Department to see if the plot ratio can be raised.

As regards the second point — that is to say, the question of whether HOS flats under construction can be converted to public rental housing units — in principle, neither the Housing Authority (HA) nor the Government intend to do this. In building housing units, we have to pay regard to the interests of two groups of people, that is, the interests of public housing tenants on the one hand and the aspiration of those who want to own their own homes on the other. In respect of public rental housing, we pay close attention to whether real danger

exists in the units concerned. Preliminary findings from a thorough inspection carried out by experts indicate that these old housing blocks are still structurally safe. However, the detailed report has not yet been submitted to the HA. I believe that the detailed report will be presented to the HA in the next few weeks. If the HA is then of the view that there is a need to redevelop early a housing estate not originally included in the redevelopment programme, the Authority will realistically consider the proposal to speed up the redevelopment programme and revise the order of priority in respect of the works involved.

Substandard Public Housing Estates

3. MRS ELSIE TU asked: *About two decades ago, I wrote to the then Director of Public Works enclosing a sample of the substandard building material used in the building of public housing estates in Tsuen Wan-Kwai Chung area. The sample was supplied by a contractor who was concerned that corrupt contractors were using cheap materials and salt water in building public housing estates. The allegation was denied, but some years later tenants had to be removed from some estates because of the poor quality of building materials. Unofficial report said that over 100 blocks in various areas were in a similar condition and should be rebuilt. In view of this, will the Government inform this Council:*

- (a) *how many blocks were identified as being substandard due to poor building materials and use of salt water in concrete-making;*
- (b) *of the blocks referred to in (a) above, how many have been demolished as dangerous buildings; and in which areas are these dangerous blocks located; and*
- (c) *what action has been, or is being, taken against the responsible contractors and government officials?*

SECRETARY FOR HOUSING: Mr President, in the early 1980s, the Housing Department carried out an investigation into the structural safety of all public housing blocks built before 1981. Concrete samples were taken from 836 blocks for testing. 411 blocks were found to have average concrete strength although they did not comply with their original design requirement. Salt levels in walls were generally deemed acceptable at the time of construction, but salt levels in floor slabs were particularly high, which might have been partly the result of floor washing with sea water in those days.

Of the 411 blocks mentioned above, 26 were demolished for early redevelopment. They were not dangerous structurally, but restrengthening work would not have been cost-effective. The blocks were located in Kwai Fong, Kwai Hing, Kwai Shing East, Lam Tin, Pak Tin, Shek Lei I, Sau Mau Ping I, Shek Pai Wan, Tsz Man, Tsz Oi and Wong Chuk Hang estates.

The Housing Department investigated into the responsibility of 25 contractors involved in building the 411 substandard blocks concerned. It was not possible to take civil action against contracts exceeding the 12-year statutory limit. For contractors whose contracts fell within the 12-year limit, seven were identified as being liable for civil action in relation to their performance in building 25 substandard blocks. Successful claims were made against four of them, and a total of about \$19 million was recovered. In the other three cases, one contractor was in liquidation, another was in the process of liquidation, and action against the third one had to be dropped when it was found that the liability time limit of six years for that particular contract had expired.

The Independent Commission Against Corruption took prosecution action in 11 cases where there was prima facie evidence of corruption. Seven of the accused were civil servants at the time of the alleged offences; the remaining four were employed in the construction industry.

MRS ELSIE TU: *Mr President, in paragraph two we are told that 26 of the 411 blocks found to have average concrete strength were demolished and redeveloped. What about the remaining 385 blocks? Could the Secretary tell us whether any of these 385 blocks were the subject of recent complaints of falling concrete, as mentioned in the previous question and what steps are being taken to make more frequent checks or to restrengthen these 385 blocks to see how far the structures may have deteriorated since they were only of average concrete strength over 10 years ago?*

SECRETARY FOR HOUSING: Mr President, some of the blocks which have not yet been designated for redevelopment are in fact still of a high standard; I believe over 270 of these blocks are still of a high standard. I am aware from general information that nearly 130 blocks would require redevelopment, probably in the course of the next 10 years or so. Although there is no particular programme for the moment for these particular blocks to be redeveloped, my understanding is that the Housing Authority, after it has carried out the redevelopment in the next five years, will be looking at those blocks. In other words, we can expect probably another seven years beyond the year 2000 to see another about 130 of these blocks into redevelopment. And I believe they will be redeveloped in the first 10 years of the next century.

PRESIDENT: Not answered, Mrs TU?

MRS ELSIE TU: *Mr President, no. One question was not answered, that is, how many of the 385 found to have average concrete strength were actually the ones that have been the subject of recent complaints?*

SECRETARY FOR HOUSING: Mr President, I am afraid I do not have that particular information. I will be happy to gather it and write to the Honourable Member concerned. (Annex)

DR CONRAD LAM (in Cantonese): *Mr President, I would like to ask a follow-up question in regard to the second paragraph of the Secretary's main reply. The Secretary says in the second paragraph that, of the 411 problem-plagued public housing blocks, some are structurally safe. One of the blocks mentioned is in Tsz Man Estate. Last week, several hundred residents of Tsz Man Estate complained that their blocks had structural problems. One of the complainants was an old woman who is blind and lives alone. She said that when she was cooking her meal a chunk of concrete fell at her side, narrowly missing her cooking pan. Residents of Tsz Man Estate last year received notice in writing through the District Board to the effect that Tsz Man Estate would be redeveloped within that year. But recently they learnt that redevelopment would be indefinitely postponed. The residents said that Tsz Man Estate had been listed as Type II problematic public housing 10 years ago and notice of redevelopment had been given last year. They said that structural problems have kept appearing and there was spalling concrete from the ceiling and around the windows. Therefore, I would like to ask the Secretary this: With regard to Tsz Man Estate and other similar housing estates which were scheduled for redevelopment but later postponed, is it because housing units are not available in sufficient numbers to rehouse the affected tenants, as alleged by the Secretary in his reply to an earlier question, or is it because the blocks have been confirmed to be structurally safe? If they are structurally sound, I hope the Secretary will formally notify the residents through the Housing Department that the blocks are structurally sound and that the Department is willing to be held responsible for the residents' safety.*

SECRETARY FOR HOUSING (in Cantonese): Mr President, in providing information to this Council earlier on, I already mentioned that the Housing Department had engaged consultants to carry out structural inspection of the housing blocks in question, the Kwai Chung Estate being given the foremost priority. As regards other public housing estates, the Department will continue to engage professional people to carry out special structural inspection of the housing blocks. Up to now, there has been no finding to establish that some public housing blocks indeed have structural problems. In respect of Tsz Man Estate mentioned by Dr the Honourable Conrad LAM, I shall be happy to pass to the Housing Department the information given by him just now and I shall consider it in conjunction with the Housing Authority. Dr LAM asked why the scheduled redevelopment had been postponed. I regret to say I have no information regarding this. But I shall pass Dr LAM's remarks to the Housing Authority and the Housing Department and request them to consider them in depth.

Lam Tin Woman Health Centre

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

- (a) *of the total number of clients who have utilized the service of the Lam Tin Woman Health Centre since its inception together with a breakdown of these clients by age;*
- (b) *of the effectiveness of the service provided by the Centre; and*
- (c) *what plans are in place to increase and improve the service?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, in his 1992 policy address, the Governor announced new initiatives to provide better health care for the community. These included, inter alia, the phased establishment of three well woman clinics for women aged 45 and above. Lam Tin Woman Health Centre is a pilot project to provide promotive and preventive health care services for women of menopausal age group. It was opened on 4 May 1994. Until the end of May 1995, a total of 2470 women have utilized the service of this Woman Health Centre. About 76% of these women were aged between 45 and 55, while 24% were from 55 to 65.

The result of the disease screening programme has so far been very encouraging. A total of 22 cases of cancer, namely 19 cases of breast cancer, two cases of cervical cancer and one case of ovarian cancer were detected and referred for early treatment during this period. In addition, 135 cases of hypertension and diabetes mellitus were detected. Health education activities were also well received. Over 800 women with conditions varying from menopausal, personal, family, emotional and social problems enjoyed the benefit of additional individual counselling and advice.

A second centre will be established in Chai Wan in early 1996 and a third centre in New Territories by 1997. The Department of Health is now providing screening services for cervical cancer at all Maternal and Child Health Centres for clients of Family Planning Clinics. For women not requiring family planning services, cervical cytology screening services are available at four Maternal and Child Health Centres. By early 1996 the number of Maternal and Child Health Centres providing this screening service will be increased to six. In the long term, we will examine the practicability of integrating the full range of woman health services into some of the maternal and child health centres and will welcome collaboration with other healthcare providers who may wish to set up similar services.

DR HUANG CHEN-YA (in Cantonese): *Mr President, according to the information provided by the Government, although the utilization rate of the Lam Tin Woman Health Centre is very low with nine to 10 patients on an average daily, this health centre is definitely of value in that it plays a very significant role in promoting health care for women. However, the Government's promotion programme seems to be proceeding at too slow a pace which makes people feel that the Government seems to have no sincerity in helping women improve their health. Will the Government give an undertaking that by 1997 every district throughout the territory will have a well woman clinic?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, I would like first to clarify that the target group the health centre is intended to serve are not patients. Therefore we normally do not refer to these women as patients. Our purpose is to provide promotive and preventive health education for them. This is a very important point. It is precisely because of this that many women find it hard to accept that the health centre is not for patients. This is a relatively new concept. Hence, during the current year, we will carry out publicity activities in abundant measure to explain that this woman health centre is an institution for promotive and preventive education, not for treating illnesses.

As regards the question of whether similar health care services for women can be provided in each district, we are now considering if such would be the most appropriate model for provision of health care services. In my main reply, I already mentioned that other maternal and child health centres would gradually provide such services. But the first health centre could be said to be just a pilot scheme to try out a model. We shall conduct an overall review in 1996 as to what model to adopt in promoting these services. At that time we shall consider the way forward, in what districts or regions the centres are to be located, the manner in which the services are to be operated, and whether the centres should be independent entities or merged with maternal and child health centres or with other types of health centres.

MR MICHAEL HO (in Cantonese): *Mr President, the main reply provides a lot of data and figures, including the number of people using the centre. Will the Government tell us what its policy is in terms of providing health care to well women? Will it be prepared to provide health checkup for women of menopausal age group? If yes, what will be the estimated size of the target group and how many centres will be needed?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, in Hong Kong there are about 500000 women of menopausal age group. But the setting up of health centres does not mean that all Hong Kong women must participate in this scheme of the Government. We know that many women

would like to have private doctors or other practitioners treat their illnesses or provide health care for them. This health centre is the first of its kind and also one under trial. Therefore, we shall have to wait until the second health centre is commissioned in 1996 before we can carry out an overall review as to whether this is the best model and as to how to develop and expand the health care programme for women.

DR LAM KUI-CHUN (in Cantonese): *Mr President, although few people receive services at the woman health centre, just eight to nine people each day, this represents a vast improvement when compared with just two clients daily at the health centre for the elderly. Could I ask the Government what difference there is between the promotive effort and model adopted by the woman health centre and that adopted by the health centre for the elderly so much so that the former has been so successful? What is there to learn from and model on?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): I would like to stress that the utilization rate of the centre is normal, not on the low side as alleged. In the main reply, I mentioned that 2470 women used the centre in the past year as against our estimate of 2400 to 2500 users for the year. It is because the centre provides services through appointment with clients.

In respect of promotion, it may be that women of this age group pay more attention to their own health and are most ready to receive services of this sort. With regard to the usage rate of health centres for the elderly, we will conduct a review to see what better way there is to promote the services. It is because even now Hong Kong people are not in the habit of consulting doctors or nurses unless they are ill.

MISS EMILY LAU (in Cantonese): *If the health centre is used by no more than eight to nine women each day, I feel that this absolutely cannot count as success. Could I ask the Government what the operating costs are in respect of the centre, that is to say, how much of taxpayers' money is being used to operate the centre each year? And how much on average is spent on each user? Does the Government consider it to be cost-effective?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, the Chai Wan Woman Health Centre scheduled to be commissioned in 1996 will entail a yearly operating cost of \$1.3 million. There will be about nine staffers, including one medical officer, three nurses, one clerical officer, one workman, one technician and two therapists. The operating cost is about \$1.3 million each year.

PRESIDENT: Miss LAU?

MISS EMILY LAU (in Cantonese): *Mr President, I did not ask for the operating costs of the Chai Wan Woman Health Centre but the Lam Tin Woman Health Centre, that is to say, the centre currently used by eight to nine women each day. If the Government does not have the figures at hand, these can be provided to us later. We want to know how much of taxpayers' money is being spent each year to enable the centre to operate while there are so few people using the centre. We want to know how much on average is spent on each user of the services in order to see if it is cost effective. Perhaps we may need to ask the Director of Audit to look into this.*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): *Mr President, the operating costs of the Lam Tin Woman Health Centre are just about the same at \$1.3 million each year.*

MR LEE CHEUK-YAN (in Cantonese): *Mr President, in the main reply, the Secretary said that another centre in the New Territories would open for service in 1997. May I ask in which part of the New Territories the centre will be located? If the location is not yet decided on, I would consider Tuen Mun to be the district in most need of such a centre. It is because the district has rather poor external transport facilities on the one hand and it has already reached middle age in terms of development on the other. It is believed women in that district have particular need for services in this respect. That is why I want to know in which part of the New Territories the centre will be located.*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): *Mr President, we have not yet decided in which part of the New Territories the centre will be located. But we will consider the suggestion the Honourable LEE Cheuk-yan made just now.*

MR FRED LI (in Cantonese): *Mr President, I operate a ward office in Lam Tin. But I do not know of the existence of the centre, which indicates how poor the publicity effort has been. Neither have I seen any posters in the housing estates publicizing the health centre. Therefore, I hope the Secretary will beef up the publicity effort in this regard.*

In the main reply, reference is made to women troubled by personal, family, emotional and social problems. Could I ask if this kind of health centre offers opportunities for co-operation between nurses, doctors and professional social workers so as to provide a comprehensive sort of multi-disciplinary services to women who will be assisted in regard to family problems apart from

health and menopausal problems? Could I ask if the Government will consider providing professional social services in the centre?

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Judging from the way it currently operates, this woman health centre does not need social workers on its staff. But nurses, doctors and other staff can play a counselling and referral role. If a woman client needs the services of a social worker or other services, the staff can refer her to an appropriate social service organization.

Compensation to Widow of Korean Hostage Killed in Shootout

5. MR JIMMY MCGREGOR asked: *Will the Government inform this Council:*

- (a) *whether it will initiate measures to provide appropriate financial compensation to the widow of the Korean national, Mr KANG Sang Bo, who was killed in a shootout between a robber and police in October last year following his being taken as a hostage by the robber and following his extremely brave conduct in attempting to persuade the robber to give himself up to the police and subsequently struggling to disarm the robber, for which bravery and selfless conduct he lost his life; and*
- (b) *whether it will negotiate directly with the widow's legal representatives to ensure that an early payment can be made without the necessity of action through the courts?*

SECRETARY FOR SECURITY: Mr President, I would like, first of all, to express the Hong Kong Government's deepest regret at the tragic death of Mr KANG Sang-bo and to convey our condolences to Mrs KANG.

As regards the first part of the question, innocent victims (or their dependants in case of death) who are injured or killed during crimes of violence or law enforcement actions may apply for compensation under the Criminal and Law Enforcement Injuries Compensation (CLEIC) Scheme administered by the Social Welfare Department. Immediately after the shootout in last October, staff of the Social Welfare Department passed a copy of the pamphlet and application form for the Scheme to Mrs KANG through the Korean Consulate. Another application form was sent to her through her legal representative in December last year. So far, we have not received any application from Mrs KANG or her representative. If Mrs KANG decides to apply, we will do

everything we can to assist her and ensure that her application is handled as quickly as possible.

As regards the second part of the question, the Government is in the process of seeking legal advice on the question of liability in the light of the evidence presented at the death inquest. If civil or criminal proceedings are subsequently initiated, matters relevant to these proceedings will also be taken into account. Before legal advice on the question of liability is obtained, it is premature to decide on the question of compensation, or on whether the Government should negotiate directly with Mrs KANG's legal representative on this matter.

MR JIMMY MCGREGOR: *Mr President, it is clear that the CLEIC Scheme is based upon public sympathy for the victims of violent crimes and that the intention is to compensate reasonably and fairly those victims or their families. It is perhaps the most difficult of cases where the victim is a visitor to our shores and especially where the victim has tried to thwart the crime and protect other hostages and lost his life in doing so. Since Mr KANG's widow is legally represented in Hong Kong, could the Hong Kong Government not seek discussion on a positive basis with the local lawyers to provide a basis for early assessment and payment of compensation? Surely the Government can establish and maintain some momentum in this direction. I believe, Mr President, that there is great public sympathy for Mr KANG's widow.*

SECRETARY FOR SECURITY: Mr President, first of all, on the question of the CLEIC Scheme, I believe that we have taken every step to enable Mrs KANG to apply for compensation payment under that Scheme. As far as I am aware, Mrs KANG would be eligible to seek compensation and if she decides to apply we will do everything we can to assist her and to ensure that her application is handled as quickly as possible.

On the question of whether, other than the CLEIC Scheme, the Government should negotiate directly with the legal representative of Mrs KANG, on the question of compensation, I do not rule out any particular step that we may take in the future. But I am unable to say at this stage what that step might be until I have received legal advice on the question of civil liability in the light of the evidence presented at the death inquest.

MRS ELSIE TU: *Mr President, the CLEIC Scheme gives a paltry amount of compensation only to tide over the victim. Has it been explained to Mrs KANG that this is only a temporary measure and that she will get other compensation? She may not know the law, she may not accept it on the grounds that she thinks that is all she is going to get. And may I ask how much she would be offered under that Scheme?*

SECRETARY FOR SECURITY: Mr President, I believe that Mrs KANG is eligible for compensation under that Scheme. The actual amount of compensation that she might be granted under the Scheme would, of course, be decided by the Board itself. But I believe that the maximum compensation under that Scheme could, under certain circumstances, be as much as about \$110,000, that is, if Mr KANG was the sole breadwinner of the family.

As regards the question of whether there would be any additional compensation to that, that is a matter on which I am seeking legal advice. Once we receive the legal advice we would be in a position to decide what course of action we should take.

MR JAMES TO (in Cantonese): *Mr President, I also wish to express my regret at the unfortunate death of Mr KANG, and convey my condolences to his family. Mr McGREGOR's main question and supplementary question seemed to centre on the fact that as Mr KANG was a visitor and that his family could be in Hong Kong for only a short period of time, and therefore there might be difficulties. However, my question is, the CLEIC scheme does not recognize certain key elements in the different cases. For example, the victim could be a passer-by injured by a stray bullet during a gun fight, or the victim could be like Mr KANG who fought the criminal bravely, snatched the robber's weapon and tried to persuade him to surrender. All these involving Mr KANG were confirmed during the inquest. The statutory compensation scheme does not take into account these factors. Will the Administration review the existing scheme so that in respect of certain factors, for example the victim was killed for his bravery or in fighting robbers, there is special ex gratia payment or a special amount of compensation, just to make a distinction between such bravery and the unfortunate death of an innocent passer-by killed by a stray bullet? Will there be different compensations made?*

SECRETARY FOR SECURITY: Mr President, obviously the CLEIC Scheme cannot take account of every single specific circumstance that may be adduced in evidence in any particular case. It is against a vast bulk of evidence that is presented in the death inquest as regards the death of Mr KANG which includes some of the circumstances mentioned by the Honourable Member that we are now seeking legal advice on what, if any, compensation might be awarded to Mrs KANG and that is outside the question of the award under the CLEIC Scheme. As regards the Honourable Member's view on the coverage of the CLEIC Scheme, I shall be happy to pass his views to the Director of Social Welfare for consideration.

PRESIDENT: Not answered, Mr TO?

MR JAMES TO (in Cantonese): *The Secretary might have misread my question. My question did not concern legal procedures. What I have asked was that if Mr KANG died because of the negligence of the police, then that would be legal liability, and compensation should be offered because of such liability. What I mean is, will the present CLEIC scheme take into account the behaviour of the victim during an incident which would result in different degrees of injury or even death? Should different behaviours be distinguished? For example, if a member of the public bravely attempted to catch a robber, and he came out of the act alive, the police might give him a Good Citizen Award. But if somebody is killed doing the same, irrespective of liability, should compensation reflect such a factor? My question is purely on this point.*

SECRETARY FOR SECURITY: Mr President, the award under the Scheme does, of course, take into account the degree of disability or injury sustained or whether it was a case of death. As regards the circumstances of the action which has caused the injury or the death, I believe that the Law Enforcement Injuries Compensation Board in deciding the award, does take into account the fact that the injury was inflicted by law enforcement officers using weapons in the execution of their duties in connection with an arrest or attempted arrest of an offender or suspected offender; or the prevention or attempted prevention of an offence; or the giving of help to any police officer or other person who is engaged in arresting or attempting to arrest an offender or suspected offender; or preventing or attempting to prevent an offence.

MR JIMMY MCGREGOR: *Mr President, I have to say that I agree entirely with Mr James TO that if there is a maximum of \$110,000, it is a very paltry amount indeed for the kind of act through which this poor gentleman lost his life. It seems to me that the Government has a responsibility to consider the case, if not within this Scheme, then outside this Scheme. And did I understand the Secretary therefore correctly, to say that this is in fact being done, that some examination can be carried out of the circumstances of this case in such a way that the Government will be prepared to award compensation, and discussion with the lawyers, for the widow of a sum very considerably above \$110,000?*

SECRETARY FOR SECURITY: Mr President, in the absence of any legal advice I cannot at this stage say what precisely will be the Government's decision on the question of compensation. I am not ruling out any particular course of action. I am simply saying that we need legal advice before we can finally decide on what courses of action or what compensation, if any, might be offered to Mrs KANG.

Non-local Workers

6. MR LEE CHEUK-YEE asked (in Cantonese): *Mr President, will the Government inform this Council:*

- (a) *of the breakdown of the numbers of non-local workers currently working in the territory by modes of admission (such as those admitted under the General Importation of Labour Scheme, and the labour importation scheme for the new airport projects, those admitted as PRC professionals, overseas professionals, British immigrants, domestic helpers and people admitted for training and business purposes) and countries of origin;*
- (b) *of the breakdown of non-local workers currently working in the territory by trades and posts;*
- (c) *of the criteria adopted by the Government in approving the application for entry for training purposes; and*
- (d) *whether the Government will conduct a comprehensive review on the policies governing the control of the entry and employment of various categories of people mentioned above, so as to enhance the employment protection for local workers?*

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

- (a) The latest statistical breakdown of non-local persons working/staying in Hong Kong by admission categories and places of origin is at Annex A.
- (b) The latest statistical breakdown of non-local persons working/staying in Hong Kong by industry and by job titles is at Annex B.
- (c) Under the existing policy on entry of persons for training purpose, foreign trainees are admitted to stay for a limited period to acquire, through training, skills and knowledge not readily available in their home country. After the training, they have to return to their home country to continue employment in their professions or trades. All such applications are subject to close scrutiny and will only be approved if they can meet the following criteria:

- (1) the sponsoring company is a reputable one, is able and competent to provide such training;
 - (2) there is a contract between the sponsoring company and the trainee for a period not exceeding 12 months;
 - (3) there are guarantees of maintenance and repatriation;
 - (4) there is an undertaking from the sponsoring company that the trainee will in fact be receiving training in the sponsoring company's premises until the end of the agreed period, after which he will return to his country of residence; and
 - (5) the applicant has no adverse immigration records.
- (d) The general policy on entry for employment permits the entry of foreign nationals who possess skills, knowledge or experience of value to but not readily available in Hong Kong. In addition, there are other schemes which allow the entry of foreign workers to meet special needs, such as importation of labour schemes. The contributions of these foreign personnel are conducive to the growth of our economy and have brought about an increase in employment opportunities for local workers. As Hong Kong remains an international free-market economy, there is a continued economic need to maintain the present policy, which is well-established and well-tested. We will continue to take account of the changing needs of Hong Kong when we exercise this policy. At present, we do not consider it necessary or practicable to conduct a single review covering the different categories of foreign workers, as each scheme serves a different purpose. We will, however, continue to conduct separate reviews when the need arises. For instance, we are now conducting a comprehensive review on the General Importation of Labour Scheme and will have it completed by October this year. We will also review the Pilot Scheme for the entry of PRC professionals by the end of this year.

Annex A

Breakdown of non-local persons
working / staying in Hong Kong
by admission categories and by places of origin

A. *General Labour Importation Scheme (as at 23 June 1995)*

<i>Places of origin</i>	<i>Number</i>
PRC	17420
Nepal	933
Philippines	610
Others	99

Total	19062
	====

B. *Special Importation of Labour Scheme for the New Airport and related projects (as at 23 June 1995)*

<i>Places of origin</i>	<i>Number</i>
PRC	1898
Thailand	970
Philippines	391
Others	250

Total	3509
	====

C. *Pilot Scheme for entry of 1000 PRC professionals (as at 30 June 1995)*

Total number of visas issued: 203, all from PRC

D. *Persons with special skills admitted under normal immigration policy on entry for employment*

(that is those with special skills, knowledge or experience of value to and not readily available in Hong Kong)

The number of visas issued

<i>Year</i>	<i>Number</i>
1993	14871
1994	16231
1995 (January - May)	7675

<i>Year</i>	<i>Places of Origin</i>	<i>Number</i>
1993	Japan	2456
	United States	2280
	Australia	1069
	Taiwan	1056
	Philippines	1022
	Others	6988
	Total	14871
1994	United States	3017
	Japan	2931
	Philippines	1205
	Taiwan	1068
	Australia	1058
	Others	6952
	Total	16231

No breakdown statistics for 1995 are readily available.

E. *British Citizens (as at 31 May 1995)*

Total: 26643 (including those working and staying as dependants) all from the United Kingdom.

F. *Foreign Domestic Helpers (as at 31 May 1995)*

<i>Places of origin</i>	<i>Number</i>
Philippines	126425
Indonesia	13049
Thailand	7073
India	1168
Others	1391

Total	149106
	=====

G. *Entry of Persons for training purpose*

The number of visas issued:

<i>Year</i>	<i>Number</i>
1993	5413
1994	5726
1995 (January - May)	1961

Statistical breakdown by places of origin is not available.

Annex B

Breakdown of non-local persons
working / staying in Hong Kong by industry and job types

A. *General Labour Importation Scheme (as at 23 June 1995)*

Breakdown by Industry

<i>Industry</i>	<i>Number</i>
Automobile Repairing	78
Banking and Finance	618
Catering	3640
Clothing	1486
Communication	303
Construction Work Site	638
Electrical	168
Electronics	493

<i>Industry</i>	<i>Number</i>
Furniture	4
Hotel	475
Import/Export Trades	914
Insurance	11
Jewellery	16
Machine shop	1099
Plastics	62
Printing	250
Retail	1597
Sanitary, Laundry and Cleaning Services	22
Shipbuilding and Repairing	48
Social and Community Services	571
Textile	203
Tourism	52
Transport and Physical Distribution	483
Wholesale	214
Wholesale, Retail and Import/Export Trades	2448
Others	40
Others (Manufacturing)	286
Others (Non-manufacturing)	2843

Total	19062
	=====

Breakdown by Post

<i>Post</i>	<i>Number</i>
Sales Clerk/Sales Assistant	2613
Waiter/Waitress	2377
Cook/Junior Cook	1170
Stock, Purchasing and General Clerk	893
Security Guard	846
General Sewing Machine Operator	844
Care Home Attendant	709
Technician	565
Computer Paging/Telephone Operator	460
Teller	432
Others	8153

Total	19062
	=====

B. *Special Importation of Labour Scheme for New Airport and related projects (as at 23 June 1995)*

Breakdown by Industry

All from construction industry

Breakdown by post

<i>Post</i>	<i>Number</i>
Labourer	445
Plant Mechanic/Operator	319
Marine Operator/Coxswain	231
Carpenter	230
Precast operator	202
Precast erector	199
Concretor	183
Rigger	168
Leveller/Linesman	106
Metal Worker	73
Truck Driver	65
Others	1288

Total	3509
	===

C. *Pilot Scheme for the entry of 1000 PRC professionals (as at 30 June 1995)*

Breakdown by industry

<i>Industry</i>	<i>Number</i>
Trading	50
Construction	29
Electronics	28
Manufacturing	21
Others	75

Total	203
	===

Breakdown by profession

<i>Profession</i>	<i>Number</i>
Administrator	64
Engineer	59
Marketing Executive	18
Others	62

Total	203
	===

- D. *Persons with special skills admitted under the normal policy on entry for employment (i.e. those with special skills, knowledge or experience of value to and not readily available in Hong Kong)*

Breakdown by profession

<i>Profession</i>	<i>1993</i>	<i>1994</i>	<i>1995 (Jan - May)</i>
Administrators, managers and professionals	6863	7017	2912
Technical professionals	2786	2485	1358
Others (e.g. representatives of overseas companies)	5222	6729	3409
	-----	-----	-----
Total	14871	16231	7675
	=====	=====	=====

- E. *British Citizens*

British citizens do not require a visa to enter for employment in Hong Kong. No statistical breakdown by job types is available.

- F. *Foreign Domestic Helpers*

All are admitted for employment as domestic helpers in Hong Kong

G. *Entry of Persons for training purposes*

Statistical breakdown by job types is not available. Most admitted for training belong to the managerial or professional grade in the legal and accountancy fields, tourist industry (mainly airline employees), surveyors, engineers, banking industry, computers, hotel and catering industries.

MR LEE CHEUK-YAN (in Cantonese): *Mr President, my purpose of raising this question is to find out how many non-local persons are working in Hong Kong. But the reply I have been given is still not clear enough, particularly with regard to persons with special skills from overseas. Annexes B and D to the reply indicate that there were 14871 visas issued in 1993, 16231 visas issued in 1994 and 7675 visas issued from January to May 1995 to persons from overseas with special skills. But I would like to know how many out of this group of people are currently working in Hong Kong. It is because I believe a visa of this sort may cover a period spanning several years. The reply here cannot tell us clearly how many of these overseas persons with special skills are currently still working in Hong Kong. And these overseas persons with special skills are affecting many local graduates' employment opportunities in the clerical and professional fields. Will the Government review its visa policy in respect of overseas persons with special skills having regard to the current unemployment situation?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, Annexes A and B set out in exhaustive detail the data required by Mr LEE. The Immigration Department spent a lot of time preparing and compiling the data. I hope Members will take them as the most exhaustive data the Government is capable of providing in this regard. I cannot produce a figure here and now as to how many of these people are still in Hong Kong. This is impossible because we have no knowledge at all of where they are now, where they will be at some particular time, and what they are doing. Now we are only able to provide statistics. If we have to launch a formal inquiry, we will need time and I believe we are not capable of doing it for the time being.

MR ALFRED TSO (in Cantonese): *Mr President, concerning the importation of foreign domestic helpers, Annex A clearly shows that the foremost country of origin of the imported helpers is the Philippines, followed by Indonesia and Thailand. For security reasons, the Hong Kong Government used to discourage and even reject Chinese mainlanders coming to Hong Kong to serve as domestic helpers. However, having regard to closer ties being developed between China and Hong Kong, the approach of 1997, and Hong Kong becoming a Special Administrative Region of China after 1997, will the Government consider reviewing or even relaxing its policy so as to allow maids from China to come to Hong Kong to serve as domestic helpers — a job paying \$4,000 with board and lodging provided?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, this bears on immigration policy. I would defer to the Secretary for Security.

SECRETARY FOR SECURITY: Mr President, we do not provide for the entry from China of domestic helpers because such entrants could pose a particular immigration problem for Hong Kong. Given the fact that they are Chinese citizens they could, in due course, be eligible for a long-term addition to the population of Hong Kong as permanent residents. We are therefore not considering allowing domestic helpers from China to work in Hong Kong. Other than that, we allow foreign domestic helpers from different countries to work in Hong Kong.

MR MARTIN BARROW: *Mr President, there is clearly a need in Hong Kong for people from overseas and this is essential if Hong Kong's position as an international commercial centre is to be preserved and enhanced for the benefit of all the people of Hong Kong.*

Would the Secretary include in the review, referred to in paragraph (d), steps to reduce the mismatch between supply and demand and in particular, to revise the statistics methodology so that vacancy and unemployment figures could be made available at the same time?

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, certainly I can confirm that insofar as the review on the importation scheme is concerned, we will take into account the mismatch between jobs and people and the better way of getting the statistics on the unemployed and the employed in our survey. We will try to improve on those things by that time.

MR MICHAEL HO (in Cantonese): *Mr President, if the importation of persons for training purposes is abused, these people will be imported workers in disguise. Paragraph (c) of the main reply mentions certain strict vetting criteria which include: the sponsoring company is a reputable one; there is a contract between the sponsoring company and the trainee; there is a guarantee of repatriation; and the applicant has no adverse immigration records. Mr President, can the Government tell us whether, in considering these criteria, it also considers the possible effects the importation of these trainees will have on local workers? For instance, some trainees in the catering trade are in fact doing certain jobs in restaurants. This will result in rice bowls being snatched away from local workers. Can the Government tell this Council whether, in importing these trainees, it has considered the possibility of local workers' rice bowls being snatched away by them and whether the Government will take this as a criterion for importation?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, of course we understand that in certain circumstances some companies may use such training as a guise under which to import foreign workers. We are paying close attention to this. Up to now, there is no evidence to prove that this has been the case or that abuses have arisen in this respect. Of course, if any company is suspected of importing foreign workers through this means, that is to say, importing workers under the guise of training, we will definitely deal with it most strictly. But up to now, we have not discovered such a case.

WRITTEN ANSWERS TO QUESTIONS

Jakarta Declaration for the Advancement of Women in Asia and the Pacific

7. MISS CHRISTINE LOH asked: *Will the Administration inform this Council what specific steps it has taken and will take in 1995-96 to fulfil its obligations under the Jakarta Declaration for the Advancement of Women in Asia and the Pacific and the accompanying Plan of Action, to which Hong Kong became a signatory in June 1994?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, at the Second Asian and Pacific Ministerial Conference on Women in Development in June 1994, participants adopted the Plan of Action for the Advancement of Women in Asia and the Pacific as a means to accelerate the attainment of the objectives of the Nairobi Forward-looking Strategies in the Asian and Pacific region, and to contribute to preparations for the Fourth World Conference on Women. The participants, taking into account the social, economic and political conditions of each country, committed themselves to taking all necessary measures to ensure effective implementation of the Plan of Action. As an Associate Member of the Economic and Social Commission of Asia and the Pacific Region, Hong Kong participated at the Ministerial Conference. The Plan of Action outlines nine critical areas of concern and sets out the general directions in respect of the actions to be taken.

In the Hong Kong context, the contents of the Declaration and the Plan of Action was disseminated to all the relevant Policy Branches involved in promoting the well-being of women in Hong Kong. In developing their policies and programmes, the relevant Policy Branches have, taking into account the social, economic and political conditions of Hong Kong, adopted measures to implement the Plan of Action. Examples of the measures taken in 1995 to implement some of the provisions in the Plan of Action are annexed for Members' information.

Jakarta Declaration for the Advancement of Women in Asia and the Pacific
Examples of actions taken to implement the
Provisions in the Plan of Action

Vulnerable groups and feminization of poverty

Hong Kong's family policy is to preserve and strengthen the family as a basic unit. A comprehensive network of family welfare services is provided to all types of family, based on their respective needs. Such family types include female-headed and female-maintained households. A leaflet on welfare services for single-parent families was published and widely distributed in early 1995. With effect from April 1995, single-parent families, including female-headed single parent families, receive a special allowance.

In respect of the elderly, financial resources have been earmarked for implementing the recommendations of the Working Group on Care for the Elderly. In April 1995, the Residential Care Homes (Elderly Persons) Ordinance came into force. As a result of the provisions of the Ordinance, residents in these care homes (including female residents) now receive services of acceptable standards.

In relation to young women and girls, the Protection of Children and Juveniles Ordinance provides statutory care and protection to young women and girls under the age of 18 against all types of abuse and exploitation. To further protect vulnerable witnesses, including girls under the age of 17 who are victims of sexual abuse cases, legislative amendments are in process to provide for testifying through live television links or video tape.

In respect of women with disabilities, comprehensive rehabilitation services are provided to people with a disability, including women. The White Paper on Rehabilitation published in 1995 sets out fully policy decisions for the further development of rehabilitation services for people with a disability, including women, for the next decade and beyond. We have also introduced the Disability Discrimination Bill into the Legislative Council which seeks to outlaw discrimination and harassment on the ground of disability against persons of both sexes.

Promoting equality in women's access to and participation in economic activities

As a general policy to promote equal opportunities in employment, the Labour Department, through its labour relations promotional activities, has disseminated the message of equal opportunities to employers. Employers are also advised to remove the gender requirement on job vacancies in recruiting employees through its Local Employment Services.

In respect of training, the Employees Retraining Board has organized through various training bodies, a number of tailor-made retraining courses specifically catering for the needs of elderly women as well as female household managers to enhance women's access to the labour market.

Protecting and promoting women's human rights

The Sex Discrimination Bill, which renders unlawful sex discrimination and sexual harassment in a number of areas of activity, was introduced into the Legislative Council in October 1994, the Bill was passed by the Legislative Council on 28 June 1995.

Promoting women's equal access to health services

In Hong Kong, a comprehensive range of health services are available to women. Women's health needs in all stages of the life-cycle are being catered for. Services in respect of mental health, reproductive health, nutrition and cancers, and menopausal and post-menopausal conditions are readily available to women in Hong Kong.

The Family Health Service of the Department of Health provides maternal health services to women of reproductive age through its network of 46 maternal and child health centres. The government subvented Family Planning Association of Hong Kong also runs birth control clinics, providing contraceptives, gynaecological check up, pre-marital check up, counselling and advice on sub-fertility.

The first Women Health Centre run by the Department of Health commenced operation in May 1994 to provide services for women aged 45 and above. This provides a comprehensive range of health screening and education services including screening for breast cancer and cervical cancer. Two more women health centres will be established by 1997.

Supporting access to and equality of women in education and literacy

In Hong Kong, there is full access to education and equal opportunities for both sexes in terms of the provision of education services. Topics on equality of sexes and sexual stereotyping are included in the subjects of Religious Education, Social Studies as well as Liberal Studies. In the Guidelines on Sex Education in Secondary Schools, relevant topics are also recommended for inclusion in schools' sex education programmes.

In preparing curriculum materials for use in schools, the Education Department has paid special attention to providing teachers with the necessary reference in teaching the issue of equality of sexes. Examples of these curriculum materials include a teaching kit on "Sexual Attitudes and Values" for secondary level and a booklet on "The Influence of Mass Media on Our Lives" for primary schools.

Water Seepage in Public Housing Estates

8. DR TANG SIU-TONG asked (in Chinese): *According to the information released by the Housing Branch, 2414 complaints about water seepage have been received from among 44908 flats in a total of 19 public housing estates completed less than three years ago. Of these complaints, some 745 have been received from Tin Yiu Estate at Tin Shui Wai. In connection with this, will the Government inform this Council:*

- (a) *whether there is anything special about the situation mentioned above as compared with the situation regarding complaints of the same nature three years ago;*
- (b) *whether the situation mentioned above is due to the quality of the buildings or to the design of the buildings;*
- (c) *what plan the Housing Authority has put in place to improve the quality of public housing estates; and*
- (d) *what measures the Government will take to assist the residents in solving the existing seepage problems?*

SECRETARY FOR HOUSING: Mr President, there is no evidence to suggest that there has been a deterioration in the general quality of public housing blocks constructed in recent years, nor are there special factors affecting the quality of flats in Tin Yiu Estate. Each item of work is checked by Housing Department staff at every stage of construction of a housing project, and defects are corrected before the flats are accepted for occupation.

Analysis of defects reported by tenants shows that the normal causes of seepage are either poor workmanship or tenants' unauthorized modifications which damage waterproof materials and surface drainage in the toilet, kitchen and balcony areas, rather than the quality or design of buildings.

Since 1993, only contractors who are certified to have attained ISO 9000 (a specified international standard in terms of quality control procedures) are allowed to bid for the Housing Authority's building contracts. Contractors' performance is monitored by the Housing Department, and scores are assigned on a monthly basis. A contractor's future opportunity to tender will be affected by his scores.

In addition, the design of and materials used in new blocks are continually being refined. Recent examples are the relocation of floor drains to the external wall and the use of windows with weather-strips. Suppliers of building components, with ISO certification, are used as far as possible.

These measures, taken together, have proved to be generally effective. Newly occupied flats in early 1993 had a seepage defect report rate of one per 110 flats during the first six months of occupation. For flats occupied in 1994, the rate dropped significantly to one per 364 flats.

Tenants are advised to report water seepage problems to estate staff. When a complaint is received, the problem will be inspected and repair will be carried out normally within 14 days. Estate staff also inspect the general conditions of every flat in public housing estates at least once every 18 months.

Engineering Students and Graduates

9. DR SAMUEL WONG asked: *Will the Government inform this Council:*

- (a) *how many engineering students will graduate from the universities funded by the University Grants Committee in 1995;*
- (b) *how many of such graduates will be able to join the Hong Kong Government as Engineering Graduates, and how many will be able to join the graduate training scheme jointly organized by the Vocational Training Council and the Hong Kong Institution of Engineers; and*
- (c) *whether there are plans to provide more training opportunities in the two categories mentioned in (b) above?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) On the basis of the number of final-year engineering students, the expected numbers of engineering graduates from the University Grants Committee (UGC)-funded institutions in 1995 at postgraduate, undergraduate and sub-degree levels are 432, 1858 and 1928 respectively.

- (b) There are a total of 80 vacancies for engineering graduates in the Housing Department and in the Works Group of Departments of the Government. These vacancies are open to both local and overseas engineering graduates, provided that they are permanent residents of Hong Kong. Since these Departments are now in the process of selecting suitable candidates, the number of engineering students graduated from the UGC-funded institutions who will join the Government in 1995 is not yet available. However, according to past experience, over 90% of these vacancies will be filled by the local engineering graduates.

As for the Engineering Graduate Training Scheme (EGTS), 270 training places for engineering graduates will continue to be offered in 1995.

- (c) The total number of training places in the Government for engineering graduates has increased from 64 in 1994 to 80 in 1995. We are planning to further increase this to 94 in 1996. As regards the EGTS, there are at present no plans for any increase in the training places.

Neighbourhood Level Community Development Projects

10. MR FRED LI asked (in Chinese): *Regarding the service development of "Neighbourhood Level Community Development Project", will the Government inform this Council:*

- (a) *of the reasons why it contemplates recommending to the Executive Council that it will no longer develop the Project and that it will gradually reduce the number of service teams under the Project over the next 10 years; how many service teams will be affected immediately and in which districts are they based; and*
- (b) *what specific service development plans does the Government have under its policy on future community development, and what is the long term objective of such policy?*

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

- (a) Neighbourhood Level Community Development Projects (NLCDP) were introduced in the 1970s as a remedial service for areas such as squatter areas and temporary housing areas (THAs) where the provision of welfare services was inadequate or non-existent. In view of the marked improvement in the provision of welfare services, introduction of new services, full implementation of the District Administration Scheme and decrease in the number of THAs and squatter areas over the past 20 years, the need for NLCDP service is diminishing. Coupled with the fact that trained social workers who are limited in number are badly needed to effect the expansion of other welfare services, we intend to propose to the Executive Council to rationalize the NLCDP service by withdrawing NLCDP teams whose services for their clients will no longer be required upon the clearance or redevelopment of the areas which they serve.
- (b) The Government attaches great importance to community development. The introduction of the District Administration Scheme is to strengthen local administration and community development. The District Boards together with the Mutual Aid Committees, Owners' Corporations, Area Committees and various district organizations provide various channels for residents to voice their concerns or to come together to foster a sense of neighbourhoodliness. The District Officers will continue to provide assistance to district organizations and encourage them to undertake community involvement projects with the assistance of district board funds. The Social Welfare Department's Group Work Units and Non-governmental organization (NGO)-run community centres are providing group and community services to all age groups in the neighbourhood community. The Social Welfare Department will also continue to encourage its service units and NGOs to adopt an out-reaching approach in the delivery of their service in order to address the welfare needs of the people they serve.

Prevention of Flooding in Flooding Black spots

11. MR LEE WING-TAT asked (in Chinese): *As the rainy season has begun, will the Government inform this Council of the details of the projects which have been carried out, and the preventive measures which have been adopted, by the relevant departments to prevent the recurrence of serious flooding in various flooding black spots throughout the territory?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the Government is tackling the flooding problem in the territory in a systematic manner. In brief, the problem is being addressed through a three-tier approach comprising:

- (a) long-term structural measures to carry out river training works and village flood protection schemes;
- (b) short-term improvement and management measures including local drainage improvement works, maintenance and surveillance to prevent drain blockage and to ensure the integrity of the drainage system; and
- (c) institutional and legislative measures including formalization of the Drainage Impact Assessment requirement for developments within a flood plain and the implementation of the Land Drainage Ordinance.

Details of these measures are included in an information paper on Flood Control in the New Territories, prepared for the Legislative Council Panel on Planning, Lands and Works for their meeting on 4 April 1995 (Annex A). Since then we have achieved two major milestones in the implementation of the overall flood control strategy: the commencement of the Shenzhen River Regulation Project Stage I in 19 May 1995, and the gazetting of the first draft Drainage Authority Area Plan covering the Yuen Long, Kam Tin and Ngau Tam Mei drainage basin under the Land Drainage Ordinance in 19 May 1995.

Based on historical flooding records, the Government has comprised a list of flooding black spots (Annex B) covering the whole territory. Both long-term and short-term action plans have been drawn up for the 82 flooding black spots and many of these action plans are in progress or have been completed.

Information Paper on Flood Control in the New Territories**LegCo Panel on Planning, Lands and Works****Meeting on 4 April 1995****BACKGROUND**

1. Flooding occurs mainly in the north-western and northern districts of the New Territories where, because of the topography, natural river flooding occurs in times of heavy and prolonged rainfall, resulting in regional floodplain inundation. The problems have been exacerbated due to intensive development on the floodplains and the lack of maintenance of some of the existing streamcourses which have become dumping grounds for rubbish, construction debris and livestock wastes.

LONG TERM STRUCTURAL MEASURES

2. Flooding on a regional scale such as that experienced in the New Territories can only be alleviated through major structural measures. The Drainage Services Department has a programme of structural measures to tackle the problems and the various works are summarized in **Tables 1 and 2**. The total estimated cost of these works is some \$5 billion. They are substantial by any standard, and upon completion will greatly reduce the risks of flooding in the flood prone areas of the New Territories.

3. The flood control projects may be divided into two categories. The first category comprises the main river training projects which will provide a comprehensive river channel system in the New Territories to carry flood water to the sea. In the northern N.T., construction of the first stage of Shenzhen River Regulation scheme will commence shortly, and will be

completed by 1997. In the north-western N.T., training of the Sham Pui River and the downstream section of Kam Tin River are already in progress, while training of the middle reaches of the Kam Tin River will start in October this year.

4. The second category of projects consists of the village flood protection schemes for low-lying flood prone villages. Such schemes typically comprise an earth embankment around the village to protect it from water overflowing the river banks and a flood pumping station to pump away the rainwater collected within the village. A total of 15 village flood protection schemes are already in operation. Another 12 schemes are under detailed design and planning and construction for the Tsung Pak Long Village scheme (Sheung Shui) and the Sha Po Village scheme (Kam Tin) will commence later this year.

SHORT TERM IMPROVEMENT AND MANAGEMENT MEASURES

5. The Administration recognizes the long time frame needed to complete the structural measures outlined above, and is therefore endeavouring to alleviate the flooding situation wherever possible through short term improvement and management measures. These include local drainage improvement works, maintenance activities to prevent drain blockage, surveillance activities to ensure that the integrity of the drainage system is preserved and installation of local flood warning systems to alert the residents of flood prone villages. Most of these activities are carried out on a continuous basis and action is stepped up before and during the rainy season each year.

Local Drainage Improvement Works

6. Notable among these measures are the minor drainage improvement works under the Rural Planning Improvement Strategy (RPIS) programme. In the programme there are 39 minor drainage projects at a total estimated cost of \$168M. 12 projects have been completed, 5 are under construction and 22 are at the planning and design stage. Of the latter, 9 new schemes, costing some \$51 million, will commence within 1995/96.

Preventive Maintenance

7. The drainage system requires regular inspection, desilting and repair to ensure that it functions properly. A preventive maintenance programme is drawn up each year to ensure that problematic drains are inspected before and during the rainy season. Any chokage found will be cleared and defects rectified immediately. In 1994/95, territory-wide, a total of 750 km of drains (including streamcourses) were inspected and 260 km were desilted. A total of \$65 million was spent on maintaining the drainage system of the territory. In addition, a special programme of inspecting flood control installations, such as flood water pumping stations and local flood warning systems, is conducted annually to ensure the installations will be fully operational in times of rainstorm.

8. Experience has shown that many minor floodings are caused not by inadequacy of the main drainage system but because rain water cannot get into the system. This is often because of rubbish blocking the gully inlets and more effort is being made to keep road gullies clear of rubbish. As a further measure, at appropriate locations, additional road gullies are being provided to get water into the drainage system more effectively.

Surveillance

9. Some localized flooding is caused by activities connected with construction sites. Problems arise as a result of construction waste blocking the drains, inadequate provision of temporary drainage, temporary works obstructing flow in the drainage system or damage caused to the drains. Before the rainy season, reminders will be sent to engineers, authorized persons, consultants and contractors in charge of construction sites requesting their co-operation in exercising strict control of their construction activities.

LEGISLATIVE AND INSTITUTIONAL MEASURES

10. Uncontrolled developments in the past have exacerbated the flooding problems because of their adverse drainage impacts in increasing flood flow, reducing flood storage and, in some cases, obstructing flood flow. To prevent further deterioration of the situation the Drainage Services Department has been providing advice to the Planning Department in

formulating various Outline Zoning Plans covering the New Territories. Development within a floodplain should not proceed without full consideration of its effects on land drainage. Proponents of development are therefore being asked to carry out drainage impact assessments whenever there are potential adverse drainage impacts. In the process, necessary mitigation measures are identified and carried out as part of the project. Based on experience gained in the past two years, requirements and procedures for carrying out drainage impact assessments will be issued in the near future to private developers and government departments.

11. Lack of maintenance of many of the main watercourses passing through private land has been a problem in the past. The Land Drainage Ordinance enacted in 1994 provides for better control of these main watercourses. The Government is planning to gazette five draft Drainage Authority Area plans, in stages, covering the major flood prone areas of the New Territories. The first Drainage Authority Area plan to be gazetted shortly will cover the Yuen Long, Kam Tin and Ngau Tam Mei drainage basin. Once a draft Drainage Authority Area plan is gazetted under the Ordinance the Government is empowered to gain access through private lands within the area to carry out drainage works and remove obstructions in main watercourses, in order to maintain and enhance the capacity of the watercourses. These measures will help considerably to alleviate the flooding in flood prone areas.

CONCLUSION

12. Members are assured that the Administration is implementing a comprehensive action plan which includes both long term and short term measures to minimize the risks of flooding to the community.

Table 1. Summary of Major Flood Control Projects in the New Territories (Situation as at 31.3.95)

PWP No.	Title	Estimated Construction Cost (\$M)	Start Date	Completion date	
60 CD/A	NWNT Development - Main Drainage Channels for Yuen Long and Kam Tin Stage I Contract A (DC/90/03)	275	10/93	12/96	
	NWNT Development - Main Drainage Channels for Yuen Long and Kam Tin Stage I Contract B (DC/93/03)	284	4/94	4/97	
43 CD/B	NWNT Development - Main Drainage Channels for Yuen Long and Kam Tin Stage I Phase 2	287	10/95	7/98	
22 CD/B	NWNT Development - Main Drainage Channels for Yuen Long and Kam Tin – remainder				
	Phase 1 - 246	4/96	10/98		
	Phase 2 - 197	8/96	12/98		
	Phase 3 - 215	5/97	5/99		
29 CD/B	NWNT Development - Main Drainage Channels for Ngau Tam Mei	Phase 1	294	6/96	6/99
		Phase 2	171	5/97	5/00
30 CD/B	Village Flood Protection for Yuen Long, Kam Tin and Ngau Tam Mei, NWNT				
	Stage I - Sha Po Tsuen, Pok Wai, Chuk Yuen Tsuen/Ha San Wai, Mai Po Lo Wai/Mai Po San Tsuen	240	11/95	12/00	
	Stage II - Yuen Long and Kam Tin Villages (Ma Tin Tsuen, Shui Pin Tsuen, Shui Pin Wai, Tai Kiu, Wang Chau Villages)	160	12/97	10/03	
35 CD/B	Main Drainage Channels for San Tin, NWNT				
	Phase 1 - Village Flood Protection Works for San Tin	110	2/96	8/98	
	Phase 2 - Village Flood Protection Works for Chau Tau	45	2/96	2/98	
	Phase 3 - Main Drainage Channel	237	7/97	7/00	
23 CD/B	NWNT Development - Village Flood Protection for Tin Shui Wai Hinterland	130	2/97	9/99	
64 CD/B	Rural Drainage and Rehabilitation Scheme –NWNT Portion	137	4/98	9/00	
87CL/A	Shek Wu Hui Development Package 4 – Engineering Works - River Training in Area 30B and Area 33(part), Sheung Shui	160	end/97	end/01	

(continued)

Table 1 (continued)

PWP No.	Title	Estimated Construction Cost(\$M)	Start Date	Completion date
53CD/B	Main Drainage Channels for Fanling, Sheung Shui & Hinterland - Sutlej River Training Stage 2 (Tai Tau Leng/Tsung Pak Long Village Flood Protection Scheme)	73	9/95	2/98
53CD/B	Main Drainage Channels for Fanling, Sheung Shui & Hinterland - Indus River Training Stage 1	470	6/97	12/00
53CD/B	Main Drainage Channels for Fanling, Sheung Shui & Hinterland - Indus River Training Stage 2 Phase 2	172	7/98	12/00
64CD/B	Rural Drainage and Rehabilitation Scheme - Indus and Ganges Basins	239	12/96	7/00

**Table 2. The Regulation of Shenzhen River
(Situation as at 31.3.95)**

PWP No.	Title	Estimated construction cost** (\$M)	Start Date	Completion Date
24CD	Stage I	188 (376)	April 1995	mid 1997
44CD	Stage II (Advance Works)	81 (81)	early 1996	late 1997
31CD	Stage II (Remaining Works)	256(512)	late 1996	early 2000

** The construction costs shown are Hong Kong's share of the costs.
Figures in brackets are the total construction costs.

**Summary Information on Flooding Blackspots
(Situation as at March 1995)**

NO	LOCATION	DISTRICT	SCALE*	CAUSE OF FLOODING	ACTION PLAN	CURRENT SITUATION
1	Ho Sheung Heung	North	1	Low-lying area with back up from Shenzhen River	Short term measures - desilting at River Indus by DSD. Long term measures - Shenzhen River training by DSD under PWP Item 24CD. - River Indus training by PM/NTN under PWP Item 87CL.	In progress under DSD's programme. In detailed design stage.
2	Kai Kuk Shue Ha	North	1	Downstream of a cross road drain heavily silted	Desilt the downstream of the cross road drain.	DSD has recommended DO/N to carry out desilting.
3	Ma Tso Lung	North	1	Local drainage obstruction	Regular clearance.	Being cleared regularly.
4	Tai Tau Lang	North	1	Low-lying area with back up from River Indus	Short term measures - desilting at Tai Tau Leng channel by DSD. - install flood siren. Long term measures - Tsung Pak Long Village Flood Protection Scheme and River Indus training by PM/NTN under PWP item 53CD.	Desilting according to DSD's programme. Siren completed. Project at detailed design stage.
5	Lo Shue Ling	North	1	Low-lying area with back up from River Ganges	Short term measures - desilting at River Ganges by DSD. Long term measures - Shenzhen River training by DSD under PWP Item 24CD. - River Ganges Rehabilitation by DSD under PWP Item 64CD.	Desilting according to DSD's programme. Projects at detailed design stage.

* Scale of Flooding, see page 16.

NO	LOCATION	DISTRICT	SCALE*	CAUSE OF FLOODING	ACTION PLAN	CURRENT SITUATION
6	Muk Wu	North	1	Low-lying area with back up from Shenzhen River	Long term measures - RPIS item by DSD, - Shenzhen River training by DSD under PWP Item 24CD.	RPIS works under construction. Project at detailed design stage.
7	San Uk Tsuen near Suen Tao Yuen	North	2	Low-lying area with back up from Ma Wat River	Short term measures - desilting at the nearby feeder channel by DSD. Long term measures - River Indus training by PM/NTN under PWP item 53CD.	Desilting according to DSD's programme. Project at consultant selection stage.
8	Tak Yuet Lau	North	2	Low lying area with back up from Shenzhen River	Short term measures - desilting at River Indus. - install flood warning system. - provide flood shelter. Long term measures - Shenzhen River training by DSD under PWP Item 24CD.	Desilting according to DSD's programme. Warning system completed. Shelter under construction by ASD. Project at detailed design stage.
9	Wah Shan	North	1	Low-lying area with back up from Shenzhen River	Short term measures - desilting at River Indus, Long term measures - Shenzhen River training by DSD under PWP Item 24CD.	Desilting according to DSD's programme. Project at detailed design stage.
10	Sandy Ridge	North	1	Low-lying area	Long term measures - Shenzhen River training by DSD under PWP Item 24CD.	Project at detailed design stage.
11	Ping Che Road crossing over River Indus	North	1	Back up from River Indus	Short term measures - desilting along River Indus by DSD. Long term measures - River training by PM/NTN under PWP Item 53CD. - River rehabilitation by DSD under PWP Item 64CD.	Desilting according to DSD's programme. Project at consultant selection stage. Project at detailed design stage.

* Scale of Flooding, see page 16.

NO	LOCATION	DISTRICT	SCALE*	CAUSE OF FLOODING	ACTION PLAN	CURRENT SITUATION
12	Wu Nga Lok Yeung	North	0	Low-lying area with back up from River Indus	Short term measures - desilting at River Indus by DSD. Long term measures - River Indus training by PM/NTN under PWP Item 53CD. - River Rehabilitation by DSD under PWP Item 64CD.	Desilting according to DSD's programme. Project at consultant selection stage. Project at detailed design stage.
13	Kwan Tei North	North	1	The section of River Indus is heavily silted with back up from downstream	Short term measures - desilting at River Indus by DSD. Long term measures - River Indus training by PM/NTN under PWP Item 53CD.	Desilting according to DSD's programme. Project at consultant selection stage
14	Tsung Pak Long Tsuen	North	0	Lowlying area with back up from River Indus	Short term measures - desilting at the Tai Tau Leng Channel by DSD. Long term measures - Tsung Pak Long Village Flood Protection Scheme. - River Indus training by PM/NTN under PWP Item 53CD.	Desilting according to DSD's programme. Project at detailed design stage. Project at consultant selection stage.
15	Slip road at the east of Man Kam To Road check point	North	2	Blocked road drainage outlet	Short term measures - construct road drainage diversion. Long term measures - improvement of road drainage, possibly under HyD's Man Kam To Road Reconstruction project.	DSD arranging construction of road drainage diversion. Under consideration.
16	Shek Tsai Leng. Kwu Tung	North	2	Substandard cross road drain with back up from River Beas	Short term measures - clearance of nearby streamcourse by DSD. Long term improvement under RPIS by HyD.	DSD arranging clearance works. Under consideration.

* Scale of Flooding, see page 16.

NO	LOCATION	DISTRICT	SCALE*	CAUSE OF FLOODING	ACTION PLAN	CURRENT SITUATION
17	Wa Shan Tsuen	North	1	Low-lying area with back up from River Indus	Short term measures - desilting of River Indus by DSD. Long term measures - River Indus training by PM/NTN under PWP Item 53CD.	Desilting according to DSD's programme. Project at consultant selection stage.
18	Ping Kong	North	1	Back up from River Indus Sutlej & silting Sutlej	Short term measures - desilting of River Sutlej by DSD. Long term measures - River Indus training by PM/NTN under PWP Item 53CD.	Desilting according to DSD's programme. Project at consultant selection stage.
19	Shun Fung Wai	Tuen Mun	1	Blockage of gullies and land drainage with rubbish, debris, animal waste or silting, and inadequate land drainage	Regular maintenance	Regular maintenance in hand.
20	Nai Wai	Tuen Mun	1	Blockage of gullies and land drainage with rubbish, debris, animal waste or silting, and inadequate land drainage	Regular maintenance	Regular maintenance in hand.
21	San Hing Tsuen	Tuen Mun	1	Blockage of gullies and land drainage with rubbish, debris or silting, and inadequate land drainage	Clearance of river bank vegetation and rubbish and desilting of natural watercourse under the Watercourse Management and Maintenance District Works Group.	In the TMRDWG 1995/96 programme.
22	Tsz Tin near Sai Hang Mei	Tuen Mun	1	Blockage of gullies and land drainage with rubbish, debris and vegetation	Clearance of river bank vegetation and rubbish.	Regular maintenance in hand.
23	LRT reserve north of Tuen Mun hospital	Tuen Mun	0	Land drainage unable to drain away rain water	Action by DLO under lease conditions and engineering conditions.	Completed.

* Scale of Flooding, see page 16.

NO	LOCATION	DISTRICT	SCALE*	CAUSE OF FLOODING	ACTION PLAN	CURRENT SITUATION
24	Po Tong Ha	Tuen Mun	2	Inadequate land drainage, blockage of gullies and drainage with rubbish, debris and natural siltation.	Clearance of river bank vegetation and rubbish. Desilting of natural watercourse under the Watercourse Management and Maintenance District Works Group. RPIS project by HyD including stormwater drains and sewers.	In the TMRDWG 1995/96 programme RPIS Project to commence in April 1995.
25	Siu Hang Tsuen	Tuen Mun	2	Inadequate land drainage, blockage of gullies and drainage with rubbish, debris and natural siltation	Stormwater drainage system to be incorporated in RPIS access road improvement project, to be carried out by CHE/NT.	Project to commence in April 1995.
26	Fu Tei (WSD's Pumping Station)	Tuen Mun	2	Heavy, short duration rainfall, washing debris and vegetation from the hillside into the drainage system.	Short term measures - Works to divert part of the catchment near King Fung Path by DSD. - Other short term measures by DSD, TDD & WSD Long term measures - Reconstruction of the main channel by PM/NTW.	Works in progress and will be completed before the 1995 wet season. All other short term measures completed. Works in progress and expected to be completed in April 1995.
27	TM New Town (Alpine Garden and Chi Lok Fa Yuen)	Tuen Mun	2	Blockage of gullies and land drainage with rubbish, debris and vegetation and failure of slope near Alpine Gardens.	Short term measures - The slope drains near Alpine Gardens to be inspected by DSD. - The box culvert near Chi Lok Fa Yuen to be desilted by DSD. Long term measures - To regularly monitor conditions and take any necessary action in conjunction with other departments.	Inspection scheduled for March 1995. Desilting in progress and will be completed before the 1995 wet season. Monitoring situation for necessary action.
28	Lung Kwu Sheung Tan	Tuen Mun	1	Low-lying area incapable of gravity drainage to main drainage channel.	Construction of an additional 900mm cross-road drain by HyD.	Works were completed in December 1994.

* Scale of Flooding, see page 16.

NO	LOCATION	DISTRICT	SCALE*	CAUSE OF FLOODING	ACTION PLAN	CURRENT SITUATION
29	So Kwun Wat Tsuen	Tuen Mun	1	Interference to land drainage pattern and reduction of flood storage capacity owing to uncontrolled filling of low and adjacent land; blockage of gullies and land drainage with rubbish, debris and vegetation; and inadequate land drainage	Short term measures - Desilting works to So Kwun Wat river were carried out by DSD and DO/TM. Long term measures - construction of an open channel at So Kwun Wat to be considered by TMRDWG for inclusion in the 1995/96 programme. Action led by DO/TM.	Desilting works completed. Monitoring situation for necessary action.
30	Tai Hang	Tai Po	1	Narrow streamcourse silted up and overgrown with vegetation hence reduce flow capacity.	Streamcourse improvement work by DSD under RPIS.	Improvement works commenced in Jan 94, anticipated completion in March 96.
31	Nam Wah Po	Tai Po	1	Narrow streamcourse silted up and overgrow with vegetation hence reduce flow capacity.	More frequent inspection and desilting by DSD.	Desilting under preventive maintenance programme.
32	Tung Tsz Road	Tai Po	0	Low-lying area with inadequate land drainage which is unable to drain away the rain water.	Short term measures - DSD to carry out the necessary drain clearance work when the need arises. Long term measures - Review the road drainage. Action by HyD and DSD.	Monitoring. Under study.
33	Po Sam Pai	Tai Po	0	Inadequate land drainage which is unable to drain away the rain water	Short term measures - DSD to carry out the necessary drain clearance work when the need arises. Long term measures - Review the road drainage. Action by HyD.	Monitoring. Under study.
34	Wan Tau Street under LCR Bridge	Tai Po	0	Low-lying area with inadequate drainage which is unable to drain away the rain water	Short term measures - DSD to carry out the necessary drain clearance work when the need arises. HyD has installed additional gullies. Long term measures - Review the operation and maintenance of the pumping station at the underpass. Action by EMSD.	Monitoring. Under study.

* Scale of Flooding, see page 16.

NO	LOCATION	DISTRICT	SCALE*	CAUSE OF FLOODING	ACTION PLAN	CURRENT SITUATION
35	Ha Wun Yiu	Tai Po	1	Inadequate land drainage	Short term measures - Review contractor's temporary land drainage facilities. Action by TDD. Long term measures - River training works by TDD.	Under investigation. River training work to be completed in 1995.
36	Nam Wan Road under KCR Bridge	Tai Po	0	Low-lying area with inadequate drainage which is unable to drain away the rain water	Short term measures - DSD to carry out the necessary drain clearance work, if such a need arises, having completed drainage improvement works under Minor Sewer and Drain Programme. Long term measures - Drainage improvement work within the railway reserve by KCRC.	Monitoring. Planning in progress.
37	Shek Kwu Lung Streamcourse	Tai Po	1	Existing bridge obstructed stream flow	Short term measures - DSD to carry out the necessary desilting work, if such a need arises. Long term measures - Reconstruct a cross-stream footbridge by DO/TP.	Monitoring. Planning in progress.
38	Chun Hing San Tsuen	Yuen Long	1	Low-lying area	To lay a stormwater drain under a RPIS Item, by DSD.	Design in progress.
39	Ting Fook Villas	Yuen Long	1	Low-lying area	Short term measures - construct a village culvert, by DO/YL. Long term measures - Village Flood Protection Scheme under PWP Item 35CD.	DO/YL has upgraded water course at Fuk Hi Street. Planning in progress.
40	Shan Ha Tsuen	Yuen Long	1	Low-lying area	Regular desilting by DO/YL.	Regular desilting in hand.

* Scale of Flooding, see page 16.

NO	LOCATION	DISTRICT	SCALE*	CAUSE OF FLOODING	ACTION PLAN	CURRENT SITUATION
41	Ying Lung Wai, Shap Pat Heung	Yuen Long	1	Low-lying area subject to backflow from Kam Tin River	Short term measures - construction of parapet wall to mitigate the effects of backflow from Kam Tin River, by DSD . Long term measures - river training by DSD under PWP Item 60CD - completion of Kau Hui Redevelopment - River Rehabilitation at Wong Uk Tsuen under PWP Item 64CD by DSD.	Construction in progress. Training works in progress. Redevelopment design in progress. Project design in progress.
42	Tsat Sing Kong, Pat Heung	Yuen Long	1	Low-lying area subject to flooding arising from Kam Tin River	Short term measures - Desilting by DSD and DO/YL. Long term measures - river training by DSD under PWP Item 22CD.	Works in progress. Design in progress.
43	Tai Kong Po, Kam Tin	Yuen Long	1	Low-lying area subject to flooding arising from Kam Tin River	Short term measures - Desilting by DSD and DO/YL. Long term measures - river training by DSD under PWP Item 22CD.	Works in progress. Design in progress.
44	Kam Hing Wai, Kat Hing Wai, Pang Ka Tsuen area	Yuen Long	2	Low-lying area subject to flooding arising from Kam Tin River	Short term measures - Desilting by DSD and DO/YL, Long term measures - river training by DSD under PWP Item 22CD.	Works in progress. Design in progress.
45	Ko Po, Kam Tin	Yuen Long	1	Low-lying area subject to flooding arising from Kam Tin River	Short term measures - Desilting by DSD and DO/YL. Long term measures - river training by DSD under PWP Item 22CD.	Works in progress. Design in progress.

* Scale of Flooding, see page 16.

NO	LOCATION	DISTRICT	SCALE*	CAUSE OF FLOODING	ACTION PLAN	CURRENT SITUATION
46	Pok Wai, San Tin	Yuen Long	1	Low-lying area	Short term measures - Desilting by DSD and DO/YL. Long term measures - River Training by DSD under PWP Item 29CD. - Polder Scheme by DSD under PWP Item 30CD.	Works in progress. Design in progress. Design in progress.
47	Wo Shang Wai & Chuk Yuen Area, San Tin	Yuen Long	2	Low-lying area	Short term measures - Divert flow upstream to Palm Spring Villas Triple Cell Culverts, by DO/YL. Long term measures - River Training by DSD under PWP item 29CD.	Completed. Design in progress.
48	Sha Po Tsuen, San Tin	Yuen Long	1	Low-lying area subject to flooding arising from Kam Tin River	Short term measures - To raise embankment road level and increase outlet size, by DO/YL. Long term measures - River Rehabilitation by DSD under PWP Item 64CD. - Polder Scheme by DSD under PWP Item 30CD.	Completed. Design in progress. Design in progress.
49	Mai Po, San Tin	Yuen Long	1	Low-lying area	Short term measures - Desilting (by DO/YL). Long term measures - Polder Scheme by DSD under PWP Item 30CD.	Being arranged. Design in progress.
50	Tai Tong Road near Shung Ching San Tsuen, Shap Pat Heung	Yuen Long	1	Low-lying area	Short term measures - Drainage Improvement Works by DO/YL. Long term measures - River Rehabilitation at Nam Hang by DSD under PWP Item 64CD. - Yuen Long Bypass Floodway by TDD.	Design in progress. Design in progress. Planning in progress

* Scale of Flooding, see page 16.

NO	LOCATION	DISTRICT	SCALE*	CAUSE OF FLOODING	ACTION PLAN	CURRENT SITUATION
51	Lam Hau Yuen	Yuen Long	1	Low-lying area	Short term measures (e.g. RPIS scheme desilting) to be carried out by DO/YL. Long term measures (e.g. river training) by DSD under PWP Item 60CD.	Desilting work under preventive maintenance programme. Construction of 60CD is in progress
52	Shek Wu Wai, San Tin	Yuen Long	2	Low-lying area scum from livestock wastes and vegetation	Short term measures - Desilting by DSD. Long term measures - River Training by DSD under PWP Item 35CD.	Works in progress. Design in progress.
53	Wing Kei Tsuen, San Tin	Yuen Long	1	Low-lying area	Short term measures - Local Drainage Improvement Works by DO/YL. - Desilting by DO/YL and DSD. Long term measures - River Training Works by DSD under PWP Item 29CD. - River Rehabilitation by DSD under PWP Item 64CD.	Design in progress. Works in progress. Design in progress. Design in progress.
54	Ha Tsuen Shi, Ha Tsuen	Yuen Long	1	Low-lying area	Proposed to construct covered channel under RPIS item.	Design in progress.
55	Tan Kwai Tsuen/Wo Ping San Tsuen	Yuen Long	1	Capacity of existing drainage channel inadequate to deal with flows encountered.	Short term measures - provide flood warning system. - improve hydraulic capacity at critical sections. - provide flood storage at upstream reservoir. Long term measures - widening or realignment of channel.	All short term works in progress and will be completed for 1995 wet season. DSD working on preparation of possible schemes with view to start of consultation in April 95.
56	J/O Baker Street & Gillies Avenue	Hung Hom	0	Local inadequacies in the land drainage systems in the area.	Short term improvement (desilting) to be carried out by DSD. Long term improvement work (upgrading of drains) by DSD & CED under PWP Items 50CD & 228CL.	Desilting work under preventive maintenance programme. Construction of 50CD work is in progress.

* Scale of Flooding, see page 16.

NO	LOCATION	DISTRICT	SCALE*	CAUSE OF FLOODING	ACTION PLAN	CURRENT SITUATION
57	J/O Baker Street & Po Loi Street	Hung Hom	0	Local inadequacies in the land drainage systems in the area.	Short term improvement (desilting) to be carried out by DSD. Long term improvement work (upgrading of drains) by DSD & CED under PWP Items 50CD & 228CL.	Desilting work under preventive maintenance programme. Construction of 50CD work is in progress.
58	J/O Bulkeley Street & Dock Street	Hung Hom	1	Local inadequacies in the land drainage systems in the area.	Short term improvement (desilting) to be carried out by DSD. Long term improvement work (upgrading of drains) by DSD & CED under PWP Items 50CD & 228CL.	Desilting work under preventive maintenance programme. Construction of 50CD work is in progress.
59	278 Ma Tau Wai Road	To Kwa Wan	0	Blockage of gullies and land drainage due to rubbish and debris.	More frequent desilting of drains by DSD and general cleansing by USD.	Situation improved.
60	J/O Hung To Road & Hoi Yuen Road	Kwun Tong	1	Insufficient gullies to collect surface runoff.	Consideration to be given to install more gullies to improve the collection of surface runoff. More frequent desilting of system.	Problems being considered. Desilting work under the preventive maintenance programme.
61	Cha Kwo Ling Squatter Area, Cha Kwo Ling	Yau Tong	2	Internal drains inadequate to receive surface runoff from the large mining area at upstream.	DSD to implement a diversion scheme and construct by-pass drain to divert the surface runoff to trunk drain direct. Works completed in May 1994.	Works completed in May 94.
62	Chatham Road South near Granville Road	Tsim Sha Tsui	0	Drainage system frequently choked up with rubbish etc.	Drainage system in the area to be included in preventive maintenance programme	Cleansing work under preventive maintenance programme.
63	Chatham Road South near Chatham Court	Tsim Sha Tsui	0	Drainage system frequently choked up with rubbish etc.	Drainage system to be included in preventive maintenance programme	Cleansing work under preventive maintenance programme.
64	J/O Shanghai Street and Saigon Street	Yau Ma Tei	0	Drainage system frequently choked up with rubbish, sand/silt deposits.	Drainage system to be included in preventive maintenance programme.	Cleansing work under preventive maintenance programme.
65	J/O Nathan Road and Cliff Road	Yau Ma Tei	0	Drainage system frequently choked up with rubbish, sand/silt deposits.	Drainage system to be included in preventive maintenance programme.	Cleansing work under preventive maintenance programme.

* Scale of Flooding, see page 16.

NO	LOCATION	DISTRICT	SCALE*	CAUSE OF FLOODING	ACTION PLAN	CURRENT SITUATION
66	J/O Argyle Street and Fa Yuen Street	Mongkok	0	Drainage system frequently choked up with rubbish, plastic bags, etc	Drainage system to be included in preventive maintenance programme.	Cleansing work under preventive maintenance programme.
67	J/O Nathan Road and Boundary Street	Mongkok	0	Drainage system frequently choked up with rubbish, plastic bags, etc.	Drainage system to be included in preventive maintenance programme.	Cleansing work under preventive maintenance programme.
68	J/O Fuk Tsun Street and Fir Street	Mongkok	0	Drainage system frequently choked with rubbish, plastic bags, etc.	Drainage system to be included in preventive maintenance programme.	Cleansing work under preventive maintenance programme.
69	J/O Cheung Sha Wan Road and Nam Cheong Street	Sham Shui Po	1	Inadequacies of the drainage system temporarily exacerbated by major drainage works in the area.	To review and provide more effective temporary diversions. Include drainage system in preventive maintenance programme.	Monitoring of diversion work. Desilting work under preventive maintenance programme.
70	J/O Apliu Street and Castle Street	Sham Shui Po	1	Drainage system frequently choked up with rubbish, plastic bags, cartons, etc.	Drainage system to be included in preventive maintenance programme.	Cleansing work under preventive maintenance programme.
71	J/O Hai Tau Stand Pei Ho Street	Sham Shui Po	0	Drainage system frequently choked with rubbish etc.	Drainage system to be included in preventive maintenance programme.	Cleansing work under preventive maintenance programme.
72	Entrance to Tung Lo Wan Hill Road	Shatin	0	Gullies blocked by fallen leaves and rubbish.	More intensive monitoring and clearing of gullies.	In progress.
73	J/O Fo Tan Road and Min Fong Street, Shatin	Shatin	0	Temporary blockages caused by roadworks in the vicinity.	More frequent inspection and cleansing until roadworks completed	Works completed.
74	Tsuen Tsing Interchange (J/O Tsuen Wan Road & Texaco Road)	Tsuen Wan	0	Gully Chokage	Drainage system included in preventive maintenance programme	Desilting work under routine preventive maintenance programme.
75	Cheung Wing Road Roundabout	Kwai Chung	1	Gully chokage due to silting from nearby roadworks.	More frequent inspection and cleansing until roadworks completed.	Roadworks completed.

* Scale of Flooding, see page 16.

NO	LOCATION	DISTRICT	SCALE*	CAUSE OF FLOODING	ACTION PLAN	CURRENT SITUATION
76	Ho Chung River	Sai Kung	2	River overflows onto adjacent road due to constriction formed by a footbridge and a weir.	Short term improvement - Demolition or lowering of the weir Long term improvement - River training	Lowering of the weir has been rejected by the villagers' representative of Ho Chung Village. Re-newed efforts being made through the D.O.
77	Wong Chuk Hang Road, J/O Nam Long Shan Road	Aberdeen	0	1. Local low-lying area. 2. Chockage of road drainage. 3. Significant run-off from adjacent area.	1. To review road drainage. 2. To provide additional gullies. 3. To carry out more preventive maintenance.	1. Preventivemaintenance conducted regularly. 2. No flooding observed in recent heavy rainfalls. 3. HyD is reconstructing Nam Long Shan Road with additional road gullies.
78	5-40 Ko Shing Street	Sheung Wan	0	1. Blockage of gullies due to refuse and Chinese herbs washed out from nearby herb shops.	1. Clear gullies and provide more litter-bins. 2. Clear drains regularly. 3. Review road drainage.	1. Damaged gullies repaired by HyD. 2. Additional gullies provided by HyD. 3. Preventive maintenance in progress.
79	44-79 Bonham Strand West	Sheung Wan	0	1. Grease deposit inside drains. 2. Inadequate drain size. 3. Low-lying area.	1. Clear drains regularly. 2. Upgrade the drains. 3. Enforcement action against offenders by USD/EPD, where possible. 4. Long term improvement work (e.g. raising of road levels)to be reviewed.	1. Preventive maintenance in progress. 2. Cat D item being sought for upgrading of drainage system.
80	138 - 239 Wing Lok Street	Sheung Wan	0	1. Inadequate drain size. 2. Low-lying area.	1. Clear drains regularly. 2. Upgrade the drains, provide more gullies. 3. Enforcement action against offenders by USD/EPD. where possible. 4. Long term improvement work (e.g. raising of road levels) to be reviewed.	1. Cat D item has been submitted for upgrading of drainage system. 2. Additional gullies provided by HyD. 3. Preventive maintenance in progress.
81	J/O Hillier Street & Wing Lok Street	Sheung Wan	0	Low-lying area	1. DSD to have term contractor or sewer gang on site during heavy rainstorm. 2. Long term improvement work (e.g. raising of road levels) to be reviewed. 3. Repair damaged gullies. 4. Review under Drainage Master Plan study.	1. Special attention will be given in Drainage Master Plan study of HK North, being planned to commence in late 95. 2. Damaged gullies repaired by HyD.

* Scale of Flooding, see page 16.

NO	LOCATION	DISTRICT	SCALE*	CAUSE OF FLOODING	ACTION PLAN	CURRENT SITUATION
82	Ling Tsui Tau Tsuen, Mui Wo	Lantau Island	1	Local low-lying area incapable of gravity drainage to main drainage channel.	1. Village Flood Protection Scheme to be considered. 2. Resite of the village to also be considered as possible long term solution.	1. Situation regularly monitored by DSD. 2. No flooding observed in recent heavy rainfalls.
RYL1	Nam Sang Wai, Nam Pin Wai, Ying Lung Wai, Small Traders New Village, Wing Kei Tsuen, Ma Tin Tsuen, Lam Hau Tsuen.	Yuen Long	3	Low-lying area subject to flooding arising from Kam Tin River and Shan Pui River.	River training by DSD under PWP Items 22CD, 29CD and 60CD. River Rehabilitation Scheme by DSD under PWP Item 64CD.	Construction of 60CD in progress; design in progress for 22CD and 29CD. Design in Progress.
RYL2	Sha Po, Cheung Chun San Tsuen, Pak Wai Tsuen, Shui Tau, Ko Po Tsuen, Kam Hing Wai, Pang Ka Tsuen, Shek Kong San Tsuen.	Yuen Long	3	Low-lying area subject to flooding arising from Kam Tin River.	River training by DSD under PWP Item 22CD.	Design in progress for 22CD and 43CD.
RYL3	Yau Mei San Tsuen, Yau Tam Mei San Tsuen, Chuk Yuen Tsuen.	Yuen Long	3	Low-lying area	River training by DSD under PWP Items 29CD and 60CD. River Rehabilitation Scheme by DSD under PWP Item 64CD.	Construction of 60CD in progress; Design of 29CD in progress. Design in progress.
RYL4	Mai Po Lo Wai, Yan Shau Wai, On Lung Tsuen, Tsing Lung Tsuen.	Yuen Long	3	Low-lying area	Polder Scheme by DSD under PWP Item 30CD River training by DSD under PWP Item 35CD.	Design in progress. Design in progress.
RN1	Lo Wu, Ho Sheung Heung, Kam Tsin, Kwu Tung, Lin Tong Mei, Ping Kong.	North	3	Low-lying area with back up from Shenzhen River.	Shenzhen River training by DSD under PWP Items 24CD and 31CD. River training by PM/NTN under PWP Items 87CL and 53CD.	At detailed design stage for 24CD. Design in progress for 31 CD. Design in progress.

* Scale of Flooding, see page 16.

NO	LOCATION	DISTRICT	SCALE*	CAUSE OF FLOODING	ACTION PLAN	CURRENT SITUATION
RN2	Sheung Shui Wa Shan, Siu Hang Tsuen, Lung Yeuk Tau.	North	3	Low-lying area with back up from Shenzhen River.	Shenzhen River training by DSD under PWP Items 24CD and 31CD. River training by PM/NTN under PWP Item 53CD.	At detailed design stage for 24CD. Design in progress for 31CD. Design in progress.
RN3	Ko Po, Kan Tau Tsuen, Kwan Tei.	North	3	Low-lying area with back up from River Indus.	Long term measures - River training by PM/NTN under PWP item 53CD. - River rehabilitation by DSD under PWP Item 64CD.	At consultant selection stage. At detailed design stage.
RN4	Kan Tau Wai, Chow Tin Tsuen, Muk Wu.	North	3	Low-lying area with back up from River Ganges.	Long term measures - Shenzhen River training by DSD under PWP Item 24CD and 31 CD. - River Ganges Rehabilitation by DSD under PWP Item 64CD.	At detailed design stage for 24CD. Design in progress for 31CD. At detailed design stage.

* Scale of Flooding, see page 16.

SCALE OF FLOODING:**0 Ponding cases**

Affecting area of less than about 50 metres x 50 metres (area less than 0.25 hectare) or resulting in public nuisance and inconvenience.

1 Small Scale Flooding cases

Affecting area of about 1 to 10 hectares or resulting in damage to crops.

2 Medium Scale Flooding cases

Affecting area of about 10 to 100 hectares or resulting in local damage to poultry or property.

3 Regional Flooding cases

Affecting area of about 1 square km (100 hectares) or more or resulting in social or economic impact to the region.

Drainage Services Department

Sewerage Facilities near Beaches

12. MISS EMILY LAU asked (in Chinese): *In response to my question at the Legislative Council Sitting on 19 October 1994 concerning the development of additional beaches, the Government indicated that a comprehensive plan had been drawn up for the construction of sewerage facilities near beaches and an inter-departmental committee would soon be set up to look into water sports facilities, including the need for developing new beaches. In this connection, will the Government inform this Council:*

- (a) of the number of existing beaches whose surrounding areas have been provided with sewerage facilities, as well as their locations and the situation regarding water quality improvement in each of these beaches;*
- (b) of the names of the beaches expected to be provided with sewerage facilities within the next three years, together with the target date for completion of work and the achievable improvement in water quality in each of these beaches; and*
- (c) when was the inter-departmental committee set up; what progress has been made in its work and, in particular, whether any study has been conducted on the development and opening up of additional beaches; if so, what the findings are?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, at present, nine of the 43 gazetted beaches managed by the Urban Council and the Regional Council are provided with sewerage in their vicinity. Three of them are on Hong Kong Island, that is, Chung Hom Kok, Repulse Bay and Deep Water Bay. The remaining six are in Tuen Mun District. They are New Cafeteria, Golden Beach, Old Cafeteria, Kadoorie, Castle Peak and Butterfly.

The water quality gradings of these beaches, before and after the commissioning of the sewerage in their vicinity, are given in the table attached. Notably, the water quality at the Old Cafeteria Beach has improved from Grade 4 in 1992 to Grade 3 in 1994 and that at the Castle Peak Beach also from Grade 4 in 1992 to Grade 3 in 1994.

The following eight gazetted beaches will be provided with sewerage in their vicinity in the next three years:

(A) *Hong Kong Island*

	<i>Beach</i>	<i>Target date for completion</i>
(i)	Rocky Bay))))	Works are scheduled to be completed in late 1996.
(ii)	Shek O)))	
(iii)	Turtle Cove))))	Sewerage construction works have been completed.
(iv)	Hairpin))))	Connections to premises by owners are in progress.
(v)	Stanley Main)))	
(vi)	St Stephen's)))	
(vii)	Middle Bay)	Sewerage construction works have been completed. Connections to premises are to be carried out by owners.

(B) *Sai Kung District*

	<i>Beach</i>	<i>Target date for completion</i>
(i)	Silverstrand	Sewerage construction works are scheduled for completion in 1998.

After the completion of the construction of the sewerage and the connections to premises, we expect that the water quality at these eight beaches will improve substantially. Members may, however, also wish to know that sewerage works carried out in other areas, albeit not in the vicinity of beaches, may also contribute to improving the water quality of beaches generally.

The inter-departmental committee formed to look into water sports facilities, commenced work in late February 1995. Up to the present moment, the committee has concentrated on reviewing the facilities and usage of existing water sports centres.

There are at present seven public water sports centres. Three are managed by the Regional Council and four by voluntary agencies. Our review has shown that the average usage of the centres managed by the voluntary agencies is generally low. While those centres under the Regional Council are able to achieve an annual utilization rate of 72% and a rate of 94% during the summer months, the centres managed by the voluntary agencies are only able to reach an average annual utilization rate of 44% and a rate of 50% during the summer months.

We are exploring ways and means to improve the usage of these water sports centres managed by the voluntary agencies. We shall also keep the situation under observation in close co-operation with the voluntary agencies.

The committee will move on to a review of the existing beach facilities later in the year. This review will also cover the need for and the feasibility of developing new beaches as well as the options in this regard.

WATER QUALITY GRADINGS AT BEACHES WITH SEWERAGE IN THE VICINITY

Beach	Before Commissioning of Sewerage		After Commissioning of Sewerage	
	Bathing season geometric mean <i>E. coli</i> count per 100 mL of seawater (1992)	Health risk (cases of minor illness per 1,000 swimmers)	Bathing season geometric mean <i>E. coli</i> count per 100 mL of seawater (1994)	Health risk (cases of minor illness per 1,000 swimmers)
<u>Hong Kong Island South District</u> Chung Hom Kok) Repulse Bay) Deep Water Bay)	ND. Sewerage provided many years ago.		26 18 40	0.4 undetectable 2
<u>Tuen Mun District</u> Butterfly)			317	12
New Cafeteria	175*	9	229*	11
Golden Beach #	ND	ND	206	10
Old Cafeteria	731	16	301	12
Kadoorie	267*	11	210*	10
Castle Peak	1187	18	243	11

Note: ND No data

New beach gazetted in 1994

* Changes in *E. coli* level are statistically insignificant

GRADING SYSTEM

Grade	Bathing season geometric mean <i>E. coli</i> count per 100 mL of seawater	Health risk (cases of minor illness per 1,000 swimmers)
1	up to 24	undetectable
2	25 to 180	10 or less
3	181 to 610	11 to 15
4	more than 610	more than 15

Promotion of Civil Servants before Retirement

13. MR CHEUNG MAN-KWONG asked (in Chinese): *As the pension payable to civil servants in the territory is calculated by multiplying the highest annual pensionable emoluments by the length of pensionable service (in months) and a pension factor, will the Government inform this Council:*

- (a) *of the number of civil servants on point 34 and above of the Master Pay Scale or equivalent who were promoted within 18 months prior to their retirement (including early retirement) in each of the past three years, together with a breakdown by grades; and*
- (b) *whether the Government will review such a promotion arrangement in view of the fact that the staff mentioned in (a) are able to enjoy an increase in the pension consequent upon their promotion within 18 months before retirement; if not, why not?*

SECRETARY FOR THE CIVIL SERVICE: Mr President,

- (a) In the three-year period from January 1992 to December 1994, a total of 3736 officers on point 34 and above of the Master Pay Scale or equivalent gained promotion to a higher rank within their respective grades. Of these, 58 retired (including early retirement) from the service within a period of 18 months after promotion. This represents about 1.6% of the total number of promotees. A breakdown by grade and department is at the attached Annex.
- (b) We have a provision in the Civil Service Regulations that officers who have less than 12 months' service to give before going on pre-retirement leave are not normally considered for promotion.

This ensures that newly promoted officers would serve in the higher rank for at least 12 months.

We are fully aware of the need to ensure that promotees would give an adequate period of service before their retirement. On the other hand it is equally important not to deprive officers, who are approaching retirement age but who are nonetheless fully qualified for the job in a higher rank, of the advancement opportunities they well deserve. The provision in the Civil Service Regulations represents an appropriate balance between the two. It has been in practice for decades and has been working well. We do not see any need for revising this provision.

GRADE OF OFFICERS WHOSE MAXIMUM SALARY IS ON OR ABOVE MPS 34, OR EQUIVALENT

Annex

DEPARTMENT	GRADE	NO. OF OFFICERS PROMOTED DURING THE 3-YEAR PERIOD FROM JAN 1992 TO	NO. OF RETIRED OFFICERS WHO WERE PROMOTED WITHIN 18 MONTHS PRIOR TO
AGRICULTURE AND FISHERIES DEPARTMENT			
	AGRICULTURAL OFFICER	1	0
	DIRECTOR OF AGRICULTURAL & FISHERIES	1	0
	FISHERIES OFFICER	1	0
	FORESTRY OFFICER	1	0
	Sub-total by dept:	4	0
AUXILIARY MEDICAL SERVICES			
	STAFF OFFICER AUXILIARY MEDICAL SERVICES	1	0
	Sub-total by dept:	1	0
ARCHITECTURAL SERVICES DEPARTMENT			
	ARCHITECT	6	0
	BUILDING SUPERVISOR	2	0
	CLERK OF WORKS	19	0
	DIRECTOR OF ARCHITECTURAL SERVICES	2	0
	MAINTENANCE SURVEYOR	8	0
	QUANTITY SURVEYOR	6	0
	STRUCTURAL ENGINEER	3	0
	SURVEY OFFICER	1	0
	TECHNICAL OFFICER	17	0
	Sub-total by dept:	64	0
AUDIT DEPARTMENT			
	AUDITOR	6	0
	DIRECTOR OF AUDIT	2	0
	EXAMINER	3	0
	Sub-total by dept:	11	0

DEPARTMENT	GRADE	NO. OF OFFICERS PROMOTED DURING THE 3-YEAR PERIOD FROM JAN 1992 TO	NO. OF RETIRED OFFICERS WHO WERE PROMOTED WITHIN 18 MONTHS PRIOR TO
BUILDINGS DEPARTMENT			
	BUILDING SURVEYOR	11	0
	ESTATE SURVEYOR	28	0
	STRUCTURAL ENGINEER	16	0
	SURVEY OFFICER	6	0
	TECHNICAL OFFICER	4	0
	Sub-total by dept:	65	0
CUSTOMS & EXCISE			
	COMMISSIONER OF CUSTOMS & EXCISE	3	0
	INSPECTOR OF CUSTOMS & EXCISE	84	4 (92)
	TRADE CONTROLS OFFICER	3	0
	TRADE OFFICER	28	0
	Sub-total by dept:	118	4
CENSUS & STATISTICS DEPARTMENT			
	STATISTICIAN	7	0
	Sub-total by dept:	7	0
CIVIL AVIATION DEPARTMENT			
	AERONAUTICAL COMMUNICATIONS OFFICER	2	0
	AIR TRAFFIC CONTROL OFFICER	15	1 (93)
	AIRPORT MANAGER	6	0
	DIRECTOR OF CIVIL AVIATION	1	0
	ELECTRONICS ENGINEER	1	0
	OPERATIONS OFFICER	7	0
	TRAINING OFFICER	1	0
	Sub-total by dept:	33	1

DEPARTMENT	GRADE	NO. OF OFFICERS PROMOTED DURING THE 3-YEAR PERIOD FROM JAN 1992 TO	NO. OF RETIRED OFFICERS WHO WERE PROMOTED WITHIN 18 MONTHS PRIOR TO
CIVIL AID SERVICES			
	TRAINING OFFICER	2	0
	Sub-total by dept:	2	0
CIVIL ENGINEERING DEPARTMENT			
	ENGINEER	86	0
	GEOTECHNICAL ENGINEER	9	0
	SURVEY OFFICER	3	0
	TECHNICAL OFFICER	10	0
	Sub-total by dept:	108	0
CORRECTIONAL SERVICES DEPARTMENT			
	COMMISSIONER OF CORRECTIONAL SERVICES	4	0
	INDUSTRIAL OFFICER (CORRECTIONAL SERVICES)	4	0
	OFFICER (CORRECTIONAL SERVICES)	28	0
	TECHNICAL OFFICER	0	1 (92)
	Sub-total by dept:	36	1
CIVIL SERVICE TRAINING CENTRE			
	TRAINING OFFICER	9	0
	Sub-total by dept:	9	0
DEPARTMENT OF HEALTH			
	DENTAL OFFICE	8	0
	DIRECTOR OF HEALTH	3	0
	HOSPITAL ADMINISTRATOR	1	0
	MEDICAL & HEALTH OFFICER	47	0
	PHARMACIST	4	0
	NURSE	14	0
	Sub-total by dept:	77	0

DEPARTMENT	GRADE	NO. OF OFFICERS PROMOTED DURING THE 3-YEAR PERIOD FROM JAN 1992 TO	NO. OF RETIRED OFFICERS WHO WERE PROMOTED WITHIN 18 MONTHS PRIOR TO
DRAINAGE SERVICES DEPARTMENT			
	DIRECTOR OF DRAINAGE SERVICES	1	1 (92)
	Sub-total by dept:	1	1
EDUCATION DEPARTMENT			
	CERT. MASTER/MISTRESS	45	6(92), 1(93), 3(94)
	DIRECTOR OF EDUCATION	6	0
	EDUCATION ASSISTANT	8	0
	EDUCATION OFFICER	268	6(92), 8(93)
	EDUCATION OFFICER (ADMIN.)	50	0
	INSPECTOR (GRADUATED)	70	0
	INSPECTOR (NON-GRADUCATED)	7	0
	LECTURER (GRADUATE)	92	0
	HEADMASTER	35	0
	SPECIALIST (ED)	1	2 (94)
	Sub-total by dept:	582	26
ELECTRICAL & MECHANICAL SERVICES DEPARTMENT			
	AIR-CONDITIONING INSPECTOR	3	0
	BUILDING SERVICE ENGINEER	8	0
	BUILDING SERVICE INSPECTOR	10	0
	DIRECTOR OF ELECT. & MECH. SERVICES	3	1 (94)
	ELECTRICAL & MECHANICAL ENGINEER	19	0
	ELECTRICAL ENGINEER	4	0
	ELECTRICAL INSPECTOR	8	0
	ELECTRONICS INSPECTOR	7	0
	MECHANICAL INSPECTOR	11	0
	TECHNICAL OFFICER	13	1 (92)
	Sub-total by dept:	86	2

DEPARTMENT	GRADE	NO. OF OFFICERS PROMOTED DURING THE 3-YEAR PERIOD FROM JAN 1992 TO	NO. OF RETIRED OFFICERS WHO WERE PROMOTED WITHIN 18 MONTHS PRIOR TO
ENVIRONMENTAL PROTECTION DEPARTMENT			
	DIRECTOR OF ENVIROMENTAL PROTECTION	2	0
	ENVIRONMENTAL PROTECTION OFFICER	34	0
	Sub-total by dept:	36	0
FIRE SERVICES DEPARTMENT			
	AMBULANCE OFFICER	13	0
	CHIEF FIRE OFFICER	7	0
	DIRECTOR OF FIRE SERVICES	2	0
	STATION OFFICER	76	1 (93)
	Sub-total by dept:	98	1
GOVERNMENT FLYING SERVICE			
	AIR CREWMAN	2	0
	AIRCRAFT ENGINEER	1	0
	AIRCRAFT TECHNICIAN	1	0
	PILOT	6	0
	Sub-total by dept:	10	0
GOVERNMENT LABORATORY			
	CHEMIST	9	0
	Sub-total by dept:	9	0
GOVERNMENT LAND TRANSPORT AGENCY			
	TRANSPORT SERVICES OFFICER	4	0
	Sub-total by dept:	4	0

DEPARTMENT	GRADE	NO. OF OFFICERS PROMOTED DURING THE 3-YEAR PERIOD FROM JAN 1992 TO	NO. OF RETIRED OFFICERS WHO WERE PROMOTED WITHIN 18 MONTHS PRIOR TO
GOVERNMENT SECRETARIAT			
	ADMINISTRATIVE OFFICER	209	1 (94)
	ARCHIVIST	1	0
	BANK EXAMINER	18	0
	CONFERENCE INTREPRETER	1	0
	CHINESE LANGUAGE OFFICER	26	0
	COMMISSIONER OF BANKING	1	0
	ECONOMIST	5	0
	EXECUTIVE OFFICER	116	0
	INSURANCE OFFICER	2	0
	INTERPRETER	1	0
	INSOLVENCY OFFICER	2	0
	MANAGEMENT SERVICE OFFICER	33	1 (94)
	PERSONAL SECRETARY	2	0
	SECRETARY FOR SECURITY	1	0
	TRADE OFFICER	6	0
	Sub-total by dept:	424	2
GOVERNMENT SUPPLIES DEPARTMENT			
	SUPPLIES OFFICER	16	0
	Sub-total by dept:	16	0
HOME AFFAIRS DEPARTMENT			
	INSPECTOR OF WORKS	3	2 (92)
	LIAISON OFFICER	12	0
	Sub-total by dept:	15	2
HOUSING DEPARTMENT			
	ARCHITECT	12	0
	BUILDING SERVICE ENGINEER	2	0
	BUILDING SERVICE INSPECTOR	6	0
	CLERK OF WORKS	28	0

DEPARTMENT	GRADE	NO. OF OFFICERS PROMOTED DURING THE 3-YEAR PERIOD FROM JAN 1992 TO	NO. OF RETIRED OFFICERS WHO WERE PROMOTED WITHIN 18 MONTHS PRIOR TO
	DIRECTOR OF HOUSING	13	1 (93)
	ENGINEER	5	0
	ESTATE SURVEYOR	5	0
	GEOTECHNICAL ENGINEER	3	0
	HOUSING OFFICER	113	1 (94)
	INSPECTOR OF WORKS	1	0
	LAND SURVEYOR	1	0
	MAINTENANCE SURVEYOR	9	0
	PLANNING OFFICER	2	0
	QUANTITY SURVEYOR	4	0
	STRUCTURAL ENGINEER	5	0
	SURVEY OFFICER	3	0
	TECHNICAL OFFICER	29	0
	Sub-total by dept:	241	
HIGHWAYS DEPARTMENT			
	DIRECTOR OF HIGHWAYS	1	0
	INSPECTOR OF WORKS	26	0
	PROJECT DIRECTOR	1	0
	TECHNICAL OFFICER	12	0
	Sub-total by dept:	40	0
IMMIGRATION DEPARTMENT			
	DIRECTOR OF IMMIGRATION	1	0
	IMMIGRATION OFFICER	89	1 (94)
	Sub-total by dept:	90	1
INTELLECTUAL PROPERTY DEPARTMENT			
	INTELLECTUAL PROPERTY EXAMINER	1	0
	Sub-total by dept:	1	0

DEPARTMENT	GRADE	NO. OF OFFICERS PROMOTED DURING THE 3-YEAR PERIOD FROM JAN 1992 TO	NO. OF RETIRED OFFICERS WHO WERE PROMOTED WITHIN 18 MONTHS PRIOR TO
INLAND REVENUE DEPARTMENT			
	ASSESSOR	80	1 (94)
	COMMISSIONER INLAND REVENUE	1	0
	TAXATION INSPECTOR	3	0
	Sub-total by dept:	84	1
INFORMATION SERVICES DEPARTMENT			
	DIRECTOR OF INFORMATION SERVICES	3	0
	INFORMATION OFFICER	61	0
	Sub-total by dept:	64	0
INFORMATION TECHNOLOGY SERVICES DEPARTMENT			
	ANALYST/PROGRAMER	60	0
	COMPUTER OPERATION MANAGER	2	0
	Sub-total by dept:	62	0
LABOUR DEPARTMENT			
	FACTORY INSPECTOR	26	1 (92)
	LABOUR INSPECTOR	5	0
	LABOUR OFFICER	31	0
	Sub-total by dept:	62	1
LEGAL AID DEPARTMENT			
	DIRECTOR OF LEGAL AID	2	0
	LAW CLERK	3	0
	LEGAL AID COUNSEL	18	0
	Sub-total by dept:	23	0

DEPARTMENT	GRADE	NO. OF OFFICERS PROMOTED DURING THE 3-YEAR PERIOD FROM JAN 1992 TO	NO. OF RETIRED OFFICERS WHO WERE PROMOTED WITHIN 18 MONTHS PRIOR TO
LANDS DEPARTMENT			
	CARTOGRAPHER	2	0
	DIRECTOR OF LANDS	1	0
	ESTATE SURVEYOR	13	0
	GOVT LAND AGENT	3	0
	LAND EXECUTIVE	32	0
	LAND SURVEYOR	18	0
	LAND CONVEYANCING OFFICER	20	0
	SURVEY OFFICER	1	0
	TECHNICAL OFFICER	2	0
	Sub-total by dept:	74	0
LEGAL DEPARTMENT			
	COURT PROSECUTOR	2	0
	CROWN COUNSEL	131	0
	LAW CLERK	3	0
	LAW OFFICER	1	0
	LAW TRANSLATION OFFICER	2	0
	Sub-total by dept:	139	0
LAND REGISTRY			
	REGISTRAR II	5	0
	SOLICITOR	13	0
	Sub-total by dept:	18	0
MARINE DEPARTMENT			
	DIRECTOR OF MARINE	7	0
	MARINE OFFICER	21	1 (94)
	MECHANICAL INSPECTOR	3	0
	SHIP INSPECTOR	8	0
	SHIPPING SAFETY OFFICER	1	0
	SURVEY OFFICER	1	0
	SURVEYOR OF SHIPS	8	0
	TECHNICAL OFFICER	2	0
	Sub-total by dept:	51	1

DEPARTMENT	GRADE	NO. OF OFFICERS PROMOTED DURING THE 3-YEAR PERIOD FROM JAN 1992 TO	NO. OF RETIRED OFFICERS WHO WERE PROMOTED WITHIN 18 MONTHS PRIOR TO
OFFICE OF THE TELECOMMUNICATIONS AUTHORITY			
	DIRECTOR OF TELECOMMUNICATION	2	0
	TELECOMMUNICATIONS ENGINEER	2	0
	Sub-total by dept:	4	0
OFFICIAL RECEIVER'S OFFICE			
	INSOLVENCY OFFICER	8	0
	OFFICIAL RECEIVER	1	0
	SOLICITOR	10	0
	Sub-total by dept:	19	0
PLANNING DEPARTMENT			
	SURVEY OFFICER	1	0
	TOWN PLANNER	27	0
	Sub-total by dept:	28	0
POST OFFICE			
	CONTROLLER OF POSTS	7	0
	INSPECTOR (TELECOM)	5	0
	POSTMASTER GENERAL	2	0
	TELECOMMUNICATIONS ENGINEER	1	0
	Sub-total by dept:	15	0
ROYAL HONG KONG POLICE FORCE			
	COMMISSIONER OF POLICE	26	0
	FORCE ARMOURER	1	0
	FORCE WELFARE OFFICER	4	0
	INSPECTOR OF POLICE	342	2 (92)

DEPARTMENT	GRADE	NO. OF OFFICERS PROMOTED DURING THE 3-YEAR PERIOD FROM JAN 1992 TO	NO. OF RETIRED OFFICERS WHO WERE PROMOTED WITHIN 18 MONTHS PRIOR TO
	POLICE RESEARCH OFFICER	1	0
	POLICE TELECOMMUNICATION ASSISTANT	5	1 (94)
	TELECOMMUNICATIONS ENGINEER	2	0
	Sub-total by dept:	381	3
PRINTING DEPARTMENT			
	PRINTING OFFICER	2	0
	Sub-total by dept:	2	0
RATING & VALUATION DEPARTMENT			
	COMMISSIONER OF RATING & VALUATION	4	0
	VALUATION OFFICER	8	0
	VALUATION SURVEYOR	37	0
	Sub-total by dept:	49	0
RECREATION & CULTURE BRANCH, G.S.			
	MUSIC OFFICER	2	0
	Sub-total by dept:	2	0
ROYAL HONG KONG REGIMENT (THE VOLUNTEERS)			
	TRAINING OFFICER	1	0
	Sub-total by dept:	1	0

DEPARTMENT	GRADE	NO. OF OFFICERS PROMOTED DURING THE 3-YEAR PERIOD FROM JAN 1992 TO	NO. OF RETIRED OFFICERS WHO WERE PROMOTED WITHIN 18 MONTHS PRIOR TO
ROYAL OBSERVATORY			
	DIRECTOR OF ROYAL OBSERVATORY	2	0
	EXPERIMENTAL OFFICER	13	0
	SCIENTIFIC OFFICER	7	0
	Sub-total by dept:	22	0
REGIONAL SERVICES DEPARTMENT			
	AMENITIES OFFICER	41	1 (94)
	DIRECTOR OF MUNICIPAL SERVICES	5	1 (94)
	RECREATION & SPORT OFFICER	19	1 (92)
	Sub-total by dept:	65	3
RADIO TELEVISION HONG KONG			
	DIRECTOR OF BROADCASTING	3	0
	PROGRAMME OFFICER	26	0
	Sub-total by dept:	29	0
REGISTRY OF TRADE UNIONS			
	REGISTRAR OF TRADE UNION	2	0
	Sub-total by dept:	2	0
SOCIAL WELFARE DEPARTMENT			
	DIRECTOR OF SOCIAL WELFARE	4	0
	SOCIAL SECURITY OFFICER	7	0
	SOCIAL WORK OFFICER	86	1 (92)
	Sub-total by dept:	97	1

DEPARTMENT	GRADE	NO. OF OFFICERS PROMOTED DURING THE 3-YEAR PERIOD FROM JAN 1992 TO	NO. OF RETIRED OFFICERS WHO WERE PROMOTED WITHIN 18 MONTHS PRIOR TO
TRANSPORT DEPARTMENT			
	COMMISSIONER FOR TRANSPORT	1	0
	MOTOR VEHICLE EXAMINER	5	0
	TECHNICAL OFFICER	1	0
	TRANSPORT OFFICER	7	0
	Sub-total by dept:	14	0
TERRITORY DEVELOPMENT DEPARTMENT			
	DIRECTOR OF TERRITORY DEVELOPMENT	2	0
	Sub-total by dept:	2	0
TELEVISION & ENTERTAINMENT LICENSING AUTHORITY			
	ENTERTAINMENT STANDARDS CONTROL OFFICER	3	0
	Sub-total by dept:	3	0
TRADE DEPARTMENT			
	TRADE OFFICER	15	0
	Sub-total by dept:	15	0
TREASURY			
	ACCOUNTING OFFICER	10	0
	DIRECTOR OF ACCOUNTING SERVICES	9	0
	SURVEY OFFICER	1	0
	TREASURY ACCOUNTANT	30	0
	Sub-total by dept:	50	0

DEPARTMENT	GRADE	NO. OF OFFICERS PROMOTED DURING THE 3-YEAR PERIOD FROM JAN 1992 TO	NO. OF RETIRED OFFICERS WHO WERE PROMOTED WITHIN 18 MONTHS PRIOR TO
URBAN SERVICES DEPARTMENT			
	CURATOR	4	0
	DIRECTOR OF MUNICIPAL SERVICES	3	0
	HEALTH INSPECTOR	65	0
	MANAGER, CULTURAL SERVICES	7	1 (92)
	Sub-total by dept:	79	1
WATER SUPPLIES DEPARTMENT			
	DIRECTOR OF WATER SUPPLIES	5	1 (94)
	ELECTRICAL ENGINEER	4	0
	ENGINEER	22	0
	MECHANICAL ENGINEER	5	0
	TECHNICAL OFFICER	18	0
	WATERWORKS CHEMIST	1	0
	WATERWORKS INSPECTOR	37	1(93), 2(94)
	Sub-total by dept:	92	4
	Grand-total:	3736	58 [27(92), 13(93), 18(94)]

NOTE: ()denotes year in which the officer(s) retired

Government Commitment in Home Ownership

14. MISS CHRISTINE LOH asked: *In his policy address in October last year, the Governor made a policy commitment to increase home ownership in the territory to "just under 60% by 1997". However, on 1 June 1995, the Chairman of the Housing Authority stated that "by 1997, the home ownership rate across the territory will only reach 50%, with the public sector accounting for 13%. This apparently falls short of the Government's earlier target". In this connection, will the Administration inform this Council:*

- (a) *whether the Governor's 1994 policy commitment will be met;*
- (b) *what specific steps the Government will take in the next three years to achieve the Governor's commitment; and*
- (c) *how does the Government define the term "home ownership" in the context of the Governor's commitment?*

SECRETARY FOR HOUSING: Mr President, in the context of the Governor's policy address in 1992, home ownership refers to occupation of housing units by owners as their homes. This rate is not easy to forecast as it is sensitive to various factors including the supply of flats, market sentiment and people's affordability to buy.

Latest indications suggest that the home ownership rate by 1997 may be a few percentage points below what was forecast in 1992. This may be attributed largely to high property prices in the past two years, which reduces potential buyers' affordability and incentive to purchase homes. A more accurate assessment of the practicability of achieving the target can be made when the Housing Branch has completed its review of the Government's Long Term Housing Strategy in mid-1996.

In the next three years, the Government will adopt a comprehensive approach to help families to buy their own flats. For lower income families, the Home Ownership Scheme, the Private Sector Participation Scheme, the Flats for Sale Scheme and the recently enhanced Home Purchase Loan Scheme will continue to be available. On average, about 27000 such families will be assisted to purchase homes each year.

For sandwich class families, a loan scheme and a flats for sale scheme are available. On average, about 4100 such families will benefit each year.

There are others who fall outside the purview of all these schemes or who wish to buy flats in the private sector. For these families, the Government's task is to ensure that property prices are not inflated by speculative activities. The anti-speculation measures introduced since June 1994 have been achieving the desired effect. We shall continue to monitor the property market closely and

guard against any rekindling of speculative activity. In parallel, we will provide an adequate supply of land for housing construction and will accelerate housing production whenever possible through the Housing Project Action Team chaired by the Secretary for Housing.

While the Government provides help in various ways listed above, in the end the decision whether or not to buy a flat rests with the individual who must take into account his own circumstances.

Reimbursement of Dental Service Charges to Public Assistance Recipients

15. DR LEONG CHE-HUNG asked: *With regard to the reimbursement of charges for dental services for public assistance recipients, will the Administration inform this Council:*

- (a) *of the average amount of reimbursement, as well as the highest and the lowest reimbursement amount, in each of the past three years;*
- (b) *of the average waiting time for receiving the service and receiving the reimbursement respectively;*
- (c) *whether there are any statistics to compare the charges and cost-effectiveness of the non-profit-making dental service providers which the public assistance recipients are asked to visit, and those of the private sector; and*
- (d) *whether the Administration will consider taking over the provision of such services for public assistance recipients; if not, why not?*

SECRETARY FOR HEALTH AND WELFARE: Mr President,

- (a) The average amount of reimbursement of charges for dental services provided to Comprehensive Social Security Assistance (CSSA) clients in each of the past three years is as follows:

<i>Financial year</i>	<i>Average amount of reimbursement per case</i>
1992-93	\$2,400
1993-94	\$2,500
1994-95	\$3,025

Given the very wide range of charges for different types of dental services which include check-up, tooth extraction and filling, full and partial dentures, scaling and root canal treatment, and so on, the actual amount reimbursed can vary enormously between individual cases. Prior to April 1994, reimbursement records were kept manually amounting to over 80000 individual case files in 1992-93 and over 95000 in 1993-94. It would be very difficult and time-consuming to analyze all these manually kept records to identify the minimum and the maximum amount of reimbursement made in those years.

Since April 1994, records of reimbursement have been kept in the computerized Social Security Payment System. According to computerized records, the minimum amount reimbursed in 1994-95 was \$20 for a simple case involving a check-up only, whereas the maximum amount was \$13,380 for an exceptional case involving major crown and bridge work for 12 teeth (treatment which took place over a period of about two months). In about 95% of all cases, the reimbursement was below \$5,000 and only about 2% of all CSSA recipients made any claim at all for dental treatment in 1994-95.

- (b) The average waiting time for receiving dental treatment is eight working days from the date of request for a dental appointment. The waiting time for receiving reimbursement of charges for dental services is nine working days from the date of submission of the cost estimate to the Social Welfare Department (SWD). In emergencies, dental services and reimbursement of charges can be provided within one or two working days.
- (c) According to a fee survey of private dentists operating in housing estates conducted by the Estate Dental Group of the Hong Kong Dental Association in January 1995, private dentists charge higher fees than non-profit-making dental clinics. There is, however, no data available to enable a comparison of the relative cost-effectiveness of the two sectors.
- (d) At present, 21 non-profit-making registered dental clinics are designated to provide dental services for CSSA clients who are also free to use any registered private dentist, provided that the cost charged by the private dentist is not more than that charged by the designated clinics. The aim of our public dental care policy is to provide promotive and preventive services, while leaving the provision of curative dental services largely to the non-governmental sector. As the current provision of dental services for CSSA clients by the non-governmental sector is working reasonably well, we see no need to consider taking it over.

Retirement Benefits for Academic Staff in UGC-Funded Institutions

16. MR CHEUNG MAN-KWONG asked (in Chinese): *The retirement benefits payable to the teaching staff of the institutions funded by the University Grants Committee are calculated by multiplying the final monthly basic salary by the length of qualifying service and a multiplying factor. In this regard, will the Government inform this Council:*

- (a) *of the number of teaching staff who were promoted within eighteen months prior to their retirement in the past three years; of this number, how many were on salary points equivalent to point 34 and above of the Civil Service Master Pay Scale, together with their distribution by institutions; and*
- (b) *whether the Government will review such a promotion arrangement in view of the fact that the staff mentioned in (a) are able to enjoy an increase in retirement benefits upon their promotion within eighteen months prior to their retirement; if not, why not?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, over the past three years in the University Grants Committee (UGC)-funded institutions only three academic staff on the equivalent of Master Pay Scale point 34 or above were promoted within 18 months prior to their retirement. One of these staff was at the Chinese University of Hong Kong and the other two were at the University of Hong Kong.

The Government will not review or otherwise intervene in these matters since the appointment and promotion of academic staff are matters entirely within the jurisdiction of the UGC-funded institutions.

Non-emergency Dental Service Provided to Civil Servants

17. DR LEONG CHE-HUNG asked: *Regarding the non-emergency dental service provided to civil servants by the Government, will the Government inform this Council:*

- (a) *of the current average waiting time for a civil servant to receive non-emergency dental service;*
- (b) *of the total number of such dental consultations provided to civil servants in each of the last three years; and*
- (c) *how the non-emergency dental service has expanded in terms of the number of clinics, manpower and expenses in the last three years?*

SECRETARY FOR THE CIVIL SERVICE: Mr President, the answers to the three questions are:

- (a) As at 31 March 1995, the average waiting time for a civil servant to receive government non-emergency dental treatment was 8.1 months.
- (b) The total number of dental consultations provided to civil servants in 1992-93, 1993-94, and 1994-95 were 470 622, 471 629, and 492634 respectively.
- (c) Three new dental clinics were opened and five existing dental clinics expanded their operations in the last three years. 28 additional posts were created. Expenditure on dental services for civil servants was increased by \$21.2 million in 1992-93, by \$25.3 million in 1993-94, and by an estimated \$27.1 million in 1994-95.

Chemical Gas Leakage Incidents

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

- (a) *of the number of chemical gas leakage incidents which occurred during the handling of chemicals, together with the number of casualties, involved in each of the past 12 months; and*
- (b) *what short-term measures or publicity campaigns the Government has put in place to educate the persons concerned on how to prevent such accidents when handling chemicals?*

SECRETARY FOR SECURITY: Mr President,

- (a) The number of chemical gas leakage incidents and the number of casualties involved and taken to hospital in each of the past 12 months is:

<i>Year</i>	<i>Month</i>	<i>No. of incidents</i>	<i>No. of casualties</i>
1994	June	3	0
	July	6	20
	August	3	11
	September	3	4
	October	1	0
	November	2	1
	December	2	0

<i>Year</i>	<i>Month</i>	<i>No. of incidents</i>	<i>No. of casualties</i>
1995	January	2	1
	February	0	0
	March	2	31
	April	3	3
	May	10	34
		----	-----
	Total	37	105
		===	===

- (b) The Labour Department will run a safety campaign on Summer Job Safety in July and August 1995. This will target machinery and chemical safety. It will run a second safety campaign in October and November 1995 which will target fire and chemical safety. During these campaigns, the Department's factory inspectors will visit factories and construction sites to give advice and distribute publications on chemical safety. They will, as necessary, initiate legal action against dangerous practices. The Department has also produced an Announcement of Public Interest which will be shown on television.

The Labour Department runs several safety courses in its Industrial Safety Training Centre which cover general chemical safety. These courses include topics such as safety legislation in accident prevention, safety standards on construction sites, fire precautions in work places and health-related safety legislation. Over the past 12 months, the Centre has run 13 classes on the Dangerous Goods Regulations and 14 more classes will be run in the second half of 1995. In addition, the Department organizes seminars in co-operation with workers' associations. In the past 12 months, five seminars on chemical safety have been conducted. These will continue to be organized in the future.

The Occupational Health and Safety Council also conducts a range of courses relating to chemical safety. These include vocational topics on basic occupational health knowledge and safety in the electronics industry, as well as certificate courses in the management of dangerous goods and in laboratory safety.

Under the Hong Kong Education Regulations, school supervisors and principals must ensure that chemicals are properly stored in schools and used under the strict guidance and supervision of qualified teachers. The Education Department issues a school circular on laboratory safety to schools every September. Science subject inspectors conduct regular inspections to monitor schools' compliance. There are established guidelines and codes of practices on laboratory and health safety in UGC-funded institutions. The

institutions must comply with statutory requirements concerning the storage, use and disposal of dangerous chemicals. The institutions employ safety officers to implement, monitor and advise on their laboratory safety policies and procedures, and to ensure that statutory requirements are met. The institutions have established a Tertiary Institutions Safety Advisory Group to share experiences in the health and safety fields. This also oversees the development of safety standards in the academic environment, including risk management, safe working practices and environmental protection.

Section 6 of Organized and Serious Crimes Ordinance

19. MR ERIC LI asked (in Chinese): *Following the enactment of the Organized and Serious Crimes Ordinance in October last year, section 6 of the Ordinance has been put into effect since 28 April this year. Will the Government inform this Council of:*

- (a) *the number of cases in which the power under section 6 of the Organized and Serious Crimes Ordinance has been invoked to obtain information from the Inland Revenue Department about persons suspected of involvement in organized crimes since the commencement of that section; and*
- (b) *the number of cases in which such information has been subsequently used as evidence for initiating prosecution ?*

SECRETARY FOR SECURITY: Mr President, since section 6 of the Organized and Serious Crimes Ordinance came into effect on 28 April 1995, there has as yet been no case where the power to obtain information from the Inland Revenue Department under this section has been used. The answer to both (a) and (b) is therefore "none".

Traffic Congestion at Yuen Long-Au Tau Roundabout

20. DR TANG SIU-TONG asked (in Chinese): *Since the opening of the New Territories Circular Road in 1993, the traffic flow at Yuen Long — Au Tau Roundabout has increased drastically. This has resulted in traffic congestion occurring during peak hours, with the vehicle queue often stretching to as far as the Southern Bypass and Fairview Roundabout. In view of this, will the Government inform this Council:*

- (a) *whether the Government has put in place any interim or special measures to ease traffic congestion at the above locations; and*

- (b) *what progress has been made regarding the road project under which a flyover and a slip road are being planned to be built at Au Tau to link up Castle Peak Road and the Circular Road for regulating the flow of traffic in the area; and when these roads are expected to be opened to traffic?*

SECRETARY FOR TRANSPORT: Mr President,

- (a) In recent years, traffic has increased substantially in northwest New Territories, including Castle Peak Road and the New Territories Circular Road (NTCR). The Au Tau Roundabout provides a link between Castle Peak Road in the west, the NTCR in the north and Kam Tin Road in the east. It is now heavily congested during morning peak hours.

In 1993, improvements were instituted to enhance the capacity of the roundabout by providing two exclusive left-turn lanes from Castle Peak Road into the NTCR and an exclusive straight-ahead lane from Kam Tin Road to Castle Peak Road bypassing the roundabout. In late 1994, at the request of the Yuen Long District Board, a temporary traffic signal was installed in Castle Peak Road for use during peak hours, so as to permit more vehicles to enter the roundabout from the NTCR. However, with the continued growth in both cross-border and local traffic, conditions at the roundabout have again deteriorated, particularly during the morning peak hours.

The Transport Department is now considering converting the roundabout into a signalized junction, so as to try to improve traffic flow. The Yuen Long District Board will shortly be consulted again on this proposal.

- (b) As part of the Route 3 (Country Park Section) project, two slip roads will be built to link the NTCR with the Yuen Long Highway via Pok Oi Interchange, for completion in mid-1998. These will relieve the Au Tau Roundabout, since all traffic between the NTCR and the Yuen Long Highway in both directions will be diverted away from it. The Au Tau Roundabout will then mainly serve local traffic between Yuen Long and Kam Tin.

A proposal to build a temporary flyover to relieve the roundabout has been considered in the past. However, apart from the high estimated construction cost of about \$130 million, it is clear that such a project could not be completed before the year 2000, by which time substantial relief would have been provided by the new Route 3 (Country Park Section) highway which is scheduled for opening in mid-1998.

BILLS**First Reading of Bills****COMPANIES (AMENDMENT) (NO.2) BILL 1995****PROFESSIONAL ACCOUNTANTS (AMENDMENT) BILL 1995****SUPPLEMENTARY APPROPRIATION (1994-95) BILL 1995**

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

Second Reading of Bills**COMPANIES (AMENDMENT) (NO.2) BILL 1995**

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

He said: Mr President, I move the Second Reading of the Companies (Amendment) (No.2) Bill 1995.

The main purpose of the Bill is to remove the prohibition on the appointment of a body corporate as an auditor of a company, under section 140 of the Companies Ordinance. The other amendments are primarily consequential, to extend the rights and obligations currently applicable to non- corporate auditors to incorporated auditing practices. The opportunity is also taken to make certain minor technical and tidying-up amendments.

Auditing practices wishing to incorporate will have to comply with a number of conditions and limitations. I will say more about this in the context of the Professional Accountants (Amendment) Bill 1995.

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

PROFESSIONAL ACCOUNTANTS (AMENDMENT) BILL 1995

THE SECRETARY FOR FINANCIAL SERVICES moved the Second Reading of: "A Bill to amend the Professional Accountants Ordinance."

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

The amendments to the Professional Accountants Ordinance specify the conditions under which incorporated auditing practices may register with the Hong Kong Society of Accountants (HKSA), and make a number of other amendments consequential to this.

The HKSA has expressed concern to the Administration about the growing size and extent of claims against auditors overseas and the fact that auditors in Hong Kong were potentially similarly exposed because of the law relating to joint and several liability and related issues. They considered it to be inequitable that a partner in a firm could be held personally liable for claims arising from the professional negligence of other partners and suggested that there was evidence that this situation was deterring new entrants to the profession overseas. One proposal put forward by the HKSA was to permit accountancy firms to form limited liability companies, which they believed would help bring the extent of personal liability taken by the principals in a practice within known and reasonable bounds. This is a facility that is already permitted in a number of jurisdictions overseas.

Following consultation with the Standing Committee on Company Law Reform, the Administration indicated that if the proposal were to be pursued, assurances would need to be given that adequate standards of auditing would be maintained and that incorporated practices would take out sufficient levels of Professional Indemnity Insurance to meet claims against them.

Since that time steps have been taken to address these concerns. A Practice Review programme was introduced by the HKSA in 1992, the objective of which is to review the compliance of all practice units with accounting and professional standards. Reviews are progressively being undertaken with all practices regulated by the HKSA and follow-up visits have been instituted for problem practices. Ultimately, the HKSA is empowered to take disciplinary action against those who persistently fail to comply with the requisite standards.

On the question of Professional Indemnity Insurance, the Society has negotiated a Master Insurance Policy to which all incorporated practices will be required to take out additional minimum cover based on either a multiple of their gross fee income or an amount per principal. These minimum levels of insurance will be specified in rules to be made by the HKSA Council. The general guideline will be for incorporated practices to take reasonable steps to be able to meet claims against them.

Clause 8 of the Professional Accountants (Amendment) Bill 1995 specifies the conditions that an incorporated auditing practice must meet in order to register and remain registered. In addition to meeting requirements relating to insurance cover and the contents of memoranda and articles of association, corporate practices will also need to comply with requirements relating to

members and directors. Except in the case of a two-member incorporated practice, all directors and members must be registered as professional accountants. Members and directors of an incorporated practice may not themselves be corporations. These provisions are intended to ensure that incorporated practices remain independent and under the control of accountants. In the case of a two-member incorporated practice, one member may, with the permission of the HKSA Council, be a non-accountant. However, under these circumstances, provision is made to ensure the accountant member retains control of the practice. An incorporated practice that ceases to comply with the registration requirements may be deregistered or conditions may be attached to its continued registration.

Clause 16 of the Bill extends the ambit of disciplinary offence to incorporated practices as well as adding new offences specific to such practices. Clauses 18 to 20 extend appeal and general offence provisions to cover the new regime for incorporated practices. Clause 23 enables the HKSA Council to make rules relating to insurance and related requirements.

Most of the remaining provisions are consequential extensions of existing provisions of the Ordinance, suitably adapted to apply to companies.

Other measures have been taken in conjunction with the proposed legislation to ensure that the interests of the public remain adequately protected. These include:

- (a) agreement by the HKSA to consult the Administration fully on the rules relating to incorporation of auditing practices and on any future changes to them; and
- (b) measures to ensure that the director of an incorporated practice responsible for a particular audit is clearly identified. In addition to pursuing a claim against an incorporated practice, an aggrieved party, depending on the circumstance, may also be able to pursue a claim against the principal concerned if the negligent individual assumed a personal duty of care. Identification of the auditor concerned should facilitate such action.

Mr President, the proposals will strike a reasonable balance between protecting blameless auditors from undue liability resulting from the professional negligence of their partners, and safeguarding the interests of audit clients and other interested parties.

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

SUPPLEMENTARY APPROPRIATION (1994-95) BILL 1995

THE SECRETARY FOR THE TREASURY moved the Second Reading of: "A Bill to approve a supplementary appropriation to the service of the financial year which ended on 31 March 1995."

He said: Mr President, I move that the Supplementary Appropriation (1994-95) Bill 1995 be read the Second time.

Section 9 of the Public Finance Ordinance states that "If at the close of account for any financial year it is found that expenditure charged to any head is in excess of the sum appropriated for that head by an Appropriation Ordinance, the excess shall be included in a Supplementary Appropriation Bill which shall be introduced into the Legislative Council as soon as practicable after the close of the financial year to which the excess expenditure relates".

The accounts for the financial year 1994-95 have been finalized by the Director of Accounting Services. The expenditure charged to 67 heads out of a total of 80 heads is in excess of the sum appropriated for those heads in the Appropriation Ordinance 1994. This is because sufficient offsetting savings could not be found within the heads concerned. In accordance with section 9 of the Public Finance Ordinance, this excess has been included in the Supplementary Appropriation (1994-95) Bill 1995 now before Members. The Bill seeks to give final legislative authority for the amount of supplementary provision approved in respect of particular heads of expenditure by the Finance Committee or under powers delegated by it.

The total supplementary appropriation required in respect of the 67 heads of expenditure is \$18,589.8 million. This excess is largely attributable to increased requirements for transfers to the Loan Fund (\$7,000.0 million) and the Civil Service Pension Reserve Fund (\$7,000.0 million) offset partly by a reduced transfer to the Capital Investment Fund (\$2,000.0 million). Other major contributing factors include the implementation of the 1994 pay adjustment in respect of the Civil Service and government subvented organizations (\$5,241.1 million), the increased expenditure under the Comprehensive Social Security Assistance and Social Security Allowance schemes (\$623.8 million), and additional expenditure on pension payment (\$258.0 million).

The cost of the 1994 pay adjustment, the inflation related adjustment to payments under the Comprehensive Social Security Assistance and Social Security Allowance schemes and the additional payments arising from the statutory inflation-linked adjustment to pensions were anticipated in the 1994-95 estimates under the "Additional Commitments" subhead. Savings were also made in other subheads through continued tight control over public expenditure. Taking these into account, total payments from the General Revenue Account is \$10,158 million greater than the amount originally included in the Appropriation Ordinance. This net excess is accounted for entirely by the

transfers to the Loan Fund and the Civil Service Pension Reserve Fund which I referred to earlier.

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

OFFICIAL LANGUAGES (AMENDMENT) BILL 1995

Resumption of debate on Second Reading which was moved on 24 May 1995

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

Bill read the Second time.

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

SUPREME COURT (AMENDMENT) BILL 1995

Resumption of debate on Second Reading which was moved on 15 February 1995

Question on Second Reading proposed.

MR ANDREW WONG: Mr President, the Bill before us proposes an amendment to the Supreme Court Ordinance to provide for solicitors who have practised as such in Hong Kong for at least 10 years to be eligible for appointment as Supreme Court judges.

The background to the proposal in the Bill has been explained in detail by the Attorney General when he introduced the Bill into this Council on 15 February 1995.

I would like to state at the outset that the Bills Committee, throughout its deliberations, has sought to clarify a few major issues revolving around the proposal in the Bill and an alternative proposal put forward by the Hong Kong Bar Association (the Bar). The Bills Committee has not intended nor attempted to arrive at a concerted view on either of the two proposals. I shall now mm to the major areas of concern of Members.

The major bone of contention is whether advocacy experience is currently an eligibility criterion for the appointment of High Court judges. The two legal professional bodies, the Bar and the Law Society of Hong Kong (the Law Society), have held divergent views on this point. The Bar is adamant that under the existing provision barristers are eligible for appointment only if he or

she is qualified to practise as an advocate in a court in Hong Kong, England, Scotland, and so on, and has at least for 10 years practised as an advocate in such a court. The Bar points out that should the Bill be enacted in its present form, it will create an anomaly on the eligibility requirement in respect of barristers and solicitors, namely barristers have to practise as an advocate whereas solicitors do not.

The Law Society, on the other hand, argues that a solicitor is now eligible for appointment to the High Court bench if he or she is admitted to the Bar and acquires the right of audience in the Supreme Court. The acquisition of the right of audience does not require any advocacy experience. The Law Society has pointed to the present system under which a solicitor employed by the Government on legal or judicial work for five years and has practised as a solicitor for a total of 10 years is eligible for appointment, notwithstanding his private experience, which is taken into account in calculating the qualifying years of practice, does not necessarily include advocacy experience.

The Administration shares the Law Society's views. The Administration clarifies that it has never been the intention of the current provision that a barrister has to have advocacy experience for appointment to the High Court Bench. The Administration is of the view that practising as an advocate includes practising as a barrister. Since a solicitor without advocacy experience is now eligible for appointment upon his admission to the Bar, the Administration sees no reason why advocacy experience should be required under the Bill.

This leads to the second question as to whether advocacy experience should be an eligibility or suitability criterion for judicial appointments. The Bar emphasizes that advocacy is inextricably linked with the functions of court working in adjudication. Advocacy skills are hence essential and indispensable. The Law Society, however, cautions against confusing eligibility with suitability. In the Law Society's view, advocacy is just one of the many skills that may make a person suitable for appointment to the bench. Advocacy is not an exclusive skill of an advocate. The Law Society claims that advocacy skills are generally relevant to the work of legal practitioners and can be acquired in the course of their work. The Administration adopts the same argument and considers it inappropriate to single out advocacy skills as being prominent. The Administration has further said it is not aware of any common law jurisdiction which imposes advocacy experience as a requirement for appointment.

In this connection, the Bills Committee has raised concern on whether legislating on an eligibility criterion for judicial appointments will amount to an interference with the independence of the Judiciary. Whilst the Administration does not consider the enactment of advocacy experience as a statutory requirement would per se be an interference with the independence of the Judiciary, the Administration feels that it is dangerous from the constitutional point of view. If the Legislative Council or the Executive Council laid down detailed guidelines on the selection of judges. In the Administration's view, the

Judicial Service Commission (JSC) should be given a general discretion in respect of judicial appointments.

The Law Society agrees that it may or may not be possible to draw the line between acceptable and unacceptable guidelines as the situation is nebulous. The Society is concerned when this line may be over-stepped. The Bar, on the other hand, holds that the eligibility criterion should be laid down and be a matter of public record. At the request of the Bills Committee, the Judiciary Administrator has compiled for Members' reference a list of assessment criteria used by the JSC for appointing judicial officers. The criteria listed include professional ability, case management skills, judicial temperament, personal attributes and local knowledge.

My colleague, the Honourable Martin LEE, has given notice to move Committee stage amendments along the lines of the Bar's proposal to require legal practitioners to practise as an advocate for a number of years in order to be eligible for appointment to the High Court Bench. I leave it to my colleague, the Honourable Martin LEE, to explain to you the details of his proposed amendments.

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

MR MARTIN LEE:

Introduction

The Administration has presented the Supreme Court (Amendment) Bill to the Legislative Council as the solution to a very perplexing problem with our legal system — the lack of lawyers who are eligible and willing to serve on our High Court Bench.

It is right to alert the community to this pressing issue. As Hong Kong grows, and more international and local business is conducted here, the ability of our legal system to expand to handle greater numbers of complex disputes, as well as increasingly intricate criminal cases, in a fair and expeditious manner is integral to our future success.

But rushing out to hire more judges to fill more courtrooms, without ensuring that they meet certain minimum standards, is not the answer. I wish it were that simple. At this time, perhaps more than any other time in the recent history of Hong Kong, it is of the utmost importance that only appropriately qualified and experienced lawyers be permitted to sit on the High Court — with no exceptions whatsoever. Hong Kong is about to undergo an unprecedented period of change, and our legal system will survive unscathed only if our judges possess abilities which command the respect of barristers and solicitors, as well as the public.

I believe the Supreme Court (Amendment) Bill 1995, as it now stands, attempts to enlarge the pool of potential candidates without guaranteeing that every single eligible candidate has the minimum basic qualification to be a High Court judge. This means that the Bill introduces a terrible and ever-present risk that the Judicial Service Commission (JSC) may unwittingly appoint to the High Court an individual who lacks the essential abilities needed to be even a mediocre judge. This is a risk Hong Kong cannot afford to take.

And what benefit will it bring to Hong Kong if a judge is appointed to the High Court Bench who does not possess the experience of a seasoned advocate? What good is a new judge, if he is so unfamiliar with the laws of evidence and procedure that he slows the pace of litigation or makes what are clearly bad or unfair rulings or judgements? This will mean more appeals — more work for an already strained Court of Appeal — and even less respect for the Judiciary. And with that, another blow to Hong Kong's rule of law at a time when we can least afford any injury.

I will therefore move amendments in due course, this which originate from the Hong Kong Bar Association, to guarantee that only those lawyers who have practised as advocates — that is, have the practical experience that gives them a full understanding of the complex rules that govern litigation — may be considered for direct appointment to our High Court Bench.

Administration's position

Mr President, as drafted, the amendment Bill would permit any Hong Kong solicitor to be appointed directly to the High Court Bench so long as he has practised "as such" for 10 years. There is no requirement at all that he be familiar with the process of litigation. There is no requirement that he has experience with the laws of evidence. There is no requirement that he even has set foot inside a courtroom during the 10 years of his practice. It bewilders me that the Administration should want such people to be considered for the High Court Bench.

The existing section 9(1) of the Supreme Court Ordinance, which will remain unchanged as per the Bill, requires that barristers have 10 years of experience practising as an advocate before they may be considered for appointment. How odd indeed. The barristers, who possess expertise in the conduct of litigation must under the existing law prove that they have advocacy experience, while solicitors under the Bill need not prove a similar experience as an advocate, and yet, the JSC will consider their appointment.

Like the Hong Kong Bar Association, I do not oppose the direct appointment of solicitors to the High Court Bench in principle.

However, I am most definitely against the direct appointment of anyone — be he barrister or solicitor — who does not possess the minimum experience and skills necessary to conduct litigation efficiently and professionally the

minute he dons his judge's wig and gown for the first time. From the moment a new judge takes his seat, he is expected to make both procedural decisions and a final judgement that will command the respect not only of those appearing before him, but also the community at large.

Mr President, many years ago I was asked to sit as a Deputy Judge of the Supreme Court. And before me were two eminent silks from London. Did I tremble? No! Because I was confident that I could cope with the situation. But could a solicitor take on the task, if he has not actually practised as an advocate at all?

My amendments

Mr President, the amendments I will propose are the work of much co-operation with the Hong Kong Bar Association, a professional body whose members, more than any other organization, know what kinds of qualities are essential for a judge. It falls on me to move these amendments, Mr President, because although there are two barristers in this Council, one for obvious reasons, is unable to speak on this Bill.

Basically, rather than apply different standards for barristers and solicitors who aspire for appointment to the Bench, my amendments set forth a uniform standard for the eligibility of both barristers and solicitors for direct High Court appointments — 10 years of experience as an advocate.

By applying an artificially strict interpretation of the term, "advocate", however, the Administration argues that my suggestion would result in a reduction in the number of potential candidates for the High Court Bench.

My amendments do nothing of the sort. They merely guarantee that only those barristers and solicitors with the proper professional experience and qualities will be considered for appointment by the JSC.

It is the Administration that is wrongly telling Honourable Members that I am trying to exclude solicitors only, for the benefit of barristers. This is simply untrue. Look at my amendments. In fact, I am pruning out both solicitors and barristers who are not equipped with the right level of advocacy to serve on the High Court.

It is very clear, then, that it is not one's status as a barrister or solicitor that is important; rather, his work experience as an advocate is the touchstone.

Now, what does advocacy mean? The answer is: quite a lot — a multitude of virtues and skills that can only be acquired by repeatedly appearing at trials, at whatever level. The sort of qualities that my Honourable friend, Mr Andrew WONG, mentioned earlier. It is not something that can be learnt from textbooks.

The minute a person decides to go to court, is sued, or is prosecuted for a criminal offence, he enters a world of complex rules and procedures. It is the job of an advocate to make sense of the substantive laws that affect his client's position and advise on the best way forward. But knowing the substantive law is not enough. Even the most mediocre advocate must possess a solid knowledge of the procedural rules and laws of evidence that determine how a court case is conducted. As the Bar pointed out, "The success or failure of a litigant in a civil matter or the conviction or acquittal of an accused in a criminal case may often depend on the resolution of matters of evidence or procedural points."

Advocacy is the ability to determine what is a good point and what is a bad point. It is the ability to know what kind of evidence to call and what to attack on cross-examination and what is a proper submission to make. And, above all, it is the ability to convince a judge that the advocate, and therefore the client, is right.

Mr President, any lawyer, be he barrister or solicitor, who possesses these qualities is eminently suitable for appointment to the High Court Bench.

Such qualifications are not exclusive of course to barristers. Surely, many solicitors in Hong Kong who specialize in litigation possess excellent advocacy skills. And, indeed, quite a number of them have actually joined the Bar and are doing extremely well. And so, even if they do not switch over to the Bar, as long as they have so practised for 10 years, then under my amendments they too will be eligible for consideration by the JSC.

As an alternative to 10 years' continuous experience as an advocate, my proposed section 1A would ensure that the JSC will not overlook qualified lawyers who have relevant experience as adjudicators in any common law jurisdiction.

As a corollary to the principles introduced in my proposed sections 1 and IA, I, along with the Bar, believe that "it would be wrong to retain the parallel system of eligibility for judicial appointment based on government service". Rather, the criteria for appointment should be the same for all persons seeking a place on the High Court Bench whether he be a civil servant or a practising lawyer. I have therefore proposed the repeal of subsections 9(2)(i) to (iii) inclusive and paragraphs (vi) to (x) inclusive.

Government arguments

The Administration's fundamental objection to my amendment is that the Supreme Court Ordinance should set out simple rules for eligibility, and then let the JSC determine suitability. It says that there is no need to worry about unqualified candidates slipping into the pool of eligible candidates, because we can trust the sober minds of members of the JSC to weed out the chaff and select only deserving candidates.

In find this argument quite disturbing. Although I believe the JSC to be a capable body of informed individuals, having served on it myself for a couple of years, human beings are human beings, and as such, the members of the JSC including myself can sometimes be fallible. There is always a chance — no matter how slight — that if we permit a candidate without the requisite experience and skills to go into the pool of candidates, he could end up on the High Court Bench. If we are able, why not prevent even this slight probability of damage to our invaluable judicial system? What possible benefit could there be to anyone if we allow such a person to be even considered for appointment under the proposed amendments.

Take the example of a conveyancer who is good at conveyancing but nothing else. If he has practised for more than 10 years, under the Bill, he would be included in the pool of eligible candidates. But then he would be immediately excluded as we are told because he clearly does not possess the kind of experience that a judge must have. Why then waste everyone's time with such a silly procedure by including him and then excluding him quickly?

If the Administration's argument is followed to its logical extreme, that is, to add to the pool, why should not every Hong Kong resident above the age of 18 be considered by the JSC for direct appointment to the High Court Bench? Of course, we trust their good senses; they would only appoint the lawyers.

Furthermore, I would think that it is the job of this legislature to set down the rules which qualify judges for our courts. The JSC's selection process is shrouded in secrecy. Why must this be? Given the tremendous authority a judge — especially on the High Court — has in our community, surely it is the role of the public, through its elected representatives, to determine the minimum standard that a lawyer must reach or must possess before he may even be considered for a High Court Bench appointment. I am disappointed that the Administration has come to us yet again with a request for us to abdicate our proper role and hand broad powers to a wholly unaccountable committee, or commission, to make decisions as it sees fit. Ultimately, the question of what kind of people are suitable, eligible — or whatever word the Administration wants to use — is, with respect, for this Council to decide.

The Administration says time and again that the JSC will consider various factors which are summarized already by my honourable friend, Mr Andrew WONG, when considering eligible lawyers for direct appointment. In fact, it listed all the criteria I and the Bar wanted to see and which may together be described as advocacy. But as soon as I write these factors down in the law, the Administration jumps through the roof! This worries me. What possible harm could there be to setting down the fundamental criteria that the JSC must consider?

After 1997, there may be a candidate placed in the pool because of his patriotism. And then, what is there to stop the JSC — or JORC, as it will then be called, from appointing him? Without my amendments, how will we stop a renegade JSC or JORC?

Of course, I agree that the JSC has an important role to play in the selection of judges. It should determine the quality of candidates' advocacy experience.

But, as the Bar has said, "the JSC should be limited to applying explicit criteria which have been debated and approved by the public The JSC's discretion should merely go towards assessing a candidate's personal qualities and the quality of his experience to meet explicit requirements for appointment imposed by statute."

If Hong Kong is going to develop as an open, democratic society, it is the proper role of this Council to circumscribe the JSC's discretion with clear and sensible rules that ensure the JSC will only be looking at candidates with at least the bare minimum skills necessary to be a High Court judge.

The Administration argues that this Bill enlarges the pool of potential judges. But if one were to weed out the candidates who are not reasonably "suitable" to be judges, you would find that the number of eligible appointees remains the same as would be produced under my amendments — only my proposal is far more open, simple, and fair.

Continuing this line of argument, the Attorney General wrote last week that my amendments would make it more difficult to recruit judges for the Supreme Court. He is wrong. My amendments make it impossible, not more difficult, to appoint those who are simply not qualified to sit on the High Court Bench and should never have been considered any way.

Conclusion

Let us not forget our goal here, Mr President — the well-qualified capable judges who are able to lead our judiciary through the 1997 transition and into the 21st century. So when we appoint lawyers directly to the High Court, we must be sure that they have the quantity and quality of experience.

The buzzer sounded a continuous beep.

PRESIDENT: You have to stop, Mr LEE, I am afraid.

MR SIMON IP: Mr President, this one sentence Bill has provoked high emotions and harsh words. It has also produced a proposal originating from the Bar which marks a departure from accepted practices in other common law jurisdictions at a time in our history when others are striving to maintain strong links with those jurisdictions in an effort to preserve the common law system in Hong Kong.

Aside from the emotions, this Bill raises a simple issue: Should high judicial office be the exclusive sacred ground of the Bar?

Currently, barristers in private practice and barristers and solicitors working in the Government are eligible for appointment to the High Court bench. Solicitors in private practice, no matter how willing or able, are not. The Bill seeks to allow a solicitor in private practice who has at least 10 years' experience to be eligible for consideration for High Court appointment. It does not seek to determine the suitability of any candidate. That is an issue to be assessed during the selection process by the Judicial Service Commission, an independent statutory body charged with statutory duties to consider and make recommendations for judicial appointments.

Mr President, this Bill was presented against a background of continuing haemorrhage of judicial blood from the High Court coupled with an ever-increasing judicial workload and the setting up of the Court of Final Appeal. Since there are insufficient senior barristers of high calibre willing to accept judicial appointments, the eligibility pool must be widened if Hong Kong is to continue to be served by a high quality judiciary able to dispose of judicial business efficiently and expeditiously.

At present, there are some 3500 solicitors practising in Hong Kong. The present law thus discriminates against 85% or thereabout of legal professionals in Hong Kong at the time when the Judiciary is forced to look outside Hong Kong for High Court appointments.

As has been pointed out during the scrutiny of the Bill, the only other common law jurisdiction outside Hong Kong which does not permit solicitors to be eligible for High Court appointment is Mauritius. It does not require high moral courage or strong political will to break rank with that island state by joining the greater common law brotherhood.

The Bar has accepted that solicitors in private practice should not be excluded but insists that regular advocacy practice for not less than 10 years be an essential prerequisite. On the face of it, the Bar's proposal cannot be fairer as it seeks to treat barristers and solicitors equally by requiring from both of them 10 years' regular practice as an advocate; but in fact what the Bar giveth, the Bar taketh away; and later what Mr LEE gives us, Mr LEE will take away. Barristers by the very nature of their work practice as advocates even if they seldom appear in court. Solicitors, on the other hand, do not normally undertake a regular advocacy practice even if they are litigation specialists

appearing regularly in court to instruct Counsel. Few solicitors, therefore, will pass the Bar's test of 10 years' regular practice as an advocate, however experienced they are as litigation specialists and however familiar they are with the rules of evidence and the procedures of the courts.

Mr President, there are no known examples of any other common law jurisdiction where advocacy practice is required for High Court judicial appointment.

Let me now seek some enlightenment from a discussion paper published in September 1993 by the Attorney General of Australia. It lists some advocacy skills that are necessary for judicial work. These are as follows:

- oral and written communication skill;
- analytical ability, the application of legal principles to particular facts;
- forensic ability, the ability to sieve through facts and extract those relevant to the argument;
- knowledge of the rules of evidence and court practice and procedure; and
- ability to grasp quickly novel arguments and deal with them in the context of the case being argued.

The paper, Mr President, went on to say that these elements of advocacy skills are not the exclusive skills of advocates. These skills are equally relevant to the work of solicitors, academic lawyers and government lawyers and are acquired by them in the course of their work. Indeed, the paper points out that some skills necessary for success at the Bar may be counter-productive to judicial work. In particular, the forceful role of a barrister is entirely different to the arbitration role of a judge. As Chief Judge O'Keefe was quoted as saying: "You have got to apply yourself differently. What you have got to be is restrained: listening rather than scoring points."

Mr President, our own Judicial Service Commission (JSC), at the request of the Bills Committee, recently published criteria for judicial appointment. The paper started by saying that all appointments are based on merit. It identified skills and abilities the same as those identified by Australia and the United Kingdom. No where in that paper does it specify advocacy practice as a criterion for suitability, let alone regular advocacy practice for 10 years as a statutory condition for eligibility.

Mr President, some passing comments have been made about the secretive manner in which the JSC operates and calls have been made for it to become more transparent. However, I do not think this is the right time to debate that issue. In the context of this Bill, the issue confuses more than it clarifies.

Mr President, finally as representative of the Legal Functional Constituency, I have studied all the arguments as carefully and impartially as I can. The opposing views of those I represent cannot be reconciled, much as I have tried. In performing my wider duties as a Legislative Councillor, I have to exercise my independent judgement in the public interest. In my judgement, Mr President, the Bill is in the public's best interest and I will support it without any amendment.

Mr President, I shall speak on the technical aspect of the amendment at the Committee stage. Thank you.

MRS MIRIAM LAU: Mr President, I declare my interest as a practising solicitor who may, but most probably would not, benefit from this amendment Bill.

Mr President, I have the greatest respect and admiration for people who are good at advocacy and we have quite a few in this Chamber, including of course the Honourable Martin LEE. However, with respect, the fact that a person has experience in arguing cases does not necessarily mean that he or she has the professional ability to be a good judge. I agree that those who are appointed to the Bench should possess skills essential for judicial work, but I do not accept that advocacy experience is so essential that it should form the basic qualification for determining eligibility.

In the 1993 Australian discussion paper on judicial appointments referred to just now by the Honourable Simon IP, it is pointed out that advocacy encompasses a variety of skills, some of which are relevant to judicial work but some of which might be counter-productive to the judicial performance. Therefore in Australia advocacy is not considered to be the only or predominant criterion for judicial appointment. I understand that there is no common law jurisdiction which restricts eligibility criteria of judges to advocacy. The Honourable Martin LEE suggests that we should so restrict ourselves, but I cannot understand why Hong Kong should be the exception.

The proposed amendment by the Honourable Martin LEE excludes many categories of persons who are currently eligible to be appointed as High Court judges. The amendment, if passed, would therefore have the effect not only of tying our own hands, but also knocking many people out of the arena so that very few who are eligible would be left for consideration. Accordingly the proposed amendment would make it even more difficult for us to recruit judges.

Furthermore, to impose experience as an advocate as a prerequisite to eligibility is, in my view, discriminatory of solicitors. Under anti-discrimination laws, a person discriminates against another person, if the discriminator requires the aggrieved person to comply with a requirement or condition with which, inter alia, a substantially higher proportion of persons in the category opposite to the aggrieved person comply or are able to comply with. The right of audience of solicitors in courts is more restricted than barristers. Their duties are more wide-ranging, and some of these duties may not directly relate to court work. The proportion of solicitors having experience as advocates must therefore necessarily be smaller than the proportion of barristers having such direct experience. To impose advocacy experience as the essential eligibility criterion would first place barristers in a more advantageous position than solicitors in meeting this criterion.

I believe the Honourable Martin LEE to be a staunch supporter of equal opportunity for all. If he is so, and I believe he is so, then I strongly urge him to vote against his own amendment so as to demonstrate that he supports equal opportunity within the legal profession.

Mr President, I am not in any way suggesting that unsuitable persons should be appointed to the Bench. After all, the law only deals with eligibility. When it comes to deciding whether a person is suitable to serve as a High Court judge a lot more has to be carefully considered, including legal skills, such as knowledge of rules of evidence and procedures, application of legal principles to facts, ability to administer legal processes, judicial temperament as well as personal attributes such as impartiality, and so on. All these have to be considered. Some of the skills necessary for judicial work are actually acquired by solicitors in the course of their work, even though they have not worked as advocates as such, for example, analytical ability, the ability to sift through facts and apply legal principles to facts, knowledge of rules of evidence and so on.

I believe that the issue of whether or not a person has or has not got the required skills to be a High Court judge should be left to the JSC, who would consider the full range of criteria and determine the person's capability and suitability to be such a judge. I have no doubt that the JSC will act impartially and judiciously and make appointment on the basis of merits only.

Mr President, I support the Bill and will oppose the amendment by the Honourable Martin LEE.

MR ERIC LI: Mr President, the controversial Bill before us raises some important constitutional questions. My primary concerns on this Bill are firstly, the relationship between this legislature and the Judiciary and secondly, the apparent lack of public accountability by the Judiciary itself.

On the more basic question of qualification for judicial appointment, I do not find the fundamental arguments of lawyers and barristers that incompatible. I accept the lawyers' argument that "eligibility" and "suitability" criteria can be different. Taking into account of the practices of other common law jurisdiction, advocacy experience though highly desirable should not be regarded as a prerequisite for "eligibility". Even if I am persuaded otherwise, I would still doubt it as to whether or not this legislature should go to the extent of imposing our own detailed restrictive conditions on the Judiciary against their wish. The amendment moved by the Honourable Martin LEE is in my view an act of excessive interference on the operation of the Judiciary as an independent branch of the Government. My honourable colleague will no doubt claim that he is acting in the name of public interests. It is indeed tempting for an elected legislator to intervene when he sees a less-than-satisfactory situation. However, there is no doubt in my own mind that the Judiciary, as an independent branch of the Government, should be made accountable to the public directly and on its own account rather than to expect an over-zealous Legislative Council to take-over the responsibility on its behalf. What I would say to my colleagues is: Criticize all we like, but keep our hands off and let the Judiciary decide on its own appointments.

There is no secret that I am also less than happy with the total lack of transparency and the inconceivable "close-shop" mentality in the workings of the JSC. Compared to this legislature, their mode of operation is antiquated and unacceptable in the present-day standards of open government. Despite my repeated public requests in the Bills Committee, obtaining information from the Judiciary is like sweeping toothpaste. The so-called objective criteria used by the Commission to decide on the "suitability" of judicial appointments that I have eventually obtained after much efforts were hastily collated, sketchy, still stamped "confidential" and had made absolutely no reference to direct court experience such as advocacy experience, knowledge of rules of procedure and evidence. This finding is astonishing. Even the lawyers would agree, given a choice of "eligible" candidates, barristers or lawyers with direct court experiences must surely be regarded as more "suitable".

In my view, what gives the public confidence in our system of justice is not simply some basic qualifications stipulated in law for judicial appointments. It is the whole process and public perception on how the JSC works that make the real difference. We must be assured that given a pool of eligible candidates, the Commission will always choose the most "suitable" persons for the job.

I call on the Chief Justice and members of the JSC, particularly the representative from the Bar Association and the Law Society to seriously look into some of the charges made by this Council today. We offer constitutional checks and balance. But it is up to the judiciary branch itself to restore public confidence and hold itself out to be accountable to the public for its own decisions.

Mr President, with these rather grudging remarks, I support the original Bill and not the amendment made by the Honourable Martin LEE.

ATTORNEY GENERAL: Mr President, I am most grateful to the Chairman of the Bills Committee, the Honourable Andrew WONG, and to Members of the Bills Committee for their study of this short but important Bill. The proposal to make solicitors who have practised as such in Hong Kong for 10 years eligible for direct appointment as Supreme Court judges would extend the pool of eligible candidates and would ensure that no suitable lawyer is excluded from consideration.

When considering the Bill, Members of the Bills Committee quite rightly asked whether this amendment could lead to the appointment of unsuitable persons. They therefore asked for, and were supplied with, the criteria adopted by the JSC when considering the suitability of candidates. It is not for the Administration to comment on these criteria, since the JSC is an independent body. However, I understand that the disclosure of the criteria to the Bills Committee has reassured most Members of the Committee that inappropriate appointments are best avoided by considering the suitability of a candidate, rather than by imposing a narrow test of eligibility.

Mr President, I would agree with the observations of the Honourable Simon IP about bringing in the JSC into the debate on this Bill. I would simply add that the transparency of the JSC is of course regulated by the Judicial Service Commission Ordinance passed within the last seven years by this Council and which imposes an obligation of confidentiality.

Mr President, the debate this afternoon has focused crisply, sharply on advocacy experience. Could I, Mr President, deal with the assertion/suggestion that this Bill would create an anomaly, a serious anomaly. It is argued that a barrister would need to practise as an advocate for at least 10 years before being eligible for appointment whereas a solicitor would only need to practise as a solicitor for that period without necessarily having advocacy experience.

Mr President, I do not accept for one minute that such an anomaly would arise. I do not interpret the present provision relating to barristers as requiring 10 years' advocacy experience. Under the current law, a person who is qualified to practise as an advocate which includes a barrister is eligible for appointment to the Supreme Court Bench if he or she has for at least 10 years practised as an advocate or a solicitor in certain jurisdictions.

In the context of that provision, I take the view that a person who practises as a barrister also practises as an advocate irrespective of whether he or she regularly appears in court. If this were not the case, a solicitor with 10 years' experience as such but with no advocacy experience could become eligible for Supreme Court appointment by becoming a barrister, but a barrister

with 10 years' experience as such but with no advocacy experience would not be eligible.

Mr President, you have only got to set it out like that to see that it simply cannot be right. I therefore take the view that the Bill if passed would not mean that solicitors can be eligible without advocacy experience but barristers cannot. Moreover, I am bound to point out, Mr President, that if the alleged anomaly were a problem, it could have been avoided by clarifying the eligibility criteria for barristers long ago. The fact is that no one has sought to do that, rather suggesting to me that opponents of the Bill are not concerned with avoiding anomaly.

The Committee stage amendment

Perhaps I can say something, Mr President, about the Committee stage amendment that the Honourable Martin LEE will be moving later this afternoon. The Bar Association has always opposed the amendment set out in the Bill and has argued that advocacy or judicial experience should be prerequisites for appointment to the Supreme Court Bench.

Mr President, you have heard from the Honourable Simon IP and others the detailed assessment of the Australian Government with which we fully agree. Perhaps I can just remind Members of what that says. What the discussion paper says is this: There are many elements included within the term "advocacy skills", including an ability in oral communication and knowledge of the rules of evidence and practice and procedure. The paper concludes that "these elements of advocacy skills are not the exclusive skills of advocates These skills are generally relevant to the work of solicitors, academic lawyers, and government lawyers and are acquired by them in the course of their work".

The Administration accepts and agrees with those statements and does not accept the Bar's position. Advocacy experience is not, as I have explained, the current requirement for any judicial appointment in Hong Kong and we know of no other common law jurisdiction where it is a requirement. There are many skills as we have heard this afternoon, many qualities that a judge requires, including the ability to administer legal processes efficiently and effectively, the right judicial temperament, and local knowledge. It would be wrong to single out advocacy experience and to make it a prerequisite for appointment.

The amendment that will be moved later on this afternoon would limit the extension of the eligibility criteria set out in the Bill. It would also replace all existing criteria for appointment to the Supreme Court of persons other than District judges and magistrates.

At present there are several different categories of persons who are eligible for appointment to the Supreme Court. The Bill as currently drafted proposes to extend the pool of those who are eligible. The proposed Committee

stage amendment would involve the deletion of all categories of eligible persons (other than District judges and magistrates). Eligibility would then be restricted to barristers and solicitors qualified in Hong Kong, the United Kingdom or the Republic of Ireland who have for not less than 10 years:

"been engaged in work that would if undertaken in Hong Kong be similar to that usually undertaken by an advocate (whether barrister or solicitor) in the course of a regular practice as such advocate in the Supreme or District Court."

Mr President, the amendment to be moved later on has serious and wide-reaching implications for appointments to the Supreme Court Bench. These implications, I am afraid, do not appear to have been thought through by those proposing the amendment. When we get to Committee, I will say something more about what I would regard as the technical defects of that amendment. But suffice it to say that I am in full agreement with the sentiments expressed by the Honourable Simon IP and Mrs Miriam LAU and others this afternoon, and would urge this Council to support the Bill in its unamended form and to reject the proposed amendment.

Mr President, it is crucial for the administration of justice and the rule of law in Hong Kong that experienced lawyers who are suitable for appointment to the Supreme Court should not be excluded from appointment by narrow eligibility requirements. The Bill will help to prevent this happening and I urge all Members to support it unamended.

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).

OCCUPATIONAL RETIREMENT SCHEMES (AMENDMENT) BILL 1995

Resumption of debate on Second Reading which was moved on 18 January 1995

Question on Second Reading proposed.

MR MARVIN CHEUNG: Mr President, on 27 January 1995 a Bills Committee was formed to study the Occupational Retirement Schemes (Amendment) Bill 1995. The Bills Committee and its subgroup on Committee stage amendments has held a total of six meetings with the Administration. The Bills Committee has also considered views from the Law Society of Hong Kong, the Wyatt

Company (HK) Limited and the Joint University Staff Associations Working Group on Retirement Schemes.

In studying the Bill, the Bills Committee has considered a number of issues. I would like to highlight the major ones.

One of the objectives of the Bill is to relax the rule on separation of assets. At present, to help ensure that the assets of registered occupational retirement schemes are not misapplied, section 21(1)(a) of the Occupational Retirement Schemes Ordinance (ORSO) requires administrators of schemes to keep separate the assets of each scheme. Separation is costly to administer, inhibits diversification of investment and so results in lower returns for scheme members. This discourages small-scale employers from establishing schemes within a pooling agreement and thus defeats the main purpose of forming such agreements. To address the problem, the Bills Committee agrees to the Administration's proposal to amend sections 20 and 21(1)(a) of the ORSO to the effect that assets of each occupational retirement scheme participating in a pooling agreement can be pooled on condition that there is a common accounting year for each scheme within the pooling agreement and the same auditor be appointed to audit each scheme.

Another objective of the Bill is to relax the investment restrictions. In response to the concerns of scheme administrators and their investment managers to the stringent investment restrictions contained in section 27 of the ORSO, the Administration proposes to amend this section so that scheme assets can be invested without limit in mutual funds; and up to 15% in the listed shares of companies on stock exchanges not recognized by the Securities and Futures Commission (SFC), but legally established and regulated as stock exchanges in accordance with laws of the jurisdictions in which they are established. Such amendment will relax investment in unit trusts and shares listed on emerging stock markets without exposing scheme assets to undue investment risk.

The Administration explains that under the existing provisions of the ORSO, the Registrar can exercise discretion to approve investment in non-listed companies on application by fund managers. It considers that the Registrar should not act as an independent adviser to scheme administrators. Moreover, past records of investment in emerging stock markets have shown a higher return from investments in these markets. As all trustees have the duty to perform to the best interests of their beneficiaries, a total ban on investment in emerging markets is considered unnecessary. The 15% limit is proposed in consultation with fund managers.

The Bills Committee supports this amendment subject to the agreed Committee stage amendments refining the "grandfathering" provisions in respect of pre-ORSO investments.

Section 35(2)(b)(iii) of the ORSO allows the consultative committee to ask the scheme administrator to provide particulars of any security invested in, with its value exceeding 10% of the market value of the scheme's assets. Member of the Bills Committee query that scheme administrators can, whilst observing the 15% investment restriction, avoid disclosure of investments in emerging stock markets by investing, for example, 8% of the scheme's assets in one holding and 7% in another.

Having considered our concern, the Administration agrees that, where in aggregate investment in unrecognized markets is 5% or more of a scheme's assets, disclosure should be made at the request of the consultative committee or, in certain circumstances, individual scheme members. The Bill will be amended to this effect by adding a new clause 13A.

The third objective of the Bill is to require notices of changes in the particulars of the schemes to be given to the Registrar and that the Registrar's approval be obtained before certain changes are made to the schemes.

In view of our doubt on the need for "prior approval" for certain changes and that such a requirement will create unnecessary administrative difficulties for the relevant employer, the Administration agrees to alter it to "notification requirement".

During the deliberation of the Bill, Members and interested organizations raised concern on the special provisions for schemes covering a group of companies. Some of us consider the definition of what comprise a group of companies in section 67(1) of the ORSO is much narrower than that of the Companies Ordinance (Cap.32). It therefore excludes a number of schemes which would normally be considered group schemes. The Registrar's current assertion that the only alternative to group registration is registration under a pooled agreement effectively prevents these group schemes from registering as they are in effect operated under a common scheme rather than under separate schemes.

The Administration reiterates that the definition of "a group of companies" in the ORSO is wider than that in the Companies Ordinance. However, it agrees that section 67 of the ORSO does not have express provisions prohibiting the formation of a common scheme operated by unrelated employers who are not related in the manner required by section 67(1) of the ORSO. Since the purpose of registration of occupational retirement schemes is to safeguard the interests of scheme beneficiaries, it would be contrary to such purpose if unrelated employers could register a scheme with all the operational or funding difficulties that could arise from lack of unity of control and clear responsibility in relation to the scheme. The Administration considers that section 67 of the ORSO should be amended to change it from an enabling provision (in the sense that it permits employers who fall within the relationship specified in section 67(1) and who operate a multi-employer scheme to nominate one representative employer for the purposes of the scheme) to a prohibitive

provision (in the sense that it prohibits two or more relevant employers from operating an occupational retirement scheme unless they fall within section 67). This would accord with the legislative intent of section 67.

While administering the ORSO, the Registrar has also noticed that section 67(1)(d) is of limited practical application. This is because the strict wording of section 67(1) requires that every employer within a common scheme should be in one of the relationships specified in subsection 67(1)(a) to (d) in respect of each and every other employer in the scheme. In other words, a "two-way test" should be applied to any pair of relevant employers drawn from the scheme to ensure that the pair satisfies the relationship criteria in either direction. Under such circumstances, in order that a pair of relevant employers can invoke section 67(1)(d), there should be cross-share holding or mutual voting power control of 20% or more between them. To relax this restriction, the Administration proposes that the Bill be amended to enable an associated company (that is, a company which has 20% or more of its equity voting rights controlled by the holding company of a group) to be admitted to a multi-employer scheme formed by companies of the group. The definition of "associated" will also include a subsidiary of an associated company and companies which are partners under a written partnership agreement.

The Administration also proposes that the ORSO be amended to provide that, where the structure of a group of companies changes in such a way that section 67(1) ceases to apply to a relevant employer of the common scheme, the employer be obliged to withdraw from the scheme as soon as is reasonably practical after the cessation of the section 67(1) relationship. The relevant employer concerned will also be required to notify the Registrar and representative employer of each withdrawal from the scheme.

We endorse the Administration's proposals.

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

MR PETER WONG: Mr President, I rise to support the resumption of the Second Reading of the Occupation Retirement Schemes (Amendment) Bill 1995.

The Bills Committee has been very ably chaired by my colleague, the Honourable Marvin CHEUNG, and Members can be assured of absolute meticulous scrutiny of the Bill's provisions and I will not repeat what he has already reported.

I wish to draw Members to one area in which I have reservations and that is the provision to "grandfather" existing holdings, that is, those held prior to 15 October 1993 in either the shares of the employer company or an associate so they can continue to hold them. Ideally in order to achieve maximum liquidity and minimum risk one should not invest in the employer's company. The Administration has undertaken to honour existing arrangements and even to

allow these holdings to increase in the circumstances set out in clause 13(3)(b) which will be circumscribed by guidelines yet to be issued.

I would urge the Administration to be very wary whenever approached by a fund to take advantage of this let-out because it is the easy option to squeeze the employees' retirement fund when the company has a spot of trouble. Trustees should also be exceedingly cagey when asked to prop up the employer, and that is why I specifically ask for the Registrar to be exempted from liability when giving permission to make such investment. This is necessary in order to clearly demonstrate to all and sundry that it is their responsibility and at the risk of the employees that such investment is being made. I would strongly urge that the Registrar be mandated to review this "grandfather" clause regularly so that amendment can be made if there is any evidence of abuse.

Mr President, I would also like to bring up one point not considered hitherto and that is the merit of allowing our large and well-managed retirement schemes to invest the judicious portion of their assets in real estate. Real estate has proved to be one of the better hedges against inflation as is evidenced by their appearance in most of the major retirement funds around the world. Simulations over the past 20 or so years, even with its ups and downs, have shown that inclusion of Hong Kong real estate would both boost the income as well as reduce volatility. Almost all real estate investments by retirement funds are through the medium of a limited liability company in order to reduce risks of ownership for the trustees. However, the ORSO will prohibit this since investment in non-listed companies are not allowed. I would make a strong plea to the Administration to consider this and come up with recommendations soon.

I give notice that, as Chairman of the Board of Trustees of the Hospital Authority Staff Provident Fund Scheme, we are seriously and responsibly looking at Hong Kong real estate as a possible investment suitable for our members, and would like to debate the pros and cons before the timing for purchase becomes immediate.

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

SECRETARY FOR FINANCIAL SERVICES: Mr President, I would like to thank the Bills Committee under the chairmanship of the Honourable Marvin CHEUNG as well as its technical subgroup led by the Honourable Peter WONG for their careful consideration of the Bill. I would also like to express my appreciation to the professional and trade organizations for their valuable advice.

When introducing the Bill, I explained that we proposed to relax investment restrictions in mutual funds and in shares listed on emerging stock markets. Members have questioned the Administration's reasons for permitting investments in emerging stock markets, as they appeared to involve a higher investment risk than investments in established stock markets. I should point out

that, under the present Occupational Retirement Schemes Ordinance, the Registrar has discretion to approve investments in companies not listed on the Hong Kong Stock Exchange or in emerging stock markets on application by fund managers. Moreover, we feel that it should not be the Registrar's role to act as an investment adviser to scheme administrators or trustees, since they already have a duty to perform in the best interests of their beneficiaries. A total ban on investment in emerging markets is therefore unnecessary. And we have accordingly proposed the limited relaxation of the investment restrictions.

To address the concern expressed by the Bills Committee that a scheme administrator could, whilst observing the 15% investment restriction, avoid disclosure of investments in emerging stock markets to the consultative committee of a registered scheme, we have proposed that, where, in aggregate, investment in these markets constitutes 5% or more of a scheme's assets, disclosure at the request of the consultative committee should be required.

As Members have pointed out, the Bill would no longer permit investments in the share capital of "non-listed" companies made before the commencement of the Ordinance, that is, 15 October 1993. This was not our intention. Committee stage amendments will be moved later today to clarify that such investments will be allowed and that the 15% of the assets of the scheme which may be invested in shares of emerging stock markets is not in addition to any such investments made before 15 October 1993. However, the scheme's administrator will need the Registrar's permission before making investments that arise directly from entitlements attached to investments held before 15 October 1993. In granting permission, the Registrar will have to be satisfied that the investments derive directly from previous entitlements and have become available in the normal course of business, and that the registered scheme would be disadvantaged if the investments were not made. The Registrar is also empowered to issue guidelines explaining what evidence or documentary material would be required to prove that the investments meet those criteria.

The Bill also proposes to impose a requirement to obtain the approval of the Registrar before making any changes to the particulars of a scheme, for instance, to the scheme's name, to the relevant employer of an exempted scheme or a registered scheme, or to the representative employer of a scheme of a group of companies. Members have questioned the need for such prior approval. Having considered the administrative difficulties which the relevant employer may face in seeking prior approval for such changes, we propose to replace the prior approval requirement with a notification requirement. I shall move Committee stage amendments later today for this purpose and consequentially to adjust the level of penalties for defaults in complying with amended provisions.

Members have questioned whether section 67 of the Occupational Retirement Schemes Ordinance, which provides for the registration of schemes operated by a group of companies, has met its intended purpose. The original intention of section 67 was to permit a group of companies, each of which has a

significant influence over each other, to nominate a representative employer to operate a common scheme. It would be undesirable to allow loosely connected parties to operate such a scheme as there would be no clearly binding influence operating amongst them. However, the Ordinance does not empower the Registrar to refuse an application from a relevant employer who does not fall within the relationship specified in section 67. To address this deficiency, we propose that the Ordinance be amended to reflect the policy intention that an occupational retirement scheme may be operated by two or more employers only if they fall within such a group relationship. Such a group could consist of a holding company, its subsidiaries and associated companies.

As an additional safeguard, we propose that, where the structure of a grouping of companies changes in such a way that a relevant employer in a scheme ceases to comply with the specified relationship requirement, it must withdraw from the scheme as soon as is reasonably practicable.

Mr President, with these remarks, I commend the Occupational Retirement Schemes (Amendment) Bill to Members.

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

Bill read the Second time.

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

INLAND REVENUE (AMENDMENT) BILL 1995

Resumption of debate on Second Reading which was moved on 29 March 1995

Question on Second Reading proposed.

MR LAU WAH-SUM: Mr President, the Bill before us seeks to add a new provision to the Inland Revenue Ordinance to counteract arrangements made to avoid salaries tax by the use of service companies. Under the Bill, remuneration paid to a company for services rendered by an individual who controls that company, directly or indirectly, will be treated as being income derived by that individual from employment and thus chargeable to salaries tax.

Members may probably recall that in the 1994 Budget speech, the Financial Secretary had highlighted two types of cases that are of special concern to the Administration; they are disguised employment arrangements, the Type I cases and payment of inflated management fees, the Type II cases. Whilst the Administration has announced its intention to tackle the Type I cases by the Bill and the Type II cases by way of a Practice Note to be issued by the Commissioner of Inland Revenue. Members of the Bills Committee have

considered the drafting of the Bill unclear as to whether the Type II cases would fall within its ambit. In response, the Administration has explained that the escape tests provided under the Bill should be adequate for the purpose of excluding genuine non-target cases and these tests will be updated in line with the development in case law. Nevertheless, to avoid any uncertainty as to the intention of the Bill, the Administration has agreed to make amendments to the effect that the Bill will not apply if the employer is a partnership and the person rendering the services is a partner of the partnership. To address the concern of the Hong Kong Society of Accountants, that an independent contractor will inadvertently be caught by the Bill and will have great difficulty in showing that none of the escape tests apply. The Administration has further undertaken to provide advance ruling arrangements. These arrangements will provide a way for the genuine independent contractor to seek exemption and I will relieve the genuine cases from the reporting requirements. The details of the advance ruling arrangements will be set out in the Practice Note.

Another major area of concern to the Bills Committee is the imposition of the obligations on an employer to report on any service agreement into which he has entered and to which the new provision will apply. Members are concerned that the employer is not in a position to ascertain the information regarding the ownership of the service company in order to determine whether the agreement falls within the scope of the Bill. The Administration agrees that the employer has to determine whether the remuneration paid under a service agreement is likely to be chargeable to salaries tax and so reports to the Commissioner. It recognizes Members' concern about the possible difficulty an employer may have in verifying the information provided by the service company. To address this problem, the Bills Committee has examined with the Administration on the feasibility of allowing an employer to rely on a statutory declaration made by the individual rendering the service declaring that the service agreement does not fall within the application of the Bill. After considering the merits of such an approach, the Bills Committee eventually decided that it will be preferable if the individual may make a statement in writing on the relevant facts about the service agreement on a form to be specified by the Commissioner by notice in the Gazette. The employer can rely on such a statement as a defence for non-compliance of the new provision. The Secretary for the Treasury will later move amendments to the Bill to this effect. The Administration has also undertaken to include in the Practice Note guidelines to assist employers in complying with the reporting requirements.

On the question as to whether the new provision necessitates the lifting of the corporate veil, the Administration has pointed out that as shown in the relevant case law and in decisions made by the Inland Revenue Board of Review, such an approach is permissible in appropriate circumstances. In fact provisions within the Companies Ordinance and sections 61 and 61A of the Inland Revenue Ordinance empower the Commissioner to lift the corporate veil under certain conditions. In the Administration's view, the number and the nature of disguised employment cases justify such action. Members accepted the Administration's explanations.

Members have expressed reservations on the inclusion of a specific anti-avoidance provision in the Bill. It has been understood as a general principle in revenue law that the same case should not be subject to double jeopardy. In reply, the Administration has explained that the specific anti-avoidance provision is intended to put beyond doubt that the existing general anti-avoidance provisions can apply to disguised employment arrangements entered into prior to the commencement of the Bill. The Administration emphasizes that with or without such a provision in the Bill, it still has the power to go after a transaction occurred on or after the appointed day by both the specific and the general anti-avoidance provisions.

Notwithstanding the Administration's reliance on a case law in New Zealand to substantiate its view, Members are of the view that the decision in the case quoted is not a settled situation, and as such it should not be enshrined in the law. To allow common law to develop will be a preferable approach. The Bills Committee hence proposes to delete subclause (4). An amendment to this effect will be moved by the Secretary.

After considering Members' views that in some situations apportionment of remuneration for the services rendered by the individual is called for, the Administration has agreed to make amendments to provide that where there are two or more individuals under the service agreement, the new provision will apply to the relevant individuals individually and not collectively. Moreover, the Commissioner will deem the whole of the remuneration in the agreement to be the remuneration for the services rendered by each of the relevant individuals, except such sums the individual can prove to the satisfaction of the Commissioner that they are unrelated to the service provided by him. Members consider the Administration's proposals acceptable.

The Administration has also assured Members that the Bill will have no retrospective effect on any service agreement entered into prior to the commencement of the Bill if either the remuneration is paid or the services rendered, or both are effected, before the appointed day.

Finally, on behalf of the Bills Committee, I would like to thank the Administration for taking on board many of the suggestions made by Members in the course of the deliberations.

With these remarks, Mr President, and subject to the agreed Committee stage amendments to be moved by the Administration, I commend the Bill to this Council.

MR PETER WONG: Mr President, a service company is easy game for high-salary earners to minimize or avoid paying their taxes. For those who can so afford it is merely a matter of preference whether one spends some money and gets advice on how to get round the existing law.

There were many heated debates to get this legislation right within the Hong Kong Society of Accountants Tax Committee and during the presentations to the Commissioner of Inland Revenue and to our Bills Committee, but once the recriminations were over the accountancy profession wholeheartedly put its efforts into making the legislation work. I invite the Secretary for the Treasury to acknowledge their contributions.

Governments all over the world devise laws to make citizens pay their fair share of taxes. With due respect I would submit that whenever taxation system is invented, given sufficient time and resources, people can find a way round it. I am sure that even now some practitioner will be boasting that he has a way to defy the law. My advice to such bluffer is not to push our Government to create a legal monster because of pure intellectual peak. I am sure that the Commissioner will hassle employers if he finds out that they are hiding an employment contract. Practitioners and taxpayers would do well to lead a simple life, an easy life, and pay what is rightly due to Hong Kong for the opportunities and services given to them.

Mr President, I support the resumption of the Second Reading of the Inland Revenue (Amendment) Bill 1995.

MR ERIC LI: Mr President, I welcome and fully support the Inland Revenue (Amendment) Bill 1995 as a professional accountant. It actually provides us with more opportunities to render tax advisory services to taxpayers and with improved certainty in an otherwise grey area of anti-avoidance tax law.

I also share the Administration's determination to combat blatant tax avoidance. As a responsible profession, the accountancy profession has consistently co-operated with the Administration in formulating workable and fair legislations in this regard over the years. This Bill is another shining example.

I would like to thank the Commissioner of Inland Revenue in particular for his willingness to listen to the views of the Hong Kong Society of Accountants after delivering the Budget speech last year and had cut the size and the shape of this Bill to a more realistic size. I am also appreciative of the highly professional manner in which a large number of Committee stage amendments, and administrative measures were agreed with the Bills Committee in just three short meetings. Obviously, there is a lesson to be learnt here. If other the Legislative Council Bills Committees had worked with such mutual professional respect, high efficiency and productivity, our heavy legislative programme might have been less burdensome to all the parties concerned.

The Administration has undertaken to put in place a number of administrative measures as part of the package agreement with the Bills Committee before appointing a date to commence this legislation. I have no doubt that these will be honoured. However, for the completeness of record, I

shall raise some brief reminders at the appropriate Committee stage amendments as and when they are moved.

Before closing, I take the opportunity to again urge the Inland Revenue Department to issue the promised departmental Practice Note as a matter of priority. I am sure that tax practitioners will be looking forward to offer their helpful views on such important practical aspects as effective date of commencement, transitional arrangement, method of apportionment of remuneration under a service agreement which straddles the appointed date, the advance ruling arrangement and the compliance procedure by employers, and so on.

With these remarks, Mr President, I support the Bill together with all the proposed amendments.

SECRETARY FOR THE TREASURY: Mr President, I thank the Honourable LAU Wah-sum for his clear exposition of the purposes of the Bill, the discussion at the Bills Committee and the Administration's response to the points raised.

The Bills Committee chaired by the Honourable LAU Wah-sum, has offered valuable advice to us. We are grateful for the Committee's support for the Bill and its commendable efficiency in completing the detailed scrutiny of this short but complex and technical piece of legislation in three meetings only within a period of about one month.

We also thank the various parties, including of course the Hong Kong Society of Accountants, who made submissions on the Bill to the Committee.

All these significantly helped us improve and refine the Bill. As a result, I shall be moving a number of amendments, which have been agreed with the Bills Committee, later on at Committee stage. We welcome the Bills Committee's backing for those amendments.

Before I do so, let me emphasize three crucial points.

First, the scope of the Bill. Our aim is to target the use of a service company to disguise an employment relationship. It is not our intention to catch genuine business arrangements. For the avoidance of doubt, I will be proposing amendments at Committee stage to make it clear that genuine contracts for services, that is, not employment, involving the use of a service company would not be caught by this Bill, whether the operation is in the form of sole proprietorship or partnership.

Second, certainty. As highlighted in the speech of the Honourable LAU Wah-sum, the Commissioner of Inland Revenue will provide an advance ruling system in order to minimize uncertainty and potential disputes. In short, he

will, upon application and the submission of the relevant documents, advise the applicants whether the service agreement in question falls within the ambit of the proposed legislation. The Commissioner will set out the details of the arrangement in a Practice Note. This will, as the Honourable Eric LI urged, be done as a matter of priority.

Third, retrospectivity. Let me reassure Members that this Bill, when enacted, will not have any retrospective effect.

Subject to the enactment of this Bill, we intend to implement the new legislation in August this year.

Mr President, with these remarks, I commend this Bill to the Council, subject to the amendments which I shall move shortly.

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

Bill read the Second time.

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

Committee Stage of Bills

Council went into Committee.

OFFICIAL LANGUAGES (AMENDMENT) BILL 1995

Clauses 1 to 7, 10 to 12, 14, 16 and 17 were agreed to.

Clauses 8, 9, 13 and 15

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

The amendments to clauses 8 and 9 are technical in nature. They seek to provide the Chinese language counterparts to two prescribed forms in the Oaths and Declaration Ordinance (Cap.11). These forms are used for the making of a statutory declaration by a person who is unfamiliar with the official language in which the declaration is made and by the responsible interpreter.

The amendment to clause 13 seeks to clarify the proposed consequential amendments to section 65B(3)(c) of the Criminal Procedure Ordinance (Cap.221) to make it clear that only a statement tendered in evidence which is not made in an official language will need a translation in an official language.

The amendment to clause 15 clarifies that proceedings in Magistrates' Courts may be recorded by means of shorthand notes or by mechanical or other means, as an alternative to full minute writing.

Mr Chairman, I beg to move.

Proposed amendments

Clause 8

That clause 8 be amended, by deleting the clause and substituting —

"8. Form of declaration

Section 14(2) is repealed and the following substituted -

"(2) If the declarant is unfamiliar with the official language in which the declaration is made, the declaration shall be in one of the forms set out in Part II of the First Schedule and the interpreter shall first make a declaration or take on oath in one of the forms set out in Part III of the First Schedule."."

Clause 9

That clause 9 be amended, by deleting the clause and substituting —

"9. First Schedule amended

(1) The heading to Part II of the First Schedule is amended by adding "**or the Chinese language**" after "**language**".

(2) Part II is amended by adding -

“OR

不諳熟中文或英文的人的聲明

本人 A. B.，現居於

，謹以至誠鄭重聲明：〔填寫事實。〕

本人謹憑藉《宣誓及聲明條例》衷誠作出此項鄭重聲明，並確信其為真確無訛。

(簽署) A. B.

此項聲明於 19 年 月 日
在香港 作出，是經由〔填上傳譯
員姓名〕，現居於〔填上地址〕及任職〔填上職業〕
作出傳譯者，而此傳譯員亦已先行聲明(或宣誓，
視屬何情況而定) 他已將本文件內容向聲明人作
出真實明確及清晰可聞的傳譯，並會將本人即將
為聲明人主持的聲明忠實向其傳譯。

在本人面前作出，

〔簽署及職銜，即：
太平紳士／公證人／監誓員。〕”。

(3) Part III is amended by repealing "English and [state foreign language] languages" and substituting "official language in which this document is written and [state foreign language] language".

(4) Part III is amended by adding -

“OR

傳譯員的聲明或誓言

本人 C. D.，現居於

，謹以至誠鄭重聲明*，本人諳熟本文件所採用的法定語文及〔述明其他外國語文〕，本人已將本文件內容向聲明人〔填上姓名〕作真實明確及清晰可聞的傳譯，並會將即將為其主持的聲明忠實向其傳譯。

(簽署) C.D. 傳譯員

此項聲明於 19 年 月 日
在香港 作出。

在本人面前作出，

〔簽署及職銜，即：
太平紳士／公證人／監誓員。〕”。

* In the case of an oath substitute

“謹此宣誓” for “謹以至誠鄭重聲明” 。”。

Clause 13

That clause 13 be amended, by deleting the clause and substituting —

"13. Proof by written statement

Section 65B(3)(c) of the Criminal Procedure Ordinance (Cap.221) is amended by repealing "is made in a language other than English, it shall be accompanied by an English translation thereof" and substituting "subject to any directions of the court, is made in a language other than an official language, it shall be accompanied by a translation in an official language".

Clause 15

That clause 15 be amended, by deleting everything after "amended" and substituting —

"-

- (a) in subsection (1) by repealing "in writing a full minute" and substituting "a full minute in writing, or a record whether by means of shorthand notes or mechanical means or otherwise";
- (b) by adding -

"(3) The minute or record may be kept in either or both of the official languages.".

Question on the amendments proposed, put and agreed to.

Question on clauses 8, 9, 13 and 15, as amended, proposed, put and agreed to.

SUPREME COURT (AMENDMENT) BILL 1995

Clause 1 was agreed to.

Clause 2

MR MARTIN LEE: Mr Chairman, I move that clause 2 be amended as set out in the paper circulated to Members.

Mr Chairman, the Administration says that the word "advocacy", which I have discussed at some length earlier, has never been a criterion for the appointment of judges and it is difficult to determine at any rate. But the present section 9(1) of the Supreme Court Ordinance, which currently provides most of

the candidates who are eligible for direct appointment to the High Court, requires 10 years of practice as an advocate in court. Now, if the word "advocate" does not pose any problem, why should the word "advocacy" be so difficult to define now?

The Administration also claims that some High Court judges sitting today would have been excluded from consideration under my amendments. I should point out that those judges who are sitting in the High Court who did not have the requisite 10 years' experience as an advocate have, according to the Bar, "almost without exception prior judicial experience in lower courts when being appointed to the High Court". But regardless of this point, it is our role as legislators to ensure that Hong Kong has the best High Court judges possible. This may, in fact, involve tightening up requirements that have been lax until now. So, I hope that Honourable Members would not shrink from this responsibility.

Mr Chairman, I submit along with the Bar Association that this Bill does more to hurt our Judiciary than it does to help, that is, without any amendments, because it opens the risk that inexperienced judges will serve on the Bench of our Supreme Court and Hong Kong people will not tolerate this risk, no matter how small. My amendments to the Bill eliminate this risk and have the added bonus of removing much of the secrecy surrounding the appointment of our judges.

Let me deal with a few points mentioned by Honourable Members earlier. The Honourable Simon IP referred to haemorrhage of judicial blood and referred to the problem in recruiting suitable judges locally. Mr IP is well-known for his choice of dramatic phrases, and this is one of them — "haemorrhage of judicial blood". But unfortunately, dramatic though it is, it is untrue as was pointed out recently by the Judiciary Administrator, Miss Alice TAI, who told us that there is no problem in recruiting local judges to the High Court Bench. Perhaps, let me counter Mr IP with another line of — just conceived half an hour ago — "old blood goes; new blood comes". Mr Chairman, we have a very healthy cycle of judicial blood.

Then Mr IP said, "What Mr LEE giveth, Mr LEE giveth away." Another cute little line, but again untrue for under my amendments Mr IP himself would have been eligible for appointment for he does possess these requisite skills of an advocate. So let me change his line: "What Mr LEE giveth; Mr IP taketh if he will".

Then the Attorney General, Mr Chairman, mentioned some of the requisite qualities of judges but he said these are not exclusively present in advocates. I accept that. But if a solicitor has not set foot within a court of law during his 10 years of experience as a solicitor, he has never taken any objection to the admissibility of evidence, hearsay; and what have you, he has never taken objection to a leading question; how do you expect him to make a decision or ruling on these matters when he sits as a High Court Judge? But of

course the answer from the Attorney General is; do not worry, he will not be appointed. But if, therefore, such a person would not be appointed, why should the Attorney General be objecting to my amendments? Because my amendments would ensure that only those persons who are really suitable for appointment would become eligible.

Let us look at the criteria referred to by Honourable Members. There are certainly some practising lawyers in Hong Kong who do not possess them. The example was given of a conveyancing solicitor and I can give an example of a barrister who reports cases professionally. With respect to both of them, neither is suitable for appointment, and under my amendment neither will be eligible. The only difference is under my amendment these learned gentlemen, or ladies, will be excluded, eliminated. They will be excluded right away. But under the Administration's Bill originally they will all be included but they should not be happy because apply though they may, waiting for a letter in reply and of course the letter will be a very polite one: "under consideration". But honestly, they have not got a chance because if the Judicial Service Commission or the Registrar, the secretary, is doing his job properly, these names would never appear on the papers put before members of the Judicial Service Commission. So why bother them? We are after all looking at the same pool, Mr Chairman, exactly the same pool. If they possess these qualities they will be considered under my amendments, but they will be considered finally under the Administration's Bill.

So, Mr Chairman, may I conclude by saying this to Honourable Members: That I am sure that if they consider these issues carefully they would discover that it would be irresponsible in fact to pass the Bill unamended. So, I do call on Honourable Members to support me and if my amendments should fail I would urge Honourable Members to oppose the Bill for the sake of the future of our Judiciary.

Thank you, Mr Chairman.

Proposed amendment

Clause 2

That clause 2 be amended, by deleting everything after "amended" and substituting —

"-

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

"(1) A person shall be eligible to be appointed to be a judge of the Supreme Court if -

- (a) he is qualified to practise as a barrister or solicitor in a court in Hong Kong, England, Scotland, Northern Ireland or the Republic of Ireland having unlimited jurisdiction either in civil or criminal matters; and
 - (b) he has for a period, or for periods in aggregate, of not less than 10 years since qualifying for practice as such barrister or solicitor been engaged in work that would if undertaken in Hong Kong be similar to that usually undertaken by an advocate (whether barrister or solicitor) in the course of a regular practice as such advocate in the Supreme Court or District Court."
- (b) by adding -

"(1A) For the purposes of subsection (1) -

- (a) the term "barrister" shall include an advocate qualified to practise in a court in Scotland having unlimited jurisdiction either in civil or criminal matters; and
- (b) in calculating the period of 10 years referred to in subsection (1)(b), years of experience sitting as -
 - (i) a member or fellow of an arbitration organization as may be specified by the Governor in Council by notice in the Gazette;
 - (ii) a judge or adjudicator in a court or tribunal; or

- (iii) a judge in a court in a common law jurisdiction,
may be included in such period.";
- (c) in subsection (2) -
 - (i) by repealing paragraphs (a) and (b) and substituting -
 - "(a) he is qualified to practise as a barrister or solicitor in a court in Hong Kong, England, Scotland, Northern Ireland or the Republic of Ireland having unlimited jurisdiction either in civil or criminal matters,";
 - (ii) by repealing ", in either case,";
 - (iii) by repealing paragraphs (i) to (iii) and (vi) to (x);
 - (d) by repealing subsection (2A);
 - (e) in subsection (3) -
 - (i) by repealing "any of paragraphs (i) to (x)" and substituting "paragraph (iv) or (v)";
 - (ii) by repealing "an advocate" and substituting "a barrister";
 - (f) by repealing subsection (4)."

Question on the amendment proposed.

MR SIMON IP: Mr Chairman, I speak in opposition to the amendment now moved by Mr Martin LEE.

I have already spoken against the imposition of a statutory condition of advocacy practice for appointment to the High Court. I will now deal more specifically with the terms of the proposed amendment.

The amendment is very radical. It will change substantially the existing routes of appointment to the High Court. If passed, the only persons who would be eligible for consideration will be as follows:

1. barristers or solicitors who have undertaken a regular practice in advocacy for 10 years;
2. serving District Judges and Magistrates; and
3. persons who have sat as an arbitrator, a judge or an adjudicator whose years of experience in those capacities may be counted as years of practice as an advocate.

Government lawyers and academic lawyers will not be eligible as they currently are, unless they satisfy the proposed new advocacy test.

Furthermore, the proposed amendment will prohibit the appointment of practitioners from all other common law jurisdictions except those from the United Kingdom, Ireland and Hong Kong. This would exclude practitioners from other common law jurisdictions in which several of our existing High Court judges qualified, such as Australia and New Zealand.

The implications of this amendment are far reaching and the Bills Committee itself has not had the opportunity to consider them since clarification from the Bar on the scope of their proposed amendment was only received after the Committee had held its last meeting. To pass such an amendment in haste is both inappropriate and irresponsible. Laws should not be enacted in this way.

Principles aside, Mr Chairman, the language used in the amendment is inherently vague. Words such as "similar", "usually", "regular practice" are used. Such vagueness will inevitably lead to problem of interpretation and application. Such loose language will make bad law.

Besides, the proposed sections 9(1) and 9(IA) seem to be inherently inconsistent. They equate years of experience sitting as an arbitrator or adjudicator with years of experience as an advocate. I fail to see how the different roles of an advocate and an arbitrator can be equated in this way.

Mr Chairman, as I have said earlier, the purpose of the Bill is to extend the pool of those who are eligible for High Court appointment. The amendment if passed will have just the opposite effect. It will substantially reduce the existing pool under the existing law. It is completely contrary to the policy objective of this Bill. For substantive and technical reasons, I strongly oppose the amendment. Thank you.

MR MOSES CHENG: Mr Chairman, I rise to speak against the amendment proposed by the Honourable Martin LEE, and I must first declare that I am also a practising solicitor.

One of the arguments advanced by the Honourable Martin LEE in support of his proposed amendment is the so-called anomaly. A careful reading of section 9(1) of the Supreme Court Ordinance would clearly confirm that such argument is flawed. Advocacy experience is not, and I repeat not, a prerequisite under such provision. All that is required under the section is that a candidate is qualified to practise as an advocate in a court and he has practised as an advocate or a solicitor for a period of 10 years or more. So, the requirement is not one of advocacy experience but a barrister qualification or an advocate qualification, and practising as an advocate or a solicitor.

I suspect most probably the use of the expression "advocate" was made, is because of those practising as barristers in the courts of Scotland are known as "advocates" rather than "barristers". I, therefore, do not share the view that by accepting the amendment proposed in the Bill, an anomaly, as claimed by the Honourable Martin LEE, would be introduced.

Mr Chairman, I take strong difference to the views expressed by the Honourable Martin LEE in his previous address during the Second Reading debate which expresses doubt on the professional ability and quality of the petitioners in the solicitors' branch of the legal profession. This is totally unnecessary. I am confident that the Judicial Service Commission will continue with its good work of considering and recommending suitable candidates for appointment to the Benches of our courts. With the passage of the amendment proposed in the Bill, the welcomed extension of the pool of available candidates would undoubtedly assist the Commission in its work.

Mr Chairman, with these remarks, I oppose the amendment proposed by the Honourable Martin LEE.

ATTORNEY GENERAL: Mr Chairman, I have spoken in the adjourned Second Reading debate about the policy of the Bill and policy of the amendment. I now wish to add specific points against the amendment.

The effect of this amendment would be to narrow very significantly the pool of candidates eligible for appointment to the Supreme Court Bench. I will not go into all the points that were made by Mr Martin LEE which deal with eligibility. I simply pose the question rhetorically to Members of this Council: Why should we shut out all potential candidates? What is the rationale for that? The Bill provides for the consideration to be given to the appointment of senior solicitors as possible candidates for appointment to the High Court Bench. It is a perfectly appropriate and modest measure to propose. The effect of this amendment would be to in effect nullify that.

And I pose a second question rhetorically to Members of this Council: Why should Hong Kong, at this point in our history, be unique in the common law world in setting down in the Ordinance as a prerequisite that a candidate should have advocacy experience? And I repeat to Members the argument that I deployed earlier on this afternoon which Mr Moses CHENG has eloquently restated, that it is not the case that the law at present requires that barristers should have had 10 years' advocacy experience.

Mr Simon IP has dealt with, eloquently and persuasively, with the technical defects of this amendment. I align myself with his arguments. Under the current law, lawyers who are qualified in a Commonwealth country other than the United Kingdom, Ireland or Hong Kong can become eligible for appointment to the Supreme Court and there are several Supreme Court judges with such qualifications. Under the Committee stage amendment, persons with such qualifications would not become eligible.

The amendment could make it more difficult than at present to recruit judges for the Supreme Court. That is the last thing that Hong Kong wants at this juncture.

The Committee stage amendment would make the eligibility criteria for appointment to the Supreme Court completely different from those for the District Court and the Magistracy.

The criteria, the language of the amendment, is extremely vague. It would be difficult to reply. Without being alarmist it could lead to judicial appointments being challenged in court. And that is not a fanciful suggestion, Mr Chairman. Members will recall within the last five years the appointment of a judicial officer being challenged and having to be dealt with in the Court of Appeal.

The amendment would appear to make advocacy experience anywhere in the world, even in non-common law jurisdictions, a qualification providing it is similar to Hong Kong advocacy experience, whatever that means.

The amendment may unwittingly exclude those whose advocacy experience is confined to Hong Kong since it refers to work that, and I quote, "would if undertaken in Hong Kong" be similar to Hong Kong work. This assumes that the work was not undertaken in Hong Kong.

Mr Chairman, in my view, this amendment is irresponsible. I use that word advisedly. I urge this Council to reject this amendment and to pass the Bill unamended.

MR MARTIN LEE: Mr Chairman, I do not, with respect, understand why Mr IP would like government lawyers and academic lawyers to be treated differently. Why should they be different? As for government lawyers, if they are good, they are good. If they are advocates, they are eligible under my amendments. But if they are not, why should they be considered? Is there something unique about government lawyers that we must put them above ordinary lawyers?

Mr IP also mentioned other common law jurisdictions. He said that my amendments would exclude appointments from Australia and New Zealand. Now, yes, it may be, but those who are already in Hong Kong, either practising at the Bar or as solicitors coming from Australia and New Zealand, or those who are already sitting on the District Court Bench or in the Magistracies, their experience will be taken into consideration so they are not excluded.

As for Mr Moses CHENG's outburst, I do not understand why he was so angry about my speech. It was never an insult. It was never intended and it could never amount to an insult to solicitors. All I am saying is some of them have advocacy skills, others do not, like barristers. Now, if I had insulted the solicitors I would have insulted the barristers too. Certainly, Mr Chairman, I treat them equally, that is, those who have advocacy skills will be eligible under my amendments; those who do not possess them will not be eligible.

Mr CHENG also surmised as to why the word "advocate" finds its way in our existing law is that maybe because those practising as barristers are called advocates in Scotland, but he must be wrong because the section says: "A person shall be eligible to be appointed to be a Judge in the Supreme Court if (a) he is qualified to practise as an advocate in a court in Hong Kong, England, Scotland, Northern Ireland, Republic of Ireland, having unlimited jurisdiction either in civil or criminal matters". Can it be suggested that the draughtsman of this clause many years ago just picked the word "advocate" because the draughtsman came from Scotland? It is highly unlikely, Mr Chairman.

The Attorney General, with respect, harped on the same string again and said that my amendments would exclude some people. But I ask him the same question: Why should it matter if I exclude them when they would never have been considered anyway by the JSC? What harm can there be by excluding them early so that they save some paper in not having to apply? So for environmental reasons, I hope that the Honourable Peter WONG would support me.

And if we want to extend the pool, why not include legislators, Urban Councillors, District Board members so that they need to apply and only to be excluded, rejected by the JSC. But the Attorney General would be happy: the pool is larger. But what is the point?

And the Attorney General also gave an example but unfortunately a very bad one. He said that if my amendments were passed then it could lead to judicial challenge. He himself then gave an example of a challenge all the way to the Court of Appeal of judicial appointment. In that case, of course, it concerns the appointment of magistrates. But the point is, even under existing law the challenge was made so that challenge had nothing to do with Mr Martin LEE. So I do not understand the relevance of this example.

So, with the greatest respect, even up to now I have not heard a single good argument against my amendments.

Question on the amendment put.

Voice vote taken.

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

MR MARTIN LEE: Division, please.

CHAIRMAN: Committee will proceed to a division.

CHAIRMAN: Would Members please proceed to vote?

CHAIRMAN: We seem to be one short of the head count. Are there any queries? If not, the result will now be displayed.

Mr Martin LEE, Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin 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, Mr NGAI Shiu-kit, Mr PANG Chun-hoi, Mr TAM Yiu-chung, Mr Andrew WONG, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mr Martin BARROW, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Dr LEONG Che-hung, Mr Jimmy McGREGOR, Mrs Elsie TU, Mr Peter WONG, Mr Moses CHENG, Mr CHIM Pui-chung, Mr Frederick FUNG, Mr Timothy HA, Mr Simon IP, Dr LAM Kui-chun, Mr Eric LI, Mr Steven POON, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG, Dr TANG Siu-tong, Miss Christine LOH,

Mr Roger LUK, Ms Anna WU, Mr James TIEN and Mr Alfred TSO voted against the amendment.

THE CHAIRMAN announced that there were 17 votes in favour of the amendment and 39 votes against it. He therefore declared that the amendment was negatived.

Question on clause 2, in its original form, stand part of the Bill put.

Voice vote taken.

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

MISS EMILY LAU: Mr Chairman, I claim a division.

CHAIRMAN: Committee will proceed to a division.

CHAIRMAN: Would Members please proceed to vote?

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

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr PANG Chun-hoi, Mr TAM Yiu-chung, Mr Andrew WONG, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mr Martin BARROW, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Dr LEONG Che-hung, Mr Jimmy MCGREGOR, Mrs Elsie TU, Mr Peter WONG, Mr Moses CHENG, Mr CHIM Pui-chung, Mr Frederick FUNG, Mr Timothy HA, Mr Simon IP, Dr LAM Kui-chun, Mr Eric LI, Mr Steven POON, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG, Dr TANG Siu-tong, Miss Christine LOH, Mr Roger LUK, Ms Anna WU, Mr James TIEN and Mr Alfred TSO voted for the motion.

Mr Martin LEE, Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, 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 and Mr LEE Cheuk-yan voted against the motion.

Miss Emily LAU abstained.

THE CHAIRMAN announced that there were 38 votes in favour of the motion and 16 votes against it. He therefore declared that the motion was carried.

OCCUPATIONAL RETIREMENT SCHEMES (AMENDMENT) BILL 1995

Clauses 1, 3, 4, 6 to 9, 14 and 15 were agreed to.

Clauses 2, 5, 10 to 13, 16, 17 and 18

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

Proposed sections 10(1)(d) and (e) as well as section 21A are amended, through clause 5(1) and clause 12, to provide that relevant employers operating exempted schemes and registered schemes shall notify the Registrar of a change to the name of the scheme and a change of the relevant employer within one month of the change. These amendments revise the requirement in the Bill for prior approval of the changes by the Registrar.

Similarly, proposed section 67(2) is amended, through clause 16(2), to provide that the representative employer of a scheme covering a group of companies shall notify the Registrar of a change of representative employer, of a change of the scheme's name and any change of the scheme's administrator within one month of the change.

Proposed sections 10(3) and (3AA), 21A(3) and (4), 67(3), (8A) and (8B) provide that, if the relevant employer of a registered scheme or an exempted scheme or the representative employer of a group scheme fails to notify the Registrar of the relevant changes, he commits an offence and is liable to a fine of \$2,000 for failure to give notice of the change of name of the scheme, and a fine of \$10,000 for failure to give notice of the change of relevant employer or administrator of the scheme.

Clause 17 amends section 73(1) to provide that the Registrar may make rules for details to be supplied on notice of changes to registered schemes, exempted schemes and pooling agreements.

Proposed section 27(1)(b) is amended, through clause 13, to clarify that investments may be made in mutual fund corporations. This will place investments in mutual funds on a par with investments in, say, unit trusts, for which there are no restrictions.

Proposed section 27(2)(c) is amended, through clause 13(2), to provide that, subject to a limitation of 15% of the assets of the scheme under the proposed subsection (3)(a), no asset of the scheme acquired on or after 15 October 1993 shall consist of investments in the share capital of a body corporate which share is not publicly listed on a stock exchange recognized by the Securities and Futures Commission. Proposed subsection 27(3)(a) further clarifies that the 15% of the assets of the scheme is not in addition to any investment of the same nature held before 15 October 1993.

Proposed section 27(3)(c) is added, through clause 13(3), to provide that the administrator shall have to obtain the Registrar's permission before making investments that derive directly from entitlements attached to investments held before 15 October 1993. He has to satisfy the Registrar that the investments derive directly from prior entitlements, have become available in the normal course of business, and that the registered scheme would be disadvantaged if the investments were not made. Proposed section 27(4) is added to enable the Registrar to issue guidelines explaining what evidence or documentary material would be required to prove that the investments met those criteria.

Proposed sections 67(1) and 67(1A) to (1G) are added, through clause 16, to clarify that an occupational retirement scheme may be operated by two or more employers provided that they fall within the specified relationship, that is, they are within a defined grouping of companies. For this purpose, companies are regarded as within a grouping of companies if they consist of a holding company, its subsidiaries, or associated companies. Companies are regarded as associated if one of them controls at least 20% of the voting power of the other company's general meetings, or there are partners operating under a written partnership agreement or are subsidiaries of any such companies. The purpose of this amendment is to ensure that a group of associated companies is able to make proper collective decisions in the operation of a common occupational retirement scheme.

If a relevant employer in a scheme that covers two or more employers ceases to comply with the specified relationship requirement, the relevant employer shall notify the representative employer and the Registrar and then withdraw from the scheme either by transferring the rights of the members employed by the withdrawing relevant employer and corresponding assets of the scheme to another registered scheme or by winding up that part of the scheme which relates to the withdrawing relevant employer. If a relevant employer fails to notify the representative employer or the Registrar, or fails to withdraw from the scheme, he commits an offence and is liable to a fine of \$10,000 for each offence. The purpose of these provisions is to safeguard the interests of scheme members.

Clause 16(2) amends section 67(2) to provide that the representative employer of an exempted scheme must provide annually to the Registrar documentary evidence of the scheme's eligibility for exemption so as to satisfy

the reporting requirements for an exempted scheme under section 10 of the Ordinance.

Mr Chairman, I beg to move.

Proposed amendments

Clause 2

That clause 2 be amended —

- (a) in the definition of "exempted scheme", by deleting "has not withdrawn it" and substituting "any withdrawal under section 12 has not come into effect".
- (b) by adding -

""group scheme" (集團計劃) means an occupational retirement scheme formed by a grouping of companies in accordance with section 67;"

Clause 5

That clause 5(1) be amended —

- (a) by deleting the proposed subsection (1)(d) and (e) and substituting -
 - "(d) the relevant employer shall notify the Registrar of a change to the name of the scheme together with the matters prescribed in rules made by the Registrar within 1 month of the change;
 - (e) the relevant employer concerned shall notify the Registrar of a change of the relevant employer together with the matters prescribed in rules made by the Registrar within 1 month of the change;"
- (b) in the proposed subsection (2)(c), by adding "or" at the end.
- (c) by deleting the proposed subsection (2)(d);
- (d) by deleting the proposed subsection (3) and substituting -

"(3) A relevant employer who without reasonable cause fails to give the Registrar notice of a change to the name of a scheme as required under subsection (1)(d)

commits an offence and is liable on summary conviction to a fine at level 1.

(3AA) A relevant employer who without reasonable cause fails to give the Registrar notice of a change of the relevant employer as required under subsection (1)(e) commits an offence and is liable on summary conviction to a fine at level 3."

- (e) in the proposed subsection (3A), by adding "without reasonable cause" after "who".

Clause 10

That clause 10 be amended, in the proposed subsection (7C)(a), by deleting “財政” and substituting “會計” .

Clause 11

That clause 11(b) be amended, in the proposed subsection (4A), by deleting "governed by a single trust".

Clause 12

That clause 12 be amended, by deleting the proposed section 21A and substituting —

"21A. Notice required

(1) The relevant employer concerned shall notify the Registrar of a change of the relevant employer of a registered scheme together with the matters prescribed in rules made by the Registrar within 1 month of the change.

(2) The relevant employer of a registered scheme shall give notice of the matters prescribed in rules made by the Registrar within 1 month after the change to the name of the scheme.

(3) The relevant employer of a registered scheme who without reasonable cause fails to notify the Registrar of a change as required under subsection (1) commits an offence and is liable on summary conviction to a fine at level 3.

(4) A relevant employer of a registered scheme who without reasonable cause fails to give the Registrar notice of the

prescribed matters within the prescribed time of a change to the name of the scheme under subsection (2) commits an offence and is liable on summary conviction to a fine at level 1.".

Clause 13

That clause 13(1)(b) be amended, in the definition of "mutual fund corporation" —

- (a) in paragraph (b), by deleting the comma and substituting a semicolon;
- (b) by deleting everything after paragraph (b).

That clause 13(2) be amended, in the proposed paragraph (c), by adding "acquired on or after 15 October 1993" after "scheme".

That clause 13(3) be amended —

- (a) in the proposed subsection (3)(a), by deleting "; and" and substituting -

"(which 15% is not in addition to any investments of the same nature held prior to 15 October 1993 and exempted from the restriction of subsection (2)(c));".

- (b) in the proposed subsection (3)(b), by deleting "corporation." and substituting -

"corporation; and

- (c) investments that derive directly from entitlements attached to investments held prior to 15 October 1993 or acquired as a result of this paragraph and which would otherwise be prohibited by subsection (2)(c) about which investments the administrator, before making the investments, shall obtain the Registrar's permission to make the investments by satisfying the Registrar -

- (i) that the investments derive directly from entitlements attached to the holding of investments held prior to 15 October 1993 or where acquired as a result of this paragraph;

- (ii) that the investments have become available in the normal course of business; and
- (iii) that the registered scheme would be disadvantaged if the investments were not made.

(4) The Registrar may give guidelines as to what evidence or documentary material would be relevant to the issue of satisfying him of the matters set out in subsection (3)(c) including the requirement that the evidence and documentary materials be verified by independent advisers specified by the Registrar.

(5) The Registrar is not liable for any loss incurred by a scheme as a result of an investment made with his permission under subsection (3)(c)."

Clause 16

That clause 16 be amended —

- (a) by adding before subclause (1) -

"(1A) Section 67(1) is repealed and the following substituted

-

"(1) Subject to this section, an occupational retirement scheme must only cover 1 relevant employer.

(1A) Relevant employers from within a grouping of companies may operate, contribute to or participate in, group occupational retirement scheme that covers 2 or more companies from within the grouping of companies.

(1B) The relevant employers from within the grouping of companies must jointly or severally by power of attorney nominate one of themselves, or the holding company of a group of companies within the grouping of companies, as the representative employer for the purposes of the scheme.

- (1C) For the purpose of this section -

- (a) "grouping of companies" (公司集團) means companies that are associated companies or are within a group of companies and includes associated companies of a member of a group of companies;
- (b) "group of companies" (同一集團的公司) means a holding company and its subsidiaries;
- (c) companies are regarded as being associated companies if -
 - (i) one of the companies holds, or is entitled to control the exercise of, 20% or more of the voting power in the other company's general meetings;
 - (ii) one of the companies is a subsidiary of an associated company; or
 - (iii) they are partners under a written partnership agreement.

(1D) If a relevant employer in a scheme that covers 2 or more employers ceases to comply with a relationship requirement under this section, the relevant employer shall -

- (a) notify the representative employer and the Registrar within 1 month of ceasing to comply; and

- (b) withdraw from the scheme within 3 months or such further time as the Registrar allows in the circumstances, unless within that time the relevant employer resumes compliance.

(1E) The relevant employer is required to withdraw from a scheme by arranging for either -

- (a) the transfer of the rights of the members who are employed by the withdrawing relevant employer and corresponding assets of the scheme to another registered or exempted scheme or, where the affected members are employed outside Hong Kong, to a scheme outside Hong Kong; or
- (b) the orderly winding up of that part of the scheme that applies to the withdrawing relevant employer.

(1F) A relevant employer who, without reasonable excuse, fails to notify the representative employer or the Registrar under subsection (1D)(a) commits an offence and is liable on summary conviction to a fine at level 3.

(1G) A relevant employer commits an offence and is liable on summary conviction to a fine at level 3 if he, without reasonable excuse, fails to withdraw from a scheme as required under subsection (1D)(b) or to make the arrangement as required under subsection (1E)(a) or (b).".

- (b) by adding after subclause (1) -

"(1AA) Section 67(2)(e) is amended by repealing "14(3)(b), 32(4)(a), 36(4), 43(1)(b), 45(2)(b)" and substituting "14(2), 14(3)(b), 32(4)(a), 36(4), 39(1), 43(1)(b), 45(2)(b), 47(2)".

That clause 16(2) be amended —

(a) by deleting the proposed paragraphs (ga) and (gb) and substituting -

"(ga) the representative employer of an exempted scheme shall, for each period of 12 months beginning on the date of the exemption certificate or on an anniversary of the date, give the Registrar -

(i) for a scheme exempted under section 7(4)(a), documentary evidence to satisfy the Registrar of the validity of the relevant registration or approval during the period; or

(ii) for a scheme exempted under section 7(4)(b) or (c), a written statement of the total number of members of the scheme and the number of the members who were Hong Kong permanent identify card holders on the date of the statement,

within 14 days after the expiration of the period or such longer period as the Registrar may allow;

(gb) the representative employer shall notify the Registrar of a change of representative employer within 1 month of the change;"

(b) by adding-

"(gd) the representative employer shall notify the Registrar of the matters prescribed in rules and required under section 21A(2) within 1 month after the change to the name of the scheme:

(ge) the representative employer of a registered group scheme shall notify the Registrar of any change of the administrator of the scheme as required under section 22(1)(b);

(gf) the Registrar may give notice under section 26(1) to the representative employer of a registered group scheme and the representative employer is required to comply with notice given under that section in addition to a requirement placed on a relevant employer under that section and the representative

employer may apply for an extension of time under section 26(2);".

That clause 16(3) be amended —

- (a) in the proposed subsection (3) -
 - (i) by deleting "obtain the Registrar's approval" and substituting "notify the Registrar";
 - (ii) by deleting "level 3" and substituting "level 1".
- (b) in the proposed subsection (6), by deleting "obtain the Registrar's approval as required under subsection (2)(ga)" and substituting "notify the Registrar on the change of representative employer as required under this section".
- (c) by deleting the proposed subsection (7).
- (d) by adding -

"(8A) A representative employer who without reasonable cause fails to give notice under subsection (2)(gd) commits an offence and is liable on summary conviction to a fine at level 1.

(8B) A representative employer who without reasonable cause fails to give notice under subsection (2)(ge) commits an offence and is liable on summary conviction to a fine at level 3."

Clause 17

That clause 17 be amended, by deleting the proposed paragraph (da) and substituting -

- "(da) for details to be supplied on notice of changes to registered schemes, exempted schemes and pooling agreements;".

Clause 18

That clause 18 be amended, by deleting the proposed section 73A and substituting —

"73A. Prescribed fee on notice

A person who notifies the Registrar of a change of the particulars of a registered scheme or an exempted scheme shall pay the prescribed fee for giving the notice."

Question on the amendments proposed, put and agreed to.

Question on clauses 2, 5, 10 to 13, 16, 17 and 18, as amended, proposed, put and agreed to.

New clause 4A	Exemption
New clause 9A	Application for registration
New clause 12A	Certain changes to be notified
New clause 13A	Certain information to be made available to consultative committees or members of registered schemes
New clause 15A	Cancellation of registration

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

SECRETARY FOR FINANCIAL SERVICES: Mr Chairman, I move that new clauses 4A, 9A, 12A, 13A and 15A as set out in the paper circulated to Members be read a Second time. I briefly highlight two of these.

Clause 12A amends section 22(2) to require that the designated person of a registered scheme shall notify the Registrar of any change of his name or address or the name or address of the administrator of the scheme which was previously supplied to the Registrar within one month of the change. The time period allowed for notification of the change is consistent with that allowed for notification of other changes.

Clause 13A amends section 35(2)(b) to provide that, where, in aggregate, investment in unrecognized markets exceeds 5% of the market value of a scheme's assets, disclosure at the request of the consultative committee shall be required so that members of the scheme may have information about the scheme's exposure to restricted investments.

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

Clauses read the Second time.

SECRETARY FOR FINANCIAL SERVICES: Mr Chairman, I move that new clauses 4A, 9A, 12A, 13A and 15A be added to the Bill.

Proposed additions

New clause 4A

That the Bill be amended, by adding —

"4A. Exemption

(1) Section 7(2)(a) is amended by adding ", or for a group scheme under section 67 by the representative employer of the scheme" after "scheme".

(2) Section 7(2)(c)(ii) is amended by repealing "section 67(1)" and substituting "section 67".

New clause 9A

That the Bill be amended, by adding —

"9A. Application for registration

(1) Section 15(a) is amended by adding ", or for a group scheme under section 67 by the representative employer of the scheme," after "scheme".

(2) Section 15(d) is amended by repealing "section 67(1)" and substituting "section 67".

New clause 12A

That the Bill be amended, by adding —

"12A. Certain changes to be notified

Section 22(2) is repealed and the following substituted -

"(2) The designated person of a registered scheme shall notify the Registrar of any change of his name or address or the name or address of the administrator of the scheme which was previously supplied to the Registrar within 1 month of the change.".

New clause 13A

That the Bill be amended, by adding —

"13A. Certain information to be made available to consultative committees or members of registered schemes

Section 35(2)(b) is amended -

- (a) in subparagraph (ii), by repealing "and" at the end;
- (b) in subparagraph (iii), by repealing the full stop and substituting "; and";
- (c) by adding -
 - "(iv) if on the date of the request the market value or, if the market value cannot be ascertained, the net realizable value, of investments in the share capital of bodies corporate under section 27(3)(a) then forming part of the scheme's assets exceeded 5% of the market value or (where appropriate) the net realizable value on that date of the scheme's assets as a whole, the particulars of the investments and the percentage they then formed of the market value or (where appropriate) the net realizable value."."

New clause 15A

That the Bill be amended, by adding —

"15A. Cancellation of registration

Section 45(1)(d) is amended by adding -

- "(via) a notice has been given under section 29(1);"."

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

INLAND REVENUE (AMENDMENT) BILL 1995

Clauses 1 and 2

SECRETARY FOR THE TREASURY: Mr Chairman, I move that clauses 1 and 2 be amended as set out in my name in the paper circulated to Members.

The amendment to clause 1 is a technical one as the present Bill, if passed today, will be the second amendment to the Inland Revenue Ordinance in 1995.

Most of the amendments to clause 2 are technical in nature, but I would try to explain briefly the main ones which are of particular concern to the Bills Committee.

First, I propose to add section 9A(1A) to cater for situations where the remuneration under a service agreement includes items other than the remuneration for the services rendered by the individual, that is, the employee. In these circumstances, the "employee" or the "employer" should be able to advise the Commissioner of Inland Revenue what is the exact amount of the remuneration for the services and what is not. We therefore believe, and the Bills Committee agreed, that it is reasonable to put the onus on them to satisfy the Commissioner that certain sums are not related to the services rendered and thus should be excluded from the remuneration for the assessment of salaries tax. Subject to such an exclusion, the Commissioner will otherwise treat the whole remuneration under the agreement as the amount chargeable to salaries tax accordingly.

I also seek to amend the proposed section 9A(2) to exclude genuine contractors, for instance, home decorators or architects, who are required under a service agreement to carry out services personally but who also provide the same or similar services to other clients at the same time. These are contracts for services, not contracts of employment.

An amendment to the proposed section 9A(3) is necessary to clarify the circumstances under which business agreements bearing some of the common characteristics of employment may be granted relief at the Commissioner's discretion if the Commissioner, having examined the full picture of the case, is satisfied that the nature of the relationship between the parties does not constitute an office or employment of profit. This is an escape provision.

After careful discussion in the Bills Committee, I now seek to delete the proposed section 9A(4). A Privy Council case from New Zealand, which has persuasive authority in Hong Kong, established that the general anti-avoidance provision can be applied notwithstanding that a specific anti-avoidance provision has been put in place. We firmly believe that the principle is applicable in Hong Kong. This is by no means double jeopardy. The proposed subsection (4) sought to do no more than spell out this point in order to avoid doubt. The consensus we reached in the Bills Committee, however, is that we should leave

the legal position as it is and allow the courts to decide and the common law to develop. But meanwhile, we will apply both the general and the specific anti-avoidance provisions where necessary.

I also seek to amend the proposed section 9A by adding subsection (6A)(a) to deal with the situation whereby the service company provides the services of more than one individual under the agreement. By virtue of this amendment, the proposed anti-avoidance provision will apply to the individuals individually, and not collectively.

Finally, as I have made clear earlier, it is not our intention to target professional practitioners using a service company in this legislative exercise. To clarify this, we specify in the proposed section 9A (6A)(b) in respect of sole proprietorship or partnership, the circumstances under which the new anti-avoidance provision will not apply.

Mr Chairman, I beg to move.

Proposed amendments

Clause 1

That clause 1(1) be amended, by adding "(No.2)" after "(Amendment)".

Clause 2

That clause 2 be amended —

- (a) in the proposed section 9A(1) -
 - (i) by deleting ("the relevant person") and substituting ("relevant person");
 - (ii) by deleting "or occupation" where it first appears;
 - (iii) by deleting ("the relevant individual") and substituting ("relevant individual").
- (b) in the proposed section 9A(1)(a)(ii) and (iii), by adding "or associates" after "associate".
- (c) in the proposed section 9A(1)(b), by deleting "of the relevant individual is a beneficiary" and substituting "or associates of the relevant individual is a beneficiary, or are beneficiaries, as the case may be,".

- (d) in the proposed section 9A(1)(i)(A)(II), by deleting "or occupation".
- (e) in the proposed section 9A, by adding -

"(1A) Where an agreement referred to in subsection (1) does not specify or otherwise identify the amount of any remuneration referred to in that subsection which is from time to time to be paid or credited to the corporation or trustee referred to in paragraph (a), (b) or (c) of that subsection, then any sum which under that agreement is paid or credited to that corporation or trustee, as the case may be, shall be deemed to be such remuneration (and the other provisions of this Ordinance, including that subsection, shall apply accordingly) except any such sum or part thereof in respect of which the relevant individual concerned or the relevant person establishes to the satisfaction of the Commissioner that it was not in substance remuneration for any services carried out under that agreement on or after the appointed day by the relevant individual for the relevant person or any other person."

- (f) by deleting the proposed section 9A(2)(a)(i).
- (g) in the proposed section 9A(2), by adding -

"(aa) if the agreement referred to in that subsection or any related undertaking (and whether or not the agreement refers to that undertaking) requires any of the services referred to in that subsection to be carried out personally by the relevant individual, the relevant individual carries out the same or similar services -

- (i) for persons other than any person for whom those first-mentioned services are carried out under that agreement; and
- (ii) during the term of that agreement or undertaking, as the case may be;"

- (h) in the proposed section 9A(2)(c) -
 - (i) by deleting "on a periodic basis in a manner" and substituting "periodically and calculated on a basis";
 - (ii) by adding "and calculation" after "crediting".

(i) in the proposed section 9A(2)(d), by deleting "dismiss the relevant individual" and substituting "cause any of those services to cease to be carried out in a manner or for a reason, commonly provided for in relation to the dismissal of an employee under a contract of employment".

(j) by deleting the proposed section 9A(3) and (4) and substituting -

"(3) Paragraphs (i), (ii) and (iii) of subsection (1) shall not apply where the relevant individual establishes to the satisfaction of the Commissioner that at all relevant times the carrying out of the services referred to in that subsection was not in substance the holding by him of an office or employment of profit with the relevant person."

(k) in the proposed section 9A(5), by deleting everything after "subsection (1)," and substituting -

"then -

(a) the corporation or trustee concerned referred to in paragraph (a), (b) or (c) of that subsection to whom that remuneration is paid or credited is not chargeable to tax thereon; and

(b) the relevant individual is not chargeable to tax on any remuneration paid or credited to him by that corporation or trustee, as the case may be -

(i) in respect of any office or employment of profit he has with that corporation or trustee, as the case may be; and

(ii) to the extent that the remuneration referred to in this paragraph is attributable to any of the services referred to in that subsection."

(l) in the proposed section 9A(6), by deleting "or occupation".

(m) in the proposed section 9A, by adding -

"(6A) For the avoidance of doubt, it is hereby declared that -

(a) where there are 2 or more relevant individuals under an agreement

referred to in subsection (1), then that subsection shall apply to them individually and not collectively, and the other provisions of this section (including subsection (1A)) shall be construed accordingly;

- (b) paragraphs (i), (ii) and (iii) of subsection (1) shall not apply where under an agreement referred to in that subsection -
 - (i) the relevant person is also the relevant individual; or
 - (ii) the relevant person is a partnership and the relevant individual is a partner of the partnership."
- (n) in the proposed section 9A(7), in the definition of "appointed day", by adding "(No.2)" after "(Amendment)".
- (o) in the proposed section 9A(7), in the definition of "associate", by adding -
 - "(f) another relevant individual who is such an individual under the agreement referred to in subsection (1) under which the first-mentioned relevant individual is also such an individual;".
- (p) in the proposed section 9A(7), by deleting the definition of "prescribed activity or occupation" and substituting -
 - ""prescribed activity" (訂明活動) means any activity prescribed in a notice under subsection (6);".

Question on the amendments proposed.

MR ERIC LI: I would like to remind the Administration that they have agreed not to apply the six tests contained in this clause mechanically. The object of these six tests will be to "paint the picture from the accumulation of detail". This liberal interpretation will also call for regular review and update of this subsection in the light of future case law development.

I would also like to remind the Administration that they have agreed to provide an advance ruling arrangement. They have further undertaken to respond to requests on a timely basis, say within one month for most cases after full information is given.

Question on the amendments proposed, put and agreed to.

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

New clause 3	Penalties for failure to make returns, making incorrect returns, etc.
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Clause read the First time and ordered to be set down for Second Reading pursuant to Standing Order 46(6).

SECRETARY FOR THE TREASURY: Mr Chairman, I move that new clause 3 as set out in my name in the paper circulated to Members be read the Second time.

Some Members have expressed concern that the Bill may impose an onerous burden on the employers. The reporting requirements under the Inland Revenue Ordinance would apply to the employers if the service agreement falls within the ambit of the proposed section 9A. Whilst an employer should know very clearly whether a contract with a service company is in effect one for the provision of services by a particular individual, it may be difficult for him to know or verify whether the individual in fact controls the service company. He may therefore not be in a position to judge whether the agreement is one which falls within the ambit of the proposed section 9A. This is especially the case for small businesses which may not be able to seek professional advice.

To address this concern, we have agreed with the Bills Committee to add a new clause to amend section 80 of the Ordinance. Under this new provision, the employer may rely on the individual (that is the "employee") to provide a statement in writing in a form specified by the Commissioner of Inland Revenue to the effect that the agreement in question does not render the individual chargeable to salaries tax. The employer will have a defence in any proceedings against him for failure to report if he shows that he did not comply with the reporting requirements because he relied upon the statement in writing by the relevant individual and that it was reasonable for him to rely upon that statement in the circumstances. This would help the employer to discharge his responsibility. Together with the advance ruling system to which I referred in my speech on the resumption of the Second Reading, we are confident that employers should have no difficulties in ascertaining and discharging their responsibilities.

In respect of the "employee" or the relevant individual, the Commissioner will specify a standard form so that the individual knows exactly what information he has to provide in the written statement. The Commissioner will design the form in such a way that the relevant individual only needs to report factual information. There is no need for him to provide information of a judgemental nature. However, if he knowingly or recklessly makes a statement which is materially false or misleading, he will be guilty of an offence which carries a maximum fine at Level 3, or \$10,000.

The Commissioner will issue a Practice Note to set out the details of the arrangements.

Mr Chairman, I beg to move.

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

Clause read the Second time.

SECRETARY FOR THE TREASURY: Mr Chairman, I move that new clause 3 be added to the Bill.

Proposed addition

New clause 3

That the Bill be amended, by adding —

"3. Penalties for failure to make returns, making incorrect returns, etc.

Section 80 is amended by adding -

"(1AA) Without prejudice to the generality of the term "reasonable excuse" as it is used in subsection (1) in relation to section 52(4), (5), (6) or (7), where a person has failed to comply with the requirements of that section in the case of an individual in respect of whom that person is treated as the employer by virtue of the operation of section 9A, then it shall constitute a defence in any proceedings under this section against that person in respect of such failure if he shows that -

- (a) he did not comply with those requirements because he relied upon a statement in writing -

- (i) by that individual; and
 - (ii) in the form specified under subsection (1AC); and
- (b) it was reasonable for him to rely upon that statement.

(1AB) A person who knowingly or recklessly makes a statement of the kind referred to in subsection (1AA)(a) which in a material respect is false or misleading shall be guilty of an offence: Penalty a fine at level 3.

(1AC) The Commissioner may, by notice in the Gazette, specify a form for the purposes of subsection (1AA)(a).

(1AD) For the avoidance of doubt, it is hereby declared that a form specified under subsection (1AC) is not subsidiary legislation."."

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

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

SUPREME COURT (AMENDMENT) BILL 1995

had passed through Committee without amendment and the

OFFICIAL LANGUAGES (AMENDMENT) BILL 1995

**OCCUPATIONAL RETIREMENT SCHEMES
(AMENDMENT) BILL 1995** and

INLAND REVENUE (AMENDMENT) BILL 1995

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

PRESIDENT: I will take the Supreme Court (Amendment) Bill 1995 separately from the other three Bills. The question is that the following three Bills be read the Third time and do pass:

OFFICIAL LANGUAGES (AMENDMENT) BILL 1995

OCCUPATIONAL RETIREMENT SCHEMES (AMENDMENT) BILL 1995 and

INLAND REVENUE (AMENDMENT) BILL 1995

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

Bills read the Third time and passed.

PRESIDENT: The question is that the following Bill be read the Third time and do pass:

SUPREME COURT (AMENDMENT) BILL 1995

Question on the Third Reading of the Supreme Court (Amendment) Bill 1995 put and agreed to.

PRIVATE MEMBER'S MOTIONS

SUSPENSION OF STANDING ORDERS

MRS ELSIE TU moved the following motion:

"That Standing Order 36(4) be suspended at the Legislative Council sittings on 12, 19 and 26 July 1995 in order that, in the event of a division being claimed, the President or Chairman shall order the Council or the Committee, as the case may be, to proceed to a division immediately after a division bell has been rung for one minute."

MRS ELSIE TU asked: Mr President. I move the motion standing in my name on the Order Paper.

Standing Order 36 (4) states that, in the event of a division being claimed, the President and Chairman, shall order the Council or Committee, as the case may be, to proceed to a division immediately after a division bell has been rung for three minutes.

Having regard to the large number of bills resuming Second Reading debates at the remaining sittings of the Session, the House Committee considered a proposal to suspend Standing Order 36(4) to enable the division bell to be rung for one instead of three minutes during the last three sittings on 12, 19 and 26 July 1995.

The motion, being a Private Member's motion, is normally moved towards the end of sitting. To enable the suspension of Standing Order 36 (4) to be applied at the start of the sitting on 12 July 1995, it is necessary for the motion to be considered and passed by the Council at this sitting.

Mr President, I beg to move.

Question on the motion proposed.

MR JAMES TO (in Cantonese): Mr President, I and the Democratic Party basically support this motion.

Last time I was opposed to amending Standing Orders to shorten from three minutes to one minute the duration for the Council to proceed to a division. The main reason for my opposition was that it would be improper to change it in the middle of a sitting without prior notice. It was because, without prior notice, other Members would not know the rules had been changed. But this time, we have had prior notice and Members will be able to clearly consider it.

But there is one point about which I still feel uneasy. In respect of the bills scheduled for 19 and 26 July, the reason is sufficient, but in respect of the bills scheduled for 12 July, I can see no reason why the division time should be shortened to one minute. This should be an exception.

Anyway, we support the present motion. But we hope that from now on prior notice should be given if any rules are to be changed so as to enable Members to hold discussion and be fully prepared for the change. Only in so doing could we claim to be fair and reasonable.

ATTORNEY GENERAL: Mr President, on a point of Order, the reading of the motion refers to the Legislative Council sitting on 12, 19 and 26 July. Mr President, I seek your clarification that in the event that the Council were to sit on a further day after 26 July whether this motion that passed today would cover proceedings on 27 July.

PRESIDENT: The answer is yes because if we do sit on 27 July, that will be a continuation of the sitting on 26 July. It will be one Order Paper and one sitting.

Question on the motion 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 3 July. 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.

FREEZING OF FEES AND CHARGES OF GOVERNMENT SERVICES, PUBLIC HOUSING RENTALS AND RAILWAY FARES

DR CONRAD LAM moved the following motion:

"That, in view of the deterioration of the unemployment problem coupled with the rising inflation rate, this Council urges the Government to immediately freeze various fees and charges of government services, public housing rentals and railway fares for one year in order to alleviate the burden of the general public."

DR CONRAD LAM (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper.

Mr President, according to a news report, a deaf and mute woman attempted to plunge to her death due to hardships in life. I must point out that the woman was not dispirited by her disabilities. The prime culprit that drove her to make such an attempt was the "hardships in life". Several weeks ago, a young man in his thirties disclosed in a phone-in radio programme that he had been unemployed for six months and his situation was so straitened that he could no longer support himself. He added that if he still could not find a job, he would resort to robbing. When such cases do happen, should an responsible government review the situation as soon as possible to see if life in Hong Kong has become so difficult that people have to resort to evil means in order to survive?

Perhaps the two examples cited above are extreme cases. However, it is an indisputable fact that the people of Hong Kong are hard-pressed by the burden of life.

Hence, before the situation goes from bad to worse, I move the following motion in this Council on behalf of the Democratic Party: "That, in view of the deterioration of the unemployment problem coupled with rising inflation rate, this Council urges the Government to immediately freeze various fees and charges of government services, public housing rentals and railway fares for one year in order to alleviate the burden of the general public".

Mr President, the Government advised that though the present unemployment rate of 2.9% was the highest in the past 10 years, the situation in Hong Kong was not that bad when compared with European or North American countries. I think these words of the Government is misleading. First, as the economic growth in the Asian Pacific region is the most vigorous in the world, comparison should be made between Hong Kong and places with similar economic conditions. Taking the region led by the four little dragons of Asia as an example, the unemployment rates of Hong Kong, South Korea, Taiwan and Singapore are 2.9%, 2.1%, 1.7% and 1.7% respectively. Even Malaysia has an unemployment rate of merely 2.7%. According to these figures, the unemployment rate of Hong Kong is obviously on the high side. Second, unemployment relief work and employment planning in Hong Kong are inferior to the other three little dragons of Asia, let alone the European and North American countries. Third, regarding the calculation of unemployment rate, labour organizations have been querying the definition of "unemployment" and the sampling methodology adopted by the Government in the past years because the results of the unemployment surveys which they conducted differ greatly from those of the Government.

It is indisputable that inflation is very high in Hong Kong. Comparing the inflation rates of the four little dragons in May 1995, the figures for Hong Kong, South Korea, Singapore and Taiwan are 9.6%, 5.1%, 2.4% and 3.3% respectively. In this respect, Hong Kong is once again in the lead. Dr HUANG Chen-ya will give an analysis concerning this issue later on.

Regarding government fees and charges, the Government provides more than 5000 kinds of services to the public and charges for most of them. According to the Budget, in the year 1995-96, revenue from the item of government fees and charges alone will increase over \$900 million to \$10.6 billion, which represents a rise of 8.5%. However, the growth rate of the nominal wages of technical staff in all industries was just 6.3% last year. From this we can see that an increase in government fees and charges will obviously add to the burden of the people in the lower social stratum.

In addition, in this financial year, the Government will increase significantly the charges of such essential services as medical, education and environmental services which concern the people's livelihood. Regarding medical services, revenue from the charges concerned will increase about \$30 million, which represents a rise of 22.9%. In the education sector, revenue from tuition fees will grow by 16%, which means an increase of about \$10 million. As to environmental protection, in the year 1995-95, the

Environmental Protection Department will receive an extra revenue of over \$60 million from industrial and commercial establishments, schools, hospitals and various organizations in terms of sewage and waste disposing charges and licensing fees, and the increase will be as high as 940%.

The Government had a surplus of \$7.7 billion in last year's Budget. It is estimated that the financial reserve of the Government in the year 1995-96 will reach \$145.3 billion. Hence, the Government have enough reserve to tolerate slashed revenue resulting from freezing all government fees and charges. From the perspective of public finance, the proposal of the Democratic Party is practicable. On the other hand, statistics indicate that public housing tenants can expect the rise in rent will not only be higher than inflation rate, but also be increased by a larger margin as compared with that of last year. We all know that rent is the factor which affects the Consumer Price Index (CPI) (A) most. Past figures showed that when inflation changed by 1%, half of it was caused by rental adjustment. Hence, the burden of the people in the lower social stratum will be considerably alleviated once public housing rentals are frozen. Besides, as the surplus kept by the Housing Authority has already reached \$15 billion, there is no need to increase the rentals of the 87 estates completed after 1973 by 17.5% with effect from September this year. From a financial point of view, freezing rentals is also practicable. The Honourable LEE Wing-tat will explain in detail how hard it is for the people in the lower social stratum to shoulder the rental burden.

Regarding mass transport, more than 80% of the people in Hong Kong have to use such means of mass transport as Mass Transit Railway (MTR), Kowloon-Canton Railway (KCR), Light Rail Transit (LRT), buses and ferries. They have to spend a considerable percentage of their income on travelling expenses. According to statistics, MTR and KCR fares are the major decisive elements which influence the CPI(A). Moreover, increase in travelling expenses last year was one of the causes that brought about a negative growth in real terms for wages.

Considering the operation situation of the major mass transport companies at present, to freeze fares for a year should not have much impact on them. Yet the public will be greatly benefited. Both the MTR and the KCR registered very satisfactory profits last year and their future is rather promising. Though the LRT is still making a trifling loss, this loss can be offset in KCR's overall financial account. As for issues concerning the three rail systems, the Honourable WONG Wai-yin will give an in-depth analysis to explain the grounds for freezing fares.

Mr President, the amendment proposed by the Honourable Howard YOUNG, which only targets at government fees and charges and rates, is but a false move with a window-dressing effect. It is like giving a starving person a little water to drink instead of some bread to eat. As a result, the Democratic Party objects to the amendment of Mr Howard YOUNG. On the amendment of the Honourable Frederick FUNG, since it includes the three fare-freezing items

suggested by the Democratic Party, the Democratic Party supports his amendment.

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

Question on the motion proposed.

PRESIDENT: Mr Howard YOUNG has given notice to move an amendment to the motion. Mr Frederick FUNG has also given notice to move an amendment to Mr Howard YOUNG's proposed amendment. As Members were informed by circular on 3 July, I will first call upon Mr YOUNG to move his amendment to the motion. After Mr YOUNG has moved his amendment, I will call upon Mr Frederick FUNG to move his amendment to Mr YOUNG's proposed amendment. After Members have debated the main motion as well as the amendments listed in the Order Paper, we will vote on Mr FUNG's amendment to Mr YOUNG's amendment to the motion first. I now call upon Mr Howard YOUNG to speak and to move his amendment.

MR HOWARD YOUNG moved the following amendment to Dr Conrad LAM's motion:

"To delete" public housing rentals and railway fares" and replace it by "and rates"."

MR HOWARD YOUNG (in Cantonese): Mr President, I rise to move, on behalf of the Liberal Party, an amendment to the original motion. The terms of the amendment are as set out in the Order Paper.

The Liberal Party is of the view that the original motion before us today has its merit, its loophole and also a certain aspect where it has "gone too far". The merit is that it seeks to freeze direct government fees and charges. This is what we support. The aspect in which it has gone too far relates to its proposal to compel, through parliamentary intervention, the mass transport carriers in the public and private sectors to freeze their fares. This would be outside the functions the Legislative Council is intended to perform. As regards the motion's loophole, we are all aware that rates is a matter of concern to the public. The Liberal Party first made a plea two years ago to freeze rates and has been advocating a freeze since. Now we are going to re-emphasize this point.

The Liberal Party's cardinal precept is one which is economy-oriented but tempered with concern for people's livelihood. Our concern for livelihood issues is manifested in our present proposal that rates be frozen and in our agreement that direct government fees and charges be frozen too. These charges include various licence fees, water charges and others. The Liberal Party is also aware that the public is now bearing a heavy livelihood burden.

That being the case, we are in favour of the Government taking the lead in freezing fees and charges to lighten the burden of the public. As a matter of fact, there are precedents to this. In 1991, when the inflation rate was staying high at a two-digit level, the Government took the initiative in freezing its fees and charges for one year. Not only did this lighten the burden of the public, it also indirectly encouraged corporations in the private and public sectors to help curb inflation with the result that the inflation rate dropped and the pressure to increase fees and charges eased. This measure achieved definite success at that time. At present, although inflation is not at a double-digit level, with the added factor of rising unemployment, I think the Government can once again adopt the 1991 measure.

At present, rising unemployment and diminishing job opportunities reflect the widespread phenomenon of a community in economic doldrums. Some members of the public are indeed in straitened circumstances. Even though the figure is still on the low side when compared with that of countries in Europe and America, it is definitely a bit on the high side when compared with that of Southeast Asian countries.

In view of the fact that the Government has had huge financial surpluses for two fiscal years in a row, we think that it would be acceptable to freeze government fees, charges and rates for one year. However, because the Liberal Party's cardinal precept is one which is economy-oriented, we are not in favour of meddling, through parliamentary intervention, with the autonomy of public and private sector corporations in fixing their fares and charges.

We also have considerable reservations with regard to the proposal to regulate, through parliamentary intervention, the autonomy of the Housing Authority (HA) in determining the level of public housing rents. The reason is that although the three railways are wholly owned by the Government, yet in terms of administration and management, they in fact operate in a manner similar to independent commercial organizations. The relevant ordinances also clearly provide that they must be operated according to prudent commercial principles. Each of them has its own board of directors and management. They have sufficient ways and means to decide if they need to raise their fares or if the increases should be higher or lower than the rate of inflation.

Private sector corporations, such as the bus companies, need to keep tapping the capital market to raise capital. If we sought to meddle with the three railways' fare increase principle or any private sector corporations' fee increase principle by means of a Legislative Council motion, we would be interfering with the operation of public or private sector companies by bringing parliamentary influence to bear. This would have a very bad effect and would set a dangerous precedent which would deal a blow to the confidence of local businessmen and merchant bankers. On the international front, this would make people suspect if Hong Kong would be gradually losing its reputation as a free market economy.

As the three railway corporations need to borrow from abroad in order to raise capital for the purpose of development, their international credit rating would plummet if they should lose their power to determine fares. It would not be a good thing as far as the public is concerned if the railway corporations had to borrow money at high interest rates.

As regards public housing, there have recently been numerous reports about spalling concrete and swollen steel reinforcement. We know that the HA need to carry out maintenance work on a massive scale. The rents received by the Authority can be used for the purpose of improving services, such as installing security gates at many of the housing estates. If we unilaterally curb the Authority's power to fix its own rents, we are worried lest the quality of its service should be adversely affected. However, this would not be the case with government fees and charges. Even if the income from government fees and charges is reduced, the quality of government services will not be eroded. It is because government departments and agencies are bound by the Governor's performance pledges. Therefore, the question either of capital-raising or erosion of service quality will not arise.

The Liberal Party is of the view that the Government may consider freezing the rates. It is because at present many members of the public are property owners. To businessmen, rates also constitute a burden which would dampen their desire to carry on with their businesses. If the Government acts according to the plea the Liberal Party has been making for the past two years to the effect that the rates be frozen, this will help boost commercial activities. Of course, other inflationary pressures to which businessmen are subject are determined by market force and the Government cannot do much in this respect. We believe that such pressures, far from dampening the businessmen's desire to carry on, will heighten it so that more job opportunities will be created.

I hereby propose the amendment.

Question on Mr Howard YOUNG's amendment proposed.

PRESIDENT: As Mr Frederick FUNG has given notice to move an amendment to Mr Howard YOUNG's amendment, I now call upon Mr Frederick FUNG to speak and to move his amendment.

MR FREDERICK FUNG moved the following amendment to Mr Howard YOUNG's amendment to Dr Conrad LAM's motion:

"To insert ", public housing rentals, railway fares" before "and rates"."

MR FREDERICK FUNG (in Cantonese): Mr President, I recently proposed amendments to a number of motions, not because I wanted to, as described by the press, deliberately build up an image of being the so-called "king of amendments", but because the recent motions were in many ways not in line with the platforms of the Hong Kong Association for Democracy and People's Livelihood (ADPL) to which I belong. Hence, I hope to move certain amendments pursuant to ADPL's political ideologies. Of course, I always hope that my amendments will get through and the Government will implement the policies accordingly.

Regarding today's motion, I find Dr the Honourable Conrad LAM more generous and reasonable, because he only left out the freezing of rates, which means the residents in private sector housing may not benefit from his motion. Conversely, the Honourable Howard YOUNG's amendment is comparatively mean because he wants to delete the part on freezing public housing rentals. In this way, public housing residents cannot benefit from his motion if it is carried. He also does not urge the freezing of railway fares, so that the general public cannot enjoy any benefits in this regard. I wonder if Mr Howard YOUNG knows that residents of public housing estates cannot benefit from the freezing of rates at all. The Government froze the rates three years ago. According to the present method of rental calculation adopted by the Housing Authority, any benefit from frozen rates cannot and will not be shifted to public housing residents. Before me is the original motion and the amendment motion. Dr LAM's motion brings benefit to residents of public housing estates but not to their private housing counterparts. Conversely, Mr YOUNG's amendment brings benefit to the private sector housing but not to the residents of public housing estates. Would not a combination of these two be perfect? Hence, I move this amendment, hoping to benefit all the people living either in public or private housing, to alleviate the financial burden of the general public and to genuinely bring exemptions and benefits to the residents.

First of all, I would like to speak on the issue of fees and charges of government services. Among all such charges, I think medical charges stand out. In 1994-95, the Government increased medical charges twice at a rate higher than inflation. In fact, since 1993, the Government has been emphasizing the need to solve the problem of rising medical costs. It is regrettable that, after two or three years, no effective measures have been formulated to contain the rising medical costs, and the Government has continued to raise the charges each year and even introduced itemized medical charges. How would the general public readily subsidize the ever-rising medical costs? I think the Government should increase its commitment to medical services, increase the medical expenditure, and review the causes of the rising costs. Meanwhile, it should freeze the increase in medical fees and stop individual hospitals from implementing itemized charges.

As regards public housing rentals, the present urban public housing rentals are as high as \$53.2 per square metre. For a low-income family of four, the monthly rent will amount to over \$2,000, which is quite a heavy burden to

the low-income group. A relatively large proportion of residents in public housing estates, in particular the new occupants, are manual workers. We are confronted with problems such as competition from imported workers, relocation of factories to China, soaring unemployment rate and increasing underemployment. According to statistics, the wages of workers in the manufacturing sector rose by only 5.8% in real terms in December 1994 as compared with that in December 1993, and the wages of those in the wholesale, retail, import/export trades and hotels sector rose by a mere 2.6% in real terms. It is absolutely unreasonable that rental increase is much higher than the meagre increase in wages. Furthermore, for many residents, the continual increase in rentals does not mean there will be a value-for-money return. Just as Mr Howard YOUNG has just said, there are often things falling from the ceiling; concrete spalling is so serious that even the steel reinforcement is exposed and security facilities are insufficient. Though the Government has now promised to install additional security facilities, it will still take five years to complete the installation work. For those living in Harmony and Trident blocks, security and law and order are yet to be improved. Hence, I consider it necessary to freeze public housing rentals.

As regards the three railways, the financial positions of the railway corporations are in fact rather good as there is a considerable growth in the number of passengers every year. Take MTRC as an example. In 1994, its net profit was as high as \$1.38 billion and patronage increased 3% when compared to 1993, which means a total of 804 million passenger trips. Despite such huge profit, MTRC still applies for fare increase. Thus, I cannot help but ask when MTRC's insatiable desire for profit will be satisfied. The prospect of KCRC is even better than that of MTRC. This year, just the sale of Royal Ascot in Sha Tin, a joint venture of KCRC and a real estate developer, brought \$1 billion profit to KCRC. Last year, KCRC carried 220 million passengers, an increase of 14 million passengers when compared to the 206 million passengers in 1993. There is also a considerable growth in fare revenue. I list the profits of MTRC and KCRC just to highlight the fact that the two railway companies still apply for fare increase despite such large profits. This reflects that the two railway companies are insatiably greedy. It has become a routine practice for the railway companies, the mass carriers, to apply for fare increase every year, and for the Transport Advisory Committee (TAC) to approve such applications. The only action taken by TAC is to slightly lower the increase rate so as to soothe the public opposition. However, the Government, is actually deceiving itself and others because the public still feel aggrieved and their burden of living is still heavy. Worse still, TAC accepts without query whatever reasons put forward by the railways companies to support their applications for fare increase, such as MTRC has to repay its debt, KCRC has to improve its services and LRT has suffered long-standing loss. I find it unreasonable to shift the obligation and the pressure to the public by increasing fares.

In relation to rates, last year the Government put a 20% cap on increase in rates for every two years, and the percentage charge be maintained at 5.5%. In my opinion, small property owners, who neither lease their property for

profit nor engage in property speculation, cannot enjoy any of the benefits brought by the unreasonable soaring of property prices resulting from Government's high land price policy and inadequate efforts to curb the rising land price, but they have to bear the bitterness of the runaway increase in rates that comes with the consequential rise in the rateable value. As for tenants, the effect of the rate increase will be transferred to them, adding to their heavy burden. The Government pointed out last year that if increase in rates was not effected, the tax base would be narrowed. However, according to statistics, even if rates increase is not effected in 1995-96, the proportion of rates in the overall revenue under the Government's general revenue account will only drop from 4% to 3%. As a matter of fact, the freezing of rates for one year will only cause the Treasury to receive about \$1.8 billion less in revenue, which will not pose a major problem to the Government at all. Hence, I wish to combine the two motions and raise a more satisfactory amended motion.

With these remarks, I move the amendment.

Question on Mr Frederick FUNG's amendment to Mr Howard YOUNG's amendment proposed.

MR JIMMY MCGREGOR: Mr President, in an election year, it is to be expected that politicians will champion proposals that will touch the hearts and feel the pockets of the voting public. There is usually a flurry of complaints against the Government per se, against government inefficiency, government policies, the Government's uncaring and hard hearted attitudes towards those who have the vote. Hong Kong is no exception to the general rule that at election time, the Government and its performance provide a lovely soft punch bag for candidates to thump. The only thing better than thumping the Government is asking, no, demanding, that the voters be given cash money either by rebate or savings.

It is a great pity in regard to the construction and function of this assembly that the legislature does not provide a party in power and that, therefore, there is no real responsibility resting on the Council to ensure that measures proposed in relation to government revenue and expenditure are based on a thorough and detailed examination and approval by a party machine which is itself responsible for the Government of the territory. It is a great pity that that is not the system which applies as yet in Hong Kong. If it was, we would not be listening to so many dark proposals.

It will not be surprising to Members that I oppose both the original motion and its self-serving amendments. In my view, the proposal and amendments are the worst kind of vote catching gimmicks aimed at a rather confused electorate most of whom naturally place money above politics. There is no merit, in my view, in these proposals. We all know that the policy of the Government has long been based on the recovery of costs for services by a steady increase of fees and charges, sometimes each year, to take account of inflation and expansion and improvement of these services. The policy has

served Hong Kong long and very well. The only hiccups have been caused when the Government has failed to increase fees and charges with sufficient speed to keep up with inflation and rising real costs. Where substantial increases have been proposed, there has been a scream to high heaven from all and sundry, including legislators, about unreasonably high increases. We have pressed upon the Government the need to increase fees annually if possible to ensure gentle steps. We have done the same thing with increases in franchise utilities.

Hence, today, it is suggested that this sound and proven policy be set aside, that relatively harmless annual increases be delayed or set aside. The cost of such measures is not small and the almost inevitable result is that next year or the year after, the legislature will be asked to approve increases which will have to take into account possibly substantial multi-year movements in inflation and real costs. There will again be a howl of rage and we will hear a good deal about government inefficiency and so on. But of course, the Legislative Council Election will be over and there will be greater understanding of the need to balance charges against costs.

The policy is clear. It is effective and relatively inoffensive. Politics should not be allowed to affect sound government practice. I hope the Council will reject both the motion and the amendments. If by some mischance, the motion succeeds, I hope the Financial Secretary in the Government will ignore it and continue to apply the present prudent consumer friendly practice. I abhor the motion and the amendment which I think have no merits whatsoever.

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

MR WONG WAI YIN (in Cantonese): Madam Deputy, before I start to deliver my speech, I would like to make a brief response to what the Honourable McGREGOR has just said. As the first sentence of his speech has it, "in an election year, it is to be expected that politicians will champion proposals that will touch the hearts and feel the pockets of the voting public", the core of this matter is whether the public are interested in the problems concerned. If the public are not concerned about the problems, or the problems are of no immediate concern to them, then whatever you have done and no matter how you have canvassed votes, the voters will not cast their votes for you. In fact, the problems that we are facing today are of immediate concern to everyone in the territory, and these problems are not something we purposely fabricated.

Madam Deputy, the prevailing problems of high inflation and unemployment are no longer some ordinary social phenomena, but have gradually developed into some sort of acute social problems involving life and death. According to the information provided by the Coroner's Court, 54% of people who committed suicide last year were unemployed, an increase of 8% over that of 1993. Over the past six months, the Samaritan Befrienders Hong

Kong received more cases than last year. People resorted to it for help because they were unemployed or having problems in occupations. They said that they had been unemployed for some time, but dared not tell their families about it, and falsely claimed that they still had a job. Such kind of people are mainly adults aged between 30 to 35.

Madam Deputy, the people of Hong Kong have all along enjoyed a high reputation for their diligence. Whoever unemployed idling at home will usually be looked at with strange eyes. If they are so unfortunate as to become unemployed due to factories closing down or businesses winding up, the enormous stress and emotional distress they suffered are not hard to understand. Moreover, as Hong Kong is yet to have a good social security system, whoever out of a job is out of means to feed himself. The situation of countries in Europe and America is quite different, there the unemployed can receive relief payments from their governments, so that their standard of living is safeguarded to a certain extent. Here in Hong Kong, the income of an ordinary "wage earner" is barely sufficient to pay for their daily necessities. Under the near double-digit high inflation rate as at present, the purchasing power of the money earned is eroded. With the prices of all commodities soaring and expenses rising every day, the burden of living is pressing. If the Government still does not step up positive measures to alleviate the burden brought about by high inflation and unemployment on the public, I believe that other social problems will come one after another.

According to the conservative estimation of the Government, the total number of unemployed and underemployed people in the territory is around 120000, which indicates that at least of 120000 families in the territory are in a sorry plight. In May, when the unemployment rate stood at 3%, some unemployed people committed suicide hoping to plead with the Government to take this problem seriously, and to take immediate steps to improve the plight of the public.

The purpose of today's motion debate moved by the Democratic Party is to ask the Government to freeze all its fees and charges, and to as far as it can, exert influence on the Housing Authority and the railway corporations to freeze public housing rentals and railway fares respectively for one year, in order to alleviate the burden of the general public.

Madam Deputy, my speech will concentrate on the mass transit railway system.

For the general public in the territory, the monthly expenditure on transport is quite high because over 80% of them have to take public transport to go to work or school. Any increase in public transport fares will increase their daily expenditure, the pressure is particularly felt by those living in the new towns.

We do understand that public transport undertakings have a responsibility to their shareholders to earn a reasonable amount of return. Nevertheless, they must not forget being franchised undertakings and public service corporations, they are responsible for the provision of reasonable and cheap transportation services to the general public. Furthermore, due to the high population density in Hong Kong, corporations providing various transportation services usually earn handsome profits every year. Therefore, freezing the fares for one year will not only have no impact on such public service corporations in terms of revenue, but can even force them to fulfill their obligations of serving the community.

Take the Mass Transit Railway Corporation (MTRC) as an example, it had a considerable surplus of \$1 billion last year. Even if the fares remain unchanged in 1995, the earnings will only be reduced by \$240 million. Having regard to the annual surplus of the MTRC and the growth in the number of passengers, it can still have a lot to spare with the fares frozen. Moreover, development of the sites along the Airport Railway in the years ahead, will bring a revenue of \$9 billion to the MTRC. In view of such promising prospect, there is no reason the fares cannot be frozen for one year in order to alleviate the burden of the public regarding the expenditure on transportation.

The financial situation of the Kowloon-Canton Railway Corporation (KCRC) is even better than that of the MTRC. The KCRC almost has no liabilities at all (it owes only \$500 million), with a low interest burden, earning a profit of \$1.1 billion last year and having a sufficient Development Reserve (amounting to over \$2.45 billion). Despite the slight deficit of \$160 million in its Light Rail Division, in regard to the overall financial situation, the KCRC still has a lot to spare. Furthermore, mass transit railway operators, cannot expect to turn the red into black so soon. In fact, there are certain historical factors behind the losses incurred by the Light Rail system during these years. At the moment, it should pool resources to improve its services so as to boost income, and not to recover cost by increasing the fares. Besides, the joint development project of the Royal Ascot is expected to generate earnings of billions of dollars for the KCRC, this will be brought into the next year's account. In this regards, freezing the train fares will not have any significant financial implications, but will enhance the image of these railway corporations, fulfil their undertaking to care for the interests of the general public, and thus help alleviate the heavy burden of living on the public to a large extent.

The Consumer Price Index Report released this May points out that the second major factor contributing to the variation of Consumer Price Index (A) is the MTRC, while the KCRC is the fifth on the list. Therefore, when these public transport corporations consider an increase in fares, its implications on inflation should not be overlooked. Furthermore, according to the estimation of the Airport Authority, the inflation rate will reach 10% a year from now on to 1997, hence we strongly request the railway fares to be frozen for one year.

Madam Deputy, with these remarks, I request the railway fares to be frozen.

MRS MIRIAM LAU (in Cantonese): Madam Deputy, I would like to speak briefly to voice my objection to the part of the original motion which urges the Government to freeze the fares of mass transit railways. Over the past few years inflation remained high; rents and wages - which represent the principal operating costs for businesses — have spiralled. Many businesses are unable to survive. As a result, unemployment skyrocketed. Coupled with the structural transformation of our industries, which is the reason that more and more factories are moving northwards, and unemployment is being aggravated. This is an undisputed fact.

To trace its origin, inflation is undeniably a factor that brought to Hong Kong the situation in which we find ourselves today. For this reason, how to contain inflation should be a subject which the Government should seriously study and explore.

As a matter of fact, the Government did freeze government fees and charges in the past. And that did, to a certain extent, contain inflation. So the spirit of today's motion deserves our support. The point is: could, or rather should the Government freeze the fares of the railways? The Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC) are not state-run transport services. Under the Mass Transit Railway Corporation Ordinance and the Kowloon-Canton Railway Corporation Ordinance the two companies are actually autonomous. They can set their own fares and are not subject to government control. Therefore, there is totally no legal ground to ask the Government to freeze railway fares. The Government simply does not have the power to do so. Of course, according to Section 20 of the Mass Transit Railway Corporation Ordinance and Section 6 of the Kowloon-Canton Railway Corporation Ordinance, the Government may, for the interests of the public, give directions to the two companies; and if as a result the companies act contrary to prudent commercial principles, they shall be entitled to compensation. In the end, after having made a circuit, it is still the Government who has to spend the money and the taxpayers who are to pay. Should we actually encourage a principle which makes tax-payers subsidize public transport or commuters? This is a point which we should consider carefully. This is because if we set such a precedent, it might pave the way for nationalization of Hong Kong's public transport. If we head of towards this direction, we should think about this very carefully: think of what the Kowloon-Canton Railway was like during the 71 years when it was run by the Government's railway department; and think of what the Kowloon-Canton Railway is like some 10-odd years after it has been run by the KCRC. If only we think it over carefully enough, if we compare the past with the present, we should be able to tell ourselves whether we should head towards nationalization.

We certainly hope that fare rise for public transport can be kept to the minimum, or even no fare rise at all. This is how the public would wish.

However, we must take into account the actual operating conditions of the companies in question, and to ensure that a high standard of services be maintained. I think it is unwise to force a freeze on the fares or to order public transport not to raise fares. This is because when the situation is such that operation costs are always on the rise, freezing the fares will only sacrifice the quality of services, and in the end it is the public we will suffer. Nevertheless, if the company in question is operating reasonably well, fare rise should be kept to the minimum, or even frozen. The KCRC did reasonably well last year, and its decision not to raise fare has earned the company much applause. I hope very much that the KCRC will continue to do well, so that it can put on the great show again, and that the MTRC will, like the KCRC, come up with such a great show too — that is to say, no fare rise at all. But this we have to see whether its operating conditions could allow.

Nevertheless, there is one area where the Government can be of some help: if only the Government is willing, pressure for fare rise can be alleviated, thereby indirectly depressing inflation. What the Government could do to help is stop, or stop temporarily, asking the two railway companies to pay dividends. When such pressure is removed the companies do not have to worry about having to justify themselves to their share-holders and to make this a factor when considering a fare rise. I do hope the Government will think about it.

Madam Deputy, with these remarks, I support the Honourable Howard YOUNG's amendment.

MR LEE CHEUK-YAN (in Cantonese):

Unemployment and inflation being public enemies of society

Madam Deputy, mounting unemployment and high inflation can be described as the two greatest public enemies of the Hong Kong community and their trend of development has caused growing public concern. Unemployment and underemployment in the territory now stand at a high 4.8% with the number of workers affected hitting the 130000 mark, an all-time high in the past decade. Being unemployed or underemployed will bring about tremendous financial pressures on not only the workers but also their families. In the light of the present upsurge in the number of unemployed, unemployment is no longer a personal matter, but has snowballed to a social problem. One may even go so far as to say should the Government fail to address the problem, it will be a "time bomb" that will sooner or later go off, resulting in a disastrous situation!

On top of unemployment, we have to face the problem of high inflation. The past few months saw an average inflation rate of 9.5%, a big rise in comparison with the average 8.1% of last year. With a sharp resurgence of inflation, the value, and thus the purchasing power, of the money in our pockets

is eroding rapidly, causing a declining standard of living across the board in the territory. The situation has reached a very critical state.

High unemployment and galloping inflation have created a vicious circle — high inflation erodes the people's spending and purchasing power, causing slack business and a downturn in the service and catering industries, which will as a result trigger lay-offs and even the crisis of mass unemployment. A high unemployment rate puts employers in a favourable position to limit the increase of workers' wages. According to the latest figures on wages, as in September last year, the wage rate for worker in the territory only rose by 0.68% in real terms, the lowest since 1991. The figures on wage increase for this March are yet to be released at the end of this month. In view of the spiralling inflation rate in the first quarter of this year and the high unemployment rate, I have good reason to believe that the wage increase in real terms may end up in a negative figure.

High unemployment and inflation rates have made the community jittery and panicky. In the light of the situation, the Government should not just sit back and do nothing to check the growing of these two "public enemies of society". Looking from the historical perspective, the situation this year is particularly worrying.

The plight of double high rates

The last time Hong Kong experienced a high unemployment rate was in 1985-86 when the figure stood at 3%. Yet, inflation registered a low rate at that time, being 3.2% in 1985. Therefore, the territory witnessed a situation of high unemployment and low inflation in 1985-86. The average inflation rate reached as high as 12% in 1991, but unemployment registered a low 1.8%, constituting a situation of low unemployment and high inflation. The Hong Kong people, however, are now plagued by the double high rates of unemployment and inflation. Reviewing the past decade in retrospect, I find the situation this year most alarming with the livelihood of the general public being hardest hit.

The Government's indifference to the snowballing crisis

In the face of the phenomenon of high unemployment and inflation, it is most disappointing that the Government, rather than rectifying the situation by taking appropriate measures, has instead hit the suffering local workforce further by upholding the policy of labour importation, which has "broken the rice bowls of many local workers". What is more, it has introduced various new schemes to bring in foreign labour under all sorts of names such as airport workers, professionals and training personnel, thereby prompting a further rise in unemployment. Moreover, on the front of combating inflation, the Government has introduced earlier this year measures to curb the rise in property prices, but much more has been said than done. As a result, property prices remain high and the inflation rate continues to approach double digits.

By turning a blind eye to the crisis of high unemployment and rampant inflation without making any remedies, the Government has not only made the people's life harder and harder, but has also, in the long run, done harm to the development of Hong Kong's economy, driving the whole society into an unfavourable position. I hereby openly denounce the Government for its policies in this respect.

Freezing of fees as the fundamental relief measure

The vicious circle must be broken. Today's motion calls for the freezing of government fees and charges, public housing rentals, fares and charges of public utilities and rates, which, in my view, is not only the most essential way to curb inflation, but also the easiest and quickest one. In April, 1991 when the inflation rate in Hong Kong reached a staggering high of 13.9%, the Financial Secretary introduced a policy of freezing government fees and charges, public housing rentals and charges of public utilities. As a consequence, the inflation rate went down to 9.9% at the end of 1991 and further to 8.9% in April, 1992. It can be seen that the freezing of fees is nothing new. It was a measure that the Government adopted in 1991. Against the present backdrop of high unemployment and rising inflation, the Government should once again adopt the policy to alleviate the burden of the general public, should it not?

I support a blanket freezing of various government fees and charges, public housing rentals, mass transit railway fares and rates for at least one year. In my opinion, such items should also include bus fares, taxi fares and telephone fees, and so on. Among these items, I wish to talk about the government fees and charges of public utilities in detail.

The upward spiral of government fees

In fixing the levels of the fees or charges of its services, the Government seeks to make "profits" from some of the service items, in addition to the recovery of the full cost involved. That is where the crux of the matter lies. The current "user pays" principle, coupled with the Government's mentality of "seeking returns as a private business does", further push the charges of government services upward, unnecessarily adding to the burden of the public: As a matter of fact, the portion of the Government's revenue under the general revenue account has been on the rise in recent years.

Let me turn to the rise in charges of public utilities, in particular the fare increase of the three railways. I would say the Honourable Mrs Miriam LAU has won by a "technical knockout" in arguing that the Government has no authority to freeze the fares. However, if Members really want to take a step in this direction, we may press for a transfer of the fare adjustment mechanism of the three railway back to the Legislative Council, so that any fare increases in the future will be subject to the approval of this Council. By so doing, the fare rises of the three railways will then be brought under control.

The buzzer sounded a continuous beep.

MADAM DEPUTY: Mr LEE, I am afraid you have to stop.

MRS SELINA CHOW (in Cantonese): Madam Deputy, it is undeniable that Hong Kong is riddled with problems like persistent high inflation, waning consumer confidence and so on. These, coupled with rising unemployment, result in a sluggish economy, a lack-lustre market, and anguish public feelings.

The Liberal Party believes that under a situation where there is a generally sluggish economy, a freeze on fees and charges of government services and rates for a period of one year will have a calming effect on public sentiments, lest over-intense public anxieties would trigger off economic and confidence crises of an even larger scale. Moreover, leaving more money in the pockets of the citizens is also helpful in stimulating consumption and vitalizing the market.

Given the ample reserves of the Treasury, a freeze on government charges for one year will have no effect at all on the Government's overall financial soundness. But it can lessen the burden of the citizens. Furthermore, freezing the rates will also directly reduce business's operation costs, which will certainly be helpful to tide employers and factory owners over this economic recession. In the meantime, it will be helpful to save companies from winding up, to avoid an even larger unemployment wave.

We all understand that persistent high inflation rate is already plaguing businesses. The Government's sewage charges is little short of adding extra burden to restaurant owners and factory owners. We learnt recently that the Urban Council would increase restaurant's licence fee by as much as 20%, which may be described as adding insult to injury. Not only will this make business more difficult to restaurants and eating establishments, it will constitute extra burden to the public, since the restaurants will transfer the additional cost to the consumers. Some Councillors of the Urban Council — some of them are present here, too — explained that the purpose of raising license fees was that the Urban Council did not want to subsidize privately-run business. However, we should ask why the cost of handling licensing matters would increase so much? Has utmost efforts been put in the area of cost control? Will the additional costs shift to the consumers indirectly in the end? In fact, this situation is not exclusive to the Urban Council. All government departments have to be self-financing in the area of licensing charges, and this formula of self-financing is adopted to subsidize government expenses and costs. However are those costs and expenses incurred for the maximum benefits of the citizens, who are, in this case, the consumers of those services? Have those departments achieved the best possible cost-effectiveness?

I believe that all government departments, as well as Councillors or staff of the Urban Council or the Urban Services Department, should give us a reasonable explanation. The point is that we should not encourage a bureaucratic way of work, and that the Government should not simply follow the beaten track, ignore the prevalent circumstances and conditions, and just insist on some rigid inflexible so-called principles. I believe that as there is an economic downturn the Government should come up with some flexible and creative measures to lessen the burden of the citizens.

Members from the Liberal Party mentioned earlier that we opposed to force the Housing Authority into freezing rent for the rental public housing, and the fares of the three railways. This is because the Housing Authority as well as the railway companies are all financially independent. Meanwhile, those organizations have their own boards of directors or management bodies, so they should have their rights as well as responsibilities. If the Government suddenly intervened in the internal operations or the financial decisions of statutory bodies, that would constitute unnecessary intervention in their operations. If such were the case, why did not the Government manage all services all by itself right from the very beginning and run all the projects? As such it would not have needed independent organizations to manage them. The Government assign independent organizations to manage them because the independent organizations are to operate on financial and commercial principles and seek maximum cost effectiveness. We cannot expect these organizations to benefit from this independence and flexibility for financial results if there is active intervention. This is something we cannot agree with.

Though we do not advocate regulatory control of public housing rent, since the Housing Authority plays the role of a lessor, it should be very responsive to market conditions. Before rents are set considerations should be given to market conditions and public sentiments. We understand that the Housing Authority has operation costs to bear, but we hope the Housing Authority would take a broad and long-term view and adopt special measures under special circumstances. Pegging the rent of commercial premises of the public housing to market value is somewhat too ossified. Actual circumstances are not taken into account. Worse yet, a vicious circle will form and further push up market rent of the private sector. By the way, in what is called market value there is an element of commercial profits. Whether the Housing Authority should continue its practice of calculating the value of rent for public housing commercial premises by referring to market rent is something that we should think over again.

As far as rent is concerned, I want to take this opportunity to urge statutory bodies and private companies to think of living through good times and bad times together and to take a broader view and seek long-term benefits for the whole community. Although free economy does not advocate rent control, rent rising too high is no less than killing the hen that lays eggs, and the loss will outweigh the gains.

Madam Deputy, with these remarks, I support the Honourable Howard YOUNG's amendment.

MR FRED LI (in Cantonese): Madam Deputy, before I deliver my speech from the draft I have here, I would like to respond to some of the views expressed by the Honourable Mrs Selina CHOW in respect of the Urban Council. Today's motion with regard to government fees and charges does not cover Urban Council fees and charges. I specifically asked Mr K C KWONG about this and learnt that government fees and charges do not include the Housing Authority's public housing rents and the two municipal councils' fees and charges. Because these bodies are financially autonomous, the present motion does not cover the fees and charges collected by the Urban Council. However, Mrs CHOW mentioned the question of licence fees, which is a much-talked-about subject these days. We in the Urban Council have discussed this matter and I would like to say a few words about it here.

The Urban Council collects licence fees from restaurants and eating houses ranging from sizes of 500 sq ft to 60000 sq ft. I would like to tell Members that as far as large restaurants of over 50000 sq ft are concerned a 20% increase in licence fee would work out to just \$60 extra per day. Members would see how much the \$60 increase in licence fee per day would represent in terms of a percentage of the restaurant's daily business turnover. In comparatively terms, the sewage surcharge is vastly different. Let us assume that the annual increase in licence fee for an eating house of 500 sq ft is \$490, that is to say, a 20% increase or \$1 to \$2 extra per day. Would this increase constitute a serious blow to the eating house? Besides, should we subsidize them with public money? If licence fees are not increased, the Urban Council will incur a deficit. I hope Members will seriously consider this situation. I hope they will not solely view this 20% increase in terms of a shocking excess over the inflation rate and hence conclude that it will fuel inflation. I feel that we have to look at facts and figure out the reasons in respect of every matter. We in the Democratic Party are not supporting increases in fees and charges. But, in respect of this matter, are we to have fewer inspections of water in the fish tanks of restaurants and eating houses? If inspection of water in the fish tanks is to be stepped up, more expenditure will be incurred and the extra expenditure will need to be recovered from licence fees. The Urban Council need to rely on income from rates for its operations and yet there is now a proposal to freeze the rates. The proposal is supported by the Honourable Howard YOUNG. But if the Urban Council loses its income from rates, is it to give up inspecting water in the fish tanks? Is the public's basic health protection in this respect to be dispensed with? I think a balance should be struck.

Let me return to the present motion moved by Dr the Honourable Conrad LAM today. I shall focus on discussing the operation of the Mass Transit Railway and following that I shall supplement the comments on public housing rents made by my colleagues earlier on.

Ever since its inception, the Mass Transit Railway Corporation (MTRC) has been operating according to commercial principles. It is beyond doubt that this mode of operation is good and the MTRC has achieved great efficiency and success. But the MTRC, operating according to commercial principles, is a corporation wholly owned by the Government. Its objective is to achieve high efficiency, low costs and the optimum deployment of resources with the ultimate target of providing the best services to consumers at the lowest costs and fares. However, it seems that in recent years the management of the MTRC has forgotten the original purpose of setting up the corporation, which is to provide dependable, inexpensive and efficient transport services to the public. The MTRC has been increasing fares each year based on the inflation rate. Its rate of fare increases is not subject to any monitoring or regulation. It has been ignoring the public's burden and affordability. It is bent on getting the 10% targeted return. This way of doing things grossly breaches the original purpose of setting up the corporation and runs counter to the objective of serving the public.

Inflation has been staying high in recent years but the MTRC is taking the lead every year to raise its fares. It is like "adding fuel" to the already high rate of inflation and further aggravating the burden of the public. But currently the MTRC's decision to raise fares is not subject to any monitoring or regulation. Therefore, we can do nothing except to make a plea to the management of the MTRC to understand the plight of the general public and freeze its fares for one year in response to the present motion moved by the Democratic Party. Over the long term, the Democratic Party thinks that the mechanism for fare increases by the MTRC should be subject to monitoring and regulation by the Transport Advisory Committee and that the fare increase proposals be presented to the Legislative Council for endorsement in the form of subsidiary legislation so as to ensure that the interests of the public will not be ignored.

With regard to public housing rents, the Management and Operation Committee of the Housing Authority (HA) formally passed a resolution on 24 June to increase rents by an average rate of 17.5%. Normally speaking, the affected households will need to pay \$200 extra in rent. Of course, in terms of figures, the rent increases are not steep. But prior to 24 June, I had visited some public housing tenants to ask of their opinions. The tenants affected by rent increases would, more often than not, invite me into their flats and tell me of their problems, such as their failure to find employment, the male householder being out of job and still looking for one. Some other tenants said that they were "on saline drip" which means underemployment and that they were feeling tremendous pressure from the added burden. Therefore, I feel that, in view of the sound financial condition of the HA and the plight of the low income people, the freezing of rents for one year would not have any serious effect on the financial condition of the HA. Hence, I call on Members to give, as I do, Dr Conrad LAM's motion their full support.

I so submit.

DR TANG SIU-TONG (in Cantonese): Madam Deputy, the Government has not tackled the problem of high unemployment in the right way, and the general public have been enraged. The findings of a survey conducted by a television station last month show that 70% of the respondents were greatly dissatisfied with the Government as a result of high unemployment, and 80% of them demanded an immediate halt to the labour importation scheme and the introduction of measures to safeguard the employment of local workers. The findings of this research undoubtedly reflect the sentiments of the public. The statistics released by the Government in May indicate that the unemployment rate has dropped slightly from 3% of April to 2.9%, yet underemployment rate has increased from 1.5% to 1.9%. Despite Government's intention to play down the problem with a view to alleviating the pounding of the media, a recent study by a trade union found that it was the first time in this decade that the unemployment rate shoots through the double-digit level, reaching 12.1%, which is a quarter higher than the figure 9.4% recorded in the last study. It is an undeniable truth that the population of unemployed people is growing larger and larger. I deeply regret that the Government is attempting to play down the problem as this reflects its passiveness and insincerity in overcoming the unemployment crisis.

Unemployment and poverty are born twins. Those who are unemployed often find themselves in some financial crisis. The number of applications for Comprehensive Social Security Assistance payment on the ground of unemployment reached 5482 this April, an increase of 35% compared to that of the same period last year. According to the statistics of 1991, the average size of a family is 3.4 people. And those who are unemployed are usually the major financial support or the major supplementary financial support of a family. Assuming the unemployment rate to be 3%, that means 84000 families are being affected, together with the estimated underemployment rate of the same percentage, then totally 170000 families in the territory, by conservative estimation, are in a plight of reduced income, and their normal way of life is seriously affected.

In the four days from 4th to 7th last month, four tragedies took place, all involving suicide as a result of unemployment, and two people died unfortunately. Everyone would feel sorry when they are told of such cases. Both psychologists and sociologists agree that unemployment will drive one to resort to self-destruction. According to the statistics, among the 630-odd people who killed themselves in 1993, 373 of them were unemployed and 128 people were physically strong and aged between 24 to 49; and in 1994 close to 750 people died in suicide, among them 405 did not have a job and 157 were from the above age group. It is thus necessary for the Government to pay special attention to such a social phenomenon. Life is precious, self-destruction cannot help solving problems completely. My advice to those who are unemployed is not to choose the path of self-destruction just because of some temporary predicaments. If anyone intends to "plead with" the Government or "lodge a complaint" against it by committing suicide, their death is of even little worth.

The year 1995 is certainly a bad year for "the wage-earners". Inflation rate has soared to 9.5%, and the unemployment rate has also rocketed to the highest level in nine years, yet the rate of wage increase continued to relax. But this is not the end of the list, we have all kinds of increases, in the fares and charges of public utilities, including the two electricity suppliers, the Kowloon Motor Bus Company, the three railways and the Towngas; in various fees and charges of government services, namely rates, postal charges; medical charges, tunnel tax of the two harbour crossings, and the newly imposed sewage charges. The Housing Society and the Housing Authority also have plans to increase the rentals of public housing in April and September respectively. On the other hand, necessary expenditure, the prices of commercial goods and rent of private flats and so on will go upward as a result. As a saying goes, "one income but hundreds of expenditure items". How can the general public bear such heavy burden of living?

Instead of looking on unconcerned, the Government should assist the unemployed and the grassroots people to live through this difficult year. Having regard to the enormous surplus of the Housing Authority, the handsome profits of the Kowloon-Canton Railway and the Mass Transit Railway Corporations, and the considerable amount of surplus of the Government itself, the Government should take the lead and immediately freeze the various fees and charges of public services and public housing rentals for one year, and to encourage other public utilities to follow suit. With such sound financial position, it is only right to freeze public housing rentals, the rates and various fees and charges of public services. In fact, I have already put forward the above proposal last month (that is on 7 June) during the motion debate concerning "a crack down on illegal foreign workers", but unfortunately the Government did not have any response at that time; I wonder if there is any today.

Madam Deputy, I would like to highlight the problem of the increase in public housing rentals. The Housing Authority has decided to increase the rentals of 87 housing estates under its management with effect from this September and the average rate of increase is 17.5% and 220000 families will be affected. As it is known to all, the majority of public housing tenants are grassroots people earning relatively low income hence the impact of high unemployment rate and rising inflation rate this year are most significant on them. The Housing Authority emphasized the the special factor of unemployment had already been taken into consideration when working out the increase of rentals this year, therefore the rate of increase was more moderate than the 17.8% in 1993. The Housing Authority also held that such increase in rentals would only push up the inflation rate by 0.3 percentage point, and hence would not aggravate inflation. I think such remarks of the Housing Authority are not valid. Despite that the rate of increase is lower than that of 1993, but the increase in money terms this time is higher than that of 1993. What they claimed a lower average rate of increase is just a smoke screen to divert public attention. As regards the remark "an increase in rentals will not push up inflation", it is simply obscurantism. I agree that an increase in public housing

rentals is not too wrong, however, having regard to the particular circumstances of this year, the Government should understand the situation and show solicitude for the public by freezing public housing rentals. If rentals is increased against public sentiments, this will not only place additional burden on the grassroots people, but will also set an example for increase of other fees and charges, and thus giving way to galloping inflation and arousing the discontent of the public.

On one occasion in 1991, the Government froze all fees and charges of public services and rentals of public housing as a measure to combat high inflation, and had successfully pushed down the rate of inflation to single-digit level. The living of the general public is very difficult this year, due to the soaring unemployment rate, therefore the appropriate step that the Government should take to care for the general public is to implement the same measures again.

Madam Deputy, with these remarks, I support the motion and the amendments to the motion as proposed by the Honourable Frederick FUNG.

DR HUANG CHEN-YA (in Cantonese): Madam Deputy, the Legislative Council discussed the question of inflation in May 1991. At that time the inflation rate was staying high at a two-digit level. Because of this the Government announced a freeze on various fees and charges. Today, the inflation rate in Hong Kong has not yet reached a two-digit level but is already very close to it. The average inflation rate for the first five months of this year was 9.4%, higher than the past three years (that is, 1992 to 1994). Added to this, the unemployment rate is staying high at present, indeed the highest in nine years. Therefore, under the dual pressure of high inflation and rising unemployment, the quality of life of the wage-earners is steadily declining. Many people are worried that they may lose their jobs any time, and their savings are being eroded by inflation. If the Government continues to ignore the question of inflation, this will mean a total disregard of the plight of the public! Moreover, the persistently high inflation rate has been dealing a heavy blow to the competitiveness of Hong Kong's service and manufacturing industries. No wonder the tourism industry's earnings this year have drastically dropped. The hotel occupancy rate has also dropped. This reflects the fact that the overall economy of Hong Kong is being seriously jeopardized by inflation.

Therefore, the Government must show sincerity in combating inflation and, with reference to the positive measures it adopted in May 1991, freeze all government fees and charges as well as public housing rents and mass transit fares which have a bearing on people's basic livelihood. Madam Deputy, we know that the mentality people in expectation of inflation may have will help push up inflation. High inflation in recent years has led to high expectation of inflation. Hence, if the Government takes the lead in curbing inflation and shows its determination to combat it, this will help reduce inflationary pressure which inflation expectations will generate.

According to data provided by the Finance Branch, 46 departments increased their fees and charges during 1995 and about 20 departments, including the Environmental Production Department, the Marine Department and the Lands Department, are planning to increase fees and charges in July or after July. What is worth noting is that the government fees and charges we propose to freeze not only relate to people's basic livelihood but also relate to charges levied on businesses. During the current economic downturn, to freeze charges levied on businesses would lighten the cost burden borne by business concerns or enterprises and would avoid increased costs being passed onto consumers resulting in an inflation surge. Therefore, the freezing by the Government of charges levied on businesses would help ease inflationary pressure.

The freezing of government fees and charges would of course affect revenue. However, having regard to our huge fiscal reserves, this would not be much of a problem. The Government had a fiscal surplus of about 7.7 billion in the last financial year and the fiscal reserves are expected to reach \$145.5 billion in 1995-96.

The aforesaid measures are of course short-term measures to ease inflation. What is more important is that the Government should examine the structural causes of inflation in Hong Kong and formulate long-term measures. The current high inflation is cost-led. Costs mainly include rents and wages. In the motion debate on this subject last held, we already requested the Government to increase land supply and remove developers' monopoly in order to ease the problem of high rent. As regards labour costs, the Government should formulate a long-term economic development strategy, actively help promote labour productivity, sharpen the competitive edge of enterprises and increase the added value of products so as to reduce the weighting of labour costs.

Lastly, we support the Honourable Frederick FUNG's amendment motion to freeze the rates. In 1995-96, the overall increase in rates is 11% which is higher than inflation. This adds to the already heavy burden of the public. Increases in rates will inevitably lead to rent rises which will push up inflation. At the same time, rent is one of the main factors having a bearing on the consumer price index. Even a slight upward readjustment of rents will lead to a surge in inflation. Hence, we should not lower our guard in relation to the chain reaction brought about by a rates increase.

At a time when inflation is staying high, the Government should seriously consider freezing the rates. We are of the view that the Government should cut the present rates levying percentage from 5.5% to 5% so that members of the public would not have to pay higher rates and rents in the coming year. Although this would cause a 9% drop in rates income, that is, a loss of \$550 million in revenue, yet this would be insignificant having regard to the huge reserves held by the Treasury.

only means to combat inflation in the service industry will have limited effect. The Government can do something in relation to the inflationary pressures in the area of housing and transport. I hope the Government will show sincerity and contribute to the general effort to get inflation under control. The Government should not become numb to inflation or ignore it merely because inflation is a long-standing phenomenon in Hong Kong.

With these remarks, I support the original motion.

DR LAM KUI-CHUN (in Cantonese):

Madam Deputy,

Debating is mere posturing, it is not practical because it has gone off the rails;
Motion is amended and re-amended, every stunt is being tried to get votes;
Voters, please be seated, a sumptuous banquet is being laid on;
I'll see to it you are well provided as for clothing, food, housing and transport;
necessities will be cheap.
Three per cent unemployment, one hundred per cent no increase in charges;
Low rent for public housing plus free maintenance, private property ownership
won't disqualify you from the freebie.

Bosses used to look great, they had a surfeit of delicacies;
Now horses are not allowed to feed, a new breed of people come to power and you
are done for;
They say "collusion between bureaucrats and businessmen" is not far- fetched, it
would be no use even if public transport carriers kow-tow;
Importation of labour is a crime that reeks to high heaven, transport carriers raising
fares be subject to a behaviour bond.
Transport, gas and power services are branded "poor" while wages and welfare
benefits get across-the-board increases;
All charge increases are out of the question, but services are to run without fail.

Is democracy a bridge to God, will money fall from the sky?
If no money, ask the Government for more, if unemployed, have no fear of a price
rise in food.
Sometimes there is no need to ask the Supreme God of Heaven, wealth will burst
out from the rock:
Wool may not come out of sheep, if things could be had for free, why bother?

Central planning controls everything, yet China discards it none the less; Western welfarism is bankrupt, but Hong Kong wants to import it!

Madam Deputy TU, free lunches are going to be distributed all round.

The Government won't mind if the motion is carried or otherwise, won't you agree? Won't you agree?

MR TAM YIU-CHUNG (in Cantonese): Madam Deputy, a while ago Dr the Honourable LAM Kui-chun recited a doggerel of sorts. Unfortunately, it was not accompanied by music and its effect was less than ideal. If you, Madam Deputy, had tuned in to the English channel to hear the translation, you might have missed the nuances of the doggerel.

The unemployment rate at present has reached its nine-year high. According to government figures, the unemployed and underemployed people number more than 100000. The labour sector is very worried. We are seeing staff retrenchment being carried out by some large organizations and corporations.

Yesterday, at the Legislative Council Complaints Division, I received a complaint from the trade union of the telecommunication industry. They said they were worried that paging centres would relocate from Hong Kong to mainland China. In order to protect local employment opportunities, they hoped the Government would devise ways and means to prevent the paging companies from relocating their paging centres out of Hong Kong on the pretext of availability of dedicated channels. Relocation of paging centres to mainland China would mean that 20000 to 30000 workers in the paging industry would face unemployment. Therefore, Hong Kong workers are subject to considerable pressure. They have to face competition from imported workers and they have to face the prospect of workers being replaced by state-of-the-art technology. And, apart from unemployment and the difficulty of finding a job, wages are being suppressed. At the same time, the inflation rate is staying high. It is estimated that the inflation rate for the whole year will approach 10%. To wage-earners, a 10% inflation rate is of course very much on the high side. But they can still scrimp in order to get by. However, to a wage-earner who has lost his job or is underemployed, the pressure on him would be enormous. I would describe unemployment and inflation as axes that attack a wage-earner on either side. People from the sandwich class who have home mortgages to pay off are in an even sorrier plight. It is because, though they may cut back on all other expenses, they have to find money to pay their home mortgage. The Government must take action and make best use of its clout to curb charge increases by public utility corporations in order to ease the pressure on the public. Of the measures that can be adopted, the most effective would be for the Government to set an example by taking the lead to freeze its fees and charges.

Last week and early this week, the Hong Kong Federation of Trade Unions (FTU) separately met the Governor and Chinese officials to reflect to them the FTU's views on rising unemployment and inflation. The FTU put

forward a 10-point proposal which covered a much wider scope than today's motion debate. Apart from asking the Government to freeze its fees and charges and to curb inflation, the proposal urged the Government to adopt a number of measures to improve the employment situation.

The FTU is of the view that the most pressing thing to be done is to stop the labour importation scheme. With regard to this point, I already fully explained it in our past debates and I shall not repeat it. I just want to talk about what the Government can do to alleviate the burden or eliminate the economic pressure on the public.

The FTU is of the opinion that the Government should first of all consider providing emergency assistance to unemployed workers. I would like to emphasize here that I am not advocating welfarism through the proposal to provide emergency assistance. As a matter of fact, if the workers are out of work their livelihood will become insecure. If the workers have work to do, they will have no need of government assistance. I hope the Government will consider how to provide emergency economic assistance to the unemployed workers.

Let me turn to discuss public housing residents. If their breadwinners are out of job for a period of time, the Government should consider temporarily exempting them from payment of rent. But, unfortunately, the Housing Authority (HA) recently passed a resolution to increase the rents for 87 housing estates with effect from 1 September. The average rate of increase is as high as 17.5% and in respect of some housing estates the increase even reaches a high of 21.3%. Tenants who are badly-off will find it hard to bear such an increase. The rent increases also run counter to the Government's pledge to curb inflation. I hope members of the HA will consider retracting the decision to increase rents having regard to the present economic climate.

I would like to cite an example to demonstrate how unreasonable it is for the HA to increase the rents. This example in fact derives from a complaint that I received. One of the tenants of an industrial building in Tuen Mun alleged to me that the rent increase, from \$10 per sq ft to \$12 per sq ft, sought by the HA, was too high and unacceptable. The tenant's original intention was to wind up the factory and lay off the 20 workers. Later, he happened to come across a factory building in Kwun Tong which charged no more than \$10 per sq ft in rent. Therefore he decided to carry on with his business. Mr President, Members should be aware that property prices seemed to have fallen a lot during the past two years and rents were adjusted downwards. I do not understand why the HA can keep increasing the rent in respect of its rental units in total disregard of market conditions and contrary to market trends. I find that some of the factory buildings are half vacant. This proves that the HA's rent policy is questionable.

Lastly, I hope the Government will devise ways and means to lighten the livelihood burden of the public. These are my remarks.

MR JAMES TIEN (in Cantonese): Madam Deputy, over the years, especially the last 10 years or so, the so-called positive non-intervention policy of the Administration in relation to the industrial and commercial sector has been working out something like this: Businesses are allowed to make profits, after that the Administration collects taxes and the tax money is used to support community facilities. It is a bit of a pity to see that in the last 10-odd years, manpower shortage has given rise to a 10% annual increase in salary. As a result, inflation has remained high. These days, businesses in the industrial and commercial sector are not making money any more. They fall into decline. The goose that lays the golden eggs is sick. Unemployment has gone up and the Administration is not drawing income from businesses.

In recent years, the Administration has come up with a new way to generate income. In addition to being taxed for the profits made, businesses need to bear a substantial increase in the costs of production because the Administration has adopted a "user pays" policy. For example, while import/export traders had to pay only \$65 for export licences in 1992, they have to pay a high \$180 now, based on a "user pays" calculation. The increase is way above the increase in inflation in the last three years. Before, a company had to pay tax if it made a profit. Now the "user pays" method of charging fees greatly increases costs in the operation of a company, which will hardly be able to make a profit, and to be taxed. The "user pays" policy has enabled the Administration to generate a lot of income for itself, irrespective of whether businesses make profits or not. That is why in recent years the Administration never have to worry about any deficit in its budget.

Moreover, no one can really oppose the "polluter pays" or "user pays" principles. The fact is, recently, restaurants are having problems. Earlier on, bleaching and dyeing factories found it difficult to continue their operations and found it necessary to move their operations out of Hong Kong. All these are causes of high unemployment. This is the point I would like to make today. In the light of the great hardships faced by our businesses, could the Administration consider freezing its fees and charges for a year? This will mean savings for our businesses and boost their profits. They may then employ more workers. Madam Deputy, at the last sitting, you cited an example of a restaurant which needed to pay \$120,000-odd for the water it consumed. Out of the \$120,000, only \$40,000 was water charge. The remaining \$70,000 represents sewage charge and trade effluent surcharge. This is your example, Madam Deputy. The \$70,000 would enable seven persons to stay in employment, supposing the monthly salary of a worker is \$10,000. If the money is taken away by the Administration, seven persons will become jobless. Therefore, at present, when we are faced with an adverse economic climate and high unemployment, the Administration should consider freezing its fees and charges.

Madam Deputy, this is the point I wish to make.

REV FUNG CHI-WOOD (in Cantonese): Madam Deputy, I support the motion moved by Dr the Honourable Conrad LAM of the Democratic Party to freeze for one year government fees and charges, public housing rents and railway fares.

The Executive Council approved fare increases by the Mass Transit Railway, the Kowloon-Canton Railway and the Light Rail Transit with effect from 1 May this year. I would like to focus on discussing railway fare increases.

The Kowloon-Canton Railway Corporation (KCRC) made a net profit of \$1.124 billion in 1994, \$502 million of which was derived from property development. Leaving aside income derived from property development, the growth in profit was as high as 48%. As at the end of December 1994, the KCRC was indebted only to the tune of \$500 million and the interest payable thereon was very small. Up to date, the KCRC has accumulated more than \$2.455 billion in its development reserve fund. Therefore, because of such a sound financial position, the KCRC did not raise fares during 1994. In 1995, in deference to the views of the community and Members, the KCRC did not pay bonus to the Government. I feel that this is a good way of doing things. I hope the KCRC will carry on this way to boost its financial position. Compared with the Mass Transit Railway Corporation (MTRC) which is indebted to the tune of \$18 billion, the financial position of the KCRC is very sound. It should not apply for fare increases without good reason.

Moreover, the KCRC is jointly developing Chun King Villa with private developers. It is estimated that the development will generate an income of \$1 billion which will be credited to next years' accounts. With such bright prospects in terms of profitability, the KCRC should not raise fares from May next year as it had so refrained in 1994.

Although the Light Rail Transit (LRT) suffered a loss of \$160 million last year, the KCRC, being its parent, is amply capable of absorbing the loss having regard to the parent's sound financial position. Moreover, as far as the operation of mass transit systems is concerned, it would not be possible to reverse a losing trend immediately and to turn a profit instead. Therefore, the LRT, which has had no more than a few years' operation experience, should concentrate on improving its services and boosting income, for instance, to step up action against fare evaders.

From early this year to 2000, the KCRC will spend \$7 billion on a series of works to improve its facilities and expand its services. The main work items will include the improvement works to the Kowloon Station, the refurbishment of electrified trains and the Hung Hom Bay development project. With such massive works in the pipeline, the KCRC, being currently in a sound financial position, should have sought to achieve the aim of improving its services through a drawdown on its development reserve fund and through borrowing which could be repaid over a long period of time. It should not hastily seek to

recover the expenditure through fare hikes. The KCRC, being a public sector corporation wholly owned by the Government, has the obligation to serve the public and should not take profit-making as the sole purpose of its operation.

Another point is that many people might have forgotten that a number of years ago students used to enjoy concessionary train fares. But, at present, only the MTRC offers such concession. In contrast, the KCRC which is in a sounder financial position than the MTRC, has cancelled such concession. This is most unfortunate. As an elected Member from the Tai Po and North District constituency, I have heard complaints from parents to the effect that the serious shortage of secondary places in Tai Po and North District has made it necessary for secondary students to attend schools outside the district and that this adds to the parents' burden. Therefore, the KCRC should carry out a self-examination as to when it should reintroduce the student concessionary fare scheme. Madam Deputy, I conducted a survey in 1993 whose findings revealed that 80% of the residents in Tai Po and the North District who travelled on trains had to rely on feeder transport, such as buses, light buses or even the MTR, to reach the train station. Therefore, their transport fares took up a very significant portion of their overall expenditure. Hence, the KCRC should not seek to raise its fares every year as a matter of routine having regard to its sound financial position.

At present, increases in fares and charges by most public utility corporations, particularly the two railway corporations, only need to be approved by the Executive Council without the need to get the Legislative Council's endorsement. Executive Council Members are all appointed by the Governor and they have no public representation base. I very much hope that hereafter the mechanism for fare or charge increases will be such that the increases will not be effective unless agreed to by elected Members of this Council. This will be the best way because it will be based on the popular will and will also cater to the needs of the public. Therefore, I hope that in future a way will be found whereby applications for fare increases by the three railways will be submitted to this Council in the form of subsidiary legislation for scrutiny and endorsement by elected Members of this Council.

Madam Deputy, with these remarks, I, on behalf of the Democratic Party, support the motion.

THE PRESIDENT resumed the Chair.

MR LEE WING-TAT (in Cantonese): Mr President, I speak in support of Dr the Honourable Conrad LAM's motion. I shall focus on discussing property prices and rents for private and public housing.

Inflation in Hong Kong has been staying very high for the past few years. This is beyond question. During the past four years, the inflation rate has been about 10% on average. Although the Financial Secretary indicated during this

year's Budget debate that there was no "quick fix" way, that is, no method that could be capable of immediate implementation, to tackle inflation, yet the Government could well do something which would do little damage to the market mechanism. As a matter of fact, apart from labour resources being in tight supply as explained by the Government, one important factor among the factors which have a bearing on inflation relates to the question of Hong Kong's property prices and rents for private and public housing.

Following last year's publication by the Government of its report on measures to combat speculative activities in the property market, the Government for a brief period showed great determination and proposed a series of plans or measures to combat short-term property speculation, increase land supply and provide more land to the Housing Authority (HA). After a lapse of one year, we discover that although property prices have dropped by an average of 20% to 30% from their peak in 1994, they are still very high and people from the middle and lower income groups still cannot afford them. Unfortunately, after a brief period of readjustment of property prices, the Government was quick to announce that it would not implement the Stage II measures to combat rising property prices. This has made the market doubt if the Government indeed has the long-term determination to combat rising property prices and inflation.

In recent months, although property prices have not been rising sharply, market sentiment has been going strong. Market sources have been predicting a slight rise in private housing prices in the latter half of this year and early next year. Though private housing rents by and large have been rising according to the inflation rate or slightly higher than the inflation rate these few years, yet the rent base has manifestly been very high. Rents for many private flats account for about 25% to 30% of the monthly income of a middle-income household. Measured against whatever criteria, the present level of rents for private housing is not an acceptable one. We are of the view that if the Government does not further address this problem those who purchase or rent private housing in the property market will be in such a situation that they will not be subject to further pressure but their existing burden will not be alleviated either. Therefore, I hope the Financial Secretary or the Secretary for the Treasury, when considering next year's Budget or land disposal programme, will not feel complacent in seeing property prices ease somewhat this year. We must not forget that this 20% price readjustment is insignificant when compared with the 100% rise in property prices and rents during the past few years. People living in private housing are still paying high rents and meeting hefty mortgage payments.

Although, relatively speaking, public housing tenants are protected by the rent policy, this policy does not accord adequate protection. Revision of public housing rents by the HA works out to about 17% in upward readjustment every two years. Despite the fact that this roughly corresponds with the rate of inflation, the pressure on low income people is still very great. As a matter of fact, if the HA can make proper use of the available money, there will be

surpluses even without rent increases. Just imagine this. If the quality of the housing blocks built in earlier years had been better and management had been more efficient, there would have been no need to spend \$1 billion to \$2 billion on maintenance of the housing blocks. According to a Housing Authority paper, if we freeze public housing rents for one year during 1995-96, the loss would only be \$280 million. But in respect of those poorly maintained housing blocks, \$1 billion to \$2 billion would have to be appropriated in one go for the purpose of maintenance. Members can see how money is being wasted.

Mr President, I want to end my speech now. But as Dr the Honourable LAM Kui-chun moments ago buckled down with so much zest to reciting a doggerel of sorts, let me attempt to emulate.

Unemployment reaches an all time high in nine years,
Inflation shoots up to dizzying heights;
Government shakes its head in a helpless gesture,
Bosses move their factories northwards.
Workers without jobs loaf on the streets,
Bosses can still survive on leaner profits;
We propose a freeze on fees and charges,
Not because we only want more votes.

Members are concerned with citizens' well-being,
It is good to reflect this concern;
Citizens picking up a scanty livelihood,
Contribute little to social stability.
Government and Members should reconsider,
Best policy is to introduce a one-year freeze:
Housing Authority has a \$13 billion surplus;
It spends \$1 billion on maintenance.

Good management by Housing Department
Would ensure surplus without rent increases;
The three railways have surpluses year after year,
Inflation-linked fare increases are unreasonable.
Liberal Party has a vacillating stand,
A freeze of rates would benefit businessmen;
Rents and transport fares are increased,
Middle and lower income citizens have a hard time.

Thank you, Mr President.

MR ROGER LUK (in Cantonese): Mr President, I did not intend to speak today but I have changed my mind. Today's debate has been lop-sided, with the exception of the Honourable Jimmy McGREGOR's speech.

Debates in the past month have followed almost the same pattern. One of the two major political parties would move a motion and the other would propose an amendment. Another Member would, as a rule, propose a further amendment. Well, this sure is a weird phenomenon, I can see nothing but a lot of tit-for-tats and manifestations of originality. Today, some Members spoke eloquently about the inadequacies of the Administration in combating inflation and unemployment, and the plight of the lower class. What are things really like? I have been listening for an hour but have heard no one citing any figures to illustrate how difficult the lives of our people are. A lot of them base their accusations of the Administration on a handful of shaky assumptions. So, it appears that the freezing of fees and charges of government services is the right cure.

Let us look at the consumption pattern reflected in the Consumer Price Index (A). The index is based on households with low income and low expenditure. Such households account for 50% of the people in Hong Kong. Supposing the household expenditure for a certain month is \$100, it is found that \$4.5 is spent on public housing rentals, \$0.03 on government fees and charges, \$0.28 on water charge, \$0.02 on postage, \$0.12 on medical expenses (that is out-patient clinics of government hospitals), \$0.55 on school fees, \$0.16 on various licensing fees and \$0.38 on public transport. All these add up to about \$6. If all these are adjusted according to the average inflation rate of 8%, such a household needs to allow an extra of \$0.48, that is about 5%, for every \$100 it spends monthly. Is this called plight? Just think.

The Administration's charging principle lies in the recovery of costs; otherwise public funds will be needed to subsidize users of the various services, which is not fair. Just now, a Member queried the reasonableness of cost calculation, and whether it is fair for people to share those extra government expenditures resulting from loss in efficiency and wastage in government operations. We seem to have forgotten that the Director of Audit is charged with the responsibility of auditing government accounts. There is also a Public Accounts Committee in this Council tasked to examine government reports through public hearings. If there is any squandering of public funds on the Administration's part, it is unthinkable for the Director and the Committee not to have found out over the past few years, unless the Director has not been working hard enough or members of the Committee are blind.

Regarding the freezing of rates, we have had a thorough debate on the matter during the budget debates this year and last year. It is the same old story. Since we already had a discussion during the Budget debate in March on the need to increase rates, I doubt if bringing the issue up again today is allowed under the Standing Orders.

Mr President, I recall that in 1993, the Administration put forward a proposal, for the first time in many years, to adjust the toll for cars using the tunnel. A \$1 increase for all cars was proposed. At that time, the two major political parties joined hands to vote down the proposal. Strangely enough,

motorists were not against increase. And then a request for a toll increase from \$4 to \$7 was made by the Tate's Cairn Tunnel three months ago due to sustained losses. Finally, this Council allowed it to increase the toll to \$6, as a compromise. Just think carefully: are we doing good for or are we doing harm to our people if we curb increases in fees and charges on the pretext of combating inflation or protecting the livelihood of people.

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

MR ALBERT CHAN (in Cantonese): Mr President, I was not prepared to speak, but after listening to the Honourable Roger LUK's speech, I feel like adding a few words.

Just now, Mr LUK pointed out that in Legislative Council debates, as a rule, a major political party will put forward some motions, which will be amended by another major political party. Then a Member will put forward a further amendment. What Mr LUK has forgotten to mention is that after speeches by Members of major political parties, as a rule, some independent Members from the industrial and commercial sector and appointed Members will defend the Administration and will criticize the views of the major political parties. Naturally, Mr LUK is a Member from the said sector or the banking sector. I believe many of the views contained in the explanations given by the Administration later in response to various criticisms will coincide with those mentioned by Mr LUK. I very much hope that this state of affairs will change in September after Members of this Council have been elected afresh. By then, there will not be any appointed Members who eat "political free lunches" in the Legislative Council to defend the Administration.

PRESIDENT: That was not called for. Mr CHAN.

8.00 pm

PRESIDENT: It is now eight o'clock and under Standing Order 8(2) the Council should adjourn.

ATTORNEY GENERAL: Mr President, with your consent, I move that Standing Order 8(2) should be suspended so as to allow the Council's business this evening to be concluded.

Question proposed, put and agreed to.

PRESIDENT: Dr Conrad LAM, do you wish to speak? You have a total of five minutes to speak to all the amendments.

DR CONRAD LAM (in Cantonese): Mr President, I thank Members for their enthusiastic speeches. In my reply, I will not say who is right or who is wrong, as Members speak with different stands and they represent the interests of different classes. Consequently, they have different views on priorities. I think I understand why Members hold different views.

In my reply I will respond to some of the views I heard. First, I want to thank the Honourable Howard YOUNG of the Liberal Party for having eliminated certain flaws in my motion. I do hope this service of the Liberal Party's may be extended to the offices of Members from the Democratic Party in public housing estates: whenever flaws are found, the Liberal Party is there to eliminate them. Unfortunately, Mr YOUNG has also eliminated the most vital part of my motion. Thus, the suffering of the numerous residents living in public housing cannot be alleviated. This is like someone saying to public housing residents that he will plug some holes for them on the one hand but opening big ones in their ceilings on the other.

Mr President, I want to thank the Honourable Frederick FUNG for proposing an amendment, which brings back the soul of my motion. I want to thank him because his proposed amendment seems to have added flair to my motion.

Mr President, among those who spoke, only one or two let me see some consensus, that is, all of us are aware of the fact that Hong Kong people, to a certain extent, have to face considerable hardship in their livelihood. The difference in the views held by people from different parties lies in the different strategies they advocate in helping people cope with such hardship. What is different is a matter of strategy.

I wish to tell Government representatives not to pay heed to the nonsensical proposal of the Member who suggested just now that the Government should do nothing about either the motion or the amendments when either or all of them are carried. The reason is, as mentioned by some Members a short while ago, even in 1991 and 1992, when things were not as bad as they are today, the Government managed to freeze fees and charges of Government services and public housing rentals. Now, it is suggested that railway fares and rates should be frozen on top of the above items. If the motion is carried in this Council but the Government refused to do anything, what will the people think? What kind of a government is it if it only implement plans it initiates from the top but will not do so for the same plans that this Council, having take account the true circumstances of the public, initiates and passes to cope with an even more difficult situation? I do hope the Administration will give the matter more thought before making any move.

When the voting results are out, I hope the Administration may act in a manner showing that it truly respects our people and Legislative Council Members.

Thank you, Mr President.

SECRETARY FOR THE TREASURY: Mr President, this motion may be popular, but is it wise? I would urge Members to consider very carefully whether this motion constitutes sensible policy making. I would argue strongly it does not merit Members' support.

Mr President, it would do a disservice to those who are unemployed, and to everyone affected by inflation, to give them the impression that the freezing of fees and so on is an answer to their problems. Not only is it no answer at all, but perhaps more importantly, some vital principles are put under serious threat by the thinking behind this motion. Maintenance of those principles is vital to all Hong Kong citizens, whether they be in work or temporarily out of it; whether they live in public housing or elsewhere; whether they catch the train or the bus. That is why the Official Members today will oppose all the amendments, and the motion itself in whatever final form it takes. And that is why I urge all other Members of this Council to do the same. Let me explain.

Unemployment

I will deal first with the subject of unemployment. The present rate of about 3% is low by world standards but higher than the Hong Kong community has been used to in recent years. The Government is keenly aware of the community concern this has aroused.

Although the increase in unemployment is a very recent development, we have already taken some steps to try to ameliorate the situation. Honourable Members will hardly need reminding of the two recent motion debates on labour policy and the unemployment situation on 3 May and 7 June respectively. I would not wish to repeat the details that have been covered by my colleague, the Secretary for Education and Manpower, on those occasions. I just wish to make the point that the Administration fully appreciates that unemployment is a complex and important problem. In addressing this issue, however, we must focus our efforts in finding the right solutions that will work and be able to create long-term employment in Hong Kong.

Following the Governor's Summit on the Labour Situation on 6 June, the Administration has announced a comprehensive plan of short, medium and long-term measures to tackle unemployment, ranging from retraining, job placement, cracking down on illegal employment, a household survey to obtain more detailed information on the profile of the unemployed and job vacancies, to review of the General Labour Importation Scheme and so on. The Secretary for Education and Manpower has also explained, while responding to the Honourable Fred LI's motion on 7 June, what would be done to solve the

livelihood problems of workers during periods of unemployment. These measures are direct, focused and, we hope, effective.

Inflation

I turn next to inflation. At about 9%, this is thankfully below the peak in recent years of 12% reached in 1991, but still uncomfortably high. In order to address the problem correctly, we must first identify the causes. After all, as the Chinese saying goes "對症下藥". We cannot hope to make the right prescription unless we have diagnosed the illness accurately.

There is a significant structural component to our present inflation caused by the ongoing transformation of our economy. The Government's best contribution to easing the pains of this process is to ensure that our infrastructure — both human and physical — is adapted as quickly as possible to meeting the new demands and challenges as they emerge. The substantial investments that we have made and are making in education, vocational training and retraining are bearing fruit. The equally substantial investments in physical infrastructure — most notably the New Airport — continue to target the economic bottlenecks and eliminate them. We have introduced measures to stabilize the property market and curb speculative pressures on property prices with some degree of success: property prices and rentals have moderated from their peak levels last year. Our ongoing measures to increase land supply and expedite flat production to match the continuing demand for flats will help to restrain the rise in flat prices and rentals in the longer term. We shall of course maintain our prudent budgetary policies and ensure that public spending does not increase faster than the growth of our economy, although this has drawn criticism from some Honourable Members for being too conservative. All this is a slow process, with lead times that can be frustrating. But we must persevere with these measures, not snatch at short-term palliatives. We are convinced that, in the long term, enhancement of productivity, both in terms of labour and capital, is the most effective means of promoting growth and containing inflation.

Turning now to the meat of the debate this afternoon, I should like to set the scene by reminding Members of some home truths about public finances. The state of Hong Kong's public finances are the envy of the world. We have no outstanding public debt. We have substantial fiscal reserves to provide a cushion for unforeseen circumstances. Year after year, we produce budgets that keep taxes low and spending under control. Visiting delegations from the International Monetary Fund, the World Bank and the major credit rating agencies come to check up on us, then go away satisfied with our sound and prudent fiscal stance. There is, of course, room for improvement, but by and large we are an example to the world in how responsible governments should manage their financial affairs.

Yet this admirable state did not arise by accident. We did not get where we are today by chance. Our present success springs directly from the fact that

we have identified certain key fiscal principles, and applied them steadfastly, not allowing ourselves to be blown off course. We in the Administration take great pride in our part in the process: but the Members of this Council also deserve a generous measure of praise for the full support they have given. For example, in the Public Accounts Committee, Members have expended great energies in keeping us up to the mark. Together we have generally eschewed short-term political advantage for the sake of the community's long-term interest.

What a tragedy it would be, Mr President, what a tragedy, if we were to now throw away the benefits of several decades of hard work for the sake of a few days' headlines. A few moments of pleasure bought at the expense of a lifetime's reputation. We would rue that day not just for ourselves, but for generations to come.

How do these principles apply to the debate today? Very simply. One of our guidelines — by no means the most important, but one element in the overall package — is that when setting the fee or charge for a particular service, we should aim to recover the full cost. There are a few exceptions: a small number of fees are tax-loaded to raise revenue; a small number (such as for education or medical services) are heavily subsidized on social grounds. But for the vast majority, the rule is "user pays". This simple maxim is an excellent aid to fiscal prudence. It is perhaps ironical that in defending the increases in Urban Council licence fees, the Honourable Fred LI has in effect expressed support for this "user pays" principle.

Just think what would happen if we divorced the price from the service. Once the link were broken, it would be difficult to justify any increase in the price — ever. There would be no rational basis for doing so. On the other hand, demands to improve the service would proliferate because there would be no penalty for the user. So the "user pays" principle is useful because it forces both the Government and the customer to have regard to both sides of the equation.

There is one other factor: it is an enduring myth among some commentators that keeping fees and charges low somehow reduces the cost of providing the services. Of course it does no such thing: it simply transfers part of the burden of paying for the service to the general taxpayer. Our social services are predicated on the assumption that persons in genuine need should be identified and helped. They are not predicated on the basis that the best way to ameliorate social need is to provide an across the board subsidy for all.

One final point: freezing all government fees and charges for one year would hold down Consumer Price Index (CPI)(A) by less than 0.1%. It is not a drop in the bucket, it is a drop in the ocean. Moreover, the increases would not be removed, merely delayed by a year. Once the honeymoon was over, the accumulated shortfall would have to be made good.

Mr President, some Members have made reference to the nine-month moratorium on revision of government fees and charges in 1991-92. I must say the circumstances in mid-1991 when the moratorium was introduced were rather different. At that time, the inflation rate was well into double digits with the increase in CPI(A) hitting 13.9% in April 1991. There was widespread public concern, and fears that the situation was getting out of control. The moratorium was announced by the Financial Secretary as one of a package of inflation curbing measures. An important element of that was for the Government to take the lead and to change the mind-set that inflation was inexorable. With hindsight, we were perhaps not wholly wise in acting as we did. Be that as it may, I have already explained what the Government has done and is now doing to fight inflation. I have no doubt that our current measures are more appropriate having regard to present day circumstances.

Public housing rentals

Let me turn next to the question of public housing rentals. In fixing and reviewing domestic rental levels, the Housing Authority's prime concern is affordability. It also takes into account estate value, inflation, and its own financial position. In accordance with this policy, the Authority has approved an increase in rentals for one group of 87 estates with effect from 1 September 1995. The new rentals will represent an increase of about 8.4% a year since the last increase in September 1993. Similar reviews will be carried out progressively for other groups of estates throughout the territory. The present median ratio of rent to household income for all public rental housing is a modest 8%.

I would be initiating another motion debate if I were to go into the rationale behind the Housing Authority's rental policies. I must leave that to my colleague, the Secretary for Housing, for another suitable occasion. I shall concentrate here on whether there is a case for a temporary freeze in rent for one year as called for in the present motion.

The Financial Secretary, in his speech to this Council on 29 May 1991, expressed his confidence that the Authority would consider carefully the inflationary impact of any new rent reviews which were to be considered during the course of that year. The Authority did and has continued to do so. The Authority estimates that the total effect of this year's rental adjustments on the CPI(A) will be only in the order of 0.32%. The average annual rental increase of 8.4% referred to earlier is also below the projected inflation rate for the year.

To freeze rents for individual groups of public housing estates would be unfair and discriminatory. To avoid any rent review for a full two-year cycle would have serious financial implications for the Housing Authority which already incurs a loss on management of public rental housing. It would also set a dangerous precedent. In any case, households which face genuine difficulties can apply for help under the Rent Assistance Scheme. That must be the right

way: target those who need help and give them full measure. Do not fritter away the public wealth by a blanket subsidy.

Railway fares

Finally, railway fares. The Mass Transit Railway Corporation (MTRC) and Kowloon Canton Railway Corporation (KCRC) reviewed their fares earlier this year and the current fares came into effect on 1 May. This was an annual exercise, and we do not expect that there will be another fare increase for the rail services for at least another nine months.

At the last fare revision in May, MTRC and KCRC fares were increased by an overall average of 7.8% and 7.1% respectively, in either case well below the projected inflation rate for 1995. The increases only constitute a small component of the average household expenditure, and are expected to have minimal impact (less than 0.2%) on the CPI(A). Under the new fare schedules, there has been no increase in the concessionary fares for senior citizens, students and children for a number of fare zones. Also, special discounts for travelling before the morning peak hour have been maintained in the case of the KCR, and doubled in the case of the MTR.

The two Corporations are required by their governing Ordinances to operate in accordance with prudent commercial principles. To enable them to do so, they are given autonomy in determining fares. The Corporations have to look at their revenues against operating costs and capital investments for service improvements before deciding whether and by how much their fares would need to be adjusted. Public acceptability of any such adjustments would also be taken into account.

The Corporations need to adjust their fares to ensure that their revenue is maintained in real terms. This enables the railway systems to grow to meet future needs. Artificially suppressing necessary fare adjustments over a period may result in the degeneration of the systems to the dissatisfaction of commuters. The Corporations would obviously have to consider carefully the long-term financial implications of not adjusting their fares in any one year.

But what is most crucial is that we must leave that decision to the Corporations. Their autonomy in fare policy is vital to their commercial viability, including the ability to borrow at favourable rates to finance service improvements and expansion. The Secretary for Transport has explained at great length the philosophy behind preserving the railway corporations' fare autonomy at the motion debates initiated by the Honourable LAU Chin-shek on 12 January and 22 June 1994. The explanations are still valid. I am pleased to note the support from some Members for this philosophy. The Administration does not find it necessary or appropriate, even as a temporary measure, to interfere with the fare autonomy of the two Corporations. Just when the MTRC and Provisional Airport Authority are about to borrow \$23 billion on the world's financial markets to complete the Airport Railway and the New

Airport, what kind of message are we trying to send with a motion urging the Government to intervene and force the two railway corporations to act contrary to the prudent commercial principles which by law they must follow.

Rates

I do not propose to dwell overlong on the issue of rates. To freeze rates retrospectively from 1995-96 would cost us \$1.2 billion. If the moratorium were to continue in 1996-97, the total revenue foregone would amount to \$3 billion. This would seriously undermine rates as a fair and stable source of revenue. The effect on easing inflation would not be substantial as the increase in rates in 1995-96 will add no more than 0.1% to CPI(A). Moreover, let me remind Members that those living in public rental housing, who account for about 50% of our population, will not be directly affected by the rates increase. The immediate effect of the increase will be absorbed by the Housing Authority until rents come up for revision. There are thus sufficient relief measures to moderate the impact of rates increases on the less well off. Its effect on inflation is not significant. It would result in serious revenue foregone. It is neither necessary nor justified.

Conclusion

At this point I would like to pay tribute to those Members who have spoken up this afternoon for common sense. This is a quality with which the people of Hong Kong are well endowed. They will be well able to distinguish between those who show the false light of instant remedy, and those who show the courage that is the mark of true leadership. This motion has nothing whatever to do with unemployment and little if anything to do with inflation.

In conclusion, Mr President, I would say only this. There will be no functional constituency for fiscal prudence in the September elections, nor any candidate of that name. But that does not mean the cause is not worthy of Members' votes today. On the contrary, it deserves the support of every Member of this Chamber. I am sure it is a cause which on mature and sober reflection, would attract the widest support from the community at large.

Question on the amendment moved Mr Frederick FUNG to Mr Howard YOUNG's amendment put.

Voice vote taken.

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

Mr Frederick FUNG claimed 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, Mrs Elsie TU, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Dr HUANG Chen-ya, Dr Conrad LAM, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Dr TANG Siu-tong, Ms Anna WU 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, Mr NGAI Shiu-kit, Mr Edward HO, Mr Ronald ARCULLI, Mr Martin BARROW, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Jimmy MCGREGOR, Mr Peter WONG, Mr Vincent CHENG, Mr Moses CHENG, Mr Marvin CHEUNG, Mr CHIM Pui-chung, Mr Timothy HA, Dr LAM Kui-chun, Mr Eric LI, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG, Mr Roger LUK and Mr James TIEN voted against the amendment.

THE PRESIDENT announced that there were 21 votes in favour of the amendment and 26 votes against it. He therefore declared that the amendment was negatived.

PRESIDENT: Now that Mr Frederick FUNG's amendment has been negatived, we will take a vote on Mr Howard YOUNG's amendment to Dr Conrad LAM's motion.

Question on the Mr Howard YOUNG's amendment put.

Voice vote taken.

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

MRS MIRIAM LAU: I claim a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Would Members please proceed to vote?

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

Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr NGAI Shiu-kit, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Peter WONG, Mr Moses CHENG, Mr CHIM Pui-chung, Dr LAM Kui-chun, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG and Mr James TIEN voted for the amendment.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Martin LEE, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Martin BARROW, Mr Jimmy McGREGOR, Mrs Elsie TU, Mr Albert CHAN, Mr Vincent CHENG, Mr Marvin CHEUNG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Timothy HA, Dr HUANG Chen-ya, Dr Conrad LAM, Miss Emily LAU, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Dr TANG Siu-tong, Mr Roger LUK, Ms Anna WU and Mr LEE Cheuk-yan voted against the amendment.

THE PRESIDENT announced that there were 16 votes in favour of the amendment and 31 votes against it. He therefore declared that the amendment was negatived.

PRESIDENT: Dr Conrad LAM, you are now entitled to reply and you have four minutes 49 seconds out of your original 15 minutes.

DR CONRAD LAM (in Cantonese): Mr President, a short while ago, the Secretary for the Treasury in his reply mentioned the need to "prescribe medicine according to the illness diagnosed". He also mentioned something called "common sense". A careful look at what took place in recent years will reveal that there have been an increasing number of actions, spontaneous or organized, staged by various groups or residents belonging to different classes in protest against government policies relating to people's livelihood. If such a situation is allowed to continue or people's resentment accumulate, and the Government fails to take proper actions, some may, out of difficult living conditions, do desperate things, as I pointed out at the beginning of the motion debate. This is what the ancient Chinese saying "Oppressive governments drive people to rebellion" is all about. We do hope this will not happen.

The Secretary for the Treasury said we need to prescribe medicine according to the illness diagnosed. Surely, we do have a diagnosed illness, and there is at present prescribed medicine. As I said, there is too little medicine to be useful and it comes too late. People living under high pressures are almost dying, but the medicine is not forthcoming. I do hope government officials, in discharging their duties, can visit in person grassroots people at the places where they live and work to gain a better understanding of their predicaments.

Recently, senior government officials had their salaries increased by ten-odd percentage points. But can they see how little grassroots people are getting? I hope the Government understands our feelings and acts properly in response. It should not bureaucratically consider itself always in the right.

Thank you, Mr President.

Question on the motion put.

Voice vote taken.

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

Mr LEE Wing-tat claimed a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Would Members please proceed to vote?

PRESIDENT: We appear to be two short of the head count. Are there any queries? If not, the result will now be displayed.

Mr Martin LEE, Mr SZETO Wah, Mr TAM Yiu-chung, Mrs Elsie TU, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Dr HUANG Chen-ya, Dr Conrad LAM, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Dr TANG Siu-tong, Ms Anna WU and Mr LEE Cheuk-yan voted for the motion.

The Chief Secretary, the Attorney General, the Financial Secretary, Mr Allen LEE, Mrs Selina CHOW, Mr HUI Yin-fat, Mr NGAI Shiu-kit, Mr Edward HO, Mr Ronald ARCULLI, Mr Martin BARROW, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Jimmy MCGREGOR, Mr Peter WONG, Mr Vincent CHENG, Mr

Moses CHENG, Mr Marvin CHEUNG, Mr CHIM Pui-chung, Mr Timothy HA, Dr LAM Kui-chun, Mr Eric LI, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG, Mr Roger LUK and Mr James TIEN voted against the motion.

THE PRESIDENT announced that there were 21 votes in favour of the motion and 26 votes against it. He therefore declared that the motion was negatived.

PERMANENT RESIDENCY AND RIGHT OF ABODE

MR JAMES TO moved the following motion:

"That this Council urges the Chinese and British Governments to expeditiously clarify the definition of Hong Kong permanent residents and the issue on right of abode in Hong Kong in order to remove the public's apprehension about their future status and help reinforce their confidence in Hong Kong."

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

The importance of right of abode to men is obvious. From a sentimental point of view, the status of permanent resident brings a person the feeling of home, a place to which he belongs and where he can stay for life. The right of abode also affects one's decision on his choices, for example, his career, purchase of property, investment and educating his children. Conversely, the decision also affects the person's confidence in his future. The two issues are mutually affected. From a legal point of view, the right of abode has significant relationship with the entitlement of various services of social welfare, the rights of voting and election.

Why is the issue of right of abode still not solved? This is because the matters of concern are too numerous and too complicated. Bearing in mind that it is now only barely two years before the return of sovereignty to China, the fact that this problem is not solved would undermine the confidence of the people of Hong Kong.

The following categories of people are directly affected by the issue of right of abode:

First, those who have migrated overseas, having obtained foreign nationality, and have now returned or would like to return to Hong Kong.

Second, those people of Hong Kong who have obtained the right of abode in the United Kingdom under the British Nationality Selection Scheme or those who have obtained foreign nationality not through residence in that foreign

country (including those passports obtained by virtue of so-called investment immigration, and even through the so-called "passport purchase").

Third, those ethnic minorities, most of whom are Indians and Pakistanis.

The problem with the definition of permanent resident has also delayed the process of issuance of passports of the Hong Kong Special Administrative Region, and as a result of which the freedom and convenience of movements the people of Hong Kong now have are affected.

Comparing the existing legislation relating to permanent resident status and Article 24 of the Basic Law to be enforced in Hong Kong, we can discover that the right of abode currently enjoyed by some people of Hong Kong, for example, returning emigrants may be forfeited in future. On the other hand, there are some people who do not have the right of abode now but will get it in future under the Basic Law, for example, the children of permanent residents of Hong Kong not born in Hong Kong. In other words, some people will get it, while other will lose it.

The question as to who should be accepted as permanent residents of a territory or country certainly has to be defined by the law. But I cannot help asking: when the Basic Law was drafted, were all factors really taken into consideration over the issue of who should have the right of abode and why were such factors not clearly written in the law?

Hong Kong is distinguished by its historical background, and it is for this particular reason that China has applied the innovative idea of "one country, two system and a high degree of autonomy" to Hong Kong when its sovereignty is reverted to China. As an international city, Hong Kong has always adopted a lenient and open approach with few restrictions in order to attract talents, capitals and technologies. It is this approach which brings Hong Kong its success today. To the people who have migrated overseas or have obtained foreign nationality, this approach allows them to retain their right of abode in and maintain the ties with Hong Kong, thus attracting them to return. As such, it can help pool the talents of Hong Kong and capitals, which is conducive to maintaining the prosperity and stability of Hong Kong.

Therefore, the general principle should be that the return of sovereignty should not affect the people's right of abode they have, nor should the right of abode and the permanent resident status that the people of Hong Kong already have prior to 1997 be deprived of after they have obtained foreign nationality and after the enforcement of the Basic Law. What is more important is, this principle should have been reflected in the Basic Law clearly and without any ambiguity. Otherwise, the confidence of the people would be undermined.

Some people may argue that there is of course a price to pay for emigration, that one cannot have the best of both worlds, so why can they have all benefits without having to pay the price? My response to such arguments is

that this line of thinking does no good to the unity of Hong Kong people and is not beneficial to the prosperity and stability of Hong Kong, and that we should not treat those people with such attitude. A lot of personal considerations are involved in the decision about emigration and obtaining foreign nationality, for example, the confidence in the future, education of children, reunion with family, nationality obtained by chance in their early education or due to change of employment, and many more complicated concerns which are peculiar to their families. In fact, those people who have emigrated overseas have paid a high price.

Recently, Mr LU Ping, the Director of Hong Kong and Macau Affairs, talked about the issue of the right of abode. He conceded that a lenient approach should be adopted to the people who have returned, provided that the Basic Law would not be contravened. He considered that those people who return to Hong Kong before 30 June 1997 will be able to retain their status of permanent resident, and that those who come back after 1 July will be dealt with according to the provisions of the Basic Law. This is already the most lenient way of handling this matter from the view point of the Chinese Government. I, on the other hand, feel that this like the touch-base policy: to touch base before 1 July. First, I think that the most important thing is not to find out what the most lenient way should be. The crux of the problem is that Article 24 of the Basic Law gives no assurance to the principle that all people can retain their right of abode. Therefore, the provision should be rewritten in a positive way in order to redefine who should be entitled to the right of abode. I have carefully studied various drafts of the Basic Law and the related documents and reports, and found that there had been no discussion at all about the loss of the right of abode by people of Hong Kong as a result of obtaining foreign passports or other reasons. Even in the attempt by the Chinese Government to add certain provisions, for example, those which stipulated that the Chief Executive and other principal officials must have no right of abode in foreign countries, in response to the British Nationality Selection Scheme, Article 24 was not amended. Article 24 as it appears now is essentially a core provision in the Sino-British Declaration. It is a misfortune if it was through omission or negligence in the drafting process that the existing provisions fail to preserve the right of abode for returning emigrants or that preservation can only be which render it made possible by distorting the Basic Law. The right way to approach the problem is to rectify the Basic Law to affirm the principle.

In other words, it has to be provided that those people who have migrated overseas or who already possess a right of abode in Hong Kong will not have the right forfeited because of migration. I am saying the right of abode, not nationality. It can be done by inserting words like "the people who have possessed the right of abode prior to 1997 may preserve such right", instead of distorting for the purpose of leniency the meaning of the existing provisions which do not reflect the general principle. This is not in line with the rule of law.

Moreover, the so-called "lenient" approach as proposed by the Preliminary Working Committee has its own problems:

First, the Basic Law does not provide for different treatments for people who return before and after 1 July 1997.

Second, confusion will be created if a person who return before 1997 but is not in Hong Kong in that particular night of change of sovereignty, thereby forfeiting his right of abode.

Third, would it be reasonable if a person stays in Hong Kong in that particular night of change of sovereignty and leaves the following day, thereby preserving his right of abode?

Fourth, Article 24(4) stipulates that foreign citizens who enter Hong Kong with travel documents can only obtain the status of permanent resident in Hong Kong if they reside in Hong Kong for a continuous period of seven years. However, those people who have emigrated to countries like Canada, Australia or United States of America are essentially Hong Kong residents. They enter Hong Kong with their identify cards and not with foreign passports, that is not travel documents. Unless we distort the interpretation of the Basic Law, these people cannot comply with the requirements of the Basic Law even if they stay in Hong Kong in the night of the change of sovereignty. The Preliminary Working Committee explained that its suggestion would allow them to preserve their right of abode. The logic of the explanation is difficult to comprehend.

Fifth, the imposition of various conditions on returned emigrants who "migrate" back to Hong Kong will dampen the desire of these people to come back.

On the other hand, according to the Chinese nationality law, the people who have obtained British nationality under the British Nationality Selection Scheme will not lose their Chinese nationality. They are deemed Chinese nationals and can preserve their status as permanent residents, because they have not resided in the foreign country.

Although politically the Chinese Government found the British Nationality Selection Scheme repugnant in practice, the Scheme has actually acted towards stabilizing the situation in the past few years.

I certainly would not encourage others to easily give up their Chinese nationality. However, some people of Hong Kong, due to the lack of confidence or other reasons or, to put it in an extreme way, their minds would be at ease only if they give up their Chinese nationality, applied for British nationality under the Scheme. The Chinese Government should adopt an open attitude to allow them give up their Chinese nationality legally and voluntarily. It is better to create an open, modern and prosperous nation to win the people's hearts than to control their nationality status by legal means.

On the other hand, although the ethnic minorities may obtain the right of abode under Article 24(6), they have a problem, that is, they must prove that Hong Kong is the only place where they have the right of abode. I have asked officials of the Indian and Pakistani Commissions and was told that there were some difficulties with this requirement. These people, even they belong to their races or once were their nationals, they might have lost their nationality because they have resided in Hong Kong for generations. It is very difficult to prove whether they have the right of abode in their mother countries. Even the officials find it difficult to prove. If those ethnic minorities as the Indian and Pakistani people are required to prove that Hong Kong is the only place where they have the right of abode, they will be caught in a dilemma.

Mr President, the above analysis shows that the right of abode is obviously a very important issue. The fact that it is still not solved will undermine the confidence of the people of Hong Kong. I hope that the Chinese Government and the British Government would clarify the position and reach a consensus as soon as possible. They may not have to have any agreement. But the general principle is that they should, as far as possible, or even must, allow the people of Hong Kong who have the right of abode here to preserve their right in the future Hong Kong Special Administration Region, whatever the change of circumstances. Otherwise, the people of Hong Kong will be caught in a dilemma in the event of any changes.

With these remarks, I beg to move.

Question on the motion proposed.

DR LEONG CHE-HUNG: Mr President, while the agreement between Britain and China on the Court of Final Appeal was hailed as a great leap forward, although many would consider this a total British sell-out, and while the signing of the agreement reached between the two sovereigns on the airport development was met with jubilation, much left to be done in the less than two years ahead of us.

One such area is the right of abode in Hong Kong, and unless and until certain categories of our people can be assured that they can still call this place their home, no amount the world's biggest infrastructure, the world's most creditable Court of Final Appeal will restore their confidence and contribution to Hong Kong.

Mr President, on 17 November 1993, I sought clarification from the Government in this Council on the definition of Hong Kong permanent resident and the conditions set for granting such status to foreign nationals who have complied with the conditions of stay as stipulated in the Basic Law. That was just one of the many questions asked on this subject throughout these years. But the only concrete thing that the Administration could tell us then was that it was hoped that the issue could be settled in two years' time.

If one traced the history backwards, on 27 May 1992, this Council asked the Government whether Hong Kong residents who were of Chinese race and had acquired foreign nationality would lose their right of abode in Hong Kong after 1997 and how many people the Government estimated would be affected. The then Secretary for Security said, "We do not know how many people would fall in this category; it is simply not possible for the Government to have such statistics." When pressed further on whether Hong Kong permanent residents would automatically lose their right of abode by simply acquiring a foreign nationality, the then Secretary said, "I do not see that once one has acquired the right of abode one will lose it when one takes another nationality."

Again going back in history, similar questions were raised in November 1991, December 1990, January 1990, October 1989 and so on. All were answered on the same stereotyped base that all solutions lie in the talks with China via the Joint Liaison Group. As late as February 1994, this Council debated on the freedom of travel when the right of abode issue was deliberated. In his reply, the Secretary for Security again answered in the same context, "We have already held informal talks with the Chinese on this subject I look forward to progress being made on this very important subject."

Mr President, some six years have elapsed since the first question on the right of abode in Hong Kong was raised and over 16 months have passed since the latest debate on this issue was held in this Council. The JLG has still not produced any answer and today we are still in the middle of nowhere.

Let me stress strongly here that the right of abode is one very basic and vital right and one basic protection to everyone who calls Hong Kong his or her home. This means the right to enter and leave the territory unconditionally and the right of not being removed or deported. Unfortunately, there is a misconception that a person can acquire the permanent resident status if he fulfils the seven-year requirement of residency regardless of race or nationality. This is simply not the case.

Let me set the scene for the total confusion. The amended Immigration Ordinance of 1987 states clearly that only two groups of people can become Hong Kong permanent residents. First of all those who are BDTC, so I presume BNO also, by birth, marriage or naturalization; and second, those who are wholly or partly of Chinese race and have ordinarily resided in Hong Kong continuously for not less than seven years; but that was only our Immigration Ordinance amended in 1987. Although there has never been a question of a permanent resident losing the right of abode within the current law, we are not sure of this situation after 1997 because Article 24(1) and (2) of the Basic Law stipulates that Chinese nationals, and I repeat, Chinese nationals, who were born in Hong Kong before or after 1997 or who have resided continuously in Hong Kong for not less than seven years are permanent residents of the Special Administrative Region. Yet, once these people acquire foreign nationality they will automatically cease to be Chinese nationals as China does not allow dual nationality.

The crux of the matter therefore is: Will these people automatically lose their permanent resident status and their right of abode? It would appear to be pertinent now to ask the Government to clarify the status of right of abode of the following groups of people from now and after 1997. People like my friend, Mr Jimmy McGREGOR, and his type, I believe he is now a persona non grata but what about the future? BDTs and BNOs of non-Chinese race who have resided here for not less than seven years. They are the Indians, Burmese, Pakistanis and other ethnic minorities. They are permanent residents now but what about 1997? Hong Kong Chinese who have gone overseas, settled and acquired a foreign nationality and have now returned to Hong Kong, and finally Hong Kong Chinese who have not gone overseas but have acquired the full British nationality via the British Nationality Selection Scheme. They are permanent residents now but what about after 1997?

Acts of Britain and China have repeatedly added to the confusion. In 1994 the Security Branch told the then Legislative Council nationality subgroup that the Government feared that up to something like 400000 ethnic Chinese Hong Kong permanent residents who have acquired foreign nationality might be denied the right of abode after 1997. On the other hand, a member of the PWC Social and Security Panel stated, "It would be difficult for China to make a commitment that holders of the British-issued BNO passport would have entry to the Special Administrative Region, which is part of China."

Yet the Secretary for Security told the press in November last year that Britain and China had reached an agreement as early as 1987 that this group of people can regain their permanent resident status by simply making an oath that they will take the future SAR as their permanent home.

Furthermore both Britain and China have pledged in the spirit and letter of the Joint Declaration and Basic Law to the Hong Kong people the validity of the British-issued passports as travelling documents after 1997, guaranteeing them the freedom of travel, entry and leave of Hong Kong.

Mr President, to ensure that people in Hong Kong would stay, to ensure that our brain drain would be arrested and that the brain drained would be lured back to serve Hong Kong, we urge the two Governments to quickly determine the state of the right of abode in Hong Kong.

Furthermore, we urge both Governments to come through with the fact that permanent residents should never have their rights forcefully removed.

I support the motion.

MR HOWARD YOUNG (in Cantonese): Mr President, the people of Hong Kong are now very concerned about their nationality after 1997, their freedom of leaving and entering the territory, and their right of abode. While it should be recognized that the Chinese and British Governments have full discretion in

handling the issues of nationality and the right of abode, the people of Hong Kong should have the right to say what they really want the two Governments to do when dealing with these matters. This is because such issues will affect not only those staying in the territory now and beyond 1 July 1997, but also those Hong Kong people who have emigrated as well as those non-Chinese ethnic minorities who have contributed much to the prosperity of Hong Kong over the years.

Although nationality and the right of abode are related to each other, the question is: are they identical and totally equivalent? As far as I know, there are many persons who have the nationality of one country but the right of abode in many countries. For example, a Hong Kong resident will have the right of abode in the United States after getting a "green card" in addition to his right of abode in Hong Kong, but he still has only one nationality. Not a few Hong Kong emigrants might have already obtained the right of abode in Canada or Australia, which was granted immediately when they "landed" in the country, yet they still retain the right of abode in Hong Kong. Another example is the European Community (EC). The EC now comprises more than 10 member states. The nationals of each EC member state have only one nationality, but are allowed to reside in any other countries of the EC. By virtue of this, they have the right of abode in more than 10 countries. I think the issues of nationality and the right of abode should therefore be dealt with separately. On a recent visit to Beijing, the Business and Professionals Federation of Hong Kong brought this matter up at a meeting with Chinese leaders. Among the members of the delegation, many belong to the Liberal Party. At the meeting, we have raised, among other things, the following two points:

Firstly, the leaders of China should state clearly the definition of Hong Kong permanent residents and the requirements of Chinese and non-Chinese nationals in attaining such status.

Secondly, the permanent Hong Kong residents who have the right of abode in other countries should be allowed to continue to enjoy their right of permanent residence in the territory beyond July 1997. In this respect, we suggested that the issue should best be dealt with liberally.

In February last year, I moved a motion on the freedom of travel, urging the Sino-British Joint Liaison Group to clarify as soon as possible the definition of the right of abode and the legal status of Hong Kong permanent residents. I also expressed my wish that those who had emigrated could be treated leniently where the matter of the right of abode was concerned. In fact, the definition of "Hong Kong permanent residents" has been stated in Article 24 of the Basic Law. Under the Article, permanent residents of the Hong Kong Special Administrative Region (SAR) shall be Chinese citizens born in Hong Kong before or after the establishment of the SAR, and Chinese citizens who have ordinarily resided in the Hong Kong for a continuous period of not less than seven years before or after the establishment of the SAR. So long as the Basic Law is closely observed, the majority of Hong Kong people should have little

problem with their permanent resident status. Even if the Chinese and British Governments want to elaborate on this issue, they should use the appropriate wording already contained in the Basic Law, not statements tantamount to new additional requirements. The definition of permanent residents as stated in the Basic Law is very simple. Since the Basic Law will become the governing constitution of Hong Kong after 1997, the compliance and enforcement of its provisions will help to build up the Hong Kong people's confidence and reinforce their belief that the law and administration of Hong Kong will remain unchanged in the future.

Besides, there are now quite a number of Hong Kong residents who are non-ethnic Chinese. Their nationality and right of permanent residence after 1997 should be assured. But until now, this problem has yet to be resolved. Many of these non-ethnic Chinese Hong Kong residents have resided in Hong Kong for more than seven years and some have even taken root here with their families and children. Among this group of non-ethnic Chinese, some have no other place to live except Hong Kong. Being members of the local community, they have no intention of leaving the territory. The change of sovereignty in 1997 should not put their right of abode in jeopardy. Otherwise, it will not only mean unfair treatment for this group of people, but also result in a weakening sense of belonging among them, thereby affecting Hong Kong adversely. As to the question whether non-ethnic Chinese have permanent right of abode in Hong Kong after 1997, I think the Chinese and British Governments should give as soon as possible a definite answer, offering these people a firm assurance. What is more, a liberal approach should be adopted in setting the definition of non-ethnic Chinese Hong Kong permanent residents and the requirements for attaining such status. This will serve to confirm that there is positive meaning for them to stay in Hong Kong. As a basic principle, non-ethnic Chinese will be granted the permanent right of abode in Hong Kong provided they are able to meet a few simple requirements. The fact that these people have resided in the territory for more than seven years prior to 1997 should be recognized as well.

On the other hand, for those Hong Kong people who have emigrated and obtained foreign nationality and the right of abode overseas, should their status of Hong Kong permanent residents be forfeited? Although the Nationality Law of the People's Republic of China does not allow dual nationality, we should be concerned about these people's permanent resident status, considering that they have chosen to emigrate temporarily out of the mentality of securing an insurance. In fact, at the bottom of their hearts is still the feeling that they belong to Hong Kong. Technically speaking, I suggest we seek a clarification of the meaning of the term "Persons not of Chinese nationality" referred to as category (4) in Article 24 of the Basic Law, which stipulates such persons who have ordinarily resided in Hong Kong for a continuous period of not less than seven years shall be the permanent residents of the SAR. We wish to know whether the word "Persons" is used as the subject and the phrase "not of Chinese nationality" as the adjective, or the phrase "Persons not of Chinese nationality" is taken as a whole and used as the subject. In my view, if the word "Persons" is

used as the subject, then these persons, whatever their nationality may be, are still those persons at any time. Supposing these persons have already resided in Hong Kong for seven years, there is no reason to require them to live in the territory for another seven years in order to qualify for the status of permanent residents, bearing in mind that before their return, they have already stayed overseas for some years to obtain foreign passports. This is indeed very unfair to them. Hence, I hope the authorities concerned will adopt as lenient as an approach as possible in handling the issues in this respect.

There are reports that the Chinese Government considers it necessary to impose some additional requirements for verifying whether a person takes Hong Kong as his place of permanent residence, which will then serve as a basis for dealing with the Hong Kong returning emigrants. If such additional requirements are really needed, I think they should be clear, simple and consistent. For example, the person is required to have a place of residence or a job and pay taxes in Hong Kong. Excessive restrictions are not desirable as these will do this group of people an injustice. The most important thing is that no matter what agreements the Chinese and British Governments may eventually reach on the right of abode and the status of permanent resident in Hong Kong, if they are really intended to strengthen Hong Kong people's confidence, these agreements should be clear and specific, acceptable to the people of Hong Kong, liberal yet consistent and have effect both before and after 1997. It is my hope that the Chinese and British Governments can reach a consensus in this aspect as soon as possible.

I support today's motion on behalf of the Liberal Party.

DR HUANG CHEN-YA (in Cantonese): Mr President, human resources is the driving force of the world economy. Many countries specifically adopt measures to attract talents from other places or regions. One of the reasons for Hong Kong's phenomenal economic growth in past years is its ability to absorb talents from other places or regions to enable them to contribute to Hong Kong's success. Therefore, any policy which causes a brain drain or inhibits talents from entering Hong Kong is detrimental to the economic and cultural development of Hong Kong.

In January 1994, the Hong Kong Government estimated that 300000 to 400000 people among Hong Kong's population possessed foreign nationality. An opinion survey conducted in September 1994 found that 15% of Hong Kong's population held foreign passports, that is, about 900000 million people held foreign passports. Whatever the actual situation, come 1997, the definition of right of abode and permanent resident will, in fact, affect tens of thousands of Hong Kong people. If these tens of thousands of people think that they will be unable to live and work happily in Hong Kong after 1997, and if they lose confidence in Hong Kong and leave, this will definitely be a loss to Hong Kong. At the same time, people who used to be Hong Kong residents return to the territory every year. If they give up returning to Hong Kong because of

worries about the right of abode, this will also be a loss to Hong Kong in terms of talent and capital.

The Basic Law provides that if non-Chinese people want to acquire Hong Kong permanent resident identity, they must have ordinarily resided in Hong Kong for a continuous period of no less than seven years and take Hong Kong as their permanent place of residence. The Security Subgroup of the Preliminary Working Committee proposed certain criteria for interpreting "permanent place of residence" — permanent domicile in Hong Kong, members of nuclear family residing in Hong Kong, stable income, payment of tax according to law, period of stay away from Hong Kong not exceeding 12 months. Judging from the above, it can be perceived that these criteria manifest an attitude of resistance and discrimination towards students, housewives, retired persons and low income people.

We have no need at all to refute the above criteria one by one. At present, any person of Chinese ethnic origin who has resided for seven full years in Hong Kong will enjoy permanent right of abode. Any person born in Hong Kong who has emigrated to another country will not lose his original right of abode in Hong Kong. This rule is simple and easy to understand. It has made many people of Chinese ethnic origin but of different nationalities come to Hong Kong to contribute to its success. And many Hong Kong people who have stayed in foreign countries for many years return to Hong Kong. They bring to Hong Kong new concepts and rich experience. I believe I can cite numerous examples in every trade, every profession and in the business sector.

Mr President, why is it that hurdles and barriers of all sorts will appear in 1997 to complicate this issue? What reason is there to change the existing law which has been effective and beneficial to the individual person as well as Hong Kong at large? Mr President, Chinese governments during feudal times invariably forbade their nationals to emigrate. Returned emigrants were punished in order to deter others. It is because feudal governments considered emigration to be an overt act of casting a no-confidence vote against them. In post-1949 China, overseas relationships constitute a crime and an emigrant is treated as a national traitor.

In fact, there are a variety of reasons for one to emigrate — for reunion with one's family, for one's livelihood, one's job or one's desire to see the world. When an emigrant wants to return, what reason is there to punish him so that he will find it difficult to regain his right of abode? Why cannot he be allowed to retain his right of abode? Of course, many Hong Kong people emigrate in recent years because they harbour misgivings about 1997 and are worried that there might be no human rights or freedom in Hong Kong. They just want to get insured. After they get the insurance, they will return to Hong Kong because they never want to leave Hong Kong. They consider Hong Kong to be their ultimate place of residence and their home. Some people criticize these people for wanting to have the best of two worlds. Some other people criticize these people for being national deserters. Yet some others criticize

these people for their purported immoral act of emigration. But I would like to point out this: When the people find that they have no alternative but to emigrate in order to protect their own personal safety, it is not the people who are immoral but the fear-inspiring government which is immoral. A good government should implement benevolent policies in order to attract people so that they will be glad to become its citizens. But a bad government metes out punishment against returned emigrants in order to deter others from emigrating.

At the same time, Hong Kong's reversion to China is now less than two years away. Why is it that there is still no way to make a positive and definitive statement with regard to the right of abode of non ethnic Chinese people in order to show that Hong Kong will not discriminate against non-Chinese people after 1997 with the result that they will set their mind at ease and stay to contribute to Hong Kong?

Mr President, the introduction of hurdles to resist and displace non- Chinese people, the law amendment proposals accompanied by all sorts of posturing, and the hints that returned emigrants will not be welcome will only make people have even less confidence in Hong Kong after 1997. This is a wrong way to go about it. It will be detrimental to Hong Kong. I call on Members to support the Honourable James TO's motion so that the question of Hong Kong residents' right of abode can be satisfactorily resolved.

MRS SELINA CHOW (in Cantonese): Mr President, the frequency of Hong Kong people travelling abroad is mirrored in the number of departures from and returns to Hong Kong by our residents in the past year. In 1994, the number of departures from the territory stood at 32.5 million while over 34 million arrivals were recorded. In view of the tiny size of Hong Kong, these figures are staggering, whether these arrivals and departures were made for the purposes of business, work, visiting relatives or sightseeing.

The Liberal Party always understands and recognizes that Hong Kong people treasure and aspire to freedom. Freedom of movement and freedom to enter and leave the territory are the most important components, weighing no less than freedom of thought and freedom of speech. Article 31, Chapter III of the Basic Law stipulates that Hong Kong residents should have freedom to travel and to enter or leave the Region. Unfortunately, while there is only less than two years' time between now and 1 July 1997, the issue of the right of abode, which is inalienable from the issue of freedom to enter and leave the territory, is still troubling quite a lot of Hong Kong people. As regards whether the status of those Hong Kong people who are of Chinese race and are holding foreign passports would be confirmed after 1997, although Article 24, Chapter III of the Basic Law has made clear the definitions of permanent residents and non- permanent residents, one of the paragraphs, namely, "the permanent residents of Hong Kong shall be Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the

establishment of the Hong Kong Special Administrative Region", has made those many Hong Kong people who have emigrated uncertain as to whether they are eligible to remain permanent residents.

Furthermore, the guiding principle that the Nationality Law of the People's Republic of China does not acknowledge dual nationality also adds to the worries of those Hong Kong people who have settled overseas and have acquired foreign passports. In addition, for those who have acquired foreign passports not through residence in overseas countries, for example, those who have secured the right of abode in foreign countries either under the British Nationality Selection Scheme or by investment, they are also not sure of their status in the future. The Hong Kong and Macao Affairs Office made different statements on this subject in the past and the Preliminary Working Committee (PWC) also had yet other views. The only fact now is that the current Immigration Ordinance and the Basic Law have different provisions regarding this matter.

Those who are not of Chinese race but have resided in Hong Kong for a long time are also puzzled about their status after 1997. Although the Basic Law stipulates that persons not of Chinese nationality who have resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence shall be eligible to become permanent residents, what criteria will apply? What confirmation procedures do they have to go through? Everything remains uncertain. These uncertainties are extremely unfair for persons not of Chinese nationality who have lived in Hong Kong for many years. All these illustrate that China must remove all these worries as fast as possible in order to restore and stabilize the confidence of those who call Hong Kong their home.

From another viewpoint, there are at present 150000 overseas domestic helpers in Hong Kong. Irrespective of the repeated claim made by the Immigration Department that the domestic helpers do not come to Hong Kong to take up residence and they therefore are not eligible to become permanent residents, they may request that they be granted the permanent resident status in the future since these helpers are entitled to vote after working in Hong Kong for more than seven years and the Basic Law stipulates that permanent residents are entitled to vote, and also quite a number of these domestic helpers are partly of Chinese race. China and Britain should hold talks to make sure that the relevant policy and legislation are laid down in clear terms to avoid the possibility that someone may enter Hong Kong through "the back door" and yet another burden is created for the future Hong Kong Special Administrative Region Government.

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

MR TAM YIU-CHUNG (in Cantonese): Mr President, in less than two years, Hong Kong will revert to China to become a Special Administrative Region (SAR). At present, some still opt to emigrate but even more Hong Kong people who have emigrated opt to return to Hong Kong. Therefore, growing attention is being given to the concept of permanent right of abode. However, I must stress that an absolute majority of Hong Kong people who have never intended to leave will have no need to worry about their nationality and right of abode.

The principal reason for returned emigrants' worry with regard to the right of abode is because China and the United Kingdom have different definitions in relation to right of abode. To put it simply, the Hong Kong Government takes ethnic origin as the standard. According to the 1987 Immigration (Amendment) Ordinance, Chinese people or people of Chinese ethnic origin who have been ordinarily resident in Hong Kong for a continuous period of no less than seven years shall be entitled to permanent right of abode. In other words, Chinese people born in Hong Kong or immigrated into Hong Kong from China who have resided in Hong Kong for seven full years shall retain their permanent right of abode in Hong Kong even though they later emigrate overseas.

However, in China, the authorities define right of abode in terms of nationality. Dual nationality is not allowed. Therefore, the Basic Law only provides that six categories of people can become permanent residents of Hong Kong without any reference to ethnic origin. The two definitions each have a different basis and it is difficult to say which one is better. For example, the Basic Law expressly provides that Hong Kong residents have the freedom to emigrate to other countries or regions and once they emigrated they would lose their status as a Chinese citizen. On the other hand, according to section 6 of Article 24 of the Basic Law, Indians and Pakistanis who have for generations resided in Hong Kong shall be regarded as permanent residents of Hong Kong and they need not worry about being stateless after 1997.

With regard to returned emigrants who used to be Hong Kong residents, the Democratic Alliance for the Betterment of Hong Kong (DAB) has all along advocated that they be dealt with in a less than strict manner. Article 24 of the Basic Law provides for the conditions which qualify one for permanent resident status. Returned emigrants who used to be Hong Kong residents, because they have lost their Chinese nationality, must satisfy the provisions of section 4 of Article 24 if they want to become once again permanent residents of Hong Kong. That is to say, they are persons who are not of Chinese nationality who have entered Hong Kong on the strength of a travel document but who have ordinarily resided in Hong Kong for a continuous period of no less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the Hong Kong SAR.

At present, there are two crucial points in relation to the question. They are respectively: How to calculate the continuous period of seven years during which a person has ordinarily resided in Hong Kong; and how to define a

person's act or intention of taking Hong Kong as his permanent place of residence. In fixing the criteria for these two conditions, should we allow some leeway or be very strict? As a matter of fact, in relation to this question even the community of Hong Kong has varied views. But we think that if the returned emigrants are committed to Hong Kong and contribute to it, we should give some leeway in fixing the criteria so that they can get what they want.

Therefore, the DAB is of the view that, in calculating a person's period of residence in Hong Kong, we should include their period of residence in Hong Kong before they left the territory. They need not wait another seven years to become formally a permanent resident of Hong Kong. This way of doing it will not be inconsistent with the provisions of the Basic Law. As regards the recent suggestion that it would be best if returned emigrants could return to the territory before 1 July 1997, we consider this requirement to be unnecessary and seemingly without legal grounds.

In relation to the requirement "take Hong Kong as one's permanent place of residence", we think it would be difficult to standardize this. To avoid grey areas, confusion and bickering in the course of enforcement, it would be much better to require that a simple oath be sworn by way of fulfillment of this condition. It is because the objective conditions of property ownership, jobs and relationships are readily variable, for example, one can sell one's property, one can quit one's job and one can separate from one's relatives. Moreover, the Basic Law protects the freedom of every Hong Kong person to emigrate and after he has returned to Hong Kong he can emigrate yet again. It would be futile to lay down conditions to fetter Hong Kong people who are amply adroit in getting round them.

Therefore, we agree that persons who had the permanent right of abode in Hong Kong before they emigrated can return any time to Hong Kong on the strength of their Hong Kong identity card and can stay and work unconditionally. This will encourage Hong Kong people who have emigrated to return to the territory to contribute to Hong Kong's future.

These are my remarks.

SECRETARY FOR SECURITY: Mr President, having listened carefully to the Honourable Members' speeches in this debate, my impression is that all, or nearly all would agree with the Honourable James TO's motion. The Administration also shares the sentiment of this motion.

Permanent resident status which carries with it the right of abode in Hong Kong has been the focus of public attention for some time. This is understandable. As the Basic Law defines permanent resident on a different basis from that of the current law, it is natural that Hong Kong people want to know how they are affected, and what will their future status be. There is, therefore, a real need of the discussions between the British and the Chinese

sides to be concluded early and to make known any agreement to Hong Kong residents. We share Members' view that a clear picture of the way ahead in this matter will reinforce confidence in Hong Kong.

For the majority of Hong Kong people who are Chinese nationals with no other nationality status except the BDTC/BN(O) status, their position is clear. Under Article 24 of the Basic Law, they will continue to be permanent residents of Hong Kong after 1997. Discussions with the Chinese side have also helped us to be clearer about the criteria for children of Hong Kong permanent residents who are of Chinese nationality, to have the right of abode in Hong Kong after 1997. As a result, we are now able to phase in the entry of these children into Hong Kong over a period of a few years. For the ethnic minorities who have no right of abode elsewhere, the Basic Law has clearly provided for their continued right of abode after 1997.

As far as non-Chinese nationals are concerned, the Basic Law provides that they will have the right of abode in Hong Kong if they have entered Hong Kong with valid travel documents, have resided in Hong Kong for a continuous period of seven years, and have taken Hong Kong as their place of permanent residence. The precise application of this provision is the main issue under current discussion in the Joint Liaison Group (JLG).

Amongst the non-Chinese nationals who were former residents in Hong Kong or who are residing in Hong Kong now, a substantial number is currently Hong Kong permanent residents who have emigrated to foreign countries and have acquired foreign nationality. This group, in particular those who have returned to settle or work in Hong Kong once again, will understandably wish to retain as much existing rights as possible. We understand their concerns, and those of other non-Chinese nationals who are long-term residents of Hong Kong. We are discussing with the Chinese side how to resolve these issues, and how to align the right of abode provisions in the Immigration Ordinance with Article 24 of the Basic Law. I am afraid that I cannot reveal more of the current discussions under the confidentiality rule of the JLG discussions. But I can assure Honourable Members that every effort is being made in the discussions to seek the best deal for Hong Kong and to bring about an early resolution.

In the course of this debate, some Members referred to the suggestion mentioned by some Chinese officials and PWC members of using 1 July 1997 as a cut-off date for returned emigrants to retain their right of abode in Hong Kong, and to have non-Chinese nationals' intention to take Hong Kong as their place of permanent residence assessed by "objective criteria". I believe those senior Chinese officials have made it clear that the Chinese side was prepared to listen to views and suggestion on them. We, on our part, will have to consider very thoroughly the effects of such a proposition on different kinds of persons, and the practical implications. These are hugely complex issues, and must be given very careful study.

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

MR JAMES TO (in Cantonese): Mr President, first of all I thank the Members who have spoken on this question and indeed I thank all Members for supporting this motion. From the speeches I have heard — and I believe the Government has heard too — I notice that a majority of Members, irrespective of their party affiliations or political persuasions, seem to have arrived at a consensus on this question.

First, the consensus that I think Members would consider to be the best and most ideal would be to the effect that people who originally had the right of abode be allowed to continue to have it. Secondly, even under the most extreme circumstances where the right of abode had to be redefined, the matter would be dealt with in as flexible a manner as possible so that, through the invocation of Article 24 of the Basic Law, people not subject to inhibiting conditions, such as returned emigrants, or others who now have the right of abode, would be entitled to the future right of abode.

A while ago, a Member made a few points by way of argument. I would like to discuss them in some depth. The Honourable TAM Yiu-chung said that the identity of residents in Hong Kong is determined by their ethnic origin while that of residents in China is determined by nationality. I do not intend to compare which of the two criteria is better because countries the world over either use one or the other criterion. But, in actuality, we can deal with nationality and right of abode separately. Therefore, if we are of the view that a policy can be formulated based on this approach in order to allow people who originally had the right of abode to continue to have it, then we will need to have this reflected in the language of the Basic Law. I think the way the Basic Law is presently worded cannot adequately deal with the matter irrespective of the flexible manner in which the said law is interpreted unless it is given an irrational interpretation.

Hence, I have suggested that we may have to ask the Chinese Government to amend the Basic Law. But the Chinese Government's precept is that the Basic Law should not be amended before 1997. Maybe, it is worried lest the democratic camp should ask for further amendments in respect of the constitution if one part of the Basic Law is amended. This would be not too good in the eyes of the Chinese Government. And so it has devised certain ways and means under section 4 of Article 24 to enable the matter to be dealt with in a flexible manner. In any event, I hope the Chinese and British Governments will discuss this in as exhaustive a manner as possible. I agree that a returned emigrant can swear an oath as to whether he will take Hong Kong as his permanent place of residence. Why? It is because I believe the words "take...as" in the phrase "take Hong Kong as the permanent place of residence" imply that it is the desire to have the right of abode or the prospective grant of the right of abode that is at issue rather than the objective grounds which qualify

one for the right of abode. Therefore, I feel that in this respect the argument is well founded.

Lastly, some reporters asked me moments ago what purpose would this debate serve. As a matter of fact, the Secretary for Security already answered half of that question on my behalf. Why is it so? It is because the Chinese Government has not yet decided on the matter. Views on this momentous matter expressed by Members — particularly if there is a consensus in this regard among Members returned by different modes of election, of different backgrounds and different party affiliations — will in any event serve as reference for the Chinese Government though it treats the Legislative Council as no more than an advisory organ of the Hong Kong British Government. I hope Members will make a concerted effort to continue to strive for the well-being of Hong Kong people and the stability and prosperity of the territory.

Thank you, Mr President.

Question on the motion put and agreed to.

PRIVATE MEMBER'S BILLS

First Reading of Bills

EQUAL OPPORTUNITIES (RACE) BILL

EQUAL OPPORTUNITIES (FAMILY RESPONSIBILITY, SEXUALITY AND AGE) BILL

EQUAL OPPORTUNITIES (RELIGIOUS OR POLITICAL CONVICTION, TRADE UNION ACTIVITIES, AND SPENT CONVICTION) BILL

ELECTORAL PROVISIONS (AMENDMENT) BILL 1995

BLOCK CROWN LEASE (CHEUNG CHAU) 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

EQUAL OPPORTUNITIES (RACE) BILL

MS ANNA WU moved the Second Reading of: "A Bill to promote equality of opportunity in Hong Kong and to provide remedies in respect of discrimination on the grounds of race, colour, nationality, national or ethnic origin, or involving racial harassment."

MS ANNA WU: Mr President, I move the Second Reading of the Equal Opportunities (Race) Bill.

Mr President, I have three Bills before Members today. I will speak generally on this reading relating to the first Bill, and I will introduce the other two very briefly in turn.

Mr President, Members of the Legislative Council, last year this time, I introduced the Equal Opportunities Bill in this Council. The original Bill was a single comprehensive Bill dealing with sex, race, disability, age and other forms of discrimination that afflict this community.

My purpose for introducing the Bill was simple — to combat discrimination. Discrimination is bigotry and there is no place for it in this community.

Those who oppose the legislation say that we cannot combat discrimination by legislation. Well, is there a better way? If we accept that discrimination is wrong, then the most unequivocal action we can take is to make it unlawful and to provide victims with legal protection.

Those who oppose the legislation also say: Let us take it a step at a time, after all anti-discrimination legislation is new in Hong Kong. Well, where does that leave the victims? While we ponder over how and when to protect the victims, they continue to suffer from discrimination. Discrimination has been around for centuries.

My original Bill was introduced only after the Government failed to provide me with any assurance to legislate against discrimination. Contrary to the Government's public stance that it has always planned to introduce the Sex and Disability Discrimination Bills, the government official responsible for this policy area has acknowledged more than once that the government Sex and Disability Discrimination Bills were introduced in response to my original Bill. It is clear that the Government would only act under pressure.

For the areas of age, sexuality and family responsibility discrimination, the Government had initially offered to provide a further policy commitment to legislate. The Government then backpedalled from this position and instead offered public consultation to find out whether legislation would be necessary. The Government then further backpedalled and offered an internal review.

You would remember the undertaking of the Government to legislate against discrimination given upon the passage of the Hong Kong Bill of Rights Ordinance in 1991. The Government sought to sabotage this undertaking by conducting an internal review in 1992 regarding sex discrimination. The review decided against the introduction of sex discrimination legislation. How can the Government expect us now to trust it to do the decent thing?

To facilitate the passage of the government Sex and Disability Discrimination Bills, I dropped the corresponding provisions from my original Bill and, to simplify the voting procedure, I restructured the remainder into the three Bills before you today. The first Bill covers race. The second Bill covers age, sexuality and family responsibility. And the third Bill covers religious and political convictions, trade union activities and spent conviction records. It is my intention to introduce amendments to remove some of the controversial areas from these Bills. These will include preserving the right to apply mandatory retirement age and to apply protective laws relating to minors.

Over the past year and a half, I have continuously offered to brief and co-operate with the Government over my Bill. It has chosen to ignore that offer. This offer still stands and I would hope the Home Affairs Branch would remind the various branches of the Government of this offer immediately. If there is any concern, I would be happy to discuss and resolve matters with the Government.

Last week, when we passed the Sex Discrimination Bill, I was deeply saddened by the Government's intransigence. Our Government, instead of fighting to enhance protection for the disadvantaged, chose to fight against the amendments seeking to improve their lives. Our Government, instead of assuming the leadership role of combating discrimination, chose to entrench deep-seated discriminatory practice such as the small house policy and to exclude itself from the application of the law. It also chose to renege on its agreement to the remedy of reinstatement.

Equal opportunities is about caring for and cherishing life. It is about respect for the inherent value of life. This respect should be unqualified.

As it is the professed position of the Government that it supports the principles of equal opportunities and that it has not made up its mind about legislation, I would hope that it would not resort to sabotage and scare tactics this time. To the Government, I would say that if you are not going to help the victims, please at least do not vote against them

To my fellow Councillors, I would say, do not accept any more government renegeing and procrastination. Hong Kong's victims of discrimination need help and they need it now. There are many energetic women above 30 needing jobs to support their family. Why should they be deprived of a job simply because they are above 30? Why should they be paid less because they are above 30? It is clear that serious age discrimination exists.

I have received over 2000 letters complaining about age discrimination. I will distribute these letters to all of you so that you can share the depth of the victims' plight. We can do the decent thing. And I hope you will support the victims.

Thank you, Mr President.

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

EQUAL OPPORTUNITIES (FAMILY RESPONSIBILITY, SEXUALITY AND AGE) BILL

MS ANNA WU moved the Second Reading of: "A Bill to promote equality of opportunity in Hong Kong and to provide remedies in respect of discrimination on the grounds of family responsibility or family status, sexuality, or age, or involving harassment on the ground of sexuality."

MS ANNA WU: Mr President, I move the Second Reading of the Equal Opportunities (Family Responsibility, Sexuality and Age) Bill. This Bill deals with the areas of age, family responsibility and sexuality. These areas together with gender and disability complete one cycle of the much needed social laws that I hope to receive your support.

The spheres of activities covered include employment, education, services and others. As in the case of all discrimination laws, this Bill does not make all differential treatment unlawful. This Bill only prohibits arbitrary and unreasonable differential treatment. As social laws, this Bill is very much guided by ordinary good sense.

Thank you, Mr President.

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

EQUAL OPPORTUNITIES (RELIGIOUS OR POLITICAL CONVICTION, TRADE UNION ACTIVITIES, AND SPENT CONVICTION) BILL

MS ANNA WU moved the Second Reading of: "A Bill to promote equality of opportunity in Hong Kong and to provide remedies in respect of discrimination on the grounds of religious or political conviction, union membership or activities, or spent criminal conviction."

MS ANNA WU: Mr President, I move the Second Reading of the Equal Opportunities (Religious or Political Conviction, Trade Union Activities and Spent Conviction) Bill.

Mr President, this Bill deals with those areas as recited. Like all other anti-discrimination laws, this Bill only prohibits against arbitrary and unreasonable differential treatment. This Bill is an extension of our Bill of Rights which contains a general prohibition against discrimination, and the existing laws protecting union activities and rehabilitation of offenders.

Mr President, it is only right that a mature society should have a framework for minds to expand freely, for reasonable union activities to take place, and for a second chance to be given to some people.

Thank you, Mr President.

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

ELECTORAL PROVISIONS (AMENDMENT) BILL 1995

MR ANDREW WONG moved the Second Reading of: "A Bill to amend the Electoral Provisions Ordinance."

MR ANDREW WONG (in Cantonese): Mr President, I move that the Electoral Provisions (Amendment) Bill 1995 be read a Second time.

The purpose of the Electoral Provisions (Amendment) Bill 1995 is to amend the existing Electoral Provisions Ordinance (Cap.367) and to make consequential amendments to the Legislative Council (Electoral Provisions) Ordinance (Cap.381) in respect of eligibility of electors and candidates, bringing the provisions into line with section 21 of the Hong Kong Bill of Rights Ordinance (Cap.383) which provides for the right to participate in public life.

Background

As a matter of fact, changes to electoral laws in this respect have long been on the agenda of the Legislative Council. In 1992, the Select Committee to review the arrangements for the 1991 Legislative Council elections recommended in its report that the Government should liberalize the qualification required for registration as an elector and amend the electoral provisions in respect of the qualification of candidacy. In 1993, as convenor of the then Constitutional Development Panel, I tabled for Panel members' discussion at a Panel meeting a Memorandum on the eligibility criteria for standing as a candidate in an election and holding office as an elected Member of the Legislative Council.

Someone may ask why I did not introduce the Bill earlier but waited until now. The main reason is that I had to wait for the delivery of judgement on the court case concerning the candidacy of Mr LAU San-ching in February. According to Mr Justice CHEUNG, the High Court Judge, in the obiter dicta of

his judgement, there was a strong case for the argument that the existing provision requiring an candidate to have ordinarily resided in Hong Kong for 10 years was inconsistent with the Bill of Rights. He suggested that the Government should amend the relevant legislation as soon as possible. Based on the reasoning of the judgement of this case, we have ample grounds for believing that the various election restrictions regarding eligibility under the existing electoral laws are in all likelihood inconsistent with the Bill of Rights. To avert any future incidents or lawsuits similar to the case of Mr LAU San-ching seeking to challenge the validity of electoral laws, the current legislation must be amended immediately.

Mr President, the Electoral Provisions (Miscellaneous Amendments) Bill 1995 introduced by the Government only seeks to reduce the qualifying residence period of a candidate from 10 years to three years. As for other comments raised by Legislative Council Members since 1992, the Government turned a deaf ear to all, let alone availing itself of the opportunity arising from the case of Mr LAU San-ching to conduct a comprehensive overhaul of the provisions relating to eligibility in elections. It is a thousand pities that the Government has acted like this.

Before I introduced the Bill, I studied the electoral laws and relevant precedents in various countries such as the United Kingdom, Canada, Australia and China. I also discussed with friends of the Hong Kong Human Rights Commission before submitting my discussion paper to the Constitutional Affairs Panel. In my paper, I set out three different options which were rather liberal in nature. The proposals were then referred to the House Committee for consideration. Varying in degrees of liberalness and highly flexible, these three options, while forming a good basis for discussion, should provide Members with sufficient choices.

Content of the Bill

Members may wish to note that the provisions of my present Bill are based on the most liberal option among the three packages proposed in my paper. The legislative principle that I adhered to in proposing the Bill is that the right to vote and the right to be elected are basic human rights. This is totally in line with the provisions of both the International Covenant on Civil and Political Rights and the Bill of Rights Ordinance. Unless we have very reasonable, pressing and concrete reasons, no one should be deprived of such rights. The Bill represents a conclusion that I drew from a comprehensive review of the principles behind the relevant precedents in various common law jurisdictions. These precedents are of significant reference value to the courts of Hong Kong and are frequently cited by them while making decisions on cases. Mr Justice CHEUNG also referred to these reference materials while handing down the judgment of the case.

Eligibility of electors

Mr President, regarding liberalization of eligibility criteria of electors, the principle of the proposed reforms is to enable people to exercise their voting right to the greatest extent. I suggest repealing all provisions forbidding convicted persons serving a sentence and prison inmates (prisoners on the day of election) to register as electors or to vote. This is in accord with the recommendations contained in the report of the Select Committee on Legislative Council Elections in 1992. The Bill represents a very liberal option which is similar to the practice in South Australia, a member state of the Commonwealth of Australia. Similar provisions are contained in the Electoral Law of the People's Congresses of All Levels. These provisions stipulate that unless somebody is deprived of the so-called political rights, he still enjoys the right to vote even though he is sentenced to imprisonment. Under Article 23 of the Human Rights Law (of the People's Republic of China), citizens serving a sentence or awaiting trial, unless deprived of political rights by courts, are allowed to register as electors and exercise their right to vote.

Mr President, while voting is a fundamental human right, it can be subject to reasonable restrictions. Therefore, if some restrictions are considered necessary, we should only consider those necessary ones. Under existing legislation, persons convicted either in Hong Kong or overseas and serving a sentence are not allowed to vote. This disqualification from voting should be confined to convictions in Hong Kong since different jurisdictions very often have different imprisonment terms for a particular offence and so convictions in Hong Kong and those in overseas countries should be treated separately. With this restriction confined to convictions in Hong Kong only, I think the threshold imprisonment term should be raised, for instance, from six months to three years or even five years. Six-month imprisonment as a matter of fact is a light penalty. Any person convicted of a minor offence may be sentenced to six months in prison if the judge chooses to pass slightly heavier penalty. So this is a relaxation, we should not deprive anyone of his basic human rights. It would be a better and more appropriate arrangement that persons sentenced to imprisonment for a term below the threshold and still serving the sentence are allowed to vote and only those convicted of more serious crimes are forbidden to vote and thus deprived of the voting right. The threshold term is two years in Canada and five years in the Commonwealth of Australia. I hope that Members can take this point into consideration.

Moreover, I suggest removing the seven-year disqualification period of persons convicted of election or corruption related offences. What I refer to are electors rather than candidates. Another alternative is to reduce the disqualification period from seven years to four years. This is a more conservative approach. I am of the view that even if somebody has committed election-related offence, he should not be deprived of the right to vote. The alternative of reducing the disqualification period to four years so that the offenders will be disqualified from voting in the next round of elections, with the explicit provision that the offences are confined to those committed in Hong

Kong as the penalty for an offence may differ in various jurisdictions and related to election, is also acceptable to me. Therefore, I welcome any amendments proposed by Members to my Bill. I can even draft any amendments at your request, and free of charge.

Eligibility of candidates

Mr President, in regard to the proposed changes to the eligibility criteria of candidates, the principles I maintain are that the election system should not be paternalistic and that electors should not be unduly restricted in their choice nor should choice be made for them. Hong Kong has a history of direct election for over 10 years. As a matter of fact, we have experience in direct election for much more than 10 years. As early as 1888, there were already directly elected members in the then Sanitary Board. At that time, the restriction on the qualification of electors was greater. So in fact, we have a long history and experience of direct election for over 100 years. We must have absolute confidence in electors' wisdom and choice. If you do not trust them, they will never mature. Only with your confidence will they become mature. Therefore, we should put the choice in the hands of electors as far as possible.

I propose lowering the qualifying continuous residence period prior to nomination from 10 years to 180 days, this is the current practice of the Commonwealth of Australia. Of course, the Government will propose in its Bill to be introduced next week that the period be shortened to three years. Such relaxation, in my view, is not enough. Other options, say three years or one year, are also acceptable to me. The length of period is not that important. However, I prefer the shortest qualifying residence period possible. In my opinion, 180 days (that is half a year) should be sufficiently long. If Members are not happy with it, I can accept the alternative of one year. The range of offences attracting prospective disqualification of electors and candidates should be narrowed down. I propose limiting offences to those election-related ones and reducing the disqualification period from 10 years to four years. The rationale behind the proposals is to prevent the disqualified persons from standing as candidates in the next round of elections, which are currently held once every four years. Afterwards, he should be regarded as having turned over a new leaf. In other words, he should only be banned from one round of elections, rather than two or three rounds.

The Bill also contains clauses forbidding persons who have been convicted of treason to stand for elections. In the recent move to amend the provisions in respect of capital punishment, the provisions pertaining to penalty for treason was amended to the effect that each case should be judged on its own merits and the court can pass a life sentence or a sentence of a shorter term depending on the circumstances of the case. This matter can be further reviewed when the future Hong Kong Special Administrative Region discusses the issue of treason. Maybe by that time, we will partake in another "big match". As for the provisions forbidding convicted persons serving a sentence and prison inmates to stand for elections, they should, in my opinion, also be repealed. It is because

some of those behind bars may be prisoners of conscience and some may even be jailed as a result of miscarriage of justice. Even though they cannot go out of prisons to conduct their election campaigns, they will have their agents to do so for them. If they are popular among electors and win their support, they have a good chance of being elected. However, consideration can be given to imposing some reasonable restrictions. For example, the offences are concerned are confined to those committed in Hong Kong and the terms of imprisonment are above three of five years. If Members would like to take a more conservative approach, these offences can also be included. I hope that Members can give support to the most liberal option proposed by me. Under existing legislation, persons who, five years before the election, obtained discharge of bankruptcy or entered into composition with creditors without paying the creditors in full are disqualified from standing for elections. I propose that such provisions for disqualification be repealed. This proposal is modeled on the current practice of the United Kingdom.

Conclusion

Mr President, I hope that the Bill can be passed within the current legislative session and the amendments in relation to qualification of candidates can be implemented in the Legislative Council elections in September this year. As for the amendments in relation to eligibility of electors, there may be some troubles as Members may find a lot of problems in this respect. Moreover, it is already beyond the 1 June deadline for registration of electors. We cannot but wait for next year before the electors concerned can be included in the electoral roll. However, I would like to point out that the advancement of the usual cut-off date for registration of electors from 1 July to 1 June by the Boundary and Election Commission is a faulty move. It goes against the democratic election principle of encouraging the greatest possible participation in voting by the public.

Mr President, the proponent of this amendment Bill should be the Government. Regrettably in the past three years, the Government has failed to fulfil its responsibility and conduct a thorough overhaul of the electoral laws so that the shortcomings of the existing system can be eliminated. I am most distressed to see such shirking of responsibility.

Mr President and Members, the proposed amendments in this Bill are in any case essential reforms. I do not insist on the most liberal option. If Members consider the approach too liberal, I do not mind amendments to tighten it up a bit. What we must do is to give effect to the fundamental principles enshrined in the International Covenant on Civil and Political Rights and the Bills of Rights. I hope that these legislative amendments, if passed, will not be revoked by certain people or certain political party that will come on stage in the future.

Mr President, with these remarks, I move that the Bill be read a Second time.

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

BLOCK CROWN LEASE (CHEUNG CHAU) BILL

MR ANDREW WONG moved the Second Reading of: "A Bill to provide for the termination of the Block Crown Lease of Cheung Chau granted to Wong Wai Tsak Tong and for sub-lessees under the Block Crown Lease to hold directly from the Crown.

MR ANDREW WONG (in Cantonese): Mr President, I beg to move the Second Reading of the Block Crown Lease (Cheung Chau) Bill.

Mr President, I initially wanted to talk about the historical background of Wong Wai Tsak Tong (the Tong) and the dispute between the Tong and its sub-lessees (that is the persons named as lessees in sub-leases). However, having only 15 minutes to speak and being granted no permission from the President to exceed that time limit, I have to cut my speech short from skipping the above information. I would, however, like to seek the President's permission to table before this Council at next Wednesday's Sitting the report compiled and then issued in March 1995 by the Subcommittee on Proposed Legislation on Wong Wai Tsak Tong (the Subcommittee) formed under the Panel on Planning, Lands and Works, so that the Report will become an official document of the Legislative Council. If I may have the permission of the President to speak on the Report, I certainly will make my speech concise.

Mr President, on 15 November 1994, the Government expressed to the above Panel its intention to regulate the relationship between the Tong and its sub-lessees through legislation, and thus to resolve the dispute between the Tong and its sub-lessees. Subsequently the Subcommittee was formed to study the issue. Dr the Honourable TANG Siu-tong and the Honourable Albert CHAN became Chairman and Vice-Chairman of the Subcommittee respectively. Having considered the Bill which was then being prepared but not yet finalized by the Government and having heard the opinions of the Cheung Chau Rural Committee, the Union of Cheung Chau Residents and Owners and the Tong, the Subcommittee completed its comprehensive report in March 1995. My speech today is largely based upon that Report. In fact, I intended to read the full Report out. But since it is quite impossible now, I will only give my remarks with reference to the findings in the Report.

Mr President, taking into account the submissions of the Tong and its sub-lessees, the information papers provided by the Government and the case reports of SUEN Sun-yau v. WONG Wai-kwan and Another (HCMP No.385 of 1987) and SUEN Sun-yan v. Director of Buildings and Lands (Crown Lands Reference NO.5 of 1988), the Subcommittee formed the following views:

- (1) Most the sub-leases signed between the Tong and its sub-lessees are perpetual in nature in view of the fact that:
 - (i) the sub-leases are made in a special form for a term of five years renewable on the same terms until the termination of the Crown Lease (which means until 27 June 1997, three days before 1 July 1997);
 - (ii) the Block Crown Lease Schedule states that superstructures belong to the sub-lessees; and
 - (iii) even though a sub-lease was not renewed upon the expiry of the five-year term, the sub-lessee is still able to claim compensation under the Crown Lands Resumption Ordinance so long as he/she occupies the land and has paid rent to the Tong (P.73 of the Hong Kong Law Reports, 1988 volume II).
- (2) Both the Tong and its sub-lessees are considered as "owners" for the purposes of claiming compensation under the Crown Lands Resumption Ordinance. In HCMP No.385 of 1987, the High Court did not rule on the issue of land title, but it did recognize that the sub-leases were perpetually renewable and the sub-lessees had "an estate" in the land, which was considered to be something more than "an interest" (P.74 and P.80 of the Hong Kong Law Reports, 1988 Volume II).
- (3) In the Lands Tribunal case of SUEN Sun-yau v. Director of Buildings and Lands, the compensation in the sum of \$1,864,000 was granted in full to the sub-lessees as a result of Government's compulsory land resumption because the Tong withdrew from the case. However, the Tong's right to file a separate claim for compensation was also recognized (P.5 of the Crown Lands Reference No.5 of 1988). The final assessment of the Tong's compensatable interest was set at merely \$1 by the Director of Buildings and Lands. The Government had earlier offered the Tong \$1,406,138.50 of statutory compensation, but the offer was not accepted. It was within the authority of the Director of Buildings and Lands to decide the compensatable interest of the Tong to be \$1. But if the judgement had been left to the court, the compensation might not have been \$1. This is a fact, and I just want to state it in a fair manner.
- (4) According to the comments made by Judge CRUDEN, although the Tong is the registered Crown lessee, in practice, it is little more than the Government's rent collection agent in respect of privately owned land on Cheung Chau Island (P.3 of the Crown Lands Reference No.5 of 1988).

- (5) According to the legal advice of the Registrar General in 1989, the Tong is not entitled to receive anything more than the reimbursement of reasonable expenses (reasonable expenses here probably refers to administrative cost) in giving its consent to modifications or being a signatory in surrender-and-regrant cases at the request of the sub-lessees.
- (6) Notwithstanding the above, the Tong has been the registered owner of 90% of the private land on Cheung Chau Island since 1905 for it is the holder of a lease from the Government. The "red deeds" claimed to be held by a few indigenous Cheung Chau residents have cast some doubts on the Tong's land-owner status before it was granted the Block Crown Lease in 1905. However, as no actions to recover such land have ever been brought by such residents, any claim concerned could be considered statute-barred. By law, once a person comes into possession of a piece of land, it becomes his if no other person claims any interest in it.

Therefore, in drawing up its conclusions, the Subcommittee noted the difficulties in judging at this distance in time who is right and who is wrong in the dispute over the land title of privately owned land on Cheung Chau Island before 1905. However, the Subcommittee regrets that the Government still insists on pursuing a line of legislative measures which will not resolve satisfactorily the dispute over private land title on Cheung Chau Island despite the objections raised by both the Tong and its sub-lessees. The Government submitted a Bill to the Legislative Council for consideration on 7 June 1995, putting forward its original proposals. While the Subcommittee cannot meet again now, I believe it is still very dissatisfied with the Government's proposal. The Subcommittee came up with the following conclusions:

- (1) The Hong Kong Government cannot deny its responsibility for the long-standing land title dispute on Cheung Chau Island. When dealing with the land title issue of Cheung Chau in 1905, it adopted a procedure and a principle different from those applied to other parts of the New Territories and did not grant any Crown Leases directly to the indigenous residents. The delegation of a number of land administrative matters to the Tong obviously deviated from the general policy measures applied throughout the New Territories at that time. The failure to rectify the situation at an early stage, coupled with the loss of the relevant government file, has contributed to the present land title dispute between the Tong and its sub-lessees. (It is not known how the file went missing, but it is said to be lost in the 1980s. This is only hearsay which we should not believe. Nevertheless, we cannot help having serious doubts about the matter.)

- (2) Given the renewable nature of the sub-leases, the Tong is in practice the Government's rent collection agent. (This is the Subcommittee's opinion instead of mine.)
- (3) The legislative measures proposed by the Government, as far as Members are aware, cannot possibly resolve the dispute between the Tong and its sub-lessees, and both parties have raised strong objections to the Government's proposal.
- (4) It is inappropriate for the Government to pursue a line of legislative measures which might inadvertently affirm the Tong's status as land-owner. While the Tong's status is now disputable as doubts about the Block Crown Lease still exist, the Government's legislative measures will only serve to affirm the Tong's questionable status, thus prejudicing any future legal proceedings to resolve the land title dispute between the Tong and its sub-lessees.

The Subcommittee put forward some recommendations. I have rearranged their order. The recommendations are quite plain and are as follows:

- (1) The Government should introduce legislative measures expeditiously to resolve the dispute relating to the Tong's landownership on Cheung Chau Island by deeming all sub-leases as Crown Leases and all the Tong's sub-lessees as Crown lessees, the effect of which will be:
 - (i) renewing all sub-leases registered in the Land Registry at any time prior to the coming into effect of the legislation proposed by the Government or the Bill proposed by me until expiry of the Block Crown Lease on 30 June 2047 (the reason being that with the present changes to the Tong, there can be many additional conditions after 1997, which is totally unreasonable);
 - (ii) allowing sub-lessees to pay Crown rent direct to the Government instead of paying it through the Tong; and
 - (iii) all the more important, allowing sub-lessees to apply directly to the Government for redevelopment of the sub-leased land in cases involving lease modification or surrender and regrant (this actually refers to modification which means redevelopment of the land.)

This is the first recommendation. In short, it suggests deeming all sub-lessees as Crown lessees.

- (2) The Subcommittee has reasonably recommended that the Government should compensate the Tong for any possible loss it may suffer as a result of the implementation of the above proposals.
- (3) Before the legislative measures proposed in (1) above come into effect, the Government should introduce interim measures to help residents solve problems arising from the present dispute.

Mr President, "Private Members' Bill" is now rendered in Chinese as 議員私人條例草案. Although the Bill is introduced by me, it is a matter of public interest. How can it be called private? It does not concern me personally. The Bill seeks to put into effect the recommendations put forward in the Report by the Subcommittee under the Panel on Planning, Lands and Works. I have introduced it all because the Government has unreasonably declined the recommendations in the Report. Mr President, I suggest that "Private Member's Bill" should be translated as 議員個人條例草案 or 議員名義條例草案 which means an "unofficial bill" or a "non-government bill".

Mr President, the English version of the Block Crown Lease (Cheung Chau) Bill was drafted by the Honourable Miss Margaret NG while the Chinese version was prepared by me. Mrs Spring FUNG and Mr Gilbert MO of the Legal Department have kindly contributed their ideas to refine the English and Chinese versions respectively. I am grateful to the three of them.

Mr President, I am open as to whether the Government should pay ex gratia allowance to the Tong. I can agree to the second recommendation put forward by the Subcommittee that proposes a compensation. Yet I cannot introduce a Bill that includes such a recommendation as it would involve the use of public money and thus have a charging effect. The Government certainly worries about the passage of this Bill and the defeat of the one it has proposed, so I am of the opinion that the Government should immediately start negotiating with the Tong.

Mr President, the Bill has been worked out after prolonged research and study. I appeal to all Honourable Members to support this Bill and negative the Wong Wai Tsak Tong (Renewal and Extension of Sub-Leases) Bill proposed by the Government.

With these remarks, I beg to move.

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

**BRITISH RED CROSS SOCIETY (HONG KONG BRANCH) (AMENDMENT) BILL
1995****Resumption of debate on Second Reading which was moved on 14 June 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 Bill

Council went into Committee.

**BRITISH RED CROSS SOCIETY (HONG KONG BRANCH) (AMENDMENT) BILL
1995**

Clauses 1 to 18 were agreed to.

Council then resumed.

Third Reading of Bill

DR DAVID LI reported that the

**BRITISH RED CROSS SOCIETY (HONG KONG BRANCH) (AMENDMENT) BILL
1995**

had passed through Committee without amendment. He moved the Third Reading of the Bill.

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

Bill read the Third time and passed.

ADJOURNMENT AND NEXT SITTING

PRESIDENT: In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday, 12 July 1995.

Adjourned accordingly at eight minutes past Ten o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Supplementary Appropriation (1994-95) Bill 1995, Official Languages (Amendment) Bill 1995, Occupational Retirement Schemes (Amendment) Bill 1995, Inland Revenue (Amendment) Bill 1995, Equal Opportunities (Race) Bill, Equal Opportunities (Family, Responsibility, Sexuality, and Age) Bill, Equal Opportunities (Religious or Political Conviction, Trade Union Activities, and Spent Conviction) Bill and Block Crown Lease (Cheung Chau) Bill, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

WRITTEN ANSWER**Annex****Written answer by the Secretary for Housing to Mrs Elsie TU's supplementary question to Question 3**

On the number of blocks, out of the 385 blocks found to have average concrete strength, which were the subject of recent complaints of concrete falling from the ceiling, the answer is only two: Block 12 in Kwai Chung Estate (which is being strengthened) and Block 2 in Valley Road Estate (which does not require structural strengthening).

